



IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (COMPANIES)

BEFORE MASTER KELLY

on WEDNESDAY THE 29TH DAY OF JANUARY 2020

IN THE MATTER OF FP MCCANN LIMITED

AND IN THE MATTER OF THE COMPANY DIRECTORS DISQUALIFICATION (NORTHERN
IRELAND) ORDER 2002

Between

COMPETITION AND MARKETS AUTHORITY

Applicant

-and-

(1) EOIN MCCANN

(2) FRANCIS MCCANN

Respondents

CONSENT ORDER

UPON the Applicant having issued and served an application for an order for a transfer of this proceeding to the Competition Appeal Tribunal ("CAT") pursuant to section 16(1) of the Enterprise Act 2002 ("the 2002 Act") and/or the Section 16 Enterprise Act Regulations 2015 ("the Transfer Regulations");

AND UPON reading the documents recorded in the Court File as having been read;

AND UPON the court concluding, in the light of all the circumstances of the case, including the views of the parties that it is appropriate to make an order pursuant to section 16(1) of the 2002 Act together with Regulation 2 of the Transfer Regulations in respect of this proceeding, and noting that this court may give such directions or make such order as it thinks fit to give effect to the determination of any issue by the CAT pursuant to Regulation 2 of the Transfer Regulations;

BY CONSENT IT IS ORDERED THAT:

1. The determination of the "first condition" under Order 13A(2) of the Company Directors Disqualification (Northern Ireland) Order 2002 ("CDDO 2002") (namely "that an

undertaking which is a company of which he is a director commits a breach of competition law") in these proceedings shall be transferred from this Court to the CAT pursuant to section 16(1) of the 2002 Act and Regulation 2 of the Transfer Regulations.

2. For the avoidance of doubt:
 - 2.1. Neither this Order giving effect to the said transfer, nor the transfer itself, is intended to alter, limit, or exclude in any respect any element of the Applicant's claim as constituted in this court prior to the transfer taking effect. If and to the extent that any element of the Applicant's claim as constituted in this court prior to the transfer taking effect is not capable of falling within the jurisdiction of the CAT on a transfer, or would be altered, limited or excluded by this Order or the transfer, it is not subject to this Order and remains within the jurisdiction of this court.
 - 2.2. These proceedings were and shall continue to be regarded as having been commenced in this court. Any further statements of case or amendments to a statement of case shall be made in accordance with the Rules of the Court of Judicature (NI) 1980 ("RCJ 1980") and not with the Competition Appeal Tribunal Rules 2015.
 - 2.3. Any appeal to the Court of Appeal against the determination by the CAT of the issues transferred or an order of the court giving effect to that determination shall be governed by Order 61 (17) and (18) of the RCJ 1980.
 - 2.4. This court may give such further directions or make such further order as it thinks fit in connection with the transfer and/or with any such element as referred to above.
3. These proceedings, insofar as they relate to any decision to be made pursuant to Order 13A(3) of the CDDO 2002, shall be stayed pending the final determination of the "*first condition*" by the CAT, as contemplated by the transfer ordered in paragraph 1 above.
4. The costs of this application shall be reserved.
5. There shall be liberty to apply.

Paula Kelly
Proper Officer

Filed Date 29 January 2020