



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1286/5/7/18

BETWEEN:

SAINSBURY'S SUPERMARKETS LTD

Claimant

- v -

(1) MASTERCARD INCORPORATED
(2) MASTERCARD INTERNATIONAL INCORPORATED
(3) MASTERCARD EUROPE S.P.R.L.

Defendants

ORDER

UPON the Order of the Court of Appeal dated 4 July 2018 remitting these proceedings to the Competition Appeal Tribunal (i) for reconsideration of whether the domestic multilateral interchange fees (“**UK MIFs**”) of the Defendants (“**Mastercard**”) satisfy the conditions for exemption pursuant to Article 101(3) TFEU, section 9 of the Competition Act 1998 and/or Article 53(3) EEA (“**the exemption issue**”) and (ii) for reconsideration and assessment of the quantum claim of the Claimant (“**Sainsbury’s**”) (“**the quantum issue**”)

AND UPON the Order of the Supreme Court dated 17 June 2020, varying the Order of the Court of Appeal

AND UPON reading the skeleton arguments of Sainsbury’s and Mastercard

AND UPON hearing leading counsel for Sainsbury’s and counsel for Mastercard at the remote case management conference on 16 December 2020

IT IS ORDERED THAT:

Further hearing as to the parties’ respective cases in relation to the remitted issues

1. The parties shall liaise to fix a hearing, subject to counsels’ availability, with a time estimate of 1 day for the first available date from 25 January 2021.

2. By 4:00pm on the date that falls 14 days before the hearing provided for in paragraph 1, Sainsbury's shall file and serve written submissions as to the case that it should be permitted to advance in relation to the exemption issue, and Mastercard shall do the same as to the case that it should be permitted to advance in relation to the quantum issue. Each shall also, by the same time, produce any amendments it seeks permission to make to its pleadings and/or new Statement of Case on which it seeks permission to rely.
3. Any responsive submissions by either party, draft consequential amendments to its own pleadings and/or draft responsive Statement of Case in response to the other party's submissions, proposed amendments and/or new Statement of Case shall be filed and served by 4:00pm on the date that falls 7 days before the hearing provided for in paragraph 1.

Evidence

4. Neither party shall be permitted to rely, in relation to the exemption issue, on evidence from the other set of Sainsbury's proceedings.

Hearing of the exemption issue and the quantum issue

5. The exemption issue and the quantum issue in these proceedings shall be heard together but, subject to paragraph 6, the further proceedings in this case shall be heard separately from the further proceedings in Case No 1288/5/7/18 *Sainsbury's Supermarkets Ltd v Visa Europe Services LLC and ors* ("*Sainsbury's v VISA*"). The parties shall liaise to fix a hearing, subject to counsels' availability, with a time estimate of 2 weeks plus 2 weeks pre-reading, for the first available date from 4 October 2021.
6. A further case management conference shall be held following the determination of the matters covered by paragraphs 1-3 of this order and the determination of the scope of the further proceedings in Case No 1287/5/7/18 *ASDA Stores Ltd and ors v Mastercard Inc and ors* ("*AAM v Mastercard*"), jointly with the *Sainsbury's v VISA* and the *AAM v Mastercard* cases, to

determine whether there are any, and if so what, common issues that can be heard jointly in all three or any two of these cases.

7. Further directions for the steps in preparation for the hearing provided for in paragraph 5, including the filing and serving of written submissions in advance of that hearing, shall be made following the hearing provided for in paragraph 1.

Miscellaneous

8. Costs be reserved.
9. There be liberty to apply.

The Hon Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 16 December 2020
Drawn: 12 January 2021