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5 **IN THE COMPETITION**  
6 **APPEAL TRIBUNAL**

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8  
9 Case No. : 1266/7/7/16

10 Salisbury Square House  
11 8 Salisbury Square  
12 London EC4Y 8AP  
(Remote Hearing)

13 Friday 5<sup>th</sup> February 2021  
14

15 Before:  
16 The Honourable Mr Justice Roth  
17 Jane Burgess  
18 Professor Michael Waterson  
19 (Sitting as a Tribunal in England and Wales)  
20  
21

22 **BETWEEN:**  
23

24 Water Hugh Merricks CBE  
25

26 -v-

27  
28 Mastercard Incorporated and Others  
29  
30

31 **A P P E A R A N C E S**  
32

33 Victoria Wakefield QC (On behalf of Mr Merricks)  
34 Mark Hoskins QC and Hugo Leith (On behalf of Mastercard)  
35  
36

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Friday, 5 February 2021

**(10.30 am)**

## Case Management Conference

MR JUSTICE ROTH: We're just waiting for the live stream to be connected.

Good morning. We'll start by pointing out to everyone that as the proceedings are being live streamed and there are a number joining on Teams that there is an authorised recording made of these proceedings and a transcript will be produced in the usual way, but it is prohibited to make any unauthorised image or recording, audio or video, of the proceedings. That is a contempt of court and punishable as such.

Thank you for the skeleton arguments you've both submitted and the discussions clearly that have taken place between you, which have been sensible and fruitful. We note from Mastercard's skeleton that they say that, if a CPO is granted, they will seek directions for preliminary issues but that is for the future. It's not a matter for today, as I think both sides appreciate.

Can I just clarify, it's proposed that Mr Merricks will file some additional evidence bringing matters up to date. Ms Wakefield, will that include the updated material that's referred to in the letter of 4 February from Freshfields? I think it's at paragraph 4 of the letter and the issue raised at paragraph 5, the draft CPO and accompanying draft notice, will that be included with the additional evidence on 12 February? Is that the intention?

MS WAKEFIELD: Sir, the intention is that that evidence is updated to reflect the passage of time and -- having looked overnight at the draft order and the accompanying draft notice -- on my review at least there isn't anything that needs updating, save perhaps the address of my instructing solicitors and the identity of one of the partners with carriage of the case. Otherwise those

1       documents are as is. Obviously they may be subject to further review in the  
2       course of the remittal phase, if I may put it that way, but this dating, what's  
3       changed between 2016 and 2021, those sort of amendments, I don't think any  
4       further amendments are needed to those two documents.

5       MR JUSTICE ROTH: Well, if there are, we can always look at in the course of the  
6       hearing in March.

7       MS WAKEFIELD: I'm grateful.

8       MR HOSKINS: Sir, we just ask, if there are any changes, even minor, it obviously  
9       makes sense if they come at the same time as the updated material. The  
10       only purpose of the query was: please can we have it all in one lump?

11       MS WAKEFIELD: From our perspective, of course that's fine.

12       MR JUSTICE ROTH: You can either put it with your evidence or attach it to a letter  
13       sent to Mastercard's solicitors. The date I think that you've proposed and is  
14       accepted for the additional evidence is 12 February?

15       MS WAKEFIELD: It is, sir, yes, a week today.

16       MR JUSTICE ROTH: That's fine. Then submissions for the hearing, the CPO  
17       hearing, again I think you've agreed between you now that Mastercard will  
18       make its submissions on the remittal hearing by 22 February at 12 noon and  
19       Mr Merricks' submissions in response by 12 noon on 12 March.

20       MS WAKEFIELD: That's correct, sir.

21       MR JUSTICE ROTH: We're happy to order that.

22       The new funding arrangements, we note there's an issue regarding a requested  
23       undertaking regarding method of recovery against the funder and presumably  
24       that's being considered at the moment and, if not, that will be something that  
25       will be raised with us at the substantive hearing. But we hope some progress  
26       can be made on that in the meantime.

1 Other than that point, which we've noted, Mr Hoskins, you've seen the new funding  
2 agreement -- a lot easier to understand than the previous one, I may say --  
3 will Mastercard be raising any other points apart from the issue of the  
4 undertaking?

5 MR HOSKINS: No.

6 MR JUSTICE ROTH: No. So there will be no other issues on the funding  
7 agreement.

8 I think we will, Ms Wakefield, wish to be just taken through it because we need  
9 of course to satisfy ourselves on behalf of class members whom at the  
10 moment Mr Merricks doesn't represent, he will if we make the order, just to be  
11 satisfied that it's satisfactory, but I think that can be done fairly briefly. We've  
12 noted there are some confidential bits of it, but they deal with a very particular  
13 point. So one will need to just be careful about the confidential elements and  
14 I'm sure you or Mr Harris will do that appropriately.

15 Can I ask, is there any ATE insurance cover in this case that we should be  
16 concerned with?

17 MS WAKEFIELD: Sir, the ATE position is covered as part of the funding agreement.

18 MR JUSTICE ROTH: I see, it's all in the one agreement?

19 MS WAKEFIELD: It's all in there.

20 MR JUSTICE ROTH: As you see, I haven't yet read it carefully.

21 MS WAKEFIELD: If I might just update you as to the confidential elements of the  
22 funding agreement --

23 MR JUSTICE ROTH: Yes.

24 MS WAKEFIELD: -- though I have to do so carefully of course given their  
25 confidential nature. Those redactions related to commercially sensitive  
26 matters relating to the change of funder. An agreement has now been

1       reached which conclusively disposes of that issue, in particular, insofar as the  
2       previous funder had any rights, those rights all now sit with our present  
3       funder. For that reason the various redacted passages are now otiose.

4 Our intention is to restate the funding agreement, omitting those highlighted  
5       passages, and that restated funding agreement will be the one which we  
6       intend to publish a week today, simply because those provisions are  
7       redundant now, sir.

8 MR JUSTICE ROTH: That's very helpful and no doubt then, when restating it you  
9       can incorporate the amendments that have been made by the deed of  
10      amendment of 1 February, the ones that deal with the remittal phase.

11 MS WAKEFIELD: That may be possible, sir. I would have to take instructions but,  
12      yes, that would be sensible if we can.

13 MR JUSTICE ROTH: If you're going to produce a new version of the document, you  
14      would have to, I think, because that's amending the agreement dated 5 June.  
15      So it would obviously be sensible that the figures and dates and so on are  
16      changed. That would make it easier if we have one document.

17 MS WAKEFIELD: I've just received instructions via WhatsApp that that's fine, and  
18      we'll include the amendments. And also clarification as to the ATE position --  
19      I may have misspoken, it's not a policy, but the LFA, the funding agreement,  
20      includes a sum of £15 million in respect of adverse costs.

21 MR JUSTICE ROTH: Yes, so it's not done by ATE insurance in this case.

22 No, understood. Thank you very much.

23 I think the next issue is publicity and you or those in your team and instructing you  
24      have prepared a revised notice which we find for us in our bundle B, tab 1.4 is  
25      the version showing the changes.

26 MS WAKEFIELD: Yes, sir.

1 You will see, sir, that the first paragraph we've updated to reflect the appeal process  
2 and we've set out the new dates for the hearing of course, 25 and 26 March  
3 this year, and the likelihood presumably that it would be a remote hearing,  
4 although of course we say to those reading the notice that they should check  
5 the position nearer the time on the Tribunal website.

6 MR JUSTICE ROTH: I think we can go from likelihood to certainty. I think it will be a  
7 remote hearing.

8 MS WAKEFIELD: Thank you.

9 MR JUSTICE ROTH: So we can remove the word "likely".

10 MS WAKEFIELD: Then going down the page and the reason we've done it this way  
11 is this: the draft notice that we used last time and was approved by you, sir,  
12 back in 2016.

13 Going down the page we see that the bullet point which addressed the old hearing in  
14 2017 has been deleted for obvious reason. Then we get to "Your legal rights  
15 and options now" and the right to object and we may come to that later in the  
16 course of this hearing, they are the appropriate dates for those rights of class  
17 members and others with an interest. But for the purpose of this notice  
18 nothing's changed apart from the date and that will be whichever date you  
19 order, sir, and then over the page we see that there are two paragraphs in  
20 respect of the making of oral and written submissions. The second paragraph  
21 again is unchanged save as to dates. The first paragraph is a little changed,  
22 but those amendments are only to bring the drafting entirely in line with the  
23 Rules and to make it clear in particular that proposed class members, even if  
24 they don't object and instead they want to support the proceedings, have a  
25 right to apply to make written and oral submissions. So it's not a significant  
26 amendment in my submission, more of a tweak.

1 MR JUSTICE ROTH: Yes, and then have you --

2 MS WAKEFIELD: Then there are frequently asked questions which are behind the

3 notice, which is the same way we did it last time.

4 If you turn to page B21 --

5 MR JUSTICE ROTH: Yes.

6 MS WAKEFIELD: -- we have the various updates to who can object, what can

7 I object to, how you make submissions. That just reflects the points I've just

8 canvassed and, of course, the new address of the Tribunal, where all

9 documents have to be sent.

10 Then at the bottom of the page we have "10: Who is funding the claim?" We see

11 a reference to the change of funder, the identity of the funder and the

12 significantly increased amount now available, both by way of total

13 commitment and adverse cost cover. That doesn't reflect the amendment for

14 the remittal phase. So in fact it should be £500,000 higher, it should be

15 60.1 million and we'll make that amendment if you're happy for us to do so.

16 MR JUSTICE ROTH: Yes. No, that all seems -- we've had a look at that, all seems

17 satisfactory and as far as dates are concerned, I see if we go back to the first

18 page, it's been proposed for objections that the first date should be 18 March,

19 I think, is what's being proposed. That seems satisfactory and then --

20 MR HOSKINS: Sorry, sir, before we pick up on that, I think when we fix the third

21 party objections, that has a knock-on effect potentially on when the skeletons

22 are due.

23 MR JUSTICE ROTH: I see.

24 MR HOSKINS: I was going to suggest, actually it's probably best that we start with

25 when you want the skeletons, and there's a dispute between us of a few days

26 on that, but it's ultimately of course when you want the skeletons is what

1           matters.

2 MR JUSTICE ROTH: Yes.

3 MR HOSKINS: Then if you work back from when the skeletons are, I think it all sort  
4           of slots back into place. The skeleton suggestions are: we suggest Thursday,  
5           18 March and Mr Merricks suggests Monday, 22 March. If it's convenient,  
6           I suggest you sort of start with that and we can work backwards.

7 MR JUSTICE ROTH: No, that's fine.

8 I think, Ms Wakefield, the 22nd for a hearing on the 25th is a bit late. I can't think - in  
9           this case the scope of legal argument, from what we've seen, will be  
10           somewhat limited. There seemed to be two points from what we've seen,  
11           those members of the class who have died since the relevant period and then  
12           the compound interest point and you will have discussed them already in your  
13           submissions not long before.

14 First of all we thought skeletons in this case can be really quite short, because we  
15           have your submissions and we will read those with the skeletons.

16 We'd propose, subject to what you say, that really ten pages each should be  
17           sufficient for skeletons when we have your written submissions that we'll also  
18           read and of course then oral submission. On that basis, if it's -- although it's  
19           sometimes said it takes more time to write a shorter letter, nonetheless we  
20           would have thought that 18 March should be satisfactory. If you want noon on  
21           19 March, I think we can live with that, Ms Wakefield.

22 MS WAKEFIELD: Sir.

23 So two points. First of all on the page limit, if I may, that does of course depend on  
24           Mastercard raising the points which we anticipated it's going to raise, so not  
25           raising the ratio point which you will have seen reference to in  
26           correspondence --

1 MR JUSTICE ROTH: And what point, sorry?

2 MS WAKEFIELD: The ratio point, my Lord. This is the possible argument we  
3 apprehended may be taken and it looks like it's not going to be taken, that the  
4 Supreme Court judgment, with a majority and a minority judgment, in fact  
5 doesn't clearly give a ratio.

6 MR JUSTICE ROTH: Oh, I see, ratio --

7 MS WAKEFIELD: Ratio decidendi, sorry.

8 MR JUSTICE ROTH: I see, ratio of the Supreme Court judgment, yes. I didn't quite  
9 understand that point, I may say, but it's not -- unless Mr Hoskins tells me  
10 otherwise, it's not being pursued. No.

11 MS WAKEFIELD: I'm grateful.

12 Then for deceased persons and compound interest, in respect of deceased persons  
13 as we understand it the point is, first of all, a point of law, that there's  
14 a prohibition on the inclusion of estates in these kinds of proceedings, which  
15 obviously is a point of general principle and could have much broader  
16 application.

17 Secondly, a practicality point which may be said to apply more acutely here than in  
18 other cases, I don't know. Those are the two issues which they proposed to  
19 address under deceased persons according to the skeleton argument. Then  
20 for the compound interest point, I think that Mastercard say simply that they  
21 continue to contend that that doesn't give rise to common issues and so we  
22 anticipate they're going to put the point the same way they put it before. If  
23 they do put it the same way they put it before, then it's absolutely fine for us to  
24 address those points in ten pages and indeed for us in our remittal  
25 submissions not to put in any additional evidence in support, as we've said in  
26 our skeleton argument. I do just want to say that obviously if Mastercard step

1       outside our anticipated scope of their submissions, then our remittal  
2       submissions may need to be more lengthy for a start. Secondly, we may  
3       need to have more significant skeletons.

4 Having made that point, ten pages strikes me as perfectly reasonable, if Mastercard  
5       do what we think they're going to do. As to timing, obviously since I wanted  
6       Monday I would rather have Friday at noon, but I'm not going to argue  
7       enormously between Thursday at 4.00 and Friday at noon.

8 MR JUSTICE ROTH: Yes. Well, as in any order there will be liberty to apply.

9 MS WAKEFIELD: Of course.

10 MR JUSTICE ROTH: If, when you get the submissions, you have a sort of horrified  
11       reaction saying, "This is not at all what we expected and we now have to do  
12       all sorts of things we hadn't anticipated", you can make an application in  
13       writing.

14 MS WAKEFIELD: Yes.

15 MR JUSTICE ROTH: Mr Hoskins, on that basis, are you content with a ten-page  
16       limit?

17 MR HOSKINS: I think that's right. I think the ground should be travelled in the  
18       remittal submissions. I guess the skeletons are just there to pick up -- for us it  
19       would be more likely to pick up points that Mr Merricks team might make in  
20       their remittal submissions that we need to respond to. But if we need more  
21       pages we'll apply to you.

22 MR JUSTICE ROTH: Well, that was exactly what I anticipated that you would just be  
23       picking up points that arose. So we'll say ten pages. I think that  
24       Ms Wakefield is not particularly anxious for the extra time on the Friday  
25       morning, in which case we'll say 4.00 pm on 18 March and ten pages and in  
26       the usual way that's 1.5 spacing, 12-point font, not that I imagine you would

1 seek to do anything else.

2 MR HOSKINS: Is that Times New Roman, sir?

3 MS WAKEFIELD: It would have to be with point 12, I'm afraid.

4 MR JUSTICE ROTH: If we turn back then, as Mr Hoskins suggested, to the dates,  
5 I see the point that 18 March you would like an earlier date than that for what  
6 particular -- the date suggested for applications to make written or oral  
7 submissions is suggested to be 8 March, which --

8 MR HOSKINS: If we go backwards, so from the skeleton the sort of next stage  
9 going backwards, there's third party objections and before that it's third party  
10 applications.

11 MR JUSTICE ROTH: Yes.

12 MR HOSKINS: There are two sort of versions on the table, one of which I think will  
13 have to fall away.

14 For third party objections we suggested Monday, 15 March and Mr Merricks had  
15 suggested Thursday, 18 March, which of course now clashes with the  
16 skeleton, so isn't particularly -- but they may want to go for a different date.

17 For the prior and first stage, the third party applications, you have two options again.  
18 We suggested Friday, 5 March and Mr Merricks suggested Monday, 8 March.

19 MR JUSTICE ROTH: Yes. Well, there's not a lot between them.

20 MS WAKEFIELD: Sir, for the applications, it may be that this is really a matter for  
21 you, since you have to consider the applications and then set a date by which  
22 written submissions have to be lodged. So any time pressure falls perhaps  
23 principally on the shoulders of the Tribunal more than on the parties.

24 MR JUSTICE ROTH: Yes. Let me just consult my colleagues on the bench. We  
25 shall metaphorically retire and return shortly.

26 (10.52 am)

1     **(A short break)**

2     **(10.54 am)**

3     MR JUSTICE ROTH: Thank you for the -- the live stream's not on at the moment, is

4               it? Just a moment.

5     We will say 15 March for the preliminary date and then 5 March for applications.

6     This notice as revised as I understand it is to be published by 10 February, is that

7               right, Ms Wakefield?

8     MS WAKEFIELD: That's right, sir.

9     We've indicated in our skeleton argument that we would take the same course in

10              respect of publication as we did last time. We will publish the notice on the

11              website, which of course is up and running now in contrast to the position four

12              and a half years ago, and we also follow the course set out in paragraphs 5.8

13              to 5.13 of the Epiq / Hilsoft plan, which I can take you through, sir. Those are

14              the steps that you approved last time. But if you would like to go there, it's in

15              bundle A, volume 2, tab 16.

16     MR JUSTICE ROTH: Yes.

17     MS WAKEFIELD: On page 496.

18     MR JUSTICE ROTH: Yes. Clearly the website and the press release are important.

19              In 5.10 you refer to liaising with the consumers association regarding Which?.

20              I'm rather doubtful -- now we're in a much more compressed timetable -- that

21              there's now time to get us into the magazines before the hearing.

22     MS WAKEFIELD: Exactly so, sir. I actually wanted to update you on that very point.

23              We've been speaking to Which? and also to MoneySavingExpert.com. We

24              think the current position is that Which? will only be able to publish this on

25              their Twitter account, but it may be possible that they can do more and I'm still

26              unsure as to the position with MoneySavingExpert.

1 If I could update the Tribunal on Wednesday, which is when we're going to make  
2 publication, as to where we have reached, but you're entirely right, sir, that it's  
3 not proven possible in the timescales to do anything in respect of the print run.

4 PROFESSOR WATERSON: Could I just add that I don't know how many people get  
5 it, but I get a weekly email from Which? and that would obviously be  
6 straightforward for them to put something into that, I would have thought.  
7 I don't know how wide the circulation is, but --

8 MS WAKEFIELD: I'll certainly raise it. Thank you.

9 PROFESSOR WATERSON: Okay.

10 MR JUSTICE ROTH: I think then 5.11 is probably one of the most important.

11 MS WAKEFIELD: Quite, sir.

12 MR JUSTICE ROTH: Particularly in the situation we're all in at the moment.

13 MS WAKEFIELD: Absolutely, so those sponsored search listings with Google,  
14 Yahoo! and Bing will happen in the same way they happened last time. Of  
15 course, all of these steps this time are taking place against an even greater  
16 general awareness of the case. Of course the Supreme Court's judgment  
17 in December received widespread publicity, so it's to be hoped that that as  
18 well will increase the degree of notification to the class and to others with an  
19 interest, such as merchants.

20 MR JUSTICE ROTH: Yes, I think we're content with that.

21 MS WAKEFIELD: Thank you.

22 MR JUSTICE ROTH: We've dealt with skeletons.

23 The other matter that I have on the agenda is just the bundles for the hearing. We  
24 do all appreciate hard copy bundles, this Tribunal. At the same time, we have  
25 the hard copy bundles for this CMC, which include the application and all the  
26 annexes and so on. I don't think it's a matter to be put in the order, but if you

1 can be sensible about it we don't need to be furnished yet again with bundles  
2 we've just received. There might be one bundle with the new submissions  
3 and any updated versions and the replacement funding agreement and so on.  
4 But as regards the original application and so on, we can work off the bundles  
5 we have. Authorities, and that will be in the order, to be printed double sided  
6 and we don't need the copies of the Rules and the guides to be specially  
7 printed for us, we all have copies of that. If we set a date then for bundles  
8 and if we say -- which is slightly earlier, I think, than was suggested -- we  
9 would want them by 4.00 pm --

10 MS WAKEFIELD: Sir.

11 MR JUSTICE ROTH: Yes.

12 MS WAKEFIELD: Sorry to cut across you, Mr Hoskins and I had actually discussed  
13 whether the hearing bundle and the authorities bundles could be usefully split  
14 up, so that we had the hearing bundle in advance of lodging the skeletons and  
15 the authorities bundle subsequently.

16 We'd reached agreement yesterday that the hearing bundle should be provided by  
17 the Tuesday -- I'm losing track of the dates.

18 MR HOSKINS: It's 16 March.

19 MR JUSTICE ROTH: Oh, yes. Well, that's plenty of time for us. Yes.

20 MS WAKEFIELD: Thank you, sir, and then the authorities to follow skeletons. I cut  
21 across you, I apologise --

22 MR JUSTICE ROTH: No, that's all right, because that's really anticipated the  
23 concern I was about to raise.

24 I think if the authorities come by 4.00 pm on the 22nd that will be fine. As I say,  
25 authorities bundle, double sided within each tab obviously, within each  
26 authority.

1 Is there anything else that we need to address today?

2 MR HOSKINS: There's one point I'd like to raise, but I think I know the answer

3 already from what Ms Wakefield said earlier, which is this, in relation to the

4 deceased persons point, about whether they should be included in the class

5 or not, there had been some changes of position since the earlier time we

6 were before you. We have asked Mr Merricks in correspondence to confirm

7 whether they are or are not contending that the claims of deceased persons

8 should be included in the class, because obviously we need to know whether

9 we need to reply on that point or not. I anticipate from what Ms Wakefield

10 said this morning that they are going to run that point, but obviously it would

11 be helpful for everyone if we just had absolute clarity on that if she's able to

12 get it now.

13 MS WAKEFIELD: Yes, Mr Hoskins anticipates correctly, we are contending that

14 their claim is included in the class.

15 MR JUSTICE ROTH: That will be potentially one of the main issues we're going to

16 have to rule upon.

17 MS WAKEFIELD: Sir, from my part there's just one other issue, which is the

18 preliminary issues which Mr Hoskins referred to in his skeleton argument and

19 in particular in his skeleton it was suggested that we should confirm in the

20 course of the remittal phase, before our skeleton arguments, whether we

21 agreed that those issues should be heard by way of preliminary issue or not

22 and we say that we shouldn't be asked to do that and that, if that question

23 arises later in proceedings, it should properly be dealt with if a CPO is granted

24 and this Tribunal, or indeed possibly another tribunal if by that point things

25 have shifted to the trial tribunal, will contemplate which issues, if any, should

26 be brought forward as preliminary issues. But it's not for consideration now.

1 So that's my position on those issues.

2 MR JUSTICE ROTH: Well, Mr Hoskins, that does seem to be me correct. If a CPO  
3 is granted, there will then be a CMC in then the hearing in which Mr Merricks  
4 is the class claimant and at that CMC the Tribunal will decide whether there  
5 should be any, and, if so, what, preliminary issues and all the timetable and  
6 the rest of it.

7 So I don't think that's a matter to be considered at this stage. I'm sure it's helpful to  
8 Mr Merricks that you've indicated where you'll be going, but it's not something  
9 that we expect to be addressed upon.

10 MR HOSKINS: I wasn't planning to address that at the CPO hearing.

11 MR JUSTICE ROTH: Yes. So that gives you the clarification you were seeking.

12 MS WAKEFIELD: Thank you very much, sir.

13 The hearing at present is listed for two days and it might perhaps be thought that the  
14 two days might be a little long. I don't know if anyone else is sharing that  
15 feeling with me. If not, I just float it.

16 MR JUSTICE ROTH: Well, we're always happy when we finish early. I think,  
17 whether it's two days or one day with one in reserve, it's wise to have two  
18 days set aside for this. I don't know how much there will be to look at in terms  
19 of the deceased persons issue but I can see it could possibly spill into a  
20 second day. I'm inclined to agree with you that the thought that it will need a  
21 full second day seems exaggerated but I could see that it might need part of  
22 the second day, in which case we should set aside two days.

23 MS WAKEFIELD: Thank you, sir.

24 MR JUSTICE ROTH: And it seems to me it should be costs in the application, is that  
25 right?

26 MR HOSKINS: That seems right.

1 MR JUSTICE ROTH: Yes.

2 Well, we will draw up the order and it will be sent out to you very shortly.

3 MS WAKEFIELD: Sorry, sir, it's been pointed out to me via WhatsApp that last time

4 it was costs reserved and I did put costs reserved on my draft order as well.

5 MR HOSKINS: They should be reserved because, if it's costs in the application,

6 when the application has been determined you will then hear submissions

7 about what the costs in the application will be. I'm not sure we'll be splitting

8 out this sort of thing for separate consideration, but --

9 MR JUSTICE ROTH: Yes. Well, we can say costs reserved on the basis that some

10 of the costs go to the ongoing case, if it continues. I imagine that was the --

11 although I'm talking about the costs of today, which -- well, I'm content with

12 costs reserved. I would have thought they all relate to the application myself,

13 but I don't think that's something we need get too hung up about. They are

14 a small, small part of the totality of costs in this case. Is there anything else?

15 MS WAKEFIELD: No, thank you sir.

16 MR HOSKINS: Nothing from us.

17 MR JUSTICE ROTH: Well, thank you for the discussions you had leading up to this

18 hearing, which have enabled it to be conducted much more efficiently and

19 shortly than might otherwise have been the case and we will hear this matter

20 then later in March.

21 MR HOSKINS: Thank you very much.

22 MS WAKEFIELD: Thank you.

23 MR JUSTICE ROTH: Thank you both.

24 (11.06 am)

25 (Hearing concluded)