



Case No: 1249/5/7/16

IN THE COMPETITION
APPEAL TRIBUNAL

B E T W E E N:

SOCRATES TRAINING LIMITED

Claimant

- v -

THE LAW SOCIETY OF ENGLAND AND WALES

Defendant

ORDER

UPON reading the claim form and the application for fast-track designation filed by the Claimant on 4 April 2016 (the “Claim Form”)

AND UPON reading the defence and the response to the application for fast-track designation filed by the Defendant on 12 May 2016 (the “Defence”)

AND UPON hearing Counsel for the Claimant and Counsel for the Defendant at a case management conference on 16 May 2016 (the “CMC”)

AND HAVING REGARD TO the Tribunal's powers under the Competition Appeal Tribunal Rules 2015 (the “Tribunal Rules”)

IT IS ORDERED THAT:

Forum

1. Pursuant to Rule 52 and Rule 18 of the Tribunal Rules, the proceedings be treated as proceedings in England and Wales

Split trial

2. The issues arising in these proceedings will be split, with liability (including consideration of any anti-competitive effect) being determined first, and the issue of quantification of damages adjourned to be heard after judgment on liability

Fast-track designation

3. The claim be subject to the fast-track procedure under Rule 58 of the Tribunal Rules

Amendment of pleadings

4. To take account of directions given and matters clarified at the CMC:
 - a. the Claimant file and serve an amended Claim Form by 4pm on 23 May 2016; and
 - b. the Defendant file and serve an amended Defence by 4pm on 31 May 2016

Further case management conference

5. A further case management conference be listed for 21 June 2016
6. By 4pm on 15 June 2016, in preparation for the further case management conference:
 - a. each party file and serve: (i) a costs budget; (ii) any application for disclosure; and (iii) any other application(s) to be considered at that case management conference;
 - b. the Claimant explain what would be involved in terms of work and additional costs if it was required to disclose all communications since 2013 with lawyers or law firms who cancelled or decided not to renew subscriptions to its anti-money laundering (“AML”) training courses;
 - c. the Defendant explain what would be involved in terms of work and additional costs if it was required to disclose its internal documents concerning the decision to include an AML course or AML content (i) in the Conveyancing Quality Scheme (the “CQS”) in 2013, and (ii) in the restructured CQS in 2015/2016

Disclosure

7. By 4pm on 22 July 2016, with reference to paragraph 23 of the Defence, the Defendant disclose to the Claimant: (i) any reports of roadshows to discuss the CQS that took place in May-June 2014 and in 2015; and (ii) the survey and responses of CQS registered firms carried out in May to July 2015

Witness statements and further information

8. By 4pm on 22 July 2016:
 - a. the Claimant may file and serve up to two witness statements from an officer or employee of the Claimant, accompanied by any documents relied on, *inter alia* in order to explain:
 - i. the nature of the AML training the Claimant provides, with specific reference to any courses or modules targeted at conveyancing law firms, including any

- changes since 2011;
- ii. competition in the market for training courses and in particular AML training courses;
 - iii. for each year since 2011, the charges and fees for its AML training courses;
 - iv. the impact on the Claimant of the changes to the CQS in terms of cancellation of subscriptions and/or the reduction in fees mentioned in paragraph 41 of the Claim Form.
- b. the Claimant may file and serve a further witness statement from a third party, accompanied by any documents relied on, *inter alia*, in order to explain:
- i. the significance of the CQS for a law firm engaged in residential conveyancing;
 - ii. any effect of the changes to the CQS as regards such a law firm's source of AML training
- c. to the extent not provided pursuant to paragraphs 8(a) of this Order, the Claimant file and serve a schedule or schedules containing the following information:
- i. for each year since 2011, the number of law firms or lawyers that subscribed to the Claimant's courses: (1) in total; (2) for AML training; and (3) for any specialist property module (with reference to paragraph 13 of the Claim Form);
 - ii. the identity of the law firm(s) referred to in paragraph 22 of the Claim Form;
 - iii. the identity of the law firms referred to in paragraph 41 of the Claim Form;
 - iv. details of subscribers who have cancelled their subscriptions since 2013
- d. the Defendant may file and serve up to three witness statements from an officer or employee of the Defendant, accompanied by any documents relied on, *inter alia* in order to explain the development and purpose of the CQS and setting out for each year since 2011:
- i. what is comprised in the CQS in terms of training, in particular any element(s) of AML training;
 - ii. how many years' training is involved, including the distinction between initial accreditation and re-accreditation;
 - iii. how the CQS is promoted to law firms and to the public;
 - iv. the relevant charges and fees;

- v. dealings with mortgage lenders regarding the content of the CQS;
 - vi. the Defendant's case on objective justification in the context of the Chapter II claim (see paragraph 38 of the Defence);
 - vii. the Defendant's case under section 9 of the Competition Act 1998 in the context of the Chapter I claim (see paragraph 43 of the Defence)
- e. the Defendant may file and serve a further witness statement from a third party, accompanied by any documents relied on, *inter alia* in order to explain the requirements made by mortgage lenders as regards the CQS
- f. to the extent not provided pursuant to paragraphs 4(b) or 8(d) of this Order, the Defendant file and serve a schedule or schedules containing the following information:
- i. whether the CQS is provided to law firms/lawyers outside of England and Wales and if so, to how many in each year since 2011;
 - ii. an explanation of the distinction between law firms that are "active in residential conveyancing work" and law firms that "undertake residential conveyancing work" and the basis on which the figures for each category have been compiled (see paragraph 30(c) of the Defence);
 - iii. which of the courses listed in Annex 1 of the Defence are AML courses directly relevant to firms engaged in residential conveyancing in the UK; if so, why;
 - iv. the number of firms in each year from 2011 to 2015 who have taken the CQS or have the CQS and who have also taken separate AML courses provided by the Defendant and if so, which courses (see paragraph 37(d) of the Defence);
 - v. the income and profit from the CQS in each year since 2011 to date (or as close to the present as possible), identifying the contribution in each year from practising fees (see paragraph 11 of the Defence) and any income and profit forecasts;
 - vi. its contentions as to what constitutes the relevant market in which the CQS is supplied (see paragraph 29 of the Defence)

Expert evidence

- 9. Each party be permitted to adduce the evidence of a single economic expert on the issues of market definition and dominance
- 10. Each party's expert's report be filed and served by 4pm on 29 September 2016

Hearing

- 11. A hearing with a time estimate of 3 to 4 days be listed in the week beginning 7 November

2016 for the purpose of hearing the parties on liability

General

12. Costs be reserved
13. There be liberty to apply.

The Hon. Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 16 May 2016
Drawn: 18 May 2016