



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1638/4/12/24

BETWEEN:

(1)TEREOS SCA
(2)TEREOS UK & IRELAND LIMITED

Applicants

- v -

COMPETITION AND MARKETS AUTHORITY (“CMA”)

Respondent

ORDER

UPON the Tribunal reading the Respondent’s Defence lodged and served on 3 May 2024

AND UPON the Parties having agreed the terms of this Order

IT IS ORDERED BY CONSENT THAT:

1. This Order becomes effective in respect of each of the persons named in Part A of the Schedule to this Order (including persons subsequently admitted to the Confidentiality Ring pursuant to paragraph 5 of this Order) only upon receipt by the Competition Appeal Tribunal (“the Tribunal”) of a signed undertaking in the terms of Part B of the Schedule to this Order.

2. For the purposes of this Order:
 - a. “Confidentiality Ring” means all those External Advisers who have signed an undertaking to the Tribunal in the terms of Part B of the Schedule to this Order, of which a copy has been provided to the Tribunal.
 - b. “Confidential Information” is defined as information (i) over which confidential treatment has been claimed and (ii) justifying confidential treatment by the Tribunal in accordance with Rule 101 of the Tribunal Rules which is contained in any pleadings or other documents submitted, or to be submitted, by the Parties to the present proceedings before the Tribunal.
 - c. “External Advisers” are those persons:
 - i. listed in Part A of the Schedule to this Order who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order; or
 - ii. subsequently added to the lists in Part A after being admitted to the ring in accordance with paragraph 5 below and who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order.
 - d. “Party” or “Parties” means a party to these proceedings.
3. Nothing in this Order shall prohibit any External Adviser from disclosing Confidential Information, as reasonably required, to any necessary in-house secretarial, administration, IT and other support colleagues (not including trainee solicitors and paralegals) under the direction or supervision of External Advisers, provided that it is done on a confidential basis and in line with the obligations set out in Part B of the Schedule to this Order.
4. All pleadings and other documents served in these proceedings must be marked to indicate the parts in relation to which confidential treatment is claimed, in the manner similar to that referred to in paragraph 7.46 of the Tribunal’s Guide to Proceedings

2015. A system of colour-coding shall be used to indicate to which entity the Confidential Information belongs (or such other system as the Parties shall agree where colour-coding is considered unworkable). Any Confidential Information contained within those pleadings and documents shall be disclosed only to the External Advisers listed in Part A of the Schedule to this Order and who have signed an undertaking to the Tribunal and to the Parties in the terms of Part B of the Schedule to this Order.

5. If any Party wishes to add any additional person as an External Adviser for the purposes of paragraph 2(c) of this Order, they may either:
 - a. obtain the written consent of the other Party to the admission of that individual to the Confidentiality Ring and inform the Tribunal in writing accordingly (copying the representatives of the other Parties); or
 - b. apply to the Tribunal for an order authorising the admission of that individual to the Confidentiality Ring.
6. A party receiving a request for consent to the admission of an individual to the Confidentiality Ring pursuant to paragraph 5 shall confirm whether it is willing to consent within five working days, such consent not to be unreasonably withheld or delayed.
7. If any Party wishes one of its External Advisers to be removed from the Confidentiality Ring, they shall inform the Tribunal in writing (copying the representatives of the other Parties).
8. When an External Adviser is admitted to or removed from the Confidentiality Ring, the relevant Party will provide to the Tribunal (and circulate to the Parties at the same time) an up-to-date list of the persons in Part A of the Schedule to this Order.
9. The Parties shall make available without charge to any person on request an up-to-date list of the persons in Part A of the Schedule to this Order.
10. Costs be reserved.

11. There be liberty to apply.

Andrew Lenon KC

Chair of the Competition Appeal Tribunal

Made: 14 May 2024

Drawn: 14 May 2024

SCHEDULE

Part A

This part contains the names, for each party, of External Advisers for the purposes of paragraph 2(c) of this Order:

APPLICANTS

Counsel

Aidan Robertson KC (Brick Court Chambers)

External Advisers

Tatiana Siakka, Partner (Squire Patton Boggs)

Diarmuid Ryan, Partner

Erling Estellon, Partner

Sabah Saghir, Trainee

RESPONDENTS

Counsel

Ben Lask KC (Monckton Chambers)

Julianne Kerr Morrison (Monckton Chambers)

SCHEDULE

Part B

CASE 1638/4/12/24: (1) TEREOS SCA (2) TEREOS UK & IRELAND LIMITED V COMPETITION AND MARKETS AUTHORITY (“CMA”)

Undertaking

In respect of any Confidential Information disclosed to them pursuant to this Order, each External Adviser undertakes that they will comply with the following requirements in the following terms:

I, the undersigned, undertake to the Tribunal and each of the Parties as follows:

- i. I have read a copy of the draft confidentiality ring Order which the Tribunal is to be asked to approve (“**the Order**”) and understand the implications of that Order and the giving of this undertaking.
- ii. Save in respect of provision to the Tribunal, I will only disclose the Confidential Information in accordance with the terms of the Order and will not disclose the Confidential Information (as defined in the Order) to any person who is not an External Adviser (as defined in the Order) without the express written consent of the Party originally disclosing the Confidential Information (“**the Disclosing Party**”) or the permission of the Tribunal. Where Confidential Information is disclosed under paragraph 3 of the Order, I will abide by the terms set out in that paragraph.
- iii. I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever without the express written consent of the Disclosing Party or the permission of the Tribunal.
- iv. The pleadings and documents containing the Confidential Information will remain in my custody or the custody of another External Adviser at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
- v. The production by me of further copies of the documents containing the Confidential Information shall be limited to those strictly required for the use of the External Advisers for the purpose of these proceedings and shall be held in accordance with paragraph iv of this undertaking.
- vi. Unless required to be retained for regulatory, legal or insurance requirements, all copies of the pleadings and documents in paper form containing the Confidential Information will be returned to the Disclosing Party, or destroyed by the receiving party at the conclusion of the present proceedings; and copies of the pleadings and the documents containing Confidential Information in electronic form will where possible be returned or where that is not possible will be rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person.

- vii. Save that none of the requirements listed above shall prevent External Advisers from disclosing to a person advised by them Confidential Information which such person has already legitimately seen.
- viii. Save that none of the requirements listed above shall prevent External Advisers from taking any action which has been authorised in writing by the relevant Disclosing Party, or complying with any regulatory requirement in relation to their profession or that they are required to take by any applicable law or by a court of competent jurisdiction.

Signed:

Name: [NAME]
[JOB TITLE]
[ORGANISATION]

Date: [XX] May 2024