



COMPETITION APPEAL TRIBUNAL

SUMMARY OF APPLICATION UNDER SECTION 120 OF THE ENTERPRISE ACT 2002

Case No: 1700/4/12/24

Pursuant to rules 14 and 26 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (the “Rules”), the Registrar gives notice of the receipt on 20 December 2024 of an application for review (“the Application”) under section 120 of the Enterprise Act 2002 (the “Act”) by Spreadex Limited (“Spreadex” / the “Applicant”) of the decision of the Competition and Markets Authority (the “Respondent”) contained in its final report dated 22 November 2024 (the “Final Report”) concerning the completed acquisition by Spreadex of the business-to-consumer (“B2C”) business of Sporting Index. The Applicants are represented by Herbert Smith Freehills LLP of Exchange House, Primrose Street, London EC2A 2EG (Reference: Veronica Roberts).

Spreadex acquired Sporting Index from Sporting Group, a subsidiary of La Française des Jeux, on 6 November 2023 (the “Merger”). Both Spreadex and Sporting Index provide online sports betting activities, including licensed fixed odds and spread betting services, primarily to customers based in the UK. Pre-Merger, Sporting Index comprised the B2C activities of Sporting Group, separated from its business-to-business activities which were sold separately.

The CMA was informed about the Merger on 25 August 2023. The CMA made a reference for a Phase 2 investigation on 17 April 2024. On 25 July 2024, the CMA published its provisional findings that the completed Merger involved the creation of a relevant merger situation that has resulted, or may be expected to result, in a substantial lessening of competition (SLC) within the market for the supply of licensed online sports spread betting services in the United Kingdom (UK). The CMA also published a notice of possible remedies.

On 20 August 2024, in response to the CMA’s provisional findings and notice of possible remedies, Spreadex proposed a divestiture remedy to the CMA. That remedy proposal was made without prejudice to Spreadex’s primary submission that there was no SLC.

The CMA published the Final Report on 22 November 2024. In the final report, the CMA concluded that:

- a. the Merger had resulted in the creation of a relevant merger situation, based on the parties’ combined share of supply by revenue of licensed online sports spread betting services in the UK;
- b. absent the Merger, Sporting Index would have continued to compete in the supply of licensed online sports spread betting services, broadly in line with the pre-Merger conditions of competition, under the ownership of an alternative bidder for Sporting Index;
- c. the Merger had resulted, or may be expected to result, in a SLC in the supply of licensed online sports spread betting services in the UK;
- d. neither entry or expansion, nor merger-specific efficiencies, would be sufficient to prevent the SLC; and
- e. subject to certain modifications and enhancements, Spreadex’s proposed divestiture remedy was the least onerous effective remedy and not disproportionate to the SLC and its adverse effects.

Spreadex advances two grounds of appeal in the Application:

1. Ground 1 is that it was unfair of the CMA not to provide Spreadex with the various third party call notes, responses and transcripts footnoted as relevant evidence in Chapter 5 of the Final Report. Spreadex contends that this evidence could and in fairness should have been provided to Spreadex’s advisers within the confidentiality ring which the CMA established for the purposes of its investigation.

2. Ground 2 is a challenge to the CMA's conclusion in Chapter 5 of the Final Report that, but for the Merger, one of two alternative bidders would have purchased Sporting Index and operated it in competition with Spreadex. The Applicant states that the CMA's conclusion was not properly justified by the evidence and was irrational.

The Applicant seeks the following relief from the Tribunal:

- (1) that the Tribunal quash the CMA's decision and remit the matter to the CMA; and
- (2) its costs of the Application.

Any person who considers that they have a sufficient interest in the outcome of the proceedings may make a request for permission to intervene in the proceedings, in accordance with rule 16 of the Rules.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP, or by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, KC (Hon)
Registrar

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