



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1337/1/12/19

BETWEEN:

FP McCANN LIMITED

Appellant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

- and -

(1) EOIN McCANN
(2) FRANCIS McCANN

Interveners

ORDER

UPON the appeal (“**the Appeal**”) by FP McCann Limited (“**FPM**”) against the decision of the Competition and Markets Authority (“**CMA**”) dated 23 October 2019 in Case 50299: Supply of Products to the Construction Industry (Pre-Cast Concrete Drainage Products) (“**the Decision**”)

AND UPON the application by the CMA to the High Court in Northern Ireland issued by summons on 15 January 2020 (“**the CDDO Application**”) for an order against Eoin McCann and Francis McCann under article 13A of the Company Directors Disqualification (Northern Ireland) Order 2002 (“**the 2002 Order**”)

AND UPON the Order of the High Court in Northern Ireland dated 29 January 2020 pursuant to section 16 of the Enterprise Act 2002 and the Section 16 Enterprise Act Regulations 2015 (“**the Transfer Regulations**”) having transferred to the Competition Appeal Tribunal (“**the Tribunal**”) the determination, in the CDDO Application, of whether the first condition in article 13A of the 2002 Order is satisfied (namely, whether FPM (being a company of which Eoin McCann and Francis McCann were and are

directors) committed a breach of competition law as defined in article 13A(4) of the 2002 Order) (“**the First Condition**”)

AND UPON the CMA’s position in the CDDO Application being (as stated in the first affidavit of Jessica Radke dated 19 December 2019) that the First Condition is satisfied, for the reasons set out in the Decision

AND UPON the Tribunal having made an order dated 15 June 2020 (“**the June 2020 Order**”) permitting Eoin McCann and Francis McCann to intervene in the Appeal under rule 16 of the Competition Appeal Tribunal Rules 2015 (S.I. No.1648 of 2015) for the sole purpose of ensuring that the parties to the CDDO Application are bound by the decision of the Tribunal in the Appeal (and any decision on appeal from the Tribunal in the Appeal that is relevant to the determination of the issue transferred by the High Court in Northern Ireland)

AND UPON the Tribunal having made the June 2020 Order directing that the determination of the First Condition would be stayed pending the final determination of the Appeal (and any further appeal which might be relevant to the First Condition)

IT IS ORDERED BY CONSENT THAT:

1. The stay ordered in paragraph 4(b) of the June 2020 Order is hereby lifted.

AND IT IS ORDERED AND DECLARED BY CONSENT THAT:

2. FPM committed a “*breach of competition law*” as defined in article 13A(4) of the 2002 Order for the reasons set out in the Decision.
3. The First Condition is, accordingly, satisfied.
4. The Tribunal having determined the First Condition, all remaining matters relevant to the CDDO Application shall be determined by the High Court in Northern Ireland.
5. The costs of the Transferred Proceeding (as defined in the June 2020 Order) shall be reserved to the High Court in Northern Ireland.

The Hon Mr Justice Morgan
Chairman of the Competition Appeal Tribunal

Made: 13 January 2021
Drawn: 13 January 2021