



Neutral citation [2025] CAT 13

**IN THE COMPETITION
APPEAL TRIBUNAL**

Case No: 1700/4/12/24

BETWEEN:

SPREADEX LIMITED

Applicant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

REASONED ORDER (REMITTAL)

UPON reading the notice of application (“**NoA**”) of Spreadex Limited (“**Spreadex**”) under section 120 of the Enterprise Act (“**EA02**”) for review of the final report of the Competition and Markets Authority (“**CMA**”) dated 22 November 2024 regarding the acquisition by Spreadex of the business-to-consumer business of Sporting Index (the “**Final Report**”)

AND UPON the Order of the Chair dated 29 January 2025 establishing a confidentiality ring (“**Confidentiality Ring Order**”)

AND UPON reading the CMA’s Defence to the NoA dated 3 February 2025 and its enclosed request and draft order for the decision in the Final Report to be quashed and for the matter to be remitted to the CMA (the “**Remittal Request**”)

AND UPON reading the letter from Herbert Smith Freehills LLP dated 10 February 2025 responding to the Remittal Request, and the CMA's further response and amended draft order dated 12 February 2025

IT IS ORDERED THAT:

1. The decision on a substantial lessening of competition at paragraph 8.1(b) of the Final Report and the final decision as to remedy at paragraph 9.387 of the Final Report be quashed pursuant to section 120(5)(a) EA02.
2. The case be referred back to the CMA pursuant to section 120(5)(b) EA02 for the CMA to reconsider and make a new decision or decisions in respect of the matters referred to in paragraph 1 above.
3. Part B to the Schedule to the Confidentiality Ring Order shall be amended to the form set out in the Schedule to this Order.
4. The CMA shall pay Spreadex its reasonable recoverable costs of and occasioned by the application, such reasonable costs to be assessed on the standard basis if not agreed.

REASONS

5. We have considered the parties' helpful submissions, and our reasons for making the Order for above remission are as follows.
6. The CMA has conceded the relief that Spreadex seeks in this claim. Its reasons for doing so are set out in its Defence. In short, the CMA has identified a number of errors in the Final Report, which include instances where the summaries of third party evidence did not accurately reflect the underlying material. We refer to the CMA's Defence at [23].
7. As [20] of that Defence states, the CMA's established practice "involves the provision to merger parties of summaries of the relevant evidence through its provisional findings (and sometimes through other working papers), leading up to the issuance of its final

report.” The CMA says, and we accept, that this process necessarily proceeds on the basis that any such summaries must be fair and reflect the underlying evidence.

8. Given that this important part of the process has not met what are said to be the CMA’s usual standards, the CMA properly accepts that the Final Report should be quashed. The CMA rightly does not seek to defend a report which fails properly to implement its established processes.
9. Finally, we add that it is a separate question whether the said errors deprived Spreadex of the gist of the case against it and hence of a fair hearing (Defence [24]). Nevertheless, we note that the Defence [25] expressly recognises that the CMA: “...cannot rule out the possibility that Spreadex might have made additional material representations absent the errors, and the CMA does not wish to pre-judge that issue”. The CMA acknowledges in this regard that its assessment of the counterfactual is key to its reasoning on whether there has been a substantial lessening of competition, consequentially, the remedy. The Defence thus recognises in terms that the errors made may have prevented Spreadex from making material representations that it would have wished to make.
10. Ground 1 is logically prior to Ground 2, and the CMA has rightly conceded that the decision should be withdrawn on the basis of considerations that arise under Ground 1.

Mr Justice Saini
Chair

Ioannis Kokkoris

Greg Olsen

Charles Dhanowa CBE, KC (Hon)
Registrar

Date: 4 March 2025