



Claim no.: AC-2023-LON-003735

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE AND DIVISIONAL COURT

AC-2023-LON-003735

Before the Chancellor of the High Court (the Rt Hon. Sir Julian Flaux) and the Honourable Mr Justice Butcher

BETWEEN:—

THE KING

(on the application of **THE COMPETITION AND MARKETS AUTHORITY**)

Claimant

-and-

THE COMPETITION APPEAL TRIBUNAL

Defendant

-and-

(1) SIKA LIMITED

(2) MASTER BUILDERS SOLUTIONS UK LIMITED

(3) MR X

Interested Parties

ORDER

UPON the Claimant's claim for judicial review issued on 15 December 2023;

AND UPON the Order of Swift J dated 15 January 2024 (i) listing the claim for a "rolled-up" hearing; and (ii) dispensing with service of the claim upon the Interested Parties;

AND UPON hearing leading and junior counsel for the Claimant and the Advocate to the Court at a hearing on 13-14 March 2024 (the Defendant ("**the Tribunal**") and Interested Parties neither appearing nor being represented);

AND UPON the Court handing down its reserved judgment on 22 April 2024;

IT IS HEREBY ORDERED THAT:—

1. The Claimant is granted permission to apply for judicial review.
2. Declarations be granted that:

(1) "The Tribunal erred in law by holding, in paragraph 15(4) of its judgment in *Competition and Markets Authority -v- Another* [2023] CAT 62 ("**the Warrants Judgment**"), that, in the case of an application for a warrant to search domestic premises under section 28A of the Competition Act 1998 ("**CA 1998**"), something more to suggest a propensity to conceal, remove, tamper

with or destroy documents than the inference to be drawn from reasonable grounds for the suspected existence of a secret cartel is always required to satisfy the condition in section 28A(1)(b)(ii) of CA 1998. The Warrants Judgment should not be cited as a guideline judgment before the Tribunal or any Court.”

(2) “The judgment of Marcus Smith J in *Competition and Markets Authority -v- Various Unnamed Defendants* [2019] EWHC 662 (Ch) (“**the 2019 High Court Judgment**”) contains an error of law, namely its holding in paragraph 12 that the Competition and Markets Authority should, at the time of the execution of a search warrant under section 28 of CA 1998, give to the undertaking served with the warrant as much information concerning the application for, and the grant of the warrant as it can safely give it at that time (before any application for disclosure or intimation that such application will be made). The 2019 High Court Judgment should not be cited as a guideline judgment before the Tribunal or any Court.”

(3) “The Tribunal exceeded its powers in making its Order of 8 December 2023 (registered in the Tribunal’s Registry on that date under number 20206).”

3. No order as to costs.

BY THE COURT

Dated this 22nd day of April 2024