

Jon Lang Mediation

Competition – mediation examples

a “follow on” claim for damages in the Competition Appeal Tribunal following a European Commission Decision finding that a cartel existed in a certain market, raising issues around Volume of Commerce, Overcharge (and associated discussion around econometric modelling such as regression analysis), the Umbrella Effect (on the broader market concerning prices charged by non-participants in the cartel), Upstream Pass on, Down Stream Pass on (raising “elasticity of demand”, “diversion” and lost sales issues), and attribution of loss between cartel participant defendants;

a parallel imports/exhaustion of rights case concerning the importation of new and re-engineered computing equipment into the EU;

an abuse of dominant position claim under Chapter II of the CA98 in the sports sector, with focus on the relevant market(s), nature of alleged abuse (bundling of products/services etc), the proper assessment of damages with discussion also of various expert reports obtained by the parties on the economic impact of the alleged abuse as well as certain CAT Rules 2015;

a case concerning consent given by a licensee/authorised distributor of a trade mark owner (an economically linked undertaking) for the placing of product by another on the market in the EU;

a case concerning alleged abuse of a dominant position (art. 102 TFEU) and agreements restricting competition (art. 101 TFEU);

a dispute involving alleged breaches of a statutory code introduced by the Competition Commission (now the Competition and Markets Authority);

a dispute arising out of the enforcement of restrictive covenants over land raising issues of enforceability, in particular whether the covenants were void as being in breach of section 2(1) of the Competition Act 1998 (raising sub-issues concerning section 9 exemptions), and also issues concerning modification or discharge under section 84(1) of the Law of Property Act 1925;

a parallel imports case concerning quantum only, following summary judgment granting an injunction and an order for disclosure, mediated prior to an election by the claimant between an account of profits or an enquiry as to damages;

a dispute raising issues under The Business Protection from Misleading Marketing Regulations 2008;

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