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STATUTORY INSTRUMENTS

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**2000 No. 261**

**The Competition Commission Appeal Tribunal Rules 2000**

**PART V**

**PREPARATION FOR DECIDING THE APPLICATION**

**Directions**

**17.**—(1) The tribunal may at any time, on the request of a party or of its own motion, at the pre-hearing review or otherwise, give such directions as are provided for in paragraph (2) below or such other directions as it thinks fit to secure the just, expeditious and economical conduct of the proceedings.

(2) The tribunal may give directions—

- (a) as to the manner in which the proceedings are to be conducted, including any time limits to be observed in the conduct of the oral hearing;
- (b) that the parties file a reply to the defence or other additional pleadings;
- (c) for holding a pre-hearing review;
- (d) requiring persons to attend and give evidence or to produce documents;
- (e) as to the evidence which may be required or admitted in proceedings before the tribunal and the extent to which it shall be oral or written, including, where a witness statement has been submitted, whether the witness is to be called to give oral evidence;
- (f) as to the submission in advance of a hearing of any witness statements or expert reports;
- (g) as to the examination or cross-examination of witnesses;
- (h) as to the fixing of time limits with respect to any aspect of the proceedings;
- (i) as to the abridgement or extension of any time limits, whether or not expired;
- (j) to enable a disputed decision to be referred back (or in Scotland, remitted) to the person by whom it was taken;
- (k) for the disclosure between, or the production by, the parties of documents or classes of documents; or in the case of proceedings taking place in Scotland, for such recovery or inspection of documents as might be ordered by a sheriff;
- (l) for the appointment and instruction of experts, whether by the tribunal or by the parties and the manner in which expert evidence is to be given; and
- (m) for the award of costs or expenses, including any allowances payable to persons in connection with their attendance before the tribunal.

(3) The tribunal may, in particular, of its own motion:—

- (a) put questions to the parties;
- (b) invite the parties to make written or oral submissions on certain aspects of the proceedings;
- (c) ask the parties or third parties for information or particulars;

- (d) ask for documents or any papers relating to the case to be produced;
- (e) summon the parties' representatives or the parties in person to meetings or case conferences.

(4) A request by a party for directions shall be made, as far as practicable, in the application or defence, or on notice at the pre-hearing review. A request made at any other time shall be made in writing and shall be served by the Registrar on any other party who might be affected by such directions and determined by the tribunal taking into account the observations of the parties.

### **Pre-hearing review**

**18.**—(1) Where it appears to the tribunal that any proceedings would be facilitated by holding a pre-hearing review, taking into account the criteria set out in paragraph (3) below, the tribunal may on the request of a party or of its own motion, give directions for such a review to be held. The Registrar shall give the parties not less than fourteen days notice, or such shorter notice as the parties agree, of the time and place of the pre-hearing review.

- (2) The pre-hearing review shall be in private unless the tribunal otherwise directs.
- (3) The purpose of the pre-hearing review shall be—
  - (a) to ensure the efficient conduct of the proceedings;
  - (b) to determine the points on which the parties must present further argument or which call for further evidence to be produced;
  - (c) to clarify the forms of order sought by the parties, their arguments on fact and law and the points at issue between them;
  - (d) to ensure that all agreements that can be reached between the parties about the matters in issue and the conduct of the proceedings are made and recorded;
  - (e) to facilitate the settlement of the proceedings.

(4) The tribunal may authorise a person qualified for appointment to the panel of chairmen to carry out on its behalf the pre-hearing review or any other preparatory measure relating to the organisation or disposal of the proceedings.

### **Timetable for the oral hearing**

- 19.** As soon as practicable, the tribunal shall—
- (a) set a timetable outlining the steps to be taken by the parties pursuant to the directions of the tribunal in preparation for the oral hearing;
  - (b) fix the date for the oral hearing;
  - (c) notify the parties in writing of the date and place for the oral hearing and send them a copy of the timetable for that hearing; and
  - (d) if it considers it necessary for the expeditious disposal of the proceedings, send the parties a report for the hearing summarising the factual context of the case and the parties' principal submissions.

### **Evidence**

- 20.**—(1) The tribunal may control the evidence by giving directions as to—
- (a) the issues on which it requires evidence;
  - (b) the nature of the evidence which it requires to decide those issues; and
  - (c) the way in which the evidence is to be placed before the tribunal.

(2) The tribunal may admit or exclude evidence, whether or not the evidence was available to the respondent when the disputed decision was taken and notwithstanding any enactment or rule of law relating to the admissibility of evidence in proceedings before a court.

(3) The tribunal may require any witness to give evidence on oath or affirmation or if in writing by way of affidavit.

(4) The tribunal may allow a witness to give evidence through a videolink or by other means.

### **Summoning or citing of witnesses**

**21.**—(1) Subject to paragraphs (2) and (3) below, the tribunal may at any time, either of its own motion or on the request of any party, issue a summons, (or in relation to proceedings taking place in Scotland, a citation), requiring any person wherever he may be in the United Kingdom to do one or both of the following—

(a) to attend as a witness before the tribunal at the time and place set out in the summons or citation; and

(b) to answer any questions or produce any documents or other material in his possession or under his control which relate to any matter in question in the proceedings.

(2) A request by a party for the issue of a summons or citation or for directions under this rule shall state with reasons—

(a) upon which facts the witness is to be questioned and the reasons for the examination;

(b) the documents required to be produced.

(3) No person may be required to attend in compliance with a summons or citation under this rule unless—

(a) he has been given at least 7 days notice of the hearing; and

(b) he is paid—

(i) if the proceedings are taking place before a tribunal in England and Wales, such sum as would be recoverable by that witness in respect of his attendance in proceedings before the Supreme Court of England and Wales;

(ii) if the proceedings are taking place before a tribunal in Scotland, such sum as would be recoverable by that witness in respect of his attendance in proceedings before the Court of Session; and

(iii) if the proceedings are taking place before a tribunal in Northern Ireland, such sum as would be recoverable by that witness in respect of his attendance in proceedings before the Supreme Court of Northern Ireland.

(4) The tribunal may make the summoning or citation of a witness in accordance with paragraph (1) above conditional upon the deposit with the Registrar of a sum determined by the tribunal as sufficient to cover—

(a) the costs of the summons or citation;

(b) the sum referred to in sub-paragraph (3)(b) of this rule.

(5) The Registrar shall advance the funds necessary in connection with the examination of any witnesses summoned by the tribunal on its own motion.

### **Failure to comply with directions**

**22.** If any party fails to comply with any direction given in accordance with these rules, the tribunal may if it considers that the justice of the case so requires, order that such party be debarred from taking any further part in the proceedings without the permission of the tribunal.