

CO/402/2001

DATED the 25th day of May 2001

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

BEFORE THE HONOURABLE MR JUSTICE MOSES

IN THE MATTER of a claim for Judicial Review

THE QUEEN ON THE APPLICATION OF

**(1) INTERBREW SA
(2) INTERBREW UK HOLDINGS LIMITED**

VERSUS

**(1) THE COMPETITION COMMISSION
(2) THE SECRETARY OF STATE FOR
TRADE AND INDUSTRY**

UPON READING the Notice of claim form herein dated the 2nd day of February 2001 filed on behalf of the above-named Claimants together with the statement lodged pursuant to Part 54 of the Civil Procedure Rules for Judicial Review of (1) the decision of the First Defendant, contained in its report submitted to the Second Defendant on the 5th December 2000, to recommend to him that the Claimants be required to divest of Bass Brewers in the United Kingdom to a buyer approved by the Director General of Fair Trading (2) the decision of the Second Defendant announced on the 3rd January 2001 to accept the First Defendants recommendation and to require the Claimants to divest of Bass Brewers in the United Kingdom to a buyer approved by the Director General of Fair Trading

AND THE RELIEF SOUGHT:-

- (1) A declaration that the relevant decision of the First Defendant was contrary to the Fair Trading Act 1973 and/or EC law and/or disproportionate and/or irrational and/or incompatible with the Claimants rights under the European Convention of Human Rights and/or unfair;
- (2) A declaration that the relevant decision of the Second Defendant was contrary to the Fair Trading Act 1973 and/or EC law and/or disproportionate and/or irrational and/or incompatible with the Claimants rights under the European Convention on Human Rights and/or unfair;
- (3) A quashing order in respect of each of the relevant decisions of the First and Second Defendant;
- (4) Such other relief or remedy as the Court considers just or appropriate, including insofar as necessary an award of damages;
- (5) Insofar as necessary, an order preventing the Second Defendant from implementing his decision by making an order under section 73 of the Fair Trading Act 1973.

AND UPON READING the witness statement of Hugo Geoffrey Lloyd Powell signed the 1st day of February 2001 together with the exhibits referred to therein filed on behalf of the Claimant in support of this claim

AND UPON READING the Witness statement of Ian Jeffrey Gregory signed the 27th day of March 2001 together with the exhibits referred to therein filed on behalf of the Second Defendant

AND UPON HEARING Counsel for the parties Mr J Sumption QC and Mr N Green QC and Miss M Carrs-Frisk with Mr P Vaughan on behalf of the Claimants and Mr K Parker QC with Mr D Beard on behalf of the First Defendant and Mr D Anderson QC with Mr A Robertson on behalf of the Second Defendant

IT IS ORDERED that this application be allowed and that:

- 1) The recommendation on remedies of the First Defendant that the Claimants be required to divest of Bass Brewers in the United Kingdom to a buyer approved by the Director General of Fair Trading, contained in paragraphs 2.209 to 2.219 of its report submitted to the Second Defendant on 05 December 2000 ("the report"), be quashed, together with consequential amendments to chapter 1 of the Report, in the particular 1.14 - 1.18.
- 2) The decision of the Second defendant, announced on 03 January 2001, to accept the First Defendant's recommendation on remedies, be quashed.
- 3) The question of remedies be remitted for reconsideration by the Second Defendant with such assistance as he may consider appropriate from the Director General of Fair Trading.

AND IT IS ORDERED that the First and Second Defendant's do pay 75% of the Claimant's costs of the Judicial Review, such costs to be subject to detailed assessment if not agreed.

[This matter occupied the time of the Court from 10:30 - 13:00 and 14:00 - 16:00 on 9 May 2001, 10:30 - 13:00 and 14:00 - 17.00 on 10 May 2001, 16.30 - 15.00 on 23 May 2001 and from 15.34 - 15.37 on 25 May 2001]

By the Court

DATE 25th MAY 2001

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

MR JUSTICE MOSES

ORDER

C0/402/2001

Claimant's Solicitors

Simmons & Simmons DX 12 LDE Ref: 7B/Y10008/PV/FXB

First Defendant's Solicitors

Competition Commission 48 Carey Street, London WC2A 2JT

Second Defendant's Solicitors

Treasury Solicitors

Ref: LT10757L/SLJ/B3