

IN THE SUPREME COURT OF NEW ZEALAND

**SC 25/2009
[2009] NZSC 48**

BETWEEN THE COMMERCE COMMISSION
Applicant

AND CARTER HOLT HARVEY LIMITED
Respondent

Court: Tipping, McGrath and Wilson JJ

Counsel: A R Galbraith QC and J C L Dixon for Applicant
R G Simpson and J S Cooper for Respondent

Judgment: 25 May 2009

JUDGMENT OF THE COURT

A. Leave to appeal is granted.

B. The approved grounds of appeal are:

- (a) Whose knowledge is relevant when considering whether time has commenced to run under s 43(5) of the Fair Trading Act 1986?**
- (b) Is knowledge of the “likelihood of loss” sufficient to commence the limitation period for a claim under s 43(2)(c) and (d) of the Act?**
- (c) Is knowledge of a contravention also knowledge of the “likelihood of loss” for the purposes of s 43(5)?**

Solicitors:
Meredith Connell, Auckland for Applicant
Bell Gully, Auckland for Respondent