



COMPETITION APPEAL TRIBUNAL

NOTICE OF A CLAIM UNDER SECTION 47A OF THE COMPETITION ACT 1998

CASE NO. 1278/5/7/17

Pursuant to rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Rules”), the Registrar gives notice of the receipt of a claim for damages (the “Claim”) on 12 September 2017, under section 47A of the Competition Act 1998 (“the Act”), by (1) British Telecommunications plc; (2) EE Limited; (3) Plusnet plc; and (4) DABS.COM Limited (together, the “Claimants”) against (1) MasterCard Incorporated; (2) MasterCard International Incorporated; and (3) MasterCard Europe SA (together, the “Defendants”)¹. The Claimants are represented by Gowling WLG (UK) LLP, 4 More London Riverside, London SE1 2AU (Reference: Bernardine Adkins).

The Claimants claim compensatory damages; in the alternative, an account of profits/other restitution; and interest for breach of a statutory duty arising from infringements by the Defendants of the Chapter I prohibition of the Act and/or Article 101 of the Treaty on the Functioning of the European Union and/or Article 53 of the Agreement on the European Economic Area.

The Claimants contend that the Defendants acted unlawfully in the setting of a minimum or default fee (known as a multi-lateral interchange fee (“MIF”)) for transactions within the United Kingdom which formed part of the Merchant Service Charge which the Claimants were required to pay to their own bank with respect to credit transactions under the Defendants’ scheme for MasterCard branded payment cards.

According to the Claim, the introduction and operation of the MIF constituted a decision of an association of undertakings; and, in the alternative, an agreement between undertakings which, in the circumstances, had as its effect the restriction of competition to an appreciable degree by setting a default price chargeable to merchants, including the Claimants. This resulted in a MIF which was higher than the charge that would otherwise have been payable.

The Claimants argue that they have suffered loss and damage as a result of this overcharge and claim damages as the difference between the MIF which the Claimants paid and the MIF which the Claimants would have paid had a lawful scheme been in operation.

The Claimants claim:

- (1) Damages;
- (2) In the alternative, an account of profits and/or such other restitutional relief in relation to such sums as are found by the Tribunal that the Claimants have overpaid;
- (3) Interest pursuant to Rule 105(2) of the Rules or otherwise pursuant to any other applicable law as such rate and for such period as the Tribunal determines appropriate;
- (4) Costs; and
- (5) Such further or other relief as the Tribunal may determine as appropriate.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at Victoria House, Bloomsbury Place, London WC1A 2EB, or by telephone (020 7979 7979), fax (020 7979 7978) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

¹ By an order dated 23 October 2017 the President permitted the Claimants to: (i) amend their claim form to reflect the fact that the Fourth Claimant re-registered as a private company on 15 September 2017; and (ii) serve the claim form and the particulars of claim on the First and Second Defendants outside the jurisdiction.

Charles Dhanowa OBE, QC (Hon)
Registrar

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