



COMPETITION APPEAL TRIBUNAL

**NOTICE OF A CLAIM FOR DAMAGES UNDER  
SECTION 47A OF THE COMPETITION ACT 1998**

**CASE NO. 1231/5/7/14**

The Registrar of the Competition Appeal Tribunal gives notice of the receipt of a claim for damages (the “Claim”) on 17 June 2014, under section 47A of the Competition Act 1998 (the “Act”), by the Ministry of Defence of Whitehall, London SW1A 2HB (the “Claimant”) against British Airways plc (the “Defendant”). The Claimant is represented by the Treasury Solicitor, One Kemble Street, London WC2B 4TS (Reference: Susan Harwood).

The Claim arises from a decision of the Office of Fair Trading (the “OFT”) dated 19 April 2012 relating to an infringement of section 2(1) of the Act and/or Article 101 of the Treaty on the Functioning of the European Union (Case CE/7691-06, “*Airline passenger fuel surcharge for long-haul flights*”) (the “Decision”). By the Decision, the OFT found that the Defendant, together with Virgin Atlantic Airways Limited and Virgin Atlantic Limited (together, “VA”), had infringed those provisions between the August 2004 and January 2006 (the “Surcharge Period”) by colluding and exchanging commercially sensitive information as to the level of passenger fuel surcharges (“PFS”) imposed on consumers in relation to long-haul flights (the “Infringement”).

The Claimant argues that, by virtue of the Infringement, the PFS was higher during the Surcharge Period than it would have been absent the Infringement. Further, it argues that a lawful PFS would have been substantially below the level of PFS applied by the Defendant during the Surcharge Period and/or would have corresponded with the fluctuating fuel prices during the Surcharge Period. Further or alternatively, the Claimant argues that, absent the illegal coordination, VA’s PFS would have been lower than it was during the Surcharge Period and would have exerted competitive pressure on the Defendant’s PFS, which would in turn have forced the Defendant to reduce its PFS.

During the Surcharge Period, the Claimant purchased direct long-haul flights between two airports (“sectors”) from the Defendant. The Claimant claims the overcharge in the PFS per sector during the Surcharge Period.

The Claimant claims:

- (a) damages;
- (b) interest;
- (c) further and/or other relief; and
- (d) costs.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at [www.catribunal.org.uk](http://www.catribunal.org.uk). Alternatively, the Tribunal Registry can be contacted by post at the above address or by telephone (020 7979 7979) or fax (020 7979 7978). Please quote the case number mentioned above in all communications.

*Charles Dhanowa OBE, QC (Hon)*  
Registrar

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