



COMPETITION APPEAL TRIBUNAL

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

CASE No: 1098/5/7/08

The Registrar of the Competition Appeal Tribunal (the “Tribunal”) gives notice of the receipt of a claim (the “claim”) for damages on 13 March 2008, under section 47A of the Competition Act 1998 (the “Act”), by (1) BCL Old Co Limited, formerly Buxted Chicken Limited, a company incorporated under the laws of England and Wales, whose registered office is at Premier House, Centrium Business Park, Griffiths Way, St Albans, Hertfordshire, AL1 2RE; (2) DFL Oldco Limited, formerly Daylay Foods Limited, a company incorporated under the laws of England and Wales, whose registered office is at 2 Woolgate Court, St Benedicts Street, Norwich, NR2 4AP; (3) PFF Old Co Limited, formerly Hermanns Poultry Limited, Premier Poultry Limited and Premier Fresh Foods Limited, a company registered under the laws of England and Wales, whose registered office is at Premier House, Centrium Business Park, Griffiths Way, St Albans, Hertfordshire, AL1 2RE; (4) Deans Foods Limited, a company incorporated under the laws of England and Wales, whose registered office is at Bridgeway House, Icknield Way Industrial Estate Tring, Hertfordshire, HP23 4JX (the “claimants”) against (1) BASF AG, a company incorporated under the laws of Germany, whose registered office is at D-67056 Ludwigshafen, Germany (the “first defendant”); (2) BASF plc, a company incorporated under the laws of England and Wales, whose registered office is at Earl Road, Cheadle Hulme, Cheadle, Cheshire, SK8 6QG (the “second defendant”); and (3) Frank Wright Limited, a company incorporated under the laws of England and Wales, whose registered office is at Blenheim House, Blenheim Road, Ashbourne, Derbyshire, DE6 1HA (and which, from its acquisition in 1996 to its sale in 2007, formed part of the undertaking headed by the first defendant) (the “third defendant”), together (the “defendants”).

The claimants’ legal advisers are Taylor Vinters, Merlin Place, Milton Road, Cambridge CB4 0DP (Mr Edward Perrott).

The claim arises from a decision of the Commission of the European Communities (the “Commission”) (Case COMP/E-1/37.512 Vitamins, OJ [2003] L 6/1), adopted on 21 November 2001, (the “decision”) relating to proceedings under Article 81 of the Treaty establishing the European Community (the “EC Treaty”) and Article 53 of the Agreement on the European Economic Area (the “EEA Agreement”).

At Article (1) of the decision, the Commission found that the first defendant, together with a number of other undertakings, had participated in a cartel in respect of the sale of vitamins (the “Cartel Products”) thereby infringing Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement.

By application lodged at the Court of First Instance of the European Communities (the “European Court”) on 31 January 2002, the first defendant brought an action for annulment or substantial reduction of the overall fine imposed by the decision. By judgment of 15 March 2006 in Case T-15/02 *BASF AG v Commission* [2006] ECR II-497 the European Court reduced the fines imposed on BASF.

The claimants contend that (as indirect purchasers of the Cartel Products who bought at prices that were higher than would otherwise have been the case) they have suffered monetary loss and damage as a result of the infringement of Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement by the first defendant and that the first defendant implemented and/or gave effect to the cartel in the UK through the second and third defendants. The claimants further contend that they were unable to pass on any increase in the cost of the Cartel Products to their customers.

The claimants seeks the following relief:

- (a) damages pursuant to section 47A of the Act;
- (b) interest pursuant to rule 56(2) of the Competition Appeal Tribunal Rules 2003 (SI 2003, No 1372) (the “Tribunal Rules”) at such rate and for such a period as the Tribunal determines is appropriate;
- (c) costs, pursuant to rule 55 of the Tribunal Rules; and
- (d) further or other relief.

Further details concerning the procedures of the Tribunal can be found on its website at 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
Registrar

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