



## COMPETITION APPEAL TRIBUNAL

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

**CASE No: 1101/5/7/08**

The Registrar of the Competition Appeal Tribunal (the “Tribunal”) gives notice of the receipt of a claim (the “claim”) for damages on 14 May 2008, under section 47A of the Competition Act 1998 (the “Act”), by (1) Grampian Country Food Group Limited; (2) Grampian Country Feeds Limited; (3) Marshall Food Group Limited; (4) Cymru Country Chickens Limited; and (5) Favor Parker Limited (the “claimants”) against (1) Sanofi-Aventis SA (the “first defendant”); (2) Rhodia Limited (the “second defendant”); (3) F. Hoffman-La Roche AG (the “third defendant”); (4) Roche Products Limited (the “fourth defendant”); (5) BASF SE (the “fifth defendant”); (6) BASF Plc (the “sixth defendant”); and (7) Frank Wright Limited (the “seventh defendant”), together (the “defendants”).

The claimants’ legal advisers are Maclay Murray & Spens LLP, 151 St Vincent Street, Glasgow G2 5WJ (Miss Catriona Munro).

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”).

In the decision, the Commission found that the first defendant, the third defendant, and the fifth defendant, together with a number of other undertakings, had participated in a cartel in respect of the sale of certain vitamins (the “Vitamins Cartel”) 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 fifth 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 the fifth defendant. Neither the first defendant nor the third defendant applied to annul the decision before the European Court under Article 230 of the EC Treaty.

The second defendant was, for the duration of the Vitamins Cartel, a wholly-owned subsidiary of the first defendant. The fourth defendant was, for the duration of the Vitamins Cartel, and remains, a sister company of the third defendant. The third and fourth defendants have a common holding company as their ultimate owner. The sixth defendant was, for the whole duration of the Vitamins Cartel, and remains, a wholly owned subsidiary of the fifth defendant. The seventh defendant was, during 1996-2007, a wholly-owned subsidiary of the sixth defendant. The second, fourth, sixth and seventh defendants sold in or into the UK the vitamins manufactured by their respective groups.

The claimants contend that as a result of the operation of the Vitamins Cartel and having purchased vitamins from the defendants (either directly or indirectly), they have paid higher prices than they would otherwise have done for all relevant vitamins purchased for the duration of the cartel. In addition, the defendants made greater profits than they would otherwise have done. By reason of the aforesaid breaches, the claimants contend they have suffered economic loss and damage.

The claimants seek the following relief:

- (a) damages;
- (b) alternatively, restitution;
- (c) interest pursuant to rule 56 of the Competition Appeal Tribunal Rules 2003 upon such sums found to be due to them for such period and at such rate as the Tribunal thinks fit;
- (d) costs; and
- (e) further or other relief.

Further details concerning the procedures of the 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*  
Registrar

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