



COMPETITION APPEAL TRIBUNAL

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

Case No: 1401/5/7/21

Pursuant to Rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (the “Tribunal Rules”), the Registrar gives notice of the receipt of a claim for damages (the “Claim”) on 31 March 2021, under section 47A of the Competition Act 1998 (the “Act”), by Forrest Fresh Foods Limited (the “Claimant”) against Coca-Cola European Partners Great Britain Limited (the “Defendant”). The Claimant is represented by Taz-ul Islam, 13 Crowshaw Drive, Rochdale, Lancashire OL12 0SR (Reference: Taz-ul Islam).

The Claim arises from an alleged infringement of the prohibition contained in section 18 of the Act (the “Chapter II prohibition”) in the market for the wholesale supply of soft drinks within the European Market (“the Soft Drinks Market”).

The Claimant is incorporated in England and Wales. According to the Claim, the Claimant is and was at all material times engaged in the business of the wholesale supply of food products including soft drinks from its trading premises in Rochdale, Lancashire.

The Claim states that, at all material times, the Defendant carried on the business of manufacturing, distributing and selling soft drinks under the brand name “Coca-Cola” (“the Coca-Cola Products”) in the United Kingdom and the European Union from its head office in Uxbridge. By reason of its ownership of the trade marks and the established repute of the brand “Coca-Cola” and the supply chain for Coca-Cola Products, the Defendant is in a dominant position in the Soft Drinks Market.

According to the Claim, since 2011, the Claimant has been a wholesale purchaser of Coca-Cola Products and a supplier of Coca-Cola Products to wholesalers, restaurants and take away outlets in the United Kingdom and worldwide, and it has purchased its majority supply of Coca-Cola Products from the Defendant. In 2016 and 2017, the Defendant entered into a series of agreements or arrangements with the Claimant and other wholesalers (“the Arrangements”). The object of the Arrangements was for the Claimant to obtain Coca-Cola Products at an advantageous price in return for providing the Defendant with information relating to the Claimant’s customer list together with details including quantities and frequencies of orders and description of various Coca-Cola Products. By virtue of obtaining such information from the Claimant and to the detriment of the Claimant, the Defendant supplied directly to the Claimant’s customers and used its dominant position to restrict the Claimant’s access to the market place.

The Claim also states that, between January 2011 and April 2016, the Claimant was purchasing Coca-Cola Products from Ireland and Georgia and the Defendant requested the Claimant’s assistance in removing the Irish and Georgian stock from the UK market.

Further, the Defendant instructed the Claimant in April 2012 to purchase stock from a particular cash and carry in order to shore up the latter’s sales figures and the Defendant agreed to reimburse the Claimant as the purchase of produce at that cash and carry’s pricing was not attractive to the Claimant.

According to the Claim, since October 2017 to date, the Defendant has refused to reimburse the Claimant for sugar tax levies on Coca-Cola Products exported to Europe and beyond.

The Claimant alleges that the Defendant has acted in breach of the Chapter II prohibition and that the Defendant’s abuse of its dominant position has affected and will continue to affect and/or has the potential to affect trade between the Claimant and its UK and global market place. If unrestrained the Defendant’s conduct will seriously distort competition on downstream markets.

As a result of the abuses by the Defendant of its dominant position, the Claimant has suffered loss and damage.

The Claimant seeks:

- (1) Damages including exemplary damages.
- (2) Interest.
- (3) Further or other relief.

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 telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, QC (Hon)
Registrar

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