



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1425/7/7/21

BETWEEN:

**JUSTIN GUTMANN**

Applicant/Proposed Class Representative

- v -

- (1) GOVIA THAMESLINK RAILWAY LIMITED**  
**(2) GOVIA LIMITED**  
**(3) THE GO-AHEAD GROUP PLC**  
**(4) KEOLIS (UK) LIMITED**

Respondents/Proposed Defendants

- and -

**SECRETARY OF STATE FOR TRANSPORT**

Proposed Intervener

Case No.: 1304/7/7/19

**JUSTIN GUTMANN**

Class Representative

- v -

- (1) FIRST MTR SOUTH WESTERN TRAINS LIMITED**  
**(2) STAGECOACH SOUTH WESTERN TRAINS LIMITED**

Defendants

- and -

**SECRETARY OF STATE FOR TRANSPORT**

Proposed Intervener

**JUSTIN GUTMANN**

Class Representative

- v -

**(1) LONDON & SOUTH EASTERN RAILWAY LIMITED**  
**(2) GOVIA LIMITED**  
**(3) THE GO-AHEAD GROUP PLC**  
**(4) KEOLIS (UK) LIMITED**

Defendants

- and -

**SECRETARY OF STATE FOR TRANSPORT**

Proposed Intervener

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**ORDER (DIRECTIONS)**

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**UPON** the Applicant's application dated 24 November 2021 in Case No. 1425/7/7/21 Gutmann v Govia Thameslink Railway Ltd and Others (the "**GTR Proceedings**") for a collective proceedings order pursuant to section 47B of the Competition Act 1998 and Rule 75 of the Competition Appeal Tribunal Rules 2015 (the "**CPO Application**")

**AND UPON** the Applicant in the GTR Proceedings undertaking to procure amendments of paragraph 24.3 of the Litigation Funding Agreement in those proceedings to (i) insert a clause requiring that, should the Funder seek to exercise the right to terminate the Litigation Funding Agreement, they shall provide the Applicant a reasonable opportunity to address the Funder's concerns, and (ii) insert the words "such a view to be reached based on independent legal and expert advice that has been provided to the Funder" at the end of sub-clauses 24.3.1, 24.3.2 and 24.3.3 (the "**Applicant's Undertaking**")

**AND UPON** the Tribunal having determined at a hearing on 22 March 2023 that it will by separate order grant the CPO Application in the GTR Proceedings

**AND UPON** a collective proceedings order having been granted in Cases No. 1304/7/7/19 Gutmann v First MTR South Western Trains Ltd and Another (the “**SW Proceedings**”) and 1305/7/7/19 Gutmann v London & South Eastern Railway Ltd and Others (the “**SE Proceedings**”) (together, the “**SW/SE Proceedings**”) on 18 January 2022

**AND UPON** the Secretary of State for Transport’s (the “**Secretary of State’s**”) application dated 7 November 2022 for permission to intervene in the GTR Proceedings and the SW/SE Proceedings (the “**Application for Permission to Intervene**”)

**AND UPON** reading the written submissions of the parties and the Proposed Intervener’s Note in support of the Application for Permission to Intervene dated 14 November 2022

**AND UPON** hearing Counsel for the parties and the Proposed Intervener at a hearing of the CPO Application and CMC held on 22 March 2023

**AND UPON** the Class Representative not opposing the Secretary of State’s request to file written submissions regarding the regulatory framework and arrangements made thereunder

**IT IS ORDERED THAT:**

**Application for Permission to Intervene**

1. The Application for Permission to Intervene is granted to the extent that the Secretary of State is permitted to file neutral written submissions regarding the statutory and regulatory framework in which fare setting was and is carried out, and the arrangements made thereunder. The Secretary of State’s Application for Permission to Intervene is otherwise refused.
2. No order for costs of the Application for Permission to Intervene.

**Joint case management**

3. The GTR Proceedings and the SW/SE Proceedings shall be jointly case managed and tried together, with evidence in one to stand as evidence in the other so far as relevant.

### **Timetable for written submissions and Pleadings**

4. The Class Representative shall file and serve the Re-Amended Collective Proceedings Claim Form in the GTR Proceedings by 4pm on 5 April 2023.
5. The Secretary of State shall file and serve his written submissions by 4pm on 21 April 2023.
6. The Defendants shall file and serve Defences by 4pm on 12 May 2023. In the case of the Defendants to the SE Proceedings and the GTR Proceedings, such Defence may be a consolidated Defence across those proceedings.
7. The Class Representative shall (if so advised) file and serve a consolidated Reply in the SW/SE and GTR Proceedings by 4pm on 23 June 2023.

### **Further CMC**

8. There shall be a further CMC to be listed (with a provisional listing of 7 July 2023). The parties are to liaise ahead of the CMC to agree in so far as possible directions to trial.

### **General**

9. Costs of the CPO Application and (save as already ordered above) the CMC shall be costs in the case.
10. There be liberty to apply.

**The Honourable Mr Justice Roth**  
Chair of the Competition Appeal Tribunal

Made: 5 April 2023  
Drawn: 5 April 2023