



Case No.: 1627/7/7/23

IN THE COMPETITION APPEAL TRIBUNAL

BETWEEN:

Justin Gutmann

Class Representative

– and –

TELEFONICA UK LIMITED

Defendant

COLLECTIVE PROCEEDINGS ORDER

UPON the Class Representative’s application for a Collective Proceedings Order pursuant to section 47B of the Competition Act 1998 (the “**Act**”) and Rule 75 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015, No. 1648) (the “**Tribunal Rules**”) (the “**CPO Application**”) made in the “**Collective Proceedings Claim Form**” dated 28 November 2023, which combines claims in respect of losses alleged to have been caused by the Defendant’s alleged unlawful conduct in breach of section 18 of the Act (the “**Claims**”) (the “**Collective Proceedings**”).

AND UPON the Class Representative having brought three related applications for Collective Proceedings Orders pursuant to section 47B of the Act and Rule 75 of the Tribunal Rules made in collective proceedings claim forms dated 28 November 2023, respectively naming Vodafone Limited and Vodafone Group Plc (the “**Vodafone Defendants**”), EE Limited and BT Group Plc (“the **EE Defendants**”), and Hutchison 3G

UK Limited (the “**Three Defendant**”) as defendants (the “**Related CPO Applications**”).

AND UPON the Tribunal’s Order dated 24 June 2024 (the “**Pre-CPO CMC Order**”) ordering that the CPO Application and the Related CPO Applications be jointly case managed up to and including the hearing of the CPO Application and the Related CPO Applications (the “**CPO Hearing**”).

AND UPON the Defendant’s application (along with the Vodafone Defendants, the EE Defendants, and the Three Defendant) dated 2 May 2024 to strike out and/or summarily dismiss the Claims insofar as they accrued prior to 1 October 2015 on the basis that such Claims are time-barred (the “**First Period Application**”).

AND UPON the Defendant’s application dated 2 May 2024 (along with the Vodafone Defendants, the EE Defendants, and the Three Defendant) for the Class Representative to disclose specified information in respect of costs and funding (the “**Disclosure Application**”).

AND UPON the Tribunal’s order in the Pre-CPO CMC Order dismissing the Disclosure Application and reserving the costs of the Disclosure Application to the CPO Hearing.

AND UPON hearing Leading Counsel for the Class Representative and Leading Counsel and junior counsel for the Defendant at the CPO Hearing, which took place from 31 March 2025 to 2 April 2025

AND UPON the Tribunal handing down judgment on the CPO Application, Related CPO Applications, First Period Application and Second Period Application on 14 November 2025 ([2025] CAT 77)

IT IS ORDERED THAT:

First Period Application

1. The First Period Application is granted. The Claims are struck out insofar as they accrued prior to 1 October 2015.

Amendments to the Collective Proceedings Claim Form

2. The Class Representative has permission to amend the Collective Proceedings Claim Form to the extent provided for in this paragraph 2 and paragraph 6 below. By 4pm on 19 December 2025, the Class Representative shall file an amended Collective Proceedings Claim Form reflecting the Tribunal's CPO judgment.

Authorisation of the Class Representative

3. Pursuant to section 47B of the Act and Rules 77 and 80 of the Tribunal Rules, Mr. Justin Gutmann be authorised to act as the Class Representative and to continue the Collective Proceedings on an opt-out basis claiming aggregate damages for loss suffered by the Class Members (as defined below).
4. The remedy sought is an award of aggregate damages pursuant to section 47C(2) of the Act together with interest and/or such further or other relief as the Tribunal may see fit.
5. The Class Representative's address for service (hard copy) is c/o Charles Lyndon, 110 Cannon Street, London EC4N 6EU. Electronic service may be effected at such email addresses as have been notified from time to time to the Tribunal and the other parties for that purpose.
6. The Claims certified for inclusion in the Collective Proceedings pursuant to section 47B of the Act and Rules 79 and 80 of the Tribunal Rules are the Claims as set out in the Collective Proceedings Claim Form, subject to necessary amendments to ensure the Collective Proceedings Claim Form is consistent with the Class Definition set out in paragraphs 7 and 8 below, and that the claims are limited to the period from 1 October 2015 (in accordance with paragraph 1 above).

Class Definition

7. The class of persons (the “**Class**”, or “**Class Members**”) whose claims are certified for inclusion in the Collective Proceedings comprises:

Any Relevant Customer who in the Relevant Period (i) entered into at least one Combined Handset and Airtime Contracts with the Defendant (and/or any other company which was, from time to time, within the same corporate group as the Defendant) under an Included Brand and (ii) pursuant to the Combined Handset and Airtime Contract(s) made one or more periodic payments in excess of the SIM Only Price after the expiry of the Minimum Term; or, in the case of such a deceased Relevant Customer, the Personal Representative of that deceased Relevant Customer.

“Relevant Customer” means a natural person (including a sole trader but excluding a natural person in a business partnership) who enters into a personal or business Combined Handset and Airtime Contracts for the supply of mobile telecommunications services during the Relevant Period.

“Relevant Period” means 1 October 2015 to 31 March 2025.

“Combined Handset and Airtime Contracts” means a contract offered to customers in the United Kingdom for the provision of both (i) a Handset and (ii) Airtime Services,

pursuant to which the customer makes an indefinite sequence of single periodic payments in respect of both the Handset and Airtime Services at a rate calculated to pay for the Handset over the Minimum Term.

“Handset” means a mobile telephone device or another device which, with a SIM card, enables the user to access a mobile communications network; this definition encompasses mobile telephones, smartphones and tablets.

“Airtime Services” means retail telecommunication services that enable customers, through a SIM card, to use their Handsets to make and receive telephone calls, send and receive text messages and/or use mobile data.

“Included Brand” means the O2 brand.

“Minimum Term” means the period during which the customer is liable to pay a charge for early termination of a Combined Handset and Airtime Contract.

“Defendant” means Telefonica UK Limited.

“SIM Only Price” means the periodic charge payable to the Defendant (and/or any other company which was, from time to time, within the same corporate group as the Defendant) in respect of Airtime Services only (i.e. without the supply of a Handset).

“Personal Representative” means the representative of the estate of a deceased Relevant Customer.

8. The following categories of persons (as constituted from time to time) shall be excluded from the proposed class and accordingly not be Class Members:
 - a. *Officers, directors, or employees of the Defendant; any entities which have a (direct or indirect) interest in the Defendant that give rise to significant control; and any entities in which the Defendant has such an interest;*
 - b. *Members and staff of the Tribunal and any other Court assigned to these proceedings or related proceedings;*
 - c. *The Class Representative’s and the Defendant’s legal representatives, as well as any experts or other professional advisers instructed in these Proceedings, including professional staff assisting them; and*
 - d. *The Class Representative.*

Notification

9. The Class Representative shall publish a notice of the Collective Proceedings in the form attached to this Order as Annex A in accordance with Rule 81 of the Tribunal Rules (the “**Notice**”) within seven days of this order being drawn.

Opting Out and Opting In

10. Every member of the Class who is domiciled in the United Kingdom on 25 November 2025 (the “**Domicile Date**”) shall be included in these Collective Proceedings.
11. Any member of the Class who is domiciled in the United Kingdom on the Domicile Date may opt-out of the Collective Proceedings by giving the Class Representative notice in writing of their decision to opt out by 25 February 2026, in accordance with the Notice.
12. Any member of each of the Class who is not domiciled in the United Kingdom on the Domicile Date may opt-in to the Collective Proceedings by giving the Class Representative notice in writing of their decision by no later than 25 February 2026 in accordance with the Notice.

Funding arrangements

13. The Class Representative shall inform the Tribunal and the Defendant immediately of any material development in respect of his funding arrangements.
14. The Class Representative shall file and serve an update in respect of his current funding position not less than 28 days before the next case management conference in these proceedings.

Costs

15. The parties shall file submissions on any costs order (if not agreed) by 5pm on 19 December 2025.

General

16. There be liberty to apply.

The Honourable Lord Richardson

Chair of the Competition Appeal Tribunal

Made: 25 November 2025

Drawn: 25 November 2025

ANNEX A – NOTICE OF COLLECTIVE PROCEEDINGS