



Neutral citation [2026] CAT 38

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

Case Nos: 1441-1444/7/7/22

**COMMERCIAL AND INTERREGIONAL CARD CLAIMS I LIMITED**

Class Representative

- v -

- (1) MASTERCARD INCORPORATED
- (2) MASTERCARD INTERNATIONAL INCORPORATED
- (3) MASTERCARD EUROPE SA
- (4) MASTERCARD/EUROPAY UK LIMITED
- (5) MASTERCARD UK MANAGEMENT SERVICES LIMITED
- (6) MASTERCARD EUROPE SERVICES LIMITED

Defendants

AND BETWEEN:

**COMMERCIAL AND INTERREGIONAL CARD CLAIMS II LIMITED**

Class Representative

- v -

- (1) MASTERCARD INCORPORATED
- (2) MASTERCARD INTERNATIONAL INCORPORATED
- (3) MASTERCARD EUROPE SA
- (4) MASTERCARD/EUROPAY UK LIMITED
- (5) MASTERCARD UK MANAGEMENT SERVICES LIMITED
- (6) MASTERCARD EUROPE SERVICES LIMITED

Defendants

AND BETWEEN:

**COMMERCIAL AND INTERREGIONAL CARD CLAIMS I LIMITED**

Class Representative

- v -

- (1) VISA INC.
- (2) VISA INTERNATIONAL SERVICE ASSOCIATION
- (3) VISA EUROPE SERVICES LLC
- (4) VISA EUROPE LIMITED
- (5) VISA UK LTD

Defendants

AND BETWEEN:

**COMMERCIAL AND INTERREGIONAL CARD CLAIMS II LIMITED**

Class Representative

- v -

- (1) VISA INC.
- (2) VISA INTERNATIONAL SERVICE ASSOCIATION
- (3) VISA EUROPE SERVICES LLC
- (4) VISA EUROPE LIMITED
- (5) VISA UK LTD

Defendants

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**REASONED ORDER (PERMISSION TO APPEAL)**

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**UPON** the Judgment of the Tribunal dated 2 March 2026 [2026] CAT 15 (the **Judgment**)

**AND UPON** the application for permission to appeal the Judgment by the Class Representative dated 23 March 2026 (the **PTA Application**)

**AND UPON** the responsive submissions of the Defendants to the PTA Application dated 13 April 2026

**IT IS ORDERED THAT:**

1. The PTA Application is refused.

## REASONS

1. Commercial and Interregional Card Claims I Limited (the **Class Representative**) seeks permission to appeal the Tribunal's **Judgment** of 2 March 2026 ([2026] CAT 15), in which the Tribunal: (1) found that various legal entities had failed to opt in to these proceedings by the date specified by the Tribunal for that purpose; and (2) declined to exercise its discretion to give permission for those entities to opt in late. the Class Representative advances four grounds which it submits should be subject to reconsideration by the Court of Appeal.

### A. **GROUND OF APPEAL**

#### (1) **Ground 1**

2. The Class Representative submits that the Tribunal has erred in adopting an overly narrow construction of s.47B of the Competition Act 1998 (**CA98**). This submission seems to be based on an argument that there is a distinction to be drawn between claims which are described in s.47A and claims which are compendiously brought under s.47B. It is said by the Class Representative that, once the s.47A claims are combined under s.47B, the definition of the class, as set out in the collective proceedings order (**CPO**) and the CPO notices, becomes the mechanism by which the identity of opt-in entities is determined.
3. We do not accept that there can be any sensible distinction drawn between the claims which are defined in s.47A and the claims for the purposes of opt-in proceedings. Section 47B permits claims under s.47A to be combined. As the Class Representative has accepted, those s.47A claims can only be brought by legal entities. Section 47B(7)(b) expressly links the description of the class to those legal entities.
4. It follows that nothing in the CPO or the CPO notices can alter the eligibility requirements which have their source in s.47A and s.47B(7)(b). We also note

that the Class Representative has acknowledged (in its 8 September 2025 response to the Defendants' opt-in application) that "class members", as defined in r.73(2) of the Tribunal's Rules, must be legal persons. That seems fatal to the Class Representative's arguments about the CPO and CPO notices, which are all predicated on that definition of class members.

5. There is in our view no reasonable prospect of the Court of Appeal reaching a different conclusion and we therefore decline to grant permission for Ground 1.

**(2) Ground 2**

6. The Class Representative submits that the Tribunal erred in approaching the question of notification of an intention to opt in as being dependent solely on inferences to be drawn, rather than the facts. This seems in part a complaint that the Tribunal has characterised the Class Representative as encouraging the Tribunal to make inferences, when it is said that the Class Representative's case was based on the fact of a person signing a form and the Class Representative's entitlement to rely on the ostensible or apparent authority of that person.
7. The difficulty with this argument is that, as pointed out in the Judgment at §71(a), it is for the most part entirely unclear which legal entities were the subject of the opt-in notifications. In those circumstances, and in the absence of any evidence from any entity seeking to opt in, the most the Tribunal could do would be to infer which entities were intended to be included. For the reasons set out in §71 of the Judgment, the Tribunal was unwilling to do that.
8. There is in our view no reasonable prospect of the Court of Appeal finding that the Tribunal has misdirected itself as to the correct legal approach, as the Tribunal has simply proceeded to make factual findings on the sparse material put before it. Any challenge to those factual findings would not be a permissible one. We therefore decline to grant permission for Ground 2.

**(3) Ground 3**

9. The Class Representative submits that the Tribunal was wrong not to find that the ratifications of authority obtained by the Class Representative cured any defect in the opt-in process.
10. However, ratification was only relevant to any issue of authority, and the Tribunal has found that there was no opt-in at all by the entities in question.
11. There is therefore no reasonable prospect of the Court of Appeal taking a different view from the Tribunal on this issue and we decline to grant permission for Ground 3.

**(4) Ground 4**

12. Under this Ground, the Class Representative challenges the exercise of the Tribunal's discretion to refuse permission to opt in as being manifestly unreasonable and one which no reasonable tribunal would reach. The Class Representative submits that the Tribunal accorded too much weight to the question of prejudice to the Defendants, incorrectly identified the date on which the Class Representative first made its application for permission to opt in late and failed to take into account countervailing policy considerations which favoured the grant of permission.
13. The Class Representative's complaints are, for the most part, about the weight which the Tribunal has given to various factors in reaching its conclusion. We do not consider that these complaints, even if correct, lead to the conclusion that the outcome was manifestly unreasonable or one which no reasonable tribunal would reach.
14. In any event, the Tribunal has explained in detail the multi-factorial assessment it has made. This includes a statement that the prejudice to the Defendants was not a material factor (see §90 of the Judgment). Instead, the policy considerations largely dictated the result, with especial emphasis on the delay by the entities involved and the failure to provide any proper explanation for

that (see §91 of the Judgment). The Judgment noted the risks to the integrity of the opt-in regime that might arise if permission to opt in were granted in these circumstances.

15. As to the date on which the Class Representative made its application for permission to opt in, it is correct that its 8 September 2025 response to the Defendants' application said that it "hereby seeks permission...to effect the opt in all entities... which meet the Class Definition". That was not however accompanied by any list of the entities which might be the subject of the application, with the response indicating that a list would be provided by 31 October 2025. We do not consider that these short paragraphs in that response can properly be described as an application under r.82(2) of the Tribunal Rules for the purposes of considering whether the Class Representative and the entities concerned have acted with reasonable expedition.
16. The Class Representative describes the Tribunal's stance as punitive and suggests that the aim was to discipline the Class Representative's solicitors. We do not consider either to be a correct reflection of the Judgment. In relation to the latter point, we note the finding in §92 of the Judgment that the entities themselves (as opposed to the Class Representative or indeed its lawyers) should be required to take responsibility for the delay.
17. For these reasons, we consider Ground 4 to amount to an impermissible challenge to the Tribunal's discretion under r.82(2) and we decline to grant permission on Ground 4.
18. This decision is unanimous.

Ben Tidswell  
Chair

Tim Frazer

William Bishop

Made: 29 April 2026  
Drawn 29 April 2026