COMPETITION APPEAL TRIBUNAL

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

Case No: 1817/7/7/26

Pursuant to rule 76(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) ("the Tribunal Rules"), the Registrar gives notice of the receipt on 23 October 2026 of an application to commence collective proceedings under section 47B of the Competition Act 1998 ("the Act"), by Commercial and Interregional Card Claims II Limited (the "PCR") against (1) Mastercard Incorporated; (2) Mastercard International Incorporated; (3) Mastercard Europe SA (formerly known as Mastercard Europe SPRL); (4) Mastercard/Europay UK Limited; (5) Mastercard UK Management Services Limited; and (6) Mastercard Europe Services Limited (together, "Mastercard" or the "Proposed Defendants").

The PCR is a company incorporated in England and Wales. The director of the PCR is Mr. Stephen David Allen and the PCR is represented by Hausfeld & Co. LLP, 12 Gough Square, London, EC4A 3DW (reference: Belinda Anne Hollway).

The PCR makes an application for a collective proceedings order permitting it to act as the class representative bringing opt-out proceedings on behalf of the Proposed Class. The claims which it is proposed to combine are stand-alone claims under section 47A of the Act for damages caused by the Proposed Defendants' breaches of statutory duty in infringing Chapter I of the Act and/or Article 101 of the Treaty on the Functioning of the European Union ("TFEU") (for the latter, in the period up to 31 December 2020). The claims in the proposed proceedings are brought on behalf of merchants (as defined below) who have accepted Mastercard-branded consumer payment cards at any time in the period between 23 October 2020 and the date of issue of the claim form (the "Claim Period"). The claims relate to Multilateral Interchange Fees ("MIFs") payable under the rules of the Mastercard scheme in respect of transactions with merchants which take place in the UK that are settled by Mastercard-branded consumer debit, credit or prepaid cards ("Consumer Cards").

Simultaneously with the commencement of these proceedings, opt-in collective proceedings against the same Proposed Defendants are also being brought, by a separate collective proceedings application on behalf of merchants, whose average annual group turnover between 2022 – 2024 is £100 million or more. Parallel proposed collective proceedings are also being brought against Visa. Collective proceedings orders have already been made in respect of similar opt-in and opt-out collective proceedings brought by the PCR relating to MIFs payable on UK transactions settled with Visa and Mastercard branded commercial debit, credit and prepaid cards (the "Commercial Card Claims"): see *CICC I and CICC II v Mastercard & Visa* [2024] CAT 39.

The PCR states that while these proceedings are stand-alone, it relies on the judgments of this Tribunal, the Court of Appeal and Supreme Court which have determined that arrangements which are identical, or substantially similar, to those at issue in these proceedings infringe, or may infringe (subject to the question of exemption), UK competition law. In particular: (i) the judgments of the Court of Appeal in *Sainsbury's v Mastercard* ([2018] EWCA Civ 1536) and the Supreme Court ([2020] UKSC 24) which concerned, *inter alia*, Consumer Card MIFs payable on Mastercard-branded card transactions in the period prior to the coming into force of the Interchange Fee Regulation on 8 June 2015 (Regulation (EU) 2015/751) ("IFR"); and (ii) the judgment of this Tribunal in the *Merchant*

Interchange Fee Umbrella Proceedings (Trial 1) [2025] CAT 37 ("*MIF Umbrella Trial 1*"), which concerned, *inter alia*, Consumer Card MIFs payable on Mastercard-branded card transactions in the period after the coming into force of the IFR, including during the Claim Period.

The Proposed Class is defined as all merchants who paid, directly or indirectly, a merchant Service Charge ("MSC") in respect of one or more Consumer Card transactions where the transaction occurred in the UK during the Claim Period. The Proposed Class excludes merchants who are part of a corporate group the turnover of which is, on average, £100 million or more per annum in the period 2022 – 2024. Excluded merchants are included in the parallel opt-in proposed collective proceedings. A Consumer Card transaction is defined to mean a transaction involving a Mastercard payment card to which a Consumer Card MIF applies under the Mastercard scheme rules. Consumer Card transactions occurring in the United Kingdom will attract different levels of MIF depending on whether they are classified as domestic, intraregional or interregional transactions. Consumer Card Transactions shall exclude those transactions taking place post 6 October 2020 to which an interregional card-not-present MIF applies insofar as these are the subject of certified collective proceedings brought by Ann Pope Collective Proceedings Limited. Pending disclosure and evidence, the PCR's rough estimate of the maximum number of opt-out class members is at least 972,917 to 1,282,689.

The PCR applies to be authorised to act as the class representative on the basis that such authorisation is just and reasonable. The PCR states that it is not a member of the Proposed Class and would be able to act impartially in the interests of all its members. The PCR and its legal representatives have material experience of recent competition law litigation relating to MIFs through the Commercial Card Claims. The PCR says it has sufficient funding arrangements in place to ensure that it will be able to pay the Proposed Defendants' recoverable costs if ordered to do so. The PCR has entered into a Litigation Funding Agreement to enable it to pay the costs of pursuing the Proposed Collective Proceedings and has taken out ATE insurance.

The PCR states that the claims are brought on behalf of an identifiable class of persons as detailed above. The PCR anticipates that all of the issues arising for determination in respect of the Proposed Class in relation to liability, and substantial issues arising for determination in relation to causation and loss, will be common issues. The PCR claims that the overcharge losses for the opt-out class can readily be assessed on a common basis, with the starting point being the total level of MIF paid in respect of Consumer Card Transactions in the UK during the Claim Period, which information is held and can readily be provided by the Proposed Defendants. The approach to pass-on will be informed by the findings made in the *MIF Umbrella Trial 2 judgment*. If full read-across is not possible then the PCR states that merchant pass-on could be quantified via an extrapolation process by matching any sector for which read-across is not possible to a sector analysed in *Trial 2A*, or via a full quantification exercise using the approach adopted in *Trial 2A*.

The PCR states that the claims are suitable to be brought in collective proceedings. The PCR states it would not be economically viable or practicable for the Proposed Class members to bring individual proceedings. The administrative burden involved in issuing their own individual claims would deter merchants with small claims from doing so, even given the structures available via the Umbrella Proceedings. Collective proceedings, the PCR says, provide a far simpler and quicker mechanism for integrating further claimants into the Umbrella Proceedings than the alternative of further individual claims seeking to be designated as a "Host Case". The PCR further states that collective proceedings represent the most appropriate approach in terms of costs/benefits. The PCR's experts' preliminary conclusion is that the claim value of the proposed proceedings is approximately £0.5 billion. Moreover, the costs will be capable of being appropriately minimised if the four proposed collective proceedings are managed together, managed alongside the Commercial Card Claims and are joined to the Umbrella Proceedings.

The PCR submits that the claims are suitable for an aggregate award of damages as there is a credible and plausible methodology, and available data, for calculating the losses suffered by the Proposed Class. To assess the overcharge incurred by every member of the Proposed Class on an individual basis would be impracticable and disproportionate, having regard to the substantial size of the class and the quantum of losses sustained. In this context, the PCR states, it would involve disproportionate time, cost and judicial resource for the Tribunal individually to assess damages, especially as regards merchants with a small turnover. An aggregate award provides a suitable (and fair) alternative, enabling access to justice for merchants who would otherwise face substantial practical impediments to obtaining redress.

The PCR submits that the Proposed Collective Proceedings should be certified on an opt-out basis. This is because it would be impracticable and uneconomic for many members of the Proposed Class to bring claims on an individual basis. The large size of the class means contacting all members of this group individually and providing advice and analysis to enable each to make a decision to opt-in to collective proceedings would involve enormous and impracticable cost, expense and resource. In addition, the per capita losses of those falling within the class will be modest, especially when set against the costs of pursuing these proceedings. In this context, the PCR submits, opt-out proceedings provide a proportionate mechanism for resolution of these claims.

As to the parties, the First Proposed Defendant, Mastercard Incorporated, is a United States stock corporation registered in Delaware. The First Proposed Defendant operates as the holding company of the Second, Third and Fourth Proposed Defendants. The Second Proposed Defendant, Mastercard International Incorporated, is a United States stock corporation registered in Delaware with the company number 648928. The Third Proposed Defendant, Mastercard Europe SA (formerly Mastercard Europe SPRL), is a private limited liability company incorporated in Belgium under registered company number 0448038446. The Fourth Proposed Defendant, Mastercard/Europay UK Limited, is a private limited liability company incorporated in England and Wales with registered company number 02398979. The Fifth Proposed Defendant, Mastercard UK Management Services Limited, is a private limited liability company incorporated in England and Wales with registered company number 04617367. The Sixth Proposed Defendant, Mastercard Europe Services Limited, is a private limited liability company incorporated in England and Wales with registered company number 09210818. The Fifth and Sixth Proposed Defendants' ultimate parent company is the First Proposed Defendant. The Proposed Defendants are all part of a single economic entity and form an undertaking for the purposes of UK and EU competition law. Each of the members of the undertaking, the PCR claims, is jointly and severally liable for all of the loss and damage caused to the Proposed Class members.

As to the operation of the Mastercard and Visa schemes, the PCR states that Mastercard and Visa each operate open four-party payment card schemes. The scheme operator (Mastercard or Visa) sets the rules of the scheme and allows institutions to join the scheme as issuers and/or acquirers. In summary, the Mastercard and Visa schemes operate as follows:

a. Issuers and acquirers join the Mastercard and/or Visa schemes, and agree to abide by the rules of the schemes.

b. A cardholder contracts with an issuer, which agrees to provide the cardholder with a Mastercard or Visa debit or credit card, and agrees the terms on which they may use the card to buy goods or services from merchants.

The PCR explains that merchants who wish to accept payment cards under the scheme contract with an acquirer, which agrees to provide services to the merchant enabling the acceptance of the cards, in consideration of the MSC. The MSC is negotiated between the acquirer and the merchant. Typically, it is set at a level that reflects the size and bargaining power of the merchant, the level of the acquirer's costs (including scheme fees payable to Mastercard and Visa , and any interchange fees payable by

the acquirer to issuers), and the acquirer's margin. The PCR says that the scheme rules require that, whenever a cardholder uses a payment card to make a purchase from a merchant, the cardholder's issuer must make a payment to the merchant's acquirer to settle the transaction. The Mastercard and Visa scheme rules make provision for the terms on which issuers and acquirers (who are members of the scheme) are to deal with each other, in the absence of any different bilateral agreement made between them. These terms, the PCR says, include issuers and acquirers settling transactions at the face value of the transaction and also providing, as a default, for the payment of an interchange fee on each transaction.

The PCR states that the Mastercard and Visa schemes, operate in a "two-sided market":

a. On one side of the market, issuers compete with each other for the business of customers to whom they will issue cards.

b. On the other side of the market, acquirers compete with each other for the business of merchants to whom they seek to offer acquiring services (the "Acquiring Market").

The PCR states that the relevant product market is the Acquiring Market. The Acquiring Market is UK-wide, in that it comprises the provision of acquiring services to merchants in the UK. At all relevant times, the scheme rules have constituted decisions of an association of undertakings within the meaning of the prohibitions set out in section 2(1) of the Act and/or Article 101(1) TFEU. Further, or in the alternative, at all relevant times, the Mastercard rules amounted to an agreement and/or concerted practice between the Proposed Defendants and other participants in the Mastercard scheme, including acquirers, who are obliged to abide by the rules.

The PCR alleges that at all relevant times, the default MIF for Consumer Card transactions provided for in the Mastercard rules fixed a minimum price floor for the MSC charged to merchants who accept payments by means of payment cards issued under the scheme. Acquirers have not been able in practice to negotiate the level of the MIF that is established by the Proposed Defendants. Moreover, the PCR claims, acquirers have no incentive to compete over that part of the price. In a counterfactual absent the provision in the Mastercard rules providing for payment by acquirers to pay issuers a default MIF in respect of Consumer Card transactions, the PCR claims that:

a. Issuers would not have charged acquirers interchange fees on such transactions, as bilateral agreements for positive interchange would not have been reached and issuers would not have (and/or would not have been able to) unilaterally impose a positive interchange fee on acquirers.

b. Acquirers would not have passed on interchange fees to merchants as part of the MSC.

c. The entirety of the MSC would have been determined by competition between acquirers (as opposed to one part of it being determined by collective agreement) and would have been lower.

These decisions and/or agreements and/or concerted practices by Mastercard and participants in the Mastercard scheme to set, impose, apply and abide by the Consumer Card MIFs have had, and continue to have the object and/or effect of preventing, restricting or distorting competition on the UK Acquiring Market. Given the breadth of the businesses affected and the material contribution made to the cost of the MSC which the imposition of the MIF makes, the effect on competition has been appreciable. The Consumer Card MIFs set by Mastercard have appreciably affected and continue to affect trade within the UK within the meaning of the Chapter I prohibition. They have also actually or potentially affected trade between Member States or in a substantial part of the EU for the period prior to 1 January 2021.

The measure of the Proposed Class members' damages is the pecuniary loss measured by the overcharge on the MSC, i.e. the difference between the MSCs that they have paid and continue to pay (in the presence of unlawful Consumer Card MIFs) and the lower MSCs that they would

otherwise have paid (absent the unlawful MIFs). Further or alternatively, should it be established that the Proposed Class members have passed on all or some of the unlawful Consumer Card MIF to their customers by way of higher retail prices (and without prejudice to the fact that the burden of proof of such passing on lies on the Proposed Defendants and is disputed by the PCR), the PCR will aver that the Proposed Class members have suffered lost profits on lost sales.

The PCR states that the Proposed Class members are entitled to and claim simple interest on their damages pursuant to section 35A of the Senior Courts Act 1981 at a rate determined by the Bank of England base rate plus 2% and for such period as the Court determines appropriate.

The PCR further states that England and Wales is the part of the United Kingdom that is most closely connected with the subject matter and the parties to these proceedings.

The relief sought in these proceedings is:

(1) Damages;
(2) Simple interest;
(3) Costs; and
(4) Such further or other relief as the Tribunal thinks fit.

Further details concerning the procedures of the Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP, or by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa CBE, KC (Hon)
Registrar

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