



COMPETITION APPEAL TRIBUNAL

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

CASE NO. 1268/5/7/16

Pursuant to rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648), the Registrar gives notice of the receipt of a claim for damages (the “Claim”) on 9 September 2016, under section 47A of the Competition Act 1998, by (1) Europcar UK Limited (the “First Claimant”); (2) PremierFirst Vehicle Rental Holdings Limited (the “Second Claimant”); (3) Europcar Group UK Limited (the “Third Claimant”); and (4) PremierFirst Vehicle Rental Franchising Limited (the “Fourth Claimant”) (together, the “Claimants”) against (1) MasterCard Incorporated; (2) MasterCard International Incorporated; and (3) MasterCard Europe SA (together, the “Defendants”). The Claimants are represented by Eversheds LLP, 1 Wood Street, London EC2V 7WS (Reference: Lesley Farrell).

The Claimants all form part of the Europcar group of companies, which is a car rental business operating directly in seven countries across Europe and Australia and New Zealand. The Claimants are all part of a sub-group of Europcar which, together, constitute the UK division of Europcar (“Europcar UK”) which services demand for rental cars in the UK alone.

The Claim arises from a decision of the European Commission (the “Commission”) (Cases COMP/34.579 MasterCard, COMP/36.518 EuroCommerce and COMP/38.580 Commercial Cards (C (2007) 6474 final)) dated 19 December 2007 relating to a proceeding under Article 81 of the EC Treaty (now Article 101 of the Treaty on the Functioning of the European Union) and Article 53 of the Agreement on the European Economic Area (the “EEA Agreement”) (“the Decision”).

In the Decision, the Commission found that, from 22 May 1992 until 19 December 2007, the MasterCard payment organisation and the legal entities representing it, that is, the Defendants, had infringed Article 81 of the EC Treaty and, from 1 January 1994 until 19 December 2007, Article 53 of the EEA Agreement by in effect setting a minimum price merchants had to pay to their acquiring bank for accepting payment cards in the EEA, by means of the intra-EEA fallback interchange fees (the “Intra-EEA MIF”) for MasterCard branded consumer credit and charge cards and for MasterCard or Maestro branded debit cards (Article 1 of the Decision). The Decision was upheld by the General Court of the European Union on 24 May 2012¹ and by the Court of Justice of the European Union on 11 September 2014.²

The First to Third Claimants accept payments from their customers by way of debit and credit cards including those that are issued as part of MasterCard’s scheme rules, and pay charges imposed under the scheme rules which are associated with accepting such payments. The revenue and costs of the Third Claimant are and/or were shared internally with the Fourth Claimant.

The Claimants claim damages for the losses they have suffered as a result of the application of the Intra-EEA MIF as set in the period 22 May 1992 until 21 June 2008. In summary, the Claimants’ case is that the effect of the infringement as found in the Decision was unlawfully to inflate the merchant service charge (“MSC”) that the First to Third Claimants paid to financial institutions from which they acquired services to accept MasterCard-branded payment cards. At all material times the multilateral interchange fees (“MIF”) formed, and remain, a large part of the MSC paid and payable by the First to Third Claimants to their acquiring bank for accepting MasterCard consumer credit and MasterCard or Maestro consumer debit cards. According to the Claim, the MIF applicable to a given transaction was at all material times passed on in full to the First to Third Claimants as part of the relevant MSC.

¹ Case T-111/08, *MasterCard, Inc., MasterCard International, Inc. and MasterCard Europe v Commission*, ECLI:EU:T:2012:260.

² Case C-382/12 P, *MasterCard Inc., MasterCard International Inc. and MasterCard Europe S.p.a. v Commission*, ECLI:EU:C:2014:2201.

The Claimants claim:

- (1) Damages;
- (2) Compound interest, alternatively simple interest;
- (3) Costs; and
- (4) Such further or other relief as the Tribunal considers appropriate.

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 post at Victoria House, Bloomsbury Place, London WC1A 2EB, or by telephone (020 7979 7979), fax (020 7979 7978) 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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