



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

Case No.: 1269/5/7/16

**B E T W E E N:**

- (1) **BRITISH AIRWAYS PLC**  
(2) **BRITISH MIDLAND AIRWAYS LIMITED**  
(3) **BA CITYFLYER LIMITED**  
(4) **BRITISH AIRWAYS HOLIDAYS LIMITED**  
(5) **BRITISH MEDITERRANEAN AIRWAYS LIMITED**

Claimants

**-v-**

- (1) **MASTERCARD INCORPORATED**  
(2) **MASTERCARD INTERNATIONAL INCORPORATED**  
(3) **MASTERCARD EUROPE SA**

Defendants

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**ORDER**

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**UPON** reading the Claimants' application made on 12 September 2016 under rule 31(2) of the Competition Appeal Tribunal Rules 2015 (the "Tribunal Rules") for permission to serve the claim outside the jurisdiction on the First and Second Defendants

**IT IS ORDERED THAT:**

1. The Claimants be permitted to serve the First and Second Defendants outside the jurisdiction.
2. This order is without prejudice to the rights of the First and Second Defendants to apply pursuant to rule 34 of the Tribunal Rules to dispute the jurisdiction.

## **REASONS**

1. There is a real prospect of success in the claim against the First and Second Defendants under section 47A of the Competition Act 1998 in that the claim is a follow-on claim based on the European Commission's decision of 19 December 2007 of which all three Defendants were addressees and the claim is for damage alleged to result from the infringement established by that decision.
2. The Claimants are serving the proceedings on the Third Defendant pursuant to rule 31(1) of the Tribunal Rules. I am satisfied that the First and Second Defendants are necessary and proper parties to the claim being pursued against the Third Defendant in that: (a) the First and Second Defendants appear to represent MasterCard as an international payment organisation jointly with the Third Defendant, at least as regards its activities in Europe; and (b) the Claimants allege that all the Defendants are jointly and severally liable for any loss that the Claimants have suffered.
3. The Tribunal is clearly the appropriate forum for the trial of this claim against the First and Second Defendants given the matters set out in (2) above and given that the most significant elements of the events concerning causation and quantum giving rise to the Claim are alleged to have taken place in England and Wales.

**The Hon Mr Justice Roth**  
President of the Competition Appeal Tribunal

Made: 16 September 2016  
Drawn: 16 September 2016