



## COMPETITION APPEAL TRIBUNAL

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

#### CASE NO. 1335/5/7/19

Pursuant to rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Tribunal Rules”), the Registrar gives notice of the receipt of a claim for damages (“the Claim”) on 5 November 2019, under section 47A of the Competition Act 1998 (the “Act”), by Strident Publishing Limited (“the Claimant”) against Creative Scotland (“the Defendant”). The Claimant has requested the permission of the Tribunal to be represented by its sole director and owner, Mr Keith Charters.

The Claim arises from an alleged infringement of the prohibition contained in section 2(1) of the Act (the “Chapter I prohibition”). The Claimant has applied for fast-track designation of the proceedings pursuant to Rule 58 of the Tribunal Rules.

The Claimant is a small independent book publisher based in East Kilbride, Scotland.

The Defendant is an executive non-departmental public body of the Scottish Government and is the principal public-sector arts funder in Scotland. The Defendant was established under the Public Services Reform (Scotland) Act 2010 (the “2010 Act”). The Claim states that the Defendant subsidise creative output through various funding programmes and the scheme relevant to the Claim is the Open Project Fund (“OPF”). This is a scheme the Defendant has chosen to set up and operate in the way it does. OPF is not a statutory requirement under the 2010 Act. The OPF is not available for funding overheads or developing infrastructure; only to fund projects.

The Claimant states that through the OPF the Defendant has provided funding to three companies: Birlinn Limited (and Scottish Review of Books Limited, of which the sole Person of Significant Control is a Birlinn Limited director), Floris Books Trust Limited and Sandstone Press Limited (“Sandstone”). The Claimant states that the Defendant’s provision of investment finance to Sandstone is the main focus of the Claim.

The Claimant alleges that the Defendant has breached the Chapter I prohibition by providing such investment finance to Sandstone enabling it to operate without regard to normal commercial constraints with the effect of reducing the Claimant’s ability to compete more effectively with other publishers.

The Claimant claims:

- (1) Damages.
- (2) Costs.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at [www.catribunal.org.uk](http://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](mailto:registry@catribunal.org.uk)). Please quote the case number mentioned above in all communications.

*Charles Dhanowa OBE, QC (Hon)*  
Registrar

Published 21 November 2019