



COMPETITION APPEAL TRIBUNAL

NOTICE OF AN APPEAL UNDER SECTION 46 OF THE COMPETITION ACT 1998

Case No: 1365/1/12/20

Pursuant to rule 14 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Tribunal Rules”), the Registrar gives notice of the receipt of an appeal on 26 August 2020, under section 46 of the Competition Act 1998 (“the Act”), by Roland (UK) Limited and Roland Corporation (together, “Roland”), against a decision of the Competition and Markets Authority (“the CMA”) dated 29 June 2020, entitled *Online resale price maintenance in the electronic drum sector* (“the Decision”). Roland is represented by Simmons & Simmons LLP, Citypoint, 1 Ropemaker Street, London EC2Y 9SS (reference: Satyen Dhana)

Roland is a global supplier of musical instruments. Roland Corporation is the ultimate parent company of the group, headquartered in Japan. Roland (UK) Limited is a wholly owned subsidiary operating in the United Kingdom.

In the Decision, the CMA found that Roland (UK) Limited had infringed the prohibition in section 2(1) of the 1998 Act and/or Article 101 of the Treaty on the Functioning of the European Union by engaging in online resale price maintenance (“RPM”) relating to electronic drumkits and associated products with a single UK distributor in the period from 7 January 2011 to 17 April 2018. The CMA imposed a penalty of £4,003,321 on Roland. The CMA reached that figure on the basis of a “starting point” of 19% of relevant turnover, immunity from a fine for the period 7 January 2011 to 31 December 2012, a 20% discount on the penalty for the period 1 January 2013 to 17 April 2018 and a further 20% discount for settlement.

Roland does not challenge the findings of primary fact made by the CMA, or its overall finding of infringement. It accepts the full scope of the infringement found by the CMA, and it also accepts that the infringement was deserving of a financial penalty under the Act. The appeal relates exclusively to the level of the penalty.

Roland advances two grounds of appeal which are, in summary:

1. The 19% starting point is excessive. The CMA has (i) overstated the seriousness of RPM generally, imposing a penalty that is on a par with the penalties it imposes for much more serious horizontal infringements, and (ii) failed to take account of the very narrow scope of the RPM that it actually found in the Decision.
2. A 20% discount for leniency given by the CMA is inadequate. The discount for leniency given by the CMA was too low.

As regards the relief sought, Roland:

1. invites the Tribunal to order a substantial reduction in the level of penalty from the £4 million figure imposed by the CMA; and
2. seeks an order that the CMA pay its costs of the appeal.

Any person who considers that he has sufficient interest in the outcome of the proceedings may make a request for permission to intervene in the proceedings, in accordance with rule 16 of the Rules.

Please also note that a direction of the President is currently in place as to the electronic filing of documents: see paragraph 2 of the [Practice Direction](#) relating to Covid-19 published on 20 March 2020. Therefore, a request for permission to intervene should be sent to the Registrar electronically, by email to registry@catribunal.org.uk, so that it is received within **three weeks** of the publication of this notice.

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 telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, QC (Hon)
Registrar

Published 1 September 2020