



COMPETITION APPEAL TRIBUNAL

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

Case No: 1402/5/7/21

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 and/or an injunction (the “Claim”) on 22 April 2021, under section 47A of the Competition Act 1998 (the “Act”), by St James Holdings Limited (the “Claimant”) against The Football Association Premier League Limited (the “Defendant”). The Claimant is represented by Reynolds Porter Chamberlain LLP, Tower Bridge House, St Katharine’s Way, London E1W 1AA (Reference: Lambros Kilaniotis).

The Claim arises from alleged infringements of Article 101 of the Treaty on the Functioning of the European Union (“TFEU”) and/or the prohibition contained in section 2 of the Act (the “Chapter I prohibition”) and/or Article 102 of the TFEU and/or the prohibition contained in section 18 of the Act (the “Chapter II prohibition”) in respect of the Defendant’s exercise of its power to block a proposed takeover (“the Proposed Takeover”) of Newcastle United Football Company Limited (“NUFC”) by PZ Newco Limited (“the Consortium Company”).

The Claimant owns 100% of the shares in NUFC indirectly through its 100% ownership of Newcastle United Limited (“NUL”). The Claim states that NUFC is a professional Association Football club and, since the 2017-2018 season, it has competed alongside 19 other clubs in the English Premier League (“the PL”).

The Defendant is a company incorporated under the law of England and Wales. The Claim states that the Defendant operates the PL, including controlling and regulating the rights to: (i) own; and (ii) control PL football clubs through its rules. In this regard, the Defendant has the ability to block purchases of PL clubs pursuant to the powers granted to it under its rules to determine whether a new purchaser is a fit and proper person to be a director of a club (“the Rules”). The Defendant is owned by the 20 clubs competing in the PL at any given time (“the member-clubs”).

The Consortium Company is a company incorporated under the laws of England and Wales. The Claim states that a majority of the shares in the Consortium Company are indirectly owned by the Public Investment Fund (“PIF”) (the sovereign wealth fund of the Kingdom of Saudi Arabia) and the remaining shares in the Consortium Company are owned by three individuals.

According to the Claim, for the purposes of EU and UK competition law, by reason of it carrying out economic activities on its own behalf and through its member-clubs, the Defendant is an ‘undertaking’. By virtue of the structure of its organisation, the Defendant is also an ‘association of undertakings’.

The Claim states that the Defendant is active on the markets for the organisation and commercial exploitation of PL football in England. Further or alternatively, the Defendant is active on the market for ownership and control of PL football clubs. In the further alternative, the Defendant is active on the economic markets on which the PL clubs themselves compete.

According to the Claim, the Defendant occupies a dominant position on the relevant markets and its member-clubs occupy a position of collective dominance under Article 102 TFEU and Chapter II of the Act. In particular, through its powers under the Rules, the Defendant has an exclusive gatekeeper role that gives it the power to include or exclude new owners and new management of member-clubs. The exercise of that power has a direct impact upon the extent of competition between those member-clubs.

Also according to the Claim, by virtue of its position of dominance, the Defendant has a special responsibility to exercise its powers as a gatekeeper in a fair, objective and non-discriminatory manner and, in particular, not to exercise those powers for an ulterior commercial motive. Irrespective of its position of

dominance, the exercise by the Defendant of its powers under the Rules by excluding new owners and new management of, and new investment in, member-clubs has the potential to restrict competition between clubs.

The Claim states that the Defendant exercised its power to block the Proposed Takeover when it decided between June and September 2020 that the Kingdom of Saudi Arabia would be a director exercising “control” over NUFC, for the purposes of the Rules (“the Director Decision”). In reaching the Director Decision, the Defendant failed to apply the Rules in a fair, objective and non-discriminatory fashion and/or used its powers under the Rules for the improper purpose of promoting its own commercial interests and/or the interests of its business associates and/or certain of the PL member-clubs in a manner that was detrimental to competition and consumers.

According to the Claim, the Defendant’s conduct in purportedly applying the Rules was a decision (or decisions) of an association of undertakings, an agreement between an association of undertakings and/or a concerted practice that had as its object or effect the prevention, restriction or distortion of competition on the relevant markets. The Defendant also abused its dominant position on the relevant markets by preventing, alternatively impeding, the Consortium Company from proceeding with the Proposed Takeover, by refusing to deal with the Consortium Company and by imposing unfair trading conditions on the Consortium Company.

The Claimant alleges that the Defendant prevented, or hindered, the Proposed Takeover and knew that its actions would prevent and/or delay the Proposed Takeover. The prevention and/or delay of the Proposed Takeover was liable to and did distort and/or restrict competition between PL clubs. By its actions, the Defendant infringed Article 101 TFEU and/or the Chapter I prohibition and/or Article 102 TFEU and/or the Chapter II prohibition.

As a result of the breaches by the Defendant, the Claimant has suffered loss and damage. In particular, the Claimant has lost the immediate sale, or lost the likely opportunity of an immediate sale of its shares in NUL (which owns NUFC) to the Consortium Company.

The Claimant seeks:

- (1) Damages for loss of profit or, alternatively, loss of opportunity.
- (2) An injunction requiring the Defendant to withdraw the Director Decision and/or to reconsider the same.
- (3) Interest.
- (4) Costs.
- (5) 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 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

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