



COMPETITION APPEAL TRIBUNAL

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

CASE NO. 1418/5/7/21

Pursuant to rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Rules”), the Registrar gives notice of a claim for damages (“the Claim”) on 9 September 2021, under section 47A of the Competition Act 1998 (the “Act”), by Blue Planet Holdings Limited (“the Claimant”) against Orkney Islands Council (the “First Defendant”), Orkney Ferries Limited (the “Second Defendant”) and Sinclair Haulage Limited (the “Third Defendant”) (together, the “Defendants”). The Claimant seeks to be represented by its director, Kenneth C Murray.

The Claim arises from alleged infringements of Article 101 of the Treaty on the Functioning of the European Union (“TFEU”) and/or the Chapter I prohibition in the Act, and Article 102 of the TFEU and/or the Chapter II prohibition in the Act. The Claimant seeks fast-track designation of the proceedings pursuant to Rule 58 of the Rules.

The Claimant alleges that the Defendants operate a cartel and have colluded to share the market for the transportation of goods destined for the outer isles of Orkney. The Claimant argues that the First Defendant awards monopolies to secretly chosen suppliers for the carriage of goods in a process which excludes competitors, and that the Defendants have created anti-competitive barriers to entry. Specifically, it is alleged that the Third Defendant has been allocated the monopoly on the carriage of goods from the Northern Isles Depot in Kirkwall to Sanday, which has given the Third Defendant’s transportation, farming and retailing businesses an unfair competitive advantage for many years.

The Claimant alleges that the illegal arrangements between the Defendants have allowed the Third Defendant to acquire a dominant position in the market, which it has abused. According to the Claim, the Third Defendant has systemically overcharged and double-billed the Claimant, and engaged in other conduct, including cutting off the Claimant’s access to essential supplies (forcing the Claimant to sell residential property at a significant loss).

The Claim states that the anti-competitive agreements between the Defendants have allowed the Third Defendant to behave independently of the normal constraints imposed by competitors, suppliers and customers, and to abuse their market dominance to restrict competition and mistreat their customers, including the Claimant.

The Claimant seeks:

- (1) Damages;
- (2) An order disqualifying the directors of the Second and Third Defendants from acting as directors of a UK company; and
- (3) An injunction compelling the Defendants to end their anti-competitive activities.

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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