



COMPETITION APPEAL TRIBUNAL

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

CASE NO. 1258/5/7/16

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 an injunction (the “Claim”) on 8 July 2016, under section 47A of the Competition Act 1998 (the “Act”), by UKRS Training Limited (the “Claimant”) against NSAR Limited (the “Defendant”). The Claimant is represented by Berkeley Square Solicitors, 2nd Floor, Berkeley Square House, Berkeley Square, London W1J 6BD (Reference: Roger Sahota).

The Claim arises from an alleged infringement of the prohibition in section 18 of the Act regarding abuses of a dominant position. The Claimant has applied for fast-track designation of the proceedings pursuant to Rule 58 of the Tribunal Rules and has made a separate application for an interim injunction.

The Defendant runs the Rail Training Accreditation Scheme (“RTAS”). RTAS accreditation is required by any “Training Provider” which provides training to work on Network Rail’s (“NR”) infrastructure. The Claimant is such a Training Provider.

NR runs and maintains Britain’s main rail infrastructure – the tracks, signalling, bridges, tunnels, level crossings, and many key stations. Every worker on the NR infrastructure needs a “Sentinel Card”. That card enables NR to check among other things that the person has completed the necessary training and qualifications (in a range of topics from safety to engineering). The training is arranged by the worker’s employer and provided by a third party “Training Provider”. According to the Claim, since January 2012, the Defendant has taken over the concession to provide assurance of training quality for all NR’s Sentinel-related training and assessment programmes.

On 17 May 2016, the Defendant decided that the Claimant had breached various rules relevant to the RTAS scheme and that its accreditation would be suspended for three months. The suspension was stayed pending the Claimant’s appeal. The Defendant rejected the appeal on 17 June 2016 and the three-month suspension was fixed to commence on 21 June 2016. The Claimant applied for an interim injunction on 24 June 2016. Further to undertakings given to the Tribunal by the Defendant¹, the suspension has not been enforced since 28 June 2016.

The Claimant alleges that the Defendant is dominant in the British market for accreditation services to Sentinel Card training providers. The nature of the alleged abuse falls within or between two broad lines of cases: those on discrimination and those concerning a refusal to supply. According to the Claim, the suspension cannot be objectively justified.

The Claimant claims:

- (1) Damages.
- (2) A permanent injunction revoking the suspension.

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 post at Victoria House, Bloomsbury Place, London WC1A 2EB, or by telephone (020 7979 7979), fax (020 7979 7978) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

¹ See the Orders of the President dated 28 June and 21 July 2016: <http://www.catribunal.org.uk/237-9263/1258-5-7-16-UKRS-Training-Limited.html>.

Charles Dhanowa OBE, QC (Hon)
Registrar

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