



COMPETITION APPEAL TRIBUNAL

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

CASE NO. 1265/5/7/16

Pursuant to rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (the “Rules”), the Registrar gives notice of the receipt of a claim for damages (the “Claim”) on 7 September 2016, under section 47A of the Competition Act 1998 (the “Act”), by Dixons Carphone plc (UK) (the “Claimant”) against (1) MasterCard Incorporated; (2) MasterCard International Incorporated; and (3) MasterCard Europe SPRL (together, the “Defendants”). The Claimant is represented by Gowling WLG (UK) LLP, 4 More London Riverside, London, SE1 2AU (Reference: Bernardine Adkins).

The Claimant is the ultimate parent company of the Dixons retail group following the merger of that group with the Carphone Warehouse group on 6 August 2014. The retail trading subsidiaries forming part of the Dixons retail group are specialist electrical retailers selling products including consumer electronics, personal computers, domestic appliances, photographic equipment, communications products and related services.

Two companies forming part of the Dixons retail group, namely Dixons Retail Group Limited and DSG Retail Limited (“DSG”) have already issued a claim in the Tribunal pursuant to section 47A of the Act as in force on 11 February 2015 (Case No. 1236/5/7/15) (the “Existing Claim”).¹ The Claimant intends to apply to the Tribunal for the Claim to be consolidated with the Existing Claim.²

The decision relied on by the Claimant is the same as that relied upon in the Existing Claim, namely: the decision of the European Commission (the “Commission”) (Cases COMP/34.579 MasterCard, COMP/36.518 EuroCommerce and COMP/38.580 Commercial Cards) dated 19 December 2007 relating to a proceeding under Article 81 of the EC Treaty (now Article 101 of the Treaty on the Functioning of the European Union (“TFEU”)) and Article 53 of the Agreement on the European Economic Area (the “EEA Agreement”) (“the Decision”).

In the Decision, the Commission found that, from 22 May 1992 until 19 December 2007, the MasterCard payment organisation and the legal entities representing it, that is, the Defendants, had infringed Article 81 of the EC Treaty and, from 1 January 1994 until 19 December 2007, Article 53 of the EEA Agreement. In each case, the infringement was found to arise, in essence, by virtue of a decision by the Defendants as an association of undertakings and/or collective agreement between the Defendants and their member banks that restricted competition in the fees which merchants must pay to banks that accept the Defendants’ branded payment cards in the EEA (the “EEA MIF”). The Decision was upheld by the General Court of the European Union on 24 May 2012³ and by the Court of Justice of the European Union on 11 September 2014⁴.

By reference to the Existing Claim, the Claimant claims for separate losses it has incurred and continues to incur as a result of the application of the EEA MIF to transactions both in and outside the United Kingdom.

¹ See summary of claim dated 10 October 2016 in Case 1236/5/7/15 *DSG Retail Limited and another v MasterCard Inc. and others*.

² In addition to the Tribunal claims, companies forming part of the Dixons retail group have also brought a claim against the Defendants in the Chancery Division of the High Court: see fn 1 (above).

³ Case T-111/08, *MasterCard Inc., MasterCard International, Inc. and MasterCard Europe v Commission*, ECLI:EU:T:2012:260.

⁴ Case C-382/12 P, *MasterCard Inc., MasterCard International Inc. and MasterCard Europe S.p.r.l. v Commission*, ECLI:EU:C:2014:2201.

The Claim brought by the Claimant is for the losses incurred as the ultimate parent company of the Dixons retail group since the merger. According to the Claim, Dixons Retail Group Limited retains the right to claim for such losses up until the merger.

The Claimant claims:

- (1) Compound interest as damages;
- (2) In the alternative, an account of profits and/or such other restitutionary relief in relation to the sums overpaid by Dixons as the Tribunal determines appropriate;
- (3) In the alternative, interest pursuant to Rule 105 of the Rules or otherwise pursuant to any other applicable law at such rate and for such period as the Tribunal determines appropriate;
- (4) Costs; and/or
- (5) Such further or other relief as the Tribunal may determine as 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 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.

Charles Dhanowa OBE, QC (Hon)
Registrar

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