



## COMPETITION APPEAL TRIBUNAL

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

**Case No: 1688/5/7/24**

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 (the “Claim”) on 1 October 2024, under section 47A of the Competition Act 1998 (the “Act”), by Instaplanta (Yorkshire) Limited (the “Claimant” / “Instaplanta”) against Leeds City Council (the “Defendant” / “LCC”). The Claimant is represented by TupperS Law Limited, 22 Disraeli Road, Ealing, London W5 5HP (Reference: Stephen Tupper).

The Claimant is a micro business based in Leeds, West Yorkshire, which principally provides horticultural timber products to the care, education, and local authority sectors and more specifically provides environmentally friendly roadside advertising space through the supply, installation, and maintenance of timber floral planters within the limits of the highways of North England.

The Defendant is the administrative authority for the City of Leeds in West Yorkshire, England. It is a metropolitan district council, one of five in West Yorkshire and one of 36 in the metropolitan counties of England. It provides the majority of local government services in Leeds. The Leeds Metropolitan District covers 552 square kilometres and is the second largest metropolitan district in England.

According to the claim form, LCC, like many local authorities, is an active commercial participant in the market for supply of environmentally friendly roadside advertising space (referred to as “Green Roadside Advertising”) in the Leeds metropolitan market.

In addition to being the largest single provider of Green Roadside Advertising space in the Leeds metropolitan area, LCC is also the statutory highways body charged with regulating roadside enhancements in line with national legislation.

The Claimant is required to apply to LCC for permission to install objects or structures in or over a highway as a precursor to installation, and LCC is the sole relevant permitting authority for such installations in Leeds. The Claimant’s position is that this function means that LCC is the de facto “gatekeeper” to the Green Roadside Advertising market in Leeds; LCC is an unavoidable intermediary for those looking to enter into this market.

LCC is also the largest active participant in the Green Roadside Advertising market in Leeds and the Claimant estimates that LCC has over 80% of this market.

The Claimant issued proceedings against the Defendant in the Competition Appeal Tribunal (the “Tribunal”) on 22 November 2022 (Case 1569/5/7/22: Instaplanta (Yorkshire) Limited v Leeds City Council (the “First Action”). The summary of the claim in the First Action is available on the Tribunal’s website: [1569/5/7/22 Instaplanta \(Yorkshire\) Limited v Leeds City Council - Summary of claim | 23 Jan 2022 \(catribunal.org.uk\)](https://www.catribunal.org.uk/cases/1569/5/7/22). The parties agreed terms and subsequently, the First Action was withdrawn by the Claimant by consent on 14 August 2023 with no order as to costs.

By way of an email dated 26 September 2023, shortly after the resolution of the First Action, Instaplanta contacted LCC to determine whether LCC would be prepared to meet in advance of Instaplanta making an application for a licence to site planters. According to the claim form, LCC declined to engage.

On 13 October 2023, Instaplanta submitted an application to LCC for the siting of 15 wooden planters on the Leeds highways (on areas that Instaplanta contend are footways) (the “October Application”).

LLC responded to Instaplanta’s application by way of a letter dated 25 October 2024 (the “October Decision”). The claim form refers to the “elements” which make up the October Decision as follows:

1. With one exception, none of the sites identified by Instaplanta are located on “footways” or “pedestrianised” areas.
2. Instaplanta was asked to pay a fee of £260.60: (i) in advance; (ii) “per site” and not “per application”; and (iii) that payment is not refundable.
3. Instaplanta was told that in addition to receiving highways authorisation, Instaplanta is also required to obtain planning permission should Instaplanta intend on placing advertising on any of the 15 planters.
4. The Defendant confirmed that in its view each of the sites “...give rise to concerns from a highway safety perspective...” given their location and the exigencies regarding installation and maintenance.

Instaplanta asked the Defendant to reconsider its decision by email dated 11 December 2023. The October Decision was confirmed by LLC in an email dated 12 March 2024 (the “March Decision”).

The Claimant’s position is that the October Decision and/or the March Decision are key parts of the Defendant’s anti-competitive course of conduct which together constitute an abuse of the Defendant’s dominant position and as a direct and foreseeable consequence the Claimant has, and continues, to suffer loss.

According to the Claimant, the abusive actions of the Defendant, collectively and individually, have foreclosed the Claimant’s access to and/or expansion in the market and constitute, jointly and severally, an abuse of LLC’s dominance. LCC has treated other similar applicants in a markedly different manner to the Claimant, without any obvious or valid justification and has, through its charging system, imposed illicit, unfair and unreasonable barriers to entry.

The Claimant seeks:

1. Damages. The Claimant alleges that it would, absent the abuse, have been able to compete effectively in the Green Road Advertising market in Leeds. The Claimant says that it has been denied an opportunity to make a profit from the resultant rental income and has lost and continues to lose the said profit.
2. Interest. The Claimant claims compound interest pursuant to Rule 105(3) of the Tribunal Rules. Should the claim for compound interest fail, the Claimant seeks, in the alternative, simple interest.
3. Costs.
4. Such further or other relief as the Tribunal may think fit.

Further details concerning the procedures of the Tribunal can be found on its website at [www.catribunal.org.uk](http://www.catribunal.org.uk). Alternatively, the Tribunal Registry can be contacted by post at Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP, or by telephone (020 7979 7979) or email ([registry@catribunal.org.uk](mailto:registry@catribunal.org.uk)). Please quote the case number mentioned above in all communications.

*Charles Dhanowa OBE, KC (Hon)*  
Registrar

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