



COMPETITION APPEAL TRIBUNAL

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

CASE No: 1153/5/7/10

The Registrar of the Competition Appeal Tribunal (the “Tribunal”) gives notice of the receipt of a claim for damages (“the Claim”) on 21 May 2010, under section 47A of the Competition Act 1998, by (1) Vion Holding N.V.; (2) Vion N.V.; (3) Vion Food Group Limited; (4) Marshall Food Group Limited; (5) Vion Agriculture Limited; (6) Vion Food Scotland Limited; (7) Vion Food Wales & West England Limited; (8) Cymru Country Chickens Limited; (9) Cymru Country Feeds Limited; (10) Grampian Country Feeds Limited; (11) Grampian Country Chickens Limited; (12) Grampian Country Chickens (Bucksburn) Limited; (13) Favor Parker Limited; (14) Sovereign Food Group Limited; (15) Rowyell Roasters Limited; (16) Mayhew Country Chickens Limited; (17) Mayhew Country Foods Limited; and (18) Vion Food UK Limited (together, “the Claimants”)¹ against (1) Evonik Degussa GmbH of Rellinghauser Str. 1-11, 45128 Essen, Nordrhein-Westfalen, Germany (“the First Defendant”); and (2) Degussa Limited of Tego House, Chippenham Drive, Kingston, Milton Keynes, MK10 0AF (“the Second Defendant”) (together, “the Defendants”). The Second Defendant is a wholly-owned subsidiary of the First Defendant. The Claimants are represented by Maclay Murray & Spens LLP of 151 St. Vincent Street, Glasgow, G2 5NJ (Reference: CZM/VIO/0002/00055).

The Claim arises from a decision of the European Commission (“the Commission”) (Case C.37.519 – Methionine, OJ [2003] L 255/1), adopted on 2 July 2002 relating to proceedings under Article 81 of the Treaty establishing the European Community (“the EC Treaty”)² and Article 53 of the Agreement on the European Economic Area (“the EEA Agreement”) (“the Decision”). In the Decision, the Commission found that the First Defendant, together with three other undertakings, had participated in a continuous agreement and/or concerted action contrary to Article 81(1) of the EC Treaty and Article 53 of the EEA Agreement covering the whole of the EEA, by which they agreed on price targets for methionine, agreed on and implemented a mechanism for implementing price increases, exchanged information on sales volumes and market shares and monitored and enforced their agreements (“the Infringement”). The Commission found that the addressees of the Decision had participated in the Infringement from February 1986 to February 1999 (“the Cartel Period”).

The First Defendant appealed against the articles of the Decision imposing both liability and penalty to the Court of First Instance of the European Communities (“CFI”)³. By its judgment of 5 April 2006 in Case T-279/02 *Degussa AG v Commission* [2006] ECR II-897, the CFI reduced the fine imposed by the Commission in respect of the Infringement but otherwise dismissed the appeal. The First Defendant subsequently appealed to the Court of Justice of the European Communities (“ECJ”)⁴ on both liability and penalty. By its judgment of 22 May 2008 in Case C-266/06 *Evonik Degussa GmbH v Commission* [2008] ECR I-0081, the ECJ dismissed the appeal.

Methionine is an amino acid which is incorporated in most animal feeds and all poultry feed. Synthetic methionine is present in two principal forms: a dry or powder form called DL-methionine and a liquid form called methionine hydroxyl analogue (“MHA”).

¹ The Claimants’ joint service address is 7 Bain Square, Kirkton Campus, Livingston, EH54 7DQ.

² Now Article 101 of the Treaty on the Functioning of the European Union.

³ Now the General Court of the Court of Justice of the European Union.

⁴ Now the Court of Justice of the European Union.

According to the Claim, the effect of the Infringement was to maintain prices of DL-methionine at a level higher than they would have been without the Infringement and, further, to inflate the price at which methionine was purchased by certain of the Claimants, above that which would have prevailed had there been no Infringement (the difference being “the Overcharge”). The Claimants claim that an additional effect of the Infringement was unlawfully to inflate the price at which MHA was sold on the market, and that the Claimants’ purchases of MHA were subject to a similar overcharge as the Claimants’ purchasers of DL-methionine (“the Umbrella Overcharge”). As a result of the Infringement, the Claimants suffered loss and damage arising from the Overcharge and Umbrella Overcharge, as particularised in more detail in the Claim.

The Claimants seek the following relief:

- (a) damages, as particularised in more detail in the Claim;
- (b) compound, alternatively, simple interest on the damages assessed by the Tribunal, whether under Rule 55 of the Competition Appeal Tribunal Rules 2003, or otherwise at law or in equity;
- (c) an account of profits;
- (d) further or other relief, including equitable relief.

Further details concerning the procedures of the Tribunal can be found on its website at www.catribunal.org.uk. Alternatively the Tribunal Registry can be contacted by post at the above address or by telephone (020 7979 7979) or fax (020 7979 7978). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE
Registrar

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