



COMPETITION APPEAL TRIBUNAL

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

**CASE NO. 1269/5/7/16**

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 12 September 2016, under section 47A of the Competition Act 1998 (“the Act”), by (1) British Airways Plc; (2) British Midland Airways Limited; (3) BA Cityflyer Limited; (4) British Airways Holidays Limited; and (5) British Mediterranean Airways Limited (together, the “Claimants”) against (1) MasterCard Incorporated; (2) MasterCard International Incorporated; and (3) MasterCard Europe SA (together, the “Defendants”). The Claimants are represented by Constantine Cannon LLP, 1 Paternoster Square, London EC4M 7DX (Reference: Richard Pike / Irene Fraile).

The first three Claimants are companies that, during the relevant period, carried on business as international and domestic air carriers, the Fourth Claimant carried on business as a tour operator and the Fifth Claimant carried on business as a provider of scheduled airline services for passengers and freight.

The Claim arises from a decision of the European Commission (the “Commission”) (Cases COMP/34.579 MasterCard, COMP/36.518 EuroCommerce and COMP/38.580 Commercial Cards (C (2007) 6474 final)) 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) 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 by in effect setting a minimum price merchants had to pay to their acquiring bank for accepting payment cards in the EEA, by means of the intra-EEA fallback interchange fees (the “Intra-EEA MIF”) for MasterCard branded consumer credit and charge cards and for MasterCard or Maestro branded debit cards (Article 1 of the Decision). The Decision was upheld by the General Court of the European Union on 24 May 2012<sup>1</sup> and by the European Court of Justice on 11 September 2014.<sup>2</sup>

According to the Claim, as a consequence of the infringement found by the Commission, the MSCs levied by acquiring banks in connection with transactions made using MasterCard payment cards were all at material times higher than they would otherwise have been, containing overcharges attributable to the infringing arrangements. The Claimants bore such overcharges when customers made purchases from them using MasterCard payment cards.

The Claimants claim:

- (1) Damages;
- (2) Compound interest, alternatively interest pursuant to rule 105 of the Rules and/or section 35A of the Senior Courts Act 1981;
- (3) Costs;
- (4) Further and/or other relief.

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<sup>1</sup> Case T-111/08, *MasterCard, Inc., MasterCard International, Inc. and MasterCard Europe v Commission*, ECLI:EU:T:2012:260.

<sup>2</sup> Case C-382/12 P, *MasterCard Inc., MasterCard International Inc. and MasterCard Europe S.p.r.l. v Commission*, ECLI:EU:C:2014:2201.

Further details concerning the procedures of the Competition Appeal 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 Victoria House, Bloomsbury Place, London WC1A 2EB, or by telephone (020 7979 7979), fax (020 7979 7978) or email ([registry@catribunal.org.uk](mailto:registry@catribunal.org.uk)). Please quote the case number mentioned above in all communications.

*Charles Dhanowa OBE, QC (Hon)*  
Registrar

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