



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1304/7/7/19
1305/7/7/19

BETWEEN

JUSTIN GUTMANN

Applicant / Proposed Class Representative

-and-

(1) FIRST MTR SOUTH WESTERN TRAINS LIMITED
(2) STAGECOACH SOUTH WESTERN TRAINS LIMITED

Respondents/Proposed Defendants

AND BETWEEN

JUSTIN GUTMANN

Applicant / Proposed Class Representative

-and-

LONDON & SOUTH EASTERN RAILWAY LIMITED

Respondent/Proposed Defendant

ORDER

UPON the Applicant's applications dated 26 February 2019 for a collective proceedings order (the "**CPO Applications**") pursuant to section 47B of the Competition Act 1998 and Rule 75 of the Competition Appeal Tribunal Rules 2015

AND UPON the Supreme Court handing down judgment in *Mastercard Incorporated and others v Merricks* [2020] UKSC 51 on 11 December 2020

AND UPON the summary judgment and/or strike out applications made by the Proposed Defendants on 21 January 2021

AND UPON hearing counsel for all parties at a case management conference on 26 January 2021

IT IS ORDERED THAT

Amendments to pleadings and further evidence

1. The Proposed Defendants shall file and serve Amended Responses by 4pm on 27 January 2021.
2. The Proposed Defendants shall file and serve any further evidence by 4pm on 29 January 2021.
3. The Applicant shall file and serve any Amended Reply and any annexed documents by 4pm on 12 February 2021.

The CPO hearing

4. The Proposed Defendants' summary judgment and/or strike out applications be heard together with the CPO Applications.
5. The Proposed Defendants be granted permission, if so advised, to challenge the Applicant's litigation funding arrangements by separate written submissions after the CPO hearing on the basis of the Court of Appeal judgment due to be issued in Case C3/2020/0060 *UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. and others* and Case C3/2020/0138 *Road Haulage Association Limited v MAN SE and others*.
6. The Applicant shall make his expert witness, Mr Derek Holt, available on the third day of the CPO hearing i.e. Thursday 11 March 2021, to give evidence by way of response to any questions from the Tribunal. In the event that Mr Holt gives such evidence, the Proposed Defendants may ask supplemental questions arising out of Mr Holt's evidence.

7. The Proposed Defendants shall liaise with one another in advance of the CPO hearing in order to avoid duplication in their oral submissions.

Skeleton arguments and bundles for the CPO hearing

8. The Applicant shall file any updates to the electronic hearing bundle and five hard copies of any updates to the hearing bundle (liaising in advance with the Tribunal Registry) by 4pm on 23 February 2021.
9. The parties shall file and serve skeleton arguments by 4pm on 26 February 2021. The Applicant's skeleton argument shall be limited to no more than 40 pages. Each Proposed Defendant's skeleton argument shall be limited to no more than 25 pages. Skeleton arguments are to be not less than 12-point font and 1.5 line spacing with no less than 1-inch margin on all sides.
10. The Applicant shall file an agreed electronic authorities bundle and five hard copies (liaising in advance with the Tribunal Registry) by 4pm on 1 March 2021.

General

11. Costs be reserved.
12. There be liberty to apply.

The Hon Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 26 January 2021
Drawn: 28 January 2021