



COMPETITION APPEAL TRIBUNAL

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

Case No: 1533/5/7/22

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 30 September 2022, under section 47A of the Competition Act 1998 (the “Act”), by Commercial Buyers Group Limited (the “Claimant”) against (1) Associated Lead Mills Limited; (2) Royston Sheet Lead Limited; (3) International Industrial Metals Limited; (4) H.J. Enthoven Limited; and (5) Eco-Bat Technologies Limited (the “Defendants”). The Claimant is represented by TupperS Law, 22 Disraeli Road, London W5 5HP (Reference: Stephen Tupper / Adam Rooney).

The Claim arises from an infringement decision of the Competition and Markets Authority dated 4 November 2020 (Case 50477 – Roofing materials) relating to agreements and/or concerted practices which had as their object the prevention, restriction or distortion of competition in relation to the supply of rolled lead within the UK and/or within the internal market (the “CMA Decision”). Rolled lead sheet is a water-resistant and durable material used in roofing and cladding.

According to the Claim, the CMA Decision states that in October 2015, the Defendants agreed and/or entered a concerted practice not to supply the Claimant (by withdrawing or otherwise refusing to supply the Claimant), which was underpinned by an exchange of commercially sensitive information regarding their strategy towards the Claimant. On 1 May 2020, the Defendants each entered into a settlement agreement with the CMA and admitted that they had infringed section 2 of the Act.

The Claimant is a company incorporated in England and Wales, whose registered address is in Tonbridge and was formerly known as CBG Limited. The Claimant was dissolved on 8 August 2017 but pursuant to the Order made on 21 May 2020 by District Judge Wilkinson in the Central London County Court (Claim No. 1803 of 2019), the Claimant was restored to the Companies Register on 18 June 2020 and is deemed to have continued in existence as if its name had not been struck off.

According to the Claim, the First and Second Defendants are each indirect wholly owned subsidiaries of the Third Defendant, which is in liquidation. Together they form an undertaking for the purpose of the Act and the Third Defendant is jointly and severally liable for any infringements of the First and Second Defendants. The Fourth Defendant is the indirect wholly owned subsidiary of the Fifth Defendant. Together they form an undertaking for the purpose of the Act and the Fifth Defendant is jointly and severally liable for any infringements of the Fourth Defendant. The Claim states that Defendant undertakings are two of the three principal manufacturers and suppliers (“the Suppliers”) of rolled lead in the UK. The Suppliers supply approximately 90% of the UK market for rolled lead sheet, which is a homogeneous product.

According to the Claim, the Suppliers generally sell to roofing merchants, who in turn supply contractors. The Suppliers operated a ‘merchant-only’ policy and did not generally deal with contractors. The Claimant’s business model involved brokering deals with contractors to be supplied with rolled lead sheet via a merchant customer of the relevant Supplier for general contractor purchases and directly with the Supplier for artisan sales. The Claimant’s customers were expected to obtain price benefits as a result of their orders or referrals being ‘pooled’.

The Claim states that, from 13 October 2015 there was an agreement, alternatively a concerted practice, between the Defendant undertakings not to supply the Claimant with rolled lead sheet and/or a concerted practice between them to share commercially sensitive information about their conduct on the rolled lead sheet market and their strategy towards the Claimant.

The Claim alleges that thereafter, pursuant to the Defendants' agreement or concerted practices, neither the Fourth, First nor Second Defendants has ever supplied rolled lead to the Claimant. The agreement and/or concerted practices limited the freedom of the Defendants to supply rolled lead sheet and of the Claimant (and/or the Claimant's customers) to purchase rolled lead sheet and, accordingly, to determine their actions on the market independently of one another. The agreement and/or concerted practices were aimed at and had the objective of excluding the Claimant from the market, and the sharing of information by the Defendant undertakings was capable of and did reduce strategic uncertainty between them by revealing how each of them intended to act on the market and intended to respond to the Claimant as a new entrant in the market. The agreement and/or concerted practices were implemented in the UK and affected trade in the UK, and they did not fall within any relevant exemption provision in or made under the Act.

The Claimant alleges that the Defendants' breaches of statutory duty have caused the Claimant to suffer loss and damage. There was no reasonable alternative supplier of rolled lead sheet available to the Claimant at any material time. The Claim asserts that the First to Third Defendants form an undertaking for the purpose of the Act and TFEU, and the Third Defendant is jointly liable for any infringements of the First and Second Defendant. The Fourth and Fifth Defendants also form an undertaking for the purpose of the Act and TFEU and the Fifth Defendant is jointly and severally liable for any infringements of the Fourth Defendant.

The Claimant seeks:

- (1) Damages for actual losses incurred because of its ceasing to trade and for lost profits.
- (2) Interest pursuant to Rule 105(3) of the Tribunal Rules.
- (3) Costs.

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 Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP, or by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, KC (Hon)
Registrar

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