



COMPETITION APPEAL TRIBUNAL

**NOTICE OF AN APPLICATION TO COMMENCE COLLECTIVE PROCEEDINGS UNDER
SECTION 47B OF THE COMPETITION ACT 1998**

CASE NO. 1257/7/7/16

Pursuant to rule 76(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Rules”), the Registrar gives notice of the receipt on 25 May 2016 of an application to commence collective proceedings, under section 47B of the Competition Act 1998 (“the Act”), by Ms Dorothy Gibson (the “Applicant/Proposed Class Representative” or “Ms Gibson”) against Pride Mobility Products Limited (the “Respondent/Proposed Defendant” or “Pride”). The Applicant/Proposed Class Representative is represented by Leigh Day, Priory House, 25 St John’s Lane, London EC1M 4LB (Reference: Christopher Haan).

The Applicant/Proposed Class Representative makes an application for a collective proceedings order permitting her to act as the class representative bringing opt-out collective proceedings (“the Application”). The Respondent/Proposed Defendant is a manufacturer and supplier of mobility scooters.

The proposed collective proceedings would combine follow-on actions for damages arising from a decision of the Office of Fair Trading (“OFT”) of 27 March 2014 which found that the Respondent/Proposed Defendant and eight retailers had infringed the Chapter I prohibition contained in the Act by entering into agreements and concerted practices aimed at prohibiting the online advertising of prices for certain models of Pride mobility scooters below Pride’s recommended retail prices (“the Decision”). The eight infringements found by the OFT in the Decision lasted for different periods extending from February 2010 to February 2012 (“the Infringements”).

The proposed class is any person who purchased a new Pride mobility scooter in the United Kingdom between 1 February 2010 and 29 February 2012.

According to the Application, the issue common to all class members is whether the Infringements, and the common practice of Pride that underlay them, were effective in raising prices for consumers, and if so by how much.

The Applicant/Proposed Class Representative submits that it is just and reasonable for her to be appointed as class representative because:

- (a) The Applicant/Proposed Class Representative is the General Secretary of the National Pensioners Convention (“NPC”), an umbrella organisation for around 1,000 pensioners’ groups across the United Kingdom that campaigns about issues of concern to older people. The NPC’s member groups have between them around 1.2 million individual members.
- (b) The NPC’s objective under its constitution is to promote the welfare and interests of all UK pensioners and older people in need.
- (c) The NPC has had an interest in issues connected with mobility scooters since 2013.
- (d) If authorised by the Tribunal, Ms Gibson will carry out her duties with support and assistance of the NPC and an experienced legal team.
- (e) As General Secretary of the NPC and from her previous experiences, Ms Gibson has considerable experience of representing large groups of people and believes she has the organisational and representational skills required.

- (f) Neither Ms Gibson nor the NPC has any material conflict of interest. Ms Gibson has never owned or used a mobility scooter and will not be entitled to damages if the claim is successful.
- (g) Ms Gibson was consulted upon and has approved a litigation plan prepared in accordance with Rule 78(3)(c) of the Rules.

The Application states that the claims are suitable to be brought in collective proceedings because:

1. The sums at stake are far too low for it to be cost-effective for any consumer to bring proceedings individually.
2. The Applicant/Proposed Class Representative is unaware of any evidence or suggestion that any consumer has sought to bring proceedings or to seek with other consumers to bring group proceedings.
3. In general the consumers in question are likely to be particularly vulnerable.
4. Collective proceedings will be a fair and efficient means of resolving the common issues.
5. The class definition is clear and simple. In principle – i.e. provided that evidence of their purchase can be provided – it should be possible to identify whether any individual is a member of the class.
6. The claim is suitable for an aggregate award of damages.
7. Since the class members are final consumers there are no issues of pass on that might operate substantially to alter the analysis of losses caused.

As to the question of whether the proceedings should be opt-in or opt-out, the Application states that given the sums at stake and the vulnerability of the class members, it would be highly impractical to bring the claim on an opt-in basis. Moreover, there is no real downside to the claim being brought on an opt-out basis.

The relief sought in these proceedings is damages, to be assessed on an aggregate basis pursuant to section 47C(2) of the Act.

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 Victoria House, Bloomsbury Place, London WC1A 2EB, or by telephone (020 7979 7979), fax (020 7979 7978) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, QC (Hon)

Registrar

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