



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1444/7/7/22

BETWEEN:

**COMMERCIAL AND INTERREGIONAL CARD CLAIMS II LIMITED**

Applicant/Class Representative

- v -

**(1) VISA INC.**

**(2) VISA INTERNATIONAL SERVICE ASSOCIATION**

**(3) VISA EUROPE SERVICES LLC**

**(4) VISA EUROPE LIMITED**

**(5) VISA UK LTD**

(together “VISA”)

Respondents/Defendants

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**COLLECTIVE PROCEEDINGS ORDER**

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**UPON** the revised application of the Applicant dated 18 December 2023 for a collective proceedings order (the “**CPO Application**”) pursuant to section 47B of the Competition Act 1998 (the “**1998 Act**”) and Rule 75 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648, the “**Tribunal Rules**”).

**AND UPON** reading the material submitted by the parties.

**AND UPON** hearing counsel for the parties at a hearing on 17 and 18 April 2024.

**AND UPON** the Tribunal having given judgment ([2024] CAT 39) on 7 June 2024 on the CPO Application (the “**Judgment**”).

**AND UPON** the Class Representative issuing fresh Publicity Notices including the Adjusted Original Class Definition (as defined in the Judgment) and no representations being received which cause the Tribunal to reconsider its intention to grant the CPO Application.

**IT IS ORDERED THAT:**

**1. FORUM**

1. Pursuant to Rules 18, 52 and 74 of the Tribunal Rules, these collective proceedings be treated as proceedings in England and Wales.

**2. AUTHORISATION OF CLASS REPRESENTATIVE**

2. Pursuant to section 47B of the 1998 Act and Rules 77 and 80 of the Tribunal Rules, Commercial and Interregional Card Claims II Limited is, as from the date of this Order, authorised to act as the Class Representative to continue collective proceedings on an opt-out basis claiming damages for loss suffered by the Class (as defined below) against the Respondents/Defendants (hereafter “**the Defendants**”).
3. The remedy sought is an award of aggregate damages for the Class (as defined below) pursuant to section 47C(2) of the 1998 Act together with interest, costs and any further or other relief as the Tribunal may think fit.
4. The Class Representative’s address for service is: Harcus Parker Limited, 7<sup>th</sup> Floor, Melbourne House, Aldwych, London WC2B 4LL (hard copy) or [HPinterchange@harcusparker.co.uk](mailto:HPinterchange@harcusparker.co.uk) and [TRoss@harcusparker.co.uk](mailto:TRoss@harcusparker.co.uk) (email).
5. The claims certified as eligible for inclusion in these opt-out collective proceedings are claims for damages for alleged loss under section 47A of the 1998 Act, brought on behalf of the Class (as defined below) arising out of the Defendants’ alleged breaches of statutory duty in infringing Chapter I of the 1998 Act and/or Article 101 of the Treaty on the Functioning of the European Union (“**TFEU**”) in relation to transactions involving a Commercial Card MIF (as defined below) under the rules of the Visa scheme.

3. **CLASS DEFINITION**

6. The Class is defined as follows (hereafter “**Class**” and the “**Class Definition**”):

“Merchants who paid a Merchant Service Charge in respect of one or more Commercial Card Transactions during the Claim Period in the UK”

The Class does not include Excluded Merchants.

4. **DEFINITIONS**

7. “**Acquirer**” (also referred to as an “**Acquiring Bank**”) is a bank or other financial institution with which the Merchant has a contractual relationship which enables the acceptance of a Visa payment card by the Merchant in accordance with scheme rules laid down by Visa (“**Visa Scheme Rules**”). Pursuant to this contractual agreement, the Acquirer typically credits the Merchant’s bank account with the amount of the transaction between the merchant and customer, after deduction of the Merchant Service Charge.
8. “**Merchant**” means a person which accepts payments by means of payment cards and which has a contractual relationship, typically known as a Merchant Services Agreement, with an Acquirer that provides services to the Merchant enabling the acceptance of a Visa payment card by the Merchant in accordance with applicable rules laid down by the Visa Scheme Rules, and in consideration of payment of a Merchant Service Charge by the Merchant to the Acquirer.
9. “**Multilateral Interchange Fee**” (or “**MIF**”) means the fee payable by the Acquirer to the card issuer on each transaction pursuant to the Visa Scheme Rules and is expressed either as a percentage of the value of the transaction, or as a flat figure for each transaction.
10. “**Commercial Card Transaction**” means a transaction involving a Visa payment card to which a Commercial Card “**Multilateral Interchange Fee**” (or “**MIF**”) applies under the Visa Scheme Rules.

11. **“Merchant Service Charge”** (or **“MSC”**) means the fee payable by Merchants per transaction in consideration, inter alia, for acceptance by the Acquirer of a Visa payment card at the Merchant’s point of sale.
12. **“Claim Period”** means the period commencing on 6 June 2016 through to the date of the filing of the original Collective Proceedings Claim Form in these proceedings (i.e. 6 June 2022), seeking damages continuing to date of judgment in the present claim (subject to claims under Article 101 TFEU being limited to the period prior to 1 January 2021).
13. **“Excluded Merchants”** means any undertaking the turnover of which is, on average, equal to or greater than £100 million per annum in the period 2016 – 2019.

## **5. THE DEFENDANTS**

14. The First Defendant is Visa Inc. of registered address at Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle, 19801 Delaware, United States.
15. The Second Defendant is Visa International Service Association of registered address at 251 Little Falls Drive, Wilmington, New Castle, 19808 Delaware, United States.
16. The Third Defendant is Visa Europe Services LLC of registered address at Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle, 19801 Delaware, United States, and in England and Wales, of 1 Sheldon Square, London, W2 6TT.
17. The Fourth Defendant is Visa Europe Limited of registered address at 1 Sheldon Square, London W2 6TT.
18. The Fifth Defendant is Visa UK Limited of registered address at 1 Sheldon Square, London W2 6TT.

## **6. DOMICILE DATE AND OPTING-OUT**

19. These Collective Proceedings shall be designated as opt-out collective proceedings pursuant to section 47B(7)(c) of the 1998 Act.

20. Pursuant to Rule 80(1)(g) of the Tribunal Rules, the date for the purposes of determining whether a person is domiciled in the United Kingdom (the “**Domicile Date**”) shall be 6 June 2022.
21. Any person domiciled in the United Kingdom on the Domicile Date that falls within the Class as defined above shall be included in these collective proceedings unless they opt-out. If a person wishes to opt-out to these collective proceedings, they must:
  - (a) Follow the procedure set out in the Collective Proceedings Order Notice, which is attached to this Order at **Annex A**; and
  - (b) Notify, in writing, their decision to opt-out of these collective proceedings by 4pm on three months after the date of this Order.

## 7. **PUBLICITY**

22. The Class Representative shall publicise the making of this Order:
  - (a) By publishing the Collective Proceedings Order Notice attached to this Order; and
  - (b) In accordance with the proposals set out in paragraphs 4.10 to 4.25 of the Litigation Plan exhibited at Exhibit SDA10 to the Third Witness Statement of Mr. Stephen David Allen dated 15 December 2023.

## 8. **GENERAL**

23. Costs be reserved.
24. There be liberty to apply.

**Ben Tidswell**

Chair of the Competition Appeal Tribunal

Made: 9 August 2024

Drawn: 9 August 2024