

This is a legal notice that has been issued at the direction of the Competition Appeal Tribunal

IF YOU ARE A MERCHANT WHO PAID A MERCHANT SERVICE CHARGE IN RESPECT OF ONE OR MORE COMMERCIAL CARD TRANSACTIONS BETWEEN JUNE 2016 AND JUNE 2022, YOU COULD BE ENTITLED TO COMPENSATION FROM THE COMMERCIAL CARD COLLECTIVE ACTION AGAINST MASTERCARD

Merchants who were charged fees for commercial card transactions set by Mastercard could benefit from this collective action

- A collective claim against various entities in the Mastercard payment organisation (“**Mastercard**”) brought by Commercial and Interregional Card Claims II Limited (“**CICC II Limited**”) on behalf of UK merchants has been certified by the Competition Appeal Tribunal (the “**Tribunal**”). The Tribunal granted the Collective Proceedings Order (“**CPO**”) for the claim to proceed on a collective basis on 9 August 2024. A copy of the CPO can be found here <https://www.cattribunal.org.uk/sites/cat/files/2024-08/CICC%20%281441-1444%29%20-%20Order%20of%20the%20Chair%20%28Collective%20Proceedings%20Order%29%28Mastercard%20Opt-Out%29%20%209%20Aug%202024.pdf>.
- The claim relates to Commercial Card Multilateral Interchange Fees (“**Commercial Card MIF**”) set by Mastercard applicable and applied to transactions involving commercial cards in the United Kingdom, regardless of where the commercial card has been issued.
- CICC II Limited alleges that this restricted, and continues to restrict, competition by effectively fixing a minimum price floor for the “Merchant Service Charge” (the “**MSC**”). The MSC is the charge that merchants must pay to their bank for the processing of card transactions.
- The claim alleges that, as a consequence of the Commercial Card MIF, which CICC II Limited argues is unlawful, the MSCs paid by merchants who accepted such commercial card transactions were higher than they would otherwise have been. CICC II Limited claims that this alleged overcharge caused those particular merchants loss and damage for which Mastercard is liable.
- Following the grant of the CPO, the class of persons who will be able to join the claim are merchants who fall into the below 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 merchant must also have been domiciled in the UK on 6 June 2022.

- Any UK-domiciled merchant that falls within the class definition is automatically included in the claim and will be bound by a settlement or judgment on the common issues, unless it decides to opt-out.
- The class does not include merchants which would fall within the class definition if their average annual turnover of the undertaking of which they were part – during the period June 2016 - June 2019 – was £100 million or more. Such merchants may join the parallel “opt-in” proceedings against Mastercard. Those proceedings are brought by a different class representative company, Commercial and Interregional Card Claims I Limited (see Competition Appeal Tribunal Case No. 1441/7/7/22). See more at <https://commercialcardclaim.co.uk>.
- To learn more about the collective claim, please visit commercialcardclaim.co.uk or <https://www.catribunal.org.uk/cases/14427722-commercial-and-interregional-card-claims-ii-limited-cicc-ii>.
- Mastercard disputes the allegations and intends to defend the claim.

YOUR LEGAL RIGHTS AND CHOICES AT THIS STAGE OF THE PROCEEDINGS

<i>You may</i>	<i>Your legal rights and choices explained</i>	<i>Deadline</i>
Stay in the Claim	Class members are not required to do anything for the time being. Should the claim result in a victory for class members and an award or settlement of damages, it will be necessary for class members to identify themselves to the Class Representative and register their claim to a share of any damages which may be ordered and distributed. Class members will be notified how they may do so the relevant time.	N/A
Opt-out	If you fall within the definition of the Class, you are included in the class and you have the right to “opt-out” or request to be excluded from the claim. In the event you choose to opt-out of the claim, please note this means you will not be able to participate in a distribution of damages from the claim in the event judgment is delivered in favour of the class members. Please see section 9 below for information on how to opt out.	Deadline to opt-out: three months from the date of the CPO, being 11 November 2024.

GENERAL INFORMATION

1. Why has this notice been issued?

The Tribunal has directed that this notice be issued following a CPO made on 9 August 2024 approving the claim to proceed as a collective action commenced by CICC II Limited on behalf of eligible UK merchants.

To read a summary of the collective proceedings claim form please visit <https://www.catribunal.org.uk/cases/14427722-commercial-and-interregional-card-claims-ii-limited-cicc-ii>. To request a copy of the collective proceedings claim form please visit <https://commercialcardclaim.co.uk/contact>.

This notice has been issued to inform you of the details of the CPO and the important legal rights you have in relation to these collective proceedings. Exercising these rights could affect your ability to receive a payment from damages recovered in the claim in future if and when compensation becomes available. This notice explains the claim, who is affected, your rights in relation to it, how to exercise those rights, and any related deadlines.

Please read this notice carefully.

2. What is the Competition Appeal Tribunal?

The United Kingdom Competition Appeal Tribunal is a specialist judicial forum created by Section 12 and Schedule 2 to the Enterprise Act 2002 which came into force on 1 April 2003, with cross-disciplinary expertise in law, economics, business and accountancy which hears and decides cases involving competition or economic regulatory issues. It specialises in resolving competition law disputes and has a purpose-built framework for collective actions. The Tribunal publishes its Rules and Guidance, together with information about what it does, on its website catribunal.org.uk/rules-and-guidance. A summary of this claim can be found on the Tribunal's website.

3. Who is the claim against?

The claim is against the following entities in the Mastercard payment organisation:

- (a) Mastercard Inc;
- (b) Mastercard International Inc;
- (c) Mastercard Europe SA (formerly known as Mastercard Europe SPRL);
- (d) Mastercard/Europay UK Limited;
- (e) Mastercard UK Management Services Limited; and
- (f) Mastercard Europe Services Limited.

Collectively, these companies are referred to as Mastercard and/or the **Defendants**.

4. What is the claim about?

The claim is for damages for alleged anticompetitive conduct arising out of an alleged breach of section 2 of the Competition Act 1998 and/or for an alleged breach of Article 101 of the Treaty on the Functioning of the European Union.

The claim relates to one category of Multilateral Interchange Fee (**MIF**), namely the MIF applicable to commercial card transactions (**Commercial Card MIF**). The Class Representative

alleges that the relevant rules, under which the Commercial Card MIF was and is set, and the implementation of that MIF, constituted, and continue to constitute, an agreement between the Defendants and other participants in the Mastercard scheme which restricted competition by establishing an effective minimum price for the MSC that merchants (including the class members) must pay to accept payments by means of Mastercard-branded commercial credit, debit and prepaid cards issued under the Mastercard scheme.

As a consequence of the Commercial Card MIF, which the Class Representative alleges is unlawful, the MSCs paid by merchants who accepted such transactions, including some of the class members, were, the Class Representative alleges, higher than they would otherwise have been, allegedly causing them loss and damage for which it is alleged that Mastercard is liable.

On behalf of the class members, the Class Representative seeks an award of aggregate damages for such alleged loss (including interest).

5. Who is the Class Representative? What is the role of the Class Representative?

The Class Representative is a limited company registered in England and Wales with the company number 13548511. It was created specifically to bring these proceedings against the Defendants on behalf of the class members.

Mr Stephen Allen is the sole director and sole member of CICC II Limited, the Class Representative. He has business and management experience in the travel and hospitality sectors.

The Class Representative will be responsible for, amongst other things: (i) communicating with the Class and issuing notices to its members; (ii) instructing the lawyers and experts; (iii) making decisions on the conduct of the claim; and (iv) evaluating any offer of settlement that the Defendants may make and deciding whether to present it for the Tribunal's approval.

The Class Representative will update the Class about the claim on the website (commercialcardclaim.co.uk) and through the media.

6. Who is in the Class?

The Class consists of those merchants, with a turnover of **less than £100 million** during the **2016 - 2019** who paid an MSC in respect of one or more Commercial Card Transactions between **6 June 2016 and 6 June 2022**.

The Class does not include **Excluded Merchants** (defined below).

Term	Explanation
Commercial Card Transactions	A transaction involving a Mastercard payment card to which a Commercial Card MIF applies under the Mastercard Scheme Rules, from time to time in force.
Claim Period	This means: The period commencing on 6 June 2016 through to 6 June 2022, which is the date of the filing of the original Collective Proceedings Claim Form in these proceedings. The Class Representative seeks 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).

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.
Merchants	A person who accepts payments by means of payment cards.
Merchant Service Charge	The fee payable by Merchants per transaction to their bank in consideration, <i>inter alia</i> , for acceptance by their bank of a Mastercard payment card at the Merchant’s point of sale.

7. How much money does the claim ask for?

The collective claim seeks damages to compensate the class members for alleged overcharges suffered as a result of the allegedly unlawful imposition of Commercial Card MIFs. It is too early to quantify the potential value of the claim as this will be subject to expert evidence at a later stage of the case.

The recovery of any money through the claim is not guaranteed. The Class Representative will need to prove its case against Mastercard at trial in due course.

8. Who is funding the claim?

The Class Representative has entered into a litigation funding agreement with Bench Walk Advisors, a third-party litigation funder, whereby its fee will be capped at the total amount of any undistributed damages. Under the litigation funding agreement, the funder has agreed to provide funding of up to £6,321,687.50 for the Class Representative to bring the claim against Mastercard. Class members will not have to pay any money up front to join the claim. If the claim is ultimately successful, the class representative will seek permission from the Tribunal for Bench Walk to be paid a fee out of any unclaimed compensation, consisting of:

- an amount equal to Bench Walk’s capital outlay at the point of any successful outcome of the collective proceedings;
- an amount equal to any amounts paid out by an insurer to pay for interim adverse costs in the collective proceedings;
- the amount of the success fees due to the solicitors under their conditional fee agreements; and
- an amount equal to the Capital Outlay multiplied by 200% (increasing by 50% on 1 January and 1 July in each year, starting on 1 January 2024, and will stop increasing on the earlier of: (i) the date of a final judgment of the CAT that brings the collective proceedings to a final resolution by way of an award of damages, and following the determination of any appeals from that Judgment; (ii) the date of a settlement that brings the Claim proceedings to a final resolution; or (iii) an event of default by the class representative or funder.

As well as the funding arrangements in place, the Class Representative has obtained “After The Event” insurance, pursuant to which the insurer has agreed to indemnify the Class Representative up to the policy limit) for the liability they may incur to pay money towards the Defendants’ legal costs.

9. Do eligible class members need to do anything to be part of the claim?

To the extent this is an opt-out claim, class members are not required to do anything for the time being if they wish to be part of the claim. Should the claim result in a victory for class members that may have suffered due to Mastercard's allegedly unlawful Commercial Card MIF, it will be necessary for class members to identify themselves to the Class Representative and register their claim to a share of any damages which may be ordered and distributed. Class members will be notified how they may do so at a later date.

10. How to Opt-out

Class members who opt out of the claim will not be bound by any settlement or judgment on common issues, and will not be able to claim for a share of any settlement or damages award.

If you wish to opt-out of the claim, you may do so by sending a letter to the following address:

Commercial and Interregional Card Claims II Limited

PO Box number, 5551

Radstock, BA3 9DL

Your opt out letter must explicitly state, "I, [Name of person] wish to opt out of the collective claim against Mastercard, Case No. 1442/7/7/22", along with your company/business' name, registered company/business number postal address, e-mail address, telephone number, signature from an authorised person, and date. A template opt-out letter is available at commercialcardclaim.co.uk. To be considered, your opt-out letter must be received or postmarked by 11 November 2024 – being, three months from the date of the CPO. Once your opt-out letter is received and processed, you will receive an acknowledgement by email if you have provided an email address, or by post if not.

Alternatively

You may opt-out by sending an email to the Class Representative at commercialcardclaim@harcusparker.co.uk. Your email must include the same statement and information listed above. You may also submit your opt-out request via a webform located on the Claims Website, commercialcardclaim.co.uk. Class members should also specify the method they wish to receive confirmation of their opt-out. By opting out, you will not be eligible to receive a payment from this claim if money becomes available. However, you may be able to bring your own separate claim against the Defendants relating to the same issues.

You do not have to give a reason for opting out.

DEADLINE FOR OPTING OUT: three months from the date of the CPO, being 11 November 2024 at 4 pm BST.

GETTING MORE INFORMATION

11. How can I stay updated on the progress of the claim?

You can visit commercialcardclaim.co.uk for updates on the claim.