



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1425/7/7/21

BETWEEN:

JUSTIN GUTMANN

Class Representative

- v -

(1) GOVIA THAMESLINK RAILWAY LIMITED

(2) GOVIA LIMITED

(3) THE GO-AHEAD GROUP LIMITED

(4) KEOLIS (UK) LIMITED

Defendants

SECRETARY OF STATE FOR TRANSPORT

Intervener

COLLECTIVE PROCEEDINGS ORDER

UPON the Class Representative's application for a collective proceedings order (the "**CPO Application**") pursuant to section 47B of the Competition Act 1998 (the "**Act**") and Rule 75 of the Competition Appeal Tribunal Rules 2015 (S.I. No. 1648 of 2015) (the "**Tribunal Rules**") made in the Re-Amended Collective Proceedings Claim Form dated 5 April 2023 (the "**Re-Amended Collective Proceedings Claim Form**"), which combine claims in respect of losses alleged to have been caused by the Defendants' unlawful conduct in breach of the prohibition in Chapter II of the Act (the proposed "**Collective Proceedings**")

AND UPON hearing counsel for all parties at a hearing on 22 March 2023

AND UPON the Tribunal having decided in accordance with Rule 78 of the Tribunal Rules that it would be just and reasonable for the Class Representative to act as a class representative in the Collective Proceedings

AND UPON the Tribunal having decided in accordance with Rule 79 of the Tribunal Rules that the claim as described in the Application is eligible for inclusion in collective proceedings

IT IS ORDERED THAT:

Authorisation of Class Representative

1. Pursuant to section 47B and Rules 77 and 80 of the Tribunal Rules, Mr Justin Gutmann is authorised to act as the Class Representative and to continue collective proceedings on an opt-out basis claiming damages for loss suffered by the Class Members (as defined below).
2. The remedy sought is an award of aggregate damages pursuant to section 47C(2) of the Competition Act 1998 together with interest, an order for the Defendants to cease the infringing conduct, and/or such further or other relief as the Tribunal may see fit.
3. The Class Representative's address for service is c/o Charles Lyndon Limited, FAO: Rodger Burnett, of 22 Eastcheap, London EC3M 1EU.
4. The claim certified for inclusion in the Collective Proceedings is the claim as set out in the Re-Amended Collective Proceedings Claim Form.

Class definition

5. The class of persons (the "**Class**") whose claims are certified for inclusion in the Collective Proceedings includes—

All persons who, at any point during the period between 24 November 2015 and the date of final judgment or earlier settlement of the Claims (the

“**Relevant Period**”) purchased or paid for a rail fare for themselves and/or another person, which was not a Boundary Fare or a fare for the portion of their journey from the last station covered by their Travelcard to their destination, where:

- a. the person for whom the fare was purchased held a Travelcard (or Travelcards) valid for travel within one or several of TfL fare zones (the “**Zones**”) at the time of their journey or, where the fare was a season ticket, for at least the period of validity of that season ticket fare; and
- b. the rail fare (including a fare for a return journey and a season ticket fare) was for travel in whole or in part on the services of the First Defendant from a station within (but not on the outer boundary of) those Zones to a destination beyond the outer boundary of those Zones.

Whereby:

“**Travelcard**” shall mean a Transport for London (“**TfL**”) zonal ticket; and

“**Boundary Fare**” shall mean a fare valid for travel to or from the outer boundaries of TfL’s fare zones, intended to be combined with a Travelcard whose validity stretches to the relevant zone boundary.

6. The following categories of persons (as constituted from time to time) shall be excluded from the proposed class:
 - a. members and staff of the Tribunal assigned to these Proceedings;
 - b. officers, directors or employees of:
 - i. the Defendants;
 - ii. any entities which have a (direct or indirect) interest in any of the Defendants that gives rise to significant control, and
 - iii. any entities in which any of the Defendants have such an interest;

- c. the Class Representative's and Defendants' legal representatives as well as any experts or other professional advisers instructed in these proceedings, including the professional staff assisting them.

Forum

7. The Collective Proceedings shall be treated as taking place in England.

Opting-out and Opting-in

8. Every person falling within the description of the class who is domiciled within the United Kingdom on 19 October 2021 ("the **Domicile Date**") shall be included in these collective proceedings.
9. Any person falling within the description of the Class who is domiciled in the United Kingdom on the Domicile Date may opt-out of the Collective Proceedings (as applicable) by giving the Class Representative notice in writing of their decision to opt out in accordance with the attached Notice and by no later than 4pm on the date 3 months after the date of publication of the Notice.
10. Every Class member who is not domiciled in the United Kingdom on the Domicile Date may opt-in to the Collective Proceedings (as applicable) by giving the Class Representative notice in writing of their decision in accordance with the attached Notice to opt-in by no later than 4pm on the date 3 months after the date of publication of the Notice.

Notification

11. The Class Representative shall publish a notice of the Collective Proceedings in the form attached to this Order in accordance with Rule 81 of the Tribunal's Rules.

General

12. There be liberty to apply.

A handwritten signature in blue ink, appearing to read 'J. M. Roth'.

The Honourable Mr Justice Roth
Chair of the Competition Appeal Tribunal

Made: 3 July 2023
Drawn: 3 July 2023