

# NOTICE OF THE COLLECTIVE PROCEEDINGS APPLICATION AND HEARING

## Competition Appeal Tribunal Case No 1639/7/7/24

**Businesses, public bodies, charities and other persons who bought bulk mail services in the UK at any time between 10 January 2014 and at least 7 June 2022 could receive redress from a proposed collective action**

*This is a legal notice published at the direction of the UK Competition Appeal Tribunal (the “Tribunal”) made in Case 1639/7/7/24. The applicant in that case, Bulk Mail Claim Limited (the “Proposed Class Representative” or “PCR”), has applied for permission to begin collective proceedings. Further information about the application appears below and can be obtained from the Tribunal’s website.*

The PCR has filed an application to bring collective proceedings on an opt-out basis against International Distribution Services Plc (formerly Royal Mail Plc) of 185 Farringdon Road, London, EC1A 1AA (“**Royal Mail**”). The application has been filed with the Tribunal.

The application to bring collective proceedings is made in respect of losses caused by Royal Mail’s unlawful conduct in relation to the supply of bulk mail delivery services in the UK (the “**Proposed Claim**”).

The Consumer Rights Act 2015 allows collective proceedings to be brought on behalf of a group or groups of persons who have suffered loss as a result of unlawful anticompetitive conduct. For collective proceedings to be brought, the Tribunal must first make a collective proceedings order (a “**CPO**”) authorising a person to act as a representative of the class and certifying the proposed claim as eligible for inclusion in the collective proceedings.

The PCR has applied to the Tribunal for a CPO which, if made, would allow it to bring proceedings for damages against Royal Mail on behalf of a proposed class of persons who have suffered loss due to Royal Mail’s infringements of competition law.

This notice is for your information as you may have a right to take part in the Tribunal’s consideration of the application by submitting written observations or applying to be heard at the CPO hearing which is scheduled to commence on 3 March 2025.

### THE PROPOSED CLAIM

The Proposed Claim against Royal Mail “follows on” from Ofcom’s 14 August 2018 decision titled “Discriminatory pricing in relation to the supply of bulk mail delivery services in the UK” (“**Ofcom Decision**”).

The Ofcom Decision concluded that Royal Mail abused its dominant position in the market for bulk mail delivery services in the UK by attempting to introduce discriminatory prices via “Contract Change Notices” on 10 January 2014, contrary to both EU and UK competition law (“**the Infringement**”). The discriminatory prices penalised any party that sought to roll out bulk mail delivery services that were in competition with Royal Mail.

The Proposed Claim alleges that the Infringement:

1. prevented competition for bulk mail delivery services; and
2. led to higher prices for end-customers of “Bulk Mail Retail Services” (see defined term below).

The purpose of the Proposed Claim is to secure compensation for losses suffered by proposed class members as a result of the Infringement. The Proposed Claim is currently estimated to be worth £878.5m.

For further information on the Proposed Claim, please see the following link: [www.BulkMailClaim.co.uk](http://www.BulkMailClaim.co.uk)

### THE PROPOSED CLASS DEFINITION

All persons who purchased or paid for Bulk Mail Retail Services ("**Bulk Mail Retail Customers**") from 10 January 2014 until at least 7 June 2022.

For these purposes:

- a. For the avoidance of doubt, "**persons**" includes companies, public bodies and charities.
- b. "**Bulk Mail Retail Services**" means any services consisting of any of the following activities: (i) collection and initial sortation activities, including the direct or indirect collection of Bulk Mail, geographically sorting the mail by delivery location and transportation to that area; and (ii) delivery services, consisting of the inward processing, local distribution and delivery of Bulk Mail to the addressee ("**Bulk Mail Delivery Services**").
- c. "**Bulk Mail**" means high volume mailings of often similar or identical mailing items being sent to addresses across the whole of the UK or at least a substantial part of it, by a company or other organisation, such as a public body or charity. Bulk Mail includes, for example, financial or transactional mail produced by banks, government bodies and utility companies, and addressed advertising mail.
- d. The class includes Bulk Mail Retail Customers who paid for Bulk Mail Retail Services from Royal Mail or from an Access Operator, whether directly or via an agent.
- e. "**Access Operator**" means a Bulk Mail Retail Operator who procures Bulk Mail Delivery Services from Royal Mail.
- f. "**Bulk Mail Retail Operator**" means a provider of Bulk Mail Retail Services.
- g. The class includes Bulk Mail Retail Customers who paid for Royal Mail's Bulk Mail Delivery Services separately, whether directly or via an agent.
- h. The class excludes:
  - i. Access Operators;
  - ii. Any person who opts out by notifying the PCR in a manner and by a time specified by the Tribunal; or
  - iii. Any person who is not domiciled in the United Kingdom at a time specified by the Tribunal and does not, in the manner and by the time specified by the Tribunal, opt in by notifying the PCR that their claim should be included in the collective proceedings.

## HEARING OF THE APPLICATION

A hearing will take place on 3 March 2025, starting at 10am, to decide whether the Proposed Claim can proceed. The location of the hearing will be: Competition Appeal Tribunal, Salisbury Square House, 8 Salisbury Square, London, EC4Y 8AP.

At the hearing the Tribunal will hear arguments as to whether Bulk Mail Claim Limited (see below) should be authorised to act as the class representative of the proposed class and whether the Proposed Claim can proceed as collective proceedings.

## YOUR LEGAL RIGHTS AND OPTIONS NOW

Object to the application or the proposed class representative	Any person with an interest (including any member of the proposed class) may object to the application for a CPO, or the authorisation of the Proposed Class Representative (Bulk Mail Claim Limited), by stating their reasons for objecting in writing to be received by the Tribunal by 4pm on 31 January 2025.
Apply to make oral / written submissions to the tribunal (class members)	Any member of the proposed class may seek permission to make oral observations at the hearing commencing on 3 March at 10am, by making an application for such permission, with reasons, as part of his/her written objections. Any such application must be received by the Tribunal by 4pm on 31 January 2025.
Apply to make oral / written submissions to the tribunal (third parties)	Any third party with a legitimate interest (who is not a member of the proposed class) who seeks permission to make written and/or oral observations at the CPO Application hearing is to make such application, supported by reasons, to the Tribunal by 4pm on 31 January 2025.
Tribunal's contact details	<p>The Registrar, Competition Appeal Tribunal, Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP. The Tribunal's website is <a href="http://www.catribunal.org.uk">www.catribunal.org.uk</a>.</p> <p>When writing to the Tribunal you need to include the reference(s) "Case 1639/7/7/24 Bulk Mail Claim Limited v International Distribution Services Plc"</p>

## GENERAL INFORMATION

### **Why has this notice been issued?**

The Tribunal has issued directions for a hearing (see Order annexed to this Notice), to determine whether the PCR's application for a CPO should be granted. It has also directed that this notice be issued ahead of the hearing to seek the views of any interested persons.

The PCR's CPO application asks the Tribunal to: (i) approve the proposed claim as suitable to proceed as a collective claim on behalf of eligible class members; and (ii) approve it as the class representative.

Questions? Visit: [www.BulkMailClaim.co.uk](http://www.BulkMailClaim.co.uk)

This notice has been issued to inform you of your right to object to the CPO application and the authorisation of Bulk Mail Claim Limited as the PCR.

### **What is the Competition Appeal Tribunal?**

The Tribunal is a specialist court based in London that covers the whole of the UK and hears cases concerning the application of competition law, including collective proceedings such as these. The Tribunal publishes its Rules and Guidance, together with information about what it does and details of its on-going cases, on its website [www.catribunal.org.uk](http://www.catribunal.org.uk).

A summary of the claim against Royal Mail can also be found on the Tribunal's website at [www.catribunal.org.uk](http://www.catribunal.org.uk).

### **Who is the proposed claim against?**

The proposed claim is against International Distribution Services PLC (formerly Royal Mail Plc) of 185 Farringdon Road, London, EC1A 1AA ("**Royal Mail**").

### **What has Royal Mail alleged to have done wrong? What are the claims?**

The PCR alleges that Royal Mail abused its dominant position in relation to the supply of bulk mail delivery services in the UK in breach of both EU and UK competition law (the "**Infringement**") and thereby caused loss to an estimated class of 290,477 persons who were Bulk Mail Retail Customers.

Bulk Mail Retail Customers comprise a mixture of different sized businesses as well as charities and public bodies.

### **Who is the Proposed Class Representative**

Bulk Mail Claim Limited is the proposed class representative.

Bulk Mail Claim Limited was incorporated for the purpose of acting as the proposed class representative in these proceedings. The proposed class representative's duty is to act fairly and adequately in the interests of all members.

Mr Robin Aaronson is the sole director and sole member of Bulk Mail Claim Limited.

As the sole director and member of Bulk Mail Claim Limited, Mr Aaronson will have oversight of the Proposed Claim and will make decisions on behalf of the company.

Over the course of his career, Mr Aaronson has held senior roles (including in public bodies) in which he has promoted competitive markets and tackled anti-competitive conduct. In particular:

- in 2000, Mr Aaronson was appointed by the Secretary of State for Trade and Industry as a member of the Postal Services Commission (Postcomm, the regulator of the postal industry at that time), initially for a term of five years. In 2005, his term was extended by a further 18 months; and
- from 2009 to 2017, Mr Aaronson served as a Member of the Competition Commission (later the Competition and Markets Authority).

In these roles, Mr Aaronson was deeply involved in regulating and remedying market structures and conduct which prevented, restricted or distorted competition.

The Tribunal will assess Bulk Mail Claim Limited's suitability to act as the proposed class representative as part of the hearing on 3 March 2025.

If approved, Bulk Mail Claim Limited (via Mr. Aaronson) would regularly update proposed class members about the claim on the website ([www.BulkMailClaim.co.uk](http://www.BulkMailClaim.co.uk)) and through the media.

### **Who would be in the proposed class?**

The CPO application asks the Tribunal to allow the proposed claim to proceed on an "opt-out" basis on behalf of all persons who purchased or paid for Bulk Mail Retail Services between 10 January 2014 and at least 7 June 2022.

Further details of the class definition are set out above. If you fall within this definition, you will automatically be part of the Proposed Class, unless you opt-out. If you fall within this definition but are not domiciled in the UK, you can still take part in the proposed claim if you opt in. For more details on this please visit [www.BulkMailClaim.co.uk](http://www.BulkMailClaim.co.uk).

### **How much money does the claim ask for?**

The proposed claim seeks compensation for all those within the proposed class who have been affected by Royal Mail's conduct. The total aggregate amount sought is currently estimated to be at least £878.5m.

If the proposed claim is successful, all persons who fall within the class and have not opted out will be able to seek their share of compensation obtained.

### **Who is funding the proposed claim?**

The proposed claim is being funded by Asertis Limited, a litigation funder.

Members of the proposed class will not incur any costs by taking part in the proposed collective claim, nor will they be liable to Royal Mail for its costs should the proposed collective claim be unsuccessful.

If the claim is successful, the proposed class representative will seek permission from the Competition Appeal Tribunal for Asertis to be remunerated out of any unclaimed compensation, to reflect the investment it has made to help bring the case to court. Importantly, this means Asertis' remuneration will not have any impact on the amount of compensation that each affected class member is entitled to. If the claim is successful, the class representative will also seek to recover its legal costs directly from Royal Mail.

The non-confidential version of certain documents relevant to the funding of the claim, namely the Litigation Funding Agreement and the After-the-Event Insurance Policy can be provided upon request.

More information can be found on the claim website: [www.BulkMailClaim.co.uk](http://www.BulkMailClaim.co.uk)

### **How can I stay updated on the progress of the proposed claims?**

You can visit [www.BulkMailClaim.co.uk](http://www.BulkMailClaim.co.uk) for periodic updates on the Proposed Claim.

### **How Can I Get More Information?**

This notice summarises the Proposed Claim. To read more about the Proposed Claim, visit [www.BulkMailClaim.co.uk](http://www.BulkMailClaim.co.uk)

Questions? Visit: [www.BulkMailClaim.co.uk](http://www.BulkMailClaim.co.uk)

## **ANNEX – ORDER OF COMPETITION APPEAL TRIBUNAL**



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

Case No: 1639/7/7/24

BETWEEN:

**BULK MAIL CLAIM LIMITED**

Applicant/Proposed Class Representative

- v -

**INTERNATIONAL DISTRIBUTION SERVICES PLC**  
**(FORMERLY ROYAL MAIL PLC)**

Respondent/Proposed Defendant

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**ORDER (CMC DIRECTIONS)**

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**UPON** the Proposed Class Representative’s (the “**PCR**”) application dated 29 May 2024 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** the PCR’s application under Rule 101 of the Tribunal Rules that certain information in the Litigation Funding Agreement and the After-the-Event Insurance Policy (the “**Funding Documents**”) filed in the proceedings be treated as confidential and redacted (the “**Rule 101 Application**”)

**AND UPON** review of the written submissions of the parties filed in advance of the CMC

**AND UPON** hearing Counsel for the PCR and Counsel for the Proposed Defendant at the case management conference on 12 September 2024

## **IT IS ORDERED THAT:**

### **Forum**

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

### **Confidentiality**

2. Pursuant to the PCR's Rule 101 request dated 5 September 2024, confidential treatment shall be accorded to the information redacted or highlighted in the versions of the Funding Documents appearing in the Confidential Bundle for the case management conference on 12 September 2024.

### **Publicity**

3. The PCR shall publicise the CPO Application in accordance with the proposal set out in Annex D of the Notice and Administration Plan (contained in the Litigation Plan) that is exhibited to the First Witness Statement of Robin Aaronson at Tab 11(a) of the Non-Confidential Case Management Conference Bundle by **26 September 2024**.
4. The PCR shall publicise in accordance with paragraphs 3, 8 and 9 of this Order, the right under Rule 76(10)(c) of the Tribunal Rules of persons with an interest to object to the CPO Application or the authorisation of the PCR by **26 September 2024**.
5. The PCR shall publicise, in accordance with paragraphs 3 and 8 of the Order, the right under Rule 79(5) of the Tribunal Rules of members of the proposed class to make an application to the Tribunal for permission to make oral submissions at the hearing of the CPO Application by **26 September 2024**.

### **Responses and replies to the CPO Application**

6. The Proposed Defendant shall file and serve its response to the CPO Application, together with any factual and/or economic expert evidence, and any application made



pursuant to rule 41(1) or rule 43(1) of the Tribunal Rules, by **4pm on 9 December 2024**.

7. The PCR shall file and serve any reply to the Proposed Defendant's response, together with any factual and/or economic expert evidence, and any response to any application made pursuant to rule 41(1) or rule 43(1) of the Tribunal Rules by **4pm on 31 January 2025**.

### **Objection to the CPO Application and applications for permission to make observations**

8. Any person with an interest (including any member of the proposed class) may object to the CPO Application or the authorisation of the Proposed Class Representative by writing to the Tribunal stating their reasons for objecting by **4pm on 31 January 2025**. Any member of the proposed class may also seek permission to make oral observations at the CPO Application hearing, by making an application for such permission, with reasons, as part of his/her written objections.
9. Any third party with a legitimate interest (who is not a member of the proposed class) who seeks permission to make written and/or oral observations at the CPO Application hearing is to make such application, supported by reasons, to the Tribunal by **4pm on 31 January 2025**.

### **Litigation Timetable**

10. By **4pm on 9 December 2024**, the PCR shall file and serve an updated version of the Litigation Timetable appended to the CPO Application.

### **Skeleton arguments and bundles**

11. The PCR shall file an electronic version and four hard copies of the agreed hearing bundle by **12pm on 24 February 2025**.
12. The PCR shall file an electronic version and four hard copies of the agreed authorities bundle by **12pm on 24 February 2025**.

13. The parties shall file and serve skeleton arguments cross referenced to the hearing and authorities bundles by **12pm on 24 February 2025**.
14. By **12pm on 24 February 2025**, the parties shall file a chronology, split into (i) a chronology of events and (ii) a chronology of proceedings, which shall contain cross-references to relevant documents in the bundles and which shall be agreed between the parties as far as possible.

### **Hearing**

15. The hearing of the CPO Application be listed to be heard on **3 March 2025** (with the first day commencing at 10am unless the parties are notified by the Tribunal of a later start time), with a time estimate of 1½ to 2 days, with a further 1 day in reserve.

### **Other issues**

16. Costs in the case.
17. There be liberty to apply.
18. By agreement the parties may vary without further order any deadline in paragraphs 3 to 7 of this Order for a period or periods of up to 14 days in total provided that they inform the Tribunal of such agreement in advance of the expiry of the relevant deadline and the extension does not affect the dates of any listed hearings.

**Hodge Malek KC**  
Chair of the Competition Appeal Tribunal

Made: 12 September 2024  
Drawn: 19 September 2024