



SETTLEMENT OF FIRST REPRESENTATIVE ACTION IN THE UK - CONSUMERS TO BE COMPENSATED FOR BEING OVERCHARGED

In August 2003, the Office of Fair Trading (OFT) fined JJB Sports, the well-known retailer of sports equipment, £8.37m for its involvement in an agreement to fix the price of Manchester United and England replica football shirts. The fines issued by the OFT against all members of this cartel totalled £18.6m. The Competition Appeal Tribunal (CAT) subsequently reduced the fines of a number of the cartel participants, leaving JJB with a fine of £6.3 million. The company then appealed the CAT's findings of liability and the level of the fine to the Court of Appeal. The court dismissed the action and the House of Lords refused grounds for further appeal because the case did not raise an arguable point of law of general public importance. JJB's appeal rights were therefore exhausted in February 2007.

Shortly afterwards, consumer group 'Which?' made a damages claim at the CAT on behalf of consumers who had purchased shirts in 2000 and 2001. 'Which?' claimed that consumers were overcharged between £15 and £20 a shirt as a result of the cartel. Since March 2007, the number of claimants represented by 'Which?' has grown

to around 550 and the number of shirts purchased estimated to about 1,000.

On 9 January 2008, news hit the media that JJB and 'Which?' had settled the proceedings. The total damages claimed are expected to reach at least £90,000. As part of the settlement, football fans who joined the action by 'Which?' are entitled to £20 per shirt as compensation from the company. Others who did not join the action, but can show proof of purchase during the relevant period, can claim either £10 or £5, depending on whether they have already taken up JJB's offer last year of a free shirt and a mug.

Consumers who joined the claim will receive £20 instead of £10. Reports suggest that this is because they had shown a willingness to go to court. Presumably, this means that the consumer group was able to negotiate higher compensation for the 550 claimants as part of the settlement because they been willing to take the risks associated with litigating the claim.

The settlement represents a rapid resolution of the first ever



representative action in the UK.

Given the recent push by the European Commission and the OFT to encourage private actions for damages in competition cases, it will be interesting to see whether this is the start of an increasing trend of representative actions lodged by consumer groups.

This Bulletin contains summaries of complicated issues and should not be relied upon in relation to specific matters. You are advised to take legal advice on particular problems and we will be happy to assist.

For more information on how Martineau Johnson can assist, please contact James Dilley by email: james.dilley@martineau-uk.com.