

Former Ofgas head Clare Spottiswoode brings claim to seek compensation for millions of electricity customers in Great Britain

11 May 2022, LONDON: Scott+Scott UK LLP announced today that it has been instructed by Clare Spottiswoode CBE, the proposed class representative, to apply to the UK Competition Appeal Tribunal (CAT) for approval to bring a collective action on behalf of electricity customers in England, Scotland & Wales (“Great Britain”).

The action seeks to recover compensation for UK consumers after a global cartel of cable suppliers overcharged electricity network operators for power cables, which resulted in higher consumer electricity bills.

Background

On 2 April 2014, the European Commission (EC) ruled that a number of companies (including the Defendants of this claim) operated almost-worldwide a cartel between 18 February 1999 - 28 January 2009, in the market for the supply of various high voltage and submarine power cables.

As a result of the cartel’s activity, British energy suppliers purchased high voltage power cables at an artificially inflated price. As this capital expenditure was passed onto consumers through Ofgem’s price control regime, domestic electricity customers in Great Britain paid higher electricity bills than they otherwise would have done.

This claim is based on the findings of the 2014 EC Decision, and as such will be a so-called “follow-on” action. This means that the liability of the defendants has already been conclusively established. Consequently, the focus of the Claim will be on proving that the cartel caused higher prices for high voltage cables, and that these costs were in principle passed on to consumers which constitutes the loss suffered by the Proposed Class as a result of the Cartel.

The proposed class representative is Clare Spottiswoode CBE, who has a long and distinguished career defending consumer interests and holds a deep expertise in legal and regulatory issues within the energy sector.

The power cable companies named as defendants in this claim are Nexans France S.A.S., Nexans S.A., NKT A/S, NKT Verwaltungs GMBH, Prysmian Cavi e Sistemi S.R.L., Prysmian S.P.A.

Clare Spottiswoode, proposed Class Representative, said:

“Domestic electricity customers in Great Britain paid inflated energy bills for many years through no fault of their own. This is manifestly unfair. Without collective proceedings like this, UK consumers would have no reasonable way of recovering damages for the harm suffered by serious anticompetitive practice further up the supply chain.”

"I hope this will send a warning sign to any corporates who might contemplate anti-competitive behaviour in future and will recover appropriate redress for consumers who lost money as a result. I am fully confident in the importance and strength of this claim."

James Hain-Cole, Counsel, Scott + Scott said:

"This is a complex and meticulous claim, bringing together some of the foremost lawyers, economists and industry experts in the field. We are highly confident in the strength of our case."

"Bringing claims such as these to the Competition Appeal Tribunal is squarely in the public interest. We are confident that an opt-out collective action is the most suitable mechanism in this case, as it allows consumers to recover the damages they are owed where it would otherwise be prohibitively expensive to pursue individual claims."

"We are delighted to be working with Clare Spottiswoode, whose unique experience in the energy sector and in defending consumer interests makes her ideally suited to drive forward this case for British consumers."

The class

Any living person (and representatives of the estates of deceased people) who on or after 1 April 2001 bore the cost of paying for domestic consumption of electricity supplied via the distribution network in Great Britain is eligible for inclusion in the class.

The claim is brought on an "opt-out" basis, meaning that consumers will be automatically included in the class and eligible for compensation awarded, unless they specifically choose to opt-out. Damages sought for consumers are in the hundreds of millions of pounds.

For class members to register their interest, find out more information about the claim and to receive updates on its progress, please visit <http://www.homenergyaction.co.uk>.

Further Background

The Competition Appeal Tribunal (CAT)

The CAT is a specialist UK court which deals with competition law issues. It has a critical role to provide a route for affected consumers to secure redress from a cartel whose illegal price manipulation, at the expense of electricity customers in Great Britain, has already been proven.

The CAT's first role will be to decide whether to certify this claim is eligible for collective proceedings. To certify it, the tribunal must be satisfied that the proposed class are an identifiable group of people who have faced similar issues and that its proposed representative is appropriately qualified to lead its cause.

Clare Spottiswoode

From 1993-1998, Spottiswoode served as Director General of Ofgas, the UK gas regulator which would later merge into Ofgem. In this position she was the architect and leader of the liberalisation of the UK gas market and was awarded a CBE for its successful implementation.

She is also a former member of the Independent Commission on Banking, a former member of the Payments Council and has acted as a senior adviser to HM Treasury.

If approved, it will be her role to conduct the claim against the cable manufacturers on behalf of all class members. She will instruct the lawyers and experts, and decide whether to consider any offer of settlement that the cable manufacturers may make. She will also be responsible for keeping the class updated on the status and progress of the claim.

The team

Scott+Scott has extensive UK and global experience in constructing successful competition damages claims, including acting on behalf of the class representative in the Car Delivery Charges claim certified in February 2022.

Daniel Jowell QC of Brick Court Chambers, one of the bar's foremost competition law experts, has been appointed as counsel. Leading economist Richard Druce of NERA Economic Consulting and industry expert Peter Bennell of Sohn Associates have also been engaged to provide expert reports to inform the case.

The action has received financial backing from Burford Capital, the largest provider of commercial legal finance in the world.

ENDS

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NOTES TO EDITORS

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