

International **Comparative** Legal Guides



Competition Litigation **2021**

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13th Edition

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Leading by Example: A Case of Effective Private Enforcement in England and Wales

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Introduction

The public and private enforcement pillars of competition law enforcement seek to achieve the same policy goal, but via very different means. Whilst public enforcement – brought by regulatory authorities with wide powers – is often necessary to investigate and sanction anti-competitive behaviour in response to complaints of their own volition, it is the separate role of private enforcement which aims to compensate victims of anti-competitive conduct, which also has a deterrent effect in unison with public enforcement. Within this context, England and Wales (“**E&W**”) has grown to be the leading jurisdiction for the private enforcement of competition law in Europe, with claimants relying upon European Commission (“**EC**”) and National Competition Authority (“**NCA**”) decisions to pursue damages claims in the English Courts¹ on a very regular basis.

This trend has caught the attention of in-house lawyers, as cartel damages claims in particular have been shown to constitute an attractive business proposition in terms of adding value to the entities harmed by anti-competitive conduct. In this chapter, we take stock of the landscape for litigating competition damages claims in E&W by reviewing enforcement mechanisms and seminal case-law since private enforcement gained traction in E&W, and look to what is currently on the horizon.

The Legal Framework Enabling Enforcement

Regulation 1/2003 (“**Regulation**”) is the main implementing regulation for Articles 101 and 102 TFEU, as it ensures (amongst other things) that these Articles are directly applicable in Member States.² This means that they can be applied in their own right by national Courts and NCAs alike. The Regulation was intended as an attempt to de-centralise the enforcement of competition law from the EU institutions. From the very outset, the English Courts have demonstrated a purposive approach to their duties as regards the Regulation, which has helped some claimants clear the numerous hurdles posed in pursuing successful cartel damages claims.

Whilst it may be true in some Member States that the Regulation was a catalyst for bringing private actions for breaches of competition law, the English Courts had been grappling with cartel damages claims even prior to the implementation of the Regulation. This is most neatly demonstrated by English judges dealing with the question of jurisdiction brought in relation to the *Vitamins* cartel.³

In the contemporary setting, the underlying *raison d’être* of the Regulation has in many ways been bolstered by the recently implemented Damages Directive⁴ (as implemented in the UK by the UK Damages Implementation Act).⁵ Notwithstanding the fact that the introduction of the Directive was late in most Member States, and that Member States have been left the task

of differentiating between the substantive and procedural provisions, the Damages Directive will likely provide – in the long-term – a boost to ensuring the ability of claimants to pursue damages claims in any Member State, where appropriate. This is not least supported by the progressive thinking of the CJEU, which has – at least on the basis of two recent preliminary issues – confirmed the wide notion of an “undertaking” to ensure that a would-be defendant’s corporate restructuring (such as the liability of successor entities to certain liquidated subsidiaries, as was the case in *Skanska*) does not equate to litigation immunity,⁶ and furthermore that a Member State’s limitation provisions (prior to the application of the Damages Directive) may be deemed to contravene the *effet utile* of competition law and the EU principle of effectiveness.⁷ The ECN+ Directive,⁸ to be transposed in Member States by February 2021, will assist in ensuring a level playing field amongst competition authorities as regards the procedural aspects of enforcement.

The Story of Private Enforcement in E&W

Here we survey the seminal case-law in the English Courts which, on the whole, demonstrates a flexible but pragmatic approach to competition damages litigation.

Jurisdiction

Interlocutory jurisdictional challenges have been one of the key battlegrounds in private enforcement before the English Courts, resulting in a suite of judgments that set a comparatively low bar for claimants – often seeking to recover damages sustained in multiple Member States in the E&W Courts alone – to successfully resist strike-out/summary judgment applications brought by defendants on jurisdictional grounds. This is noted above in respect of *Vitamins*, but was also considered subsequently in the context of the *Synthetic Rubber*⁹ and *Copper Tubes*¹⁰ cartel damages claims, and more recently as explored below. One of the issues hard fought by defendants is whether a damages claim can be grounded in E&W through an “anchor” UK-domiciled subsidiary, even though that subsidiary is not an addressee of the relevant EC or NCA decision.

The recent High Court (“**HC**”) judgment in *Vattenfall*¹¹ confirms, and further develops, the principle, established in the context of the *Synthetic Rubber* and *Copper Tubes* cartel damages claims, that an “anchored” claim will withstand a jurisdiction challenge where there is a real prospect that the anchor subsidiary “knowingly implemented” the cartel. Importantly, in rejecting the defendants’ arguments that *Vattenfall* had not adduced evidence of knowing implementation, the HC accepted that *Vattenfall* faced difficulties

particularising its case prior to disclosure of contemporaneous documents and access to the unredacted version of the decision, and noted that it could be reasonably expected that the necessary evidence may emerge following disclosure.¹² This recognises the obvious information asymmetry faced by claimants resulting from the secretive nature of cartels. Similarly, the HC set a low threshold for claimants by providing a generous, non-exhaustive list of activities which would amount to implementation of the cartel by the anchor subsidiary, in addition to selling the cartelised goods and services.¹³

Similarly, in *iiyama*,¹⁴ the Court of Appeal (“CoA”) considered the issue of “territorial” jurisdiction, namely whether the application of Article 101 TFEU extends to indirect purchases of cartelised products that are manufactured outside the EEA and subsequently re-supplied within the EEA. Relying upon the “qualified effects” doctrine endorsed by the CJEU in *Intel*,¹⁵ the CoA held that it was at least arguable that the effects within the EU market of a worldwide cartel fall within the scope of Article 101 TFEU, and that the production of such effects, if substantial and systemic, may properly be characterised as “immediate” effects of the cartel. The mere existence of a prior sale to an innocent third party outside the EU at an early stage of the supply chain is not enough to fail the test for immediacy;¹⁶ in other words, “directness” of effects is not required. The judgment therefore provides a persuasive precedent for claimants to argue in favour of a wide extra-territorial scope to Article 101 TFEU (and to the English Courts’ jurisdiction), and an appeal by the defendants was refused by the UK Supreme Court (“UKSC”) in July 2018.

Disclosure

Given the asymmetry of information that claimants face in follow-on claims, as noted previously, it is not surprising that the extensive disclosure obligations placed on parties to English proceedings make E&W a popular forum for private enforcement. Whilst orders for disclosure are (inevitably) highly dependent upon the facts of the specific case, the English Courts have generally adopted a pragmatic and principled approach to disclosure, including with regard to access to the EC’s case file, even prior to the implementation of the Damages Directive.

The judgment in *National Grid v ABB*¹⁷ is an example of the HC conducting a balancing exercise between the need to maintain an effective leniency programme and the right to effective compensation of cartel victims, as prescribed by the CJEU in *Pfleiderer*.¹⁸ Having carried out that exercise, Mr. Justice Roth ordered disclosure of selected parts of the confidential version of the EC’s decision as well as parts of the leniency applicants’ responses to the EC’s information requests, noting that the disclosure was proportionate and would not place leniency applicants in a worse position than non-cooperating parties.¹⁹ Whilst the balancing exercise as set out in *Pfleiderer* has arguably been superseded by the Damages Directive (i.e., if the operative provision applies, written leniency and settlement statements (provided they have not been withdrawn) are “black-listed” from disclosure), this approach is nevertheless demonstrative of a pragmatism in terms of ensuring that claimants’ efforts are not unwound at the first hurdle.

In that regard, the regulations implementing the Damages Directive²⁰ introduced specific rules governing access to the case file which restrict certain categories of documents from disclosure²¹ and, therefore, arguably represent a minor deviation from the pre-existing regime. Since 9 March 2017, claimants seeking disclosure of the EC’s file must make an application to the Court and satisfy certain conditions relating to plausibility, specificity and proportionality. Nonetheless, in a series of recent

decisions²² in the *Trucks* litigation, the UK Competition Appeal Tribunal (“CAT”) has been willing to adopt a purposive interpretation of the new procedural rules and the provisions of the Damages Directive. The CAT, in particular, did not appear to view those rules as being inconsistent with the continued operation of the broad, relevance-based disclosure rules that exist in English litigation. It is important to emphasise that the decisions were made in the context of parallel follow-on damages claims arising from the same facts but subject to different procedural rules (i.e., some pre- and some post-Damages Directive), where the Courts were faced with the need to maintain internal consistency. It therefore remains to be seen whether they will set a credible precedent for future cases.

In the context of claims following on from a settlement decision of the EC, the CAT’s ruling in *PSA v NSK & Others*²³ clarifies that disclosure will be ordered where it is necessary to ensure that the Court has a full and comprehensive understanding of the detailed workings of the cartel, and where the evidence in question is likely to be relevant to the level of damages awarded. The CAT helpfully noted that, in contrast to EC infringement decisions, EC settlement decisions focus upon fines and not upon facts, which is why further disclosure is likely to be needed to obtain the requisite level of detail.²⁴

The role of the Regulation

The recent judgment of the CAT in the *Trucks* litigation²⁵ provides clarity on the proper application of Article 16 of the Regulation, and useful guidance for claimants in follow-on claims stemming from EC settlement decisions.

First, the CAT acknowledged that Article 16(1) prevents national Courts from making a decision that would run counter to a decision of the EC. Recitals constituting an “essential basis” or “necessary support” for the operative part of a decision, or those which are “necessary to understand” the scope of the operative part, are binding upon the parties and national Courts for the purposes of Article 16(1).²⁶ Whilst the application of this test will, of course, always be case-specific, the CAT’s approach could well be followed in future claims and, importantly, confirms that it is not open to defendants to argue that *none* of the non-operative findings of a decision are binding.

Secondly, the CAT ruled that, subject to limited exceptions, it is an abuse of process for defendants who have agreed the settlement decision with the EC to later simply deny (or not admit) findings in that decision when follow-on damages claims are brought against them. Broadly, a defendant may advance a positive case that is inconsistent with an EC finding where: (i) its positive case seeks to show that a finding in the decision does not accurately reflect the underlying document it refers to; or (ii) it relies upon new evidence it could not reasonably have had access to at the time of the EC investigation.²⁷ This point is currently under appeal by the defendant truck manufacturers, and at the time of writing due to be heard in early October 2020.

Quantification of damages

The jurisprudence in E&W has established that damages for breaches of competition law should be compensatory in nature; this in and of itself satisfies the EU principle of effectiveness and is line with the spirit of the Regulation.²⁸

The recent HC and CoA judgments in *Britned v ABB*,²⁹ the first follow-on cartel damages claim to reach full trial and judgment in E&W,³⁰ are particularly important in this context as not only do they reaffirm this principle, but they also provide guidance

as to how the compensatory principle should be applied when quantifying damages. The CoA recognised that quantification of the claimant's loss in competition cases is characterised by uncertainty, and that in those circumstances an “*exercise of a sound imagination and the practice of the broad axe*” should be followed. In other words, the fact that it is not possible for a claimant to prove the exact sum of its loss is not a bar to recovery. Although on the specific facts of the case, the Courts found that the available evidence did not support some aspects of Britned's damages claim, this realistic approach to the calculation of damages sets a welcome precedent for claimants in future cases.

More recently, the UKSC adopted a consistent approach in its landmark judgment³¹ in the *Interchange* litigation, albeit in the context of pass-on, holding that the same “broad axe” standard must be met by claimants and defendants alike when seeking to prove, on the one hand, that the overcharge has not been passed on and, on the other hand, that the loss has been mitigated through downstream pass-on. The UKSC reconfirmed that the English common law takes a pragmatic view of the degree of certainty with which damages must be pleaded and proved, and therefore does not require unreasonable precision in the quantification of loss (or any mitigation of the same).³² It remains to be seen how the English Courts – in particular, the CAT by virtue of the remittal/quantum hearing following the UKSC's judgment – will apply the principles laid down by the UKSC, and this will remain an area to watch.

Collective redress

Perhaps one of the most unique features which sets out E&W as a jurisdiction in Europe is the ability to pursue “opt-out” collective proceedings. This change – from a former “opt-in”-only regime – was introduced by the Consumer Rights Act 2015 (“**CRA 2015**”) and intended to make it easier for class representatives to bring damages actions in E&W on behalf of a given class of claimants. To appease concerns that permitting claims to be brought on an opt-out basis could lead to an increase in unmeritorious claims, the new provisions include, amongst other safeguards, a certification process pursuant to which the CAT must certify an opt-out action before it can proceed. As part of the process, the CAT must consider whether the claims “*are suitable to be brought in collective proceedings*”,³³ which includes an assessment of the CAT's ability to award an aggregate amount in damages.

The CAT has so far taken a rigorous approach to the certification demonstrated by the second collective proceeding to have had a hearing for certification, in which it set a high “suitability” bar.³⁴ In its judgment³⁵ in *Merricks v Mastercard*, the CAT refused certification on the basis that Mr. Merricks (the proposed class representative): (i) was unable to point to sufficient data supporting the methodology proposed by his experts to determine how overcharges arising from Mastercard's unlawfully high interchange fees may have been passed on to consumers; and (ii) had not put forward any plausible means of calculating the losses sustained by individual class members so as to allow for the appropriate distribution of an aggregate award of damages (i.e., one that would otherwise be in line with the compensatory principle).³⁶

The CoA, however, granted Mr. Merricks permission to appeal and subsequently overturned the CAT's findings.³⁷ It ruled that the CAT was wrong to have conducted a “mini-trial” by carrying out a detailed economic analysis of the claim at the certification stage and instead should only have asked whether the claim had a “*real prospect of success*”. On pass-on, Mr. Merricks had to satisfy the CAT that the expert methodology was capable of assessing

the level of pass-on and that there was, or was likely to be, data available to operate that methodology; however, it was not necessary for him to be able to produce all of that evidence and demonstrate its probative value at certification stage. Moreover, the CoA rejected the suggestion that the lack of a plausible loss-based method of distribution of damages could be a reason for refusing certification, as distribution ought to be a matter for the trial judge following the making of an aggregate award. Overall, the judgment has thrown a welcome lifeline to the prospects of the UK's young opt-out regime.

Mastercard filed an appeal with the UKSC, which was subsequently heard in May 2020. The judgment is eagerly awaited, particularly by proposed class representatives in other opt-out actions that have been stayed in the CAT pending clarification by the UKSC on the threshold to be met for certification. Such claims that remain waiting in the wings include *Trucks*,³⁸ *FX*,³⁹ and *Ro-Ro*⁴⁰ in respect of follow-on damages, and also the first stand-alone proposed collective for *Train Fares*.⁴¹

Funding within collective actions

Following the Jackson Report in 2010, and subsequently the formation of the Association of Litigation Funders (“**ALF**”), third-party litigation funding (alongside adverse cost arrangements such as after-the-event insurance, “**ATE**”) is now well-established in E&W and approached pragmatically by the English Courts. In fact, the success of the new collective proceedings regime for competition claims is highly dependent upon the availability of third-party litigation funding, without which the vast majority of claimants would not be able to fund their claim.

The CAT expressly acknowledged this in a recent judgment⁴² in the *Trucks* collective actions.⁴³ In rejecting several arguments by the truck manufacturers that the proposed class representatives' funding and ATE insurance arrangements were inadequate, the CAT confirmed that it would be wrong for it to “*place [third party litigation funding] for the purpose of collective proceedings [...] into a straitjacket*” and a flexible approach should be adopted, the only concerns being whether: (i) the terms of the funding agreement do not impair the ability of the class representative to act in the interests of the class members; and (ii) adequate funding has been arranged to pursue the litigation in the interests of the class members.

Looking ahead, although some limited aspects are subject to appeal by the truck manufacturers (which has been granted by the CoA and is currently due to be heard in January 2021), the judgment offers proposed class representatives greater clarity as to how the CAT will interpret the requirements for authorisation of funding arrangements in collective claims.

CAT's fast-track procedure

The CAT's fast-track procedure is another of the changes introduced by the CRA 2015 with a view to making it easier for claimants – particularly individuals, micro-businesses and SMEs – to obtain damages and/or injunctive relief in the CAT. Although its use has been somewhat limited to date,⁴⁴ the procedure promises significant benefits to claimants with smaller claims and smaller pockets, such as the ability to “cost-cap” and a direction for limited disclosure. In the first (and as yet only) fast-tracked claim to reach trial and judgment (albeit on the issue of liability only), it is noted that the litigation timetable was condensed into seven months between claim issue and trial, although judgment

was not given until over six months after trial. In light of the slow up-take of the fast-track procedure, it remains to be seen which types of cases appear to be appropriate candidates for the regime and whether better use of this mechanism will be made by would-be claimants in the future.

The Future of Private Enforcement in E&W – What is on the Horizon?

As mentioned above, an important development that can be expected in the short term, and most likely by the autumn of this year, is the UKSC's judgment in *Merricks*. Regardless of whether the UKSC will side with the CoA or with the CAT, the judgment is expected to clarify the test to be met by proposed class representatives in opt-out collective proceedings.

As for longer-term developments, Brexit remains the elephant in the chapter. Predictions on its impact on E&W private enforcement vary considerably, and are heavily dependent upon the relationship that is ultimately established between the UK and the EU following the transition period. It remains to be seen whether EC decisions will remain of persuasive value, and whether follow-on claims will increasingly be premised on CMA decisions. Notwithstanding how the future relationship may transpire, the experience of the English Courts in competition damages claims, the existence of the opt-out collective regime and the largely claimant-friendly body of case-law (the best examples of which we have tried to illustrate in this chapter) are likely to remain attractive factors for bringing competition damages claims in E&W.

As noted above, despite the fact that the implementation of the Damages Directive is not strictly a recent phenomenon, we are only beginning to see the impact of some provisions (given E&W was largely compliant with most provisions pre-implementation); other provisions will take more time to bear fruit. This is also in part due to the differential treatment between the substantive and procedural provisions. However, the changes introduced by the Damages Directive (and as implemented by the UK Damages Implementation Act) are set to remain after Brexit and may bear more interesting fruit in the longer term, given their temporal scope covering infringements from 9 March 2017 onwards. Whilst we have seen the procedural rules on disclosure at play (to some extent) in recent case-law, as explored in this chapter, some of the more substantive provisions, such as the suspension of limitation periods and the new rules on the burden of proof in respect of pass-on, are likely to assist and provide greater legal certainty to future claimants in E&W private enforcement proceedings.

Note

This chapter is based upon the laws of England and Wales only, and as at the date of publication.

Acknowledgment

The authors wish to express particular thanks to Ginevra Biccio, also of Hausfeld & Co. LLP, for her invaluable assistance in the drafting of this chapter.

Endnotes

1. "English" in this sense also captures the Courts of Wales.
2. Article 1, Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.

3. *Provimi Limited v Roche Products Limited & Others* [2003] EWHC 961 (Comm) (2 May 2003).
4. Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union.
5. The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017.
6. Case C 724/17 – *Vantaan kaupunki v Skanska Industrial Solutions Oy & Others* (14 March 2019).
7. Case C-637/17 – *Cogeco Communications Inc. v Sport TV Portugal SA & Others* (28 March 2019).
8. Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market.
9. *Cooper Tire & Rubber Company Europe Limited & Others v Dow Deutschland Inc & Others* [2010] EWCA Civ 864 (23 July 2010).
10. *Toshiba Carrier UK Limited & Others v KME Yorkshire Limited & Others* [2012] EWCA Civ 1190 (13 September 2012).
11. *Vattenfall AB & Others v Prysmian SPA & Others* [2018] EWHC 1694 (Ch) (4 July 2018).
12. *Ibid.*, at paragraph 86.
13. *Ibid.*, at paragraphs 72–74.
14. *The LCD Appeals* [2018] EWCA Civ 220 (16 February 2018).
15. Case 413/14 P – *Intel Corporation Inc. v European Commission* (6 September 2017).
16. *Supra* 14, at paragraph 98.
17. *National Grid Electricity Transmission PLC v ABB Limited* [2012] EWHC 869 (Ch) (4 April 2012).
18. Case C-360/09 – *Pfleiderer AG v Bundeskartellamt* (14 June 2011).
19. The principles established in the judgment, and in *Pfleiderer*, are endorsed in the Damages Directive.
20. *Supra* 5.
21. These are: (i) settlement submissions that are not subsequently withdrawn; (ii) cartel leniency statements; and (iii) a competition authority's investigation materials prior to the conclusion of the investigation.
22. *Suez Groupe SAS & Others v Fiat Chrysler Automobiles N.V. & Others* [2018] EWHC 1994 (Ch) (16 July 2018); and *Ryder Limited & Others v MAN SE & Others* [2020] CAT 3 (15 January 2020), [2018] EWHC 1994 (Ch).
23. *Peugeot S.A. & Others v NSK Limited & Others* [2018] CAT 3 (5 March 2018).
24. *Ibid.*, from paragraph 28 onwards.
25. *Royal Mail Group Limited & Others v DAF Trucks Limited & Others* [2020] CAT 7 (4 March 2020). The seven cases comprising the *Trucks* litigation are: *Royal Mail Group Limited v DAF Trucks Limited & Others*; *BT Group plc & Others v DAF Trucks Limited & Others*; *Ryder Limited & Another v MAN SE & Others*; *Suez Groupe SAS & Others v Fiat Chrysler Automobiles N.V. & Others*; *Veolia Environnement S.A. & Others v Fiat Chrysler Automobiles N.V. & Others*; *Wolseley UK Limited & Others v Fiat Chrysler Automobiles N.V. & Others*; and *Dawsongroup plc & Others v DAF Trucks N.V. & Others*.
26. *Ibid.*, at paragraph 64.
27. *Ibid.*, at paragraph 141.

28. *Devenish Nutrition Limited v Sanofi-Aventis SA (France) & Others* [2008] EWCA Civ 1086 (14 October 2008).
29. *Britned Development Limited v ABB AB & Another* [2018] EWHC 2616 (Ch) (9 October 2018), [2019] EWCA Civ 1840 (31 October 2019).
30. The first follow-on damages claim to reach trial in E&W was the case of *Enron Coal Services Limited (in liquidation) v English Welsh & Scottish Railway Limited* (CAT Case No. 1106/5/7/08), based upon a decision of the Office of Rail Regulation.
31. *Sainsbury's Supermarkets Limited v Visa Europe Services LLC & Others, Sainsbury's Supermarkets Limited & Others v Mastercard Incorporated & Others* [2020] UKSC 24 (17 June 2020).
32. *Ibid.*, at paragraph 217.
33. Section 47B(6) Competition Act, 1998.
34. *Dorothy Gibson v Pride Mobility Products Limited* [2017] CAT 9 (31 March 2017). The claim was not certified and was subsequently withdrawn by the class representative on 25 May 2017.
35. *Walter Hugh Merricks CBE v Mastercard Incorporated & Others* [2017] CAT 16 (21 July 2017).
36. *Ibid.*, at paragraphs 75–78 and 87–89.
37. *Walter Hugh Merricks CBE v Mastercard Incorporated & Others* [2019] EWCA Civ 674 (16 April 2019).
38. CAT Case No. 1282/7/7/18 – *UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. & Others*; and CAT Case No. 1289/7/7/18 – *Road Haulage Association Limited v Man SE & Others*.
39. CAT Case No. 1336/7/7/19 – *Mr Phillip Evans v Barclays Bank PLC & Others*; CAT Case No. 1329/7/7/19 – *Michael O'Higgins FX Class Representative Limited v Barclays Bank PLC & Others*.
40. CAT Case No. 1339/7/7/20 – *Mark McLaren Class Representative Limited v MOL (Europe Africa) Limited & Others*.
41. CAT Case No. 1305/7/7/19 – *Justin Gutmann v London & South Eastern Railway Limited*; and CAT Case No. 1304/7/7/19 – *Justin Gutmann v First MTR South Western Trains Limited and Another*.
42. *UK Trucks Claim Limited & Another v Fiat Chrysler Automobiles N.V. & Others* [2019] CAT 26 (28 October 2019).
43. The judgment in question concerns CAT case numbers 1282/7/7/18 (*UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. & Others*) and 1289/7/7/18 (*Road Haulage Association Limited v Man SE & Others*).
44. To date, only three claims have been designated to the fast-track procedure, two of which settled before trial. These are: (i) CAT Case No. 1249/5/7/16 – *Socrates Training Limited v The Law Society of England and Wales*; (ii) CAT Case No. 1247/5/7/16 – *Shahid Latif & Mohammed Abdul Wabeed v Tesco Stores Limited*; and (iii) CAT Case No. 1303/5/7/19 – *Melanie Meigh (trading as The Prinknash Bird and Deer Park) v Prinknash Abbey Trustees Registered*. As at the time of writing, an application has been made for fast-track designation in CAT Case No. 1359/5/7/20 – *Rest & Play Footwear Limited v George Rye & Sons Limited*.



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