

# Consumers who made purchases in the UK between 1992 and 2008 could benefit from a proposed collective consumer claim against MasterCard

*This is a legal notice.*

- A proposed collective consumer claim against MasterCard has been filed with the Competition Appeal Tribunal by Walter Merricks CBE (the proposed class representative) on behalf of a proposed “class” of individuals.
- The proposed claim relies on a legal finding of the European Commission that MasterCard imposed unlawful fees on transactions processed through its network. These fees were paid by businesses for accepting payments made with a MasterCard credit or debit card in the period 1992 to 2008. More than half a million businesses in the UK, including major supermarkets, accepted MasterCard cards in the relevant period, paid these unlawful fees, and passed these on to consumers in higher retail prices.
- The proposed claim says that if between 22 May 1992 and 21 June 2008 you purchased goods and/or services from businesses selling in the UK that accepted MasterCard cards, at a time at which you were both (1) a resident in the UK for a continuous period of at least three months, and (2) aged 16 years or over, you paid higher prices as a result of MasterCard’s unlawful conduct. It is proposed that the claim will be brought on behalf of a class of individuals who meet these conditions with the exception of the categories of persons described in Question 6 below.
- A hearing has been set for 18 January 2017 to decide whether the proposed collective consumer claim can go ahead. The hearing will last for two days and will take place at the Competition Appeal Tribunal, Victoria House, Bloomsbury Place, London WC1A 2EB.
- To learn more about the application to bring the collective consumer claim, which is known as a Collective Proceedings Order Application, visit [www.MasterCardConsumerClaim.co.uk](http://www.MasterCardConsumerClaim.co.uk) or [www.catribunal.org.uk](http://www.catribunal.org.uk).

YOUR LEGAL RIGHTS AND OPTIONS NOW	
<b>OBJECT TO THE APPLICATION OR THE CLASS REPRESENTATIVE</b>	Any person with an interest (including any proposed class member) may object to the Collective Proceedings Order Application or the authorisation of the proposed class representative by stating their reasons for objecting in writing to be received by the Competition Appeal Tribunal by <b>22 December 2016 at 4pm</b> . See Question 8 below.
<b>APPLY TO MAKE ORAL / WRITTEN SUBMISSIONS TO THE TRIBUNAL</b>	<p>Any person with an interest (including any proposed class member) objecting to the Collective Proceedings Order Application or the authorisation of the proposed class representative may also apply to the Tribunal for permission to make oral submissions at the hearing on 18 January 2017. Any such application must be made in writing and received by the Tribunal by <b>22 December 2016 at 4pm</b>.</p> <p>Any third party with a legitimate interest (who is not a member of the proposed class) can also apply to the Tribunal for permission to make written and/or oral submissions at the hearing on 18 January 2017. Any such application must be made in writing, supported by reasons, to be received by the Tribunal by <b>12 December 2016 at 4pm</b>.</p>

# GENERAL INFORMATION

## 1. Why has this notice been issued?

The Competition Appeal Tribunal has directed that this notice be issued following the application by Walter Merricks CBE, the proposed class representative, for a Collective Proceedings Order. The Collective Proceedings Order Application asks the Tribunal to (i) approve the claim as eligible to proceed as a collective claim on behalf of eligible UK consumers; and (ii) approve the proposed class representative. To read the Collective Proceedings Order Application, or a summary of the Application, visit [www.MasterCardConsumerClaim.co.uk](http://www.MasterCardConsumerClaim.co.uk).

This notice has been issued to inform you of your right to object to the Collective Proceedings Application or the authorisation of the proposed class representative. This notice explains the proposed claim, who is covered by the proposed claim, your right to object to the proposed claim, how to object, and any related deadlines. Please read this notice carefully.

## 2. What is the Competition Appeal Tribunal?

The Competition Appeal Tribunal is a specialist court based in London that covers the whole of the UK and hears disputes such as these. The Tribunal publishes its Rules and Guidance, together with information about what it does, on its website [www.catribunal.org.uk](http://www.catribunal.org.uk).

## 3. Who is the claim against?

The proposed claim is against MasterCard Incorporated, MasterCard International Incorporated, and MasterCard Europe S.P.R.L. Together, these entities are called MasterCard.

## 4. What did MasterCard do wrong? What are the claims?

On 19 December 2007, the European Commission decided that MasterCard imposed unlawful fees on transactions processed through its network. These unlawful fees were paid by businesses that accepted MasterCard cards as payment for goods and/or services. The Commission also stated that consumers are likely to have paid higher prices for goods and services because business raised retail prices as a result of MasterCard's unlawful fees. MasterCard lost its appeals against this decision in 2014.

According to the Collective Proceedings Order Application, it does not matter what form of payment you used to buy goods or services from businesses selling in the UK (i.e. you do not need to have paid with a MasterCard, or any other form of credit or debit card). The proposed claim says you paid higher prices and lost out as a result of MasterCard's unlawful conduct. The proposed claim seeks to include purchases (for non-business purchases) made by individuals from businesses selling within the UK between 22 May 1992 and 21 June 2008. Purchases made by individuals whilst they were outside the UK are not included in the claim.

## 5. Who is the proposed class representative?

The Collective Proceedings Order Application requests that Walter Merricks CBE be authorised to act as the class representative for the proposed claim.

As the proposed class representative, Mr Merricks would conduct the claim against MasterCard on behalf of all class members, except for those who opt-out of the class. Mr Merricks would instruct the lawyers and experts, make decisions on the conduct of the claim, and, in particular, would decide whether to present any offer of settlement that MasterCard may make to the Tribunal for its approval.

During the case, Mr Merricks would be responsible for communicating with the class and for issuing formal notices such as this notice. If approved, Mr Merricks would update the class about the claim on the website [www.MasterCardConsumerClaim.co.uk](http://www.MasterCardConsumerClaim.co.uk), through the media and on social media.

Mr Merricks has had a long and distinguished career defending consumer interests and holding large financial firms to account for their conduct. Mr Merricks is a qualified lawyer and the former Chief Ombudsman of the Financial Ombudsman Service, a position he held for 10 years.

As the Chief Ombudsman, Mr Merricks ensured that consumers received billions of pounds in compensation from banks, building societies, mortgage lenders, consumer credit card providers, investment firms, insurance companies, and other financial institutions.

The Tribunal will judge Mr Merricks' suitability to act as the proposed class representative.

## **WHAT DOES THE COLLECTIVE PROCEEDINGS ORDER APPLICATION ASK FOR?**

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

The Consumer Rights Act 2015 allows for a collective claim to be brought on behalf of a group of individuals who are alleged to have suffered a common loss. The group is the "class" and all individuals within the group are "class members". As a result of the 2015 Act, groups of consumers who have all lost out do not need to each bring an individual claim to obtain compensation for their loss. Instead, these consumers may all receive compensation through a single collective claim brought on their behalf by a representative.

The Collective Proceedings Order Application asks the Tribunal to allow the proposed claim to proceed on an "opt-out" basis on behalf of all individuals who between 22 May 1992 and 21 June 2008 purchased goods and/or services from businesses selling in the UK that accepted MasterCard cards, at a time at which those individuals were both (1) resident in the UK for a continuous period of at least three months, and (2) aged 16 years or over, with the exception of the following categories of persons (as constituted from time to time): (i) officers, directors and employees of MasterCard or any company controlled by MasterCard; (ii) all members of MasterCard's legal team and experts instructed by MasterCard for the collective proceedings; (iii) all members of the Class Representative's legal team, professional advisors, and experts instructed by the Class Representative for the collective proceedings; and (iv) all members of the Competition Appeal Tribunal panel assigned to the collective proceedings. Businesses are not included in the proposed class. It is called an opt-out class because, if the Tribunal allows the proposed claim to proceed, anyone who meets the class definition will be included in the claim automatically and bound by the result, unless they ask to opt-out.

The Tribunal will assess the Collective Proceedings Order Application to determine that the claims sought to be included in the collective proceedings: (i) are brought on behalf of an identifiable class of persons; (ii) raise common issues; and (iii) are suitable to be brought in collective proceedings.

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

The proposed claim seeks compensation of approximately £14 billion. The proposed claim seeks this amount to compensate proposed class members for paying more than they should have paid for goods and services because of MasterCard's unlawful conduct between 22 May 1992 and 21 June 2008.

# HOW TO OBJECT TO THE COLLECTIVE PROCEEDINGS ORDER APPLICATION OR TO THE CLASS REPRESENTATIVE

## 8. Who can object and what can I object to?

Any person with an interest (including anyone who would be a member of the proposed class) may object to the Collective Proceedings Order Application or the authorisation of the proposed class representative. You should review the information above and visit both [www.MasterCardConsumerClaim.co.uk](http://www.MasterCardConsumerClaim.co.uk) and [www.catribunal.org.uk](http://www.catribunal.org.uk) for information.

If you wish to file an objection, you must write to the Tribunal stating your reasons for objecting and send it by post, or fax, **so it is received no later than 22 December 2016 at 4pm**, to the following address:

The Registrar  
Competition Appeal Tribunal  
Victoria House  
Bloomsbury Place  
London WC1A 2EB  
Fax: 020 7979 7978

When writing to the Tribunal you must include the reference *Walter Hugh Merricks CBE v MasterCard Incorporated and Others* Case number 1266/7/7/16.

Any person with an interest (including any proposed class member) objecting to the Collective Proceedings Order Application or the authorisation of the proposed class representative may also apply to the Tribunal for permission to make oral submissions at the hearing on 18 January 2017. Any such application must be made in writing and received by the Tribunal by **22 December 2016 at 4pm**.

Any third party with a legitimate interest (who is not a member of the proposed class) can also apply to the Tribunal for permission to make written and/or oral submissions at the hearing on 18 January 2017. Any such application must be made in writing, supported by reasons, to be received by the Tribunal by **12 December 2016 at 4pm**.

## GETTING MORE INFORMATION

### 9. How can I stay updated on the progress of the claim?

You can visit [www.MasterCardConsumerClaim.co.uk](http://www.MasterCardConsumerClaim.co.uk) for periodic updates on the claim.

### 10. Who is funding the claim?

Whilst Mr Merricks is seeking to be the class representative and run this claim for consumers, he is not able to fund a claim of this size and public importance on his own. Therefore, Mr Merricks is working with third party litigation funders, Gerchen Keller Capital, to bring the claim. The amount of funding available is up to £43 million to pursue this claim through to the end, including a sum of £10 million which will be available to cover MasterCard's costs in the event that the claim is ultimately unsuccessful. The funding arrangements in place mean that the class members will not need to pay anything to be part of the claim and have no financial risk in relation to the claim.