



The CMA fined five UK model agencies and their trade association a total of £1.5 million for price collusion

On 16 December 2016, the Competition and Markets Authority (CMA) fined five model agencies (FM Models, Models 1, Premier, Storm and Viva) and their trade association over £1.5 million for breaking competition law by colluding on prices.

How does this affect you?

If during the two-year period (April 2013 and March 2015) you paid for the services of one these model agencies, you may have a claim for compensation of damages against these companies:

- FM Model Agency Limited ('FM Models');
- Models One Limited, One Worldwide Limited and Models 1 New Co Limited (together 'Models 1');
- Premier Model Management Limited ('Premier');
- Storm Model Management Limited and Storm Models Limited (together 'Storm');
- Viva Model Management London Limited and Viva Model Management Sarl (together 'Viva').

Estimating your claim

- In simplistic terms, competition infringement damages are calculated based on the amount cartelists overcharged for their services because of the anticompetitive agreement.
- Economic studies, accepted by the competition authorities, find that cartel overcharge may be between 10 - 20%.
- By way of a simple example, if you paid fees in excess of £1 million, the damages claim against cartelists may be estimated as £100,000 - £200,000.

Bringing your claim

The rules have recently changed in the UK and at EU level to facilitate such third party damages claims.

In particular, the UK has simplified its collective actions regime, making it easier for the parties to bring such collective claims against the cartelists by spreading the

risks of the litigation.

Claimants have a choice of whether to bring a claim in the High Court in London or in the specialist Competition Appeal Tribunal (CAT). Limitation periods differ in the two tribunals but broadly they are six years in the High Court from the start of the competition investigation or two years in the CAT from the infringement decision becoming final.

Funding your claim

There are many ways to fund competition damages actions, which can significantly reduce claimants' exposure to costs. Options range from the traditional retainer to third party funding, as well as getting a group of potential claimants together in a joint or parallel action or an action via a trade body. In some instances, the way in which you fund your litigation can shift the whole or part of the risk to a third party in return for a share of the potential damages recovered.

Third party funding typically involves a commercial funder agreeing to pay some or all of a claimant's legal fees (and disbursements) in return for a fee. This fee is usually a proportion of the proceeds recovered as part of the litigation process whether by judgment or settlement. If the claim is unsuccessful then the funder loses its investment and is not entitled to receive any payment from the claimant.

It is also possible to protect oneself against paying the other party's legal costs in the event of a loss through an After the Event Insurance ('ATE'). An ATE insurance policy insures the claimant against potential liability in the event the case is lost. An ATE policy typically covers claimants' own disbursements, including counsels' fees, and the other side's costs (subject to a maximum limit).

We have recently secured third party funding for a portfolio of claims across Europe and would be happy to discuss funding options with you.



SHEPHERD+ WEDDERBURN

Shepherd and Wedderburn

Shepherd and Wedderburn competition law experts and litigators have experience of competition damages claims. We regularly act not just in the defence of companies but also to pursue individual large claims for companies both in the High Court and in the CAT. Outside of the UK we work with specialist local lawyers to pursue such claims. We have significant experience in arranging third party funding for clients. We do not receive a commission nor do we have a financial stake in arranging such funding. This is part of our service in protecting your interests and maximising the chances of success where appropriate.

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