

UK CAT collective proceedings

Summer 2025 update

CAT collective proceedings – Summer 2025 update



Since our last update in the Summer of 2024 (see [here](#)), there have been a significant number of important developments in the UK's competition collective proceedings regime before the Competition Appeal Tribunal (CAT). A number of key trends and themes run through this update.

First, the **appetite to issue new claims continues to be strong**, showing that the Supreme Court's decision in *PACCAR* in 2023 has ultimately not deterred litigation funders from funding new claims.

Second, **questions about third party funding for collective proceedings remain**, with the Civil Justice Council (CJC) consultation on litigation funding in the UK ongoing, and a further appeal to be heard by the Court of Appeal in Summer 2025 on whether funding agreements which are now based on multiples of funding are lawful following from *PACCAR*.

Third, while **the CAT continues to impose a relatively low bar to certification**, this year has seen the first two decisions rejecting certification without the CAT providing an opportunity to "reformulate" the claims in question. We do not consider this part of a wider trend to tighten the certification process, but rather simply the natural exercise of the CAT's scrutiny of prospective collective proceedings.

Fourth, **the UK's collective action regime continues to mature**, with the first trial judgment handed down, a number of further trials concluded, and further settlements approved. The distribution of damages and settlement sums remains a developing area with some initial guidance recently handed down in *Merricks*.

In this short update, we comment on these trends, identify other recent key developments, and highlight some events to look out for in the coming months.

Notable new CPO claims

A number of new prospective collective proceedings have been filed, including:

- In August 2024, [Prof. Barry Rodger issued a claim](#) on behalf of UK-domiciled Android app developers against Google in the CAT regarding the Google Play Store, alleging that it has charged excessive and unfair prices (by way of its service fee) to app developers (a similar claim was issued by Dr Ennis against Apple in July 2023).
- In November 2024, the Consumers' Association, [Which?, issued a claim](#) against Apple on behalf of approximately 40 million consumers for alleged breaches of competition law regarding iCloud. The claim alleges that Apple has restricted competing cloud services on iOS devices. As a result, the claim alleges that Apple has "locked in" consumers with higher prices for its iCloud.
- December 2024 saw [Clare Spottiswoode CBE bring a claim](#) in the CAT that alleges Motorola overcharged for its Airwave services which are used by a variety of organisations, including the UK emergency services. Notably, and unusually, the claim is being funded by the UK Government rather than a commercial litigation funder.
- Also in December 2024, [Dr Maria Luisa Stasi initiated a claim against Microsoft](#), alleging that it made its Windows Server product more expensive on competing cloud platforms, thereby encouraging users to switch to use the product on its own cloud computing platform, Microsoft Azure.

Certification and carriage disputes

- Newly certified claims include: [Prof. Rodger](#) against Google on behalf of UK-domiciled Android app developers, [Dr Ennis](#) against Apple on behalf of UK iOS app developers, [BSV Claims](#) against a number of cryptocurrency platforms (although a substantial part of the claim was struck out, pending appeal), [Stopford](#) against Google in respect of mobile search advertising, and [Bulk Mail Claim](#) against Royal Mail.

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- In November 2024, the CAT heard a carriage dispute between the [British Independent Retailers Association \(BIRA\)](#) and [Prof. Andreas Stephan](#). Broadly, the claim alleges that Amazon abused its “Buy Box” feature and e-commerce practices. In a judgment handed down on 20 January 2025, Prof. Stephan’s claim won carriage.
- The CAT’s first rejection of a CPO was issued in [Prof. Riefa](#). The CAT found that the director of the PCR in that case, Prof. Riefa, had failed to demonstrate sufficient independence or robustness to act fairly and adequately in the interests of the class (see our article [here](#)). A number of matters, when considered cumulatively, gave rise to that decision, including incorrect evidence as to the nature of the funding arrangements in place to support the claim, concerns about the terms of the funding arrangements themselves (including the funder’s return), and errors in various funding agreements.
- In March 2025, the CAT also rejected CPOs sought by [Prof. Roberts](#) against various water utilities companies (aka. the Water claims). The CAT’s decision was based on narrow grounds related to the specific regulatory regime imposed on the water industry in the UK, but it confirmed it would have otherwise certified the claim. Prof. Roberts has sought permission to appeal.
- Following the announcement of a settlement in principle in [Merricks](#) (further details below), there was a [public debate](#) between the solicitors for Mr Merricks and the litigation funder supporting his claim, following the funder’s dissatisfaction with the settlement figure. The funder has since initiated legal action against Mr Merricks and the firm representing him.
- The Court of Appeal handed down its decision in [Gutmann \(Apple\)](#), a case involving iPhone batteries, confirming that in principle it is permissible for a funder and lawyers/advisors to be paid a return out of damages before distribution to class members (see our article [here](#)). However, whether this is in fact permitted will be a question for the CAT’s discretion in each case.
- The Court of Appeal will hear appeals from a number of cases by the end of July 2025 as to whether funding agreements based on multiples of funding are DBAs amongst other questions. The appeals were originally stayed when legislation was expected under the previous government following the *PACCAR* decision, but since that legislation has been delayed pending the CJC review, the stays have been lifted.

Settlement and damages distribution

- In February 2025, the CAT approved the settlement reached in [Merricks](#). Approval was given despite the objections of the funder in that claim, which was unhappy with the settlement sum of £200 million, set against the original estimated claim value of £14 billion. The settlement was notable because the defendant, Mastercard, agreed to indemnify the Class Representative, Mr Merricks, for up to £10 million in the claim pursued by the funder against him. The CAT’s [written judgment](#) of 20 May approving the settlement approves a total return on investment to the funder of 1.5, which is lower than many expected. However, this is reflective of the relatively low settlement value in this claim, and the Tribunal’s view that it was “*very far from a success*” for the represented class. Future settlements will turn on the specific facts of those cases.

Funding and costs

- The Civil Justice Council published an [interim report and consultation](#) for its review of litigation funding in the UK as a whole. The review was initiated in Spring 2024, following a request from the Lord Chancellor in response to the *PACCAR* decision. The report was published in October and highlights, amongst other things, how self-regulation of the third-party funding market operates and considers whether further regulation is needed. The consultation deadline was extended to 3 March 2025, with a final report set to be published this Summer. If recommended by the CJC, legislation addressing the *PACCAR* decision is expected to follow the final report.

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- On 15 January 2025, the CAT handed down judgment approving further collective settlements in the [McLaren](#) proceedings. A settlement with the case's twelfth defendant had already been approved in 2023, with the CAT now approving further settlements between Mr McLaren and the fourth and sixth to eleventh defendants, with submissions having been invited on costs. Distribution of the settlement sums is expected to follow judgment. Notably, the settlement included the defendant making a payment of £500,000 for distribution costs, following the approach taken in [Gutmann v South Western Trains](#) where the defendant contributed £750,000 towards distribution.

First substantive judgment: Le Patourel claim fails

- Following an 8 week trial in early 2024, on 19 December 2024 judgment was handed down in [Le Patourel](#), the first opt-out collective action to reach trial. The case concerned excessive pricing allegations regarding BT landline services, relying in part on prior regulatory findings from Ofcom (see our article [here](#)).
- Despite finding that prices were excessive by being around 20% above the benchmark, the CAT found they were not unfair under the United Brands test, and so dismissed the claim in its entirety.

Numerous further trials

- The CAT's judgment in the first trial (on liability) in the Gutmann train proceedings ([First MTR/LSER/Govia](#)) is hotly anticipated. This first trial took place between June and July 2024. Should Mr Gutmann be successful, the case will proceed to a second trial on causation and quantum.
- The trial of [Dr Kent](#) concluded in February 2025. This is the first of four collective proceedings related to mobile app stores, and the first of a larger number of collective proceedings against Big Tech companies to reach trial.
- The trial in [McLaren](#) finished in March 2025, following settlements reached between McLaren and seven of the 12 defendants.

Case management considerations

- The CAT is currently faced with a number of collective proceedings pursued by different classes of claimants at different levels of the supply chain for the same or similar conduct. Examples include [Coll](#) and [Prof. Rodger](#) against Google in relation to the Google Play Store, [Dr Kent](#) and [Dr Ennis](#) against Apple in relation to the App Store, and [Hammond](#) and [Prof. Stephan](#) against Amazon in relation to the "Buy Box".
- The CAT has made starkly different case management decisions in cases raising overlapping or identical issues. In [Dr Kent](#) and [Dr Ennis](#), the CAT decided the two claims should run on entirely separate tracks, whereas in [Coll](#) and [Prof. Rodger](#), it decided the claims should be jointly case managed (alongside an individual claim by game developer [Epic Games](#)). This represents the CAT's flexible approach to case management, depending on the circumstances of the cases in question.

Other developments

- The CAT has announced that Mrs Justice Bacon takes over as its President from 23 May 2025. The current (acting) President of the CAT, Mr Justice Roth, stepped into the role following the announcement that Mr Justice Marcus Smith was standing down at the end of his term. It is anticipated that under the new President a more consistent approach will be applied to the way in which collective proceedings are certified and case managed, allowing the innovations of the past few years to fully bed-in. However, given the huge number of cases and complexity, how the new President deals with these challenges remains to be seen.

CPOs at a glance

CPO CLAIM STATUS AS AT 21 May 2025	CONCLUDED FULL TRIAL OR SETTLEMENT	CERTIFIED BY THE CAT	AWAITING CERTIFICATION	DISCONTINUED/ON HOLD
	<ul style="list-style-type: none"> Landline services: Le Patourel (application to appeal outstanding to the court of appeal) Interchange fees: Merricks* (full settlement) Train ticketing: Gutmann (First MTR)* (full settlement; Gutmann's separate claims against other defendants ongoing) Maritime car carriers: McLaren* (trial judgment pending; settlements agreed with eight of 12 Defendants) App Store: Dr Kent (judgment pending) <p><i>*Partial or full settlement terms approved by the CAT</i></p>	<ul style="list-style-type: none"> Interchange fees: CICC I (Mastercard); CICC I (Visa); CICC II (Mastercard); CICC II (Visa) (umbrella proceedings order in place) Trucks: Road Haulage Association Train ticketing: Gutmann (LSER); Gutmann (Govia) Smartphone chipsets: Consumers' Association App Store: Dr Ennis Train ticketing: Boyle Google Play Store: Coll; Prof. Rodger FX: Evans (appeal to Supreme Court pending) Phone batteries: Gutmann (Apple) Gaming consoles: Neill Social media: Dr Gormsen Power cables: Spottiswoode Ad Tech: Ad Tech Collective Action (consolidation of claims by Pollack and Arthur) Cryptocurrency: BSV Claims Limited Mobile search advertising: Stopford Royal Mail: Bulk Mail Claim Limited 	<ul style="list-style-type: none"> Musical instruments: Sciallis (Fender); Sciallis (Korg); Sciallis (Roland); Sciallis (Yamaha); Sciallis (Casio) Amazon: Hammond Mobile search advertising: Dr Brook Mobile Networks: Gutmann (Telefonica); Gutmann (Hutchison); Gutmann (EE); Gutmann (Vodafone) Performing rights: Rowntree Salmon: Waterside Class Limited Amazon: Prof. Stephan iCloud: Which? Motorola Airwave emergency service communication network: Spottiswoode Valve: Shotbolt Microsoft Server: Dr Stasi Microsoft software licences: Wolfson 	<ul style="list-style-type: none"> Mobility scooters: Gibson (withdrawn) Trucks: UK Truck Claims Limited (carriage dispute unsuccessful) FX: O'Higgins (carriage dispute unsuccessful) Insurance comparison site: Home Insurance Consumer Action (CMA infringement decision successfully challenged) Car purchase finance: Taylor (Santander); Taylor (Black Horse); Taylor (MotoNovo Finance) (stayed by consent) Amazon: Hunter (carriage dispute unsuccessful) Amazon: BIRA Trading Limited (carriage dispute unsuccessful) Amazon and Apple: Prof. Riefa (CPO rejected) Sewage and Wastewater: Prof. Roberts (Severn Trent); Prof. Roberts (Anglian Water); Prof. Roberts (Northumbrian Water); Prof. Roberts (Yorkshire Water); Prof. Roberts (United Utilities); Prof. Roberts (Thames Water) (CPO rejected) Replica football kits: The Consumers Association (settled) - claim under a previous version of section 47B Competition Act 1998
Total no: 62	5	21	19	17

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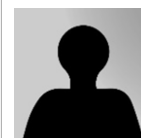
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