

6 May 2022

COURT OF APPEAL FINDS IN FAVOUR OF CLASS REPRESENTATIVE IN LANDLINE CLASS ACTION

On 27 September 2021, the Competition Appeal Tribunal issued a judgment approving a bid to launch a £600 million class action compensation claim against BT on behalf of over 2 million customers that it allegedly overcharged.

The landmark case, led by Justin Le Patourel, aims to recover hundreds of pounds for BT landline-only customers and those who took landline and broadband but not "bundled together" in the same contract. Many of these people are older and from low-income households.

BT appealed this judgment in the Court of Appeal on the basis that the proceedings should be "opt-in", meaning that all 2.3 million class members would have to be contacted and signed up to the claim before it could proceed.

The Court of Appeal found in favour of the Class Representative, Justin Le Patourel, and the appeal was dismissed.

On 27 September 2021, the Competition Appeal Tribunal gave the green light for Justin Le Patourel to proceed with a claim against BT for alleged historic overcharging of landline customers by way of a collective (or 'class') action.

The Court of Appeal granted permission to BT to appeal the Tribunal's judgment on 18 November 2021. The hearing was held on 15 March 2022, and The Court of Appeal dismissed the appeal in their judgment dated 6 May 2022.

In its appeal, BT argued that the claim should have been brought on an "opt-in" basis, meaning that any person wishing to join the claim would have had to take active steps to become members of the class being represented by Mr Le Patourel (**Class Members**). Mr Le Patourel disputed the

necessity of this, highlighting the low levels of likely engagement with such a process, and the cost and time of signing each individual Class Member up to the claim.

The Court of Appeal held in favour of Mr Le Patourel and the claim is now permitted to proceed on an "opt-out" basis. As such, all eligible class members are automatically included in the claim, unless they elect to opt out. If the Class Representative is successful, Class Members will be entitled to compensation.

Mr Le Patourel said: *"I am grateful that the Court of Appeal has found in our favour and we can now proceed to a full trial. Asking people to sign up to legal process which they don't understand, and which has an uncertain outcome, would almost certainly have led to low levels of engagement. This would have made it impossible to secure redress for those affected. Our case, that BT overcharged landline customers, many of whom were elderly and vulnerable, over the course of several years, is very strong. I look forward to progressing this claim as quickly as possible"*.

Background

In 2017, Ofcom investigated BT and discovered that it had been overcharging its landline customers. Although the costs of providing landlines had been falling since 2009, BT continued to put up its prices. BT agreed to reduce the future bills of some of these neglected customers, but did not compensate them for past overcharging.

Determined to put this right, Mr Le Patourel, founder of CALL (Collective Action on Land Lines) launched *Justin Le Patourel v BT Group Plc and British Telecommunications Plc* in the Competition Appeal Tribunal (**CAT**).

Under the UK's competition regime, a person wishing to bring a class action on behalf of class members must first secure approval from the CAT. Mr Le Patourel's application was heard by the CAT in a two-day hearing from 24 to 25 June 2021. The certification judgment was issued on 27 September, where it was then decided that the claim against BT could go ahead.

On 27 September, the CAT granted Mr Le Patourel permission to bring the claim on behalf of the following BT customers:

- (i) "Voice Only Customers", those who had a BT landline service between October 2015 and April 2018, but did not also receive a broadband service (from BT or any other provider); and
- (ii) "Split Purchase Customers", those who had a BT landline service alongside a broadband service (from BT or another provider) at any time since October 2015, but who did not 'bundle' these services together into a single, discounted package.

In its judgment, [available here](#), the Tribunal notes "[Mr Le Patourel's] application for a CPO succeeds [..]. This judgment is unanimous".

If the case is successful, the 2.31 million BT customers who are believed to have been overcharged could receive up to £500 each in compensation. In the current environment of rising costs, it is more important than ever to achieve redress.

If you would like to find out more information or register for updates, please contact the Collective Action on Land Lines (CALL) at:

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Note To Editors:

About Call

Consumer Action on Land Lines (CALL) is a group launched on behalf of BT landline customers to confront the abusive nature of BT's pricing structure from 2015 onwards. Mishcon de Reya, along with expert economists, Frontier, have presented to the court a review of how BT abused its market dominance to maximise profits and significantly and persistently increased the prices charged to its loyal standalone fixed voice customers (SFV).

Despite BT's voluntary commitment to reduce the line rental price of some of its customers by £7 per month following OFCOM's review of the SFV services market in 2017, BT did not compensate any of its customers for overcharging prior to this. CALL's goal is to ensure BT customers are compensated for the overcharges they were subjected to from 2015 onwards.

About Justin Le Patourel

Justin leads CALL and is responsible for representing and acting in the best interests of all affected BT customers. During his career, including as a former Ofcom employee, Justin has worked to help consumers get good deals from their telecoms providers, and to make it easier for them to switch when they're unhappy or want to take advantage of a better offer elsewhere.