
Claimants' Proposed Factual Matrix
(pursuant to §11 of Second CMC Order)

For discussion and agreement with Post Office

The following are relevant to: (a) the facts known by both parties to inform the objective construction of the terms; (b) commercial common sense;¹ (c) whether contract terms were (i) fair² and (ii) onerous³; (d) the Defendant's pleaded factual case on Section 12 Clause 12 of the SPMC (and NTC equivalent)⁴; and (e) to inform the Court's understanding of the nature of the relationship between Post Office and Subpostmasters.⁵

Factual Matter	GPOC §	Defence §	Reply §	Agreed? (Y/N/Partial)
1) In each SPM branch, the Defendant determines the products and services which must be available.	5, 35.3	25	20	P
2) Over time, the Defendant increased the number and complexity of products and services which it required to be offered through its branch network.	5	25		N
3) Whether the Defendant provides the system by which transactions effected or <i>initiated</i> by Claimants are ultimately executed and by which a record of such transactions and their financial incidents is kept.	81		65	N
4) The Defendant contracts with Subpostmasters on standard form contracts, the terms of which were not open to negotiation by individual Claimants.	9, 41	29		Y

¹ *Rainy Sky SA v Kookmin Bank* [2011] UKSC 50; [2011] 1 WLR 2900; affirmed in *Wood v Capital Insurance Services* [2017] UKSC 24, [2017] AC 1173.

² Common Issue (7).

³ Common Issues (5) and (6).

⁴ Common Issue (8) and (9).

⁵ Common Issues (1) and in relation to all implied terms (Defence §11).

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5) Whether and to what extent: a. SPMC and/or NTC contracts reserved to the Defendant a high degree of power, discretion and control; b. there was a significant imbalance of power between the contracting parties.	9, 35.1, 35.8	29, 70(1)&(7)	47.1(b)	N
6) Horizon is an electronic point of sale and accounting system introduced by the Defendant in Post Office branches in or around 1999/2000, and thereafter amended from time to time, including an amendment in 2010, introducing 'Horizon Online'.	12	33		Y
7) Whether the introduction of Horizon significantly changed how Claimants were required and able to work in their branches from the position previously and, in particular, the position which prevailed at all times prior to the introduction of Horizon.	14.1	35(1)	9, 10	P
8) Whether the introduction of Horizon limited the Claimants' ability to access, identify, obtain and reconcile transaction records.	14.2	12, 23(2), 35(3)	14	N
9) Whether the introduction of Horizon limited the Claimants' ability to investigate apparent shortfalls, particularly as to the underlying cause thereof.	14.3	12, 23(2), 35(3)	14	N
10) Horizon comprised computer system hardware and software, communications equipment in branch, and central data centres where records of transactions made in branch were processed, recorded and retained.	16	37		Y
11) Horizon operated such that transactions entered by Claimants or others onto terminals in branches were transmitted to the Defendant's central data centre where they were processed, recorded, reconciled and retained.	17	38(1)		P
12) Claimants were subsequently able to access transaction data, as recorded on the system, for a limited period (42, and after the introduction of Horizon Online, 60 days) and in limited report form by requesting reports to be generated by Horizon. These reports were generated from transaction records held by the central data centre.	17	12, 23(2), 38(2)		Y
13) Whether from the data generated by Horizon, the Defendant required Claimants to accept changes to records of branch transactions, (" <i>transaction corrections</i> " issued by the Defendant), unless the Claimant was effectively able to prove that the transaction correction was not correct.	18	23(2), 39, 40(1)	21	N

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14) Whether the Defendant sometimes issued transaction corrections after the end of the branch trading period in which the transaction had taken place, and/or after the 42 / 60 day period during which Claimants could generate (limited) reports using Horizon.	18	12, 23(2), 39, 40(2)	21	P
15) The Defendant required Claimants to <i>'balance and complete a Branch Trading Statement'</i> at the end of each branch trading period (as stated in the Operations Manual at §9.3). Initially this was required on a weekly basis, but the Defendant subsequently changed this to a 4 or 5 weekly cycle (as notified to individual branches by the Defendant).	19.1	43(1), 44(1)	17.1-17.3	Y
16) Whether: (i) completion of branch trading statements required balancing of physical cash and stock in hand with a trial balance produced by Horizon; and (ii) Claimants were required to check and confirm that the cash and stock shown in the accounts matched the cash and stock held in the branch in order for the branch to enter a new trading period and to continue trading the following day.	19.1, 35.2	43(1), 44(2)	17.1	N
17) Whether, when there were discrepancies between trial balances generated by Horizon and the physical cash and stock in hand which appeared to show less cash or stock in hand than shown on Horizon (" an apparent shortfall " or an " alleged shortfall "), the Defendant required Claimants to make good the amount at the time of balancing, unless <i>'other arrangements are agreed'</i> .	19.2	43(2), 45		N
18) Claimants seeking to dispute apparent shortfalls did not have an option within Horizon to do so, and were required to contact the Helpline to seek assistance.	19.3	43(3), 46(1)		Y
19) Whether Claimants who contacted the Helpline were in any event required to settle any disputed amounts centrally, (albeit collection was in some cases suspended, apparently pending an investigation by the Defendant).	19.3	43(3)		P
20) Whether Claimants were themselves unable to carry out effective investigations into disputed amounts because of the limitations on their ability to access, identify and reconcile transactions recorded on Horizon and the lack of any or adequate report-writing features in Horizon.	19.3, 35.4	12, 23(2), 46(2)		N

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21) Whether there were any provisions, or any or sufficient guidance in the Operations Manual as to the procedure or process for disputing discrepancies or apparent or alleged shortfalls.	19.3	46(3)		N
22) A branch cannot enter (or "roll over" into) a new trading period without the Subpostmaster declaring to Post Office the completion of the Branch Trading Statement.		43(6)		Y
23) Fujitsu's role included providing the data transfer service by which transactional data was transferred between branches and the central data centres.	21.1	48(1)		P
24) Fujitsu's role included providing a data transfer service between the central data centres and clients of the Defendant e.g. British Gas, Camelot (i.e. the National Lottery), and managing the interface between Horizon and those other systems.	21.2	48(2)		P
25) Fujitsu's role included managing coding errors, bugs, and fixes so as to prevent, manage or seek to correct apparent discrepancies in the data (including between the said systems), in a manner which would potentially affect the reliability of accounting balances, statements or other reports produced by Horizon.	21.3	48(3)		N
26) Fujitsu's role included providing a telephone advice service, for and on behalf of the Defendant (or by agreement with the Defendant) as a point of contact in relation to technical problems with the Horizon system or equipment.	21.4	48(4)		Y
27) Whether the terms of the Defendant's contract with Fujitsu were such as to impose a cost on the Defendant in respect of data sought or enquiries made, so as to disincentivise the Defendant from making such enquiries, investigating apparent shortfalls properly or obtaining underlying data.		23(2)	45	N
28) Whether the Defendant was, by itself and/or via its agent Fujitsu, able to alter branch transaction data directly and carry out changes to Horizon and/or transaction data which could affect branch accounts.	25	23(2), 57		P
29) The Defendant operated the Network Business Support Helpline ("the Helpline") which it provided and recommended to Claimants as a primary source of advice and assistance in relation to Horizon, transactions, errors and issues relating to their trading statements and accounts.	29	61		Y

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30) Whether the Defendant relies on the accurate reporting by Subpostmasters of accounts, transactions and the cash and stock held at a branch, such that should Subpostmasters not accurately report these things, it would be impossible or alternatively excessively difficult to determine: (i) if a shortfall has occurred; (ii) when it occurred; and/or (iii) why it occurred.		23(2), 76(6), 85(1)	9, 10, 11	N
31) Whether losses in an SPM branch arise in the ordinary course of things without fault or error on the part of Subpostmasters or their Assistants.		93(1)(a)		N
32) Whether it would be right to infer or presume that a shortfall and loss was caused instead by a bug or error in Horizon.		93(1)(a)		N
33) Whether the truth (as to the cause of shortfalls arising in an SPM branch) lies peculiarly within the knowledge of Subpostmasters as the persons with responsibility for branch operations and the conduct of transactions in branches.		12, 23(2), 93(1)(b)	9, 10, 11	N
34) Whether, on taking up appointment as a Subpostmaster, the Claimants were required to make long term and expensive commitments in respect of their relationship with the Defendant.	43	79		N
35) The Defendant incurred long term and expensive commitments in respect of the Subpostmaster relationship, including by providing valuable cash, stock and equipment to Subpostmasters on an unsecured basis.		79(2)	55.2	Y
36) Whether the operation of the contractual relationship between individual Subpostmaster Claimants and the Defendant required a high degree of communication, co-operation and predictable performance, based on mutual trust and confidence.	44	23(2), 80	55.3	P
37) Whether the Defendant provided the Claimants with a copy of the full terms of the relevant written contract at the date of their appointment or thereafter.	48	84(1) and (2)		N
38) Whether (and in what terms) the Defendant drew Subpostmasters' attention to onerous or unusual terms in the SPMC or NTCs.	48	84(3)	52	N
39) Whether any Subpostmaster has ever been able to establish to the Defendant's satisfaction that an alleged shortfall was the result of a Horizon bug or error.		12, 23(2)	52.4	N

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40) Whether on occasion the Defendant has detected that Horizon generated errors which caused the appearance of shortfalls, errors which the Claimants themselves had not been able to identify as the cause of those apparent shortfalls and which they had therefore been forced to make good from their own funds			52.5	Y
41) Whether the Defendant effected, recorded and managed the reconciliation of transactions effected by the Claimants.	81.1	23(2), 123(1)		P
42) The Defendant possessed and/or controlled the underlying transaction data in relation to such transactions.	81.2	23(2), 123(2)		Y
43) The Defendant required Claimants to comply with contractual obligations in relation to the keeping and production of branch accounts.	81.3	23(2), 123(2)		Y
44) The Defendant had the power to seek recovery from Claimants for losses relating to branch accounts.	81.4	23(2), 123(2)		Y
45) The Defendant in fact sought recovery from the Claimants for apparent shortfalls.	81.5	23(2), 123(2)		Y
46) Whether the Claimants, despite effecting (or at least initiating) transactions, were ultimately reliant on those transactions being executed, reconciled and recorded by the Defendant.	81.1	23(2), 123(1)	47.1(a)	N