

**COMPLAINT by the Association of Golf Course Owners (1993) [1] Abbotsley Ltd  
[2] and Cambridge Meridian Golf Club [3]  
TO THE COMMISSION OF THE EUROPEAN COMMUNITIES  
CONCERNING FAILURE by The United Kingdom TO COMPLY WITH  
COMMUNITY LAW 17th December 2013**

- 1. Surname and forename of complainant:** Vivien Inez Saunders OBE for and on behalf of [1]The Association of Golf Course Owners (1993) and for an on behalf of [2] Abbotsley Ltd [3] Vivien Saunders and Jenny Wisson trading as Cambridge Meridian Golf club
  
- 2. Where appropriate, represented by:** No other representation
  
- 3. Nationality:** British
  
- 4. Address or Registered Office:** [1]The Association of Golf Course Owners (1993), a company limited by guarantee, registered in England and Wales No. 8414445, Registered Office : Abbotsley Golf Hotel, Eynesbury Hardwicke, St. Neots, Cambridgeshire PE19 6XN.  
[2] Abbotsley Ltd. Registered in England and Wales No : 2063798, registered office c/o Stanes Rand, 10 Jesus Lane, Cambridge. CB5 8BA  
[3] Cambridge Meridian Golf Club, Toft, Cambridge, CB232RY  
The address for correspondence for all parties is Abbotsley Golf Hotel, Eynesbury Hardwicke, St. Neots, Cambridgeshire PE19 6XN
  
- 5. Telephone/fax/e-mail address:** +44 (0) 1480 474000. Or +44 (0) 7956 628338  
FAX : +44 (0) 1480 401078. Email : viv@viv.co.uk
  
- 6. Field and place(s) of activity:** The First Complainant, with members and supporters, represents the interests of proprietary golf clubs, all of which are in the United Kingdom. The Second complainant is a company owning and running a proprietary golf club in the United Kingdom. The third complainant is a partnership owning and running a golf club in the United Kingdom.

**7. Member State or public body alleged by the complainant not to have complied with Community law:**

The Government of the United Kingdom, through Her Majesty's Revenue and Customs

**8. Fullest possible account of facts giving rise to complaint:**

In summary : the United Kingdom through her Majesty's Revenue and Customs has created such distortion in the VAT treatment between proprietary golf clubs and member-owned golf clubs in the United Kingdom, dating back to 1990, as to have effectively destroyed most of the proprietary golf market. This is as a result of their interpretation of VAT relating to sport and to the way in which the Principal VAT Directive has been transposed into the United Kingdom's domestic law.

Full particulars of the distortion created appear in the separate report.

**9. As far as possible, specify the provisions of Community law (treaties, regulations, directives, decisions, etc.) which the complainant considers to have been infringed by the Member State concerned:**

The Complainants consider that the United Kingdom Government has infringed various sections and provisions of the Principal VAT Directive – Council Directive 2006/112/EC – and/or has failed to interpret them correctly and/or has transposed them incorrectly into the UK domestic law, the sections being as follows as follows :

Principal VAT Directive – Council Directive 2006/112/EC

- Preamble (4) and (7)
- Article 79 (c)
- IX Chapter 1 Article 131
- Chapter 2 – its title
- Article 132
- Article 133
- Article 134
- Article 135 1 (l)

Full details of the complaints appear in the separate report.

**10. Where appropriate, mention the involvement of a Community funding scheme (with references if possible) from which the Member State concerned benefits or stands to benefit, in relation to the facts giving rise to the complaint:**

**Not applicable**

**11. Details of any approaches already made to the Commission's services (if possible, attach copies of correspondence):**

**None**

12. Details of any approaches already made to other Community bodies or authorities (e.g. European Parliament Committee on Petitions, European Ombudsman). If possible, give the reference assigned to the complainant's approach by the body concerned:

**None** – other than correspondence to various Members of the European Parliament by proprietary golf clubs

13. Approaches already made to national authorities, whether central, regional or local (if possible, attach copies of correspondence):  
We gave notice to the Attorney General and the Treasury Solicitor on October 13th 2013 of our intention to make this application and have thus complied with reasonable pre-action protocol. Part Four of that letter applies to this application.

- 13.1 Administrative approaches (e.g. complaint to the relevant national administrative authorities, whether central, regional or local, and/or to a national or regional ombudsman):

**See separate report setting out approaches made since 1993**

- 13.2 Recourse to national courts or other procedures (e.g. arbitration or conciliation). (State whether there has already been a decision or award and attach a copy if appropriate):

**Abbotsley Golf and Squash Club VAT case (LON/96/148 decision 15043),  
Chobham Golf Club VAT case (LON/96/833, decision 14367).  
Chipping Sodbury Golf Club and others MAN/2008/0270,  
HMRC v Bridport and West Dorset Golf Club FTC/74/2011**

14. Specify any documents or evidence which may be submitted in support of the complaint, including the national measures concerned (attach copies):

**See Separate Report**

15. Confidentiality (tick one box):

- \* "I authorise the Commission to disclose my identity in its contacts with the authorities of the Member State against which the complaint is made."  
 ~~"I request the Commission not to disclose my identity in its contacts with the authorities of the Member State against which the complaint is made."~~

16. Place, date and signature of complainant/representative:

Abbotsley Golf Hotel, Eynesbury Hardwicke, St. Neots, Cambridgeshire PE19 6XN

*Vivien Saunders* ..... Date : *17th December 2013*.....

Vivien Inez Saunders OBE on behalf of the Association of Golf Course Owners and  
Abbotsley Ltd. and Cambridge Meridian Golf Club

(Explanatory note to appear on back of complaint form)

Each Member State is responsible for the implementation of Community law (adoption of implementing measures before a specified deadline, conformity and correct application) within its own legal system. Under the Treaties, the Commission of the European Communities is responsible for ensuring that Community law is correctly applied. Consequently, where a Member State fails to comply with Community law, the Commission has powers of its own (action for non-compliance) to try to bring the infringement to an end and, if necessary, may refer the case to the Court of Justice of the European Communities. The Commission takes whatever action it deems appropriate in response to either a complaint or indications of infringements which it detects itself.

Non-compliance means failure by a Member State to fulfil its obligations under Community law, whether by action or by omission. The term State is taken to mean the Member State which infringes Community law, irrespective of the authority - central, regional or local - to which the non-compliance is attributable.

Anyone may lodge a complaint with the Commission against a Member State about any measure (law, regulation or administrative action) or practice which they consider incompatible with a provision or a principle of Community law. Complainants do not have to demonstrate a formal interest in bringing proceedings. Neither do they have to prove that they are principally and directly concerned by the infringement complained of. To be admissible, a complaint has to relate to an infringement of Community law by a Member State. It should be borne in mind that the Commission's services may decide whether or not further action should be taken on a complaint in the light of the rules and priorities laid down by the Commission for opening and pursuing infringement procedures.

Anyone who considers a measure (law, regulation or administrative action) or administrative practice to be incompatible with Community law is invited, before or at the same time as lodging a complaint with the Commission, to seek redress from the national administrative or judicial authorities (including the national or regional ombudsman and/or arbitration and conciliation procedures available). The Commission advises the prior use of such national means of redress, whether administrative, judicial or other, before lodging a complaint with the Commission, because of the advantages they may offer for complainants.

By using the means of redress available at national level, complainants should, as a rule, be able to assert their rights more directly and more personally (e.g. a court order to an administrative body, repeal of a national decision and/or damages) than they would following an infringement procedure successfully brought by the Commission which may take some time. Indeed, before referring a case to the Court of Justice, the Commission is obliged to hold a series of contacts with the Member State concerned to try to terminate the infringement.

Furthermore, any finding of an infringement by the Court of Justice has no impact on the rights of the complainant, since it does not serve to resolve individual cases. It merely obliges the Member State to comply with Community law. More specifically, any individual claims for damages would have to be brought by complainants before the national courts.

The following administrative guarantees exist for the benefit of the complainant:

- (a) Once it has been registered with the Commission's Secretariat-General, any complaint found admissible will be assigned an official reference number. An acknowledgment bearing the reference number, which should be quoted in any correspondence, will immediately be sent to the complainant. However, the assignment of an official reference number to a complaint does not necessarily mean that an infringement procedure will be opened against the Member State in question.
- (b) Where the Commission's services make representations to the authorities of the Member State against which the complaint has been made, they will abide by the choice made by the complainant in Section 15 of this form.
- (c) The Commission will endeavour to take a decision on the substance (either to open infringement proceedings or to close the case) within twelve months of registration of the complaint with its Secretariat-General.
- (d) The complainant will be notified in advance by the relevant department if it plans to propose that the Commission close the case. The Commission's services will keep the complainant informed of the course of any infringement procedure.

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