



**IN THE COMPETITION
APPEAL TRIBUNAL**

Case No: 1279/1/12/17

BETWEEN

PING EUROPE LIMITED

Appellant

-v-

COMPETITION AND MARKETS AUTHORITY

Respondent

ORDER

HAVING REGARD to the Tribunal's Order of 31 January 2018 establishing a confidentiality ring in these proceedings (the "**Confidentiality Order**")

AND UPON Ping applying for the disclosure of the Confidential Information relating to the Complainant on 9 February 2018

AND UPON reading the submissions of the parties and the Complainant filed in advance of the application hearing on 2 March 2018 ("**Application Hearing**")

AND UPON hearing counsel for the parties and the Complainant at the Application Hearing

AND UPON the Tribunal's Ruling dated 9 March 2018 directing that disclosure of the Complainant's identity and of the unredacted version of the Complainant's First Witness Statement dated 25 January 2018 be made to Mr Pete Brown, subject to the giving of suitable undertakings to protect the Complainant's anonymity

IT IS ORDERED THAT:

1. This Order becomes effective in respect of the Relevant Ping Employee named in Part A of the Schedule to this Order only upon receipt by the Tribunal of a signed undertaking in the terms of Part B of the Schedule to this Order.
2. For the purposes of this Order:

- (a) “**Confidential Information**” means (i) the Complainant’s identity, (ii) the highlighted information contained in the Relevant Document (as defined below), (iii) any information that is disclosed by the Complainant in cross-examination in connection with these proceedings, and (iv) any communication relating to the Complainant between the Relevant Ping Employee and the Relevant Advisors irrespective of whether the communication contains (a) information that is or becomes generally available to the public, and (b) information that is already known by the Relevant Ping Employee or by Ping (in particular, information that has not been highlighted in the Relevant Document). For the avoidance of doubt, such information at (iv)(a) and (b) is not Confidential Information when not contained in a communication between the Relevant Ping Employee and the Relevant Advisors relating to the Complainant.
 - (b) “**Relevant Advisors**” are the persons listed in Part A of the Schedule to the Confidentiality Order dated 31 January 2018, as amended from time to time.
 - (c) “**Relevant Ping Employee**” is the person listed in Part A of the Schedule to this Order who has given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order.
 - (d) “**Relevant Document**” means the confidential and highlighted version of the First Witness Statement of the Complainant dated 25 January 2018 (and Exhibit C1) disclosed to the Relevant Advisors on 5 February 2018 pursuant to the Confidentiality Order.
3. The Relevant Advisors shall hereafter disclose to the Relevant Ping Employee one hard copy of the Relevant Document on the condition that it and the Confidential Information contained in it shall be inspected by the Relevant Ping Employee at the offices of Ping’s legal representatives or at a premises agreed with the CMA (but not any of Ping’s premises) and shall not be copied or removed from there, and shall be returned to the offices of the Relevant Advisors. Neither the Relevant Document, its contents nor any other Confidential Information shall be disclosed or revealed to any other person.
4. The Relevant Ping Employee may use the Relevant Document and any Confidential Information only in accordance with the signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order and the exception set out in Rule 31.22(a) of the Civil Procedure Rules does not apply.

5. Subject to further order from the Tribunal, the Confidential Information shall not be the subject of further requests for disclosure by third parties whether under CPR Parts 5.4 and Part 31, the Tribunal's Rule 102 or otherwise, either during or subsequent to these proceedings. The subsequent use of (i) the Relevant Document, (ii) any communication between the Relevant Ping Employee and the Relevant Advisors containing Confidential Information, and/or (iii) any Confidential Information disclosed in the course of these proceedings for any purpose, is prohibited.
6. Nothing in this Order prevents the disclosure of any information to the Competition and Markets Authority (including any Competition and Markets Authority employee) to facilitate the exercise of its functions.
7. There be liberty to apply.

Andrew Lenon QC
Chairman of the Competition Appeal Tribunal

Made: 13 March 2018
Drawn: 13 March 2018

SCHEDULE

Part A: Relevant Ping Employee

This part contains the name of the Relevant Ping Employee:

Ping Europe Limited

Pete Brown, UK Sales Manager

Part B: Form of undertakings

Case 1279/1/12/17: Ping Europe Limited v Competition and Markets Authority

In respect of any Confidential Information disclosed to him pursuant to this Order, the Relevant Ping Employee listed in Part A of the Schedule to this Order undertakes that he will comply with the following requirements in the following terms:

UNDERTAKING

I, Pete Brown, of Ping Europe Limited undertake to the Tribunal as follows:

1. I have read a copy of the Tribunal's Order of 13 March 2018 (the "Tribunal's Order") and understand the implications of the Tribunal's Order and the giving of this undertaking.
2. Save in respect of provision to the Tribunal, I will not disclose the Relevant Document or in any way communicate the Confidential Information (as defined in the Tribunal's Order) to any person who is not a Relevant Advisor (as defined in the Tribunal's Order dated 31 January 2018, as amended from time to time) without the permission of the Tribunal.
3. I will use the Confidential Information only for the purpose of these proceedings (and for no other proceedings or use) and understand that the exception set out in Rule 31.22(a) of the Civil Procedure Rules does not apply.
4. I have read, and understand the implications of, Rule 102 of the Competition Appeal Tribunal Rules 2015, and will use the Confidential Information only in accordance with that Rule.
5. I will not rely on the Confidential Information as the basis for making any business or commercial decisions, including any business or commercial decisions concerning the Complainant or its business.
6. The Relevant Document and any other document containing the Confidential Information will remain in my custody or in the custody of Ping's Relevant Advisors at all times and be securely held in a manner appropriate to the circumstances so as to prevent (i) unauthorised access or disclosure and (ii) any documents in electronic form containing the Confidential Information being accessible from any computer system (including email account), disk or device by any other person.
7. I will continue to comply with paragraphs 2, 3, 4 and 5 above after the conclusion of these proceedings. For a period of two years from the conclusion of these proceedings, I will provide written confirmation to the CMA upon the CMA's written request no more frequently than at six-monthly intervals that I have continued to comply with paragraphs 2, 3, 4 and 5.

Name:

Signed:

Date: