



**IN THE COMPETITION
APPEAL TRIBUNAL**

Case No: 1279/1/12/17

BETWEEN

PING EUROPE LIMITED

Appellant

-v-

COMPETITION AND MARKETS AUTHORITY

Respondent

ORDER

UPON the parties having agreed to the terms of this Order

AND HAVING REGARD TO the sensitivity of the Complainant's identity and the potential risk of commercial reprisals from third parties and reputational damage should it become publicly known within the industry

IT IS ORDERED BY CONSENT THAT:

1. This Order becomes effective in respect of each of the persons 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, and (ii) information contained in the Relevant Documents (as defined below), where such information (A) has been identified by any party to these proceedings and (B) is (or is likely to be) accorded confidential treatment pursuant to Rule 99 and/or Rules 101 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No.1648).
 - (b) **"Relevant Advisers"** are those persons:

- (i) listed in Part A of the Schedule to this Order who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order; or
 - (ii) authorised by the Tribunal upon further application and who provide a signed undertaking in the terms of Part B of the Schedule.
 - (c) “**Relevant Documents**” means all pleadings and other documents filed, served and/or disclosed by the parties for the purposes of these proceedings.
3. Each party (as appropriate) shall hereafter disclose to the other party unredacted versions of the Relevant Documents containing Confidential Information on the condition that such unredacted versions shall be disclosed only to the Relevant Advisers or any Competition and Markets Authority employee who is for the time being working on these proceedings or the matters which have given rise to them and not to any other officer or employee of that party or to any other person.
 4. All such unredacted versions of the Relevant Documents must be marked or highlighted so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 7.46 of the Tribunal’s Guide to Proceedings 2015. A system of colour-coding shall be used to indicate to which party the Confidential Information belongs (or such other system as the parties shall agree where colour-coding is considered unworkable).
 5. If any party wishes to add any additional person as a Relevant Adviser for the purpose of this Order, it shall apply to the Tribunal in writing, copied to the other party, indicating whether the other party consents or does not consent to the addition of that person.
 6. If any party wishes one of its Relevant Advisers to be removed as a Relevant Adviser for the purpose of this Order, it shall inform the Tribunal in writing (copying the representatives of the other party).
 7. A party to whom a document has been disclosed may use the document only for the purpose of these proceedings and the exception set out in Rule 31.22(a) of the Civil Procedure Rules does not apply.
 8. 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 or otherwise, either during or subsequent to these proceedings.

9. 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.

10. There be liberty to apply.

Andrew Lenon QC
Chairman of the Competition Appeal Tribunal

Made: 31 January 2018
Drawn: 31 January 2018

SCHEDULE

Part A

This part contains the names, for each party, of Relevant Advisers:

Ping Europe Limited

External counsel

Robert O'Donoghue QC (Brick Court Chambers)

Tom Pascoe (Brick Court Chambers)

External solicitors

Gabriela Da Costa (K&L Gates)

Jennifer Marsh (K&L Gates)

Michal Kocon (K&L Gates)

Oliver Bates (K&L Gates)

Steven Hardy (Burton & Dyson)

Competition and Markets Authority

External counsel

Marie Demetriou QC (Brick Court Chambers)

Ben Lask (Monckton Chambers)

Rob Williams (Monckton Chambers)

Part B: Form of undertakings

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In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser listed in Part A of the Schedule to this Order undertakes that they will comply with the following requirements in the following terms:

UNDERTAKING

I, [name], of [firm, company or establishment] being [legal or other qualification] and regulated so far as my professional conduct is concerned by [regulatory body, if any] undertake to the Tribunal as follows:

1. I have read a copy of the Tribunal's Order of 31 January 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 Confidential Information (as defined in the Tribunal's Order) to any person who is not a Relevant Adviser (as defined in the Tribunal's Order) or a Competition and Markets Authority ("CMA") employee who is for the time being working on these proceedings or the matters which have given rise to them without the consent of the party originally disclosing the Confidential Information or 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. The Relevant Documents (as defined in the Tribunal's Order) containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser or CMA employee at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access or disclosure.
5. The production of further copies by me of the Relevant Documents containing the Confidential Information shall be limited to those required for the use of the Relevant Advisers or CMA employees for the purposes of these proceedings and shall be held in accordance with paragraph 4 of this undertaking.
6. Any and all copies of the Relevant Documents containing the Confidential Information in paper form will be returned to the party originally disclosing the documents at the conclusion of the present proceedings (including the determination of any appeals); any such copies and the Relevant Documents in electronic form will be returned where possible or, where that is not possible, will be securely disposed of insofar as technologically possible or rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person at the conclusion of these proceedings.

7. Save that none of the requirements listed at paragraphs 2 to 6 above shall prevent the Relevant Advisers from disclosing to the party advised by them information (i) of which that party was the original provider in these proceedings, or (ii) which that party has already seen in circumstances not subject to the provisions of the Tribunal's Order.

Name:

Signed:

Date: