



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1332/4/12/19

BETWEEN:

**TOBII AB (PUBL)**

Applicant

- v -

**COMPETITION AND MARKETS AUTHORITY**

Respondent

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**ORDER**

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**UPON** reading the correspondence from the legal representatives of the parties relating to the establishment of a confidentiality ring

**AND UPON** hearing the legal representatives of the parties at a case management conference on 3 October 2019

**AND UPON** the parties having agreed the terms of this Order

**IT IS ORDERED THAT:**

1. This Order becomes effective in respect of each of the persons named in Part A of the Schedule to this Order (including persons subsequently admitted to the Confidentiality Ring pursuant to paragraph 4 of 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**” is defined as information justifying confidential treatment by the Tribunal in accordance with rule 101 of the Competition Appeal Tribunal Rules 2015 which is contained in any pleadings or other documents submitted, or to be submitted, by the Parties to the present proceedings before the Tribunal.
  - 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. subsequently added to the list in Part A of the Schedule to this Order after being admitted to the Confidentiality Ring in accordance with paragraph 4 of this Order and who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order.
3. All pleadings and other documents served in these proceedings must be marked 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 entity the confidential information belongs (or such other system as the parties shall agree where colour-coding is considered unworkable). Any Confidential Information contained within those pleadings and documents shall be disclosed only to the Relevant Advisers listed in Part A of the Schedule to this Order and who have signed an undertaking to the Tribunal and to the parties in the terms of Part B of the Schedule to this Order.
4. If any party wishes to add any additional person as a Relevant Adviser for the purposes of paragraph 2b. of this Order, they may either:
  - a. obtain the written consent of the other party to the admission of that individual to the Confidentiality Ring and inform the Tribunal in writing accordingly (copying the representatives of the other parties); or
  - b. apply to the Tribunal for an order authorising the admission of that individual to the Confidentiality Ring.
5. If any party wishes one of its Relevant Advisers to be removed from the Confidentiality Ring, they shall inform the Tribunal in writing (copying the representatives of the other parties).
6. When a Relevant Adviser is admitted to or removed from the Confidentiality Ring, the relevant party will provide to the Tribunal (and circulate to the parties) an up-to-date list of the persons in Part A of the Schedule to this Order.

7. The parties shall make available without charge to any person on request an up-to-date list of the persons in Part A of the Schedule to this Order.
8. Costs be reserved.
9. There be liberty to apply.

**Hodge Malek QC**

Chairman of the Competition Appeal Tribunal

Made: 4 October 2019

Drawn: 4 October 2019

## **SCHEDULE**

### **PART A**

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

#### **Tobii AB (Publ.)**

##### *External Counsel*

Aidan Robertson QC (Brick Court Chambers)

Matthew O'Regan (St John's Chambers)

##### *External Solicitors*

Timothy Cowen, Partner (Preiskel & Co LLP)

Stephen Dnes, Consultant (Preiskel & Co LLP)

Claire Barraclough, Trainee Solicitor (Preiskel & Co LLP)

Alexander Hammond, Paralegal (Preiskel & Co LLP)

Lulu Mohamed (Paralaw UK Ltd)

##### *External Experts*

Sam Williams (Economic Insight)

Aastha Mantri (Economic Insight)

Penelope Banks (Economic Insight)

#### **Competition and Markets Authority**

##### *External Counsel*

Marie Demetriou QC (Brick Court Chambers)

Ben Lask (Monckton Chambers)

## **PART B**

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

I, [ ] of [FIRM, COMPANY OR ESTABLISHMENT] being [LEGAL OR OTHER QUALIFICATION] and regulated so far as by professional conduct is concerned by [REGULATORY BODY, IF ANY] undertake to the Tribunal and each of the parties as follows:

1. I have read a copy of the Tribunal's Order of [DATE] (the "Tribunal's Order") and understand the implications of that Order and the giving of this undertaking.
2. Save in respect of provision to the Tribunal, I will only disclose the Confidential Information in accordance with the terms of the Tribunal's Order and 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) without the express consent of the party originally disclosing the information or the permission of the Tribunal.
3. I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever without the express consent of the party originally disclosing the information, or the permission of the Tribunal.
4. The pleadings and documents containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
5. The production by me of further copies of the documents containing the Confidential Information shall be limited to those strictly required for the use of the Relevant Advisers for the purpose of these proceedings and shall be held in accordance with paragraph 4 of this undertaking.
6. Any and all copies and the pleadings and documents in paper form containing the Confidential Information will be returned to the party originally disclosing the pleading or documents, or destroyed by the receiving party at the conclusion of the present proceedings; and copies of the pleadings and the documents containing Confidential Information in electronic form will where possible be returned or where that is not possible will be rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person.

7. Save that none of the requirements listed above shall prevent Relevant Advisers from disclosing to a person advised by them Confidential Information which such person has already legitimately seen.
8. Save that none of the requirements listed above shall prevent Relevant Advisers from complying with any regulatory requirement in relation to their profession.

Signed:

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Name:

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Date:

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