



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1366/4/12/20

BETWEEN:

- (1) **FACEBOOK, INC.**
(2) **FACEBOOK UK LIMITED**

Applicants

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

ORDER

UPON reading the notice of application lodged by the Applicants on 26 August 2020 under rules 9 and 26 of the Competition Appeal Tribunal Rules 2015 (S.I. No. 1648 of 2015) (“the Tribunal Rules”) and under section 120 of the Enterprise Act 2002 (“the Application”)

AND UPON reading the joint representations of the parties filed in advance of a case management conference (“CMC”) on 9 September 2020

AND UPON reading the parties’ responses to the Chairman’s direction of 4 September 2020 filed on 8 September 2020

AND UPON the Respondent undertaking to refrain from taking a decision to impose any penalties against the Applicants or their subsidiaries in relation to any breach of paragraphs 4(b), 5(c), 5(e), 5(i), 5(k) and 8 of the initial enforcement order (“IEO”) imposed on 9 June 2020, until the current proceedings before the CAT (Case No: 1366/4/12/20) are concluded. This applies to any breach of the above paragraphs of the IEO both before and during the proceedings.

AND UPON hearing leading counsel for the parties at the remote CMC on 9 September 2020

IT IS ORDERED THAT:

Forum

1. The Application be treated as proceedings in England and Wales for the purposes of Rule 18 of the Tribunal Rules.

Confidentiality

2. A confidentiality ring be established by separate order in terms as agreed by the parties.

Future conduct of the Application

3. In respect of the Applicants' Carve-Out Requests (as defined in paragraph 19 of the notice of application), the parties shall prepare a schedule of information, cross-referenced to the relevant source documents and/or correspondence, as follows:
 - (a) Column 1: By 4pm on 11 September 2020, the Respondent shall file and serve an itemised list of the outstanding information that the Respondent contends it requires in order to consider the Applicants' Carve Out Requests.
 - (b) Column 2: By 4pm on 18 September 2020, the Applicants shall file and serve their response to column 1 specifying the extent to which the information sought by the Respondent has been provided (giving cross-references to the relevant documents) and if not provided the brief reasons why such information has not been provided, including if appropriate the Applicants' objection to providing such information.
 - (c) Column 3: By 4pm on 25 September 2020, the Respondent shall file and serve its response to column 2.
4. The Respondent shall file and serve its Defence and any supporting evidence by 4pm on 24 September 2020.
5. The Applicants shall file and serve their skeleton argument (which shall stand as their reply, if any) and any evidence by 4pm on 8 October 2020. The Applicants' skeleton argument shall not exceed 30 pages in length (double spaced and in point 12 font) without the prior permission of the Tribunal.
6. The Respondent shall file and serve its skeleton argument by 2pm on 15 October 2020. The Respondent's skeleton argument shall not exceed 30 pages in length (double spaced and in point 12 font) without the prior permission of the Tribunal.
7. The Applicants shall lodge with the Tribunal six hard copies of an agreed bundle and an agreed electronic bundle for the hearing by 4pm on 16 October 2020.
8. The Applicants shall lodge with the Tribunal three hard copies of an agreed bundle of authorities and an agreed electronic bundle of authorities by 4pm on 16 October 2020.

9. The parties shall file and serve an updated version of their skeleton arguments to contain cross-references to the hearing and authorities bundles by 12 noon on 16 October 2020.
10. The Applicants shall lodge with the Tribunal an agreed electronic chronology (with hyperlinks to the documents referred to) and proposed hearing timetable by 4pm on 16 October 2020.
11. The Applicants shall file and serve an agreed list of issues, which shall include cross-references to the corresponding paragraphs of the Applicants' notice of application, the Respondent's Defence and the parties' skeleton arguments by 4pm on 16 October 2020.
12. The Applicants shall file and serve an updated annotated IEO to include cross-references to the Respondent's Defence and the parties' skeleton arguments by 4pm on 16 October 2020.
13. A remote hearing be listed for a two-day window, from 19 to 20 October 2020, with a time estimate of 1.5 days.

Miscellaneous

14. Costs be reserved.
15. There be liberty to apply.

Hodge Malek Q.C.
Chairman of the Competition Appeal Tribunal

Made: 10 September 2020
Drawn: 10 September 2020