



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1378/5/7/20

BETWEEN:

(1) EPIC GAMES, INC.
(2) EPIC GAMES INTERNATIONAL S.À.R.L

Claimants

and

(1) ALPHABET INC.
(2) GOOGLE LLC
(3) GOOGLE IRELAND LIMITED
(4) GOOGLE COMMERCE LIMITED
(5) GOOGLE PAYMENT LIMITED

Defendants

and

COMPETITION AND MARKETS AUTHORITY (“CMA”)

Intervener

ORDER

FURTHER TO the order made by the Tribunal on 6 December 2021 and drawn on 21 December 2021 (the “**Directions Order**”);

UPON hearing counsel for all parties at a case management conference on 25 May 2022;

UPON the CMA writing to the Tribunal in connection with its proposed intervention in these proceedings on 4 March 2021 and 30 November 2021; and

AND HAVING REGARD to Rule 50(2) of the Competition Appeal Tribunal Rules 2015;

IT IS ORDERED AND DIRECTED THAT:

A. Supplemental UK Disclosure

1. The Claimants shall provide, by way of Supplemental UK Disclosure (as defined in the Directions Order):
 - a. Estimates of the proportion of annual Fortnite revenues attributable to the UK on a platform-specific basis;
 - b. UK Data evidencing Fortnite Cross Progression;
 - c. UK Data evidencing the number of daily active Fortnite accounts for different platforms (Android, Google, IOS, PC, PS4, Switch, Wegame, Xbox One);
 - d. Data evidencing estimates of Fortnite item revenue by week attributable to the UK;
 - e. UK Data evidencing the number of monthly active Fortnite accounts for different platforms (Android, Google, IOS, PC, PS4, Switch, Wegame, Xbox One);
 - f. UK Data evidencing the number of weekly active Fortnite accounts for different platforms (Android, Google, IOS, PC, PS4, Switch, Wegame, Xbox One);
 - g. UK Data evidencing Epic Games Store (EGS) games sold by week;
 - h. UK Data evidencing EGS items sold and revenue by week;
 - i. UK Data evidencing EGS monthly active users (MAUs) by game by month;
 - j. Data evidencing Fortnite - Google installs per week;
 - k. Data evidencing estimates of the proportion of EGS service fees attributable to the UK;
 - l. Data evidencing estimates of the proportion of EGS payment processing fees attributable to the UK;
 - m. Data evidencing estimates of annual Fortnite commission data attributable to the UK on a platform specific basis; and
 - n. Relevant submissions made by the Claimants to the CMA in relation to the CMA's Mobile Ecosystems Market Study.
2. The Defendants shall provide, by way of Supplemental UK Disclosure (as defined in the Directions Order), the following documents and data identified by the Defendants in their disclosure report served on 18 March 2022:

- a. Data evidencing the number of UK app developers on Google Play, in total and by app category;
 - b. Data evidencing metrics relating to Potential Harmful Apps in the UK;
 - c. Data evidencing the number of developers whose 'DDA country' is the UK;
 - d. UK family share data (these data include shared app purchases);
 - e. Data evidencing Google Play installations by acquisition source data for the UK;
 - f. Relevant Terms of Service in relation to the UK version of the Google Play Store; and
 - g. Relevant submissions made by the Defendants to the CMA in relation to the CMA's Mobile Ecosystems Market Study.
3. The parties shall give any Supplemental UK Disclosure under paragraphs 1 and 2 by 4pm on Friday 8 July 2022.

B. Admission of Expert Evidence

4. Each party shall be permitted to adduce three expert witnesses, whose areas of expertise are:
- a. Economics (including market definition);
 - b. Security; and
 - c. Payment systems.
5. The parties shall liaise and seek to agree the scope of issues for expert evidence by 20 June 2022, in default of which the parties shall file and serve lists of issues for expert evidence by 24 June 2022, for the Tribunal to resolve any outstanding differences between the parties.

C. Proposed intervention by the CMA

6. The parties serve their respective factual witness statements and expert reports on the CMA at the same time as the evidence is filed with the Tribunal.
7. The CMA shall not have access to the disclosure (including both the US disclosure and any supplementary UK disclosure of any UK-specific custodians and/or issues) made between

the parties in these proceedings but has liberty to apply for inspection of any such documents.

8. The CMA shall file and serve its written observations pursuant to Rule 50(2) of the Tribunal Rules by 5pm on 23 June 2023.
9. If so advised, parties file and serve written observations on the CMA's written observations by 5pm on 21 July 2023.
10. The CMA shall have liberty to apply at the Pre-Trial Review for permission to submit oral observations at trial.

D. General

11. By agreement the parties may vary without further order any deadline in this Order provided that they inform the Tribunal of such agreement in advance of the expiry of the relevant deadline and the extension does not affect the date of the Pre-Trial Review or the Trial.
12. Costs shall be in the case.
13. There shall be liberty to apply.

Sir Marcus Smith
President

Dr Catherine Bell CB

Lord Young

Made: 25 May 2022
Drawn: 25 May 2022