



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1382/7/7/21

BETWEEN:

CONSUMERS' ASSOCIATION

Class Representative

- v -

QUALCOMM INCORPORATED

Defendant

COLLECTIVE PROCEEDINGS ORDER

UPON receipt of the Class Representative's application for a Collective Proceedings Order pursuant to section 47B of the Competition Act 1998 (the "Act") and Rule 75 of the Competition Appeal Tribunal Rules 2015 (the "Tribunal Rules") (the "CPO Application") filed on 18 February 2021

AND UPON reading the documents recorded on the Tribunal file as having been read

AND UPON hearing Leading Counsel for the Class Representative, and Leading Counsel for the Respondent, at the hearing of the CPO Application on 30 March to 1 April 2022

AND UPON the Tribunal having granted the CPO Application on 17 May 2022 ([2022] CAT 20)

IT IS ORDERED THAT:

Authorisation of the Class Representative and certification of the claims as eligible for inclusion in collective proceedings

1. Pursuant to section 47B of the Act and Rules 77 and 80 of the Tribunal Rules, Consumers' Association shall be authorised to act as class representative to continue the present collective proceedings on an opt-out basis.
2. The Class Representative's address for service is Hausfeld & Co LLP, 12 Gough Square, London EC4A 3DW (hard copy) or HausfeldQualcomm@hausfeld.com; nboyle@hausfeld.com; and lrigby@hausfeld.com (email).
3. The claims certified as eligible for inclusion in the present collective proceedings pursuant to section 47B of the Act and Rules 79 and 80 of the Tribunal Rules are claims for damages for loss suffered by the Class (as defined below) as a result of the Defendant's alleged breaches of statutory duty in infringing: (i) section 18 of the Act; and (ii) until 31 December 2020, Article 102 of the Treaty on the Functioning of the European Union.

Class Definition

4. The class is defined as follows (hereafter the "**Class**" and the "**Class Definition**"):

All Consumers who purchased one or more Affected Products in the United Kingdom during the Relevant Period.

5. For the purposes of the Class Definition:
 - (a) "**Consumers**" means natural persons who purchased Affected Products other than wholly for business use. Where a consumer has died since the date of Purchase, the representative of his or her estate is considered to be a Consumer for the purposes of this definition.

For the avoidance of doubt, any consumer who died on or before 18 February 2021 and whose purchases of Affected Products all pre-date 24 December 2015 shall not form part of the Class.

- (b) "**Relevant Period**" means the period between 1 October 2015 and the date of final judgment or earlier settlement of this claim.

- (c) **“Purchase”** means paying, or incurring a liability to pay, or providing reimbursement for, or incurring a liability to provide reimbursement for, all or part of the purchase price of an Affected Product. For the avoidance of doubt, this:
- i. includes both payments for an Affected Product made or liable to be made in a single amount or by instalments, and payments made or liable to be made in respect of a bundle including the supply of voice and/or data telecommunications services and the associated supply of an Affected Product; but
 - ii. excludes second-hand purchases and purchases of refurbished Affected Products; and
 - iii. excludes purchases where the Affected Products were delivered outside the United Kingdom.
- (d) **“Affected Products”** are LTE-enabled smartphone models included on the list at Appendix A, or any subsequent LTE-enabled smartphone models (excluding 5G/5G NR-enabled models) manufactured by, for, or on behalf of Apple Inc. or Samsung Electronics Co. Limited or any member of their respective corporate groups.
- (e) **“Excluded Persons”** are:
- (i) officers, directors, employees of the Class Representative and its subsidiary, Which? Ltd, and trustees of the Class Representative and connected persons thereto;
 - (ii) officers, directors or employees of the Defendant, its subsidiaries and any entity in which it has a controlling interest;
 - (iii) all members of the Class Representative’s and Defendant’s respective legal teams and all experts and professional advisors instructed and retained by them and all funders or insurers involved, in connection with the present Collective Proceedings;

- (iv) all members and staff of the Tribunal assigned to these Collective Proceedings; and
- (v) any judge involved in any appeal in the present Collective Proceedings (whether in respect of the grant of permission to appeal or the hearing of any substantive appeal).

Domicile Date, Opt-out and Opt-in

- 6. The Domicile Date is 17 May 2022.
- 7. Persons satisfying the Class Definition who are domiciled within the United Kingdom on the Domicile Date may opt-out of the present Collective Proceedings by writing to the Claims Administrators appointed on behalf of the Class Representative, Epiq, by 15 November 2022, with such letters to be submitted by post or electronically.
- 8. Persons satisfying the Class Definition and who are domiciled outside the United Kingdom on the Domicile Date may opt-in to the present Collective Proceedings via the opt-in form available online at www.smartphoneclaim.co.uk or by writing to or emailing the Claims Administrators appointed on behalf of the Class Representative, Epiq, by 15 November 2022, at the address specified on the claim website.

Publication

- 9. The Class Representative must publicise this Collective Proceedings Order in accordance with Rule 81 of the Tribunal Rules, using the Notice approved by the Tribunal and the proposal set out at in Section 6 of the Notice and Administration Plan which is annexed to Litigation Plan exhibited to the First Witness Statement of Ms Charmian Averty.
- 10. The Notice shall be published within 7 days of this Order being drawn.

General

- 11. Costs be reserved.
- 12. There be liberty to apply.

The Hon Mrs Justice Bacon
Chair of the Competition Appeal Tribunal

Made: 4 July 2022
Drawn: 5 July 2022

Appendix A

List of Affected Products

Samsung handsets			
Galaxy A10	Galaxy J3 (2016)	Galaxy S6	Galaxy M31s
Galaxy A2 Core	Galaxy J3 (2017)	Galaxy S6 Edge	Galaxy Note 10 Lite
Galaxy A20e	Galaxy J4	Galaxy S6 Edge+	Galaxy S20+
Galaxy A3 (2015)	Galaxy J4+	Galaxy S7	Galaxy A21
Galaxy A3 (2016)	Galaxy J5 (2015)	Galaxy S7 Edge	Galaxy M11
Galaxy A3 (2017)	Galaxy J5 (2016)	Galaxy S8	Galaxy A02
Galaxy A30s	Galaxy J5 (2017)	Galaxy S8+	Galaxy Note 20
Galaxy A40	Galaxy J6	Galaxy S9	Galaxy A41
Galaxy A5 (2015)	Galaxy J6+	Galaxy S9+	Galaxy S10 Lite
Galaxy A5 (2016)	Galaxy J7 (2016)	Galaxy X Cover 3	Galaxy Note20 Ultra
Galaxy A5 (2017)	Galaxy J7 (2017)	Galaxy X Cover 4	Galaxy M21s
Galaxy A50	Galaxy J8	Galaxy X Cover 4S	Galaxy A01 Core
Galaxy A6	Galaxy M10	Galaxy A12	Galaxy M01
Galaxy A6+	Galaxy M20	Galaxy A21s	Galaxy M31 Prime
Galaxy A60	Galaxy Note 10	Galaxy M51	Galaxy S20 Ultra
Galaxy A7 (2018)	Galaxy Note 10+	Galaxy A31	Galaxy M01s
Galaxy A70	Galaxy Note 4	Galaxy M12	Galaxy M01 Core
Galaxy A8 (2018)	Galaxy Note 8	Galaxy M31	Galaxy X Cover Pro
Galaxy A8+ (2018)	Galaxy Note 9	Galaxy A02s	Galaxy Z Flip
Galaxy A80	Galaxy S10	Galaxy S20 FE	Galaxy J2 Core (2020)
Galaxy A8s	Galaxy S10+	Galaxy S20	Galaxy A01
Galaxy A9 (2018)	Galaxy S10e	Galaxy A11	Galaxy A71
Galaxy Core Prime	Galaxy S4 Mini	Galaxy M21	Galaxy A51
Galaxy Grand Prime VE	Galaxy S5 Mini	Galaxy M02	Galaxy M30s
Galaxy J2 Pro (2018)	Galaxy S5 Neo	Galaxy M02s	Galaxy A20s
			Galaxy X Cover FieldPro
Apple handsets			
iPhone 5s	iPhone 7	iPhone X	iPhone 11
iPhone 6	iPhone 7 Plus	iPhone XR	iPhone 11 Pro
iPhone 6 Plus	iPhone 8	iPhone XS	iPhone 11 Pro Max
iPhone 6s	iPhone 8 Plus	iPhone XS Max	
iPhone 6s Plus	iPhone SE	iPhone SE 2	