



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1287/5/7/18

BETWEEN:

- (1) ASDA STORES LIMITED
(2) ~~ARGOS LIMITED AND HOMEBASE LIMITED~~
(3) WM MORRISON SUPERMARKETS LIMITED

Claimants

- v -

- (1) MASTERCARD INCORPORATED
(2) MASTERCARD INTERNATIONAL INCORPORATED
(3) MASTERCARD EUROPE SA
(4) ~~MASTERCARD UK MEMBERS FORUM LIMITED~~
(5) MASTERCARD/EUROPAY UK LIMITED

Defendants

ORDER

UPON the Tribunal's order made on 16 December 2020 as varied by the Tribunal's order made on 30 March 2021 (the "Case Management Order")

AND UPON the Tribunal's order made on 13 June 2022 as varied by the Tribunal's order made by consent on 2 December 2022

AND UPON a pre-trial review ("PTR") heard remotely on 12 December 2022

AND UPON considering the parties' written submissions and proposed draft trial timetable filed in advance of the PTR

AND UPON hearing submissions from Counsel for the respective parties at the PTR

AND HAVING REGARD TO the Tribunal’s case management powers pursuant to Rule 53 of the Competition Appeal Tribunal Rules 2015

IT IS ORDERED THAT:

Confidentiality

1. The Claimants shall provide the Defendants by 4pm on 6 January 2023 with their proposed updated confidentiality designations in respect of their trial documents and disclosed documents which are currently designated as confidential (the “Claimants’ Confidentiality Proposals”).
2. The parties shall use their best endeavours to resolve any disagreement in respect of the Claimants’ Confidentiality Proposals before the commencement of the quantum trial and shall update the Tribunal by 4pm on 20 January 2023 as to whether there remains any dispute requiring the Tribunal’s determination at the start of the quantum trial.

Expert evidence

3. Asda shall use its best endeavours to provide the parties’ experts with clarifications before 25 December 2022 and in any event by 5pm on 5 January 2023 for the purpose of the experts’ preparation of a joint addendum to their joint statement on co-branded cards.
4. The parties shall be permitted to file a joint addendum to their experts’ joint statement on co-branded cards (the “Co-branded Cards Joint Addendum”). Such Co-Branded Cards Joint Addendum shall be filed by 5pm on 19 January 2023.

Quantum Trial

5. Paragraph 8 of the Case Management Order shall be varied such that the quantum trial shall commence on 30 January 2023, with a time estimate of five weeks and an additional week of pre-reading from 23 to 27 January 2023.
6. The parties shall use their best endeavours to keep to the timetable set for the quantum trial, which is at Annex 1 to this order.

7. The parties' relevant economic experts shall give evidence on econometrics in relation to pass-on concurrently at the quantum trial. Any proposals from the parties regarding the Tribunal's agenda for the taking of such concurrent evidence should be filed by 4pm on 13 January 2023.
8. The parties' written opening submissions for the quantum trial shall not exceed 80 pages in length (using a font no smaller than Times New Roman 12 point or similar, and at least 1.5 line spacing).
9. The Claimants and the Defendants shall be permitted to file and serve supplemental submissions in respect of the Co-branded Cards Joint Addendum. Such supplemental submissions shall be filed and served by 4pm on 24 January 2023 and shall not exceed two pages in length (using a font no smaller than Times New Roman 12 point or similar, and at least 1.5 line spacing).

Miscellaneous

10. Costs in the case.
11. Liberty to apply

The Hon Mrs Justice Bacon
Chair of the Competition Appeal Tribunal

Made: 12 December 2022
Drawn: 14 December 2022

ANNEX 1

2023 Quantum Trial Timetable

	Monday	Tuesday	Wednesday	Thursday	Friday
Week 1	30 January	31 January	1 February	2 February	3 February
	A&M and MC oral opening submissions	A&M factual evidence	A&M factual evidence	A&M factual evidence	Reserve for A&M factual evidence / non-sitting day
Week 2	6 February	7 February	8 February	9 February	10 February
	MC factual evidence	MC factual evidence	MC factual evidence	A&M expert evidence (xx)	Non-sitting day
Week 3	13 February	14 February	15 February	16 February	17 February
	A&M expert evidence (xx)	A&M expert evidence (xx)	MC expert evidence (xx)	MC expert evidence (xx)	Non-sitting day
Week 4	20 February	21 February	22 February	23 February	24 February
	MC expert evidence (xx)	A&M and MC expert evidence (concurrent)	Parties prepare written closing submissions	Parties prepare written closing submissions	Partes file/serve written closing submissions by 5pm
Week 5	27 February	28 February	1 March	2 March	3 March
	Tribunal read written closing submissions	Tribunal read written closing submissions	Parties' oral closing submissions	Parties' oral closing submissions	Reserve