



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1382/7/7/21

BETWEEN:

CONSUMERS' ASSOCIATION

Class Representative

- v -

QUALCOMM INCORPORATED

Defendant

ORDER

UPON the Order of the Chair made on 13 January 2023, as amended on 17 February 2023 (the “Second CMC Order”)

AND UPON considering a letter from the solicitors for Defendant dated 22 February 2023 requesting, on behalf of the parties, further amendments to the Second CMC Order

AND HAVING REGARD TO the Tribunal’s powers under the Competition Appeal Tribunal Rules 2015

IT IS ORDERED BY CONSENT THAT:

1. Paragraph 7 of the Second CMC Order be amended to read as follows:

“By no later than: (i) 4pm on 27 February 2023 in relation to the documents described at (a) below, (ii) 24 February 2023 in relation to the documents described at (b), (c), (d), g(i) and h(i) below, and (iii) 3 March 2023 in relation to the documents described

at (e), (f), (g)(ii), (h)(ii) and (i) below, the Defendant shall give specific disclosure of the following documents to the Class Representative to the extent that they are within the Defendant's control, save that where a Relevant Third Party has made an application pursuant to paragraph 12, disclosure in respect of that Relevant Third Party shall be given by the Defendant to the Class Representative by no later than seven days following the Tribunal's final determination of the Relevant Third Party's application.

- (a) A copy of all documents quoted from or cited in Sections 9 (Market Definition) and 10 (Dominance) of the confidential version of the Decision of the European Commission dated 24 January 2018 in Case AT 40220 – *Qualcomm (Exclusivity Payments)* (the “**European Commission Decision**”).
- (b) Copies of all publicly available admitted exhibits in Case No. 17-CV-00220-LHK, *Federal Trade Commission v Qualcomm Incorporated* (the “**FTC Proceedings**”).
- (c) Copies of all publicly available trial transcripts from the FTC Proceedings.
- (d) Copies of all publicly available depositions and expert reports from the FTC Proceedings and Case Nos. 17-MD-02772-LHK and 3:17-MD—02773-JSC, *In re: Qualcomm Antitrust Litigation* (the “**US Class Action Proceedings**”).
- (e) Copies of:
 - (i) the Defendant's and the FTC's expert reports in the FTC Proceedings;
 - (ii) the Defendant's own depositions in the FTC Proceedings; and
 - (iii) in respect of the US Class Action Proceedings, the versions of the expert reports of (i) Dr Kenneth Flamm, (ii) Mr Michael Lasinski and (iii) Professor Einer Elhauge referred to in paragraph 8(d)(iii) of Qualcomm's solicitors' second letter of 9 January 2023.
- (f) Unredacted Korean language versions of:

- (i) the decision of the Korea Fair Trade Commission (“**KFTC**”), No. 2017-0-25, *In re Alleged Abuse of Market Dominance of Qualcomm Incorporated*, dated 20 January 2017 (the “**KFTC Decision**”); and
 - (ii) the decision of the Seoul High Court ruling on the Defendant’s appeal from the KFTC Decision, dated 4 December 2019 (the “**Seoul High Court Decision**”).
- (g) Copies of:
- (i) all publicly available exhibits and documents referred to in the KFTC Decision; and
 - (ii) all other exhibits and documents referred to in the KFTC Decision (i.e., to the extent not referred to at (i) above).
- (h) Copies of:
- (i) all publicly available exhibits and documents referred to in the Seoul High Court Decision; and
 - (ii) all other exhibits and documents referred to in the Seoul High Court Decision (i.e., to the extent not referred to at (i) above).
- (i) In relation to the settlement reached between the Defendant and the Taiwanese Fair Trade Commission (“**TFTC**”), Decision No. 106094, Kung Ch’u Tzu, dated 20 October 2017, confidential (i.e. unredacted) copies of:
- (i) All of the Defendant’s submissions to the TFTC and all accompanying exhibits to those submissions; and
 - (ii) Any other evidence submitted by the Defendant to the TFTC.”

2. Costs in the case.

3. There be liberty to apply.

The Hon Mrs Justice Bacon
Chair of the Competition Appeal Tribunal

Made: 24 February 2023
Drawn: 24 February 2023