



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1517/11/7/22 (UM)

1266/7/7/16

BETWEEN:

THE UMBRELLA INTERCHANGE FEE CLAIMANTS

- v -

THE UMBRELLA INTERCHANGE FEE DEFENDANTS

(“the Merchant Interchange Fee Umbrella Proceedings”)

AND BETWEEN:

WALTER HUGH MERRICKS CBE

The Merricks Class Representative

- v -

(1) MASTERCARD INCORPORATED
(2) MASTERCARD INTERNATIONAL INCORPORATED
(3) MASTERCARD EUROPE S.P.R.L

The Merricks Defendants

(“the Merricks Collective Proceedings”)

(together, the “Proceedings”)

ORDER

UPON the Tribunal’s Order made by consent on 23 December 2022 (the “**Future Conduct Order**”)

AND UPON the Visa Defendants, Mastercard Defendants, HK Claimants, SSU Claimants, SH Claimants, Ocado Holdings Limited and the Hausfeld Claimants to the Merchant Interchange Fee Umbrella Proceedings and the parties to the Merricks Collective Proceedings having agreed to directions leading up to the hearing in relation to evidential issues in relation to pass-on (the “**Pass-on Evidential Hearing**”) in accordance with paragraph 5 of the Future Conduct

Order and the remaining Umbrella Interchange Fee Claimants not objecting to the terms of this Order

BY CONSENT IT IS ORDERED THAT:

1. PASS-ON EVIDENTIAL HEARING DIRECTIONS

1. By 4pm on 13 March 2023, the Claimants in the Merchant Interchange Fee Umbrella Proceedings and the Merricks Class Representative are to provide draft proposals to the Defendants setting out:
 - (a) their proposal for the evidential approach that the Tribunal should adopt in Trial 2, including the factual and expert evidence that they should be permitted to rely on at that trial to demonstrate their respective cases on pass-on; and
 - (b) their proposed approach to disclosure for Trial 2 (including disclosure from the Defendants or others and proposals as to which Claimants should provide disclosure and the general scope of that disclosure). (“Claimants’ Pass-on Proposals”)
2. By 4pm on 12 April 2023, the Defendants are to provide draft proposals to the Claimants in the Merchant Interchange Fee Umbrella Proceedings and the Merricks Class Representative dealing with the same matters as, and setting out comments on, the Claimants’ Pass-on Proposals provided under (1) above, and any counter proposals (together “**Pass-on Proposals**”).
3. The parties in the Proceedings are to liaise to attempt to narrow or resolve any outstanding areas of disagreement on the Pass-on Proposals and to update the Tribunal by 4pm on 26 April 2023 whether any, and if so which, areas of disagreement remain.
4. The parties are to produce, cross-serve and file with the Tribunal any final written submissions on any outstanding areas of disagreement on the Pass-on Proposals (and any other matters to be determined at the Pass-on Evidential Hearing) by 4pm on 12 May 2023.
5. Costs in the respective Proceedings.

6. There be liberty to apply.

Sir Marcus Smith
President of the Competition Appeal Tribunal

Made: 8 March 2023
Drawn: 9 March 2023