



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1576/6/12/23

BETWEEN:

(1) APPLE INC.
(2) APPLE DISTRIBUTION INTERNATIONAL LIMITED
(3) APPLE EUROPE LIMITED
(4) APPLE (UK) LIMITED

Applicants

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

ORDER

UPON reading the Notice of Application for review under section 179 of the Enterprise Act 2002 dated 18 January 2023 (“**the Application**”) and the Competition and Markets Authority’s (“**the CMA**”) Defence dated 15 February 2023

AND UPON hearing counsel for the Parties at a hearing on 10 March 2023

AND UPON the Tribunal having handed down its judgment on 31 March 2023 [2023] CAT 21 (“**the Judgment**”)

AND UPON considering the CMA’s request dated 6 April 2023 under Rules 19 and 24(2) of the Competition Appeal Tribunal Rules 2015

AND UPON the parties having agreed the terms of this order

IT IS ORDERED THAT:

Quashing

1. The decision by the CMA dated 22 November 2022 to make a market investigation reference under section 131 of the Enterprise Act 2002 (“**the Act**”), concerning the supply of browsers and browser engines and the distribution of cloud gaming services through app stores on mobile devices in the United Kingdom (“**the Decision**”), be quashed.
2. The Decision and the market investigation launched by reference to it (“**the Investigation**”) is void, invalid, and of no legal effect.

Stay

3. Paragraphs 1 to 2 of this order be suspended and have no effect until (“**the Stay**”):
 - (a) the expiry of the time limit for requesting permission to appeal the Judgment;
 - (b) if the Tribunal grants the CMA permission to appeal, the final determination of any such appeal;
 - (c) if the Tribunal does not grant the CMA permission to appeal, the determination of any application by the CMA to the Court of Appeal for a continuation of the Stay; or
 - (d) the expiry of any further order of the Tribunal or any appellate Court continuing such suspension,whichever is the later.
4. The 18-month period within which the CMA is required under section 137(1) of the Act to prepare and publish its report under section 136 be suspended, with effect from 31 March 2023, and, in the event the CMA appeals and is successful in reinstating the Decision, the period will recommence from the expiry of any further order made in accordance with paragraph 3(d) above.
5. For the duration of the Stay and save as necessary for the pursuit of the CMA’s proposed appeal against paragraphs 1 and 2:

- (a) the CMA shall not take any steps to progress the Investigation;
 - (b) the CMA shall not use and/or refer to any specified information (as defined in section 238 of the Act) obtained in connection with the Investigation; and
 - (c) the Applicants or any other market participant shall not be required to take any steps in relation to the Investigation.
6. Nothing in this Order shall prevent the CMA from:
- (a) processing the information referred to at paragraph 5(b) for the purpose of archiving the Investigation; or
 - (b) instructing the CMA's third-party contractors to provide a report to the CMA on their services provided up to the date of the Judgment.

Costs

7. There be no order as to costs.

Sir Marcus Smith
President of the Competition Appeal Tribunal

Made: 20 April 2023
Drawn: 20 April 2023