



CLAIM NO: CP-2018-000031

28 Mar 2023

CP-2018-000031

**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS & PROPERTY COURTS OF ENGLAND AND WALES**  
**COMPETITION LIST (ChD)**

**BEFORE: THE HONOURABLE MRS JUSTICE JOANNA SMITH DBE**

**17 March 2023**

**B E T W E E N:**

**WHISTL UK LIMITED**

**Claimant**

**-and-**

**(1) INTERNATIONAL DISTRIBUTIONS SERVICES PLC**  
**(formerly ROYAL MAIL PLC)**  
**(2) ROYAL MAIL GROUP LIMITED**

**Defendants**

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**CONSENT ORDER**

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**UPON** the following definitions applying for the purposes of this Order:

- **“1998 Act”** means the Competition Act 1998 (as amended).
- **“2002 Act”** means the Enterprise Act 2002 (as amended).
- **“2015 Regulations”** means the Section 16 Enterprise Act 2002 Regulations 2015.
- **“infringement issue”** has the meaning given in section 16(6) of the 2002 Act.
- **“Tribunal”** means the Competition Appeal Tribunal.

**AND HAVING REGARD TO** the Court’s discretion pursuant to section 16(1) of the 2002 Act, regulation 2 of the 2015 Regulations, and paragraph 8.10 of Practice Direction 30 to order the transfer to the Tribunal for its determination so much of the proceedings before the Court as relates to an infringement issue and to give such directions and/or make such order as it thinks fit to give effect to the determination of that infringement issue by the Tribunal;

**AND HAVING REGARD TO** the Court’s further discretion pursuant to section 16(4) of the 2002 Act and paragraph 8.3 of Practice Direction 30 to order the transfer of any part of the proceedings before the Court, which relates to a claim to which section 47A of the 1998 Act applies, to the Tribunal;

**AND UPON** the parties being jointly of the view that it would be appropriate to make an order for the transfer of these proceedings to the Tribunal;

**AND UPON** the parties having agreed to this Order in draft form;

**AND UPON** the court considering that it is appropriate to make this order on the papers and without a hearing;

**BY CONSENT IT IS ORDERED AND DIRECTED that:**

1. Such parts of these proceedings as relate to:
  - (a) a claim to which section 47A of the 1998 Act applies; and/or
  - (b) an infringement issue,shall be transferred to the Tribunal for its determination of those issues pursuant to the provisions referenced above in the recitals to this Order.
2. Pursuant to paragraph 3 of Practice Direction 30, the order for transfer in paragraph 1 above shall take effect from the date of the making of this Order.
3. The sending of this Order to the parties and to the Tribunal shall constitute notice to them for the purposes of paragraph 8.5 and 8.12 of Practice Direction 30 and CPR r.30.4(1).
4. For the avoidance of doubt:
  - (a) subject to further order of the Tribunal, there is no requirement for the parties to file Directions Questionnaires, costs budgets or draft directions;
  - (b) neither this Order giving effect to the said transfer, nor the transfer itself, is intended to alter, limit or exclude in any respect any element of the Claimant's claim as constituted in this Court prior to the transfer taking effect;
  - (c) if, and to the extent that, any element of the Claimant's claim as constituted in this Court prior to the transfer taking effect is not capable of falling within the jurisdiction of the Tribunal on a transfer, or would be altered, limited or excluded by this Order or the transfer, it is not subject to this Order and remains within the jurisdiction of this Court;
  - (d) the proceedings were and shall continue to be regarded as having been commenced in this Court. Save to the extent that the Tribunal otherwise directs, any further statements of case or amendments to a statement of case shall be made in accordance with the Civil Procedure Rules and the Chancery Guide, and not with the Competition Appeal Tribunal Rules 2015 (or any other rules or practice direction applicable in the Tribunal);
  - (e) any appeal to the Court of Appeal against the determination by the Tribunal of the issues transferred or an order of the Court giving effect to that determination shall be treated for all purposes as an appeal from a judgment of this Court and, accordingly, shall be governed by the rules in CPR Part 52; and
  - (f) this Court may give such further directions or make such further order as it thinks fit in connection with the transfer and/or with any such element as referred to above.
5. The Claimant shall serve this Order on the Defendants.
6. Costs in the case.

**Service of the order**

The court has provided a sealed copy of this order to the serving party: Towerhouse LLP, 10 Fitzroy Square, London W1T 5HP.

We consent to an order in the above terms.

Dated this 17<sup>th</sup> day of March 2023