



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1586/4/12/23

BETWEEN:

**DYE & DURHAM LIMITED**  
**DYE & DURHAM (UK) LIMITED**

Applicants

- v -

**THE COMPETITION AND MARKETS AUTHORITY**

Respondent

**TM GROUP (UK) LIMITED**

Intervener

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**CONFIDENTIALITY RING ORDER**

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**UPON** reading the Notice of Application lodged by the Applicants under rules 9 and 26 of the Competition Appeal Tribunal Rules 2015 (S.I. No. 1648 of 2015) (the “**Tribunal Rules**”) on 21 April 2023 (the “**Application**”).

**AND UPON** hearing counsel for the Applicants, for the Respondent and for TMG at a CMC held on 15 May 2023.

**AND HAVING REGARD TO** the Tribunal's powers under the Competition Appeal Tribunal Rules 2015 (the “**Tribunal Rules**”)

**AND UPON** the Parties having agreed to the terms of this Order

**IT IS ORDERED BY CONSENT THAT:**

1. For the purposes of this Order:

- 1.1 **“Confidential Information”** means the information redacted in the non-confidential version of Relevant Documents in respect of which a claim of confidentiality is agreed or has been or will be made to the Tribunal by a Party pursuant to Rule 99 and/or Rule 101 of the Tribunal Rules
- 1.2 **“Confidentiality Ring”** means:
- a) all the Relevant Advisers; and
  - b) The Competition and Markets Authority (CMA) and its counsel, Ben Lask KC and Thomas Sebastian.
- 1.3 **“Relevant Advisers”** are those persons:
- a) listed in Part A of the Schedule to this Order;
  - b) whose admission to the Confidentiality Ring has received the consent of the parties pursuant to paragraph 5.1 below or has been authorised by the Tribunal pursuant to paragraph 5.2 below; and
  - c) who have given a signed undertaking to the Tribunal in the terms of the Schedule to this Order, of which a copy has been provided to the Tribunal.
- 1.4 **“Relevant Documents”** means all pleadings and other documents served or filed in these proceedings by any of the parties at any time, including documents included in agreed bundles.
- 1.5 **"Party"** or **"Parties"** are the applicant, the respondent and any persons to whom the CAT has granted permission to intervene.
- 1.6 **"Support Staff"** are any colleagues of a Relevant Adviser who reasonably require access to any Confidential Information for the purpose of providing administrative or technical assistance to the Relevant Adviser.
- 2 Each of the parties shall (as and when disclosure is required) hereafter disclose to the other parties Relevant Documents containing Confidential Information on the condition that such un-redacted versions and any Confidential Information contained therein shall be disclosed only to the Relevant Advisers who shall treat such documents in accordance with the terms of the undertaking each of them has given (under which they may, but only in accordance with such terms, disclose Confidential Information to relevant Support Staff).
- 3 Any such Relevant Document that a Party considers contains Confidential Information shall be marked to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 7.46 of the Tribunal Guide to Proceedings 2015.

- 4 Membership of the Confidentiality Ring becomes effective upon the receipt by the Tribunal of the Relevant Adviser's signed undertaking in terms of Part B of the Schedule to this Order.
- 5 If any party wishes to add any person as a Relevant Adviser for the purpose of this Order, they may either:
  - 5.1 obtain the written consent of each of the other parties to the admission of that individual to the Confidentiality Ring and inform the Tribunal in writing accordingly (copying the representatives of the other parties); or
  - 5.2 apply to the Tribunal for an order authorising the admission of that individual to the Confidentiality Ring.
- 6 If any party wishes one of its Relevant Advisers to be removed from the Confidentiality Ring, they shall inform the Tribunal in writing (copying the representatives of the other parties).
- 7 When a Relevant Adviser is admitted to or removed from the Confidentiality Ring the relevant party will provide to the Tribunal an up-to-date list of the membership of the Confidentiality Ring.
- 8 With the exception of solicitors' or counsels' notes, and to the extent permitted by law or any applicable professional conduct regulations, copies of all or any (as appropriate) Confidential Information disclosed pursuant to this Order (in both hard and soft copy) must be destroyed insofar as is technologically possible or made inaccessible at the conclusion of these proceedings, or when a Relevant Adviser ceases to be involved in these proceedings. Each party shall notify the other parties that the Confidential Information has been destroyed:
  - 8.1 at the conclusion of these proceedings;
  - 8.2 when a Relevant Adviser ceases to be involved in these proceedings; and/or
  - 8.3 if it is ordered that all or any (as appropriate) of the Confidential Information is no longer relevant to and/or disclosable in these proceedings.
- 9 For the avoidance of doubt, in the event of any anticipated or actual breach of this Order, any party may seek to enforce the terms of this Order.
- 10 The parties shall make available without charge to any person on request an up-to-date list of the members of the Confidentiality Ring.
- 11 Costs be reserved.
- 12 There be liberty to apply.

**Hodge Malek KC**

Chair of the Competition Appeal Tribunal

Made: 18 May 2023

Drawn: 18 May 2023

## **SCHEDULE**

### **PART A**

This Part contains the names, for each party, of the Relevant Advisers for the purposes of this Order:

#### **DYE & DURHAM LIMITED and DYE & DURHAM (UK) LIMITED**

##### ***Solicitors***

1. Adrian Magnus
2. Tom Hanson
3. Viktoria Tsvetanova

##### ***Trainee Solicitors***

4. Lisa Kennedy
5. Philine Zambon

##### ***Counsel***

1. Kieron Beal KC
2. Ben Lewy

#### **TM GROUP (UK) LIMITED**

##### ***Solicitors***

1. Jessica Gardner
2. Aonghus Heatley
3. Olivia Rogers
4. Stephen May
5. Keith Woodhouse
6. Brad Isaac
7. Melanie Talbot

##### ***Trainee Solicitors***

Ben Groden

##### ***Counsel***

Robert O'Donoghue KC

## PART B

### UNDERTAKING

I, ..... [name], of ..... [firm, company or establishment] being [legal or other qualification] and regulated so far as my professional conduct is concerned by [regulatory body, if any] undertake to the Tribunal as follows:

- 1 I have read a copy of the Tribunal's Order of 18 May 2023 (the "**Tribunal's Order**") and understand the implications of the Tribunal's Order and the giving of this undertaking.
- 2 Save in respect of provision to the Tribunal, I will not disclose the Confidential Information (as defined in the Tribunal's Order) to any person who is not a Relevant Adviser (as defined in the Tribunal's Order) (save to any Support Staff in the circumstances of paragraph 11 below) without the express written consent of the person which originally disclosed the Confidential Information (the "**Disclosing Person**") or the permission of the Tribunal.
- 3 I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever without the express consent of the Disclosing Person.
- 4 I have read, and understand the implications of Rule 102 of the Tribunal Rules, and will use the Confidential Information only in accordance with that Rule.
- 5 The Relevant Documents (as defined in the Tribunal's Order) containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access or disclosure.
- 6 The production of further copies by me of the Relevant Documents containing the Confidential Information shall be limited to those required for the use of the Relevant Advisers for the purposes of these proceedings and shall be held in accordance with paragraph 5 of this undertaking.
- 7 With the exception of solicitors' or counsels' notes, and to the extent permitted by law or any applicable professional conduct regulations, any and all copies of the documents containing the Confidential Information will be securely disposed of insofar as is technologically possible or rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person at the conclusion of these proceedings.
- 8 The present proceedings for these purposes shall include any further appeals from the Tribunal to a higher court, save in so far as that higher court orders otherwise.

- 9 None of paragraphs 2 to 7 above shall prevent Relevant Advisers from disclosing Confidential Information to persons who have already legitimately seen it.
- 10 If a regulatory or legal requirement requires me to disclose Confidential Information to any person or entity outside the Confidentiality Ring into which the Confidential Information has been disclosed, I will inform the CAT and the Disclosing Party without delay (unless I am prohibited to do so by any legal, legislation, court order or regulatory requirement).
- 11 If I require the assistance of any Support Staff in connection with any Confidential Information for the purposes of:
- a) providing advice to the relevant Party for the purpose of these proceedings and/or
  - b) assembling, printing, copying or providing documents for the purposes of these proceedings,

I will make any such Support Staff aware of the terms of this undertaking and I will make appropriate arrangements to preserve the Confidentiality Ring.

- 12 If I become aware of, or suspect that there has been, a breach of these undertakings I will notify the CAT and the affected party (or parties) immediately.

Name: .....

Signed: .....

Date: .....