



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

Case No. 1590/4/12/23

BETWEEN:

**MICROSOFT CORPORATION**

Applicant

– and –

**COMPETITION AND MARKETS AUTHORITY**

Respondent

– and –

**ACTIVISION BLIZZARD, Inc.**

Intervener

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**ORDER (ESTABLISHING A CONFIDENTIALITY RING)**

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**UPON** reading the Notice of Application lodged by the Applicant under section 120 of the Enterprise Act 2002 and Rules 9 and 26 of the Competition Appeal Tribunal (“**the Tribunal**”) Rules 2015 (S.I. No. 1648 of 2015) (“**the Tribunal Rules**”) on 24 May 2023 (“**the Application**”),

**AND UPON** hearing counsel for the Applicant, for the Respondent, and for the Intervener at a case management conference held on 30 May 2023,

**AND UPON** the Parties having agreed the terms of this order,

**IT IS ORDERED THAT:**

1. This Order becomes effective in respect of each of the persons named in Part A of the Schedule to this Order (including persons subsequently admitted to the Confidentiality Ring pursuant to paragraph 4 of this Order) only upon receipt by the Tribunal of a signed undertaking in the terms of Part B of the Schedule to this Order.
2. For the purposes of this Order:

- (a) **“Confidentiality Ring”** means:
- (i) all those External Advisers who have signed an undertaking to the Tribunal in the terms of Part B of the Schedule to this Order, of which a copy has been provided to the Tribunal; and
  - (ii) The Competition and Markets Authority (“CMA”).
- (b) **“Confidential Information”** is defined as information:
- (i) over which confidential treatment has been claimed; and
  - (ii) justifying confidential treatment by the Tribunal in accordance with Rule 101 of the Tribunal Rules,
- which is contained in any pleadings or other documents submitted, or to be submitted, by the Parties to the present proceedings before the Tribunal.
- (c) **“External Advisers”** are those persons:
- (i) listed in Part A of the Schedule to this Order who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order; or
  - (ii) subsequently added to the lists in Part A after being admitted to the ring in accordance with paragraph 4 below and who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order.
- (d) **“Party”** or **“Parties”** are the Applicant, the Respondent, and any persons to whom the Tribunal has granted permission to intervene.
- (e) **“Support Staff”** are any colleagues of an External Adviser who reasonably require access to any Confidential Information for the purpose of providing administrative or technological assistance to the Authorised Adviser.
3. All pleadings and other documents served in these proceedings must be marked so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 7.46 of the Tribunal’s Guide to Proceedings 2015. A system of colour-coding shall be used to indicate to which entity the confidential information

belongs (or such other system as the Parties shall agree where colour-coding is considered unworkable). Any Confidential Information contained within those pleadings and documents shall be disclosed only to the External Advisers listed in Part A of the Schedule to this Order and who have signed an undertaking to the Tribunal and to the Parties in the terms of Part B of the Schedule to this Order (under which they may, but only in accordance with such terms, disclose Confidential Information to relevant Support Staff).

4. If any Party wishes to add any additional person as an External Adviser for the purposes of paragraph 2(c) of this Order, they may either:
  - (a) Obtain the written consent 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
  - (b) Apply to the Tribunal for an order authorising the admission of that individual to the Confidentiality Ring.
5. If any Party wishes one of its External Advisers to be removed from the Confidentiality Ring, they shall inform the Tribunal in writing (copying the representatives of the other Parties).
6. When an External Adviser is admitted to or removed from the Confidentiality Ring, the relevant Party will provide to the Tribunal (and circulate to the Parties) an up-to-date list of the persons in Part A of the Schedule to this Order.
7. The Parties shall make available without charge to any person on request an up-to-date list of the persons in Part A of the Schedule to this Order.
8. Costs be reserved.
9. There be liberty to apply.

## SCHEDULE

### Part A

This part contains the names, for each Party, of External Advisers for the purposes of paragraph 2(c) of this Order:

#### **Applicant**

##### *Counsel*

Daniel Beard KC (Monckton Chambers)

Robert Palmer KC (Monckton Chambers)

Lord Anderson of Ipswich KBE KC (Brick Court Chambers)

Nikolaus Grubeck (Monckton Chambers)

Conor McCarthy (Monckton Chambers)

Alison Berridge (Monckton Chambers)

Stefan Kuppen (Monckton Chambers)

Charlotte Thomas (Brick Court Chambers)

##### *Solicitors*

Jenine Hulsmann )

Mike Moiseyev )

Megan Granger )

Niklas Maydell )

Jamie Maples )

Chris Chapman )

Nafees Saeed ) Weil, Gotshal & Manges (London) LLP

Annagiulia Zanazzo )

Matthew Gibbon )

Jayati Handa )

Marija Momic )

Robert Eyres )

Patrick May )

Charlotte de Vitry )

##### *Trainee Solicitors*

Venetia Hudd )

Asha Phakey ) Weil, Gotshal & Manges (London) LLP

Alexander Skudder )

*Other Advisers*

Elina Koustoumpardi )  
Jakub Drabik ) CRA International  
Ajay Umesh Pai )  
  
Cristina Caffarra )  
Matteo Foschi )  
Greg Richards )  
Samuel Hoffman ) Keystone Strategy, LLC  
Lorenz Adams )  
Tega Akati-Udi )  
Emily Chissell )

**Respondent**

*Counsel*

Marie Demetriou KC (Brick Court Chambers)  
Rob Williams KC (Monckton Chambers)  
Daisy Mackersie (Monckton Chambers)  
Richard Howell (Brick Court Chambers)

**Intervener**

*Counsel*

Lord Grabiner KC (One Essex Court Chambers)  
Lord Pannick KC (Blackstone Chambers)  
Brian Kennelly KC (Blackstone Chambers)  
Sonia Tolaney KC (One Essex Court Chambers)  
Douglas Paine (One Essex Court Chambers)  
Jason Pobjoy (Blackstone Chambers)

*Solicitors*

Bill Batchelor )  
Ingrid Vandendorre )  
Nick Wolfe )  
Alexander Kamp ) Skadden, Arps, Slate, Meagher & Flom LLP  
Thomas Selwyn Sharpe )  
Charlotte Garcia Moreno )

Andrew Kabbes )  
Bradley Pierson )  
  
Claire Jeffs )  
Harry Lloyd ) Slaughter and May  
Will Manley )  
  
*Other Advisors*  
Liam Connolly ) CRA International  
Balazs Csullag )  
  
Nitika Bagaria ) Keystone Strategy, LLC  
Erica Rose )

## SCHEDULE

### Part B

#### *Undertaking*

In respect of any Confidential Information disclosed to them pursuant to this Order, each External Adviser undertakes that they will comply with the following requirements in the following terms:

I, the undersigned, undertake to the Tribunal and each of the Parties as follows:

- i. I have read a copy of the Tribunal's Order of 9 June 2023 ("**the Order**") and understand the implications of that Order and the giving of this undertaking.
- ii. Save in respect of provision to the Tribunal, I will only disclose the Confidential Information in accordance with the terms of the Order and will not discuss, disclose, transmit, communicate, or make available in any other manner the Confidential Information (as defined in the Order) to any other person (including any other legal adviser, economic adviser, officer, or employee of [FIRM] or [PARTY]) without the express written consent of the person or undertaking originally disclosing the Confidential Information ("**the Disclosing Party**") or the permission of the Tribunal, except:
  - (a) another External Adviser (as defined in the Order);
  - (b) Support Staff (as defined in the Order);
  - (c) a member of CMA staff or a CMA panel member working on these proceedings;  
or
  - (d) a member of the Tribunal working on these proceedings,  
  
(such person being a "**Non-Authorised Person**").
- iii. 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 written consent of the Disclosing Party or the permission of the Tribunal.
- iv. The pleadings and documents containing the Confidential Information will remain in my custody or in the custody of another External Adviser at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.

- v. If I require the assistance of any Support Staff in connection with any Confidential Information for the purposes of:
  - (a) providing administrative or technological 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.

- vi. The production by me of further copies of the documents containing the Confidential Information shall be limited to those strictly required for the use of the External Advisers for the purpose of these proceedings and shall be held in accordance with paragraph iv of this undertaking.
- vii. Any and all copies of the pleadings and documents in paper form containing the Confidential Information will be returned to the Disclosing Party, or destroyed by the receiving Party at the conclusion of the present proceedings; and copies of the pleadings and the documents containing Confidential Information in electronic form will where possible be returned or where that is not possible will be rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person.
- viii. Save that none of the requirements listed above shall prevent External Advisers from disclosing to a person advised by them Confidential Information which such person has already legitimately seen.
- ix. Save that none of the requirements listed above shall prevent External Advisers from complying with any regulatory requirement in relation to their profession.

Signed: .....

Name: [NAME]  
[JOB TITLE]  
[ORGANISATION]

Date: [DD MMM] 2023