



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

Case No: 1590/4/12/23

BETWEEN:

**MICROSOFT CORPORATION**

Applicant

- v -

**COMPETITION AND MARKETS AUTHORITY**

Respondent

- and -

**ACTIVISION BLIZZARD, INC.**

Intervener

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**ORDER**

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**UPON** Mr David Whannel (the “**Proposed Intervener**”) having made an application on 28 May 2023 pursuant to Rule 16 of the Competition Appeal Tribunal Rules 2015 (the “**Tribunal Rules**”) to intervene in these proceedings (the “**Application**”)

**AND UPON** the Tribunal considering the submissions from the Applicant and the Respondent dated 22 June 2023 regarding the Application

**IT IS ORDERED THAT:**

1. The Application be refused.

## REASONS

1. The Application sets out that Mr David Whannel as a member of the public wishes to intervene in these proceedings. The basis for the Application is that he does not believe that the Respondent should be at risk of an adverse costs order in the event that the Applicant is successful in these proceedings, in light of the Applicant's tax arrangements. The Proposed Intervener also submits that the Applicant has failed to provide sufficient BSL translation for its gaming systems.
2. The Applicant considers that the Proposed Intervener has not demonstrated sufficient interest in the outcome of proceedings and invites the Tribunal to refuse the Application. It also rejects the allegations made within the Application regarding its conduct. The Respondent has confirmed it has no submissions on the Application.
3. Rule 16 of the Tribunal Rules states as follows:

"(1) Any person with sufficient interest in the outcome may make a request to the Tribunal for permission to intervene in the proceedings. [...] (6) If the Tribunal is satisfied, having taken into account the observations of the parties, that the intervening party has a sufficient interest, it may permit the intervention on such terms and conditions as it thinks fit."
4. In order for the Tribunal to exercise its discretion to permit an intervention, an applicant must, as a threshold question, show a "sufficient interest in the outcome" of the proceedings - see, for example, *Sabre Corporation v CMA* [2020] CAT 16.
5. I am not satisfied that the Proposed Intervener has a sufficient interest in the outcome of these proceedings. The Application does not identify any interest(s) in the substance of this case. Instead, the Proposed Intervener sets out two complaints regarding the Applicant's tax affairs and the provision of BSL for its games. These topics, though clearly of great importance to the Proposed Intervener, are irrelevant to these proceedings. As noted recently in [2023] CAT 13 (*The Durham Company Limited v Durham County Council*), it is not enough for an applicant for intervention to simply have a general interest in the subject matter of or the parties involved in proceedings.
6. The exercise of the Tribunal's discretion must also be carried out in accordance with Rule 4 of the Tribunal Rules, by which the Tribunal shall seek to ensure that each case is dealt with "justly and at proportionate cost". The Proposed Intervener's participation would add further effort, expense and potential delay to these proceedings, which are being managed on an expedited basis.
7. The Tribunal has received no further communications from the Proposed Intervener, nor has he made himself known to the Tribunal during the case management conferences which took place on 30 May 2023 and 12 June 2023 respectively.

8. In light of my decision regarding sufficient interest, I do not consider it necessary to consider whether it would be right to exercise my discretion to permit the Proposed Intervener to intervene in these proceedings.

**Sir Marcus Smith**

President of the Competition Appeal Tribunal

Made: 4 July 2023

Drawn: 4 July 2023