



Case No: 1405/5/7/21 (T)

IN THE COMPETITION APPEAL TRIBUNAL

BETWEEN:

- (1) EURONET 360 FINANCE LIMITED**
- (2) EURONET POLSKA SPÓŁKA Z.O.O.**
- (3) EURONET SERVICES SPOL. S.R.O.**
- (4) EURONET CARD SERVICES S.A.**

Claimants

- v -

- (1) MASTERCARD INCORPORATED**
- (2) MASTERCARD INTERNATIONAL INCORPORATED**
- (3) MASTERCARD EUROPE S.A.**
(the “Mastercard Defendants”)
- and -
- (4) VISA EUROPE LIMITED**
- (5) VISA EUROPE SERVICES LLC**
- (6) VISA INC**
(the “Visa Defendants”)

Defendants

ORDER

UPON the Claimants, the Visa Defendants and the Mastercard Defendants filing and serving their signed statements of witnesses of fact on 14 April 2022, 26 August 2022, and 23 September 2022 respectively

AND UPON the Claimants filing and serving their signed statements of fact in reply on 22 November 2022 (the “Reply Statements”)

AND UPON the Visa Defendants serving further witness evidence on 17 April 2023 further to the Order of the Tribunal made by consent on 14 April 2023 pursuant to rule 55 of the Competition Appeal Tribunal Rules 2015 (the “Tribunal Rules”)

AND UPON the application of the Claimants dated 7 July 2023 seeking the Tribunal’s permission pursuant to rule 55 of the Tribunal Rules to file and serve further factual evidence in response to (i) the Defendants’ economic, forensic accounting and ATM industry expert reports served on 4 April 2023; and (ii) Visa’s further witness statements served on 17 April 2023

AND UPON the Defendants agreeing (subject to reservations) not to oppose the Claimants’ application to file and serve further factual evidence

AND UPON the parties’ respective expert economist witnesses producing a Joint Expert Statement on Liability (Part I) dated 10 July 2023

AND UPON the parties’ respective expert economist witnesses producing an unsigned Joint Expert Statement on Liability (Part II) in draft form

AND UPON reading the skeleton arguments of the parties

AND UPON hearing Leading Counsel for the Claimants and Leading Counsel for the Mastercard Defendants and Leading Counsel for the Visa Defendants at the Pre-Trial Review on 14 July 2023

AND UPON hearing the application of the Mastercard Defendants to rely on the First Witness Statement of Michal Čarný as hearsay evidence pursuant to rule 55(5) of the Tribunal Rules

AND UPON the parties agreeing on amendments to the Order of the Tribunal made by consent on 14 September 2021 as to the establishment of inner and outer confidentiality rings (**“the Confidentiality Ring Order”**)

IT IS ORDERED THAT:

APPLICATIONS

1. Permission is granted for the Claimants to file and serve the following factual evidence pursuant to rule 55 of the Tribunal Rules in response to the Defendants’ expert economic, forensic accounting and ATM industry evidence and Visa’s witness statements served on 17 April 2023 within 5 days of the drawn date of this Order, in substantially the same form as provided to the Defendants on 1 and 5 June 2023:

- (a) The Third Witness Statement of Marek Szafirski (as amended) with English translation;
 - (b) The Third Witness Statement of Ioanna Krikelli;
 - (c) The Third Witness Statement of Ondrej Kozak; and
 - (d) The Second Witness Statement of Rick Weller.
2. Permission is granted for the Mastercard Defendants to rely on the First Witness Statement of Michal Čarný as hearsay evidence pursuant to rule 55(5) of the Tribunal Rules.

EXPERT EVIDENCE

3. The Claimants' expert economist, Mr Justin Coombs, shall complete and the Claimants shall file and serve any further brief written analysis of matters addressed by the Defendants' expert economists in annexes to the Joint Expert Statement on Liability (Part II) or in annexes to the Joint Expert Statement on Quantum by 31 July 2023. If the Claimants wish to seek additional time for Mr. Coombs to complete that analysis, they must apply for permission to do so on paper to Mr Justice Butcher, giving reasons why the additional time is necessary.
4. The parties' respective expert economist and forensic accountant experts shall cooperate in producing final versions of the Joint Expert Statements so as to set out the areas of agreement and disagreement on the matters that have been dealt with by Mr Coombs in responses to annexes (as referred to at paragraph 3 of this Order). Final versions of the Joint Expert Statements are to be prepared as soon as possible and the parties are to liaise as to the final deadline and to seek directions in the event agreement cannot be reached.
5. There shall be no involvement by the parties' legal representatives in Mr Coombs' production of the additional analyses referred to in paragraph 3 above, or in the production of the finalised Joint Expert Statements referred to in paragraph 4 above.

DIRECTIONS TO TRIAL

6. By 4pm on 18 September 2023 the parties shall file and exchange their respective written opening submissions for trial, such opening submissions to have a page limit of 75 pages.
7. By 4pm on 22 September 2023, the Claimants shall file an agreed bundle of authorities.

CONFIDENTIALITY

8. References made to confidential documents at the Pre-Trial Review does not affect the confidential status of those documents pursuant to rule 102(5) of the Tribunal Rules.
9. Paragraph 2.6 of the Confidentiality Ring Order is amended to read as follows:

“2.6 **“Inner Confidentiality Ring Members”** are:

2.6.1 those external advisers, including trainee solicitors or paralegals, and external eDisclosure or litigation support providers engaged by one of the Parties in connection with these proceedings who (i) are listed in Part A1 of the Schedule to this Order, as amended from time to time in accordance with the provisions of paragraphs 13 and 15 to 17 or an order of the Tribunal and (ii) have given a signed undertaking in the terms of Part B1 of the Schedule to this Order where the Proposing Party has complied with paragraph 13; and

2.6.2 necessary secretarial and other support personnel, (not including trainee solicitors or paralegals, but including counsels’ clerks) under the supervision of those persons identified at 2.6.1 above, provided that such personnel have been informed of the confidential nature of any Confidential Information and the terms of this Order.”

COSTS

10. Costs in the case.

The Hon Mr Justice Butcher

Chair of the Competition Appeal Tribunal

Made: 14 July 2023

Drawn: 1 August 2023