



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1517/11/7/22 (UM)
1266/7/7/16

BETWEEN:

UMBRELLA INTERCHANGE FEE CLAIMANTS

Claimants

- v -

UMBRELLA INTERCHANGE FEE DEFENDANTS

Defendants

(the “Merchant Interchange Fee Umbrella Proceedings”)

AND BETWEEN:

WALTER HUGH MERRICKS CBE

Class Representative

- v -

(1) MASTERCARD INCORPORATED
(2) MASTERCARD INTERNATIONAL INCORPORATED
(3) MASTERCARD EUROPE S.P.R.L.

Defendants

(the “Merricks Class Proceedings”)

ORDER

UPON paragraph 9 of the Order of the Tribunal made on 23 December 2022 in the Merchant Interchange Fee Umbrella Proceedings, as varied by the Tribunal’s Order made by consent on

10 May 2023 (the “**Future Conduct Order**”) providing that a seven-week trial (“**Trial 2**”) to address acquirer and retail pass-on in the Merchant Interchange Fee Umbrella Proceedings and the Merricks Collective Proceedings shall commence in October or November 2024

AND UPON hearing the above-named parties (the “**Parties**”) on 10 and 11 January 2024 (the “**January Hearing**”)

AND UPON it being expressly noted that the directions below, so far as the Merricks Class Proceedings are concerned, are contingent upon the Merchant Fee Umbrella Proceedings Order being extended to those proceedings by further order, the directions being made to enable such an order to be made, if the Tribunal is so advised

IT IS ORDERED THAT:

MINI-CMCS

1. There shall be “Mini-CMCS” in relation to Trial 2 issues every two weeks, starting on 26 January 2024 and continuing until further notice, at which the Parties shall raise any issues relating to Trial 2 which require determination by or guidance from the Tribunal. The Mini CMCS shall be heard remotely and shall be attended by the Parties’ junior counsel, relevant members of the solicitor teams instructed by the Parties, and, as appropriate, relevant instructing representatives from the Parties and/or expert witnesses (or members of their teams) instructed by the Parties.

ECONOMIC EXPERTS

2. The Parties shall have permission to rely on the evidence of the named Economic Experts listed as follows:

Party	Economic Expert
Mastercard	Dr Gunnar Niels
Visa	Mr Derek Holt
Mr Merricks	Mr Justin Coombs

SH/SSU Claimants	Dr Stefano Trento
Primark	Mr John Ramirez
Ocado	Mr Nils von Hinten-Reed
Allianz	Mr Richard Murgatroyd

POSITIVE CASES

3. By 4pm on 19 July 2024, each Party shall set out its positive case as to the fact and extent (if any) of both acquirer pass-on and merchant pass-on (the “**Positive Cases**”). Such Positive Cases shall be set out by way of:
- (a) A position statement stating the Party’s case; and
 - (b) The totality of the evidence (documentary, witness and expert, subject always to the control of the Tribunal) as will be relied upon at trial in support of the same.

RESPONSIVE CASES

4. By 4pm on 20 September 2024, each Party shall, insofar as it considers necessary, set out its responses to the other Parties’ Positive Cases (the “**Responsive Cases**”). Such Responsive Cases shall be set out by way of:
- (a) A position statement stating the Party’s response to the other Parties’ cases; and
 - (b) The totality of the evidence (documentary, witness and expert, subject always to the control of the Tribunal) as will be relied upon at trial in support of the same.

PRE-TRIAL REVIEW

5. A Pre-Trial Review with an estimate of one day is to be listed in the week commencing 14 October 2024.

OTHER MATTERS

6. Costs in the respective proceedings.
7. Liberty to apply.

Sir Marcus Smith
President of the Competition Appeal Tribunal

Made: 30 January 2024
Drawn: 7 February 2024