



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1527/7/7/22

BETWEEN:

ALEX NEILL CLASS REPRESENTATIVE LIMITED

Class Representative

- v -

(1) SONY INTERACTIVE ENTERTAINMENT EUROPE LIMITED

(2) SONY INTERACTIVE ENTERTAINMENT NETWORK EUROPE LIMITED

Defendants

ORDER (DISCLOSURE AND TIMETABLE TO TRIAL)

UPON Linklaters LLP's letter to Milberg London LLP dated 6 June 2024 enclosing an updated version of the table setting out the collated disclosure requests made by Mr Harman and Mr Colley in their short expert reports dated 29 April 2024 (the "Updated Disclosure Table")

AND UPON the parties having completed a Redfern Schedule, filed by the Class Representative on 8 July 2024 (the "Redfern Schedule")

AND UPON Linklaters' LLP's letter to Milberg London LLP dated 10 July 2024 setting out a proposal for provision of rolling disclosure

AND UPON hearing Leading Counsel for both parties at a case management conference held on 10 July 2024

AND UPON the parties having agreed a timetable to trial, to commence on the first available date after 2 March 2026

AND UPON the following definitions applying for the purposes of this Order:

- **"Relevant Period"** means the period between 19 August 2016 and 19 August 2022

- “CIT” means the Defendants’ Consumer Insights Team
- “DevNet” means the Defendants’ Developer Network
- “Information Statements” means the statements the Defendants will provide in response to certain of the Redfern Schedule requests. Such statements will include a statement of truth.
- “PSN” means the PlayStation Network
- “Timetable to Trial” means the timetable to Trial appended to this Order.

AND HAVING REGARD TO the Tribunal’s powers under the Competition Appeal Tribunal Rules 2015

IT IS ORDERED THAT:

1. The parties are to comply with the Timetable to Trial.
2. The disclosure referred to in the Timetable to Trial shall be accompanied by a Disclosure Statement by an appropriate person who shall: (a) set out the extent of the search that has been made in order to locate the documents ordered to be disclosed; (b) specify the manner in which the search has been limited on reasonableness and proportionality grounds and why; and (c) certify that to the best of their knowledge and belief the disclosure ordered has been provided.
3. Inspection shall be given in an electronic format and on an electronic medium to be agreed by the parties.
4. There be liberty to apply.
5. Costs in the case.

Mr Ben Tidswell
Chair of the Competition Appeal Tribunal

Made: 22 August 2024
Drawn: 23 August 2024

APPENDIX: TIMETABLE TO TRIAL

	Date	Step in proceedings
1	By 5pm on 30 July 2024	<p>The Defendants shall provide an update to the Class Representative and the Tribunal on:</p> <ul style="list-style-type: none"> (a) which of the requests contained in the CR’s Redfern Schedule the Defendants propose to respond to by way of information statement, and in particular whether the Defendants propose to provide any Information Statement(s) in respect of Redfern Schedule requests 2A-F, 2H and 3E; (b) the manner in which the Defendants anticipate responding to the CR’s requests for disclosure of (i) reports, statistics and analysis relating to previous security compromises and (ii) design documents, descriptions and other relevant documents relating to features that have been added to the PS system as mitigatory measures following security incidents (see Redfern Schedule requests 2I-2K); (c) the Defendants’ position in relation to the requests listed in the Updated Disclosure Table and Redfern Schedule in respect of which the Defendants previously indicated that enquiries were ongoing; and (d) the timeframes within which the Defendants anticipate being in a position to provide (i) disclosure of materials in response to the requests listed in the Updated Disclosure Table and Redfern Schedule or (ii) information statements in lieu of such materials, where not previously provided.

2	By 30 August 2024	<p>The Defendants shall, to the extent possible, conduct reasonable and proportionate searches for and disclose and provide inspection of:</p> <ul style="list-style-type: none"> (a) the pricing materials that are responsive to Redfern Schedule request 4A(ii) and 4D. (b) materials in respect of the post-2020 period that are responsive to Redfern Schedule request 4A(i) and request 4A (iii); (c) the Defendants’ submissions made to the Competition and Markets Authority with respect to the acquisition by Microsoft of Activision Blizzard King that are responsive to Redfern Schedule request 5A and category 11 of the Updated Disclosure Table; (d) versions of the Defendants’ Software Usage Terms, System Software License Agreements and PSN Terms of Service covering the duration of the Relevant Period that are responsive to category 15 of the Updated Disclosure Table, to the extent not already provided to the Class Representative; and (e) copies of the user manuals for the PS4, PS4 Pro, PS4 Slim, PS5, PS5 DE, PS5 Slim and PS5 Slim DE which contain information regarding the technical specifications of those consoles that are responsive to category 10 of the Updated Disclosure Table and Redfern Schedule request 3G, to the extent the CR does not already have these.
3	By 4pm on 9 September 2024	Defendants to file and serve their disclosure report and EDQ.

4	By 4pm on 13 September 2024	<p>The Defendants shall conduct reasonable and proportionate searches for and disclose and provide inspection of:</p> <ul style="list-style-type: none"> (a) materials from DevNet that are responsive to Redfern Schedule requests 1A-1-B, 1D-1I, 2A-2B, 2E, 3C-3D and 3F; and (b) materials that are responsive to categories 2 and 3 of the Updated Disclosure Table, in so far as the Defendants can identify and access these in time for disclosure on 13 September 2024.
5	By 4pm on 17 September 2024	<p>As regards Redfern Schedule requests 1K, 2A-2H and 3E, the Defendants shall provide to the Class Representative:</p> <ul style="list-style-type: none"> (a) an outline of the proposed Information Statement; and (b) an indication of any documents that will accompany the Information Statement.
6	9 October 2024	Tribunal to hold a CMC to resolve any outstanding issues concerning disclosure (if needed).
7	By 4pm on 25 October 2024	<p>The Defendants shall:</p> <ul style="list-style-type: none"> (a) provide the Information Statements which respond to Redfern Schedule requests 1K, 2A-2H and 3E; (b) disclose and provide inspection of any documents that accompany the Information Statement(s); and

		<p>(c) conduct reasonable and proportionate searches for and disclose and provide inspection of:</p> <p>(i) materials which are responsive to Redfern Schedule requests 1C and 1F; and</p> <p>(ii) materials which are responsive to Redfern Schedule requests 2I-2K.</p>
8	By 4pm on 25 October 2024	<p>The Defendants shall conduct reasonable and proportionate searches for and disclose and provide inspection of :</p> <p>(a) transaction and consumer engagement data relating to UK PlayStation users that are responsive to category 18 in the Updated Disclosure Table;</p> <p>(b) any documentation responsive to category 5 of the Updated Disclosure Table that has been identified by that date;</p> <p>(c) materials relating to market dynamics that are responsive to categories 7, 8 and 9 in the Updated Disclosure Table, insofar as these are held:</p> <p>(i) in the CIT’s shared ‘G drive’ folder on the Defendants’ internal network; and/or</p> <p>(ii) on the CIT’s file sharing site hosted by “Box”;</p>

		<ul style="list-style-type: none"> (d) materials relating to the Defendants’ cross-platform policy and presentations relating to the launch of cross-platform functionality on PlayStation that are responsive to categories 16(a) and 16(b) in the Updated Disclosure Table, in so far as these can be located via searches of identified repositories; (e) materials in respect of the period 2016-2020 that are responsive to Redfern Schedule request 4A(i) and request 4A(iii); (f) materials relating to alternative distribution channels that are responsive to category 13 of the Updated Disclosure Table, insofar as they are responsive to the search terms intended to identify such materials; (g) materials responsive to categories 2 and 3 in the Updated Disclosure Table not provided to the Class Representative by 13 September 2024, in so far as these can be located via searches of identified repositories; and (h) materials responsive to Redfern Schedule request 6A and category 13 of the Updated Disclosure Table (in so far as the Defendants can identify and access these in time for disclosure on 25 October 2024).
9	14 November 2024	Tribunal to hold a further CMC to resolve any outstanding issues concerning disclosure (if needed)

10	By 4pm on 29 November 2024	The Defendants shall conduct reasonable and proportionate searches for and disclose and provide inspection of materials that are responsive to Redfern Schedule requests 3A and 3B, insofar as they are relevant to the distribution of PS games and add-on content.
11	By 4pm on 23 December 2024	<p>The Defendants shall:</p> <ul style="list-style-type: none"> (a) conduct reasonable and proportionate searches for and disclose, and provide inspection of, any further materials identified in the course of the Defendants' review of custodian mailboxes which are responsive to: <ul style="list-style-type: none"> (i) Redfern Schedule requests 4B-C and 4E-H; and (ii) categories 1-2, 4, 6, 12-14, 16 and 20 in the Updated Disclosure Table; (b) conduct reasonable and proportionate searches for and disclose and provide inspection of, to the extent available, revenue and costs data which are responsive to categories 17 and 19 of the Updated Disclosure Table; and (c) disclose and provide inspection of any further documents responsive to the requests listed in the Updated Disclosure Table and Redfern Schedule that the Defendants are to respond to by way of documentary disclosure or confirm that on the basis of reasonable and proportionate searches there do(es) not exist any further documents responsive to these requests.
12	On Friday 24 January 2025	Tribunal to hold a further remote CMC to resolve any outstanding disclosure issues (if needed).

13	By 4pm on 3 March 2025	CR to file and serve its [Re-]Re-Re-Amended Claim Form.
14	By 4pm on 3 March 2025	CR to file and serve a formal explanation of the specific scope of Professor Pietzuch's proposed technical expert evidence, as a condition of the Tribunal's granting permission for that evidence.
15	By 4pm on 7 April 2025	Defendants to file and serve their Amended Defence.
16	By 4pm on 7 April 2025	Defendants to confirm the extent to which they proposes to adduce technical expert evidence in respect of the matters to be addressed by Professor Pietzuch.
17	By 4pm on 2 May 2025	CR to file and serve its Amended Reply.
18	By 4pm on 12 May 2025	Defendants to file and serve their Amended Rejoinder.
19	By 4pm on 13 May 2025	Parties to seek to agree statement of common ground and list of issues.
20	By 4pm on 26 May 2025	Parties to indicate the factual witnesses intended to give evidence on their behalf.
21	By 4pm on 11 June 2025	Parties to file and serve signed witness statement of fact.
22	By 4pm on 11 June 2025	CR to file and serve a signed statement from Professor Pietzuch setting out the factual basis of his opinion evidence, such facts to be confined to facts drawn from sources other than the Defendants' (i) disclosure and/or (ii) responses to the CR's information requests.
23	By 4pm on 20 June 2025	The CMA, if so advised, shall file and serve its written observations.
24	By 4pm on 9 July 2025	Parties to file and serve signed statements of witness of fact in reply.
25	By 4pm on 8 August 2025	CR to file and serve Professor Pietzuch's primary report; Defendants, if so advised, to file and serve technical expert evidence.

26	By 4pm on 12 September 2025	The parties, if so advised, to file and serve their respective written observations on the CMA's written observations.
27	By 4pm on 15 September 2025	CR to file and serve Professor Pietzuch's expert evidence in reply; Defendants, if so advised, to file and serve technical expert evidence in reply.
28	By 4pm on 6 October 2025	The CMA, if so advised, shall file and serve its written observations in reply.
29	By 4pm on 10 October 2025	Parties to file and serve signed valuation, economic and accounting expert reports.
30	By 4pm on 28 November 2025	Parties to file and serve signed valuation, economic and accounting expert reports in reply.
31	By 4pm on 15 December 2025	Parties' experts in each respective field shall meet on a without prejudice basis to discuss their respective reports. This is without prejudice to the experts' ability to meet at other times.
32	By 4pm on 9 January 2026	Parties' experts in each respective field shall produce a joint statement of matters agreed and not agreed.
33	First available date on or after 19 January 2026, to be listed	Pre-trial review.
34	On 2 March 2026	Trial on all issues (with a time estimate of 8 weeks). The first week shall be a reading week for the Tribunal.