



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1403/7/7/21

BETWEEN:

DR RACHAEL KENT

Class Representative

- v -

(1) APPLE INC.
(2) APPLE DISTRIBUTION INTERNATIONAL LTD

Defendants

RE-AMENDED CONFIDENTIALITY RING ORDER

UPON the Order of the Chair dated 22 December 2021 establishing a confidentiality ring in these Proceedings (the “**Confidentiality Ring Order**”)

AND UPON considering correspondence from the Defendants to the above-named collective proceedings regarding the appropriate form of order such that documents in these Proceedings containing confidential information be subject to confidentiality protections

AND HAVING REGARD TO the Tribunal’s powers under the Competition Appeal Tribunal Rules 2015 (and in particular Rules 53(2)(h), 101 and 102)

AND UPON the Order of the Chair dated 23 October 2023 establishing an amended confidentiality ring in these proceedings (the “**Amended Confidentiality Ring Order**”), further to the Order of the Chair made and drawn on 23 October 2023 varying the terms of the Confidentiality Ring Order

AND UPON the joint application of the parties dated 1 October 2024

IT IS ORDERED THAT:

- 1A. This Order replaces the Confidentiality Ring Order and the Amended Confidentiality Ring Order.
- 1B. Each of the persons named in the Schedules to this Order having given a written undertaking pursuant to the terms of the Confidentiality Ring Order, such undertakings shall continue to apply in respect of this Order, and such persons as thereby designated as Outer Confidentiality Ring Members.

1. DEFINITIONS

1.1 For the purposes of this Order:

1.1.1 “*Class Representative*” means Dr. Rachael Kent.

1.1.2 “*CMA Documents*” means the documents provided by the Defendants to the CMA in the course of the CMA Market Study.

1.1.3 “*CMA Market Study*” means the Competition & Market Authority’s Mobile Ecosystem Market Study.

1.1.4 “*Commission Documents*” means the documents provided by the Defendants to the European Commission in the course of the EC Investigations.

1.1.5 “*Confidential Information*” means Inner Confidentiality Ring Information and Outer Confidentiality Ring Information.

1.1.6 “*Confidentiality Terms*” means the terms contained in this Order and the Schedule to this Order.

1.1.7 “*Defendants*” means Apple Inc. and Apple Distribution International Ltd.

1.1.8 “*Document*” means anything in which information of any description is recorded.

1.1.9 “*EC Investigations*” means the following European Commission

investigations: AT.40437 Apple – App Store Practices – (music streaming), AT.40652 Apple – App Store Practices – (e-books/audiobooks) and AT.40716 Apple - App Store Practices.

1.1.10 “**Guide**” means the Tribunal’s 2015 Guide to Proceedings.

1.1.11 “**Inner Confidentiality Ring Information**” means:

- (a) Documents or information provided by a Party, including any part of those Documents and any information contained within those Documents, which:
 - (i) the disclosing Party has designated as Inner Confidentiality Ring Information in accordance with paragraph 6 of this Order; or
 - (ii) are designated as Inner Confidentiality Ring Information by the Tribunal; and
 - (iii) have not subsequently been re-designated not Inner Confidentiality Ring Information, either by consent or by order of the Tribunal; and
- (b) Documents such as:
 - (i) working Documents created by the receiving Party or its advisers or experts;
 - (ii) *inter partes* correspondence;
 - (iii) Documents filed at the Tribunal, such as pleadings, witness evidence, expert reports, skeleton arguments, applications and draft orders; and
 - (iv) transcripts prepared by a third party service provider,which contain or refer to the content of the Documents provided

under paragraph 1.1.11(a); but

- (c) redacted versions of the Documents described at paragraph 1.1.11(b) above are not Inner Confidentiality Ring Information if they have been redacted so that they no longer contain or refer to the content of the Documents provided under paragraph 1.1.11(a).

1.1.12 “*Inner Confidentiality Ring Members*” are:

- (a) those persons listed in Part A of the Schedule to this Order, as amended from time to time in accordance with the provisions of paragraph 5 below or by an order of the Tribunal, who have given a signed undertaking in the terms of Part C of the Schedule to this Order that has been provided to all Parties and (in the case of those persons who are added as Inner Confidentiality Ring Members in accordance with the provisions of paragraph 5 below) where the Proposing Party (as defined below) has complied with paragraph 5.1.1;
- (b) necessary secretarial and other support personnel including for the avoidance of doubt internal providers of eDisclosure or litigation support services (not including trainee solicitors or paralegals), IT, reprographics staff and clerks, acting under the supervision of those persons identified in paragraph 1.1.12(a) above for the purpose of the Proceedings, provided that such personnel have been informed of the confidential nature of the Confidential Information and the terms of Part C of the Schedule to this Order; and
- (c) any external eDisclosure or litigation support provider engaged by any Party for the purpose of the Proceedings to provide eDisclosure or similar services in support of those persons identified in paragraph 1.1.12(a) above, who may have access to

Inner Confidentiality Ring Information as a necessary consequence of the provision of their services, provided that such provider has been informed of the confidential nature of the Confidential Information and the terms of Part C of the Schedule to this Order.

1.1.13 “***Outer Confidentiality Ring Information***” means:

- (a) Documents or information provided by a Party to this Order, including any part of those Documents and any information contained within those Documents which:
 - (i) the disclosing Party has designated as Outer Confidentiality Ring Information or which is otherwise automatically designated as Outer Confidentiality Ring Information in accordance with paragraph 6 of this Order; or
 - (ii) are designated as Outer Confidentiality Ring Information by the Tribunal; and
 - (iii) have not subsequently been re-designated not Outer Confidentiality Ring Information, either by consent or by order of the Tribunal; and
- (b) Documents such as:
 - (i) working Documents created by the receiving Party or its advisers or experts;
 - (ii) *inter partes* correspondence;
 - (iii) Documents filed at the Tribunal, such as pleadings, witness evidence, expert reports, skeleton arguments, applications and draft orders; and

(iv) transcripts prepared by a third party service provider,

which contain or refer to the content of the Documents provided under paragraph 1.1.13(a); but

(c) redacted versions of the Documents described at paragraph 1.1.13(b) above are not Outer Confidentiality Ring Information if they have been redacted so that they no longer contain or refer to the content of the Documents provided under paragraph 1.1.13(a).

1.1.14 “***Outer Confidentiality Ring Members***” are:

(a) Inner Confidentiality Ring Members; and

(b) those persons listed in Part B of the Schedule to this Order, as amended from time to time in accordance with the provisions of paragraph 5 below or by an order of the Tribunal, who have given a signed undertaking in the terms of Part D of the Schedule to this Order, that has been provided to all Parties and (in the case of those persons who are added as Outer Confidentiality Ring Members in accordance with the provisions of paragraph 5 below) where the Proposing Party (as defined below) has complied with paragraph 5.1.1;

(c) necessary secretarial and other support personnel including for the avoidance of doubt internal providers of eDisclosure or litigation support services (not including trainee solicitors or paralegals), IT, reprographics staff and clerks, acting under the supervision of those persons identified in paragraphs 1.1.14(a) and (b) above for the purpose of the Proceedings, provided that such personnel have been informed of the confidential nature of the Confidential Information and the terms of Part D of the Schedule to this Order; and

(d) any external eDisclosure or litigation support provider engaged by any Party for the purpose of the Proceedings to provide eDisclosure or similar services in support of those persons identified in paragraphs 1.1.14(a) and (b) above, who may have access to Outer Confidentiality Ring Information as a necessary consequence of the provision of their services, provided that such provider has been informed of the confidential nature of the Confidential Information and the terms of Part D of the Schedule to this Order.

1.1.15 “**Party**” means the Class Representative or the Defendants.

1.1.16 “**Proceedings**” means the CAT Case 1403/7/7/21: Dr. Rachael Kent v Apple Inc. and Apple Distribution International Ltd., and any relevant subsequent proceedings between the Parties following any granting of the application for the collective proceedings order and any appeal or judicial review in respect of the same.

1.1.17 “**Rules**” means the Competition Appeal Tribunal Rules 2015 (SI 2015 No. 1648) (and “**Rule**” shall be construed accordingly).

1.1.18 “**Supplemental Australian Discovery**” means the documents disclosed by the Defendants in *Epic Games, Inc. and Epic International S.à.r.l v Apple Inc. and Apple Pty Limited* (Case NSD1236/2020) in August, November and December 2022.

1.1.19 “**Tribunal**” means the Competition Appeal Tribunal.

1.1.20 “**U.S. Productions**” means the documents disclosed by the Defendants in *Epic Games, Inc. v Apple Inc.* (Case 4:20-cv-05640-YGR); *Donald R. Cameron, et al. v Apple Inc.* (Case 4:19-cv-03074-YGR); and *In Re Apple iPhone Antitrust Litigation* (Case 4:11-cv-06714-YGR).

2. INNER CONFIDENTIALITY RING INFORMATION

2.1 Inner Confidentiality Ring Information provided in the context of the

Proceedings is to be provided or made available solely to the Inner Confidentiality Ring Members, to be held by them on the terms set out in Part C of the Schedule to this Order, subject to the following paragraphs of this Order.

3. OUTER CONFIDENTIALITY RING INFORMATION

3.1 Outer Confidentiality Ring Information provided in the context of the Proceedings is to be provided or made available solely to Outer Confidentiality Ring Members, to be held by them on the terms as set out in:

3.1.1 if the individual is also an Inner Confidentiality Ring Member, Part C of the Schedule to this Order, subject to the following paragraphs of this Order; or

3.1.2 if the individual is not also an Inner Confidentiality Ring Member, Part D of the Schedule to this Order, subject to the following paragraphs of this Order.

4. SCOPE OF THE ORDER

4.1 Nothing in this Order or in its Schedule applies to documents and/or information received by a Party other than via the Proceedings under the Confidentiality Terms.

5. ADDITIONS TO OR REMOVAL FROM THE INNER OR OUTER CONFIDENTIALITY RING

5.1 If a Party (the “*Proposing Party*”) wishes to add an additional person as an Inner Confidentiality Ring Member or as an Outer Confidentiality Ring Member:

5.1.1 The Proposing Party shall notify and request the express written consent of the other Party (the “*Receiving Party*”), and when requesting such written consent specify the name and role of the proposed additional person and provide an explanation of why the addition is reasonable and necessary.

- 5.1.2 Following receipt of a notice pursuant to paragraph 5.1.1 above, the Receiving Party shall not unreasonably withhold or delay its consent and if the Receiving Party objects to the proposed addition to the Inner Confidentiality Ring or the Outer Confidentiality Ring, it shall notify the Proposing Party in writing within 3 working days that it so objects along with a statement of the reason(s) for the objection.
- 5.1.3 If express consent is given by the Receiving Party, or the Receiving Party fails to give express consent and fails to give written notice of objection within the 3 working day period specified in paragraph 5.1.2 above:
- (a) the additional person will be required to give the written undertaking in the terms of Part C or D (as applicable) of the Schedule to this Order; and
 - (b) the Proposing Party will provide the written undertaking referred to in paragraph 5.1.3(a) above and an amended version of Part A or B (as appropriate) of the Schedule to this Order to the Receiving Party.
- 5.1.4 Upon those steps being completed, the additional person becomes an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member (as applicable).
- 5.1.5 If an objection referred to in paragraph 5.1.2 above is received within the 3 working day period there referred to, the Proposing Party may apply to the Tribunal, provided prior written notice of such application is given to the Receiving Party, and the additional person will become an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member (as applicable) if the Tribunal so orders.
- 5.2 If a Party wishes to remove a person as an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member, that Party will notify the other Party and provide an amended version of Part A or B (as appropriate) of the Schedule

to this Order to the other Party. The Party must also comply with paragraph 8 including (subject to paragraphs 8.1 and 8.2) by notifying the person to be removed from the Inner Confidentiality Ring or Outer Confidentiality Ring that such person must immediately destroy or make inaccessible all Confidential Information in their possession. For the avoidance of any doubt, a Party may only remove a person whom it had (initially or by following the process in paragraph 5.1) proposed as an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member.

- 5.3 A record of the Inner Confidentiality Ring Members and Outer Confidentiality Ring Members shall be kept and updated by the Parties upon the addition or removal of such persons. Such record shall be provided to the Tribunal upon request by the Tribunal. For the avoidance of doubt, there shall be no requirement to amend this Order upon the addition or removal of Inner Confidentiality Ring Members or Outer Confidentiality Ring Members.

6. **DESIGNATION OF DOCUMENTS**

- 6.1 A Party providing a Document in connection with the Proceedings may designate that the Document is: (i) Inner Confidentiality Ring Information; (ii) Outer Confidentiality Ring Information; or (iii) not confidential.
- 6.2 A Document disclosed by the Defendants (including, for the avoidance of doubt, Documents disclosed by the Defendants in the Proceedings at any time prior to the date on which this Re-Amended Confidentiality Ring Order was made) from the Supplemental Australian Discovery or the U.S. Productions is automatically designated Outer Confidentiality Ring Information (an “*Automatically Confidential Document*”).
- 6.3 The Defendants will review any Automatically Confidential Documents for confidentiality to the extent that:
- 6.3.1 any party refers to that Automatically Confidential Document in a document filed with the Tribunal in the Proceedings (including a skeleton argument, witness statement or expert report);

- 6.3.2 the parties agree that an Automatically Confidential Document shall be included in any hearing bundle prepared in the Proceedings; or
 - 6.3.3 the Class Representative otherwise indicates to the Defendants in writing and in good faith that she may refer to such Automatically Confidential Document at a hearing in the Proceedings.
- 6.4 Following a manual review by the Defendants pursuant to paragraph 6.3, the Defendants shall inform the Class Representative in writing, no later than 5 working days after receipt of notice that the Automatically Confidential Documents will be relied upon in a manner set out in paragraphs 6.3.1 to 6.3.3 above (for the avoidance of doubt, receipt of a document filed in the Proceedings constitutes notice that documents referenced therein are to be introduced in the Proceedings in accordance with paragraph 6.3.1), whether they are:
 - 6.4.1 amending the designation of the Automatically Confidential Documents to not confidential; or
 - 6.4.2 maintaining the designations as Outer Confidentiality Ring Information. Should the Defendants maintain their designation of Outer Confidentiality Ring Information, then the Defendants shall highlight that Confidential Information and provide a non-confidential copy of that document/information with the Confidential Information redacted within 28 working days. Where the Defendants seek the Class Representative's agreement to further time beyond 28 working days, the Class Representative's agreement is not to be unreasonably withheld.
- 6.5 With the exception of an Automatically Confidential Document designated in accordance with paragraph 6.2 above, designation of a Document as Inner Confidentiality Ring Information or Outer Confidentiality Ring Information (including pursuant to paragraph 6.4 above) must be made in writing to the Party receiving the Document, must provide the basis for making such a designation in accordance with paragraph 7.35 of the Guide, and must comply with

paragraph 7.46 of the Guide.

- 6.6 A designation of not confidential means that the Document is not Confidential Information. For the avoidance of any doubt, in the event of a designation of not confidential, Rule 102 continues to apply (to the extent it would otherwise have applied).
- 6.7 With the exception of an Automatically Confidential Document, failure to provide a designation for a Document at the time the Document is provided shall be deemed to be a designation that the Document in question is not Confidential Information. A Party may alter the designation of a Document to correct any erroneous designation by notice in writing to the other Party that received such Document.
- 6.8 A Party receiving Documents in the Proceedings may request that the disclosing Party amend the designation of a Document that it has provided (including amendment to a designation of not confidential) as follows:
- 6.8.1 The requesting Party shall provide a written request to the disclosing Party specifying the following:
- (a) the relevant Document concerned;
 - (b) the designation the requesting Party considers to be appropriate; and
 - (c) why it is reasonable and necessary for the designation of the Document to be amended.
- 6.8.2 A disclosing Party may consent in writing to amend the designation of any Document, with such consent not to be unreasonably withheld and, in any event, any response must be provided within 7 working days of having received the written request referred to in paragraph 6.8.1.
- 6.8.3 Should the consent referred to in paragraph 6.8.2 not be obtained from the disclosing Party, the requesting Party may apply to the Tribunal for

an order pursuant to Rule 101(2) that the Confidential Information should be designated as either: (i) Inner Confidentiality Ring Information; (ii) Outer Confidentiality Ring Information; or (iii) not confidential (as the requesting Party deems appropriate), provided that prior written notice is given of that application to the other Party. In responding to such application a disclosing Party shall comply with Rule 101(1) and paragraphs 7.46 and 7.47 of the Guide. Save for where there are reasons to justify a hearing, applications under this paragraph are generally to be dealt with on paper by the Tribunal.

- 6.8.4 A Document designated Inner Confidentiality Ring Information or Outer Confidentiality Ring Information in respect of which an application referred to in paragraph 6.8.3 is made shall, until such time as the challenge is determined by the Tribunal, continue to have the designation of Inner Confidentiality Ring Information or Outer Confidentiality Ring Information (as applicable) given to it by the disclosing Party. But, where a challenge is being made to a Document designated not confidential, the Document shall, until such time as the challenge is determined by the Tribunal, be treated as Inner Confidentiality Ring Information or Outer Confidentiality Ring Information (as applicable based on the designation being sought by the challenging party).
- 6.8.5 A disclosing Party shall if directed by the Registrar provide a non-confidential version of the relevant Document(s) in accordance with Rule 101(1) and paragraphs 7.48 to 7.50 of the Guide.
- 6.8.6 Should the confidentiality of any Document added to the bundle during any hearing be in issue, a challenge will be dealt with in accordance with any directions the Tribunal may give.
- 6.8.7 The deadlines in paragraphs 6.4 and 6.8 may be extended by agreement between the challenging Party and disclosing Party. Consent to a request for an extension shall not be unreasonably withheld.

- 6.9 Each Party shall be responsible, in respect of any Document containing Confidential Information to be introduced at any hearing in the Proceedings, for labelling and highlighting any Confidential Information in the following ways:
- 6.9.1 Any bundle index will state which Documents are Confidential Information and identify the Party to which the Confidential Information relates.
 - 6.9.2 Any text and/or extract which contains Confidential Information will be highlighted.
 - 6.9.3 Each Party wishing to refer to Confidential Information shall indicate to the Tribunal that the Document contains Confidential Information prior to disclosing the content of the Confidential Information. Following such an indication to the Tribunal, the parties agree that Rule 99 shall apply.
- 6.10 When a document described at paragraphs 1.1.11(b)(ii) and (iv) and 1.1.13(b)(ii) and (iv) is received by a Party, the Parties will review that document for any Confidential Information, including within any document referenced therein. Should a party wish to designate any information within the document, or within documents referenced therein as Confidential Information, then that Party shall highlight that Confidential Information and provide a non-confidential copy of that document/information with the Confidential Information redacted within 28 working days. Where the Defendants seek the Class Representative's agreement to further time beyond 28 working days, the Class Representative's agreement is not to be unreasonably withheld. For the avoidance of doubt, this procedure applies to "Automatically Confidential Documents" as described in paragraph 6.2.

7. PROVISION OF CONFIDENTIAL INFORMATION TO PERSONS OUTSIDE THE RINGS

- 7.1 Nothing in this Order prevents a Party from sharing (or from consenting to the sharing of) Confidential Information provided by that Party in the

Proceedings.

7.2 A Party that receives Confidential Information in the Proceedings may request that:

7.2.1 certain Confidential Information is to be provided or made available to one or more persons who are neither Inner Confidentiality Ring Members nor Outer Confidentiality Ring Members; and/or

7.2.2 certain Inner Confidentiality Ring Information is to be provided or made available to one or more persons who are Outer Confidentiality Ring Members or who are neither Inner Confidentiality Ring Members nor Outer Confidentiality Ring Members.

7.3 If a Party wishes such Confidential Information to be provided or made available to such persons:

7.3.1 it shall notify and request the express written consent of the other Party, specifying the name and role of the proposed person(s), the specific Confidential Information that is to be provided or made available to such person(s) (by reference to the relevant Documents insofar as practicable) and provide an explanation of why it is reasonable and necessary for the Confidential Information to be provided or made available to such person(s);

7.3.2 following receipt of a notice pursuant to paragraph 7.3.1 above, the recipient of such notice shall not unreasonably withhold or delay their consent and if the recipient objects to the Confidential Information being provided or made available to the proposed person(s), they shall notify the requesting Party in writing within 10 working days of receipt of the notice that they so object, save that the requesting Party shall not unreasonably withhold consent to an extension of time for this purpose where it is reasonably required in view of the nature and/or number of Documents which are the subject of the request; and

7.3.3 if the recipient required to be provided with notice under paragraph 7.3.1 gives express consent or fails to give written notice of objection within the 10 working day period specified in paragraph 7.3.2 above (or within any extended time period the Parties have agreed):

- (a) the additional person will be required to give the written undertaking in the terms of Part C or D (as appropriate) of the Schedule to this Order, amended to list the specific Documents that are to be provided or made available to them;
- (b) the Party concerned will provide the written undertaking referred to in paragraph 7.3.3(a) above to the other Party; and
- (c) on the completion of those steps, the additional person may be provided with the Documents.

7.4 If any objection referred to in paragraph 7.3.2 above is received within the 10 working day period specified, the requesting Party may apply to the Tribunal for an order that the Confidential Information may be disclosed to the additional person(s), provided that prior written notice is given of such application to the other Party. The additional person may be provided with the Documents if the Tribunal so orders.

8. COPIES OF CONFIDENTIAL INFORMATION

8.1 Subject to the exceptions in paragraph 8.2 below, each Party must destroy copies of Confidential Information provided pursuant to this Order (in both hard and soft copy) or make them inaccessible at the conclusion of the Proceedings, or when that Party ceases to be involved in the Proceedings, and at such time that Party shall notify its Inner Confidentiality Ring Member(s) and Outer Confidentiality Ring Member(s) that they must destroy (insofar as technically feasible) or make inaccessible all Confidential Information in their possession. In such circumstances, each Party concerned shall notify the other Party within a reasonable time that the Confidential Information has been destroyed (insofar as technically feasible) or made inaccessible (as appropriate).

- 8.2 The obligation in paragraph 8.1 above is subject to the following exceptions:
- 8.2.1 Paragraph 8.1 does not apply to solicitors' or counsel's notes subject to continued compliance with all other Confidentiality Terms.
 - 8.2.2 Paragraph 8.1 does not create an obligation to search for transitory or deeply stored soft copies of Confidential Information which may exist on the computer system of the receiving Party and which cannot be recovered without special measures, provided that such Documents and/or information will be promptly deleted in the event of the restoration of such copies.
 - 8.2.3 Paragraph 8.1 does not apply to Parties' copies of pleadings, evidence, skeleton arguments, transcripts, applications, draft orders, correspondence referred to at trial or in a hearing or submitted in the Proceedings, as well as lawyer work product referring to Confidential Information, subject to continued compliance with the Confidentiality Terms in respect of the Confidential Information contained within such Documents.
 - 8.2.4 Paragraph 8.1 does not apply to a Party in respect of the Confidential Information it provided.
- 8.3 The production of copies of the Confidential Information shall be limited to those required by the Inner Confidentiality Ring Members or Outer Confidentiality Ring Members to whom they are disclosed.

9. DEFENDANTS' TRANSACTIONAL DATA

- 9.1 Should the Defendants disclose transactional data, which is data retrieved from a database reflecting transactions made through the App Store and other data linked to that transaction data ("the **Data**"), the following additional conditions will apply:
- 9.1.1 prior to the disclosure of the Data, the Defendants will inform the Class Representative that the Data to be disclosed is subject to the conditions

of this paragraph 9 and the Class Representative will confirm her agreement that this paragraph applies;

9.1.2 the Data will only be downloaded to, and stored on, secure local computers that are not remotely accessible, are protected by commercially reputable firewall software, and are kept in privately secured offices;

9.1.3 the Data and the secure local computers containing the Data will be in the custody of and accessible (only with password and/or biometric authentication) to only the specific consultants who will be performing data analysis in this case and have given a signed undertaking in the terms of Part C or D (as applicable) of the Schedule to this Order;

9.1.4 the Data will never be stored in or transmitted through a medium that involves a third-party possessing the Data (e.g., any type of remote or cloud storage). The Data will not be transferred to portable data storage or data transfer devices; and

9.1.5 within 30 days of the final disposition of the Proceedings, the Class Representative will ensure that any person or organization provided with the Data has destroyed the Data and any copies of the Data, and will notify the Defendants within a reasonable time that the Data has been destroyed.

10. DISCLOSURE OF CONFIDENTIAL INFORMATION

10.1 In the event of any disclosure of Confidential Information other than in a manner authorised by this Order, including any unintentional or inadvertent disclosure, solicitors for the improperly disclosing Party shall immediately notify the improper recipient(s) and the solicitors for the Party which provided the Confidential Information in the Proceedings, and the improperly disclosing Party shall use all reasonable endeavours to further prevent unauthorised disclosure including retrieving all copies of the Confidential Information from the improper recipient(s) thereof and seeking to secure the agreement of such

recipient(s) not to further disseminate the Confidential Information in any form.

- 10.2 Nothing in these Confidentiality Terms shall prevent or prohibit a receiving Party from taking any action (including in particular disclosing Confidential Information to a person who is not an Inner Confidentiality Ring Member or Outer Confidentiality Ring Member and/or referring to such Documents or information in open Tribunal) which has been authorised in writing by the Party which provided the Confidential Information.
- 10.3 If at any time any Confidential Information is made the subject of a court disclosure or discovery order (or similar) anywhere in the world, the person upon whom the order is served shall immediately give written notice to the solicitors of the Party which produced the Confidential Information. If the Party which provided the Confidential Information in the Proceedings does not take steps to prevent the further disclosure of such Confidential Information within 10 working days of the date on which such written notice was given, the Party against whom the order was made may produce such Confidential Information but shall take all reasonable measures to have the Confidential Information treated in accordance with the Confidentiality Terms. For the avoidance of doubt, this paragraph only applies to a Party who is the recipient of Confidential Information provided in the Proceedings and does not apply to the Party which provides the Confidential Information in the Proceedings.

11. ENFORCEMENT OF THE ORDER, LIBERTY TO APPLY AND COSTS

- 11.1 The Confidentiality Terms are intended to apply unless or until superseded by a subsequent order of the Tribunal.
- 11.2 In the event of any anticipated or actual breach of this Order, any Party may seek to enforce the Confidentiality Terms.
- 11.3 This Order and any Undertakings given in relation to it are governed by and shall be construed in accordance with English law and each Party hereby irrevocably submits to the exclusive jurisdiction of the Courts of England and Wales.

11.4 Nothing in this Order or the Schedules to this Order shall prevent or prohibit any Inner Confidentiality Ring Member or Outer Confidentiality Ring Member (as may be extended from time to time) from acting in other proceedings.

11.5 The costs of compliance with and of drafting this Order shall be costs in the case in the Proceedings.

11.6 There shall be liberty to apply to vary the terms of this Order.

12. **NOTICES**

12.1 Any notice, consent or objection to be given under or in connection with this Order (each a “*Notice*” for the purposes of this paragraph) shall be in writing.

12.2 Service of a Notice must be effected by email.

12.3 Notices shall be addressed as follows:

12.3.1 Notices for the Class Representative shall be marked for the attention of Hausfeld & Co LLP and sent to:

Email address: lstreatfeild@hausfeld.com

lhannah@hausfeld.com

sedwards@hausfeld.com

kgwilliam@hausfeld.com

astellardi@hausfeld.com

Reference: L0358.0003

12.3.2 Notices for the Defendants shall be marked for the attention of Gibson Dunn & Crutcher UK LLP and sent to:

Email address: KentProceedingsTeam@gibsondunn.com

Reference: 03290-00154

Ben Tidswell
Chair of the Competition Appeal Tribunal

Made: 23 October 2024
Drawn: 23 October 2024

SCHEDULE

PART A: Inner Confidentiality Ring Members

Class Representative

[Not yet used]

Defendants

[Not yet used]

PART B: Outer Confidentiality Ring Members

Updated on 13 September 2024

Class Representative

The Class Representative

Dr Rachael Kent

Counsel

Mark Hoskins QC
Jennifer MacLeod
Matthew Kennedy
Mohammud Jaamae Hafeez-Baig
Joshua Pemberton
Sarah Bousfield
(all of Brick Court Chambers)

Ronit Kreisberger QC
Michael Armitage
Antonia Fitzpatrick
Tim Ward KC
(all of Monckton Chambers)

George McDonald
Ben Smiley
(of 4 New Square)

Tristan Jones
(of Blackstone Chambers)

Solicitors (Hausfeld & Co. LLP)

Lesley Hannah

Aqeel Kadri
Sofie Edwards
Kio Gwilliam
Robert Schultz
Hannah McEwen
Ji Yeon (Jenny) Ha
Sara Berger
Jake Henderson
Natalie Jukes
Emma Poland
Abigail Masters
Michael Zymler
Jonathan Amior
Kazi Elias
Luise Luetcke

Paralegals (Hausfeld & Co. LLP)

Oliver Flood
Marija Kazlauskaitė
Isabella Aquilini
Caspar Pourandi
Abimbola Oladele-Abidakun

External economists

Derek Holt
Charlie Xie
Mat Hughes
Nima Moshgbar
Guillaume Aimard
Paula Marco
Philip Tucker
Michael Davis
Louis Dudney
Robert Horn
Pablo Florian
Alexandre Carbonnel
Darrell Lim
Yidan Xu
Yasushi Kudo
Emiliano Rinaldi
Benjamin Forbes
Ruby Bloom
Rebecca Carfi
(all of AlixPartners UK LLP)

Dr Jeffrey Leitzinger
Hal Singer
Ramji Tamarappoo
Augustus Urschel
Aniruddh Dutta
Kavya Kalia
Logan Summerlin
Mark Pulliman
Madeleine Bowe
Jacob Linger
Chris Sojourner
Kathryn Kaduck
Gavin Sicard
Andrew Vandenbussche
(all of EconOne)

Wenke Lee
(of the Georgia Institute of Technology)

Francesco Burelli
Julius Fehr
Patricia Pohl
Torben Lötje

(of Arkwright Consulting AG)

David Howell
(of Avatron LLC)

Defendants

The Defendants

Andrew Farthing

Jonathan Heath

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PART C

UNDERTAKING (TO BE PROVIDED BY INNER CONFIDENTIALITY RING MEMBERS)

In respect of any Confidential Information disclosed to them pursuant to this Order, each Inner Confidentiality Ring Member undertakes that they will comply with the following requirements, to the extent applicable to them, in the terms below. The defined terms in this Order are used in this Part C.

I, [name], of [company] being [legal or other qualification or position] undertake to the Tribunal and to the Parties as follows:

1. I have read a copy of the Tribunal's Order of 23 October 2024 and understand the terms of that Order and the implications of giving this undertaking.
2. I have read Rules 101, 102 and Civil Procedure Rules rule 31.22 and am aware of and will comply with the obligations imposed by those provisions.
3. I will treat all Confidential Information made available to me for the purpose of the Proceedings as secret and confidential.
4. Except as expressly contemplated by the Confidentiality Terms, I will not disclose, refer, use, copy, reproduce or otherwise distribute or disseminate Inner Confidentiality Ring Information to any person who is not an Inner Confidentiality Ring Member, including by reading it out in open proceedings (except to the extent that I am aware of the same information from another document that does not constitute "Confidential Information" and that was not obtained in breach of this undertaking or of the Tribunal's Order).
5. Except as expressly contemplated by the Confidentiality Terms, I will not disclose, refer, use, copy, reproduce or otherwise distribute or disseminate Outer Confidentiality Ring Information to any person who is not an Outer Confidentiality Ring Member, including by reading it out in open proceedings (except to the extent that I am aware of the same information from another document that does not constitute "Confidential Information" and that was not obtained in breach of this undertaking or of the Tribunal's Order).

6. I will use the Confidential Information only for the purpose of the Proceedings and for the purpose of no other current or future proceedings or proposed proceedings, dispute, complaint, or other use whatsoever in any jurisdiction (except to the extent that I am aware of the same information from another document that does not constitute “Confidential Information” and that was not obtained in breach of this undertaking or of the Tribunal’s Order).
7. The Documents containing any Inner Confidentiality Ring Information will remain in my custody or the custody of another Inner Confidentiality Ring Member at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
8. The Documents containing any Outer Confidentiality Ring Information will remain in my custody or the custody of another Outer Confidentiality Ring Member at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
9. The production of further copies by me of the Documents containing Inner Confidentiality Ring Information shall be limited to those reasonably required for the use of the Inner Confidentiality Ring Members for the purposes of the Proceedings only and such copies shall be held in accordance with paragraphs 3 to 8 of this undertaking.
10. The production of further copies by me of the Documents containing Outer Confidentiality Ring Information shall be limited to those reasonably required for the use of the Outer Confidentiality Ring Members for the purposes of the Proceedings only and such copies shall be held in accordance with paragraphs 3 to 8 of this undertaking.
11. Subject to the exceptions in paragraph 8.2 of the Order, and to the extent permitted by law, any and all copies of Confidential Information which are within my control will be securely disposed or rendered inaccessible from any computer systems, disk or device, so that the Confidential Information is not readily available to any person at the conclusion of the Proceedings or upon receiving a notice in accordance with paragraph 8.1 of this Order.

12. I will continue to comply with these undertakings after the conclusion of the Proceedings, in respect of any Confidential Information that I do not destroy and continue to hold.
13. Nothing in these undertakings shall prevent or prohibit the owner of the Confidential Information from taking any action in relation to that information, which they would otherwise be entitled to take.
14. Nothing in these undertakings shall prevent or prohibit me from taking any action that is permitted in this Order, or has been authorised in writing by the relevant disclosing Party, or subject to the conditions in paragraph 10.3 of the Order that I am required to take by applicable law or by a court of competent jurisdiction.

Signed:

Name:

Date:

PART D

UNDERTAKING (TO BE PROVIDED BY OUTER CONFIDENTIALITY RING MEMBERS)

In respect of any Confidential Information disclosed to them pursuant to this Order, each Outer Confidentiality Ring Member undertakes that they will comply with the following requirements, to the extent applicable to them, in the terms below. The defined terms in this Order are used in this Part D.

I, **[name]**, of **[company]** being **[legal or other qualification or position]** undertake to the Tribunal and each of the Parties as follows:

1. I have read a copy of the Tribunal's Order of 23 October 2024 and understand the terms of that Order and the implications of giving this undertaking.
2. I have read Rules 101 and 102 and Civil Procedure Rules rule 31.22 and am aware of and will comply with the obligations imposed by those provisions.
3. I will treat all Confidential Information made available to me for the purpose of the Proceedings as secret and confidential.
4. Except as expressly contemplated by the Confidentiality Terms, I will not disclose, refer, use, copy, reproduce or otherwise distribute or disseminate Outer Confidentiality Ring Information to any person who is not an Outer Confidentiality Ring Member, including by reading it out in open proceedings (except to the extent that I am aware of the same information from another document that does not constitute "Confidential Information" and that was not obtained in breach of this undertaking or of the Tribunal's Order).
5. I will use the Outer Confidentiality Ring Information only for the purpose of the Proceedings and for the purpose of no other current or future proceedings or proposed proceedings, dispute, complaint, or other use whatsoever in any jurisdiction (except to the extent that I am aware of the same information from another document that does not constitute "Confidential Information" and that was not obtained in breach of this undertaking or of the Tribunal's Order).
6. The Documents containing any Outer Confidentiality Ring Information will remain in

my custody or the custody of another Outer Confidentiality Ring Member at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.

7. The production of further copies by me of the Documents containing Outer Confidentiality Ring Information shall be limited to those reasonably required for the use of the Outer Confidentiality Ring Members for the purposes of the Proceedings only and shall be held in accordance with paragraphs 3 to 6 of this undertaking.
8. Subject to the exceptions in paragraph 8.2 of the Order, and to the extent permitted by law, any and all copies of Confidential Information which are within my control will be securely disposed of or rendered inaccessible from any computer systems, disk or device, so that the Confidential Information is not readily available to any person at the conclusion of the Proceedings or upon receiving a notice in accordance with paragraph 8.1 of this Order.
9. I will continue to comply with these undertakings after the conclusion of the Proceedings, in respect of any Confidential Information that I do not destroy and continue to hold.
10. Nothing in these undertakings shall prevent or prohibit the owner of the Confidential Information from taking any action in relation to that information, which they would otherwise be entitled to take.
11. Nothing in these undertakings shall prevent or prohibit me from taking any action that is permitted in this Order, or has been authorised in writing by the relevant disclosing Party, or subject to the conditions in paragraph 10.3 of the Order that I am required to take by applicable law or by a court of competent jurisdiction.

Signed:

Name:

Date: