Neutral citation [2025] CAT 26

Case No: 1749/7/7/25

IN THE COMPETITION APPEAL TRIBUNAL

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

24 March 2026

Before:

SIR PETER ROTH
(Chair)
CHARLES BANKES
KEITH DERBYSHIRE

Sitting as a Tribunal in England and Wales

BETWEEN:

THE ASSOCIATION OF CONSUMER SUPPORT ORGANISATIONS LIMITED

Proposed Class Representative/Respondent

- v -

(1) AMAZON.COM, INC.
(2) AMAZON EUROPE CORE S.À.R.L.
(3) AMAZON EU SÀ.R.L.
(4) AMAZON UK SERVICES LTD
(5) AMAZON PAYMENTS UK LIMITED

Proposed Defendants/Applicants

Heard at Salisbury Square House on 12 February 2026

JUDGMENT (STRIKE OUT)

APPEARANCES

Ben Lask KC, Luke Kelly and Jenn Lawrence (instructed by Stephenson Harwood LLP) appeared on behalf of the Proposed Class Representative/Respondent.

Daniel Piccinin KC and Kristina Lukacova (instructed by Covington & Burling LLP) appeared on behalf of the Proposed Defendants/Applicants.

A. INTRODUCTION

1. By a judgment issued on 24 July 2025, the Tribunal granted two applications for a collective proceedings order (**CPO**) under s. 47B of the Competition Act 1998 (the **CA 1998**) on an opt-out basis for two actions commenced against various companies in the Amazon group (collectively, **Amazon**): [2025] CAT 42, [2025] Bus LR 2281 (the **CPO Judgment**). One of those two actions is brought by Mr Robert Hammond on behalf of a class of consumers (the **Hammond Action**). The other action is brought by Prof Andreas Stephan on behalf of a class of retailers or "merchants" (the **Stephan Action**). Both actions allege that Amazon abused a dominant position contrary to the Chapter II prohibition under the CA 1998 and (prior to 31 December 2020), Art 102 of the Treaty on the Functioning of the European Union (**TFEU**).

2. On 14 August 2025, the Association of Consumer Support Organisations Ltd (**ACSO**) commenced proceedings as the proposed class representative seeking to bring opt-out collective proceedings against Amazon. As in the Hammond Action, the proposed class in the ACSO proceedings comprises consumers. However, the infringement of competition law alleged by ACSO is different from the alleged infringements set out in the Hammond Action, and it is said to constitute both an abuse of a dominant position and/or to comprise anti-competitive agreements between Amazon and merchants contrary to the Chapter I prohibition under the CA 1998 and (prior to 31 December 2020), Art 101 TFEU.

3. By an application dated 12 January 2026 (the **Application**), Amazon applied to strike out the ACSO proceedings as an abuse of process. At the conclusion of the oral argument on 12 February 2026, we refused the Application with reasons to follow in writing. This judgment sets out our reasons for that decision.

4. We further held that Amazon should pay ACSO's costs of resisting the Application, those costs to be summarily assessed if not agreed. The parties have failed to agree on the recoverable costs, and have addressed this matter in

brief written submissions made to the Tribunal following the hearing. We deal with the costs in the final section of this judgment.

B. BACKGROUND

5. As is well-known, Amazon operates in various countries and regions around the world an electronic retail platform through which consumers (and other purchasers) can buy a very wide range of products sold by a wide range of merchants. In addition, Amazon itself acts as the retailer selling many products on its platform, and that aspect of its business is referred to as "Amazon Retail." Therefore, as well as supplying merchants with listing and payment services, Amazon, through Amazon Retail, competes with many of those merchants in the sale of many products.

6. The Amazon website operated in the UK, Amazon.co.uk, and its related app. are together referred to as the "UK Amazon Marketplace".

7. A series of practices engaged in by Amazon have been investigated by a number of competition authorities. At EU level and in the UK, those investigations resulted in decisions incorporating commitments by Amazon to change its practices, without any finding of infringement. There is a decision finding infringement by the Italian national competition authority, which decision has been upheld on appeal (save for a reduction in the penalty). Further, there are ongoing proceedings against Amazon in the United States brought by the Federal Trade Commission (the **FTC proceedings**). A summary of these decisions and the FTC proceedings is set out in the CPO Judgment.

8. The Stephan Action alleges five forms of abuse by Amazon. The fifth of those abuses (**Stephan Abuse 5**), referred to as "anti-discounting practices", alleges that Amazon places sanctions on merchants who sell their products elsewhere at lower prices than they charge on the Amazon UK Marketplace, or at least that its published policy and guidance make merchants aware that it may do so. This is alleged to have the effect of, inter alia, dampening competition in e-commerce marketplace services, resulting in an increase in e-commerce marketplace fees charged to merchants on the UK Amazon Marketplace. However, Prof Stephan

recognises, in the report of his expert, Dr Houpis, that some of the increased costs suffered by merchants as a result of the abuse may well have been passed on to their customers in the form of higher prices.

9. As mentioned above, the Hammond Action is brought on behalf of a class of consumers. The class is defined as:

> "All natural consumers who purchased at least one product from Amazon's UK based e-commerce marketplace at Amazon.co.uk between at least 1 October 2015 and 7 June 2023 (the ''Relevant Period''), including the personal representatives or administrators (where appointed) of such purchasers who are deceased at the date of the granting of the CPO."

10. The abuses alleged in the Hammond Action overlap in many respects with those alleged in the Stephan Action, as set out in the CPO Judgment; but the Hammond Action does not include an allegation corresponding to Stephan Abuse 5.

11. The ACSO proceedings are based on what ACSO calls Amazon's "price parity policies" which are alleged to apply to merchants selling on the UK Amazon Marketplace and "prevent or strongly discourage" merchants from offering lower prices for their products on other e-commerce platforms, thereby reducing competition between online marketplaces. ACSO alleges that, as a result, Amazon was able to charge merchants higher marketplace fees, which were passed on to consumers in the form of higher prices. The class on behalf of which ACSO seeks to pursue the proceedings is defined in its Claim Form as:

> "All natural persons aged 18 or over (and/ or the estates of deceased natural persons who were 18 or over at the time of the death), other than Excluded Persons, who purchased at least one product from a third-party seller on Amazon's UK based e-commerce platform at Amazon.co.uk within the Relevant Period."

The "Relevant Period" is defined as the six years prior to the issue of the claim form on 14 August 2025 (or five years insofar as claims are governed by Scots law). However, ACSO reserves the right to apply to admit claims that do not exist at the date of the Claim Form but which have arisen by the date of any such application: Claim Form, para 33.3.

12. As the ACSO claim form acknowledges, ACSO's allegations concerning Amazon's alleged price parity policies overlap with Stephan Abuse 5. Indeed, it seems to us that the allegations are substantially the same, and the only real difference is in the time period covered.

C. LEGAL FRAMEWORK

13. The legal principles governing a strike out application were not in dispute. In *Tinkler v Ferguson* [2021] EWCA Civ 18, [2021] 4 WLR 27, Peter Jackson LJ (with whose judgment Dingemans LJ and Sir Richard McCombe agreed) stated at [28]:

> "The court has the inherent power to prevent misuse of its procedure where the process would be manifestly unfair to a party to litigation before it, or would otherwise bring the administration of justice into disrepute among right-thinking people: *Hunter v. Chief Constable of the West Midlands Police* [1982] AC 529 per Lord Diplock at 536."

14. Peter Jackson LJ proceeded to quote the convenient summary of the governing principles set out by Simon LJ in *Michael Wilson & Partners Ltd v Sinclair* [2017] EWCA Civ 3, [2017] 1 WLR 2646 at [48]:

> "(1) In cases where there is no res judicata or issue estoppel, the power to strike out a claim for abuse of process is founded on two interests: the private interest of a party not to be vexed twice for the same reason and the public interest of the state in not having issues repeatedly litigated; see Lord Diplock in *Hunter's* case [1982] AC 529, Lord Hoffmann in the *Arthur J S Hall* case [2002] 1 AC 615 and Lord Bingham in *Johnson v Gore Wood & Co* [2002] 2 AC 1. These interests reflect unfairness to a party on the one hand, and the risk of the administration of public justice being brought into disrepute on the other, see again Lord Diplock in *Hunter's* case. Both or either interest may be engaged.
>
> (2) An abuse may occur where it is sought to bring new proceedings in relation to issues that have been decided in prior proceedings. However, there is no prima facie assumption that such proceedings amount to an abuse: see *Bragg v Oceanus* [1982] 2 Lloyd's Rep 132; and the court's power is only used where justice and public policy demand it, see Lord Hoffmann in the *Arthur J S Hall* case.
>
> (3) To determine whether proceedings are abusive the court must engage in a close merits based analysis of the facts. This will take into account the private and public interests involved, and will focus on the crucial question: whether in all the circumstances a party is abusing or misusing the court's process, see Lord Bingham in *Johnson v Gore Wood & Co* and Buxton LJ in *Laing v Taylor Walton* [2008] PNLR 11.

> (4) In carrying out this analysis, it will be necessary to have in mind that: (a) the fact that the parties may not have been the same in the two proceedings is not dispositive, since the circumstances may be such as to bring the case within the spirit of the rules, see Lord Hoffmann in the *Arthur J S Hall* case; thus (b) it may be an abuse of process, where the parties in the later civil proceedings were neither parties nor their privies in the earlier proceedings, if it would be manifestly unfair to a party in the later proceedings that the same issues should be relitigated, see Sir Andrew Morritt V-C in the *Bairstow* case [2004] Ch 1; or, as Lord Hobhouse put it in the *Arthur J S Hall* case, if there is an element of vexation in the use of litigation for an improper purpose.
>
> (5) It will be a rare case where the litigation of an issue which has not previously been decided between the same parties or their privies will amount to an abuse of process, see Lord Hobhouse in *In re Norris*".

And Peter Jackson LJ added, at [31]-[32]:

> "The circumstances in which abuse of process can arise are very varied and are not limited to fixed categories: *Hunter* at 536. Examples can be found in: vexatious proceedings amounting to harassment; attempts to re-litigate issues that were raised in previous proceedings; attempts to litigate issues that should have been raised in previous proceedings (*Henderson v Henderson* (1843) 3 Hare 100); collateral attacks upon earlier decisions (attacks made in new proceedings rather than by way of appeal in the earlier proceedings); pointless and wasteful litigation (*Jameel*).
>
> Nor is there any hard and fast rule to determine whether abuse is found or not; the process is not dogmatic, formulaic or mechanical, but requires the court to weigh the overall balance of justice: *Johnson* at 31, 32 and 34. Indeed, the overriding objective of the procedural rules is to enable the court to deal with cases justly …."

15. Amazon referred also to the recent judgment of the Supreme Court in *Evans v Barclays Bank Plc* [2025] UKSC 48, [2026] Bus LR 328. As Mr Lask KC, appearing for ACSO, pointed out, that case did not concern abuse of process. However, as we understood it, Mr Piccinin KC for Amazon relied on it for the context in which he stressed the Application should be considered. The Supreme Court there made clear that there was no unfettered right to bring collective proceedings on the basis of securing 'access to justice': see in particular at [137] and [140].

D. AMAZON'S SUBMISSIONS

16. Mr Piccinin readily acknowledged that the grounds relied on by Amazon do not fall within any of the established heads of abuse, but stressed that the categories of abuse are not closed and that the collective proceedings regime is still

relatively new. He relied on the general principles underlying abuse of process and submitted that this case fell within both limbs of the test summarised in *Tinkler*: it would be manifestly unfair to Amazon; and it would bring the administration of justice into disrepute.

17. Mr Piccinin stressed that the situation here was not analogous to a single claimant filing two successive claim forms. In those circumstances, the actions could be consolidated or at least case managed together with no increase in costs. Here, the class of consumers had a representative bringing proceedings on their behalf: the Hammond Action, where Mr Hammond has been authorised by the Tribunal to act as representative of that class. As a result, he has to take all kinds of strategic decisions for the class. Mr Piccinin noted that Mr Hammond could have included the price parity allegation in his proceedings but evidently he had decided not to take that course. It would be wrong in principle to allow the same class to have a second, independent representative bringing this allegation by way of a separate action. That would result in having two "competing" class representatives making decisions about what to say and how to run their case for the same represented class. Moreover, if the actions were successful, the consequence would be two representatives arguing to maximise "their" share of the aggregate damages on behalf of the same class. Mr Piccinin said that from the standpoint of the class and the administration of justice, this would bring the process into disrepute.

18. Moreover, Amazon argued that the ACSO proceedings would place a significant additional burden on Amazon and on the Tribunal. Mr Piccinin pointed to ACSO's litigation budget as illustrating the scale of expenditure associated with pursuing a separate certification application. Allowing ACSO to proceed would, he argued, require Amazon to duplicate substantial amounts of work already undertaken in the Hammond proceedings, including preparing an additional defence, evidence and submissions, and would likewise require the Tribunal to devote significant further time and resources. That would inevitably affect other Tribunal users and would appear to the public as wasteful, creating the impression that funders, lawyers and experts were profiting from unnecessary parallel proceedings.

E. DISCUSSION

19. Although Amazon states that it did not operate any price parity policy, it does not seek to strike out the ACSO proceedings on the basis that they do not raise an arguable case. As well as Stephan Abuse 5, we note that allegations concerning a price parity policy are also being advanced against Amazon in the FTC Proceedings.

20. If the Stephan Action should succeed on Stephan Abuse 5 then, as noted above, the resulting damages are likely to allow for a pass-on by merchants of part of the increased costs to consumers. Therefore, consumers would also have suffered a loss. If the action brought by ACSO proceeds, that would enable recovery of this loss for the consumer class, since as we have observed the substantive case advanced by ACSO is much the same. Conversely, if the ACSO proceedings were struck out, then consumers would not recover, and the result, as Mr Lask put it, would be a pure windfall for Amazon. We do not consider that the former outcome would bring the administration of justice into disrepute. On the contrary, where there is a proposed class representative ready and able, through appropriate litigation funding, to bring such a claim for the consumer class, preventing it from doing so although the Tribunal may find in existing proceedings that consumers suffered a loss, would, in our view, bring the administration of justice into disrepute. Indeed, absent the ACSO proceedings, Amazon would have the incentive to argue in the Stephan Action for a high degree of pass-on to consumers in relation to Abuse 5, since those consumers were making no claim.

21. Mr Piccinin accepted that Mr Hammond could apply to amend his claim form to add a claim based on a price parity policy or anti-discounting practice. Subject to any question of limitation, there could be no objection to his doing so in proceedings that were only just getting under way. But when Mr Hammond has chosen, for whatever reason, not to take this step, we do not regard it as an abuse for another class representative to come forward to pursue that claim, albeit for largely the same class. To decide otherwise would be to subordinate the interests of the class to the inclination or decision of Mr Hammond notwithstanding that there was a realistic and practical alternative.

22. Moreover, as Mr Lask pointed out, the class in the Hammond Action does not fully overlap with the class in the ACSO proceedings. The Hammond Action does not cover consumers who first made a purchase on the Amazon UK Marketplace after June 2023, whereas the ACSO class extends to 14 August 2025, and potentially further: see para 11 above. Given the wide use of the Amazon UK Marketplace by the UK population, there will be large number of individuals who started purchasing on Amazon in that additional two-year period, and who are therefore in the ACSO class but not the Hammond class. If the ACSO proceedings were struck out, they would be left with no claim at all.

23. Where a claimant had pursued a first case through to trial, and then sought to commence a further set of proceedings raising allegations which had been, or could have been, advanced in the first proceedings, the courts have held that this may well be an abuse, but even then, this is not invariably the case: see *Tinkler* at [44(2)]. Here, the position is of course fundamentally different: a defendant is not being 'vexed twice' by successive proceedings; and there is no threat to the finality of litigation.

24. Collective proceedings, especially opt-out collective proceedings, are fundamentally different from ordinary civil proceedings brought by a named claimant or claimants. In an ordinary civil case, the claimant decides, no doubt on the basis of legal advice, what claims they wish to advance and what costs risks to take. In opt-out collective proceedings, the class representative does not have instructions from the claimants; and while the class representative has to act in the best interests of the class, virtually all collective proceedings are dependent upon third-party funding: one funder may be prepared to fund a claim which another funder is unwilling to support. The statutory regime for collective proceedings enables large groups of consumers or (generally) small businesses, that do not themselves direct the litigation, to recover for broad competitive harm. In those circumstances, the distinct procedural framework gives the Tribunal flexible case management powers to safeguard the conduct of those proceedings.

25. Nonetheless, we fully accept that collective proceedings must not become oppressive to defendants. We recognise that having a second set of proceedings

on behalf of the consumer class may add to Amazon's costs, but in our view that in itself is not determinative. The solution lies in tight case management and trying the common issues together. As we explained, there is material overlap as between the ACSO proceedings and Stephan Abuse 5, but as the classes are very different as between the two actions that could not be a basis for striking out. There are also overlaps between the allegations in the Hammond Action and the Stephan Action. As we made clear in the CPO Judgment, in that situation we expect the two classes to rely in that respect on a single expert: see at [134].

26. As between the Hammond Action and the ACSO proceedings, there is significant overlap as between the two consumer classes. On issues on which their interests are aligned, we would similarly expect that they should rely on a single expert, and moreover, that their lawyers can be directed to cooperate so as to reduce costs (e.g. as regards correspondence with Amazon's lawyers). That is important not only to protect Amazon from incurring substantially increased legal fees but also to avoid duplicative expenditure for the class, since if the claims should succeed then reimbursement of expenditure over the amount of recoverable legal costs is likely to be sought out of the damages or amount of a settlement. And it is important also for the effective and efficient conduct of proceedings before the Tribunal. These are all matters to be considered as part of case management if and when the ACSO proceedings are certified.

27. We accept that there is potentially some tension between the strategies adopted in litigation by two distinct class representatives. However, both owe quasi-fiduciary duties to their respective classes, and we consider that it is reasonable to expect that they should be able to cooperate in the interests of those they are representing. We reject the hypothetical spectre raised by Mr Piccinin of argument between the two class representatives over the causative attribution of damages as a basis for striking out. In any event, since all the allegations of abuse are effectively advanced in the Stephan Action, the Tribunal may well have to distinguish the causative effect of the different abuses, for example when addressing the potentially different rates of pass-on.

28. However, there is no essential unfairness to Amazon if allegations which can properly (i.e. arguably) be made against it of anti-competitive conduct causing damage to a large class of consumers are allowed to go forward to trial, just because those allegations are advanced by different class representatives. Indeed, if, say, 500 consumers together brought a direct action against Amazon raising the allegations made in the Hammond Action, and a different group of 500 consumers together brought a direct action against Amazon raising the allegations made in the ACSO proceedings, there would be strong grounds for managing the two actions together, but no basis for striking out the second action as an abuse.

29. In *Orji v Nagra* [2023] EWCA Civ 1289, an appeal against a decision to strike out as an abuse of process, Coulson LJ (in a judgment with which Stuart-Smith and Nugee LJJ agreed), said at [58]:

> "Striking out a claim is a draconian remedy. Even in a case where abuse may be made out, it does not necessarily follow that the claim should be struck out: *Biguzzi v Rank Leisure PLC* [1999] 1 WLR 1926 and *Walsham Chalet Park Ltd v Tallington Lakes Ltd* [2014] EWCA Civ 1607. The remedy of striking out must be proportionate in all the circumstances. There are obviously numerous alternative remedies, so the striking out of a valid claim should always be the last option."

30. In our judgment, on a "merits based analysis" Amazon has failed to establish a case of abuse here. But in any event, effective case management provides the alternative and more proportionate means to address its concerns, insofar as they are valid. We indeed addressed some of those means at the CMC after announcing our decision to reject the Application.

F. COSTS

31. ACSO has submitted a costs schedule showing its costs referable to the strike-out application as £121,524.74 plus VAT of £24,304.95 on counsel and solicitors' fees and other expenses. ACSO's solicitors have confirmed in response to Amazon's query that they are advised that ACSO cannot deduct the VAT. Since the CMC on 12 February 2026 covered also other matters, ACSO's solicitors state that their statement of costs is limited to those costs incurred in

responding to the Application, and on that basis include only half of the total costs of preparing the authorities bundle and half of counsel's fees for the CMC.

32. Amazon, by its written response, has challenged this total as unreasonable and disproportionate.

33. We recognise that the Application was of major significance for ACSO; indeed, it was critical to the future of the proceedings. That can justify thorough work of preparation. Nonetheless, it is a matter for which ACSO's skeleton argument related to the Application was no more than 12 pages, and where the oral argument took half a day. We agree with Amazon that costs of over £120,000 are unreasonable and disproportionate for this purpose.

34. The explanation for the very high level of costs, in our view, is that:

    (1) the hourly rates charged for solicitors are very significantly (c. 72-87%)[1] above the Guideline Rates for "very heavy commercial and corporate work by centrally based London firms" that were increased with effect from 1 January 2026;

    (2) attendance at the hearing was by two partners, one senior associate, one junior associate and a trainee;

    (3) two partners and a senior associate between them spent almost 13 hours "commenting on ACSO's draft skeleton argument" and "[r]eviewing the Defendants' skeleton argument", although ACSO's skeleton argument was drafted by leading and junior counsel; and

    (4) three counsel were instructed to resist the Application for which their combined fee (being half their total fees for the CMC) were £69,642.86.

35. As the Tribunal has repeatedly observed, parties are entitled to spend as much as they like on legal fees, but that does not make them reasonable so as to be

[1] Save for the trainee rate, which is 57% higher.

recoverable from the other side: see now the observations of the Court of Appeal in *Re Petrofac Ltd (Costs)* [2025] EWCA Civ 1106 at [25]-[31].

36. In *Merricks v Mastercard* [2023] CAT 53, the Tribunal acknowledged that some uplift over the Guideline Rates could be justified in a complex competition case. The issues on the Application were not complex but we recognise that solicitors will normally charge the same rate for all their work on a case, and ACSO's underlying case can fairly be described as complex. We will therefore apply the same uplift of 30% as in the *Merricks* case. We note that the Tribunal took a similar approach in *Riefa v Apple Inc and ors (Costs)* [2025] CAT 34, as regards the defendants' costs, which included the costs of Amazon as a defendant in that case (where Amazon was represented by different solicitors): see at [28]-[29].

37. For the purpose of summary assessment, we have accordingly:

    (1) substituted 2026 Guideline rates + 30% for the rates shown in the costs schedule;

    (2) excluded costs of attendance of the more senior partner and the junior associate at the hearing;

    (3) halved the time referable to the work of the two partners and senior associate under item (3) of solicitors' work on documents, which covers work on the skeleton arguments; and

    (4) excluded the costs of the senior junior for attendance at the hearing and reduced the recoverable combined brief fee of senior and junior counsel to £30,000 which we consider is the most that is reasonable for this Application.

38. This produces a figure of £62,552,[2] which with VAT on the solicitors and counsel fees of £12,511, leads to a total of £75,062. We summarily assess ACSO's costs in that amount.

39. Since ACSO had failed to serve a schedule of costs before the hearing, we were unable to deal with summary assessment immediately in the usual way. We therefore ordered ACSO to produce a costs schedule and to pay Amazon's reasonable costs of any submissions in response to that schedule, since those would have been avoided if the costs could have been dealt with at the hearing. Amazon has in consequence served its own brief schedule of costs for that work, showing total costs of £8,120. Remarkably, although Amazon took issue with the level of solicitors' costs in ACSO's schedule on the basis that ACSO's solicitors were charging very significantly above the Guideline Rates (and revised ACSO's figures to reflect the Guideline Rates), Amazon's own schedule, on the basis of which it asks for costs, similarly sets out solicitors' fees at levels very significantly above the Guideline Rates. We have to say that for the exercise of commenting on a costs schedule, we do not see any special reason justifying rates higher than the Guideline Rates; this exercise is not comparable to work related to the substantive case. On that basis, we summarily assess Amazon's reasonable costs of responding to ACSO's costs schedule at £5,285.

40. Accordingly, Amazon is to pay ACSO the sum of £69,777. (i.e. £75,062 - £5,285), such sum to be paid within 14 days of the date of this judgment.

41. This judgment is unanimous.

[2] i.e. solicitors fees of £29,983; counsel's fees of £31,069, and the costs lawyer fees of £1,500.

Sir Peter Roth
Chair

Charles Bankes

Keith Derbyshire

Charles Dhanowa C.B.E., K.C. (*Hon*)
Registrar

Date: 24 March 2026