



Neutral citation [2026] CAT 33

Case No: 1634/7/7/24

IN THE COMPETITION APPEAL TRIBUNAL

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

21 April 2026

Before:

JUSTIN TURNER KC
(Chair)

Sitting as a Tribunal in England and Wales

BETWEEN:

MR DAVID ALEXANDER DE HORNE ROWNTREE

Proposed Class Representative

- and -

**(1) PERFORMING RIGHT SOCIETY LIMITED
(2) PRS FOR MUSIC LIMITED**

Proposed Defendants

- and -

LCM FUNDING UK LIMITED

Proposed Third Party for the Purposes of Costs

Heard at Salisbury Square House on 16 March 2026

RULING (INTEREST ON COSTS)

APPEARANCES

Jack Williams (instructed by Willkie Farr & Gallagher (UK) LLP) appeared on behalf of the Proposed Class Representative.

Meredith Pickford KC and George McDonald (instructed by Macfarlanes LLP) appeared on behalf of the Proposed Defendants.

Jamie Carpenter KC appeared on behalf of the Proposed Third Party for the Purposes of Costs.

1. On 16 March 2026 I ordered that the Proposed Class Representative (the **PCR**) shall pay the Proposed Defendants' (the **PRS's**) costs of an application for a collective proceedings order (**CPO**), which this Tribunal had refused. I summarily assessed those costs at £750,000. I refused to order interest on those costs and indicated that I would in due course provide a ruling as to the reason for this refusal.
2. In *Merricks v Mastercard* [2017] CAT 27 (*Merricks (Costs)*), this Tribunal, with the then President, Roth J, as Chair, held that the Competition Appeal Tribunal Rules 2015 (the **Tribunal Rules**) do not enable this Tribunal to award interest on costs. The Tribunal observed that this was a lacuna in the Tribunal Rules which required attention. This ruling was followed in *Flynn Pharma v Competition and Markets Authority* [2019] CAT 9 and *Churchill Gowns v Ede & Ravenscroft* [2022] CAT 47. The PRS invites me to take a different approach in this case and to find that under Tribunal Rule 104(2) this Tribunal has the power to order interest on costs. It submits that there is little reasoning in these judgments and that the judgments do not address the arguments which have been presented to me today.
3. It is common ground between the parties that there is no power to order interest on costs under the common law. There was a time when interest was described as “usury and plunder”.¹ In the modern world interest is understood to be the time value of money, or, borrowing a phrase from Edward Chancellor, the price of time. I have not been addressed on why, in the context of a fiat currency system, the common law has been unable to develop such that interest on costs may be awarded. The inability to order interest implies that significance is to be attached only to the monetary digit associated with an historic payment and not its value as fiat currency.
4. Given the common position of the parties, the only matter which falls to be decided is whether the Tribunal Rules give this Tribunal the power to order the payment of interest on costs. Under the CPR, rule 44.2(6)(g) gives an express

¹ Pierre-Joseph Proudhon in *La Voix du Peuple* 1849.

power to the courts to order interest on costs. In the Tribunal Rules there is no equivalent position. Tribunal Rule 104(2) provides that:

“The Tribunal may at its discretion, subject to rules 48 and 49, at any stage of the proceedings make any order it thinks fit in relation to the payment of costs in respect of the whole or part of the proceedings.”

5. The PRS submits that ordering interest on costs is an order “in relation to the payment of costs”. By analogy it refers to a Tax Tribunal case, *Curran v The Commissioners for Her Majesty’s Revenue & Customs* [2012] UKFTT 655 (TC). In that case a claim for interest on costs was made, but the relevant Tax Tribunal rules did not contain an express provision providing for the payment of interest on costs. Under rule 10(1) the Tax Tribunal has the power to “make an order in respect of costs”. It was held that this rule gave the power to order payment of interest on costs. Mr McDonald, who argued this matter on behalf of the PRS, submitted that wording in the rules of the respective Tribunals is materially the same: “in relation to the payment of costs” in the Tribunal Rules and “in respect of costs” in the Tax Tribunal rules. I agree.
6. Mr McDonald also referred to an order of the Court of Appeal in *Evans v Barclays Bank* (CA-2022-002002) of 9 November 2023,² in an appeal from this Tribunal, in which the payment of interest on costs relating to the CPO application was ordered. Although this is consistent with the PRS’s position it is not clear (a) what power the Court of Appeal was invoking, and (b) whether there was any argument as to the power to order interest on the Tribunal’s costs.
7. Notwithstanding Mr McDonald’s able submissions, and not without some hesitation, I am of the view that the preferred course is to follow the reasoning of this Tribunal in *Merricks (Costs)*. If there is no power under the common law to order interest on costs, and the legislature intended this Tribunal to have that power, it is to be expected that this would have been plainly stated, as it has been in the CPR, and not smuggled-in as an order “in relation to the payment of costs”. For this reason I decline to order the payment of interest on costs.

² In relation to the Court of Appeal decisions in *Evans v Barclays Bank plc* [2023] EWCA Civ 876.

Justin Turner KC
Chair

Charles Dhanowa CBE KC (Hon)
Registrar

Date: 21 April 2026