IN THE COMPETITION APPEAL TRIBUNAL

Case No: 1745/5/7/25

BETWEEN:

(1) ROADGET BUSINESS PTE. LTD. (A COMPANY INCORPORATED IN SINGAPORE)

(2) SHEIN DISTRIBUTION UK LIMITED

Claimants

- v -

WHALECO UK LIMITED

Defendant

ORDER

UPON the Order of the President dated 27 April 2026 (the "**CMC-6 Order**"), which granted the parties permission to rely on expert evidence, as set out in paragraph 22 of that Order.

AND UPON hearing counsel for the Claimants and for the Defendant at the 7th case management conference on 14 July 2026 ("**CMC-7**")

IT IS ORDERED THAT:

1. The parties have permission to instruct the following experts:

    (a) Economics:

        (i) Shein: Dr Oliver Latham, Charles River Associates

(ii) Whaleco: Mr David Parker, Berkeley Research Group

(b) Fashion supply market ("**Upstream industry experts**"):

(i) Shein: Mr Sean Coxall, 707 International Limited

(ii) Whaleco: Professor Bin Shen, Glorious Sun School of Business and Management in Donghua University, Shanghai

(c) UK retail market ("**Downstream industry experts**"):

(i) Shein: Mr Paul Martin, AlixPartners

(ii) Whaleco: Ms Emma Ford, Jax of London, Ltd

2. The page limits for the expert reports are as follows:

(a) The economic experts:

(i) 70 pages each for their primary reports

(ii) 30 pages each for their reply reports

(b) The upstream and downstream industry experts:

(i) 50 pages in total for the primary reports of each party's industry experts (i.e. the reports of both upstream and downstream industry experts)

(ii) 20 pages in total for the reply reports of each party's industry experts (i.e. the reports of both upstream and downstream industry experts)

(c) The page limits are exclusive of annexes, with any annexes required to be purely technical in nature and not expected to be read by the Tribunal.

3. The lists of issues for the experts set out in Annex 1A-1C are approved.

4. Costs in the case.

5. Liberty to apply.

The Honourable Mrs Justice Bacon Made: 15 July 2026

President of the Competition Appeal Tribunal Drawn: 15 July 2026

ANNEX 1A – ECONOMIC EXPERT ISSUES

<u>Definition of relevant market(s)</u>

1. **What is the relevant downstream product market? (§38.1 R5AD&C; §30(a) R3AR&DtC2; §2, 3 DSoC3; §§3-6 CSoC4)**

    a) Consistent with the hypothetical monopolist test, the experts will identify the focal product and assess demand-side and supply-side substitutability. This assessment will be based on economic analysis of the available factual evidence (including factual witness statements, disclosure and/or industry expert reports), supplemented where appropriate by public-domain evidence.

    b) Insofar as proportionate and feasible, the experts may also consider quantitative evidence to inform this assessment. However, no specific quantitative analysis has been identified by either expert at this stage.

    c) The experts agree that this is an industry involving differentiated products and the assessment of substitutability will need to consider both price and non-price factors.

    d) The experts agree that the downstream geographic market definition is the UK and do not propose to analyse this issue further. (§38.2 R5AD&C; §30(b)-(c) R3AR&DtC; §4 DSoC; §5 CSoC)

2. **What is the relevant upstream product and geographic market? (§38.1.1, 38.1.4 R5AD&C; §30 R3AR&DtC; §§5-9 DSoC; §7-13 CSoC)**

    a) The experts will adopt the same general analytical framework as set out above, including identification of the focal input(s) and an assessment of demand-side and supply-side substitutability, drawing on factual, disclosed and public-domain evidence as appropriate.

    b) The experts agree that the economic analysis of the upstream and downstream market are inter-linked. The upstream market will include only suppliers that are capable of competitively serving retailers in the downstream product market as defined above.

    c) The experts will consider whether or not the upstream market should be restricted to suppliers in particular locations (e.g. China or Guangdong Province) and whether or not it should exclude certain categories of suppliers (e.g. small sellers). As part of this assessment the experts will consider whether these different categories of suppliers are substitutable from the perspective of downstream retailers/platforms and will make use of available data on the geographic location and other characteristics of the Parties' suppliers.

<u>Shein's position in the relevant market(s) once defined</u>

3. **Has Shein held a dominant position at any point during the Claim Period in any relevant market(s) once defined? (§§39, 40 R5AD&C; §31 R3AR&DtC)**

    As part of the above assessment, the experts will consider the following factors:

a) **Market shares and structure: what is/was Shein's market share in the relevant downstream and upstream market(s), as a seller and buyer respectively, once defined?** The experts will seek to estimate market shares using public domain information and/or data provided by the Parties, subject to availability and reliability. Both experts anticipate computing shares including different sets of retailers and assessing how sensitive shares are to the set of retailers included. (§40.1 R5AD&C; §31(a) R3AR&DtC)

b) **Competitive constraints: who are/were Shein's competitors in the relevant markets, what are/were their market shares, and to what extent do/did they impose a competitive constraint on Shein in the relevant market(s) once defined?** Market share calculations will, where possible, draw on public-domain information and/or data from the Parties. The assessment of competitive constraints will be informed by economic inferences drawn from the available factual evidence (including factual witness statements, disclosure and/or industry expert reports), supplemented by public-domain evidence as appropriate. (§§39, 40.1 R5AD&C; §31 R3AR&DtC)

c) **Barriers to entry and expansion: whether, once defined, the relevant upstream and downstream markets are/were characterised by substantial barriers to entry and/or expansion**. The experts will conduct an economic analysis of the available factual evidence (including factual witness statements, disclosure and/or industry expert reports as well as any examples of actual or attempted entry), supplemented by public-domain evidence as appropriate. (§40.2 R5AD&C; §31(b) R3AR&DtC)

4. **As a matter of economic theory, in what circumstances are exclusivity commitments and intellectual property transfers in supplier agreements likely to enhance or restrict competition and what evidence would be useful to distinguish between such provisions that enhance or restrict competition? (§42-46, 50-54 R5AD&C; §§33-39, 44-46 R3AR&DtC)**

5. **Did/does the alleged Infringing Conduct, individually (by type of alleged Infringing Conduct) and/or cumulatively, have an effect on the ability of Temu to compete with Shein, or on competition in the relevant upstream and downstream markets once defined? (§§50-54 R5AD&C; §§44-46 R3AR&DtC)**

   As part of this assessment, the experts propose – subject to feasibility and data availability – to undertake quantitative analysis to assess:

   a) **The materiality of alleged upstream market foreclosure**. The experts will assess what share of Temu's actual or potential suppliers were affected by the alleged Infringing Conduct, individually and cumulatively, over the Claim Period. As part of this assessment the experts may consider the characteristics of the affected suppliers vs. Temu's actual supplier base to assess whether the affected suppliers were differentiated or otherwise distinct. (§§50-54 R5AD&C; §§44-46 R3AR&DtC)

   b) **Downstream effects of alleged Infringing Conduct on Sales**. What was the impact, if any, of the alleged Infringing Conduct on Temu's UK sales, considered both individually and cumulatively? For this purpose, the experts will seek to quantify, inter alia, the impact of the conducts (e.g. Takedown Notices, Supplier Attestations, Supplier Interviews) on affected products, product categories suppliers, and Temu's overall UK sales. (§§50-54 R5AD&C; §§44-46 R3AR&DtC)

The experts anticipate making use of data which captures variation in the conduct over time and across different products, product categories or sub-categories to model Temu's counterfactual sales. They anticipate controlling for other factors that might affect Temu's sales either through the use of comparators (e.g. by benchmarking across different products or product categories) or by controlling for factors econometrically.

6. **Is there evidence of Shein's conduct generating relevant economic efficiencies? (§42.2 R5AD&C; §35 R3AR&DtC)**

ANNEX 1B – UPSTREAM INDUSTRY EXPERT ISSUES

1. What is the nature of the market for the supply of fashion products to Shein, Temu and any similar retailers and marketplaces in the UK?

    a. Please comment on the nature of the different models that UK fashion retailers and marketplaces use to source products (e.g., vertically integrated production, direct sourcing from manufacturers, intermediaries, etc.) and their prominence, including any changes over time and the extent to which different sourcing models are viable alternatives in practice.

2. Supplier characteristics (§§38.1.1, 38.1.4 R5AD&C; §§7-9 DSoC):

    a. What (if any) are the particular capabilities/characteristics/attributes ("**characteristics**") that suppliers need to supply retailers or marketplaces such as Shein, Temu and any similar retailers and marketplaces in the UK?

    b. What (if any) type of supply chain, operational logistics, and manufacturing, design capabilities and/or other characteristics must suppliers have in place to respond effectively to demand?

    c. Do suppliers generally specialise in specific product categories (e.g., women's dresses vs swimwear)? If yes, are any such specialised suppliers able to, and do in practice, switch to the production of other (important) products and product categories?

    d. Is there a distinction between suppliers who supply goods sold domestically in China and goods for export? If yes, what factors are relevant to a supplier's ability or decision to supply goods for Western customers? In particular, are any such specialised suppliers able to, and do in practice, switch from domestic-focused to export-focused (or vice-versa)?

    e. Please assess the feasibility of suppliers that do not typically supply retailers or marketplaces such as Shein and Temu developing the characteristics to supply such retailers and/or marketplaces. In particular:

        i. What difficulties (if any) would they face in switching to serve these platforms?

        ii. What type of investments would typically be required, and what is the approximate timeframe and cost involved in making such a change?

3. Supplier locations, number and availability (§§38.1.1, 38.1.4 R5AD&C; §§7-9 DSoC):

    a. Please explain the number (e.g. size of the pool), geographical location and availability of suppliers that are capable of meeting the requirements of retailers or marketplaces such as Shein, Temu and any similar retailers and marketplaces in the UK.

    b. Is there a connection between the location of a supplier or suppliers and their ability to meet the demands of Shein, Temu, and any similar retailers or marketplaces? In particular:

i. Please consider the geographical locations of Shein's and Temu's existing suppliers, with specific comment on the situation in China and Guangdong province.

ii. Would it be feasible for a supplier network for Shein, Temu and any similar retailers or marketplaces in the UK to be developed from a new geographic network or locations and, if so, what factors are relevant?

4. Exclusivity (§42.2 R5AD&C):

a. To what extent do suppliers, in practice, supply multiple retailers and/or list their products simultaneously across multiple marketplaces?

b. What factors influence whether a supplier supplies to multiple retailers and/or marketplaces or to only one?

c. What commercial considerations do suppliers take into account when selecting which platforms to sell on? What factors influence a supplier's decision to prioritise or deal exclusively with a particular retailer or marketplace and, if so, which one? What factors would trigger substitution across platforms by suppliers?

d. In what circumstances, and to what extent, do retailers require exclusivity commitments from suppliers generally and/or in respect of specific products? In particular, to what extent is this industry practice (if at all)?

e. Do retailers or marketplaces seek to take intellectual property rights and/or contractual exclusivity rights in products, or product photographs, that they sell under their own brand? If yes to any of these:

i. How common is this practice?

ii. In what circumstances does it tend to occur?

iii. What (if anything) is the commercial rationale for this practice?

ANNEX 1C – DOWNSTREAM INDUSTRY EXPERT ISSUES

1. What are consumers' characteristics and shopping habits across the UK fashion market(s)? (§§38, 50-54 R5AD&C; §§30, 44-46 R3AR&DtC; §§2-3 DSoC; §4 CSoC)

   a) How do consumers discover, search, and browse for products? In particular (without limitation):

      i) To what extent do consumers tend to look for specific products, or for styles that are fashionable, as opposed to simply looking for clothing in general with no particular focus?

      ii) To what extent do consumers tend to visit multiple websites and/or stores when shopping on Shein or Temu?

   b) What factors do customers consider in making purchasing decisions across Shein, Temu and other fashion retailers / marketplaces (such as Boohoo/Pretty Little Thing, ASOS, H&M, Zara, Primark and Amazon) and how do they weigh these factors against each other?

      i) Please comment, in particular, on consumers' attitudes to price, quality, service (including delivery speed) and product range when making purchasing decisions.

      ii) How important are these factors? Are any of them non-negotiable or are they capable of being traded off against other characteristics (e.g. price vs speed or quality)?

   c) In respect of both identifying products and purchasing decisions, what is the role / relevance of:

      i) A platform's algorithmic based recommendations?

      ii) The gamification of the shopping experience?

      iii) Social media/influencers?

      iv) Print media and online ads?

      v) The availability of branded fashion labels within different retailers / marketplaces?

   d) How and to what extent (if at all) do consumers interact with, navigate and move between different retailers / marketplaces, including Shein, Temu, Boohoo/Pretty Little Thing, ASOS, H&M, Zara, Primark and Amazon (if they do so) when shopping?

      i) What constraints (if any) are there that limit the ability or willingness of consumers to substitute retailers / marketplaces?

      ii) To what extent do consumers exhibit loyalty towards specific retailers/platforms?

      iii) Do consumers who typically purchase from Shein and Temu have any particular characteristics? How (if at all) do these differ from those of customers who predominantly purchase from other retailers?

2. Consumer perception of retailers / marketplaces like Shein, Temu and any similar retailers and marketplaces in the UK (§§2-3 DSoC; §§3-4 CSoC).

    a) How do consumers view fashion retailers in the UK such as Shein, Temu, Boohoo/Pretty Little Thing, ASOS, H&M, Zara, Primark and Amazon?

    b) What similarities or differences do they perceive, including in terms of price, quality, range and/or service?

    c) How, and to what extent, do consumer perceptions of retailers/marketplaces change in response to the entry or expansion of any new retailers/marketplaces.

3. To what extent does removing particular products or suppliers from a marketplace, such as Temu, have an impact on consumer reaction to, or perception of, that marketplace (§§50-54 R5AD&C; §§44-46 R3AR&DtC)

    a) How would consumers typically react to, or perceive, retailers/marketplaces if:

        i) Products, styles or categories are removed from a retailer's or marketplace's platform?

        ii) Particular products, styles or categories are not available on one retailer / marketplace, but are available on another retailer / marketplace?

        iii) There is an overall deterioration of the quality of the product range on a retailer's / marketplace's website?

    b) To what extent (if at all) do consumers switch to alternative products from the same retailer / marketplace if they cannot find a particular product or style they were looking for, as opposed to searching for similar items on other platforms?

        i) What circumstances are likely to affect customers' decisions in this respect?

        ii) To what extent (if at all) do marketplaces, such as Temu, inform consumers of the absence of particular products or suppliers from their marketplace, including offering alternatives or substitutions?

        iii) To what extent (if at all) are customers likely to value shopping for multiple items from a single platform where they are already planning to make one purchase?