



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1517/11/7/22 (UM), 1443/7/7/22,
1444/7/7/22

BETWEEN:

THE UMBRELLA INTERCHANGE FEE CLAIMANTS

- v -

THE UMBRELLA INTERCHANGE FEE DEFENDANTS

AND BETWEEN:

THE CICC CLAIMANTS

- v -

THE CICC DEFENDANTS

ORDER

UPON the directions to Trial 3, by the order of the Tribunal made on 9 February 2026 and drawn on 10 February 2026 (the “**Trial 3 Directions**”)

AND UPON an application by the Visa Defendants that are Umbrella Interchange Fee Defendants and CICC Defendants made on 28 May 2026, and accompanying witness evidence

AND UPON hearing counsel for the Umbrella Interchange Fee and CICC Claimants, and the Umbrella Interchange Fee and CICC Defendants, at a hearing on 8 July 2026

AND UPON the ruling of the Tribunal made and drawn on 28 July 2026

IT IS ORDERED THAT:

1. For the purposes of Trial 3, in relation to the “fair share” condition for exemption, and in relation to the extent (if any) to which harm to merchants that needs to be compensated falls to be reduced by reason of pass-on (the “**Exemption Pass-On Issue**”), the Tribunal shall proceed as follows:

- (a) At Trial 3, the parties shall make legal submissions as to the relevance of and appropriate approach to the Exemption Pass-On Issue, including as to the extent to which the Exemption Pass-On Issue requires Defendants to show, in respect of pass-on of any overcharge, that merchants' decisions on prices were directly influenced by MSCs (the "**Proximity Requirement**");
- (b) The parties will not adduce factual evidence at Trial 3 in relation to merchants' setting of prices for the purposes of the Proximity Requirement;
- (c) The parties are at liberty to adduce expert evidence at Trial 3 on the aggregate level of pass-on of MSCs by merchants; and
- (d) Insofar as the Tribunal, in its Judgment on Trial 3, finds as a matter of law that merchant pass-on is relevant to exemption and that the Exemption Pass-On Issue incorporates the Proximity Requirement, that matter shall be determined in Trial 4 or, subject to any direction from the Tribunal to that effect, any other trial subsequent to Trial 3, (and the Tribunal shall give further directions, including on disclosure, accordingly) for all Claimants not bound by the Tribunal's findings on merchant pass-on in its judgment following Trial 2.

Mr Ben Tidswell

Chair of the Competition Appeal Tribunal

Made: 13 August 2026

Drawn: 13 August 2026