



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1517/11/7/22 (UM)

BETWEEN:

THE UMBRELLA INTERCHANGE FEE CLAIMANTS

Claimants

- v -

THE UMBRELLA INTERCHANGE FEE DEFENDANTS

Defendants

(“Merchant Umbrella Proceedings”)

ORDER

UPON the Tribunal having made an Order on 9 February 2026, drawn on 10 February 2026, as to the scope of Trial 3 in the Merchant Umbrella Proceedings and making directions for Trial 3 (the ‘Trial 3 Scope Order’)

AND UPON the President of the Tribunal having considered the composition of the Tribunal and, by the Tribunal’s letter of 28 September 2026, having directed the parties to prepare a draft order amending the Order as to the scope of Trial 3

AND HAVING REGARD TO the Tribunal’s powers under the Competition Appeal Tribunal Rules 2015

IT IS ORDERED BY CONSENT THAT:

1. Paragraph 2 of the Trial 3 Scope Order is replaced by the following:

“2. Trial 3 in the Merchant Umbrella Proceedings shall determine the issues relating to exemption for the UK and Irish acquiring markets and certain related quantum issues, further identified in paragraph 3 below. The temporal scope of Trial 3 is:

(a) in relation to the UK acquiring market:

(i) in respect of Mastercard, from 20 August 2014 onwards;

(ii) in respect of Visa, from 18 January 2011 onwards;

(b) in relation to the Irish acquiring market:

(i) in respect of Mastercard, from 20 August 2014 to 31 December 2020;
and

(ii) in respect of Visa, from 18 January 2011 to 31 December 2020.”

2. Paragraph 3 of the Trial 3 Scope Order is replaced by the following:

“3. The issues set out in the Annex to this Order are to be tried in Trial 3. They replace the following issues from the existing List of Issues in the Merchant Umbrella Proceedings (being the “Table” as defined in the Tribunal’s Order dated 16 March 2022): Issues 14.3, 15, 23(a), 23(b), 24(a), 24(b), 24(c), 24(d), 24(e) and 26(a).”

3. Paragraph 4 of the Trial 3 Scope Order is replaced by the following:

“All other issues in the Merchant Umbrella Proceedings, including issues relating to Scheme Fees, issues relating to infringement of Article 102 TFEU / section 18 of the Competition Act 1998, Issue 28(b) from the agreed List of Issues, and other remaining liability and quantum issues shall be the subject of a further order for a “Trial 4” (or such order for any further trial, in addition to Trial 4, as the Tribunal may make) under the directions at paragraphs [19]-[20] below.”

4. The list of issues to be tried in Trial 3 is set out in the Annex to this Order. References in the Trial 3 Scope Order (as amended by this Order) to the List of Issues in the Annex are to the List of Issues in the Annex to this Order.

Ben Tidswell

Chair of the Competition Appeal Tribunal

Made: 7 October 2026

Drawn: 7 October 2026

ANNEX
Trial 3 List of Issues

Issue 14.3 – Exemption conditions

Are the criteria for exemption in Article 101(3) met in relation to any MIFs? In particular:

- (a) did/do they contribute to the production or distribution of goods, or to technical and/or economic progress? In particular:
 - (1) did/do the MIFs cause appreciable objective advantages in any of the following ways:
 - a. Incentivising innovations in payment technology, contributing to faster and more widespread adoption of new technologies;
 - b. More effective and cost-effective fraud and default protection, and more efficient allocation of responsibilities for fraud and default protection contributing to cost savings;
 - c. Near-immediate payment for merchants;
 - d. Higher quality service, including through online commerce;
 - e. Better credit terms on credit cards;
 - f. Cost savings to merchants resulting from increased usage of Visa and Mastercard cards, including (i) a reduction in the usage of more costly forms of payment, (ii) avoided costs of providing credit; and/or (iii) online sales efficiencies;
 - g. Increased and/or earlier sales enjoyed by merchants (including additional inter-regional transactions contributed to by the inter-regional MIF), in particular through (i) a ticket lift effect, (ii) a demand expansion effect; (iii) incentivising higher rates of transaction approval (and approval of transactions of greater value); (iv) lower cardholder fees and/or higher rewards; (v) better credit terms;
 - h. Cost savings and the use of credit for business costs for merchants that use commercial cards;
 - i. Increased competition in the Issuing Market and associated benefits.

- (2) did/do the MIFs cause such appreciable objective advantages for consumers in the market where the restrictive effects are felt (i.e. merchants)?
- (3) did/do the objective advantages caused by the measure for consumers in both markets (i.e. merchants and cardholders), taken together, compensate for the disadvantages which the measure entails for competition?
- (b) did/do they allow consumers in the market where the restrictive effects are felt (i.e. merchants) to receive a fair share of the resulting benefit (i.e., that the advantages caused by the restriction outweigh the disadvantages, so they are no worse off)?
- (c) did/do they contain restrictions which are not indispensable to the attainment of those objectives?

Issue 15 – Exemptible level

If any of the MIFs did not satisfy the four cumulative conditions of Article 101(3) (set out above at issue 14.3) are there lower levels of MIFs which would have done so? If so, what is the appropriate exemptible level (the *alternative exemptible level*)?

Issue 23 – Exemption-related quantum issues

Alleged changes to the Mastercard and Visa scheme rules in the quantum counterfactual

In a counterfactual where the MIFs were set at the alternative exemptible level, or alternatively at zero:

- (a) How, if at all would the scheme rules be different, including the scheme rules that determine the following:
 - (1) when an Issuer is required to make a payment to an Acquirer even in respect of a fraudulent transaction;
 - (2) when an Issuer is required to make a payment to an Acquirer even when the cardholder defaults on payment; and/or
 - (3) when the Issuer is required to make payment?
- (b) Would any such changes have led to higher costs for the Claimants during the claim period, and if so, how and to what extent?

Issue 24 – Exemption-related quantum issues

Alleged issuer/cardholder switching to other payment methods

In a counterfactual where the MIFs were set at the alternative exemptible level, or alternatively at zero:

- (a) To what extent, if at all, would Issuers (including Issuers in other countries) have chosen to issue alternative payment cards or adopt alternative payment methods in place of Mastercard or Visa-branded payment cards?
- (b) To what extent, if at all, would cardholders have used alternative payment cards or methods to pay each of the Claimants for transactions in fact settled using Mastercard-branded or Visa-branded payment cards during the relevant periods?

To what extent, if at all, in the factual situation, did greater issuing and/or usage of Mastercard or Visa-branded payment cards lead to increased online commerce and/or increased transactions and/or earlier spending by comparison to the counterfactual where the MIFs were set at the alternative exemptible level, or alternatively at zero?

To what extent would reduced issuing and/or usage of Mastercard or Visa-branded payment cards (and the consequences of the same) in the counterfactual have imposed costs or disadvantages on the Claimants?

Issue 26 – Exemption-related quantum issues

Other alleged harmful consequences to the Claimants

In a counterfactual where the MIFs were set at the alternative exemptible level, or alternatively at zero:

- (a) Would the Claimants have suffered harmful consequences and if so, to what extent, in the form of (i) reduced or less widespread innovation; (ii) increased credit costs; (iii) reduced sales; (iv) reduced quality of service; and (v) reduced competition in the issuing market?
- (aa) In relation to commercial cards, would the Claimants who use commercial cards as cardholders have incurred greater costs or other disadvantages?