



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1790/7/7/26

BETWEEN:

ATT COLLECTIVE ACTION LIMITED

Applicant/Proposed Class Representative

- and -

(1) APPLE INC.

(2) APPLE DISTRIBUTION INTERNATIONAL LIMITED

(3) APPLE (UK) LIMITED

(4) APPLE EUROPE LIMITED

Respondents/Proposed Defendants

REASONED ORDER (SERVICE OUT OF THE JURISDICTION)

UPON the Proposed Class Representative's **Collective Proceedings Claim Form** filed pursuant to s. 47B of the Competition Act 1998 and Rule 75 of the Competition Appeal Tribunal Rules 2015 (the **Rules**) on 3 September 2026

AND UPON the Proposed Class Representative's application dated 3 September 2026 pursuant to r. 31(2) and 76(2) of the Rules for permission to serve the Collective Proceedings Claim Form and supporting documents on the First and Second Proposed Defendants (together, the **Foreign Proposed Defendants**) out of the jurisdiction (the **Service Out Application**)

AND UPON reading the Proposed Class Representative's Collective Proceedings Claim Form and supporting documents

AND UPON reading the First Witness Statement of Luke Valentine Streatfeild dated 3 September 2026 in support of the Service Out Application

IT IS ORDERED THAT:

1. The Proposed Class Representative has permission to serve the Collective Proceedings Claim Form and supporting documents on the Foreign Proposed Defendants out of the jurisdiction at the following addresses:
 - (1) Apple Inc., through its registered agent for service of process, CT Corporation System, at 28 Liberty Street, New York, NY 10005, United States of America; and
 - (2) Apple Distribution International Limited, at Hollyhill Industrial Estate, Hollyhill, Cork, T23 YK84, Ireland.
2. The Foreign Proposed Defendants may apply to have this order set aside or varied but must make any such application no later than the period for disputing the Tribunal's jurisdiction under r. 34 of the Rules.
3. Pursuant to r. 76(5) of the Rules:
 - (1) the First Proposed Defendant shall file an acknowledgement of service within 22 days after service of the Collective Proceedings Claim Form; and
 - (2) the Second Proposed Defendant shall file an acknowledgement of service within 21 days after service of the Collective Proceedings Claim Form.
4. The costs of the Service Out Application are reserved.

REASONS

A. INTRODUCTION

1. The Proposed Class Representative (the **PCR**) has applied to be certified as class representative in relation to proposed claims against the Proposed Defendants for

damages under s. 47B of the Competition Act 1998 (the **Act**), on behalf of all app developers who, during the **Initial Claim Period**, were UK-domiciled and generated revenue from advertising shown within one or more third-party iOS apps and/or incurred expenditure on advertising to acquire users for one or more third-party iOS apps (the **Proposed Class**). The Initial Claim Period is 26 April 2021 to 3 September 2026.

2. The PCR avers that the Proposed Defendants (collectively **Apple**) are all members of the Apple corporate group and, at all material times, have formed part of the same economic undertaking for the purposes of s. 18 of the Act. It further avers that all of them were involved in the implementation, operation, support and/or commercial exploitation in the UK and/or Europe of the iOS ecosystem, the App Store, Apple's App Tracking Transparency framework (**ATT**) and related advertising or developer-facing services.
3. The PCR seeks permission to serve the proceedings on the Foreign Proposed Defendants outside the jurisdiction.
4. Rule 31 of the Rules specifies that the law applicable to service outside the jurisdiction depends on whether the claimant contends that the proceedings are to be treated as taking place in England and Wales, Scotland or Northern Ireland. §99 of the Collective Proceedings Claim Form contends that the proceedings should be treated as proceedings in England and Wales, on the basis that the PCR is incorporated in England and Wales and is represented by London solicitors, and the centre of gravity of the proceedings is said to be England and Wales.
5. The proceedings are directed to the entire UK market. I agree that it is likely that they will fall to be treated as taking place in England and Wales for the purposes of r. 18 of the Rules. The PCR and two of the proposed Defendants are based in England and Wales. On the face of it, it is likely that more of the Proposed Class will be in that jurisdiction than in the other parts of the UK. Insofar as specific issues may arise in respect of which it would be more appropriate that the forum be Northern Ireland or Scotland, that can be accommodated within the proceedings with a primary forum of England and Wales: *Merricks v Mastercard Inc* [2023] CAT 15, at §§9–10.

6. The Tribunal therefore approaches service out of the jurisdiction on the same basis as would the High Court under the CPR: *DSG Retail Ltd and another v. Mastercard Inc and Others* [2015] CAT 7, at §§17–18. The PCR must satisfy the Tribunal that: (a) there is a serious issue to be tried on the merits of the claim; (b) there is a good arguable case that the claim falls within one or more of the jurisdictional “gateways” set out in CPR Practice Direction 6B; and (c) in all the circumstances, England and Wales is clearly or distinctly the appropriate forum for the trial of the action. By virtue of r. 31(3) of the Rules, the Tribunal must also be satisfied that it is the proper place to bring the claim.

B. SERIOUS ISSUE TO BE TRIED

7. I am satisfied on the basis of the Collective Proceedings Claim Form, the First Witness Statement of Luke Valentine Streatfeild, the First Expert Report of Dr Andrea Coscelli and the First Expert Report of Dr Reuben Binns that there is a serious issue to be tried on the merits of the claim.
8. The PCR’s pleaded case is that Apple was, during the Initial Claim Period, dominant in the distribution of native apps on iOS and abused that dominance through the design and implementation of its ATT in a manner which adversely affected competition in online advertising markets linked to iOS apps. The PCR avers that Apple made compliance with ATT by UK-domiciled app developers mandatory on 26 April 2021, whilst not subjecting its own advertising services and ecosystem activities to materially equivalent burdens. The PCR avers that although ATT was directed at enhancing user privacy, Apple implemented it in a manner that imposed unfair and discriminatory trading conditions on app developers.
9. The specific conduct relied upon is described as follows in §21 of the Service Out Application:

“(a) Apple unilaterally imposed ATT through its control of the App Store and related application programming interfaces...without a meaningful period of consultation, testing or negotiation with affected developers or a reasonable opportunity for them to influence ATT’s design/implementation or adapt to its imposition;

(b) ATT duplicated developers’ existing privacy-consent processes and used wording and choice architecture which made consent materially more burdensome than refusal

for third parties, while employing a far more favourable prompt for Apple's own advertising services;

(c) Apple treated its own first-party or proprietary data uses more favourably and retained superior access to ecosystem data and attribution functionality;

(d) the differential treatment was not technically necessary to protect privacy, and materially less restrictive consent and attribution arrangements were available; and

(e) ATT impaired third-party targeting, measurement, attribution and monetisation, particularly for smaller operators, while advantaging Apple Ads and related Apple services."

10. Dr Coscelli states that there is strong evidence that Apple is dominant in the Apple App Stores market. He identifies three app advertising markets as the specific markets where the harm is said to occur. He notes that Dr Binns describes how Apple does not apply equivalent conditions to its own activities and to those of third-party app developers. Dr Coscelli notes that these different conditions affect how Apple and third-party app developers monetise advertising on iOS. He explains how ATT disadvantages third-party app developers. He states that from an economic perspective these differences place third-party app developers at a competitive disadvantage and favour Apple's own services. His preliminary estimate of total damages is around £1.95 billion.
11. The PCR's case is that each of the Proposed Defendants, including the Foreign Proposed Defendants, is jointly and severally liable for the alleged infringements. The Collective Proceedings Claim Form alleges that each of them was involved during the Initial Claim Period in the "implementation, operation, support, promotion and/or commercial exploitation" of the conduct which is the subject of the proposed claim, and that each of them formed part of the same economic undertaking for the purposes of s. 18 of the Act. Mr Streatfeild states, under reference to publicly available materials, that Apple Inc. (the **First Proposed Defendant**) was responsible for establishing and implementing the ATT policy globally on app developers, and that Apple Distribution International Limited (the **Second Proposed Defendant**) has supported the implementation of the ATT policy at a national level.
12. I am satisfied that there is a serious issue to be tried on the merits of the claim. There is a reasonable prospect of establishing that Apple holds a dominant position on the Apple App Store market. In light of the description of ATT by Dr Binns and Dr Coscelli's analysis, there is also a reasonable prospect of establishing that the design and

implementation of ATT involved an abuse of that dominant position and that this has caused loss to members of the Proposed Class. Dr Coscelli sets out a methodology for quantifying that aggregate loss and has been able, from published sources, to present a preliminary analysis of loss. The Collective Proceedings Claim Form and Mr Streatfeild's statement (and documents exhibited to that statement) support the conclusion that there is a reasonable prospect of establishing that each of the Foreign Proposed Defendants is jointly and severally liable, along with the other Proposed Defendants, for the alleged infringements.

13. The PCR has drawn to the Tribunal's attention two decisions from European regulatory authorities relating to "materially similar" ATT activities conducted by the Apple group: (i) Decision 25-D-02 of the French competition authority, the *Autorité de la concurrence*, dated 31 March 2025 (which is apparently under appeal before the Paris Court of Appeal); and (ii) the decision of the Italian competition authority, the *Autorità Garante della Concorrenza e del Mercato*, in Case A561, dated 16 December 2025 (which Apple states that it intends to appeal). In each case, the authorities found that Apple had abused a dominant position in connection with ATT under Article 102 of the Treaty on the Functioning of the EU. Whilst I have been able to reach a conclusion that there is a serious issue to be tried without reference to these decisions, they are consistent with, and support, that conclusion.

C. THE GATEWAYS

14. The PCR relies on the gateways in CPR Practice Direction 6B, §§ 3.1(3) and 3.1(9).

(1) Gateway 3.1(3)

15. Gateway 3.1(3) applies where:

"a claim is made against a person ('the defendant') on whom the claim form has been or will be served (otherwise than in reliance on this paragraph) and –

(a) there is between the claimant and the defendant a real issue which it is reasonable for the court to try; and

(b) the claimant wishes to serve the claim form on another person who is a necessary or proper party to that claim."

16. There are accordingly three requirements which must be met: (i) there must be at least one “anchor” defendant served otherwise than via gateway 3.1(3); (ii) there must be a real issue which it is reasonable for the court to try between the claimant and the anchor defendant(s); and (iii) the other defendants must be necessary or proper parties to the claim. For the following reasons, I am satisfied that these requirements are met in the present case.

(a) Service on an anchor defendant

17. The PCR submits that Apple (UK) Limited (the **Third Proposed Defendant**) and Apple Europe Limited (the **Fourth Proposed Defendant**) are anchor defendants for the purposes of this application. I accept that submission. The Third and Fourth Proposed Defendants are both incorporated in England and Wales, have registered offices in London, England, and have already been served within the jurisdiction.

(b) Real issue to be tried

18. The PCR alleges that the Third and Fourth Proposed Defendants were each involved in the implementation, operation, support, promotion and/or commercial exploitation in the United Kingdom and/or Europe of the iOS ecosystem, the App Store, ATT and related services. Mr Streatfeild refers to published information to the effect that the Third and Fourth Proposed Defendants provide services to group affiliates, to the published accounts for those Proposed Defendants which describe the principal activities of the First Proposed Defendant and its wholly-owned subsidiaries, and evidence that Apple advertises roles in London connected to the App Store and its performance and operation. Whilst the PCR acknowledges that the precise allocation of functions within the Apple group will be a matter for disclosure, and given there is uncertainty as regards the precise activities undertaken by the Third and Fourth Proposed Defendants, I am satisfied that there is between the PCR and those Proposed Defendants a real issue which it would be reasonable to try.

(c) Necessary or proper parties to the claim

19. The PCR argues that the Foreign Proposed Defendants are necessary and proper parties to the claim. I accept that submission. The First Proposed Defendant is alleged to have designed and governed ATT and the relevant developer-facing rules. The Second Proposed Defendant is identified in the Apple group's Developer Program License Agreement (**DPLA**) and the foreign regulatory decisions as the entity responsible for the App Store for EMEA markets, distribution functions, and as participating in implementation and enforcement of ATT. There is a reasonable basis for alleging that the four Proposed Defendants, which are companies within the same group, are jointly and severally liable. On that footing, it would be sensible for the claims against each of the Proposed Defendants to be tried together.

(2) Gateway 3.1(9)(a)

20. Gateway 3.1(9)(a) applies where "a claim is made in tort [and] damage was sustained, or will be sustained, within the jurisdiction". I am satisfied that there is a good arguable case that these requirements are satisfied. The Proposed Class comprises UK-domiciled app developers, including app developers domiciled in England and Wales. The claimed harm comprises reductions in revenue and increases in costs said to have been borne by those app developers. There is a good arguable basis for asserting that any such loss has been sustained within the jurisdiction.

(3) Gateway 3.1(9)(b)

21. Gateway 3.1(9)(b) applies where "a claim is made in tort [and] damage which has been or will be sustained results from an act committed, or likely to be committed, within the jurisdiction". Whilst the PCR acknowledges that the allegation will depend on disclosure, it relies on Mr Streatfeild's statement, and the information upon which that statement is based, to support the allegation that the Third and Fourth Proposed Defendants "implemented, supported, promoted and/or commercially exploited" relevant aspects of the conduct which forms the substance of the proposed claim. Based on that evidence, I am satisfied that there is a good arguable case that damage was sustained as a result of acts committed within the jurisdiction.

D. FORUM CONVENIENS

22. The PCR argues that England and Wales is the appropriate forum for the following reasons.

- (1) The “centre of gravity” of the proposed proceedings is said to be England and Wales because the claim concerns conduct which is alleged to have affected a UK market, and seeks redress on behalf of a UK-domiciled class.
- (2) The Third Proposed Defendant, Fourth Proposed Defendant and the PCR are all incorporated in England and Wales. The PCR’s sole director is also based in the UK.
- (3) A material part of the proposed claim’s relevant evidential base is likely to be located in, or at least accessible from, the UK. Any evidence required from the Proposed Class is likely principally to be held by businesses in the UK, and any evidence required from third parties is likely to be available from advertising intermediaries and measurement providers with a UK presence.
- (4) The Proposed Defendants operate a globally integrated ecosystem and can reasonably be expected to litigate in jurisdictions where affected businesses are domiciled. Therefore the fact that certain documents, witnesses, decision makers, advertising data and end-user evidence may be located abroad does not detract from the force of the foregoing factors.
- (5) For many Proposed Class members, particularly smaller developers, separate foreign proceedings would be materially more burdensome and may be unrealistic.
- (6) Any questions which arise in the proceedings regarding the proposed claim’s territorial scope, applicable law or foreign-connected loss can be addressed through pleadings, evidence and case management. The PCR is not aware of any other jurisdiction with a procedure through which the claims of the

Proposed Class could realistically be pursued together on a basis materially equivalent to s. 47B of the Act.

23. The PCR acknowledges that the DPLA contains a jurisdiction clause in favour of US laws and the State of California (the **California jurisdiction clause**). Since 22 December 2023 the DPLA has also included a provision which applies where a developer has a “European Relationship” with Apple, and which gives exclusive jurisdiction over “European Relationship Claims” to the Irish courts (the **Ireland jurisdiction clause**). Mr Streatfeild states that “European Relationship” and “European Relationship Claims” are defined by reference, among other things, to apps delivered to, or intended for delivery to, end users in the EU and to apps intended for use in the EU, and notes that the UK is not an EU Member State. On that basis, he contends that the California jurisdiction clause continues to apply in the UK.
24. The PCR contends that these provisions do not alter the conclusion that England and Wales is the appropriate forum for hearing this case. This is said to be for several reasons: (i) the Proposed Class is confined to UK-domiciled businesses and concerns losses suffered by those businesses; (ii) the claims are statutory competition law claims brought in a specialist forum established by Parliament for collective redress; (iii) Proposed Class members are likely to have entered into different versions of the DPLA over the course of the Initial Claim Period and these may contain different forum clauses, and failing to hear the claims together creates a risk of fragmentation; and (iv) there is no clearly suitable alternative forum in which the claims of the Proposed Class could realistically and efficiently be pursued together.
25. In the present case, Mr Streatfeild, whilst acknowledging that he is not qualified in the law of California or of Ireland, states: (i) his understanding that the US Sherman Act does not generally apply to foreign commerce unless the statutory requirements concerning effects on US commerce are satisfied, and would not ordinarily extend to claims of the present kind by UK-based app developers; (ii) that he has not identified any procedure through which the claims of the proposed class could realistically be pursued in Ireland on a basis materially equivalent to section 47B of the Act; and (iii) his understanding that commercial third-party funding of Irish court proceedings is generally prohibited, subject to limited exceptions.

26. The PCR contends that the Tribunal's order in Case 1601/7/7/23 *Ennis v Apple* dated 20 September 2023 on the issue of service out of the jurisdiction provides a relevant comparator. The *Ennis* proceedings were also brought against Apple on behalf of a class of UK-domiciled app developers. The Tribunal had before it the California jurisdiction clause. The Tribunal granted an application for service out of the jurisdiction *inter alia* on the two Foreign Proposed Defendants in the present proceedings. It did so on the basis of evidence to the effect that a US court would be very unlikely to hear a claim based on non-US competition law and that a Californian court would likely strike out such a claim. The Tribunal concluded that if the proposed class members were required to sue in California, they would suffer serious prejudice and that, in these circumstances, England and Wales was clearly the appropriate forum. Apple applied to set aside the order for service out. The Tribunal rejected that application. Its judgment, [2024] CAT 23, records, at §119, that it was common ground that the California jurisdiction clause was not enforceable in relation to the claims at issue in that case and that Apple did not contend that the Californian courts would be an appropriate forum.
27. I am satisfied that England and Wales is the appropriate forum. The proposed proceedings are collective proceedings using procedures available under the Act. They are brought on behalf of UK-domiciled app developers, including app developers based in England and Wales. Their claims are for losses sustained in the UK by reason of alleged breaches of UK competition law. For many of the class members, it would be unrealistic to envisage proceedings in another jurisdiction. Two of the Proposed Defendants are based in the UK. Material evidence about the claims is likely to be in the UK. The Foreign Proposed Defendants have a worldwide business and can reasonably be expected to litigate in any relevant jurisdiction. That there is likely to be relevant evidence in other jurisdictions does not detract from the suitability of England and Wales as the forum. On the face of the information to which I have referred above: (i) whilst the Ireland jurisdiction clause may affect some part of the claim, it seems unlikely to affect it all; and (ii) it would be reasonable to proceed, for present purposes, on the basis that California is not a viable alternative jurisdiction. It will of course be open to the Proposed Defendants to advance any argument to the contrary effect should they apply to set aside the present order.

E. TRIBUNAL THE PROPER PLACE TO BRING THE CLAIM

28. I am also satisfied that the Tribunal is the proper place to bring the claim. Collective proceedings under section 47B of the Act, such as those envisaged by the PCR, are not available in another forum.

F. ADDITIONAL CONSIDERATIONS

29. In fulfilment of its duty of full and frank disclosure, the PCR has noted that: (i) this is a standalone claim; (ii) the regulatory decisions to which I have referred are (or may shortly be) subject to appeal; (iii) Apple is likely to dispute market definition, dominance, abuse, objective justification, causation and quantum; (iv) Apple may contend that the alleged losses are heterogeneous, speculative or dependent on individual circumstances so as to be unsuitable for collective proceedings; (v) the proposed proceedings have a substantial international dimension and that Apple may contend that parts of the claim fall outside the territorial scope of s. 18 of the Act, are governed by foreign law or concern damage sustained outside the jurisdiction; (vi) Apple may argue that the international footprint of Proposed Class members' apps, users, advertising inventory and expenditure makes the evidence materially foreign and requires the claims to be divided by territory; (vii) Apple may contend that the proceedings should not be certified on an opt-out basis; (viii) Apple may invoke the California jurisdiction clause and/or the Ireland jurisdiction clause; (ix) Apple may dispute the involvement of the Third and Fourth Defendants and contend that they are not proper anchor defendants; and (x) there are other collective proceedings before the Tribunal involving Apple.
30. Whilst these disclosures include various matters which may (or may not) give rise to contentious issues, including potential issues which could be raised by way of objection to an order for service out of the jurisdiction, I am satisfied that they do not, whether considered individually or collectively, justify refusing an order for service out.

G. DECISION

31. For all these reasons, I grant permission for the PCR to serve the Collective Proceedings Claim Form and supporting documents out of the jurisdiction on the Foreign Proposed Defendants.

James Wolffe KC

Chair of the Competition Appeal Tribunal

Made: 6 October 2026

Drawn: 6 October 2026