

IN THE COMPETITION APPEAL TRIBUNAL

Case Nos: **1517/11/7/22 (UM)**
1441/7/7/22
1443/7/7/22

BETWEEN:

THE UMBRELLA INTERCHANGE FEE CLAIMANTS

- v -

THE UMBRELLA INTERCHANGE FEE DEFENDANTS

AND BETWEEN:

COMMERCIAL AND INTERREGIONAL CARD CLAIMS I LIMITED

- v -

CICC DEFENDANTS

ORDER (DIRECTIONS TO TRIAL 4)

UPON the Order of the President dated 4 July 2022, designating as Umbrella Proceedings the proceedings under case number and title 1517/11/7/22 (UM) Merchant Interchange Fee Umbrella Proceedings ("**the Merchant Umbrella Proceedings**") and designating various individual merchant interchange fee proceedings listed in the schedule to that order as "Host Cases" and designating all issues, matters or features arising out of the Merchant Umbrella Proceedings as "Ubiquitous Matters"

AND UPON the Tribunal handing down judgment on Trial 1 in the Merchant Umbrella Proceedings on 27 June 2025 ([2025] CAT 27) (the "**Trial 1 Judgment**")

AND UPON the Tribunal handing down judgment on Trials 2A (relating to merchant pass on) and 2B (relating to acquirer pass on) in the Merchant Umbrella Proceedings on 18 February 2026 ([2026] CAT 11) (the "**Trial 2 Judgment**")

AND UPON the Defendants' application for disclosure from the CICC Opt-In class dated 19 May 2026 (the "**CICC Disclosure Application**")

AND UPON the Tribunal having directed that Trial 3 in the Merchant Umbrella Proceedings be listed for 10 weeks commencing 11 October 2027

AND UPON the Tribunal having directed that Trial 4 in the Merchant Umbrella Proceedings be listed for 10-12 weeks commencing in March 2029

AND UPON the Tribunal hearing counsel for the Claimants and the Defendants at a case management conference ("**CMC**") on 26 and 27 October 2026

AND UPON the Tribunal's Ruling (Class Definition and Disclosure) [2026] CAT 81 refusing the CICC Disclosure Application

IT IS ORDERED THAT:

Disclosure from the CICC Opt-In class

1. The CICC Disclosure Application is refused.

2. The costs of the CICC Disclosure Application are reserved.

1. Each Opt-In class member shall, alongside the schedule of loss provided in accordance with paragraph 7 below, provide the Defendants with the Merchant Service Agreement(s) and / or any other evidence on which they rely in order to demonstrate their satisfaction of the class definition.

Scope of Trial 4

2. Trial 4 shall address:

(a) Issues of principle relating to remaining quantum issues for UK and Irish MIF claims falling within the scope of Trial 3 (the "**UK and Relevant Irish MIF Claims**");

(b) Issues concerning merchant pass-on for UK and Relevant Irish MIF Claims not bound by the Trial 2 Judgment; and

(c) Issues in respect of Article 101(1) and 101(3) TFEU for France, Germany and Italy.

3. Questions as to other issues to be included in the scope of Trial 4 shall be determined at the next CMC in these proceedings. This will include, in particular, the issues concerning merchant pass-on for the CICC opt-out class, all outstanding aspects of the remaining Irish MIF claims falling outside the scope of Trial 3 (the "**Outstanding Irish MIF Claims**"), merchant pass on in relation to France, Germany, and Italy and issues in respect of Article 101(1) and 101(3) TFEU for jurisdictions in addition to those listed in paragraph 4(c).

Directions to Trial 4 – quantum

4. In relation to pass-on issues requiring determination in the UK and Relevant Irish MIF Claims:

(a) By **4pm on 25 February 2027**, the Defendants shall provide the Claimants with their proposal for addressing pass-on issues for UK and Relevant Irish MIF Claims not bound by the Trial 2 Judgment.

(b) By **4pm on 25 March 2027**, the Claimants shall state whether they agree with the Defendants' proposal and, if they do not agree, shall provide the Defendants with a counter-proposal.

(c) If there is no agreement, by **4pm on 30 April 2027** the Defendants shall apply to the Tribunal for directions regarding the determination of pass-on issues for UK and Relevant Irish MIF Claims not bound by the Trial 2 Judgment.

5. The following directions shall apply with respect to clarifying the parties' positions in respect of quantum issues:

(a) Each Claimant or group of claimant companies operating together as a business or opt-in class member shall provide a schedule of loss signed by a statement of truth, signed either by the relevant Claimant or opt-in class member or by its legal representative, to the Defendants by **4pm on 21 May 2027** setting out the claimed quantum for each individual Claimant or class member, including in relation to their claim for interest (providing simple and/or compound calculations as may be applicable and giving particulars of the basis upon which any compound interest is claimed). The schedules should be broken down by different categories of MIFs and should specify any assumptions or estimations made. Otherwise there shall be no prescribed format for the schedules of loss.

(b) The Defendants shall file counter-schedules of loss setting out any areas of disagreement by **4pm on 16 July 2027** in relation to the quantum issues to be determined at Trial 4 as set out in paragraph 4 above.

(c) The parties shall then liaise to produce for the Tribunal's review and approval an agreed list of disputed quantum issues which arise from the parties' pleadings and the schedules of loss and counter-schedules of loss.

(i) This list shall identify any disputed issues of principle between the parties which the Tribunal ought to resolve at Trial 4.

(ii) For each issue, the list shall identify whether it is: (a) an issue of law which may be resolved without reference to facts or by reference to agreed facts; or (b) an issue of mixed fact and law whose resolution depends on relevant factual context, in which case the relevant factual context should be identified, in broad terms.

(iii) The list shall not include 'mechanistic' issues or other issues of calculation.

(d) The parties shall file the agreed list of disputed quantum issues by **4pm on 3 September 2027**.

(e) The parties' economic and accounting experts shall engage with one another to identify what evidence is required to resolve the issues of mixed fact and law.

(f) By **4pm on 29 October 2027**, the parties' experts shall file a Joint Expert Statement, no longer than 25 pages, setting out their views on the evidence required to resolve the issues of mixed fact and law. The statement shall also identify any point of disagreement between the experts.

6. The parties shall liaise to develop a process for the resolution of 'mechanistic' issues or other issues of calculation which arise from the schedules of loss and counter-schedules of loss, which may include ADR or the appointment of an independent claims assessor. The parties should report back to the Tribunal on progress with this task by **4pm on 3 September 2027.**

7. A CMC shall be listed in respect of Trial 4 issues for one day, on a date to be determined on or after 30 November 2027, to address outstanding quantum issues and pass-on issues to be determined at Trial 4.

Directions to Trial 4 –MIF claims other than the UK and Relevant Irish MIF Claims and pass-on

8. The following directions shall apply in relation to clarifying the parties' positions about alleged infringement of Article 101 TFEU (and domestic national equivalents) in respect of jurisdictions other than the UK and Ireland (and in respect of the Outstanding Irish MIF Claims):

(a) The Defendants shall by **4pm on 15 January 2027** each file a standalone statement of case providing further particulars in respect of claims within the jurisdictions of France, Germany and Italy, as well as the Outstanding Irish MIF Claims as to:

(i) in relation to Article 101(1) and Article 101(3), the facts and matters on which they rely to justify any alleged distinction from the Tribunal's findings in respect of the UK and Ireland; and

(ii) the legal test for pass-on in the relevant foreign law.

(b) The Claimants shall by **4pm on 26 February 2027** file replies to the Defendants' standalone statements of case.

9. The parties shall liaise as to which other EEA jurisdictions, if any, should also be included within the scope of Trial 4.

10. A further CMC shall be listed in respect of Trial 4 issues for one day in March 2027 to address outstanding issues, including which other EEA jurisdictions (if any) should be included within the scope of Trial 4.

Scope of Limitation Preliminary Issue hearing

11. The Limitation Preliminary Issue hearing (the "**Limitation PI hearing**") shall determine, in respect of claims governed substantively by the laws of France, Germany and Italy (the "**PI Jurisdictions**"), the following issues:

(a) Insofar as there is any dispute between the parties, (i) what are the domestic legal provisions governing the reception of EU and/or EEA law into the domestic legal order; and (ii) what are the relevant domestic limitation rules for the claims in each of the PI Jurisdictions?

(b) Having regard to C-605/21 *Heureka*, can time begin to run for the purposes of limitation/prescription of an action for damages under the law of the PI Jurisdictions for an alleged infringement of Articles 101/102 TFEU and / or Articles 81/82 of the EC Treaty before the infringement has come to an end?

(c) Does the answer to paragraph 13(b) above depend on the date on which the alleged infringement commenced and/or the date on which the claim otherwise became time-barred, i.e., whether the infringement commenced or claim

became time-barred (i) before the CJEU's decision in *Heureka*, and / or (ii) before the entry into force of national legislation implementing the Damages Directive (or deadline for transposition, if earlier)?

(d) Insofar as time cannot begin to run before a relevant cessation event, do each or any of the "**Identified Events**" (see below) constitute such a cessation event?

(e) In respect of the period from 22 May 1992 to 1 May 1996, does the requirement of double actionability apply such that the shorter of the limitation periods under English law and the relevant foreign law applies?

(f) Is the application by the Tribunal of the period which applies in the PI Jurisdictions to claims governed by the law of those PI Jurisdictions manifestly incompatible with relevant public policy under section 2(1)–(2) of the Foreign Limitation Periods Act 1984 and / or Article 26 of Rome II?

(g) Can the equitable doctrine of laches apply, upon appropriate factual investigation, to bar all or part of the relief claimed?

12. The Identified Events referred to above are:

(a) The European Commission's exemption decision of 24 July 2002 in respect of Visa's intra-EEA MIF arrangements for debit and credit consumer cards; and

(b) One of the European Commission's Visa Commitments Decisions of 8 December 2010 (consumer debit payment cards), 26 February 2014 (intra-EEA MIFs for consumer credit cards) and 29 April 2019 (inter-regional debit and credit card transactions). The parties shall liaise as to which of those decisions should be chosen for this purpose and shall report to the Tribunal on the result of that by **4pm** on **15 December 2026**.

13. None of the other candidate cessation events put forward by the Defendants at the CMC shall be considered at the Limitation PI hearing.

14. The costs of this CMC attributable to matters concerning the Limitation PI hearing are reserved, and treatment of those costs shall be considered following the Limitation PI hearing.

Directions to Limitation Preliminary Issue hearing

15. The Limitation PI hearing shall be listed to take place on **19 April 2027** with a time estimate of five days. **22 April 2027** shall be a non-sitting day so the final hearing day shall be **26 April 2027**.

16. The Parties shall liaise with a view to agreeing a statement of facts for the Limitation PI hearing, and shall file an agreed statement of facts by **4pm** on **15 December 2026**.

17. The Defendants shall file and serve their expert reports by **4pm** on **15 January 2027**. The Defendants may jointly file one expert report for each of the PI Jurisdictions. Each report is to be limited to 30 pages in length.

18. The Claimants shall file and serve their expert reports by **4pm** on **19 February 2027**. The Claimants may jointly file one expert report for each of the PI Jurisdictions. Each report is to be limited to 30 pages in length.

19. The Parties' experts shall liaise to produce a joint statement or joint statements (as they see fit) of matters agreed and not agreed for each of the PI Jurisdictions which shall be filed and served by **4pm** on **12 March 2027**.

20. The Parties shall liaise with a view to agreeing a timetable for the Limitation PI hearing, and shall file an agreed timetable, together with a list of any remaining procedural disputes between the Parties regarding the PI hearing, by **4pm** on **12 March 2027**.

21. A pre-trial review for the Limitation PI hearing shall be listed to take place on **22 March 2027** beginning at 10:30am with a time estimate of one and a half hours.

22. The Parties shall file agreed hearing bundles by **4pm** on **22 March 2027**.

23. The Parties shall file and exchange skeleton arguments by **4pm** on **2 April 2027**.

24. The Parties shall file an agreed authorities bundle by **4pm** on **9 April 2027**.

25. There be liberty to apply.

Ben Tidswell Made: 19 November 2026

Chair of the Competition Appeal Tribunal Drawn: 19 November 2026