



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1287/5/7/18

BETWEEN:

- (1) ASDA STORES LIMITED
(2) ~~ARCADIA GROUP BRANDS LIMITED and others~~
(3) ARGOS LIMITED and others
(4) WM MORRISON SUPERMARKETS PLC

Claimants

- v -

- (1) MASTERCARD INCORPORATED
(2) MASTERCARD INTERNATIONAL INCORPORATED
(3) MASTERCARD EUROPE SA (formerly known as MASTERCARD EUROPE SPRL)
(4) MASTERCARD/EUROPAY UK LIMITED

Defendants

ORDER

UPON the Tribunal's order made on 16 December 2020 establishing a confidentiality ring in these remitted proceedings ("the Confidentiality Ring Order")

AND UPON the request by letter dated 14 June 2021 from the solicitors for the claimants

AND UPON the agreement of the defendants

IT IS ORDERED BY CONSENT THAT:

The Confidentiality Ring Order is varied as follows:

- (1) To insert the following paragraph 6A after paragraph 6.2:

“6A. For the avoidance of doubt, an Outer Confidentiality Ring Member who is not also an Inner Confidentiality Ring Member, and who is employed by one of the Claimants, shall not be permitted to receive or view Outer Confidentiality Ring Information that was disclosed by a different Claimant, save where the Claimant who disclosed the Outer Confidentiality Ring Information provides its consent.”

- (2) To substitute the written undertakings at Part C and Part D of the Schedule to this order for those at Part C and Part D respectively of the Schedule to the Confidentiality Ring Order.

The Hon Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 23 July 2021
Drawn: 23 July 2021

SCHEDULE

PART C

In respect of any Confidential Information disclosed to them pursuant to this Order, each Inner Confidentiality Ring Member undertakes that they will comply with the following requirements, to the extent applicable to them, in the terms below.

None of the requirements listed at paragraph 2 to 11 below shall prevent Confidentiality Ring Members from disclosing to their clients any information contained within the Confidential Information which:

- (a) is or becomes publicly available otherwise than through any breach of these confidentiality terms by any Confidentiality Ring Member;
- (b) is subsequently received from a third party not under any obligation of confidence in relation to the Confidential Information; or
- (c) is required to be disclosed by operation of law or by order of a court of competent jurisdiction or by a regulatory or other body having jurisdiction over the Confidentiality Ring Member.

I, **[name]**, of **[chambers, firm, or company]** being **[legal or other qualification]** undertake to the Tribunal and each of the Parties as follows:

1. I have read a copy of the Tribunal's Order of [date of confidentiality order] and understand that Order and the implications of giving this undertaking.
2. I have read rule 31.22 of the Civil Procedure Rules and Rules 101 and 102 of the Competition Appeal Tribunal Rules 2015 and am aware of and will comply with the obligations imposed by the rules.
3. I will not disclose Inner Confidentiality Ring Information to any person who is not an Inner Confidentiality Ring Member; or Outer Confidentiality Ring Information to any person who is not a Confidentiality Ring Member or Outer

Confidentiality Ring Information disclosed by a Claimant to any Outer Confidentiality Ring Member who is employed by a different Claimant.

4. I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever in any jurisdiction.
5. The documents containing any Inner Confidentiality Ring Information will remain in my custody or the custody of another Inner Confidentiality Ring Member at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
6. The documents containing any Outer Confidentiality Ring Information will remain in my custody or the custody of another Confidentiality Ring Member at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
7. The production of further copies by me of the documents containing the Inner Confidentiality Ring Information shall be limited to those required for the use of the Inner Confidentiality Ring Members for the purposes of these proceedings only and shall be held in accordance with these undertakings.
8. The production of further copies by me of the documents containing the Outer Confidentiality Ring Information shall be limited to those required for the use of the Confidentiality Ring Members for the purposes of these proceedings only and shall be held in accordance with these undertakings.
9. I will continue to comply with these undertakings after the conclusion of the proceedings, in respect of any Confidential Information that I do not destroy and continue to hold.
10. I will take all such steps as may be necessary or expedient on my part to comply with any request made under or pursuant to this Order.

11. I will otherwise comply with this Order and/or, as the case may be, take all steps within my power to ensure that this Order is complied with (including by not disclosing Confidential Information to persons other than relevant Confidential Ring Members, or assisting or enabling any person to do so).

Signed:

Name:

Date:

SCHEDULE

PART D

In respect of any Outer Confidentiality Ring Information disclosed to them pursuant to this Order, each Outer Confidentiality Ring Member undertakes that they will comply with the following requirements, to the extent applicable to them, in the terms below.

None of the requirements listed at paragraph 2 to 9 below shall prevent Confidentiality Ring Members from disclosing to their clients any information contained within the Confidential Information which:

- (a) is or becomes publicly available otherwise than through any breach of these confidentiality terms by any Confidentiality Ring Member;
- (b) is subsequently received from a third party not under any obligation of confidence in relation to the Confidential Information; or
- (c) is required to be disclosed by operation of law or by order of a court of competent jurisdiction or by a regulatory or other body having jurisdiction over the Confidentiality Ring Member.

I, **[name]**, of **[company]** being **[legal or other qualification or position]** undertake to the Tribunal and each of the Parties as follows:

1. I have read a copy of the Tribunal's Order of [date of confidentiality order] and understand that Order and the implications of giving this undertaking.
2. I have read rule 31.22 of the Civil Procedure Rules and Rules 101 and 102 of the Competition Appeal Tribunal Rules 2015 and am aware of and will comply with the obligations imposed by the rules.
3. I will not disclose the Outer Confidentiality Ring Information to any person who is not a Confidentiality Ring Member or Outer Confidentiality Ring Information disclosed by a Claimant to any Outer Confidentiality Ring Member who is employed by a different Claimant.

4. I will use the Outer Confidentiality Ring Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever in any jurisdiction.
5. The documents containing any Outer Confidentiality Ring Information will remain in my custody or the custody of another Confidentiality Ring Member at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
6. The production of further copies by me of the documents containing the Outer Confidentiality Ring Information shall be limited to those required for the use of Confidentiality Ring Members, for the purposes of these proceedings only and shall be held in accordance with these undertakings.
7. I will continue to comply with these undertakings after the conclusion of the proceedings, in respect of any Confidential Information that I do not destroy and continue to hold.
8. I will take all such steps as may be necessary or expedient on my part to comply with any request made under or pursuant to this Order.
9. I will otherwise comply with this Order and/or, as the case may be, take all steps within my power to ensure that this Order is complied with (including by not disclosing Confidential Information to persons other than relevant Confidential Ring Members, or assisting or enabling any person to do so).

Signed:

Name:

Date: