



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1408/7/7/21

BETWEEN:

ELIZABETH HELEN COLL

Proposed Class Representative

- v -

(1) ALPHABET INC.
(2) GOOGLE LLC
(3) GOOGLE IRELAND LIMITED
(4) GOOGLE COMMERCE LIMITED
(5) GOOGLE PAYMENT LIMITED

Proposed Defendants

ORDER

UPON the Proposed Class Representative’s application dated 29 July 2021 for a collective proceedings order (the “**CPO Application**”) pursuant of section 47B of the Competition Act 1998 and Rule 75 of the Competition Appeal Tribunal Rules (S.I. 2015 No. 1648) (the “**Tribunal Rules**”).

AND UPON the Proposed Class Representative’s requests that certain information in the Proposed Class Representative’s Curriculum Vitae, the Litigation Funding Agreement, the After-the-Event Insurance Policy, and the Litigation Budget be treated as confidential or be redacted (the “**Confidentiality Requests**”).

AND UPON the parties agreeing the terms of a confidentiality ring order (the “**Confidentiality Ring**”).

AND UPON the Proposed Defendants requesting disclosure of the level of solicitors' and counsel's success fees into the Confidentiality Ring (the "**Disclosure Request**").

AND UPON hearing Ronit Kreisberger Q.C., George McDonald and Matthew Kennedy for the Proposed Class Representative and Josh Holmes Q.C., Jamie Carpenter Q.C. and Jack Williams for the Proposed Defendants at a case management conference on 17 January 2022 (the "**CMC**").

AND UPON the Proposed Class Representative agreeing at the CMC to disclose into the Confidentiality Ring a version of Appendix 3 to the Litigation Funding Agreement with the reference to "Stakeholder Proceeds" unredacted.

AND UPON the Proposed Class Representative agreeing at the CMC to disclose into the Confidentiality Ring a copy of the Litigation Funding Agreement with clause 7.6 unredacted (save for the redacted figure in the fourth line).

AND UPON the Proposed Class Representative having filed with the Tribunal the material, referenced above, that she has agreed to disclose into the Confidentiality Ring.

AND UPON the Tribunal reserving its decision in respect of the Confidentiality Requests insofar as not already agreed between the parties and the Disclosure Request.

IT IS ORDERED THAT:

Forum

1. Pursuant to Rules 18, 52 and 74 of the Tribunal Rules, the CPO Application be treated as proceedings in England and Wales.

Publicity

2. The Proposed Class Representative shall publicise the CPO Application in accordance with the notice at **Annex A** to this Order and Section 7 of the Proposed Class Representative's Notice and Administration Plan by **28 January 2022**.
3. The Proposed Class Representative shall publicise, in accordance with paragraphs 2, 10 and 11 of this Order, the right under Rule 76(10)(c) of the

Tribunal Rules of persons with an interest to object to the CPO Application or the authorisation of the Proposed Class Representative by **28 January 2022**.

4. The Proposed Class Representative shall publicise, in accordance with paragraphs 2 and 10 of this Order, the right under Rule 79(5) of the Tribunal Rules of members of the proposed class to make an application to the Tribunal for permission to make oral submissions at the hearing of the CPO Application by **28 January 2022**.

Confidentiality ring

5. The Confidentiality Ring be established by separate order of, and in the form approved at the CMC by, the Tribunal.

Further information

6. The Proposed Class Representative shall file and serve evidence from an authorised individual at the Proposed Class Representative's funder addressing the issue of the assets available to Vannin Capital PCC for and on behalf of Project Pontac PC ("**the Funder**") to fund the claims proposed to be brought by the Proposed Class Representative by **4pm on 31 January 2022**.
7. The Proposed Class Representative shall file and serve evidence from an authorised individual at the Proposed Class Representative's solicitors addressing the matters addressed at paragraph 44.3 of the Proposed Class Representative's skeleton argument for the CMC by **4pm on 31 January 2022**.

Responses and replies

8. The Proposed Defendants shall file and serve their response to the CPO Application, together with any factual evidence (including as to the PCR's proposed class definition) and/or economic expert evidence, and any application made pursuant to rule 79(4) of the Tribunal Rules, by **4pm on 14 February 2022**.
9. The Proposed Class Representative shall file and serve any reply to the Proposed Defendants' response, together with any factual and/or economic expert

evidence, and any response to any application made pursuant to rule 79(4) of the Tribunal Rules, by **4pm on 4 April 2022**.

Objections to the CPO Application and applications for permission to make observations

10. Any person with an interest (including any member of the proposed class) may object to the CPO Application or the authorisation of the Proposed Class Representative by writing to the Tribunal stating their reasons for objecting by **4pm on 11 March 2022**. Any member of the proposed class may also seek permission to make oral observations at the CPO Application hearing, by making an application for such permission, with reasons, as part of his/her written objections.
11. Any third party with a legitimate interest (who is not a member of the proposed class) who seeks permission to make written and/or oral observations at the CPO Application hearing is to make such application, supported by reasons, to the Tribunal by **4pm on 11 March 2022**.

Skeleton arguments and bundles

12. The Proposed Class Representative shall file an electronic version and six hard copies of the agreed hearing bundle by **4pm on 27 June 2022**.
13. The parties shall file and serve skeleton arguments by **4pm on 4 July 2022**.
14. The Proposed Class Representative shall file an electronic version of the agreed authorities bundle by **4pm on 11 July 2022**.

Hearing

15. The hearing of the CPO Application be listed for **18 and 19 July 2022**, with **20 July 2022** in reserve.

General

16. Costs reserved.

17. There be liberty to apply.

Bridget Lucas QC

Chairman of the Competition Appeal Tribunal

Made: 17 January 2022

Drawn: 26 January 2022

ANNEX A

Google customers who made purchases in the UK Google Play Store since 1 October 2015 could benefit from proposed collective action

This notice has been issued at the direction of the Competition Appeal Tribunal

- Elizabeth Coll (“**Ms Coll**”) has filed an application to bring collective proceedings as a class representative on an opt-out basis against Alphabet Inc., Google LLC, Google Ireland Limited, Google Commerce Limited and Google Payment Limited (collectively “**Google**”). The application has been filed with the Competition Appeal Tribunal (“**Tribunal**”) by Ms Coll on behalf of a proposed class of individuals and businesses that she claims have suffered loss due to Google’s conduct.
- The Consumer Rights Act 2015 allows collective proceedings to be brought on behalf of a group or groups of persons who are alleged to have suffered loss as a result of unlawful anticompetitive conduct. For collective proceedings to be brought, the Tribunal must first make a collective proceedings order (a “**CPO**”) authorising a person to act as a representative of the class and certifying the proposed claim as eligible for inclusion in collective proceedings.
- Ms Coll has applied to the Tribunal for a CPO which, if granted, would allow her proposed claim to proceed to a full trial. The proposed claim that Ms Coll alleges is that Google has breached competition law in respect of its app store in the UK (the “**Google Play Store**”). Ms Coll alleges that consumers and businesses may have been overcharged by Google when paying for apps or digital content, services or subscriptions within an app from an Android device in the UK version of the Google Play Store in the period from 1 October 2015 onwards.
- At a hearing scheduled to commence on **18 July 2022 at 10.30am**, the Tribunal will hear arguments as to whether Ms Coll can be authorised to act as the class representative and whether the claims Ms Coll is bringing can proceed as collective proceedings on behalf of the proposed class. The **proposed class** includes:

all persons (including both consumers and businesses) who, at any point during the period between 1 October 2015 and the date of final judgment or earlier settlement of this claim, made for themselves and/or another person, one or more purchases of an app or digital content, services or subscriptions within an app (excluding Google apps) in the UK version of the Google Play Store from an Android smartphone or tablet on which the Google Play Store was pre-installed.
- If a claim were certified: those who are domiciled in the UK and fall within the class definition of the claim that the Tribunal certifies would automatically be included in that claim, and would be bound by any judgment or settlement, unless they choose to opt-out. Those who fall within this definition but are not domiciled in the UK but wish to participate in the claim would have the opportunity to opt-in to the claim. For more details on this please visit www.appstoreclaims.co.uk.
- The hearing, scheduled to commence on **18 July 2022 at 10.30am**, will last for two days (with one day in reserve) and will take place at the Competition Appeal Tribunal, Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP. However, if circumstances require, it will be held virtually, in accordance with the relevant protocols for conducting online hearings during the Covid-19 pandemic, as required at the time. In

either case, the hearing may be followed via the Tribunal’s website (a “Watch now” link to view the hearing will appear on the hearing date under the Diary list on the following pages: <https://www.catribunal.org.uk/> and <https://www.catribunal.org.uk/diary>).

- To learn more about Ms Coll’s proposed claim, please visit www.appstoreclaims.co.uk or www.catribunal.org.uk.

YOUR LEGAL RIGHTS AND OPTIONS NOW	
OBJECT TO THE APPLICATION OR THE PROPOSED CLASS REPRESENTATIVE	Any person with an interest (including any proposed class member) may object to the application for a CPO, or the authorisation of the proposed class representative (Ms Coll), by stating their reasons for objecting in writing to be received by the Tribunal by 11 March 2022 at 4pm . For further details, see Question 8 below.
APPLY TO MAKE ORAL/ WRITTEN SUBMISSIONS TO THE TRIBUNAL	Any person with an interest (including any proposed class member) may apply to the Tribunal for permission to make written and/or oral submissions at the hearing commencing on 18 July 2022 . Any such application must be made in writing, supported by reasons, and received by the Tribunal by 11 March 2022 at 4pm .
CONTACT DETAILS	To learn more about the application to bring the proposed claim, visit www.appstoreclaims.co.uk and/or https://www.catribunal.org.uk/cases/14087721-elizabeth-helen-coll .

GENERAL INFORMATION

The Tribunal has issued directions for a hearing (see Order at Annex A), to determine whether Ms Coll’s application for a CPO for the proposed claim should be granted, which is scheduled to commence on **18 July 2022**. It has also directed that this notice be issued ahead of the hearing to seek the views of any interested persons.

Ms Coll’s CPO application asks the Tribunal to: (i) approve the proposed claim as suitable to proceed as a collective claim on behalf of eligible class members; and (ii) approve Ms Coll as the class representative.

This notice has been issued to inform you of your right to object to the CPO application or the authorisation of the proposed class representative. Please read this notice carefully.

The Tribunal is a specialist court based in London that covers the whole of the UK and hears cases concerning the application of competition law, including by way of collective proceedings. The Tribunal publishes its Rules and Guidance, together with information about what it does and details of its on-going cases, on its website www.catribunal.org.uk.

3. Who is the proposed claim against?

The proposed claim is against Alphabet Inc., Google LLC, Google Ireland Limited, Google Commerce Limited and Google Payment Limited (together “**Google**”). Google is a technology company which offers a wide range of digital services as well as manufacturing consumer devices including smart mobile devices.

4. What is Google alleged to have done wrong? What are the claims?

The proposed claim that Ms Coll proposes to bring as collective proceedings alleges that Google has breached European and UK competition law by abusing its dominant position. Ms Coll alleges that Google has abused a powerful position by engaging in practices which are capable of restricting competition in two markets (the market for Android app distribution and the market for processing payments of certain purchases in the Google Play Store) by charging an excessive and unfair commission on certain purchases in the UK Google Play Store; as much as 30%. As a result, you may have paid more than you should have done when paying to download apps from the Play Store, and/or making “in-app” purchases.

Ms Coll alleges that if you have made a purchase in the UK Google Play Store on your Android smartphone or tablet since 1 October 2015 you may be entitled to compensation.

5. Who is the proposed class representative?

The CPO application requests that Ms Coll be authorised to act as the class representative for the proposed claim.

Ms Coll is a consumer tech policy expert with over twelve years’ experience of campaigning for consumers’ rights online. At Citizens Advice and Consumer Focus she led work on critical issues for consumers in the digital world like data privacy, smart home devices and online reviews. She went on to establish a global digital programme at Consumers International, where she led advocacy and research into e-commerce, consumer internet of things, AI, data privacy and the impact of platforms on consumers’ access to choice, redress and fair treatment. She has represented consumer interests at national and global policy forums including the OECD and the G20. As an independent consultant, she works with international policy makers, consumer groups and standards setters, sits on EU technology standards committees and is a strategic advisor to the UK’s Consumer and Public Interest Network.

As the proposed class representative, Ms Coll would conduct the claim against Google on behalf of all class members (except for those who decide to opt-out of the class). Ms Coll would instruct the lawyers and experts, make decisions on the conduct of the claim and, in particular, consider and decide whether to present any offer of settlement that Google may make to the Tribunal for its approval. The Tribunal will assess Ms Coll’s suitability to act as the proposed class representative as part of the hearing on **18 July 2022**.

During the collective proceedings, Ms Coll would be responsible for communicating with and updating the class members on the conduct of the proceedings and for issuing formal notices, such as this notice. If approved, Ms Coll would continuously update the class about the claim on the website www.appstoreclaims.co.uk and through the media.

WHAT DOES THE CPO APPLICATION ASK FOR?

6. Who would be in the proposed class?

The Consumer Rights Act 2015 allows for a collective claim to be brought on behalf of a group of individuals. The group is the “class” and all individuals within the group are “class members.” As a result of the 2015 Act, groups of persons who have suffered loss do not need to bring an individual claim to obtain compensation for their loss. Instead, such persons may all receive compensation through a single, collective claim brought on their behalf by a representative.

The CPO application asks the Tribunal to allow the proposed claim to proceed on an “opt- out” basis on behalf of all persons (including both consumers and businesses) who, at any point during the period between 1 October 2015 and the date of final judgment or earlier settlement of this claim, made for themselves and/or another person, one or more purchases of an app or digital content, services or subscriptions within an app (excluding Google apps) in the UK version of the Google Play Store from an Android smartphone or tablet on which the Google Play Store was pre-installed.

To check whether you or your business fall within the proposed class, you may have regard to the following instructions.

First, you should check if you have been using the UK version of the Google Play Store. To check this, enter the Google Play Store on your Android smartphone or tablet, click on your account (the small icon with your photo or the first letter of the name you registered with in the top right-hand corner of your screen), go to ‘Settings’, click the drop-down box ‘General’, go to ‘Account and device preferences’ and check which country is listed (with a green tick beside it) under ‘Country and profiles’. Alternatively, you can check this online by following this link: <https://play.google.com/store>, clicking on your account icon in the top right-hand corner, clicking on the ‘Payments and Subscriptions’ tab, clicking on ‘Manage Payment Methods’ and then selecting the ‘Settings’ tab. The UK should be listed under ‘Country/Region’. If the UK is listed, you are using the UK version of the Google Play Store. If you have made purchases in the Google Play Store using more than one Google account since 1 October 2015, please follow the above steps in respect of each of your Google accounts to check that each is registered to the UK version of the Google Play Store.

Next, you need to check whether you have made any purchases in the UK version of the Google Play Store. To check this, enter the Google Play Store on your Android smartphone or tablet, click on your account, select ‘Payments and subscriptions’, then select ‘Budget and history’ and you will be able view your purchase history. Alternatively, you can view your purchase history online by following this link: <https://play.google.com/store>, clicking on the ‘Account’ tab, clicking on the ‘Order History’ tab, and filtering ‘Categories’ by ‘Apps’. Your purchase history is linked to your Google account. Therefore, if you have made purchases in the Google Play Store using more than one Google account since 1 October 2015, please follow the above steps in respect of each of your Google accounts to collate a composite list of all purchases.

If you have paid money to Google in the UK version of the Google Play Store from an Android smartphone or tablet at any point since 1 October 2015, you are very likely to be a member of the proposed class.

Only payments that show up in your purchase history, and which do not relate to one of Google’s own apps, are relevant to the proposed claim. Certain categories of payments, such as payments for taxi rides and food deliveries (e.g. most payments for a physical good or service) won’t show up in your purchase history and are not relevant to the proposed claim. In addition, payments for or within Google apps (e.g., payments within the “Play Books” app) are also excluded from the claim. Further details regarding the requirements for eligibility as class members (and any applicable exclusions from the class, which includes any members of Ms Coll’s or Google’s legal teams, anyone assigned to determine the claim and deceased persons) can be found on the website set up by Ms Coll at

www.appstoreclaims.co.uk.

“Opt-out” means that anyone who meets the proposed class definition will be included in the claim automatically and be bound by the result unless they expressly ask to ‘opt-out’. If the Tribunal allows the proposed claim to proceed as collective proceedings, it will also be possible for those who are not automatically included in the claim but meet certain criteria to ‘opt-in’ to the claim if they have suffered loss as a result of Google’s conduct. More information can be found at www.appstoreclaims.co.uk.

7. How much money does the claim ask for?

The proposed claim seeks compensation for all those within the proposed class who have been affected by Google’s allegedly anti-competitive behaviour. The total aggregate amount sought is between GBP 263 million and GBP 752 million (excluding interest). If the proposed claim is successful, all persons who fall within the class and have not opted out (and, for those domiciled outside the UK, those who have opted in by the required deadline) will be able to seek a payment of the damages awarded.

Visit www.appstoreclaims.co.uk for more details about the amount of compensation that you may receive in due course.

HOW TO OBJECT TO THE COLLECTIVE PROCEEDINGS ORDER APPLICATION OR TO THE CLASS REPRESENTATIVE

8. Who can object and what can I object to?

Any person with an interest (including anyone who would be a member of the proposed class) may object to the CPO application or the authorisation of the proposed class representative (Ms Coll). You should review the information above and visit both www.appstoreclaims.co.uk and www.catribunal.org.uk for information.

If you wish to file an objection, you must write to the Tribunal stating your reasons for objecting and send them by post, fax, or email so they are received **no later than 11 March 2022 at 4pm**, to Registry@catribunal.org.uk or the following address:

The Registrar Competition Appeal Tribunal
Salisbury Square House
8 Salisbury Square
London EC4Y 8AP
www.catribunal.org.uk

When writing to the Tribunal you must include the reference ‘Coll v Google, Case No.1408/7/7/21’.

Any person with an interest (including any proposed class member) can also apply to the Tribunal for permission to make written and/or oral submissions at the hearing commencing on **18 July 2022**. Any such application must be made in writing, supported by reasons, and sent by post to the above address or by email to Registry@catribunal.org.uk **so it is received no later than 11 March 2022 at 4 pm**.

GETTING MORE INFORMATION

9. How can I stay updated on the progress of the proposed claim?

You can visit www.appstoreclaims.co.uk for periodic updates on the proposed claim.

10. Who is funding the proposed claim?

The proposed claim is being funded by litigation funders Vannin Capital, who are members of the Association of Litigation Funders and have a wealth of experience in funding cases similar to this one.

In order to fund the claim, Ms Coll has entered into a litigation funding agreement with Vannin Capital, a non-confidential copy of which is available to proposed class members upon request through the above website. Additionally, Ms Coll has secured insurance cover in order to pay Google's adverse costs up to a limit of £10 million in aggregate. A non-confidential copy of the insurance policy is available to proposed class members upon request through the above website.

As a proposed class member, you will not incur any costs of taking part in the proposed collective claim, nor will you be liable to Google for its costs should the proposed collective claim be unsuccessful.

More information can be found on the claim website: www.appstoreclaims.co.uk.