



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1429/4/12/21

BETWEEN:

META PLATFORMS, INC.

Applicant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

ORDER

UPON reading the notice of application lodged by the Applicant under rules 9 and 26 of the Competition Appeal Tribunal Rules 2015 (S.I. No. 1648 of 2015) (“**the Tribunal Rules**”) on 23 December 2021 (“**the Application**”) relating to the final report of the Respondent dated 30 November 2021 (“**the Decision**”)

AND UPON the Tribunal having made an Order on 26 January 2022 establishing a Confidentiality Ring including External Legal Advisers (“**the Confidentiality Ring Order**”)

AND UPON reading the requests by the Computer & Communications Industry Association (“**CCIA**”) dated 19 January 2022 and by Application Developers Alliance (“**ADA**”) dated 26 January 2022 for permission to intervene under Rule 16 of the Tribunal Rules in support of the Applicant

AND UPON reading the request by Privacy International (“**PI**”) dated 26 January 2022 for permission to intervene under Rule 16 of the Tribunal Rules in support of the Respondent

AND UPON reading the submissions of the parties filed in advance of a case management conference (“**CMC**”) on 15 February 2022

AND UPON hearing counsel for the Applicant, for the Respondent, for ADA and for PI, and a solicitor for CCIA, at the CMC held on 15 February 2022

IT IS ORDERED THAT:

Forum

1. The Application be treated for all purposes as proceedings in England and Wales for the purposes of Rule 18 of the Tribunal Rules.

Intervention

2. The applications by ADA, CCIA and PI (“the Interveners”) for permission to intervene be granted, confined to written submissions.

Confidentiality

3. The individuals listed below are authorised to be admitted to the Confidentiality Ring pursuant to paragraph 4 of the Confidentiality Ring Order, and are therefore eligible to become External Legal Advisers for the purposes of that Order upon giving a signed undertaking in the terms of Part B of the Schedule to that Order, notwithstanding that they are not lawyers:

Grant Hunter)

Eleanor Monaghan) economic consultants, of Frontier Economics.

David Parker)

Ellie Travers)

Disclosure

4. By 5pm on 18 February 2022, the Respondent shall produce to the Applicant copies of the documents listed in Part A of the Schedule hereto.

5. By 5pm on 4 March 2022, the Respondent shall produce to the Applicant copies of the documents listed in Part B of the Schedule hereto. The Applicant shall thereafter have the right to require explanations from the Respondent of up to five of the changes to the provisionally approved version(s) of the Decision. Such explanations must be full but may appropriately be answered by the production of further underlying documents.

Future conduct of the Application

6. The Applicant has permission to make amendments to its Notice of Application consequential upon:
 - (a) the unredaction of the Decision since 23 December 2021;
 - (b) other documents disclosed to the Applicant by the Respondent since 23 December 2021;
 - (c) the disclosure ordered in paragraph 4 above;
 - (d) the disclosure ordered in paragraph 5 above; and/or
 - (e) the witness statement ordered in sub-paragraph 7(c) below.
7. By 5pm on 4 March 2022:
 - (a) The Applicant shall file and serve its Reply to the Respondent's Defence dated 31 January 2022.
 - (b) The Applicant shall file and serve its Notice of Application amended in accordance with the permission granted by sub-paragraphs 6(a)-(c) above (save for any amendments relating to its proposed ground of review as outlined in the Annex to the Applicant's skeleton argument for the CMC relating to delegation of authority and the approval of the Decision, which are addressed in paragraph 8 below).

- (c) The Respondent shall file and serve on the Applicant a witness statement addressing the process by which the Decision was finalised and said to have been approved by the Group, including an explanation of when each chapter of the Decision was provisionally approved, the types of changes which were made following such provisional approval(s), and the identity of the person or persons who made such changes.
 - (d) The Interveners shall file and serve their Statements of Intervention, which shall each be limited to 25 pages.
- 8. By 5pm on 18 March 2022, the Applicant shall file and serve any Re-Amended Notice of Application, including (if so advised) its proposed ground of review as outlined in the Annex to the Applicant's skeleton argument for the CMC relating to delegation of authority and the approval of the Decision, and any amendments arising from the Respondent's disclosure pursuant to paragraph 5 above, and the Respondent's witness statement pursuant to subparagraph 7(c) above.
- 9. By 5pm on 25 March 2022:
 - (a) The Respondent shall file and serve any Amended Defence consequential upon the amendments to the Notice of Application permitted by this Order.
 - (b) The Applicant and the Respondent shall each file and serve their responses to the Interveners' Statements of Intervention.
- 10. By 5pm on 29 March 2022, the Applicant shall lodge six hard copies and an electronic copy of an agreed hearing bundle.
- 11. By 5pm on 31 March 2022, the Applicant and Respondent shall write to the Tribunal with their proposals in relation to the protection of confidential information at the final hearing.

12. By 5pm on 4 April 2022, the Interveners shall file and serve their replies to the Applicant's and Respondent's responses to their Statements of Intervention. Each reply shall be limited to five pages.
13. By 5pm on 8 April 2022, the Applicant shall file and serve its skeleton argument.
14. By 5pm on 14 April 2022, the Respondent shall file and serve its skeleton argument.
15. By 5pm on 20 April 2022, the Applicant shall lodge six hard copies and an electronic copy of an agreed bundle of authorities.
16. A hearing be listed for 25 April 2022 with a time estimate of four days.

General

17. Costs reserved.
18. There be liberty to apply

Sir Marcus Smith
President of the Competition Appeal Tribunal

Made: 15 February 2022
Drawn: 25 February 2022

SCHEDULE

PART A

Documents mentioned in First Witness Statement of Mr McIntosh

1. The three emails mentioned in paragraph 36.
2. The completed questionnaire mentioned in paragraph 36.
3. The two completed questionnaires mentioned in paragraph 37.
4. The two follow-up emails mentioned in paragraph 37.
5. The two emails from the Case Team following the call on 10 May 2021, and the associated responses, mentioned in paragraph 43.
6. The two non-statutory requests for information, and the associated response, mentioned in paragraph 43.
7. The request for information under section 109 of the Enterprise Act 2002, and the associated response, mentioned in paragraph 43.

Unredacted versions of documents in Exhibit SM1

8. Minutes of Group meeting on 5 August 2021 (SM1, pages 33-34).
9. Minutes of Group meeting on 16 September 2021 (SM1, pages 156-157).
10. Minutes of Group meeting on 16 November 2021 (SM1, pages 174-176).

Unredacted Provisional Findings

11. A fully unredacted version of the Provisional Findings.

PART B

Approval by the Group

12. Each chapter of the Decision in the form that was provisionally approved by the Group, whether on 16 November 2021 or subsequently, to the extent that can be identified by the Respondent.

13. In the event that the Respondent cannot locate any particular chapter of the Decision in the form that was provisionally approved by the Group, it will disclose the version which it considers to be the closest substitute. The basis for any such substitution will be explained in the witness statement referred to in sub-paragraph 7(c) of this Order.