

# **Apple customers who made payments in the UK App Store since 1 October 2015 could benefit from collective action**

*Currently living in the UK? You are already included.*

*Currently living outside the UK? You must act now to participate.*

*This is a legal notice that has been issued at the direction of the Competition Appeal Tribunal*

- The Competition Appeal Tribunal has decided that a claim filed against Apple Inc. and Apple Distribution International Ltd. (collectively “**Apple**”) on behalf of customers using the UK storefront of the App Store (“**UK App Store**”) may be brought on a collective basis. Dr Rachael Kent has been approved to act as the class representative on behalf of individuals and businesses that she claims have suffered loss due to Apple’s conduct.
- According to Dr Kent’s claim, Apple has breached competition law by excluding competition and/or charging an unfair and excessive level of commission on certain app or in-app purchases made on iPhones or iPads in the UK App Store. Dr Kent seeks compensation from Apple on behalf of affected individuals and businesses.
- The class that Dr Kent represents includes:

*all persons 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 Apple apps) from an iPhone or iPad device in the UK storefront of the App Store.*
- No money is available now and there is no guarantee that money will be available in the future. The collective claim will need to be won or settled by Dr Kent before any money can become available.
- You have important legal rights related to this claim. Exercising these rights could affect your ability to get a payment in the future (if the case is won or a settlement is reached, and money becomes available). This notice explains the claim, who is covered by the claim, your rights in relation to the claim, how to exercise these rights and any related deadlines. **Please read this notice carefully as your decisions about this claim will have legal consequences.**
- To read the Tribunal's full Collective Proceedings Order made on 29 June 2022 (“**Order**”), which allows the claim to proceed, see Annex A.

| YOUR LEGAL RIGHTS AND OPTIONS |   |
|-------------------------------|---|
| <b>STAY IN THE CLAIM</b>      | If you or your business are domiciled in the UK as of 5 May 2022 and fall within the description of the class, you do not need to do anything at this time to be eligible to claim a share of any money that may become available in the future. By doing nothing, you give up the right to make your own separate claim against Apple for the same legal claims in this case and you agree to be bound by judgments the Tribunal may issue in this case.   |
| <b>OPT-OUT</b>                | If you are currently living in the UK as of 5 May 2022 you have the right to “opt-out” or request to be excluded from the claim by 9 September 2022. By opting-out you keep the right to bring your own separate claim against Apple. However, if you opt-out you will not be able to get any money from this claim (if money becomes available). More information on how to opt-out can be found at <a href="http://www.appstoreclaims.co.uk">www.appstoreclaims.co.uk</a> and at question 17 below. |
| <b>OPT-IN</b>                 | If you are living outside the UK as of 5 May 2022 but meet the other criteria to be in the class and wish to be part of the claim, you will need to “opt-in” to the claim. The deadline for opting-in is 9 September 2022. More information on how to opt-in can be found at <a href="http://www.appstoreclaims.co.uk">www.appstoreclaims.co.uk</a> and at questions 18 and 19 below.   |

## GENERAL INFORMATION

### 1. Why has this notice been issued?

The Competition Appeal Tribunal has directed that this notice be issued following the Order made on 29 June 2022 (see copy at Annex A). The Order allows this claim to proceed as a collective claim on behalf of eligible UK class members.

This notice has been issued to inform you of important legal rights you have related to this claim. Exercising these rights could affect your ability to get a payment in the future (if money becomes available). This notice explains the claim, who is covered by the claim, your rights in relation to the claim, how to exercise these rights and any related deadlines. **Please read this notice carefully as your decisions about this claim will have legal consequences.**

### 2. Who is the claim against?

This claim is against Apple. Apple is a technology company which manufactures consumer devices including iPhones and iPads. Apple also designs and operates related consumer services such as the App Store.

### 3. What is Apple alleged to have done wrong? What are the claims?

Dr Kent alleges that Apple has breached competition law by abusing its dominant position. She alleges that Apple has a powerful position and has abused that position and as a result there are no alternatives to the App Store on iPhones and iPads, and Apple has been able to charge a very high commission on certain purchases in the UK App Store; as much as 30%. As a result, Dr Kent alleges that you may have been overcharged. If you have made a purchase in the UK App Store on your

**Questions? Visit: [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk)**

iPhone or iPad since 1 October 2015, Dr Kent believes that you are likely to have suffered loss and may be entitled to compensation.

#### 4. Who has brought the claim? What is the role of the class representative?

The Competition Appeal Tribunal (the “**Tribunal**”) has authorised Dr Rachael Kent to serve as the class representative for this claim.

As the class representative, Dr Kent will conduct the claim against Apple on behalf of all class members (except those who opt-out of this claim). Dr Rachael Kent will instruct a team of lawyers and experts, make decisions on the conduct of the claim and, in particular, decide whether to accept any settlement offer that Apple may make and present it to the Tribunal for its approval.

To assist her, Dr Kent has established a consultative group made up of individuals experienced in the legal, consumer and payments sectors relevant to the claim. The consultative group’s role is to advise Dr Kent to ensure that the collective claim is run in a way that is in the best interests of the class. The members of the consultative group are: Dame Elizabeth Gloster; James Walker; and Kevin Jenkins.

During the case, Dr Kent is responsible for communicating with the class and for issuing formal notices, such as this notice, to class members. Updates about the claim will be available on the website [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk) and through the media.

#### 5. Who is Dr Rachael Kent?

Dr Rachael Kent is a Lecturer in Digital Economy & Society at King’s College London. She has dedicated her professional life to researching consumers’ interactions with digital platforms and apps, including in relation to issues around the cost of paid apps and in-app purchases.

Dr Kent’s teaching and research focusses on how digital platforms impact on society and consumer behaviour and welfare. Dr Kent also works as a digital health consultant, providing support and advice to government, individuals and businesses, based on her research.

Prior to becoming a lecturer at King’s College, Dr Kent held a position at Resolver Consumer Online Limited, an independent online consumer complaint tool. She was responsible for improving the tool for users and handling complaints about companies’ unlawful and unethical practices.

Dr Kent is passionate about representing the welfare and rights of consumers and bringing the collective claim. If Dr Kent is successful, every member of the class may be entitled to damages.

#### 6. How is the class defined?

The Consumer Rights Act 2015 allows for a collective claim to be brought on behalf of a group of individuals who are alleged to have suffered a common loss. 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 all allegedly suffered losses do not need to bring an individual claim to obtain compensation for their loss. Instead, class members may all receive compensation through a single, collective claim brought on their behalf by a representative.

In this case, the Tribunal has decided that the class of persons who can bring a claim is: 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 Apple apps) from an iPhone or iPad device in the UK storefront of the App Store.

To check whether you or your business fall within the class, you may have regard to the following instructions. First, you should check if you have been using the UK storefront of the App Store. To

check this, enter the App Store, click on your account (Apple refers to this as your ‘Apple ID’), click on ‘Country/Region’, and check whether the UK is ticked. If the UK is ticked, you are using the UK storefront of the App Store. Next, navigate to your ‘Purchase History’ and filter it by date (year and month) to determine whether you have paid Apple any money in the App Store at any point from 1 October 2015 onwards. If you have paid money to Apple in the UK storefront of the App Store from an iPhone or iPad device at any point since 1 October 2015, you are very likely to be a member of the class.

Only payments that show up in your ‘Purchase History’, and which do not relate to one of Apple’s own apps, are relevant to this claim. Certain categories of payments, such as payments for taxi rides and food deliveries (i.e. any payment for a physical good or service) and payments for real-time person-to-person services (e.g. tutoring sessions), won’t show up in your ‘Purchase History’ and are not relevant to this claim. In addition, payments for or within Apple apps (e.g. payments within the “Apple Books” app) are also excluded from the claim.

Visit [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk) and see “Am I part of the class?” below, for additional information.

### **7. What is an opt-out proceeding? What is the “domicile date”?**

This claim is proceeding as an opt-out case. In simple terms, if you don’t opt-out (i.e. ask to be excluded), you’re in. This process means that, if you or your business are domiciled in the UK as of 5 May 2022, which is known as the “domicile date”, and you fall within the class definition, you are included in the class (and do not need to do anything) unless you ask to be excluded from the class.

All class members who stay in the class will be bound by any Tribunal judgment. As a class member, you will not be able to bring an individual claim against Apple raising the same issues included in this claim.

If you are not living in the UK as of 5 May 2022 but you meet the other criteria to be in the class, you can only participate in this claim if you take steps to say that you want to be included. Asking to be included in the class is called “opting-in” to the class. You need to consider opting-in if you are living abroad as of the domicile date.

This notice explains how to opt-out of the class and how to opt-in to the class.

### **8. How much money does the claim ask for?**

The claim seeks compensation for all those who have been affected by Apple’s allegedly anti-competitive behaviour. The total aggregate amount sought is between around £535 million - £1,459 million (excluding interest). If the claim is successful, all persons who have an eligible claim will be able to seek their share of the compensation.

Visit [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk) for more details about the amount of compensation that you may receive in due course.

### **9. How do I get a payment?**

No money is available now and there is no guarantee that money will be available in the future. The case will have to be won in the Tribunal unless a settlement can be agreed between the class representative (on behalf of the class) and Apple, and approved by the Tribunal.

The court process can take time, so please be patient. If, and when, money becomes available, class members will be notified about how to obtain a payment. Please register at [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk) to stay up to date.

## 10. What is the Competition Appeal Tribunal?

The Competition Appeal Tribunal is a specialist court based in London that covers the whole of the UK and hears disputes such as these. The Tribunal publishes its Rules and Guidance, together with information about what it does, on its website [www.catribunal.org.uk](http://www.catribunal.org.uk). A summary of the claim against Apple can be found on the Tribunal's website at [www.catribunal.org.uk](http://www.catribunal.org.uk).

## WHO IS IN THE CLASS

### 11. What does it mean to be a class member?

As a class member, if money becomes available, you will be eligible to receive a payment. You will also be legally bound by all Tribunal judgments with respect to this claim. Whether Dr Rachael Kent wins money for the class or not, unless you opt-out, you will never be able to make your own claim against Apple in respect of the claims included in this case.

### 12. Am I part of the class?

The class includes only those who meet the class definition (see 'How is the class defined?' above) and are domiciled in the UK as of 5 May 2022. Potential class members who are not domiciled in the UK as of 5 May 2022 may opt-in to the proceedings if they choose. Business purchasers are included in the class. Being domiciled in the UK is the same, for individuals, as being a UK resident.

### 13. Am I a UK resident?

For this case, a UK resident is someone living in England, Wales, Scotland or Northern Ireland. If you are living in the UK on 5 May 2022, you are automatically within the class unless you ask to be removed from the class (See "How to Opt-Out or Opt-In" below). However, if you are not living in the UK on 5 May 2022, you must take steps to opt-in to the class if you want to be part of this claim and be eligible for a payment in the future.

### 14. What if I am a UK resident and move outside the UK after 5 May 2022?

If you move outside the UK after 5 May 2022, you should keep some documents showing that you were a UK resident on 5 May 2022. If money becomes available in the future and you are living outside of the UK at that time, then you may need to show that you were a UK resident on 5 May 2022 to receive your payment.

### 15. Are business purchasers included in the class?

Business purchasers are included in the class. It is called an opt-out class because anyone who meets the class definition, including business purchasers, will be included in the claim automatically and bound by the result, unless they ask to opt-out. If your business is registered in the UK on 5 May 2022 you will be domiciled in the UK for the purposes of the claim.

### 16. I am not sure if I am included in the class.

If you are not sure whether you are included in the class, visit [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk) to review the Order, answers to frequently asked questions (FAQs) and other documents which can help you to determine whether you are part of the class.

## HOW TO OPT-OUT OR OPT-IN

### 17. I am a UK resident on 5 May 2022 and I want to be removed from the class.

If you are a UK business or resident on 5 May 2022 and you want to be removed from the class, send a letter by post to:

UK Apps Administrator  
PO Box 1435  
Sunderland  
SR5 9UD

Alternatively, email the following email address: [forms@Appstoreclaims.co.uk](mailto:forms@Appstoreclaims.co.uk).

Include the following statement in your letter or email: **“I want to opt-out of the UK collective claim against Apple, Case No. 1403/7/7/21,”** along with your full name, postal address, email address and telephone number. Sign and date your opt-out letter or email (you may do so electronically if you are opting-out by email). You do not have to give a reason for opting-out. Visit [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk) to download a template letter to assist with this process.

To be processed, your opt-out letter or email must be received or postmarked by 9 September 2022. Once your opt-out letter or email is received and processed, you will be sent an acknowledgement by email if you have provided an email address, or by post if not.

By opting-out, you will not be able to receive a payment from this claim if money becomes available. However, you may be able to bring your own separate claim against Apple for the same issues.

### 18. I will NOT be a UK resident on 5 May 2022 and I want to be part of the class.

If you are not a UK resident on 5 May 2022 (even if you were before) but have suffered loss as a result of Apple’s conduct in respect of the UK App Store, you must take steps to opt-in to the class if you want to be part of the claim and be eligible to receive a payment in the future.

Visit [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk) and complete the opt-in form on the website, submitting it directly through the website or via email to the following email address: [forms@Appstoreclaims.co.uk](mailto:forms@Appstoreclaims.co.uk). In order to opt-in to the class you must provide your full name, postal address, country of domicile, email address and telephone number, and state that you satisfy the criteria set out in the class definition.

If you prefer, you may also opt-in by post. Send the opt-in form, which can be downloaded at [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk), or a letter with the information listed in the previous paragraph to:

UK Apps Administrator  
PO Box 1435  
Sunderland  
SR5 9UD

To be considered, your opt-in request must be received or postmarked by 9 September 2022. Once your opt-in request is received and processed, you will be sent an acknowledgement by email if you have provided an email address, or by post if not.

### 19. If I am NOT a UK resident on 5 May 2022 and I do not opt-in by 9 September 2022, can I claim payment?

Under the rules of the Tribunal, if you are not a UK resident on 5 May 2022, you are required to submit an opt-in request by 9 September 2022 (see previous question) to be part of the class. If you

do not opt-in by 9 September 2022 and money later becomes available, the only way for you to be eligible to receive a payment is for the Tribunal to give you permission to opt-in at a later time. There is no guarantee this permission will be given, so you must opt-in by 9 September 2022 if you want to ensure you are eligible to receive a payment.

## **GETTING MORE INFORMATION**

### **20. How can I stay updated on the progress of the claim?**

You can visit [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk) and register to receive updates and any future notices via email as the claim progresses. If, and when, money becomes available, you will be contacted with information on how to claim your share.

### **21. How can I get more information?**

This notice summarises the Order. To read the full Order and see other information about the claim, visit [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk).

# **Annex A**



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1403/7/7/21

BETWEEN:

**DR. RACHAEL KENT**

Class Representative

- v -

**(1) APPLE INC.**

**(2) APPLE DISTRIBUTION INTERNATIONAL LTD.**

Defendants

---

**COLLECTIVE PROCEEDINGS ORDER**

---

**UPON** receipt of the Class Representative's application for a Collective Proceedings Order pursuant to section 47B of the Competition Act 1998 (the "Act") and Rule 75 of the Competition Appeal Tribunal Rules 2015 (the "Tribunal Rules") (the "CPO Application") filed on 11 May 2021

**AND UPON** reading the documents recorded on the Tribunal file as having been read

**AND UPON** hearing Leading Counsel for the Class Representative, and Leading Counsel for the Defendants, at the hearing of the CPO Application on 4 to 5 May 2022

**AND UPON** the Tribunal having granted the CPO Application on 5 May 2022

**IT IS ORDERED THAT:**

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

## **Authorisation of the Class Representative and certification of the claims as eligible for inclusion in collective proceedings**

2. Pursuant to section 47B of the Act and Rules 77 and 80 of the Tribunal Rules, Dr. Rachael Kent be authorised to act as Class Representative to continue the present collective proceedings on an opt-out basis.
3. The Class Representative's address for service is Hausfeld & Co LLP, 12 Gough Square, London EC4A 3DW (hard copy) or [kenthausfeldclaim@hausfeld.com](mailto:kenthausfeldclaim@hausfeld.com); [lhannah@hausfeld.com](mailto:lhannah@hausfeld.com); and [lstreatfeild@hausfeld.com](mailto:lstreatfeild@hausfeld.com) (email).
4. The claims certified as eligible for inclusion in the present collective proceedings pursuant to section 47B of the Act and Rules 79 and 80 of the Tribunal Rules are claims for damages for loss suffered by the Class (as defined below) as a result of the Defendants' breaches of statutory duty in infringing: (i) section 18 of the Act; and (ii) until 31 December 2020, Article 102 of the Treaty on the Functioning of the European Union.

### **Class Definition**

5. The class is defined as follows (hereafter the "**Class**" and the "**Class Definition**"):

**All iOS Device users who, during the Relevant Period, used the UK storefront of the App Store and made one or more Relevant Purchases.**

6. For the purposes of the Class Definition:
  - a) "**App Store**" means Apple's proprietary app store as pre-installed on all iOS Devices.
  - b) "**Apple ID**" means the personal account iOS Device users use to access Apple services, such as the App Store, and includes the information iOS Device users use to sign in, as well as all their contact, payment and security details.
  - c) "**iOS**" means Apple's proprietary mobile operating system.

- d) “**iOS App**” means a native iOS app developed by a third-party developer (i.e. not Apple).
- e) “**iOS Device**” means an iPhone or iPad.
- f) “**iOS Device users**” includes all users of iOS Devices, whether legal or natural persons, except for:
  - i. officers, directors or employees of the Defendants, their subsidiaries and any entity in which they have a controlling interest;
  - ii. all members of the Class Representative’s and Defendants’ respective legal teams and all experts and professional advisors instructed and retained by them and all funders or insurers involved, in connection with these collective proceedings;
  - iii. all members and staff of the Tribunal, their parents, their spouses or civil partners or any persons with whom they cohabit, and their children assigned at any point to these collective proceedings;
  - iv. any judge involved in any appeal in the present collective proceedings (whether in respect of the grant of permission to appeal or the hearing of any substantive appeal), and their parents, their spouse or civil partner or any person with whom they cohabit, and their children;
  - v. any deceased person; and
  - vi. any registered corporate entity or other registered entity with legal personality which has been struck off or dissolved pursuant to the Companies Act 2006 or equivalent legislation applying outside the UK, or which has experienced the onset of insolvency within the meaning of section 240(3) of the Insolvency Act 1986 or equivalent legislation applying outside the UK, or which is dormant within the meaning of the Companies Act 2006 or equivalent legislation applying outside the UK.
- g) “**Relevant Period**” means the period between 1 October 2015 and the date of final judgment or earlier settlement of the present collective proceedings.

h) “**Relevant Purchase**” means:

- i. any purchase of an iOS App in the App Store, for which an iOS Device user pays a fee to download;
- ii. any one-time purchase by an iOS Device user within an iOS App, for which the iOS Device user pays a fee; or
- iii. any recurring purchase by an iOS Device user within an iOS App, for which the iOS Device user pays a fee,

subject to the following exclusions:

- i. the in-app purchase of real-time person-to-person services between two individuals; and
  - ii. the in-app purchase of physical goods or services that will be consumed outside of the iOS App.
- i) “**UK storefront of the App Store**” means the storefront of the App Store on an iOS Device where the Apple ID associated with that iOS Device specifies the Country/Region as the UK.

### **Domicile Date, Opt-out and Opt-in**

7. The Domicile Date is 5 May 2022, being the date on which the Tribunal granted the CPO Application.
8. Persons satisfying the Class Definition who are domiciled within the United Kingdom on the Domicile Date may opt-out of these collective proceedings by posting a letter to or emailing Epiq, the Claims Administrators appointed on behalf of the Class Representative, by 9 September 2022, at the address or email address specified online at [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk).
9. Persons satisfying the Class Definition and who are domiciled outside the United Kingdom on the Domicile Date may opt-in to these collective proceedings via the opt-in form available online at [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk) or by posting a letter to or emailing Epiq, the Claims Administrators appointed on behalf of the Class

Representative, by 9 September 2022, at the address or email address specified online at [www.appstoreclaims.co.uk](http://www.appstoreclaims.co.uk).

### **Publication**

10. The Class Representative shall publicise this Collective Proceedings Order in accordance with the draft Rule 81 Notice annexed to the Re-Amended Collective Proceedings Claim Form and the proposal set out in Section 8 of the Notice and Administration Plan which is annexed to the First Witness Statement of Dr. Rachael Kent (subject to any modifications ordered in this Collective Proceedings Order).

### **Directions**

11. The Defendants shall file and serve a consolidated Defence to the Re-Amended Collective Proceedings Claim Form by 4pm on 7 July 2022.
12. The Class Representative shall file and serve a Reply, if so advised, by 4pm on 31 August 2022.
13. A Second CMC (time estimate: 1 day) shall be listed at 10.30am on 12 September 2022 (with the morning of 13 September 2022 in reserve), before Ben Tidswell, William Bishop and Tim Frazer.

### **General**

14. The costs of the CPO Application shall be costs in the case.
15. There be liberty to apply.

**Ben Tidswell**  
Chair of the Competition Appeal Tribunal

Made: 29 June 2022  
Drawn: 29 June 2022