

Hausfeld & Co LLP: Confirmed – Apple WILL Face Courtroom Showdown in UK, as Tech Giant’s Attempt to Weaken Collective Lawsuit is Rejected by Specialist Competition Court

- **Landmark legal action aims to compensate UK iPhone and iPad users for years of alleged overcharging in the Apple App Store**
- **Lawsuit was filed on behalf of almost 20 million consumers and businesses last year but this week’s court ruling confirms that it may proceed in full on a collective basis and dismisses Apple’s attempt to limit the claim - paving the way for a full trial before the UK Competition Appeal Tribunal in London**
- **Specialist competition court endorses the claim’s approach, calling it a “paradigm case” to utilise the UK’s collective actions regime**
- **Claim seeks estimated damages of up to £1.5 billion on behalf of UK users of the App Store**
- **Alleges Apple’s 30% commission charged on purchases in the App Store is in breach of European and British competition laws and that Apple is abusing its dominant position at users’ expense**

London – July 1, 2022: In a significant development for millions who use Apple’s UK App Store, the Competition Appeal Tribunal has [refused](#) Apple’s attempt to limit the consumer claim led by Dr Rachael Kent, which alleges abuses of competition law that result in systematic overcharging for apps and in-app purchases by Apple.

Dr Kent’s legal claim will now proceed in full to trial, putting added pressure on Apple amid mounting efforts around the world to hold it to account for alleged anticompetitive practices. The UK’s Competition and Markets Authority and the European Commission are separately investigating Apple’s conduct in the App Store. The company is also facing regulatory action in the Netherlands, Australia, South Korea, India and elsewhere.

The UK lawsuit has been brought in the Competition Appeal Tribunal, a specialist court. It alleges that 19.6 million iPhone and iPad users in the UK may have been overcharged as a result of breaches by Apple of British and European competition laws. Dr Kent – an expert in the digital economy and lecturer at King’s College London – seeks compensation on a collective basis on behalf of affected consumers and businesses.

For more details about the claim, and to check if you or your business are potentially included in the class, visit: <https://www.appstoreclaims.co.uk/Apple>.

Dr Kent’s claim, and this week’s ruling

The legal action focuses on Apple’s well-known App Store, where it is alleged that users have been overcharged for buying apps and making in-app purchases on a range of digital services provided by popular apps including Fortnite, YouTube, Tinder and many others.

Typically, 30% of the amount app users spend in the App Store goes straight to Apple. This is because Apple has allegedly abused its dominant position by forcing app purchases to be routed through its own App Store Payment Processing System, where this high commission charge is imposed. Apple has consequently blocked developers’ ability to enable users to pay for many app services through an alternate payment system. This in turn forces app developers to hike-up the

price of their apps to cover the 30% fee, ultimately leading to app store users paying more than they would have done, absent Apple's conduct.

Dr Kent argues this practice is unlawful, and that Apple would be unable to charge customers such an excessive mark-up if its devices were open to competitors.

At a court hearing in May 2022, Apple attempted to argue that the aspect of Dr Kent's claim which alleges that Apple's 30% commission is unfair and excessive should not be allowed to proceed, on the basis that Dr Kent had applied the wrong legal test and her claim was therefore defective. But in a judgment handed down this week, the Tribunal dismissed all of Apple's arguments, and in doing so, rejected Apple's attempt to limit Dr Kent's claim.

Chairman Ben Tidswell held that Dr Kent had applied the correct legal test and therefore her unfair and excessive pricing claim against Apple could proceed to a full trial: "[w]e do not accept Apple's argument that the pleadings disclose a legal error or defective approach, either in relation to the correct legal test for the abuse or for the consideration of economic value in that exercise. Both elements are clearly recorded and accepted by [Dr Kent]".

The Tribunal also made the [collective proceedings order](#), confirming its decision in May to certify Dr Kent's claim, which sets out the full scope of the class of claimants she represents.

The Chairman said the claim is a "paradigm case" for the UK's collective actions regime. "There are a large number of claimants in the class, each of whom will have a relatively small claim, which would be obviously uneconomic to litigate on an individual basis," he added. The Chairman confirmed the claims are suitable for an aggregate award of damages.

Rachael Kent, the class representative in the action, said:

"This is excellent news for App Store users in the UK. I applaud the Competition Appeal Tribunal for this clear and well-thought-out decision, which demonstrates that the major reforms of the UK's class action procedures since 2015 are working and that consumers and businesses can now be empowered to uphold their collective rights against abuses of competition law.

"A claim of this magnitude is always going to be heavily defended. The anti-competitive practices that we are alleging against Apple go to the heart of Apple's business strategy, and with its almost unlimited resources, it will always make this a challenging fight. It has required a huge amount of preparation and research to get this far, as well as the assistance of experienced legal experts and economists. It is immensely gratifying to see the Tribunal confirm that the claim should proceed.

"We look forward now to progressing the case on behalf of consumers and businesses. We believe, we have a convincing and well-founded argument that Apple's practices are detrimental to those in the class, and the evidence will support it."

Class members: Who is eligible

Any UK user of an iPhone or iPad who purchased paid apps, paid subscriptions or made other in-app purchases within the UK storefront of the App Store at any point since October 1, 2015 is potentially entitled to compensation from Apple for its anti-competitive practices, according to the claim. The purchases must have been made on iPhone and/or iPad devices.

All such purchasers are automatically included within the claimant class. Device users can check their eligibility for compensation by logging into their App Store account and checking their "Purchase History".

Individuals or businesses who are included in the class and would like to be excluded can do so before 9 September 2022. Individuals or businesses who meet the criteria of the class but were not residing or domiciled in the UK on 5 May 2022 may join the claim before 9 September 2022. For information on how to join or drop out of the claim visit:

<https://www.appstoreclaims.co.uk/Apple/Faq>.

Further information for claimants

The legal claim applies to most popular apps on iPhones and iPads, including Fortnite, YouTube, Tinder and many others, that require payment at point of download, subscription payments, or allow for in-app purchases. It does not apply to apps providing “physical goods or services that will be consumed outside of the app”. These include Deliveroo and Uber, which are not required to use Apple’s payments system or pay Apple the disputed 30% commission.

Affected app purchasers, on whose behalf the class action is brought, will not pay costs or fees to participate in this legal action, which is being funded by Vannin Capital, a global litigation funder. The action is insured, which means that class members have no financial risk in relation to the claim.

Dr Kent is represented by Lesley Hannah, Luke Streatfeild, Sofie Edwards, Kio Gwilliam, Anna Stellardi and Antonio Delussu at law firm Hausfeld & Co. LLP, with barristers Ronit Kreisberger QC and Michael Armitage from Monckton Chambers, Mark Hoskins QC, Jennifer MacLeod and Matthew Kennedy from Brick Court Chambers, and George McDonald from 4 New Square. Dr Kent has also instructed expert economist Derek Holt from AlixPartners UK LLP.

Dr Kent is also advised on the claim by a consultative group with expertise and experience in group claims management, digital markets and consumer rights matters. This group consists of Dame Elizabeth Gloster, formerly a judge in the Court of Appeal; James Walker, an adviser to the Scottish government on consumer protection and founder of Resolver, which helps customers resolve complaints with companies; and Kevin Jenkins, former CEO of Visa UK and a veteran of the payments industry.

Notes for Editors

About Hausfeld & Co. LLP

Hausfeld is a leading international law firm specialising in competition law, with significant expertise in all aspects of collective redress and group claims.

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Media enquiries:

Conal Walsh / Amy Murphy / Andreas Grueter, Palatine Communications

AppleClaim@palatine-media.com