

Hausfeld & Co LLP: JUDGMENT RELEASED YESTERDAY: Google will have to defend at trial a consumer claim for almost £1 billion in relation to the Google Play Store – a UK court decides

- Judgment confirms UK court's decision in July 2022 to certify legal claim, paving the way for a full trial
- Legal action is brought on behalf of millions of UK Android smartphone and tablet users, alleging they paid excessive fees to Google when buying apps and making in-app purchases
- Google is alleged to have infringed competition laws by imposing technical and contractual restrictions on app developers in the Google Play Store, according to the claim
- Google allegedly abused its powerful position, charging many developers an unlawfully high 30% commission on digital purchases in the Google Play Store and harming UK users of the Google Play Store
- UK users of the Google Play Store may collectively be entitled to damages up to £920 million for certain Google Play Store purchases since October 2015
- Specialist Competition Tribunal says that “*no other form of litigation*” would provide “*a practical or proportionate way*” of pursuing this claim, and that this is a “*paradigm*” case for resolving the issues that are common to the class

London – September 1, 2022: Yesterday, the Competition Appeal Tribunal released [its judgment](#) which confirms that consumer champion [Liz Coll](#) is authorised to bring an opt-out collective claim against Google for alleged infringements relating to Google's Play Store.

Liz Coll's claim alleges Google has breached competition law by excluding competition and/or charging an unlawfully high level of commission on digital purchases in their Play Store (including purchases of apps and in-app purchases), causing around 19.5 million users of the UK Google Play Store to be overcharged. Liz Coll – a consumer tech policy expert with over thirteen years' experience campaigning for consumers' rights online – seeks compensation on a collective basis for affected Google Play Store users in the UK. Following the Tribunal's determination, Liz Coll now represents all those in the UK who fall within the class definition, unless they choose to opt-out of her claim.

The claim can now go to trial. It is the latest challenge made to the powerful position Google holds, and builds on the global scrutiny of Google's practices in the Play Store. The UK's Competition and Markets Authority is running a separate investigation into Google's practices, as are authorities in the Netherlands, Australia, South Korea, India, and more.

Liz Coll's claim is the second of its kind this year to be certified on the spot by the Competition Appeal Tribunal, after a similar claim brought by Dr Rachael Kent, regarding Apple's allegedly abusive app store practices, was given permission to proceed in May.

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

Liz Coll's claim and the judgment released yesterday

Most Android users download their apps through Google's Play Store. The claim alleges users have been overcharged when buying apps in the Google Play Store, and when making certain in-app purchases, including those in chart-topping apps such as popular games.

When users spend money in the Google Play Store, often only a portion goes to the actual app developers. A significant share – typically, around 30% – goes to Google. Developers who release

their apps on the Google Play Store are generally required to use Google's own Play Store Payment Processing System, and cannot avoid Google's 30% charge when they do so, which Liz Coll alleges is unnecessarily high and thus unlawful. Google also discourages app developers from distributing Android apps through alternatives to the Google Play Store, by imposing a series of contractual and technical restrictions on their ability to do so. This curtails the app developers' ability to offer lower prices. In turn users of Google's Play Store, who would otherwise have paid lower prices absent Google's conduct, are harmed.

Liz Coll – representing the class of harmed users in the UK – maintains that Google's conduct is unlawful. Google can impose its high fee on Google Play Store users because of its powerful position as the licensor of the Android operating system and its control of the Google Play Store, where Google sets the rules.

Shortly before the hearing of Liz Coll's application to represent affected Google Play Store users, Google chose to no longer oppose the application. Google was therefore not represented at the court hearing in July 2022, at which the Tribunal granted Liz Coll's application on the spot. An order from the Tribunal setting out deadlines and next steps in the claim will follow from the Tribunal shortly.

The Tribunal, chaired by Bridget Lucas QC, held unanimously that it was satisfied Liz Coll's claim is suitable to be brought in collective proceedings, rather than each affected consumer or business having to bring their own individual claim. It also held her claim is suitable for an aggregate award of damages (which would then be distributed) rather than individual damages. Dealing with Liz Coll's claim through a collective action is the "appropriate means" for a "fair and efficient resolution" of the claim, which the Tribunal held is a "paradigm" claim for this type of action.

The Tribunal also noted that the size of the class allegedly harmed is "significant", and that it was satisfied proposed class members can be "readily identified". It continued: "It is unlikely that any other form of litigation would provide a practical or proportionate way of pursuing their claims".

Liz Coll, the class representative in the action, said:

"Yesterday's judgment cements the Competition Appeal Tribunal's on-the-spot decision in July to allow the claim I have brought on behalf of UK consumers and businesses to continue to a full trial.

"The Tribunal has further reiterated that it made the right decision in July, and this should be welcomed by Android and Google Play Store users UK-wide, who are now one step closer to obtaining the redress I say is owed to them.

"Users of Google's Play Store should be encouraged by yesterday's judgment, which also represents an important step in the evolution of the UK's class action procedures. It is now becoming genuinely possible to challenge the big businesses who break competition law and achieve redress for individuals.

"For over a year Google has fought this claim hard, and we expect it will continue to do so. They have profited from dominating the systems used by half of all UK smartphone users. Yes, we are in a dispute with one of the world's most powerful companies, but with the help of an excellent team of legal, industry and economic experts, we are confident in our position.

This claim is strong. The Tribunal definitively described it as a 'paradigm' example of a collective action. No other type of claim could effectively challenge Google's unlawful and unjustifiable imposition of a 30% charge on so many Play Store users. I look forward to arguing the case on behalf of UK users of Google's Play Store at trial."

Class members: Who is eligible

According to the claim, any UK user of an Android smartphone or tablet who purchased paid apps, paid subscriptions or made other in-app purchases within the UK version of the Google Play Store at any point since October 1, 2015 is potentially entitled to compensation from Google for its anti-competitive practices. The purchases must have been made on an Android smartphone or tablet on which the Google Play Store was pre-installed.

All such purchasers are automatically included within the claimant class. Device users can check their eligibility for compensation by logging into their Play Store or Google account and checking their “Payments and subscriptions” or “Order history” and the country listed under “Account and device preferences”.

The Tribunal has not yet decided by when individuals or businesses who are included in the class and would like to be excluded can do so. Individuals or businesses who meet the criteria of the class but were not residing or domiciled in the UK on a specific date (which is yet to be determined) will also have to join the claim by a date to be specified by the Tribunal. An order from the Tribunal setting out these deadlines and next steps in the claim will follow from the Tribunal shortly.

For any updates and for further information, please visit:

<https://www.apstoreclaims.co.uk/Google/Faq>.

Further information for claimants

The legal claim applies to purchases of popular apps on Android smartphones and tablets, which require payment at point of download, subscription payments, or allow for in-app purchases of digital goods or services. 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 Google’s payments system or pay Google 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.

Liz Coll 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, Tristan Jones from Blackstone Chambers, and George McDonald from 4 New Square. Liz Coll has also instructed expert economist Derek Holt from AlixPartners UK LLP.

Liz Coll is also advised on the claim by a consultative group with expertise and experience in competition and consumer law and payments regulation. This group consists of Sir Gerald Barling, former President of the Competition Appeal Tribunal; Dr Christine Riefa, an academic specialising in consumer law; and Aidene Walsh, an Executive Director at Banking Competition Remedies and a Non-Executive Director of the Payment Systems Regulator.

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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