



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1408/7/7/21

BETWEEN:

ELIZABETH HELEN COLL

Class Representative

- and -

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

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 28 July 2021.

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

AND UPON hearing Leading Counsel for the Class Representative at the hearing of the CPO Application on 18 July 2022.

AND UPON the Tribunal having handed down judgment on the CPO Application on 31 August 2022.

IT IS ORDERED THAT:

A. FORUM

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

B. 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, Elizabeth Coll 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 collhausfeldclaim@hausfeld.com; lhannah@hausfeld.com; and 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' alleged 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.

C. CLASS DEFINITION

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

All GMS Device users who, during the Relevant Period, used the UK version of the Play Store and made one or more Relevant Purchases.

6. For the purposes of the Class Definition:

- (a) “**Android**” means Google’s proprietary smart mobile operating system.
- (b) “**Android App**” means an app developed for Android by a third-party developer (i.e. not by Google).
- (c) “**GMS Bundle**” means the bundle of Proprietary Apps and services that Google licenses together, as specified and amended by Google from time to time.
- (d) “**GMS Device**” means a smart mobile device (smartphone or tablet) which runs on the Google Android operating system and on which the GMS Bundle has been pre-installed.
- (e) “**GMS Device users**” includes all users of GMS Devices, whether legal or natural, 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 assigned at any point to these collective proceedings;
 - (iv) any judge and Court staff involved in any appeal in these collective proceedings (whether in respect of the grant of permission to appeal or the hearing of any substantive appeal);
 - (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.

- (f) **“Google Android”** means a version of Android that has been approved as “Android-compatible” by Google.
- (g) **“Play Store”** means Google’s proprietary app store, formerly known as Android Market.
- (h) **“Proprietary App”** means an app developed for Android by Google.
- (i) **“Relevant Period”** means the period between 1 October 2015 and the date of final judgment or earlier settlement of these collective proceedings.
- (j) **“Relevant Purchase”** means:
 - (i) any purchase of an Android App in the UK version of the Play Store, which a GMS Device user pays a fee to download;
 - (ii) any one-time purchase by a GMS Device user within an Android App downloaded from the UK version of the Play Store, for which the GMS Device user pays a fee; or
 - (iii) any recurring purchase by a GMS Device user within an Android App downloaded from the UK version of the Play Store, for which the GMS Device user pays a fee,

subject to the following exclusions to the extent that they were applicable at the time of the Relevant Purchase:

- i. in-app payments that are primarily for the purchase or rental of physical goods or services that will be consumed outside of the Android App;

- ii. in-app payments that are primarily remittances in respect of credit card bills or utility bills;
- iii. in-app payments for peer-to-peer services;
- iv. in-app payments for online auctions;
- v. in-app payments for tax exempt donations;
- vi. in-app payments for content or services that facilitate online gambling; and
- vii. in-app payments in respect of any product category deemed unacceptable under Google’s Payments Center Content Policies (available here: https://pay.google.com/intl/en_in/about/policy/?visit_id=636308113142509927-1253831182&rd=3) from time to time.

(k) **“UK version of the Play Store”** means the version of the Play Store where its settings specify the United Kingdom as the Google Play country.

D. DOMICILE DATE, OPT-OUT AND OPT-IN

- 7. The Domicile Date is 18 July 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 28 November 2022 at UK Apps Administrator, PO Box 1435, Sunderland, SR5 9UD or forms@appstoreclaims.co.uk, as specified online at 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 or by posting a letter to or

emailing Epiq, the Claims Administrators appointed on behalf of the Class Representative, by 28 November 2022, at UK Apps Administrator, PO Box 1435, Sunderland, SR5 9UD or forms@appstoreclaims.co.uk, as specified online at www.appstoreclaims.co.uk.

E. PUBLICATION

10. The Class Representative shall publicise this Collective Proceedings Order in accordance with the Rule 81 Notice approved by the Tribunal and the proposal set out in Section 8 of the Notice and Administration Plan which is annexed to the First Witness Statement of Elizabeth Coll (subject to any modifications ordered in this Collective Proceedings Order).

F. DIRECTIONS

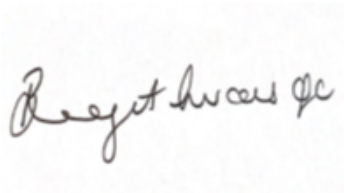
11. Pursuant to Rules 32(1)(b) and 74(1) and (2) of the Tribunal Rules, the Class Representative shall have permission to file and serve an amended Collective Proceedings Claim Form (excluding annexes) in the form of the Draft Amended Collective Proceedings Claim Form provided to the Defendants on 29 June 2022 and the Tribunal on 11 July 2022, within 7 days of this Order being drawn.
12. The Defendants shall file and serve a consolidated Defence to the Amended Collective Proceedings Claim Form by **4pm on 14 October 2022**.
13. The Class Representative shall file and serve a Reply, if so advised, by **4pm on 18 November 2022**.
14. A Case Management Conference (time estimate: 1 day) shall be listed on the first available date following 5 December 2022 before Bridget Lucas QC, Tim Frazer and Professor Michael Waterson.

G. GENERAL

15. Costs shall be determined by the Tribunal on paper, after receipt of submissions from the parties as follows:

- (a) The Class Representative shall file and serve any application for costs and supporting submissions within 28 days of this Order being drawn;
- (b) The Defendants shall file and serve any submissions in response within 14 days of receiving the Class Representative's application for costs and supporting submissions; and
- (c) The Class Representative shall file and serve any submissions in reply within 7 days of receiving the Defendants' submissions in response.

16. There be liberty to apply.



Bridget Lucas QC

Chair of the Competition Appeal Tribunal

Made: 18 July 2022

Drawn: 9 September 2022