



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1408/7/7/21

BETWEEN:

ELIZABETH HELEN COLL

Class Representative

- v -

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

Defendants

(together “**Google**”)

DIRECTIONS ORDER

UPON the Class Representative’s applications of 23 October 2023

AND UPON Google’s applications of 23 October 2023

AND UPON hearing Counsel for the Class Representative and Counsel for Google at the case management conference on 10 November 2023

AND UPON Google's first letter to the Tribunal dated 17 November 2023

AND UPON the Tribunal's response dated 17 November 2023

AND UPON Google’s letter to the Tribunal dated 23 November 2023

AND UPON the Tribunal’s response dated 24 November 2023

AND UPON Google's letter to the Tribunal dated 1 December 2023

IT IS ORDERED THAT:

Disclosure

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1. By 7.00pm on **17 November 2023**, the Class Representative shall provide to Google a revised version of Annex A to the Class Representative's second letter of 29 September 2023 ("**Revised Annex A**").
2. In the event that there is any dispute regarding the contents of Revised Annex A the parties shall liaise and seek to reach agreement by **4pm on 30 November 2023**, failing which they will make representations in writing to the Chair by 4.00pm on **1 December 2023**.
3. By 4.00pm on **6 December 2023** Google shall provide to the Class Representative a witness statement, verified by a statement of truth, from a suitably senior employee or officer of Google which:
 - 3.1. as appropriate, confirms or denies that Google has considered and is satisfied that they have identified the custodians most likely to have documents falling with each of the categories identified in Revised Annex A, and that they have applied appropriate search terms to those custodians' documents which are likely to identify the documents falling within those categories; and
 - 3.2. addresses and answers the issues raised in paragraph 10 of the Class Representative's letter of 23 October 2023,
 - 3.3. provided that nothing in this Order is intended to prevent Google from taking the position that they do not consider the category of documents identified by the Class Representative to be relevant to any issue in the case.
4. By the same date as the witness statement required by paragraph 3 above, Google shall complete the 'Custodians' column in Revised Annex A and provide a completed copy of Revised Annex A to the Class Representative.

Repository 11 Disclosure

5. By 6.00pm on **17 November 2023**, Google shall provide to the Class Representative the financial data underpinning the Play P&Ls (as defined in RPC's letter of 30 October 2023) for the period 2018 to 2023 at the general ledger level.

6. By 4.00pm on **24 November 2023**, Google shall provide to the Class Representative a witness statement verified by a statement of truth explaining Google’s accounting policies and practices and responding to the points made in the Annexures to Mr Dudney’s First Witness Statement dated 23 October 2023 (“**Dudney 1**”).
7. By 4.00pm on **1 December 2023**, Google shall provide the Tribunal with an update on its efforts to retrieve the financial data underpinning the Play P&Ls for the period 2011 to 2017.
8. By 4.00pm on **8 December 2023**, Google shall provide to the Class Representative¹:
 - 8.1. for 2015 - 2017, financial data underpinning the relevant Play P&L at the general ledger level; and
 - 8.2. for 2014, financial data relevant to Google Play at the general ledger level (although this will not necessarily reconcile to the relevant Play P&L).
9. The Parties’ forensic accounting experts are to meet on a without prejudice basis on or before **5 January 2024** to discuss and seek to agree what data and/or information is required for the preparation of their evidence and the form in which it should be provided by Google.

Additional US Proceedings Disclosure

10. By 4.00pm on **8 December 2023**, Google shall (subject to any collateral use restrictions and/or any third-party confidentiality and/or protective orders subsisting in the US Proceedings²) give disclosure of copies of relevant expert reports filed and/or served on behalf of Google entities in the US Proceedings.

Factual evidence

11. Paragraphs 3 and 3.1 of the Tribunal’s Order of 15 September 2023 be amended as follows:

“3. *As regards the expert evidence referred to in paragraphs 1.1 to 1.5 above:*

3.1. the Class Representative’s expert evidence shall all be served at

¹ The position at 8.a. and b. reflects the availability of financial data as set out in RPC’s letter to the Tribunal dated 1 December 2023.

² Proceedings before the United States District Court for the Northern District of California (San Francisco Division) with case numbers 3:20-cv-05671-JD, 3:20-cv-05761-JD, 3:21-cv-05227-JD, 3:22-cv-02746-JD, 3:20-cv-06772-JD and 3:20-cv-05792-JD.

the same time as the Class Representative's other expert reports are required to be served,"³]

Expert evidence

12. The Expert Issues are settled in the form enclosed with the Tribunal's letter dated 16 November 2023.

Timetable to trial

13. The Tribunal's Order of 16 December 2022 is varied as follows:
 - 13.1. Paragraph 8: "By 4pm on **26 April 2024**, the parties shall serve signed statements of witnesses of fact, and hearsay notices where required by CPR r 33.2."
 - 13.2. Paragraph 9: "By 4pm on **24 May 2024**, the parties shall serve signed reply statements of witnesses of fact, and hearsay notices where required by CPR r 33.2."
 - 13.3. Paragraph 10(a): "By 4pm on **21 June 2024**, the Class Representative shall serve her signed expert report(s)."
 - 13.4. Paragraph 10(b): "By 4pm on **15 November 2024**, the Defendants shall serve their signed expert report(s)."
 - 13.5. Paragraph 10(c): "By 4pm on **14 March 2025**, the Class Representative, if so advised, shall serve her signed reply expert report(s)."
 - 13.6. Paragraph 10(d): "By **17 April 2025**, the parties' experts in each respective field shall meet on a without prejudice basis to discuss their respective report(s), and produce a joint statement on matters agreed and not agreed."
 - 13.7. Paragraph 14: "The CMA shall file and serve its written observations pursuant to Rule 50(2) of the Tribunal Rules by 4pm on **16 May 2025**."
 - 13.8. Paragraph 15: "If so advised, the parties shall file and serve their respective written observations on the CMA's written observations by 4pm on **13 June 2025**."

³ Google's application to vary paragraphs 3 and 3.1 of the Tribunal's Order of 15 September 2023 is unopposed. The Chair indicated that she would consider this application (Tr. p. 156, lines 3-4) and so the proposed Order is included in square brackets.

- 13.9. Paragraph 16: “If so advised, the CMA shall file and serve written observations in reply by 4pm on **4 July 2025**.”
- 13.10. Paragraph 18: “A pre-trial review shall be listed at the first available date on or after **18 July 2025**.”
- 13.11. Paragraph 19: “By 4pm on **1 September 2025**, the Class Representative shall file and serve her skeleton argument for trial.”
- 13.12. Paragraph 20: “By 4pm on **19 September 2025**, the Defendants shall file and serve their skeleton argument for trial.”
- 13.13. Paragraph 21: “The trial shall be listed from the first available date on or after **6 October 2025** with a time estimate of 8 weeks. The first week shall be a reading week for the Tribunal.”

Costs

14. Costs in the case.

Liberty to apply

15. There be liberty to apply.

Bridget Lucas KC
Chair of the Competition Appeal Tribunal

Made: 20 December 2023
Drawn: 20 December 2023