IN THE COMPETITION APPEAL TRIBUNAL

Case No: 1582/7/7/23
1572/7/7/22

BETWEEN:

AD TECH COLLECTIVE ACTION LLP

Class Representative

– and –

(1) ALPHABET INC.

(2) GOOGLE LLC

(3) GOOGLE IRELAND LIMITED

(4) GOOGLE UK 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 "**2015 Rules**") (the "**CPO Application**") filed on 2 October 2023.

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 8-10 May 2024.

AND UPON the Tribunal having given judgment on the CPO Application on 5 June 2024 (the "**CPO Judgment**").

AND UPON the application filed by the Defendants on 11 November 2024 seeking permission from the Court of Appeal to appeal CPO Judgment (the "**Court of Appeal PTA Application**").

AND UPON the parties agreeing to the terms of this Order.

IT IS ORDERED THAT:

Forum

1. Pursuant to Rules 18, 52 and 74 of the 2015 Rules, the 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. The Applicant, Ad Tech Collective Action LLP, shall be appointed as from the date of this Order as the Class Representative pursuant to section 47B of the Competition Act 1998 and Rules 77 and 80 of the Tribunal Rules for the purpose of conducting collective proceedings, as set out below, seeking damages against the Respondents/Defendants identified in paragraphs 4 to 7 below (collectively, the "**Defendants**"). The Applicant is therefore referred to henceforth as the Class Representative in this Order.

3. The Class Representative's addresses for service be the following:
    a. Hausfeld & Co. LLP, 12 Gough Square, London EC4A 3DW (Attention: hausfeldadtech@hausfeld.com and by copy to Luke Streatfeild and David Lawne: lstreatfeild@hausfeld.com and dlawne@hausfeld.com by email).
    b. Humphries Kerstetter LLP, 92 Fleet St, London EC4Y 1DG (Attention: Toby Starr, ts@humphrieskerstetter.com).
    c. Geradin Partners Limited, 4-18 Copthall Avenue, EC2R 7DJ London, United Kingdom (Attention: Damien Geradin, dgeradin@geradinpartners.com, David Gallagher, dgallagher@geradinpartners.com, and Stijn Huijts, shuijts@geridanpartners.com).

Defendants

4. The First Defendant is Alphabet Inc., a corporation organized and existing under the laws of the State of Delaware, USA (company number 5786925), whose registered address is 251 Little Falls Drive, Wilmington, New Castle, Delaware 19808, United States.

5. The Second Defendant is Google LLC, a corporation organized and existing under the laws of the State of Delaware, USA (company number 3582691), whose registered address is 251 Little Falls Drive, Wilmington, New Castle, Delaware 19808, United States.

6. The Third Defendant is Google Ireland Limited, a company incorporated in Ireland (company number 368047), whose registered address is Gordon House, Barrow Street, Dublin 4, Dublin, D04E5W5, Ireland.

7. The Fourth Defendant is Google UK Limited, a company incorporated in England and Wales (company number 03977902), whose registered address is Belgrave House, 76 Buckingham Palace Road, London, SW1W 9TQ.

Class Definition

8. The class shall be defined as follows (hereafter the "**Class**" and the "**Class Definition**"):

> All Publishers and Publisher Partners that received revenue from the sale of Online Display Ads during the Class Period.

9. For the purposes of the Class Definition:

(1) "Publisher" means a UK-domiciled natural or legal person that publishes content on a website or mobile app containing ad units.

(2) "Publisher Partner" means a natural or legal person that sells Online Display Ads on behalf of Publishers, other than Publisher Ad Servers, Ad Exchanges and Ad Networks.

(3) "Online Display Ads" means ads displayed on a Publisher's website or mobile app alongside content (excluding (i) ads on owned and operated platforms and (ii) search advertising).

(4) "Ad Exchanges" means electronic marketplaces that automate the sale of Online Display Ads, including through real time auctions.

(5) "Ad Networks" means intermediaries that operate on their own account aggregating advertising inventory from Publishers and matching it with demand from their own demand sources.

(6) "Publisher ad server" means an ad server which manages Publishers' advertising inventory and provides the decision logic underlying the final choice of which ad to serve.

(7) "Class Period" means the period between 1 January 2014 and 30 November 2022, inclusive.

The following categories of persons (as constituted from time to time) shall be excluded from the Class:

(1) Officers, directors or employees of the Defendants, their subsidiaries and any entity in which they have a controlling interest;

(2) 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;

(3) All members of the Tribunal assigned to these proceedings, their parents, their spouses or civil partners or any persons with whom they cohabit, and their children;

(4) 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;

(5) Any deceased person; and

(6) Any registered corporate entity or other registered entity with legal personality which has been struck off or dissolved pursuant to the Companies Act 2006 more than six years prior to the grant of this Order.

The Claims

10. The claims certified as eligible for inclusion in these collective proceedings, pursuant to section 47B of the Act and Rules 79 and 80 of the 2015 Rules are those set out in the Collective Proceedings Claim Form dated 2 October 2023 (and as subsequently amended). They are claims on behalf of the Class for aggregate damages for loss and damage suffered as a result of the Defendants' breaches of statutory duty in infringing Section 18 of the Competition Act 1998.

11. The Class Representative alleges that the Defendants have abused their dominant position through three self-preferencing courses of conduct: (i) first, that Google's publisher ad server, DFP, has treated Google's supply side platform, AdX, more favourably than rival supply side publishers; (ii) second, that AdX has treated DFP more favourably than rival publisher ad servers; and (iii) third, that Google's demand-side platforms, Google Ads and DV 360, have treated AdX more favourably than rival supply side publishers. As a result, members of the Class have suffered loss and damage in the form of diminished revenue from the sale of their advertising inventories.

Opt-out proceedings for Publishers; opt-in proceedings for Publisher Partners

12. These proceedings shall be designated as opt-out proceedings in respect of Publishers and opt-in proceedings in respect of Publisher Partners pursuant to section 47B(7)(c) of the Competition Act 1998.

13. The Domicile Date is 5 June 2024, being the date on which the Tribunal granted the CPO Application.

14. Persons satisfying the Class Definition as Publishers who are domiciled within the UK on the Domicile Date shall be included in these collective proceedings unless they opt-out. If any member of the Class wishes to opt out, they must confirm by letter or email, to be sent to the Class Representative, by no later than 4pm on the date 3 months after the date of publication of the Rule 81 Notice, at the address or email address specified online at www.adtechclaim.co.uk (in accordance with the procedure set out in the Rule 81 Notice).

15. Persons satisfying the Class Definition as Publisher Partners shall be included in these collective proceedings if they opt-in. If any Publisher Partner member of the Class wishes to opt in, they must confirm by letter or email, to be sent to the Class Representative, by no later than 4pm on the date 3 months after the date of publication of the Rule 81 Notice, at the address or email address specified online at www.adtechclaim.co.uk (in accordance with the procedure set out in the Rule 81 Notice).

16. Persons satisfying the Class Definition who are domiciled outside of the UK on the Domicile Date shall not be included in these collective proceedings save those Publisher Partners who opt in as above.

Publicity

17. The Class Representative shall publicise the making of this Order in accordance with the draft Rule 81 Notice provided with the Collective Proceedings Claim Form and the proposal set out in the communications plan in the Notice and Administration Plan, which is annexed to the Second Witness Statement of Claudio Pollack.

18. Paragraph 17 above is stayed until the Court of Appeal PTA Application is denied or until any appeal of the CPO Judgment is finally determined.

General

19. Costs be reserved.

20. The parties have liberty to apply.

Mr Justice Roth
Acting President of the Competition Appeal Tribunal

Made: 14 January 2025
Drawn: 14 January 2025