



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1639/7/7/24

BETWEEN

BULK MAIL CLAIM LIMITED

Class Representative

- v -

INTERNATIONAL DISTRIBUTION SERVICES PLC
(FORMERLY ROYAL MAIL PLC)

Defendant

- and -

WHISTL UK LIMITED

Whistl

CONSENT ORDER

UPON the terms of this Order having been agreed between the Class Representative, the Defendant and Whistl

AND UPON the proceedings in *Whistl UK Limited v International Distributions Services Plc & another* (Case No. 1584/5/7/23) (T) (the “**Whistl Proceedings**”) having been withdrawn by the Consent Order of Hodge Malek KC dated 21 February 2025

AND UPON the Tribunal having ordered the disclosure of certain documents specified in paragraph 1 of the Tribunal’s Directions Order in these Proceedings dated 7 March 2025 (the “**Whistl Proceedings Documents**”) in these Proceedings

AND HAVING REGARD TO the Tribunal’s power in rule 102(3) of the Competition Appeal Tribunal Rules 2015, and the Tribunal’s general case management powers in Rule 53

IT IS ORDERED BY CONSENT THAT:

Use of the Whistl Proceedings Documents

1. The Class Representative and the Defendant have permission to use the Whistl Proceedings Documents for the purposes of these Proceedings.

2. The Whistl Proceedings Documents shall be Inner Confidentiality Ring Information within the meaning, and for the purposes, of the Tribunal’s Confidentiality Ring Order in these Proceedings dated 17 March 2025 (the “**Bulk Mail CRO**”).

Enforcement of the Tribunal Confidentiality Ring Orders

3. In the event of any anticipated or actual breach of the Bulk Mail CRO in these Proceedings in relation to any of the Whistl Proceedings Documents, Whistl may seek to enforce the terms of the Bulk Mail CRO as though they were a Party to that Order.

Amendments to the designation of Whistl Proceedings Documents

4. Where a party makes a written request to amend the designation of any of the Whistl Proceedings Documents pursuant to paragraph 5.4 of the Bulk Mail CRO, the following additional provisions apply:

- 4.1 The requesting party must provide their written request to Whistl.

- 4.2 Whistl may consent in writing to amend the designation of certain Whistl Proceedings Documents, with such consent not to be unreasonably withheld and, in any event, a response should be provided within 10 days of having initially received the written request referred to at paragraph 4.1 above.

- 4.3 Should the consent referred to in paragraph 4.2 above not be obtained, the requesting party may apply to the Tribunal for an order that certain Whistl Proceedings Documents should be designated as either: (i) Outer Confidentiality Ring Information; or (ii) not confidential (as the requesting party deems appropriate), provided that notice is given of that application to the other party and Whistl.

Proposed provision of Whistl Proceedings Documents to persons outside the rings

5. Where any party makes a written request pursuant to paragraph 6 of the Bulk Mail CRO that:
 - (a) certain Whistl Proceedings Documents be provided or made available to one or more persons who are neither Inner Confidentiality Ring Members nor Outer Confidentiality Ring Members; and/or

(b) certain Whistl Proceedings Documents is to be provided or made available to one or more Outer Confidentiality Ring Members,

the following additional provisions apply:

- 5.1 The requesting party must provide their written request to Whistl.
- 5.2 Following receipt of a notice pursuant to paragraph 5.1 above, Whistl shall not unreasonably withhold or delay their consent and if such recipient objects to certain Whistl Proceedings Documents being provided or made available to the proposed person, they shall notify the requesting party in writing within 10 days that they so object.
- 5.3 If express consent is given by Whistl or it fails to give express consent and fails to give written notice of objection within the 10-day period specified in paragraph 5.2 above:
 - (a) the additional person will be required to give the written undertaking to the Tribunal in the terms of Part C or D (as appropriate) of the Schedule to the Bulk Mail CRO, as amended to list the specific documents that are to be provided or made available to them; and
 - (b) the party concerned will provide the written undertaking referred to in paragraph 5.3(a) above to the Tribunal, the other party and Whistl.
- 5.4 If any objection referred to in paragraph 5.3 above is received, the requesting party may apply to the Tribunal and give notice of such application to the other party and Whistl.

Unauthorised disclosure of Whistl Proceedings Documents

6. In the event of any disclosure of any of the Whistl Proceedings Documents other than in a manner authorised by this Order and/or the Bulk Mail CRO, including any unintentional or inadvertent disclosure, the improperly disclosing Party shall immediately notify the improper recipient(s) and Whistl of all the pertinent facts, and the improperly disclosing Party shall use its best endeavours to further prevent unauthorised disclosure including retrieving all copies of the Whistl Proceedings

Documents from the improper recipient(s) thereof and securing the agreement of such recipient(s) not to further disseminate the Whistl Proceedings Documents in any form.

Notices

7. With respect to any notice, consent or objection to be given under or in connection with paragraphs 4, 5 or 6 of this Order (each a “**Notice**” for the purposes of this paragraph), the following additional provisions apply:

7.1 Service of a Notice must be effected by email.

7.2 Notices shall be addressed as follows:

(a) Notices for Whistl shall be marked for the attention of:

Email addresses: Richard.Pike@fieldfisher.com

Reference: UK01-2019714-00002

(b) Notices for the Class Representative and the Defendant shall be addressed in accordance with paragraph 11.3 of the Bulk Mail CRO.

Liberty to apply

8. Liberty to apply to the CAT for further orders, which shall be on notice to the other Parties and Whistl (as applicable).

Hodge Malek KC

Chair of the Competition Appeal Tribunal

Made: 20 March 2025

Drawn: 21 March 2025