



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1271/4/12/16
1272/4/12/16

B E T W E E N:

INTERCONTINENTAL EXCHANGE, INC.

Applicant

-v-

COMPETITION AND MARKETS AUTHORITY

Respondent

-and-

NASDAQ STOCKHOLM AB

Intervener

ORDER

UPON hearing counsel for the Applicant, the Respondent and the Intervener at a case management conference on 30 November 2016

AND UPON the parties having agreed to the terms of this Order

IT IS ORDERED BY CONSENT THAT:

1. This Order becomes effective in respect of each of the persons named in Part A of the Schedule to this Order (including persons subsequently admitted to the confidentiality ring pursuant to paragraph 8 of this Order) only upon receipt by the Tribunal of a signed undertaking in the terms of Part B of the Schedule to this Order.
2. For the purposes of this Order:
 - a. “**Confidential Information**” means information justifying confidential treatment by the Tribunal in accordance with rule 101 of the Competition Appeal Tribunal Rules 2015, which is contained in any Relevant Documents.

- b. **“Confidentiality Ring”** means all those Relevant Advisers who have signed an undertaking to the Tribunal in the terms of the Schedule to this Order, of which a copy has been provided to the Tribunal.
 - c. **“Relevant Advisers”** are those persons:
 - i. listed in Part A of the Schedule to this Order who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order; or
 - ii. whose admission to the Confidentiality Ring has received the consent of the parties pursuant to paragraph 8(i) below or has been authorised by the Tribunal pursuant to paragraph 8(ii) below.
 - d. **“Relevant Documents”** means all pleadings and other documents submitted, or to be submitted, disclosed or to be disclosed by the Parties to the present proceedings before the Tribunal.
3. Any Relevant Document that a party considers to contain Confidential Information shall be marked so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 7.46 of the Tribunal’s Guide to Proceedings (October 2015). Any such Relevant Document containing Confidential Information shall only be provided to members of the Confidentiality Ring, who shall treat such documents in accordance with the terms of the undertaking each of them has given.
 4. Any Relevant Document may initially, if it is necessary in the interests of time, be disclosed only to persons in the Confidentiality Ring, provided that each such document shall be reviewed and a decision taken by the disclosing party (which may be subject to review by the Tribunal on application by another party), not later than 5 calendar days after the date on which that document was first served, disclosed or produced, as to whether that document contains Confidential Information.
 5. At the same time as a Relevant Document containing Confidential Information is served, disclosed or provided in accordance with paragraph 3 above the party serving, disclosing or providing the same should also provide a non-confidential version in accordance with the manner set out in paragraph 7.50 of the Tribunal’s Guide to Proceedings (October 2015).
 6. Following a review conducted in accordance with paragraph 4 above, a document that is determined not to contain Confidential Information shall be disclosed to, and may be reviewed by, the parties and any professional advisers in addition to those within the Confidentiality Ring.
 7. Membership of the Confidentiality Ring becomes effective upon the receipt by the Tribunal of the Relevant Adviser’s signed undertaking.

8. If any party wishes to add any person as a Relevant Adviser for the purpose of this Order, they may either:
 - (i) obtain the written consent of each of the other parties to the admission of that individual to the Confidentiality Ring and inform the Tribunal in writing accordingly (copying the representatives of the other parties); or
 - (ii) apply to the Tribunal for an order authorising the admission of that individual to the Confidentiality Ring.
9. If any party wishes one of its Relevant Advisers to be removed from the Confidentiality Ring, they shall inform the Tribunal in writing (copying the representatives of the other parties).
10. When a Relevant Adviser is admitted to or removed from the Confidentiality Ring the relevant party will provide to the Tribunal an up-to-date list of the membership of the Confidentiality Ring.
11. The parties shall make available without charge to any person on request an up-to-date list of the members of the Confidentiality Ring.
12. Nothing in this Order prevents the disclosure of any information to the Competition and Markets Authority (including any Competition and Markets Authority staff or member) to facilitate the exercise of its functions.
13. Costs be reserved.
14. There be liberty to apply.

Hodge Malek Q.C.
Chairman of the Competition Appeal Tribunal

Made: 5 December 2016
Drawn: 5 December 2016

**SCHEDULE
PART A**

This part contains the names, for each party, of Relevant Advisers:

Intercontinental Exchange, Inc.

External counsel

Paul Harris Q.C.

Alistair Lindsay (both of Monckton Chambers)

External solicitors

Matthew Readings

Chris Bright

George Milton

Gabriella Griggs (all of Shearman & Sterling LLP)

Competition and Markets Authority

External counsel

Marie Demetriou Q.C.

Sarah Abram (both of Brick Court Chambers)

Nasdaq Stockholm A.B.

External counsel

Robert O'Donoghue (Brick Court Chambers)

**SCHEDULE
PART B**

UNDERTAKING

I, the undersigned, undertake to the Tribunal and each of the parties as follows:

1. I have read a copy of the Tribunal's Order of 5 December 2016 ("**the Tribunal's Order**") and understand the implications of that Order and the giving of this undertaking.
2. Save in respect of provision to the Tribunal and/or the Competition and Markets Authority, I will not disclose the Confidential Information (as defined in the Tribunal's Order) to any person who is not within the Confidentiality Ring (as defined in the Tribunal's Order) without the express written consent of the party originally disclosing the Confidential Information ("**the Disclosing Person**") or the permission of the Tribunal.
3. I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings or other use whatsoever without the express written consent of the Disclosing Person.
4. I have read, and understand the implications of, Rule 102 of the Competition Appeal Tribunal Rules 2015, and will use the Confidential Information only in accordance with that Rule.
5. The Relevant Documents containing the Confidential Information will remain in my custody or the custody of another person within the Confidentiality Ring at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access or disclosure.
6. The production of further copies by me of the Relevant Documents containing the Confidential Information shall be limited to those required for the use of persons within the Confidentiality Ring for the purpose of these proceedings and shall be held in accordance with paragraph 5 of this undertaking.
7. Save where the written consent of the Disclosing Person has been obtained, any and all copies of the Relevant Documents in paper form containing the Confidential Information made available to me will be returned to the party originally disclosing the Relevant Documents or be destroyed at the conclusion of the present proceedings unless they contain Confidential Information from more than one party, in which case they shall be destroyed; any copies of the Relevant Documents containing Confidential Information in electronic form made available to me will be deleted or where that is not possible will be rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not available to any person.
8. Save that none of the requirements listed at paragraphs 2 to 6 above shall prevent Relevant Advisers from disclosing to a person advised by them Confidential Information and or Relevant Documents which such person has already legitimately seen.

Name:

[Firm] OR [Company] OR [Establishment]:

[Legal qualification] OR [Role / Job title]:

IF APPLICABLE [Professional regulator:]

Signed:

Date: