



COMPETITION APPEAL TRIBUNAL

**NOTICE OF AN APPLICATION TO COMMENCE COLLECTIVE PROCEEDINGS UNDER  
SECTION 47B OF THE COMPETITION ACT 1998**

**CASE NO. 1644/7/7/24**

Pursuant to rule 76(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Rules”), the Registrar gives notice of the receipt on 27 June 2024 of an application to commence collective proceedings, on an opt-out basis, under section 47B of the Competition Act 1998 (“the Act”), by Professor Andreas Stephan, (“the Applicant/Proposed Class Representative”) against (1) Amazon.com, Inc., (2) Amazon Europe Core S.À.R.L., (3) Amazon Services Europe S.À.R.L, (4) Amazon EU S.À.R.L, (5) Amazon U.K. Services Ltd. and (6) Amazon Payments U.K. Limited (together “the Proposed Defendants” or “Amazon”) (“the Application”). The Applicant/Proposed Class Representative is represented by Geradin Partners Limited (“Geradin”), Copthall Avenue 14-18, London EC2R 7DJ (Reference: David Gallagher, Damien Geradin, Antony Ojuwku).

Amazon is, amongst other things, a provider of online e-commerce services, through which sellers can sell and customers can search for and buy products. Multiple sellers can offer the same product. Amazon has equivalent localised e-commerce websites in several countries. In the UK, that website is Amazon.co.uk (the “Website”), the functions of which can also be accessed via an App. Amazon has its own retail operation, Amazon Retail, which sells products directly via the Website and the App. By contrast, third-party sellers’ goods are made available on the Website and the App via a service called “Amazon Marketplace”, for which Amazon charges fees. Amazon also offers fulfilment/logistics services, through which third-party sellers can delegate order management to Amazon. Amazon handles the storage of the product (in its fulfilment centres), packaging, and shipping to the final customer, as well as after-sales assistance and the management of any returns and refunds.

The Proposed Defendants are members of the Amazon corporate group. The first Proposed Defendant is the top holding company of all subsidiaries and businesses with the Amazon corporate group. The second Proposed Defendant is a company established in Luxembourg which is responsible for the management of Amazon’s European operations and it operates the Website. The third Proposed Defendant is a company established in Luxembourg which provides sellers with marketplace services. The fourth Proposed Defendant is a Luxembourgish company with a registered UK establishment that is engaged in the direct sale to customers on Amazon’s European marketplaces of goods that Amazon purchases from third-party suppliers. The fifth Proposed Defendant is a company established in England and Wales which provides fulfilment and corporate support services to other Amazon entities and operates Amazon’s UK fulfilment centres. The sixth Proposed Defendant is a company established in England and Wales that provides payment services to merchants located in the UK who registered for the service after 6 December 2018.

The Application proposes to combine standalone claims for damages suffered by UK-domiciled professional sellers (the “Proposed Class Members”) who have suffered loss as a result of the conduct of the Proposed Defendants . Professional sellers are third-party sellers who hold or held an Amazon Professional seller account. The Application alleges that Amazon abused its position of dominance in the market for the supply of e-commerce marketplace services to UK-domiciled professional sellers that used Amazon’s e-commerce marketplace services to reach customers in the UK (the “Relevant Market”) in breach of the prohibition in Article 102 of the Treaty on the Functioning of the European Union (“Article 102 TFEU”) (prior to 31 December 2020) and section 18 of the Act (the “Chapter II Prohibition”).

The Application alleges the following five categories of abuse:

1. Amazon collects and uses third-party sellers’ data for the purposes of Amazon Retail without making the data available to non-Amazon sellers. It is alleged that this confers an unfair advantage on Amazon Retail in the markets for the sale of various goods to customers.

2. Amazon engages in the self-preferencing of Amazon Retail offers when selecting which offers are displayed as the “Featured Offer” in the “Buy Box”, i.e. the box prominently displayed on Amazon’s product pages where customers are given one-click options to “Buy Now” and “Add to Basket”. It is alleged that this has effects similar to the first abuse.
3. Amazon engages in the self-preferencing of third-party sellers that use Amazon’s fulfilment/logistics service when selecting which offers were displayed in the Buy Box. It is alleged that this imposes an unfair disadvantage on sellers insofar as they use fulfilment/logistics services other than Amazon’s. It also artificially stimulates demand for Amazon’s fulfilment/logistics services and so increase the fees that Amazon can charge for them. Furthermore it reduces the use of fulfilment/logistics services other than Amazon’s and the scale of suppliers providing them and thus drives up prices in the fulfilment/logistics market. Finally, it discourages sellers from using other logistics providers and from using other online marketplaces.
4. Amazon makes access to the important “Prime” label contingent on the use of Amazon’s fulfilment/logistics service. It is alleged that this has effects similar to those of the third abuse.
5. Amazon employs anti-discounting practices which depress sales of goods outside Amazon and divert traffic from other e-commerce platforms to Amazon. It is alleged that this preserves and strengthens Amazon’s dominance on the market.

The proposed class is all UK-domiciled sellers that used Amazon’s e-commerce marketplace services to reach customers in the UK within the relevant period. The Relevant Period is the period starting six years prior to 26 June 2024 (the “Relevant Period”). The Application estimates that there are over 200,000 such sellers. A preliminary estimate is that the Proposed Class Members have suffered aggregate losses of up to £2.771 billion.

The Applicant/Proposed Class Representative contends that, as a result of the alleged abuses, the Proposed Class has suffered losses that can be divided into three broad categories:

1. Sellers made fewer sales than they would have absent the alleged abuses;
2. Sellers paid higher prices for fulfilment/logistics services; and
3. Sellers paid higher e-commerce marketplace fees.

According to the Application, the Claims are suitable to be brought in opt-out collective proceedings because the Claims are brought on behalf of an identifiable class of persons, and the Claims raise common issues, namely liability in relation to the alleged breaches of Article 102 TFEU and/or the Chapter II Prohibition in the Relevant Market on the Amazon’s UK Online Marketplace.

The Applicant/Proposed Class Representative submits that he would act fairly and adequately in the interests of the Class Members because:

1. The Applicant/Proposed Class Representative is not a member of the Proposed Class and has no material interest that conflicts with the interests of the Proposed Class Members.
2. The Applicant/Proposed Class Representative is a Professor of Competition Law at the University of East Anglia and Head of the UEA Law School. Since December 2023, he has also been a Panel Member of the Office for the Internal Market at the CMA.
3. The Applicant/Proposed Class Representative has put in place a governance and Litigation Plan, including an advisory panel of consultants with relevant experience and expertise.
4. The Applicant/Proposed Class Representative has adequate arrangements in place to cover the risk of adverse costs and has entered into a Litigation Funding Agreement

The Applicant/Proposed Class Representative submits that these claims are suitable to be brought in collective proceedings because that is the only economically viable way for the Proposed Class to obtain compensation for

losses suffered as a result of the alleged abuses of a dominant position because many of the Claims are likely to be relatively low in value on an individual basis but very substantial in aggregate. Proposed Class Members with larger claims will be able to opt out if they wish to. Furthermore, there is minimal variation in the factual background to each claim and the relevant evidence is unlikely to vary significantly from claim to claim.

The relief sought in these proceedings is:

- (1) Damages to be assessed on an aggregate basis;
- (2) Compound or, in the alternative, simple interest;
- (3) The costs of the Proposed Class Representative; and
- (4) Any such further or other relief as the Tribunal may see fit.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at [www.catribunal.org.uk](http://www.catribunal.org.uk). Alternatively, the Tribunal Registry can be contacted by telephone (020 7979 7979) or email ([registry@catribunal.org.uk](mailto:registry@catribunal.org.uk)). Please quote the case number mentioned above in all communications.

*Charles Dhanowa OBE, KC (Hon)*  
Registrar  
Published 1 August 2024