



THE COMPETITION APPEAL TRIBUNAL

Case No.: 1425/7/7/21

BETWEEN:

JUSTIN GUTMANN

Applicant/Proposed Class Representative

– and –

(1) GOVIA THAMESLINK RAILWAY LIMITED

(2) GOVIA LIMITED

(3) THE GO-AHEAD GROUP PLC

(4) KEOLIS (UK) LIMITED

Respondents/Proposed Defendants

– and –

SECRETARY OF STATE FOR TRANSPORT

Proposed Intervener

CONFIDENTIALITY RING ORDER

UPON reading the correspondence from the legal representatives of all the parties to these proposed proceedings relating to the establishment of a confidentiality ring by consent

AND HAVING REGARD TO the Tribunal's powers under the Competition Appeal Tribunal Rules 2015 (the “**Tribunal Rules**”)

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

IT IS ORDERED BY CONSENT THAT:

For the purposes of this Order:

1.1 “**Confidential Information**” means:

- 1.1.1. the information which was redacted from the non-confidential version of the Litigation Funding Agreement of 30 September 2021 exhibited to the Proposed Class Representative’s Witness Statement dated 24 November 2021, excluding any redactions that will remain notwithstanding the Confidentiality Ring;
- 1.1.2. the information redacted from a non-confidential version of the Funder Adverse Costs Deed of Indemnity dated 30 November 2022, excluding any redactions that will remain notwithstanding the Confidentiality Ring; and
- 1.1.3. commercially sensitive information the disclosure of which would or might significantly harm the legitimate business interests of the undertaking to which it relates; and
- 1.1.4. information the disclosure of which would be contrary to the public interest which the disclosing party has designated as Confidential Information, being the material contained in the Relevant Documents in respect of which a claim of confidentiality is agreed or has been or will be made to the Tribunal by a party pursuant to Rule 101 of the Tribunal Rules.

1.2 “**Confidentiality Ring**” means all the Relevant Advisers and the Proposed Class Representative.

1.3 “**Relevant Advisers**” are those persons:

- a) whose admission to the Confidentiality Ring has received the consent of the parties pursuant to paragraph 6(a) below or has been authorised by the Tribunal pursuant to paragraph 6(b) below; and
- b) who have given a signed undertaking to the Tribunal in the terms of the Schedule to this Order, of which a copy has been provided to the Tribunal.

1.4 “**Relevant Documents**” means all pleadings and other documents served by any of the parties.

2. Each of the parties shall (as and when disclosure is required) hereafter disclose to the other parties Relevant Documents containing Confidential Information on the condition that such un-redacted versions and any Confidential Information contained therein shall be disclosed only to the Relevant Advisers, who shall treat such documents in accordance with the terms of the undertaking each of them has given.

3. Any such 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 Guide to Proceedings 2015.
4. For the avoidance of doubt, nothing in this Order prevents a party, its advisers or experts from sharing Confidential Information provided by that party in these proceedings or from sharing Confidential Information which is already in the public domain (where this is not as a result of that party's breach of the terms of this Order).
5. Membership of the Confidentiality Ring becomes effective upon the receipt by the Tribunal of the Relevant Adviser's or Proposed Class Representative's signed undertaking.
6. If any party wishes to add any person as a Relevant Adviser for the purpose of this Order, they may either:
 - a) 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
 - b) apply to the Tribunal for an order authorising the admission of that individual to the Confidentiality Ring.
7. If any party wishes one of its Relevant Advisers or the Proposed Class Representative to be removed from the Confidentiality Ring, they shall inform the Tribunal in writing (copying the representatives of the other parties).
8. When a Relevant Adviser or the Proposed Class Representative 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.
9. With the exception of solicitors' or counsels' notes, and to the extent permitted by law or any applicable professional conduct regulations, copies of all or any (as appropriate) Confidential Information disclosed pursuant to this Order (in both hard and soft copy) must be destroyed insofar as is technologically possible or made inaccessible at the conclusion of these proceedings, or when a Relevant Adviser or the Proposed Class Representative ceases to be involved in these proceedings. Each party shall notify the other parties that the Confidential Information has been destroyed:
 - a) at the conclusion of these proceedings;
 - b) when a Relevant Adviser or the Proposed Class Representative ceases to be involved in these proceedings; and/or

c) if it is ordered that all or any (as appropriate) of the Confidential Information is no longer relevant to and/or disclosable in these proceedings.

10. For the avoidance of doubt, in the event of any anticipated or actual breach of this Order, any party may seek to enforce the terms of this Order.

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. Costs be reserved.

13. There be liberty to apply.

The Honourable Mr Justice Roth
Chair of the Competition Appeal Tribunal

Made: 28 November 2022
Drawn: 28 November 2022

SCHEDULE – PART A

This Part contains the names, for each party, of the Relevant Advisers for the purposes of this Order:

Proposed Class Representative

1. Justin Gutmann

Solicitors

2. Rodger Burnett
3. Dorothea Antzoulatos
4. Philippa Beckley
5. Brendan O’Neill
6. Joel Mitchell
7. Joshua Elsey
8. Belinda Lui (each of Charles Lyndon Limited)
9. Anthony Maton
10. Luke Streatfeild
11. Laura Davidson
12. Charles Laporte-Bisquit
13. Emina Melkic
14. Alice Papadopoulou (each of Hausfeld & Co LLP)

Counsel

15. Philip Moser KC
16. Stefan Kuppen
17. Alexandra Littlewood (each of Monckton Chambers)

Experts

18. Derek Holt
19. Ben Forbes
20. Erin Celik
21. Guillaume Aimard (each of AlixPartners UK LLP)

Proposed Defendants

Solicitors

1. Mark Sansom
2. Nicholas Frey

3. Jessica Steele
4. Angus Reston
5. Lydia Ream
6. Amy Sanderson
7. Ellen Mirchandani
8. Ethan Lo
9. Annabel Kennard (each of Freshfields Bruckhaus Deringer LLP)

Counsel

10. Paul Harris KC
11. Anneliese Blackwood
12. Michael Armitage
13. Clíodhna Kelleher (each of Monkton Chambers)

Experts

14. Anna den Boer
15. David Jevons
16. Matthew Johnson
17. Kimela Shah
18. Michael Weekes (each of Oxera Consulting LLP)

Proposed Intervener

External Solicitors

1. Elizabeth Coleman
2. Deborah Polden
3. Anne Harris
4. Agnes Koko
5. Mark Lasok-Smith
6. Ruth Haynes
7. Eleanor Gill (each of Eversheds Sutherland (International) LLP)

Counsel

8. Anneli Howard KC
9. Brendan McGurk (each of Monkton Chambers)

Department for Transport Legal Advisers, Government Legal Department

10. Jessica Walters
11. Conor Cahill

SCHEDULE – PART B

UNDERTAKING

I, [name], of [firm, company or establishment] being [legal or other qualification] and regulated so far as my professional conduct is concerned by [regulatory body, if any] undertake to the Tribunal as follows:

1. I have read a copy of the Tribunal’s Order of 28 November 2022 (the “**Tribunal’s Order**”) and understand the implications of the Tribunal’s Order and the giving of this undertaking.
2. Save in respect of provision to the Tribunal, I will not disclose the Confidential Information (as defined in the Tribunal’s Order) to any person who is not a Relevant Adviser (as defined in the Tribunal’s Order) without the express written consent of the person which originally disclosed 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, dispute, complaint, or other use whatsoever without the express consent of the Disclosing Person.
4. I have read, and understand the implications of, Rule 102 of the Tribunal Rules, and will use the Confidential Information only in accordance with that Rule.
5. The Relevant Documents (as defined in the Tribunal’s Order) containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser 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 the Relevant Advisers for the purposes of these proceedings and shall be held in accordance with paragraph 5 of this undertaking.
7. With the exception of solicitors’ or counsels’ notes, and to the extent permitted by law or any applicable professional conduct regulations, any and all copies of the documents containing the Confidential Information will be securely disposed of insofar as is technologically possible or rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person at the conclusion of these proceedings.
8. None of the requirements in this undertaking shall prevent disclosure of any Confidential Information to any administrative, IT or support staff for the purposes of fulfilling my instructions in the context of these proceedings.

9. The present proceedings for these purposes shall include any further appeals from the Tribunal to a higher court and/or any references to the European Courts, save in so far as that higher court orders otherwise.

10. Save that none of the requirements listed at paragraphs 2 to 7 above shall prevent Relevant Advisers from disclosing Confidential Information to persons who have already legitimately seen it.

Name:

Signed:

Date: