



Neutral citation [2023] CAT 41

**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1590/4/12/23

Salisbury Square House  
8 Salisbury Square  
London EC4Y 8AP

12 June 2023

Before:

SIR MARCUS SMITH  
(President)  
PROFESSOR ANTHONY NEUBERGER  
BEN TIDSWELL

BETWEEN:

**MICROSOFT CORPORATION**

Applicant

– and –

**COMPETITION AND MARKETS AUTHORITY**

Respondent

– and –

**ACTIVISION BLIZZARD, Inc.**

Intervener

Heard at Salisbury Square House on 12 June 2023

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**RULING (STREAMING OF THE PROCEEDINGS)**

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## APPEARANCES

Mr Daniel Beard KC, Mr Robert Palmer KC, Mr Nikolaus Grubeck, and Mr Stefan Kuppen, (instructed by Weil, Gotshal & Manges (London) LLP) appeared on behalf of the Applicant.

Mr Rob Williams KC, and Mr Richard Howell (instructed by the Competition and Markets Authority) appeared on behalf of the Respondent.

Lord Grabiner KC, Lord Pannick KC, and Mr Brian Kennelly KC (instructed by Slaughter and May) appeared on behalf of the Intervener.

1. These proceedings are – at the moment – being streamed live. That is on the express basis that they are not photographed, broadcast, transmitted or recorded. That is a direction that is made by the Chair at the beginning of every hearing; and it is a direction that the Tribunal expects all those “tuning in” to pay scrupulous regard to.
2. We make it again, now.
3. The direction is not difficult to understand; and it is easy to follow. You can watch, but you cannot do anything else with the material, except allow it to inform your views. And that is why public justice is so important: you, the public, get to see what is going on, without having to come to court.
4. These are public proceedings, and members of the public are very welcome to attend in person. We recognise that in person attendance is a significant barrier to attendance: hence, again, livestreaming.
5. Unfortunately, there has, in connection with these proceedings been a series of what would appear to be deliberate breaches of the Tribunal’s direction at the 30 May case management conference. I do not know the extent to which the parties are aware of these breaches: we are more than happy to share, out of court, what we know, should any party wish to take matters further by way of routes that will be familiar to those before us. There has not merely been a broadcasting, but a use of images to disrespect the processes that are going on in these courts.
6. We do not want to say more about enforcement, because that is not actually the point.
7. Disputes that come before this Tribunal are important, always to the parties, often to third parties. They are rightly, hard fought, in a rigorous adversarial process.
8. It is because the process is so rigorous, so hard fought, that the Tribunal expects – and receives – not merely the highest professional standards in terms of legal

competence from the teams that appear before it, but also in terms of courtesy to and respect for each other.

9. The more important the dispute, the higher the stakes, the greater the importance of these values.
10. We expect far less of the public, who are here to watch and be informed. But we do expect a minimum of respect and courtesy. The directions that the Tribunal gives must be heeded for this reason alone. Questions of enforcement are secondary.
11. The Tribunal controls the process in the court room and it takes the infringements of the direction the Tribunal gave on 30 May very seriously indeed.
12. Livestreaming of this event will resume, at the Tribunal's direction if it gives it, after the transcriber break. The Tribunal now directs that the livestreaming of this hearing cease until then.

Sir Marcus Smith  
President

Prof Anthony Neuberger

Ben Tidswell

Charles Dhanowa O.B.E., K.C. (*Hon*)  
Registrar

Date: 12 June 2023