

**Competition Appeal Tribunal Case Nos 1572/7/22 and  
1582/7/7/23.**

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**NOTICE OF APPLICATION FOR A COLLECTIVE  
PROCEEDINGS ORDER**

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*Publishers who are UK domiciled and Publisher Partners who, at any time from 1 January 2014 to the date of grant of the collective proceedings order, received revenue from the sale of Online Display Ads could benefit from a collective claim against certain Google entities.*

*This is a legal notice that has been issued at the direction of the Competition Appeal Tribunal*

**This Notice**

This is a legal notice published on the direction of the Competition Appeal Tribunal (the “**Tribunal**”) because a Collective Proceedings Order is being sought from the Tribunal by Ad Tech Collective Action LLP (the “**Proposed Class Representative**”) against the following Google companies: (1) Alphabet Inc.; (2) Google LLC; (3) Google Ireland Limited; (4) Google UK Limited (collectively, the “**Proposed Defendants**” or “**Google**”).

The Collective Proceedings Application can be viewed online at [www.adtechclaim.co.uk](http://www.adtechclaim.co.uk), along with other information about the claim. This Notice and the enclosed Questions & Answers give important information about these proposed collective proceedings. The Tribunal’s website is: [www.catribunal.org.uk](http://www.catribunal.org.uk).

**The Proposed Claim**

The Proposed Class Representative seeks to recover damages to compensate (1) UK-domiciled Publishers and (2) Publisher Partners for harm caused by Google’s anticompetitive conduct in the ad tech sector. As explained in more detail below:

- A “Publisher” means a UK-domiciled natural or legal person that publishes content on a website or mobile app containing ad units.
- Publisher Partners refers to a natural or legal person that sells Online Display Ads on behalf of UK Publishers, other than Publisher Ad Servers, Ad Exchanges and Ad Networks.

The Consumer Rights Act 2015 allows for such a collective claim to be brought on behalf of a group of persons (known as a “**class**”) who are alleged to have suffered a common loss as a result of anti-competitive conduct. For a collective action to proceed, however, the Tribunal must decide that the claim filed by the Proposed Class Representative against Google may be

brought on a collective basis. Ad Tech Collective Action LLP will have to be approved by the Tribunal to act as the Proposed Class Representative on behalf of individuals and businesses that it claims have suffered loss due to Google's misconduct.

According to Ad Tech Collective Action LLP's Proposed Claim, Google has breached competition law by engaging in anti-competitive practices in technologies, within the ad tech sector, that are provided by ad tech intermediaries to help publishers to sell their inventory and advertisers to acquire that inventory. Ad Tech Collective Action LLP seeks compensation from Google on behalf of affected individuals and businesses who have lost revenue from the sale of advertising space on their websites (the "**Proposed Class**"). The Proposed Class Definition (which determines whether or not a person falls within the Proposed Class) is set out below.

No money is available now and there is no guarantee that money will be available in the future. The Proposed Claim will need to be won or settled by Ad Tech Collective Action LLP before any money can become available.

You have important legal rights related to this Proposed Claim. Exercising these rights could affect your ability to get a payment in the future (if the case is won or a settlement is reached, and money becomes available). This notice explains the Proposed Claim, who is covered by the Proposed Claim and your rights in relation to the Proposed Claim. **Please read this notice carefully as your decisions about this Proposed Claim will have legal consequences.**

### **The Proposed Class**

**Should the Proposed Claim be certified by the Tribunal, you will have the following rights and options.**

#### **If you are a Publisher:**

- For "Publishers" this will be an "opt-out" claim," meaning that anyone who meets the definition of the Proposed Class and who is domiciled in the UK on the date on which the Collective Proceedings Order is granted will be included in the proposed claim automatically and be bound by the result, unless they expressly opt-out of the Proposed Class so as to formally remove themselves from the Claim. Therefore, these Proposed Class members will not be required to do anything and you will be included in the Proposed Claim unless you take the steps outlined below to opt-out.
- If you wish to object to the Proposed Claim, details as to how you can do this are set out below (see Q12 below).

**If you are a Publisher Partner:** You will have to "opt into" these proceedings.

### **The Proposed Class Definition**

The Proposed Class is comprised of “*all Publishers and Publisher Partners that received revenue from the sale of Online Display Ads during the Class Period.*”

For the purposes of this definition:

- (1) “Publisher” means a UK-domiciled natural or legal person that publishes content on a website or mobile app containing ad units.
- (2) “Publisher Partner” means a natural or legal person that sells Online Display Ads on behalf of Publishers, other than Publisher Ad Servers, Ad Exchanges and Ad Networks.
- (3) “Online Display Ads” means ads displayed on a Publisher’s website or mobile app alongside content (excluding (i) ads on owned and operated platforms and (ii) search advertising).
- (4) “Ad Exchanges” means electronic marketplaces that automate the sale of Online Display Ads, including through real-time auctions.
- (5) “Ad Networks” means intermediaries that operate on their own account aggregating advertising inventory from Publishers and matching it with demand from their own demand sources.
- (6) “Publisher ad server” means an ad server which manages Publishers’ advertising inventory and provides the decision logic underlying the final choice of which ad to serve.
- (7) “Class Period” means the period between 1 January 2014 and the date of the making of a collective proceedings order in the present proceedings.

The following categories of persons (“**Excluded Persons**”) are excluded from the Proposed Class:

- (1) Officers, directors or employees of the Proposed Defendants, their subsidiaries and any entity in which they have a controlling interest;
- (2) All members of Ad Tech Collective Action LLP and the Proposed Defendants’ respective legal teams and all experts and professional advisors instructed and retained by them and all funders or insurers involved, in connection with these collective proceedings;
- (3) All members of the Tribunal assigned to these proceedings, their parents, their spouses

or civil partners or any persons with whom they cohabit, and their children;

- (4) Any judge involved in any appeal in the present collective proceedings (whether in respect of the grant of permission to appeal or the hearing of any substantive appeal), and their parents, their spouse or civil partner or any person with whom they cohabit, and their children;
- (5) Any deceased person; and
- (6) Any registered corporate entity or other registered entity with legal personality which has been struck off or dissolved pursuant to the Companies Act 2006 more than six years prior to the grant of this Order.

### **Hearing of Application**

A hearing will take place commencing on **29 January 2024** to decide whether the Proposed Claim can proceed. It is expected to last for **three** days. The location of the hearing will be: Competition Appeal Tribunal, Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP.

### **Rights to Object and Make Submissions**

Any person with an interest (including any member of the Proposed Class) may object to the Collective Proceedings Application or the authorisation of the Proposed Class Representative by stating their reasons for objecting in writing to be received by the Tribunal by **4pm on 14 December 2023**.

Any person with an interest (including any member of the Proposed Class) objecting to the Collective Proceedings Application or the authorisation of the Proposed Representative may also apply to the Tribunal for permission to make oral submissions at the hearing on **29-31 January 2024**. Any such application must be made in writing and received by the Tribunal by **4pm on 14 December 2023**.

Any third party with a legitimate interest (who is not a member of the Proposed Class) can also apply to the Tribunal for permission to make written and/or oral submissions at the hearing on **29-31 January 2024**. Any such application must be made in writing, supported by reasons, and received by the Tribunal by **4pm on 14 December 2023**.

Please see the answer to Q12 below for further details of the process for objecting.

### **Questions & Answers**

<b>Q1: Why has this Notice been issued?</b>
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The Tribunal has directed that this Notice be issued following the application by the Proposed Class Representative for a Collective Proceedings Order.

The Collective Proceedings Application asks the Tribunal to approve the Proposed Class Representative to act on behalf of the Proposed Class in bringing the Proposed Claim. A summary of the Proposed Claim being brought by Ad Tech Collective Action LLP can be found on the claim's website: [www.adtechclaim.co.uk](http://www.adtechclaim.co.uk).

This Notice has been issued to inform you of the Collective Proceedings Application and your right to object to it. Exercising these rights could affect your ability to get a payment in the future (if compensation becomes available). This Notice explains: (i) the Proposed Claim being brought by Ad Tech Collective Action LLP; (ii) your right to object to the Proposed Claim; (iii) how to exercise those rights; and (iv) any related deadlines. **Please read this Notice carefully as your decisions about the Proposed Claim will have legal consequences.**

#### **Q2: What is the Competition Appeal Tribunal?**

The Tribunal is a specialist judicial body that is based in London but covers the whole of the UK and hears certain competition law and regulatory disputes. It has cross-disciplinary expertise in law, economics, business and accountancy. The Tribunal publishes its Rules and Guidance, together with information about what it does, on its website [www.catribunal.org.uk](http://www.catribunal.org.uk).

#### **Q3: What are Collective Proceedings?**

Collective Proceedings are sometimes described as a class action, a class claim, a group claim or a group action. This is a single claim by multiple claimants or by a specified person or body on behalf of multiple claimants which are the subject of a Collective Proceedings Order and which proceed on an "opt-in" and/or "opt-out" basis. In this case, Ad Tech Collective Action LLP has applied to be the class representative to bring the Proposed Claim on behalf of the Proposed Class.

#### **Q4: Who is the Proposed Claim against?**

The Proposed Claim is against Google. Google is a multinational technology company, which focuses on, amongst other products and services: search engine technology, cloud computing, computer software, quantum computing, consumer electronics, artificial intelligence, and online advertising. The Proposed Defendants are all members of the Google corporate group:

- (A) Alphabet Inc.;
- (B) Google LLC;
- (C) Google Ireland Limited; and
- (D) Google UK Limited;

**Q5: What did the Proposed Defendants do wrong?**

Ad tech is the technology powering the online ads that billions of consumers see in their everyday lives when surfing the web and using their smartphones. Digital advertising has experienced spectacular growth, exceeding \$490 billion in 2021. Selling digital advertising has become a key source of revenue for publishers of online content, including news and magazine publishers amongst the many examples of websites which carry adverts. Google is the largest and most important ad tech vendor at each step of the value chain.

Following a complaint by news publishers in 2019, the French Competition Authority held that Google committed a breach of competition law, namely that Google abused its dominant position through conduct aimed at ensuring that (i) Google’s ad server favours Google’s AdX ad exchange, and conversely, (ii) Google’s AdX ad exchange favours its ad server.

According to the decision, Google’s anti-competitive conduct harmed online publishers (and Publishing Partners) in that it depressed the revenues that they derived from online advertising. That harm forms the basis of Ad Tech Collective Action LLP’s Proposed Claim.

In addition, Ad Tech Collective Action LLP also alleges that Google has abused its dominant position through conduct aimed at ensuring that its demand-side platforms, Google Ads and DV360, favour Google’s AdX ad exchange.

**Q6: What is the role of the Proposed Class Representative?**

If authorised by the Tribunal, Ad Tech Collective Action LLP will conduct the Proposed Claim against Google on behalf of the Proposed Class, except for those who opt-out of the Proposed Class.

During the case, Ad Tech Collective Action LLP will be responsible for, amongst other things, communicating with the Proposed Class and issuing formal notices to its members (such as this one). Ad Tech Collective Action LLP will make decisions on the conduct of the Proposed Claim, including instructing the lawyers and experts, and, in particular, will evaluate any offer of settlement that Google may make and decide whether to present it for the Tribunal’s approval.

Updates about the Proposed Claim will be available on the website [www.adtechclaim.co.uk](http://www.adtechclaim.co.uk) and via various other media.

**Q7: Who is the Proposed Class Representative?**

The Proposed Class Representative is a Limited Liability Partnership which has been incorporated for the sole purpose of managing the Proposed Claim against Google on behalf of the Proposed Class. The members of the LLP are Claudio Pollack, Charles Arthur, and Kate Wellington.

You may be aware that Mr Pollack and Mr Arthur had previously issued separate similar

collective proceedings applications against the Proposed Defendants. Mr Pollack and Mr Arthur have since determined that they should amalgamate their claims to maximise the interests of the Proposed Class. As a result, Mr Pollack and Mr Arthur, in conjunction with Ms Wellington, have incorporated Ad Tech Collective Action LLP and are now seeking approval for Ad Tech Collective Action LLP to act as the Proposed Class Representative on behalf of the Proposed Class in bringing the Proposed Claim against Google.

Mr Pollack has spent much of his career in the communications services sector, focusing on issues faced by consumers within the telecommunications industry. He worked in management positions at Ofcom for over a decade, notably as Competition Policy Director and latterly as Group Director for Content, Consumer & External Affairs. Mr Pollack is passionate about, and committed to, supporting the rights and welfare of consumers and small businesses, promoting positive outcomes for users of digital technology, and preventing abuses by large technology companies.

Mr Arthur is a freelance journalist, author, and speaker in the field of technology, covering a wide variety of topics. During his thirty-year career as an editor and journalist, he served as the Technology Editor of The Guardian (from 2005 to 2014) and the Science and Technology Editor at The Independent (from 1995 to 2004). Mr Arthur was also a visiting fellow at Cambridge University for the Technology & Democracy project from 2016 to 2017. He is the author of the specialist book ‘Digital Wars: Apple, Google, Microsoft and the battle for the internet’, which details the business battle in search, music, smartphones and tablets between Apple, Google and Microsoft.

Ms Wellington is a qualified solicitor in the UK and Australia with specialities in dispute resolution. She is a long-standing consumer rights champion working for many years at the Consumers’ Association (more commonly known as “Which?”), the UK’s largest consumer organisation, leading the campaigning and policy arm of their legal team. During that time, she worked closely with the Department for Business, Innovation and Skills (as it then was) on developing the Consumer Rights Bill and implementing the collective proceedings regime under the Consumer Rights Act 2015. Ms Wellington is also a member of a Consultative Group and Advisory Committee where she advises class representatives in respect of high-profile consumer class actions currently before the Tribunal.

#### **Q8: Who is in the Proposed Class?**

The Consumer Rights Act 2015 (the “**2015 Act**”) allows for a collective claim to be brought on behalf of a group of individuals who are alleged to have suffered a common loss. The group is the “class” and all individuals within the group are “class members”. As a result of the 2015 Act, groups of persons who have all allegedly suffered losses do not need to bring an individual claim to obtain compensation for their loss. Instead, class members may all receive compensation through a single collective claim brought on their behalf by a representative (the “**Class Representative**”).

The Collective Proceedings Application requests that the Tribunal allow the Proposed Class

composed of: all Publishers and Publisher Partners that received revenue from the sale of Online Display Ads, other than Excluded Persons, at any point during the period from 1 January 2014 to the date on which the a collective proceedings order is made in the present proceedings. For the complete definition, please see section entitled “The Proposed Class” at the top of this notice.

The Collective Proceedings Application requests that the Tribunal authorise the Proposed Claim to proceed on an “opt-out” basis on behalf of all Publishers (other than Excluded Persons) and on an “opt-in” basis for all Publisher Partners (other than Excluded Persons) who fall within the Proposed Class Definition (as explained at the top of this Notice). Subject to the Collective Proceedings Order being granted, this means that:

- If you fall within the definition of “Publishers” and are domiciled in the UK on the date of the making of a collective proceedings order in the present proceedings, you will be automatically included in the Proposed Class unless you take positive steps to opt out.
- If you are a “Publisher Partner”, you must “opt into” the Proposed Class if you want to be included in the Proposed Claim.

Should the Tribunal grant the Collective Proceedings Order, Publishers will have to be domiciled in the UK on the date that the Collective Proceedings Order is made in order to be included in the Proposed Claim. There is no need for Publisher Partners to have been domiciled in the UK at any stage, although their claims will be limited to any loss in revenue that they suffered in respect of their work for and on behalf of UK-domiciled Publishers.

<b>Q9: Who is excluded from the Proposed Class?</b>
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As described in the definition of the Proposed Class at the top of this notice, if you fall into one of the following categories, you will be excluded from the Proposed Class:

- (1) Officers, directors or employees of the Proposed Defendants, their subsidiaries and any entity in which they have a controlling interest;
- (2) All members of the Proposed Class Representative’s and Proposed Defendants’ respective legal teams and all experts and professional advisors instructed and retained by them and all funders or insurers involved in these collective proceedings;
- (3) All members of the Tribunal assigned to these proceedings, their parents, their spouses or civil partners or any persons with whom they cohabit, and their children, assigned at any point to these collective proceedings;
- (4) Any judge involved in any appeal in the present collective proceedings (whether in respect of the grant of permission to appeal or the hearing of any substantive appeal), and their parents, their spouse or civil partner or any person with whom they cohabit, and their children;
- (5) Any deceased person; and



- (6) Any registered corporate entity or other registered entity with legal personality which has been struck off or dissolved pursuant to the Companies Act 2006 more than six years prior to the grant of this Order.

**Q10: Do I need to do anything in order to be part of the Proposed Claim?**

If you fall within the definition of the Proposed Class, you do not have to take any action at this stage.

Should the Tribunal grant the Collective Proceedings Order:

If you fall within the definition Publisher, you will not have to take any action at this stage in order to be included in the Proposed Claim. Anyone who meets the definition of a Publisher (and is domiciled in the UK on the date of the making of a collective proceedings order in the present proceedings) will be included in the Proposed Claim automatically and be bound by the result, unless he/she/it asks to opt-out (i.e. takes steps to leave the Proposed Claim). In simple terms, if you do not opt-out and you are a Publisher in accordance with the Proposed Class Definition, you will automatically be included as a class member and you do not need to do anything at this time to be eligible for a share of any money that may become available in the future.

If you fall within the Proposed Class Definition as a Publisher Partner, you will need to opt in to the Proposed Claim, if you want to be a part of it.

All class members who remain in the Proposed Class will be bound by any judgment on the common issues (which are set out above). As a class member, you will not be able to bring an individual claim against Google raising the same issues that are included in this Proposed Claim.

**Q11: How much money does the Proposed Claim ask for?**

The Proposed Claim seeks compensation for all those who have been affected by Google's anti-competitive behaviour. It is too early to quantify the total value of the Proposed Claim, as it is anticipated that this will only be possible following disclosure of additional data from Google. However, at this stage the experts retained by the Proposed Class Representative estimate that the value of the Proposed Claim is likely to be up to £13.6 billion.

If the Proposed Claim is successful, all persons who have an eligible claim will be able to seek their share of the compensation. However, it is important to note that recovery of any money by way of the Proposed Claim is not guaranteed. The Proposed Class Representative will need to prove the case at trial in due course.

**Q12: Who can object and to what?**

Any person with an interest (including anyone who would be a member of the Proposed Class)

may object to the Collective Proceedings Application or the authorisation of the Proposed Class Representative. You should review the information above and visit both [www.adtechclaim.co.uk](http://www.adtechclaim.co.uk) and [www.catribunal.org.uk](http://www.catribunal.org.uk) for information.

If you wish to file an objection, you must write to the Tribunal stating your reasons for objecting and send it by post, or fax, so it is received no later than **14 December 2023** at 4pm, using the following contact details:

The Registrar  
Competition Appeal Tribunal  
Salisbury Square House  
8 Salisbury Square  
London EC4Y 8AP

Telephone: 020 7979 7979

When writing to the Tribunal you must include the reference of the Competition Appeal Tribunal Case Nos 1572/7/22 and 1582/7/7/23.

Any person with an interest (including any Proposed Class member) objecting to the Collective Proceedings Application or the authorisation of the Proposed Representative may also apply to the Tribunal for permission to make oral submissions at the hearing on 29-31 January 2024. Any such application must be made in writing and received by the Tribunal by **4pm on 14 December 2023**.

#### **Q13: Who is funding the Proposed Claim?**

Whilst the Proposed Class Representative is seeking to run the Proposed Claim on behalf of the Proposed Class, it would not be able to fund a claim of this size and public importance without third party funding.

The Proposed Class Representative has therefore obtained funding for the Proposed Claim From a third-party litigation funder, CF ADT LTD (the “**Funder**”).

The Funder has committed approximately £18 million to fund all elements of the Proposed Claim, with such amounts to be paid in tranches. In addition, the Proposed Class Representative has “after the event” insurance to cover adverse costs risk of £15 million to cover the Proposed Defendants’ costs in the event that the Proposed Claim is ultimately unsuccessful.

#### **Q14: Will I have to pay the legal costs in order to benefit from the Proposed Claim?**

No. The funding arrangements in place, described at Q14 above, mean that Proposed Class members will not need to pay anything to be part of the Proposed Claim. These funding arrangements also mean that Proposed Class members will not be liable for any financial risk should the Proposed Claim be unsuccessful.

**Q15: How can I stay updated on the progress of the Proposed Claim?**

You can visit [www.adtechclaim.co.uk](http://www.adtechclaim.co.uk) and register to receive updates and any future notices via email as the Proposed Claim progresses.