

Multi-billion Google Ad Tech claim certified by UK Competition Appeal Tribunal

5 June 2024, London. The Competition Appeal Tribunal (CAT) today certified a £13.6 billion claim against Google over its alleged anticompetitive behaviour in “ad tech”, the various technologies behind online advertising, meaning it can now proceed to trial.

The claim is brought by Ad Tech Collective Action LLP, led by Claudio Pollack, Charles Arthur and Kate Wellington. They allege that Google abused its dominant position in the ad tech market and caused significant loss to UK online publishers. Ad Tech Collective Action LLP sought the CAT’s approval to represent publishers on an opt-out basis. Google submitted that the case should not be certified because it was insufficiently pleaded and lacked an appropriate methodology for the assessment of harm caused to publishers.

In today’s judgment, the CAT dismissed Google’s arguments in full. The CAT held that Ad Tech Collective Action LLP had properly pleaded its case and had put forward a sound methodology to assess the value of the claims, and therefore authorised Ad Tech Collective Action LLP to act as the class representative and permitted the claim to proceed to trial.

Following the CAT’s certification, Ad Tech Collective Action LLP will represent all UK-domiciled natural or legal persons that publish content on websites or mobile apps containing ad units in respect of which they received revenue from 1 January 2014 to 30 November 2022, unless they choose to opt out. A smaller “opt-in” class of publisher partners (resellers) will also be represented.

Google’s conduct in the ad tech market is under scrutiny in various jurisdictions. In June 2021, the French competition authority concluded that Google had abused its dominant position in this market. Google did not contest the decision, accepted a fine of €220m and agreed to change its conduct. The UK Competition and Markets Authority, the European Commission and the US Department of Justice have also commenced investigations into or legal proceedings regarding Google’s conduct in ad tech.

The CAT’s decision allows Ad Tech Collective Action LLP’s proceedings on behalf of UK online publishers to proceed in parallel with these major trials and investigations going on elsewhere. This means that UK victims of Google’s conduct continue to have real prospects of being compensated in a timely fashion for the harm they have suffered.

Claudio Pollack, a partner of Ad Tech Collection Action LLP, said:

“This is a decision of major importance to the victims of Google’s anti-competitive conduct in ad tech. Google will now have to answer for its practices in a full trial. I look forward to working with our legal and economic advisers to deliver compensation for years during which the relevant markets did not provide a competitive outcome for the UK publishing market.”

Luke Streatfeild of Hausfeld & Co. LLP, Toby Starr of Humphries Kerstetter LLP and Damien Geradin of Geradin Partners Limited, who are leading the litigation on behalf of Ad Tech Collective Action LLP, stated jointly:

“We welcome the decision by the Competition Appeal Tribunal to certify the claim brought by Ad Tech Collective Action LLP. Despite Google’s attempts to derail this necessary and timely action, the Tribunal has seen that the case is well-argued and provides a clear blueprint to trial. Google’s practices continue to cause significant damage to the UK media landscape. This unanimous certification judgment is a first step in delivering proper compensation to Google’s victims.”

Ad Tech Collective Action LLP has secured third-party litigation funding to bring the proposed claim and insurance in respect of Google’s costs of defending the claim, which means affected UK publishers will not pay costs to participate in this legal action nor will they have any financial risk in relation to Google’s costs.

Ad Tech Collective Action LLP is represented by:

- Hausfeld & Co. LLP, Partners Luke Streatfeild and David Lawne, supported by Counsel Amandine Gueret, Senior Associate Adrian Langley, and Associate Patrick Kenny
- Humphries Kerstetter LLP, Partner Toby Starr, supported by Managing Associates Kieran Anderson and Charlotte Flammiger, Associate Anouska Jantzen and Trainee Parth Jethwa
- Geradin Partners Limited, Partners Damien Geradin, Stijn Huijts and David Gallagher, supported by Counsel Anthony Ojukwu
- Charles River Associates, Oliver Latham and Mikaël Hervé, Vice Presidents, supported by Senior Associate Charlie Whitehead
- Robert O’Donoghue KC of Brick Court Chambers
- Gerry Facenna KC, Julian Gregory, Nickolas Grubeck and Alison Berridge of Monckton Chambers
- Niamh Cleary of Fountain Court
- Greg Adey of One Essex Court.
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NOTES FOR EDITORS:

- The certified claim against Google is being brought at the CAT against Alphabet Inc., Google LLC, Google Ireland Limited and Google UK Limited under CAT Claim Nos. 1572/7/7/22 and 1582/7/7/23. Today’s judgement can be found at <https://www.catribunal.org.uk/cases/15727722-15827723-ad-tech-collective-action-llp>
- Ad Tech Collective Action LLP will represent all publishers of websites and mobile apps in the UK who received revenue from the sale of ad units from 1 January 2014 to 30 November 2022 unless they choose to opt out. A smaller “opt-in” class of publisher partners (resellers) will also be included. [Ad Tech Collective Action LLP will also seek to include the claims of UK publishers and publisher partners who only received revenue for the sale of ad units after 30 November 2022 in due course.]
- A website providing further details regarding the claim and the key parties and individuals involved can be found at www.adtechclaim.co.uk.
- For more information, please contact Jonathan Russell by email at jr@lacinguk.com or by telephone at 07791 295766.