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Professor Stephan successful in carriage dispute hearing relating to his £2.7bn claim against Amazon in the UK's Competition Appeal Tribunal

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Professor Stephan, a leading competition law professor, has been successful in a carriage dispute before the UK's Competition Appeal Tribunal ("CAT") relating to which of two partially-overlapping claims against Amazon should proceed.

Professor Stephan's claim, filed on 26 June 2024, alleged that Amazon engaged in anticompetitive conduct to the detriment of a large class of "third-party sellers" in the UK who use the Amazon marketplace to sell goods. A second claim, brought by BIRA, a UK trade association, alleged some but not all of the same anticompetitive conduct.

Today, the CAT has handed down its judgment that "*Prof Stephan's proceedings are the more suitable to go forward to a certification hearing*" on the basis of the scope of his claims and his expert methodology being preferable. On the scope of the claims, the CAT said that Professor Stephan's claim is "*more consistent with the goals of access to justice by capturing more viable claims*" compared to BIRA's claim and "*that this is a powerful factor in their favour.*"

This judgment follows a three-day carriage dispute hearing which took place between 11 and 13 November 2024, where Mark Brealey KC (Monckton Chambers), Daniel Carall-Green and Christopher Monaghan (both of Fountain Court Chambers) appeared on behalf of Professor Stephan.

In its judgment, the CAT complimented the work of Professor Stephan's expert economist, Dr George Houpis of Frontier Economics, for presenting "*an impressively well-developed and thought through methodology.*" The CAT also gave weight to the fact that "*Prof Stephan has appointed a high-powered consultative panel to provide him with advice and guidance on the conduct of the case, comprising Lord Neuberger, the former President of the UK Supreme Court; Ms Sue Prevezer KC, who has extensive experience of commercial litigation; and Mr Stephen Robertson, who is a former director general of the British Retail Consortium, a trade association which campaigns on behalf of the retail industry, and who was previously directly involved in the business of some major retailers.*"

Professor Stephan's case is being brought on behalf of more than 200,000 UK third-party sellers on Amazon. Any UK individual or company that used a "*professional*" selling account to sell products to UK consumers on Amazon between June 2018 and June 2024 will be automatically

part of the case, unless they opt-out. If Professor Stephan is successful, sellers will be entitled to compensation from the tech giant.

Professor Stephan claims that Amazon has engaged in a series of separate, but interrelated, abuses of its dominant position in the supply of e-commerce marketplace services to third-party sellers to reach customers in the UK. Amazon discriminates in favour of its own retail offers versus those of third-party sellers, as well as in favour of its own logistics services (Fulfilment by Amazon or “FBA”) through a combination of conducts. Amazon also unfairly conditions access to Amazon Prime to the use of FBA, and distorts inter-platform competition by making it harder for third-party sellers to sell cheaper on other platforms. As a result of these abuses, third-party sellers have lost sales, faced increased costs and paid higher fees to Amazon for its services than they would have under normal conditions of competition.

Professor Stephan said: *“Amazon has engaged in a variety of strategies to grow its e-commerce platform, lock sellers into it, prevent the expansion of rivals, and use its market dominance to exploit the hundreds of thousands of sellers in Britain that use its platform. But few of these independent online sellers can operate without using Amazon’s platform – leaving them vulnerable to abuse. I am bringing this litigation to give sellers in the UK the opportunity that they might not otherwise have to be compensated for all those unfair practices, and help ensure fairer treatment of third-party sellers by Amazon in the future.”*

Founding Partner of Geradin Partners, Damien Geradin, said: *“Amazon, one of the world’s largest companies, has engaged in manifest abuses of its dominant position as recognized by competition authorities in the EU and the UK. Amazon is also subject to a lawsuit filed by the US Federal Trade Commission for anticompetitive conduct. This class action gives sellers the opportunity to seek redress for the significant harm they have suffered.”*

Further information can be found at: www.amazon3psellerclaim.com. This includes an online form to enable third party sellers to register for updates on the claim, as well as to get in touch with Andreas Stephan.