

Laurence Page and counsel team obtain £2.6 billion opt-out collective proceedings order in relation to Prof Stephan's case against Amazon

[Laurence Page](#), instructed by Geradin Partners, led by Kieron Beal KC of Blackstone Chambers and working alongside Hannah Bernstein and Christopher Monaghan of Fountain Court, acted for Prof Andreas Stephan in successfully obtaining a £2.6 billion opt-out collective proceedings order in relation to Prof Stephan's case against Amazon.

Prof Stephan's case is brought on behalf of all UK-domiciled sellers who use Amazon's platform to sell their products. He alleges that Amazon has abused its dominance in five distinct ways:

1. Amazon unlawfully uses sellers' data to confer unfair advantages on itself.
2. When selecting products for the so-called "Buy Box" (which is the most common means by which consumers buy products on Amazon's website), Amazon unfairly favours products offered by its own retail arm.
3. When selecting products for the "Buy Box", Amazon also unfairly favours products sold using Amazon's own logistics services.
4. Amazon makes sellers' access to the valuable "Prime" badge conditional on their use of Amazon's logistics services.
5. Amazon prevents sellers from offering their products for lower prices off Amazon.

Prof Stephan says that these abuses have caused sellers to make fewer sales, pay higher prices for logistics, and pay higher e-commerce marketplace fees. The value of Prof Stephan's case is estimated at over £2.6 billion. The certification hearing was considered alongside a related claim by Robert Hammond on behalf of UK consumers.

Amazon opposed certification on three grounds: (i) the funding arrangements, (ii) the expert methodology, and (iii) the alleged existence of a conflict of interest with Prof Stephan's proposed class.

On the funding arrangements, the Tribunal noted that Prof Stephan's litigation funding agreement has been subject to scrutiny and argument at the carriage stage, where the Tribunal had decided that Prof Stephan's application was to be preferred over that made by BIRA, a rival class representative. The Tribunal went on to dismiss Amazon's arguments about funding, but required Prof Stephan to instruct independent lawyers at a costs firm to provide him with monthly oversight reports on spending—a practice which the Tribunal indicated "should become the standard approach in collective proceedings".

On the expert methodology, the Tribunal held that "intense, granular dissection" of economic experts' mythologies is generally inappropriate at the certification stage, but nonetheless described the report of Dr Houpis (Prof Stephan's expert economist) as "comprehensive and very detailed". It concluded that Dr Houpis's approach satisfied the Pro-Sys test—that is, it provided an adequate initial blueprint to trial. Indeed, the Tribunal held that part of Dr Houpis's methodology should also be relied upon by Mr Hammond insofar as relevant to his case.

On the alleged conflict of interest, the Tribunal noted that BIRA had made a similar argument in the carriage dispute, and described Amazon's approach as "totally opportunistic". It also observed that no proposed class member had sought to object to certification on the basis that Prof Stephan would be hampered by a conflict. The Tribunal had rejected the conflict argument in the carriage dispute, and did so again at the certification stage.

The Tribunal also rejected Amazon's contention that certification, if granted, should only be on an opt-in basis.

The result was that Prof Stephan's case was certified on an opt-out basis. as was Mr Hammond's.

A summary of the proceedings can be found [here](#).