



COMPETITION APPEAL TRIBUNAL

SUMMARY OF APPLICATION FOR INTERIM RELIEF UNDER RULE 61 OF THE COMPETITION APPEAL TRIBUNAL RULES 2003

Case No: 1152/8/3/10 (IR)

The Registrar gives notice of the receipt of an application for interim relief, dated 16 April 2010, under rule 61 of the Competition Appeal Tribunal Rules 2003 (S.I. No. 1372 of 2003) (the “Rules”) by British Sky Broadcasting Limited (“Sky”) of Grant Way, Isleworth, Middlesex TW7 5QD. The application is made in support of an appeal which Sky intends to bring under section 317(6) of the Communications Act 2003 (the “2003 Act”) in respect of a decision published by the Office of Communications (“OFCOM”) of 2a Southwark Bridge Road, London SE1 9HA on 31 March 2010 (the “Decision”).

The Decision was taken under sections 3(4)(b) of the Broadcasting Act 1990 (the “1990 Act”) and 316(2) of the 2003 Act to vary, with effect from 31 March 2010, the licences granted to Sky under Part I of the 1990 Act for Sky's pay television channels, Sky Sports 1, Sky Sports 2, Sky Sports 1 HD and Sky Sports 2 HD (the “Licensed Services”) through the imposition of conditions concerning the supply by Sky of the programme content of the Licensed Services to other undertakings (the “Conditions”). The Conditions amongst other matters compel Sky:

1. to offer the programme content of the Licensed Services to any person for retail by that person to residential consumers in the UK on Qualifying Platforms upon a reasonable request in writing; within a reasonable time; on a non-exclusive basis; on fair and reasonable terms and without undue discrimination;
2. to supply the programme content of Sky Sports 1 and 2 licensed services at charges which do not exceed specified Maximum Prices; and
3. to publish by 14 May 2010 standard terms and conditions under which it will offer to supply the programme content of the Licensed Services.

In its application Sky seeks, subject to Sky giving certain undertakings, the following relief from the Tribunal:

1. an order that OFCOM's Decision is suspended until further order; and
2. an order that OFCOM pay Sky the costs of its application together with interest thereon.

Sky submits that it will be severely and irreversibly prejudiced if it is required to comply with the Conditions before its Appeal against the Decision is determined. Accordingly, Sky is asking for the Decision to be suspended pending the Tribunal's determination of Sky's Appeal in respect of the Decision.

The principal grounds upon which Sky relies in its application for interim relief are as follows:

1. Sky will appeal the Decision and has an arguable case for doing so.
2. Absent interim relief, Sky is required to develop and publish standard Reference Offer terms and conditions by 14 May 2010, and supply (where it is not already made) could commence shortly thereafter. Interim relief is required now in order to preserve Sky's position pending the determination of its appeal.

3. The Conditions represent a far-reaching intervention into Sky's business which by its nature will be difficult fully to reverse and which is likely to cause damage for which Sky will not be compensated in the event that it is successful in its Appeal.
4. There will be no material effect on competition if interim relief is granted.

The President (sitting alone) will hear the application at a hearing provisionally fixed for 10.30am on Friday 23 April 2010 at Victoria House, Bloomsbury Place (entrance in Bloomsbury Square), London WC1A 2EB.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively the Tribunal Registry can be contacted by post at the above address or by telephone (020 7979 7979) or fax (020 7979 7978). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE
Registrar
Published 16 April 2010