



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1146/3/3/09

**B E T W E E N:**

**BRITISH TELECOMMUNICATIONS PLC**

Appellant

- v -

**OFFICE OF COMMUNICATIONS**

Respondent

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**ORDER**

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**UPON** reading the Amended Notice of Appeal lodged by British Telecommunications plc (“BT”) under rule 8 of the Competition Appeal Tribunal Rules 2003 (S.I. No. 1372 of 2003) (“the Tribunal Rules”) against the determination made by the Office of Communications (“OFCOM”) contained in a document dated 14 October 2009 and entitled “Determination to resolve disputes between each of Cable & Wireless, THUS, Global Crossing, Verizon, Virgin Media and COLT and BT regarding BT’s charges for partial private circuits” (“the Determination”)

**AND UPON** reading the request for permission to intervene from Cable & Wireless UK, Virgin Media Limited, Global Crossing (UK) Telecommunications Ltd, Verizon UK Limited and COLT Telecommunications (collectively, “the Altnets”) dated 14 January 2010

**AND UPON** reading the observations and submissions of the parties and the Altnets filed in advance of the case management conference

**AND UPON** hearing counsel for the parties and the Altnets at a case management conference on 11 February 2010

**IT IS ORDERED THAT:**

1. Pursuant to rule 18 of the Tribunal Rules, the proceedings be treated as proceedings in England and Wales
2. The Altnets collectively be granted permission to intervene in the proceedings
3. That the following matters be determined by the Tribunal as preliminary issues (“the Preliminary Issues”):
  - a. Whether, on the proper interpretation of the Communications Act 2003 and the Competition Appeal Tribunal (Amendment and Communications Act Appeals) Rules 2004, BT’s appeal raises any specified ‘price control matters’ within the meaning of section 193 of the Communications Act 2003 and rule 3 of the Competition Appeal Tribunal (Amendment and Communications Act Appeals) Rules 2004
  - b. Whether, on the proper interpretation of the Communications Act 2003, the dispute resolution process provided for in sections 185 to 192 of the Communications Act 2003 only extends to current or prospective issues and not to historical issues
4. In relation to the proceedings before the Tribunal:
  - a. OFCOM file and serve its defence, together with any supporting documents and evidence, by 4pm on 31 March 2010
  - b. The Altnets file and serve a joint statement of intervention, together with any supporting documents and evidence, by 4pm on 28 April 2010
  - c. BT file and serve:
    - i. if so advised, any reply to the defence and the Altnets’ statement of intervention, together with any supporting documents and evidence;
    - ii. a skeleton argument on the Preliminary Issues,  
  
by 4pm on 12 May 2010
  - d. OFCOM and, if so advised, the Altnets file and serve skeleton arguments on the Preliminary Issues by 4pm on 19 May 2010
  - e. A hearing of the Preliminary Issues be listed for 10:30am on 25 May 2010, with a time estimate of two days
  - f. BT prepare an agreed bundle of documents to serve as the bundle for the hearing of the Preliminary Issues and an agreed joint bundle of authorities to be referred to at the hearing with key sections flagged for reference

- g. A hearing on the remaining matters arising in the appeal be provisionally listed for 10:30am on 20 October 2010 with a time estimate of eight days
- 5. Costs be reserved
- 6. There be liberty to apply

**Lord Carlile of Berriew Q.C.**  
Chairman of the Competition Appeal Tribunal

Made: 11 February 2010  
Drawn: 12 February 2010