



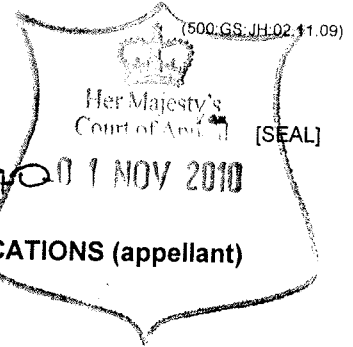
IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C3/2010/2254

order no: 0193400 1 NOV 2010

BRITISH TELECOMMUNICATIONS PLC

-v- OFFICE OF COMMUNICATIONS (appellant)



ORDER made by the Rt. Hon. Lord Justice Lloyd

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

Decision: granted, refused, adjourned. An order granting permission may limit the issues to be heard or be made subject to conditions.

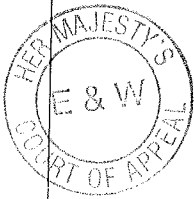
Granted

Reasons

In considering this urgent application I have read the decisions of the Tribunal on the preliminary issue, on the stay application, and on permission to appeal, as well as the grounds of appeal and the skeleton argument in support of the appeal, and the letter dated 13 October 2010 from BT's legal department (and parts of Ofcom's Defence referred to in that letter). I have also seen the very recent letter from the Tribunal to the parties about case management of the three appeals which are before the Tribunal, and the potential impact of this appeal on the progress of those appeals.

I have come to the conclusion that the grounds of appeal, as elaborated in the skeleton argument, disclose reasonable prospects of success, and that the points are important, so that permission to appeal should be granted. Because of the impact of the appeal on the proceedings before the Tribunal, this appeal ought to be brought on with expedition. The parties (including any of the interveners before the Tribunal who wish to be heard in relation to this appeal in the Court of Appeal) should endeavour to reach agreement as to case management directions for the appeal (including timetable, and time estimate for the hearing) to propose to the Court of Appeal; if agreement cannot be reached the court will rule on the relevant points.

Information for or directions to the parties



Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment) 1 day
- b) any expedition Yes – see above

Signed: *Timothy Lloyd*
Date: 29 October 2010

Notes

- (1) Rule 52.3(6) provides that permission to appeal may be given only where –
 - a) the Court considers that the appeal would have a real prospect of success; or
 - b) there is some other compelling reason why the appeal should be heard.
- (2) Rule 52.3(4) and (5) provide that where the appeal court, without a hearing, refuses permission to appeal that decision may be reconsidered at a hearing, provided that the request for such a hearing is filed in writing within 7 days after service of the notice that permission has been refused. Note the requirement imposed on advocates by paragraph 4.14A of the Practice Direction.
- (3) Where permission to appeal has been granted, the appeal bundle must be served on the respondents within 7 days of receiving this order (see para. 6.2 of the Practice Direction to CPR Part 52). A letter of notification will be sent to the appellant or his solicitors, as soon as practicable (see para. 6.3).

**DATED 29TH NOVEMBER 2010
IN THE COURT OF APPEAL**

BRITISH TELECOMMUNICATIONS PLC

- and -

OFFICE OF COMMUNICATIONS(appellant)

ORDER

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