



IN THE COMPETITION
APPEAL TRIBUNAL

Cases No: 1156-1159/8/3/10
1170/8/3/10
1179/8/3/11

B E T W E E N :

BRITISH SKY BROADCASTING LIMITED
VIRGIN MEDIA, INC.
THE FOOTBALL ASSOCIATION PREMIER LEAGUE
BRITISH TELECOMMUNICATIONS PLC

Appellants / Intervenors

- v -

OFFICE OF COMMUNICATIONS

Respondent

- and -

TOP UP TV EUROPE LIMITED

Intervenors in Cases No. 1156-1159/8/3/10,
1170/8/3/10 and 1179/8/3/11

RFL (GOVERNING BODY) LIMITED
THE FOOTBALL ASSOCIATION LIMITED
FREESAT (UK) LIMITED
RUGBY FOOTBALL UNION
THE FOOTBALL LEAGUE LIMITED
PGA EUROPEAN TOUR
ENGLAND AND WALES CRICKET BOARD

Intervenors in Cases No. 1156-1159/8/3/10

ORDER

UPON considering the Tribunal's Order of 29 June 2010 establishing a confidentiality ring in cases 1156-1159/8/3/10 ("the First Confidentiality Order")

AND UPON considering the Tribunal's Order of 25 November 2010 establishing a composite confidentiality ring in cases 1156-1159/8/3/10 and 1170/8/3/10 ("the Second Confidentiality Order")

AND UPON British Sky Broadcasting Limited ("Sky") lodging an appeal in case 1179/8/3/11 against a decision dated 13 December 2010 made by the Office of Communications ("OFCOM") contained in a document entitled "Top Up TV complaint against Sky under the wholesale must-offer obligation, CI+ CAMs" which decision relates to a decision of OFCOM dated 31 March 2010 that is the subject of the appeals in cases 1156-1159/8/3/10

AND UPON the Football Association Premier League Limited, British Telecommunications plc, Virgin Media, Inc. and Top Up TV Europe Limited being granted permission to intervene in case 1179/8/3/11

AND UPON the Tribunal ordering that cases 1179/8/3/11 and 1170/8/3/10 be heard together with cases 1156-1159/8/3/10 to the extent set out in paragraph 1 of the Tribunal's Order dated 25 March 2011

AND UPON the parties in case 1179/8/3/11 agreeing in correspondence that an order should be made to extend the composite confidentiality ring in cases 1156-1159/8/3/10 and 1170/8/3/10 to cover case 1179/8/3/11

AND UPON each of the persons named in Part A of the Schedule to this Order ("the Relevant Advisers") having given a written undertaking to the Tribunal in the terms of Part B of the Schedule to the First Confidentiality Order or the Second Confidentiality Order

IT IS ORDERED THAT:

1. For the purposes of this Order:

1.1 **"Confidential Information"** is defined as information justifying confidential treatment by the Tribunal in accordance with rule 53 of the Competition Appeal Tribunal Rules 2003 which is contained in (i) the full un-redacted versions of the parties' pleadings and other documents filed with the Tribunal which have not, prior to the making of this Order, been disclosed to Relevant Advisers and/or (ii) any documents served hereafter.

1.2 **"Relevant Advisers"** are those persons:

1.2.1 listed in Part A(i) of the Schedule to this Order who have given a signed undertaking to the Tribunal in the terms of Part B(i) of the Schedule to this Order, the First Confidentiality Order or the Second Confidentiality Order;

1.2.2 listed in Part A(ii) of the Schedule to this Order who have given a signed undertaking to the Tribunal in the terms of Part B(ii) of the Schedule to this Order, the First Confidentiality Order or the Second Confidentiality Order;

1.2.3 any person employed by OFCOM; or

authorised by the Tribunal upon further application.

2. Each of the parties shall hereafter, to the extent not already disclosed under the First Confidentiality Order (as amended) and the Second Confidentiality Order (as amended), disclose to the other parties un-redacted versions of their pleadings and other documents served in these proceedings on condition that such un-redacted versions and any confidential information contained within these shall be disclosed only to Relevant Advisers save that, in respect of pleadings and other documents served in a particular proceeding, parties only need serve those documents on other parties to the same proceeding.
3. In the case of pleadings and other documents falling within the description of 1(1.1)(i) the parties shall comply with paragraph 2 above by 5pm on 1 April 2011.
4. All such un-redacted versions of pleadings and documents served in these proceedings must be marked so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 13.22 of the Tribunal's Guide to Proceedings (October 2005).
5. If any party wishes to add any additional person as a Relevant Adviser for the purposes of paragraph 1.2 of this Order, they shall apply to the Tribunal indicating whether each of the other parties consents or does not consent to the addition of that person.
6. In the case of pleadings and other documents served thus far in cases 1156-1159/8/3/10 and 1170/8/3/10 these shall also be disclosed to any person added under the terms of this Order as an additional Relevant Adviser to the list of relevant advisers listed in Part A of the Schedule to this Order.
7. Costs be reserved.
8. There be liberty to apply.

SCHEDULE

PART A

This part contains the names, for each party, of Relevant Advisers:

PART A(i)

British Sky Broadcasting Limited

External Counsel

James Flynn QC

David Scannell (both of Brick Court Chambers)

Meredith Pickford (of Monckton Chambers)

External Solicitors

Stephen Wisking

Elizabeth McKnight

Andrew North

Joanne Segger

Anna FitzHerbert

Tamara Todorovic

Mark Rogers

John Cagan

Alexander Fong

Marion Volondat

Helen Stokes

Natasha Hamilton

Katharine Nokes

Louise Barber (all of Herbert Smith LLP)

External Economists/Experts

John Van Reenen (of the London School of Economics)

Liam Colley

Derek Holt

Ram Mahendran (all of AlixPartners)

Cristina Caffarra

Hugh Wills

Hristina Dantcheva

Robert Stillman

Helen Weeds

Jenny Haydock (all of Charles River Associates)

Martin Cave (of Warwick University and the London School of Economics)

Paul Grout (of University of Bristol)

David Hulbert (of Ravensbeck)

Pierre Regibeau (of University of Essex)

The Football Association Premier League Limited

External Counsel

Helen Davies QC

Maya Lester

Richard Blakeley

Max Schaeffer (pupil) (all of Brick Court Chambers)

External Solicitors

Kate Vernon

Martin Rees

Nicholas West

Sally Cook

Chloe Barker

Mary Mullen

Rebecca Fawcett

Rachel Crosier

Sarah Houghton

Fern Wakley

Mansoor Malik

Vishma Unadkat

Nazli Ramzy

Laura Duckworth

Victoria Stansfield (all of DLA Piper UK LLP)

External Economists

Simon Bishop

Iestyn Williams

Gordon Cookson (all of RBB Economics)

Zoltan Biro

David Parker

Chris Newton

Thomas Baily (all of Frontier Economics)

Virgin Media, Inc

External Counsel

Mark Hoskins QC

Gerard Rothschild

(both of Brick Court Chambers)

External Solicitors

Duncan Liddell

Ben Tidswell

Belinda Bagge

Claire Fourel

Isabel Vesterdahl

Grant Batten

Andy Levett

Felicity Auer
Djalila Boumezbeur (all of Ashurst LLP)

External Economists

Dan Maldoom
Christian Koboldt
Eimear Sexton
Tasneem Azad
Arisa Siong
Yonja Hussein (all of DotEcon Limited)
Matthew Hughes
Emily Clark (both of Ashurst LLP)

BT

External Counsel

David Anderson QC
Thomas Plewman SC
Sarah Ford
Sarah Love (all of Brick Court Chambers)

External Economists

Nicola Floyd (of Nicola Floyd Consulting)
Jorge Padilla
Greg Harman
Neil Dryden
Navin Waghe
Urs Haegler
Crosby MacDonald
Ed Taylor
Ben Hemingway
Segye Shin (all of LECG Limited)

Top Up TV

External Counsel

Daniel Beard (of Monckton Chambers)

External Solicitors

Julian Stait
Emma Hogwood
Stephen Tudway
Katie Hamilton (all of Milbank, Tweed, Hadley & McCloy LLP)

Rugby Football League

External Counsel

Paul Harris
Fiona Banks (both of Monckton Chambers)

The Football Association Limited

External Counsel

Paul Harris
Fiona Banks (both of Monckton Chambers)

External Solicitors

Richard Eccles
Mark Livsey (both of Bird & Bird LLP)

The Football League Limited

External Counsel

Paul Harris
Fiona Banks (both of Monckton Chambers)

External Solicitors

Sam Szlezinger
Alex Haffner (all of SNR Denton UK LLP)

PGA European Tour

External Counsel

Paul Harris
Fiona Banks (both of Monckton Chambers)

External Solicitors

Oliver Hunt
Chris Walsh
Adam Leadercramer
Shenal Shah (all of Onside Law Limited)

Rugby Football Union

External Counsel

Paul Harris
Fiona Banks (both of Monckton Chambers)

External Solicitors

Howard Cartlidge
April Carr (both of Olswang LLP)

Freesat (UK) Limited

External Counsel

Tim Ward (of Monckton Chambers)

External Solicitors

Tom Usher
Emma Radcliffe (both of SJ Berwin LLP)

England and Wales Cricket Board

External Counsel

Marie Demetriou (of Brick Court Chambers)

External Solicitors

Kate Vernon

Martin Rees

Nicholas West

Sally Cook

Chloe Barker

Mary Mullen

Rebecca Fawcett

Rachel Crosier (all of DLA Piper LLP)

Office of Communications

External Counsel

Dinah Rose QC

Jessica Boyd

Kieron Beal (all of Blackstone Chambers)

Josh Holmes

Ben Lask (both of Monckton Chambers)

PART A(ii)

BT

In-house Solicitors

Emily Smith

Christopher Herrick

PART B(i)

In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser referred to in paragraph 1.2.1 of the Tribunal's order of 31 March 2011 ("the Tribunal's Order") undertakes that they will comply with the following requirements in the following terms:

I, [name], of [firm, company or establishment] being [legal or other qualification] and regulated so far as my professional conduct is concerned by [regulatory body, if any] undertake to the Tribunal and each of the parties as follows:

1. I have read a copy of the Tribunal's Order and understand the implications of that order and the giving of this undertaking.
2. I will not disclose the Confidential Information (as defined in the Tribunal's Order) to any person who is not a Relevant Adviser (as defined in the Tribunal's Order) without the express consent of the person originally disclosing the information or the permission of the Tribunal.
3. I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever without the express consent of the person originally disclosing the information or the permission of the Tribunal.
4. The pleadings and documents containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
5. The production of further copies by me of the documents containing the Confidential Information shall be limited to those required for the use of the Relevant Advisers for the purposes of these proceedings and shall be held in accordance with paragraph 4 of this undertaking.
6. Any and all copies of the pleadings and documents in paper form containing the Confidential Information will be returned to the party originally disclosing the pleadings or documents at the conclusion of the present proceedings; any copies of pleadings and documents containing the Confidential Information in electronic form will where possible be returned or, where that is not possible, will be rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person.
7. Save that none of the requirements listed at paragraphs 2 to 5 above shall prevent Relevant Advisers from disclosing to the person advised by them Confidential Information which such person has already legitimately seen.

Signed:

Name:

Date:

PART B(ii)

In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser referred to in paragraph 1.2.2 of the Tribunal's order of 31 March 2011 (the "Tribunal's Order") undertakes that they will comply with the following requirements in the following terms:

I, [name], of [firm, company or establishment] being [legal or other qualification] and regulated so far as my professional conduct is concerned by [regulatory body, if any] undertake to the Tribunal and each of the parties as follows:

I have read a copy of the Tribunal's Order and understand the implications of that order and the giving of this undertaking.

1. I have read a copy of the Tribunal's Order and understand the implications of that order and the giving of this undertaking.
2. I will not disclose the Confidential Information (as defined in the Tribunal's Order) to any person who is not a Relevant Adviser (as defined in the Tribunal's Order) without the express consent of the person originally disclosing the information or the permission of the Tribunal.
3. I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever without the express consent of the person originally disclosing the information or the permission of the Tribunal.
4. The pleadings and documents containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser at all times and:
 - (i) In relation to hard copies of any documents containing Confidential Information be held in a filing system that is locked and unable to be accessed by anyone other than me or a Relevant Adviser at any time so as to prevent unauthorised access; and
 - (ii) In relation to electronic copies of any documents containing Confidential Information be stored and transmitted in such a way as to be inaccessible by electronic means by anyone within BT other than a Relevant Adviser.
5. The production of further copies shall only be done by me or a Relevant Adviser or under my direct supervision or under the direct supervision of a Relevant Adviser and the production by me of the documents containing the Confidential Information shall be limited to those strictly required for the use of the Relevant Advisers for the purposes of these proceedings and shall be held in accordance with paragraph 4 of this undertaking.
6. Any and all copies of the pleadings and documents in paper form containing the Confidential Information will be returned to the party originally disclosing

the pleadings or documents at the conclusion of the present proceedings; any copies pleadings and documents containing the Confidential Information in electronic form will where possible be returned or, where that is not possible, will be rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person.

7. Save that none of the requirements listed at paragraphs 2 to 6 above shall prevent Relevant Advisers from disclosing to the person advised by them Confidential Information which such person has already legitimately seen.
8. My activities in relation to BT Vision and any other television service that is or may be offered by BT whether on its own or in conjunction with any other party (“BT Television”), will for the duration of these proceedings and a period of two years from their final conclusion by a judgment from any final competent court of appeal (“the Relevant Period”) be limited to the conduct of these and any directly related proceedings, and to the provision of legal advice on competition and regulatory matters unconnected to the subject matter of these proceedings, but not including any future actual or contemplated investigation by OFCOM, or any other regulatory authority or any actual or contemplated litigation by any party relating to the sale of the audiovisual rights to any sporting event(s) or competition(s).
9. During the Relevant Period, I will have no involvement (whether by the giving of legal advice or otherwise) in the consideration or formulation of commercial strategy or policy in relation to BT Television. In addition, for the Relevant Period and for three years thereafter, I will not advise BT in relation to any bid or negotiation for movie rights or in relation to any actual or potential sale, acquisition or use of sports audiovisual rights by BT Television, including specifically the following in relation to sports rights:
 - a. Any future Invitations to Tender issued by sports rights holders in relation to any sports audiovisual rights; and
 - b. Any bid submitted or considered by BT Television in relation to the sale of any sports audiovisual rights.

Signed:

Name:

Date: