



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C3/2013/1889



BRITISH SKY BROADCASTING LIMITED & ORS –v– OFFICE OF COMMUNICATION

ORDER made by the Rt. Hon. Lord Justice Lewison

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

Stay of execution refused

Reasons

1. The proper approach to an award of costs against Ofcom in its capacity as regulator raises a question of general importance. There is a compelling reason for the Court of Appeal to hear the appeal (all the more so if, as Sky alleges) the CAT has not hitherto adopted a settled approach.
2. The general rule is that an appeal does not operate as a stay. If the appeal were to succeed, there is no suggestion that the Respondent would be unable to repay any sums payable under the CAT's order. A stay is not justified.

Information for or directions to the parties

I am not persuaded that the issues raised by this appeal have sufficient connection with the issues raised by BT's appeal to justify a joint listing, especially if the hearing date might be jeopardised.

This case falls within the Court of Appeal Mediation Scheme automatic pilot categories*. Yes No

Recommended for mediation Yes No

If not, please give reason:

Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment) 1 day
- b) any expedition



By the Court

Signed: [REDACTED]

Date: 16 September 2013

- (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 16(1) of CPR PD 52C.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 7 days of the date of the listing window notification letter and seek to agree the bundle within 21 days of the date of the listing window notification letter (see paragraph 21 of CPR PD 52C).

DATED 16TH SEPTEMBER 2013
IN THE COURT OF APPEAL

ORDER

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Lower Court Ref: 2013CAT14