



COMPETITION APPEAL TRIBUNAL

NOTICE OF APPEAL UNDER SECTION 192 OF THE COMMUNICATIONS ACT 2003

CASE NO 1180/3/11

Pursuant to rule 15 of the Competition Appeal Tribunal Rules 2003 (S.I. No. 1372 of 2003, as amended by S.I. No. 2068 of 2004) (“the Rules”), the Registrar gives notice of the receipt of an appeal on 16 May 2011 under section 192 of the Communications Act 2003 (“the Act”) by British Telecommunications plc (“BT”) of 81 Newgate Street, London, EC1A 7AJ against a decision made by the Office of Communications (“OFCOM”) contained in a statement dated 15 March 2011, entitled “Wholesale mobile voice call termination” (“the Decision”). BT is represented by BT Legal, 81 Newgate Street, London, EC1A 7AJ (reference: Nigel Paterson / Cecile Plaidy).

In the Decision OFCOM imposed price controls on each of Vodafone Limited (“Vodafone”), Telefónica O2 Limited (“O2”), Everything Everywhere Limited (“EE”) and Hutchison 3G UK Limited (“Three”), specifying, in pence per minute terms, the maximum permitted charge which each of them may levy for mobile call termination services in respect of voice calls (“MCT services”) for each of the four years commencing on 1 April 2011 and ending on 31 March 2015, that is to say, a four-year glide path.

In summary, the principal grounds of appeal on which BT relies are as follows:

1. OFCOM erred in deciding to set a four-year glide path over which mobile termination rates would be reduced to “pure LRIC” (long run incremental cost) rather than over a three-year glide path.
2. OFCOM erred in failing to make a one-off adjustment to the rate at the start of the control to current “LRIC Plus” levels, to strip out the unjustified windfall profits made by the mobile network operators in respect of prices which exceed even LRIC Plus rates.

Accordingly, BT seeks orders from the Tribunal and/or the Competition Commission:

1. OFCOM’s price control decision in relation to the structure of the price control be set aside;
2. In substitution, there be adopted a reduction of the mobile termination rates to the LRIC Plus level with effect from April 2011 and then reducing the rate in two equal steps to the pure LRIC level by April 2013; and
3. OFCOM pay BT’s costs of the appeal.

Any person who considers that he has sufficient interest in the outcome of the proceedings may make a request for permission to intervene in the proceedings, in accordance with rule 16 of the Rules.

A request for permission to intervene should be sent to the Registrar, The Competition Appeal Tribunal, Victoria House, Bloomsbury Place, London, WC1A 2EB, so that it is received within **three weeks** of the publication of this notice.

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

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