



IN THE COMPETITION
APPEAL TRIBUNAL

Case Numbers: 1192/3/3/12
1193/3/3/12

BETWEEN:

(1) BRITISH SKY BROADCASTING LIMITED
(2) TALKTALK TELECOM GROUP PLC

Appellants

- v -

OFFICE OF COMMUNICATIONS

Respondent

BRITISH TELECOMMUNICATIONS PLC

Appellant

- v -

OFFICE OF COMMUNICATIONS

Respondent

ORDER

UPON reading the notice of appeal brought by British Sky Broadcasting Limited (“Sky”) and TalkTalk Telecom Group plc (“TalkTalk”) and the notice of appeal brought by British Telecommunications plc (“BT”), both relating to the decision made by the Respondent (“OFCOM”) dated 7 March 2012 and entitled “Charge control review for LLU and WLR services”

AND UPON reading the requests for permission to intervene from:

- (1) Sky and TalkTalk, dated 24 May 2012, seeking permission to intervene in case number 1192/3/3/12 (“the *BT* appeal”)
- (2) BT, dated 25 May 2012, seeking permission to intervene in case number 1193/3/3/12 (“the *Sky/TalkTalk* appeal”)
- (3) Everything Everywhere Limited (“EE”), dated 24 May 2012, seeking permission to intervene in the *BT* and *Sky/TalkTalk* appeals

AND UPON reading the written observations of the parties, EE, and the Competition Commission filed in advance of the case management conference

AND UPON hearing counsel for the parties, EE and the Competition Commission at a case management conference on 31 May 2012

AND UPON it appearing that all the matters raised in the *BT* and *Sky/TalkTalk* appeals are specified price control matters within the meaning of section 193 of the Communications Act 2003

IT IS ORDERED THAT:

1. The proceedings be treated as proceedings in England and Wales
2. All documents served or disclosed in the *BT* appeal may be used for the purposes of the *Sky/TalkTalk* appeal and vice versa
3. As regards the requests for permission to intervene:
 - a. Sky and TalkTalk be granted permission to intervene in the *BT* appeal
 - b. BT be granted permission to intervene in the *Sky/TalkTalk* appeal
 - c. EE’s applications to intervene are dismissed

4. The Interveners in both appeals limit their interventions to those issues which are of particular concern to them, and liaise as appropriate so as to ensure that there is no unnecessary duplication as between their written or oral submissions
5. In relation to the *BT* appeal:
 - a. Proceedings be stayed until further order in relation to the matters set out in paragraphs 351, 352 and 352 of the notice of appeal in the *BT* appeal (and summarised in paragraphs 10 and 11 of that notice)
 - b. By 5pm on 29 June 2012, OFCOM file and serve its defence and any supporting evidence
 - c. By 5pm on 6 July 2012, BT provide to the Tribunal Registry an agreed draft of the questions to be referred to the Competition Commission for determination or, in the absence of such agreement, inform the Tribunal of the outstanding matters for the Tribunal to resolve
 - d. By 5pm on 20 July 2012, Sky and TalkTalk file a joint statement of intervention in support of OFCOM and any supporting evidence (if so advised)
 - e. By 5pm on 20 July 2012, the parties and the Competition Commission file and serve written submissions as to the date by which the Tribunal shall direct the Competition Commission to notify the Tribunal of the determination that they have made
6. In relation to the *Sky/TalkTalk* appeal:
 - a. As soon as practicable and no later than 5pm on 8 June 2012, BT and OFCOM disclose such pre-existing documents described at Annex C to the *Sky/TalkTalk* notice of appeal as they are prepared to disclose
 - b. As soon as practicable and no later than 5pm on 18 June 2012, BT and OFCOM provide such further information, explanations or material as they are prepared to provide in relation to the requests in that Annex C
 - c. By 5pm on 20 June 2012, Sky inform the Tribunal whether it regards disclosure as complete, or whether it intends to pursue an application for further disclosure
 - d. Within six weeks of completion of disclosure, Sky and TalkTalk (if so advised) file and serve their draft amended notice of appeal and any supporting evidence

- e. Within one week of filing their draft amended notice of appeal, Sky and TalkTalk inform the Tribunal whether the parties consent to the proposed amendments or alternatively indicate those elements that are in contention

7. There be liberty to apply

Vivien Rose
Chairman of the Competition Appeal Tribunal

Made: 31 May 2012
Drawn: 01 June 2012