



IN THE COMPETITION
APPEAL TRIBUNAL

B E T W E E N :

Case No.: 1205/3/3/13

BRITISH TELECOMMUNICATIONS PLC (“BT”)

Appellant

- and -

OFFICE OF COMMUNICATIONS (“Ofcom”)

Respondent

- supported by -

- (1) BRITISH SKY BROADCASTING LIMITED (“Sky”)**
- (2) TALKTALK TELECOMMUNICATIONS GROUP PLC (“TalkTalk”)**
- (3) CABLE & WIRELESS WORLDWIDE PLC (“CWW”)**
- (4) VIRGIN MEDIA LIMITED (“Virgin”)**
- (5) VERIZON UK LIMITED (“Verizon”)**

Interveners

ORDER

UPON hearing the appeal in the above proceedings between 29 October 2013 and 22 November 2013

AND UPON refusing BT’s application for permission to amend its Notice of Appeal by a Ruling of 11 March 2014 ([2014] CAT 4) (the “Amendment Ruling”)

AND UPON handing down the main judgment in these proceedings on 1 August 2014 ([2014] CAT 14) (the “Judgment”)

AND UPON reading the written submissions of the parties as to: (a) the directions to be made to give effect to the Judgment; (b) costs; and (c) applications for permission to appeal

AND UPON handing down the supplementary judgment in these proceedings on 4 December 2014 ([2014] CAT 20) (the “Supplementary Judgment”)

IT IS ORDERED THAT:

1. BT's appeal as regards the adjustment to BT's rental costs in respect of the exclusion of excess construction costs be allowed.
2. Save as set out in paragraph 1, BT's appeal be dismissed.
3. The following matters be remitted to Ofcom pursuant to section 195(4) of the Communications Act 2003 for it to determine in accordance with the Judgment and the Supplementary Judgment:
 - (a) the repayments to which BT is entitled in respect of the exclusion of excess construction costs from its rental costs;
 - (b) BT's claim for interest in respect of the repayment referred to at (a); and
 - (c) the total amount payable as between BT and Sky, TalkTalk, CWW, Virgin and Verizon.
4. BT pay:
 - (a) 97% of the costs incurred by Ofcom in responding to BT's appeal; and
 - (b) 40% of the costs incurred by CWW, Virgin and Verizon in intervening in BT's appeal.
5. The costs referred to in paragraph 4 above be the subject of detailed assessment on the standard basis by a costs officer of the Senior Court Costs Office, if not agreed.
6. BT's application for permission to appeal the Amendment Ruling and the decision in the Judgment as regards its appeal be refused.

The Honourable Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 10 December 2014
Drawn: 10 December 2014