



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1211/3/3/13

BETWEEN:

BRITISH TELECOMMUNICATIONS PLC

Appellant

-v-

OFFICE OF COMMUNICATIONS

Respondent

- and -

EE LIMITED
GAMMA TELECOM HOLDINGS LIMITED
HUTCHISON 3G UK LIMITED
TELEFONICA O2 UK LIMITED
VODAFONE LIMITED

Interveners

ORDER

UPON reading the Appellant's ("BT's") draft Amended Notice of Appeal appealing the determination by the Respondent ("OFCOM") dated 4 April 2013 resolving disputes concerning BT's tiered termination charges in Network Charge Change Notices 1101, 1107 and 1046 (the "Decision"), which was filed on 12 September 2014 and intended to replace the Protective Notice of Appeal filed on 24 May 2013

UPON consideration of the requests for permission to intervene from each of EE Limited, Hutchison 3G UK Limited, Vodafone Limited and Telefónica O2 UK Limited (the "MNO Interveners") and Gamma Telecom Holdings Limited ("Gamma"), pursuant to Rule 16 of the Competition Appeal Tribunal Rules 2003 (S.I. No. 1372 of 2003) (the "Tribunal Rules")

AND UPON hearing counsel for the parties at a case management conference on 30 October 2014

IT IS ORDERED THAT:

Forum

1. Pursuant to Rule 18 of the Tribunal Rules the proceedings be treated as proceedings in England and Wales

Permission to Amend

2. Pursuant to Rule 11(3)(a) and Rule 11(3)(c) of the Tribunal Rules, BT be granted permission to amend the Protective Notice of Appeal in the terms of the draft Amended Notice of Appeal
3. The draft Amended Notice of Appeal stand as the Amended Notice of Appeal and that it be deemed served on 30 October 2014

Stay

4. Ground 1, Limb 1 and Ground 2 of the Amended Notice of Appeal be stayed until further direction by the Tribunal. For the avoidance of any doubt, this shall be without prejudice to BT for not serving evidence in support of these grounds at this time

Interventions

5. Gamma be granted permission to intervene in support of BT
6. Without prejudice to any application that may be made:
 - (1) under Rule 22 of the Tribunal's Rules; and/or
 - (2) to introduce into this appeal a new ground justifying the Decision, not advanced by the MNO Interveners before OFCOM

the MNO Interveners be permitted to intervene and defend the appeal on any grounds that OFCOM could have advanced (had it been so advised)

7. To the extent that they intend to rely on such points, the Statements of Intervention of the MNO Interveners shall plead and identify separately and distinctly any point which (in order to be made) requires an application as described in paragraphs 6(1) and/or 6(2) above

Disclosure

8. A confidentiality ring be established by separate order (the "Confidentiality Ring Order")

9. OFCOM disclose to the relevant advisers of BT and the Interveners named in the Confidentiality Ring Order:

(1) the confidential version of the Decision;

(2) confidential versions of all submissions (save that OFCOM is not required to disclose the submissions made by BT or the Interveners themselves); and

(3) the economic model used by OFCOM

by 5pm on 14 November 2014

Future Conduct of the Proceedings

10. Gamma file and serve its Statement of Intervention and any supporting evidence by 5pm on 14 November 2014

11. OFCOM file and serve its Defence and any supporting evidence by 5pm on 14 November 2014

12. The MNO Interveners file and serve their Statement(s) of Intervention and any supporting evidence and the applications referred to in paragraphs 6 and 7 above and any supporting evidence by 5pm on 15 January 2015

13. A two day hearing / case management conference be listed to take place in February 2015

Other

14. Costs be reserved

15. There be liberty to apply.

Marcus Smith Q.C.
Chairman of the Competition Appeal Tribunal

Made: 5 November 2014
Drawn: 5 November 2014