



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No. 1227/4/12/14

**B E T W E E N:**

**A. C. NIELSEN COMPANY LIMITED**

Applicant

- v -

**COMPETITION AND MARKETS AUTHORITY**

Respondent

- and -

**INFORMATION RESOURCES, INC.**

Intervener

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**ORDER**

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**UPON** reading the Applicant's letter dated 27 May 2014 and its enclosures of even date, namely: Application to Amend the Notice of Application, draft Annex to the Notice of Application (the "NoA Annex") and a draft order, and upon reading the Applicant's letter of 2 June enclosing a revised draft order

**AND UPON** reading the subsequent relevant correspondence between the Parties

**AND UPON** the Tribunal having made an Order on 15 May 2014 establishing a confidentiality ring in these proceedings

**AND UPON** the Tribunal having made an Order on 16 May 2014 setting a timetable to the hearing in these proceedings (the "CMC Order")

**IT IS ORDERED THAT:**

1. The Applicant be granted permission to amend its Notice of Application by the addition of the NoA Annex.
2. All references within this order to “the Merged Firm” refer to any and all companies comprised within the merged entity which is the subject of the decision of the Office of Fair Trading (“OFT”) which is being challenged by the Applicant in these proceedings.
3. The Intervener disclose into the confidentiality ring (i.e. to the Relevant Advisers of the Applicant and the Respondent) by 5pm on 3 June 2014:
  - (a) copies of all contracts between the Merged Firm and any company or business active in convenience retailing within the United Kingdom which relates to the provision of data to the Merged Firm for the purposes of providing retail measurement services (which, for the avoidance of doubt, shall not include contracts that are solely inputs to SalesOut wholesale data services but shall include any SalesOut contracts where ePOS data is used in the Merged Firm’s retail measurement services) and which were current (i.e. not yet expired) as at the date when the OFT took the contested decision; and
  - (b) copies of all submissions made by the Merged Firm to the OFT in which the Merged Firm made assertions, or provided information, as to (i) the number of contracts between the Merged Firm and convenience retailers that included provisions requiring exclusivity (“Exclusive Contracts”), or (ii) the identities of the retailers covered by such Exclusive Contracts.
4. The Respondent file and serve, by 5pm on 5 June 2014, an annex to its Defence providing its response to the additional ground of challenge set out in the NoA Annex.

5. Paragraph 2(b) of the CMC Order be varied to extend the time for the Respondent to file and serve any evidence in support of its Defence by two days to 5 June 2014.
6. If the Respondent relies, in the annex to its Defence, on a submission that the error of fact pleaded in the NoA Annex is not material to the analysis and/or conclusions in the contested decision of the OFT, the Respondent disclose into the confidentiality ring (i.e. to the Relevant Advisers of the Applicant and the Intervener), by 5pm on 5 June 2014, such documentary evidence relating to the number of Exclusive Contracts or identities of the retailers covered by such contracts as is necessary to comply with its duty of candour.
7. The Intervener file and serve, by 5pm on 9 June 2014, an annex to its Statement of Intervention providing its response to the additional ground of challenge set out in the NoA Annex.
8. Paragraph 2(d) of the CMC Order be varied to extend the time for the Applicant to file and serve its skeleton argument to 5pm on 12 June 2014.
9. Paragraph 2(f) of the CMC Order be varied to extend the time for the Respondent and the Intervener to file and serve their skeleton arguments to 5pm on 18 June 2014.
10. The deadlines and other directions given in the Tribunal's previous orders remain unchanged except insofar as they have been expressly varied by the provisions of this Order.
11. There be liberty to apply.

**The Honourable Mr Justice Sales**  
Chairman of the Competition Appeal Tribunal

Made: 2 June 2014  
Drawn: 2 June 2014