



IN THE COMPETITION
APPEAL TRIBUNAL

Case Numbers: 1237-1238/3/3/15

BETWEEN:

TALKTALK TELECOM GROUP PLC

Appellant in Case 1237
Intervener in Case 1238

BRITISH TELECOMMUNICATIONS PLC

Appellant in Case 1238
Intervener in Case 1237

-v-

OFFICE OF COMMUNICATIONS

Respondent

-and-

SKY UK LIMITED

Intervener in Case 1238

ORDER

UPON reading the correspondence from the legal representatives of all the parties to these Appeals relating to the establishment of a confidentiality ring

AND UPON hearing the legal representatives of the parties to these Appeals at a Case Management Conference on 18 June 2015

AND UPON the parties having agreed the terms of this order

AND HAVING REGARD TO the Tribunal's case management powers under rule 19(1) of the Competition Appeal Tribunal Rules (S.I. No. 1372 of 2003)

IT IS ORDERED THAT

1. This Order becomes effective in respect of each of the persons named in Part A of the Schedule to this Order only upon receipt by the Tribunal of a signed undertaking in the terms of Part B of the Schedule to this Order
2. For the purposes of this Order:
 - a. **“Confidential Information”** is defined as information justifying confidential treatment by the Tribunal in accordance with rule 53 of the Competition Appeal Tribunal Rules 2003 which is contained in (i) the full un-redacted versions of the parties’ pleadings and other documents served on the Tribunal which have not, prior to the making of this Order, been disclosed to all other parties in the non-confidential versions of pleadings and other documents thus far served, and/or (ii) any documents served or disclosed hereafter
 - b. **“Relevant Advisers”** are those persons:
 - (i) listed in part A of the Schedule to this Order who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order; or
 - (ii) authorised by the Tribunal upon further application
3. Each of the parties shall hereafter disclose to the other parties unredacted versions of their pleadings and other documents served in these proceedings on the condition that, save in respect of the Office of Communications’ employees, such unredacted versions and any Confidential Information contained within those pleadings and documents shall be disclosed only to the Relevant Advisers listed in Part A of the Schedule to this Order
4. All un-redacted versions of pleadings and other documents served in these proceedings must be marked so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 13.22 of the Tribunal’s Guide to Proceedings (October 2005)
5. If any party wishes to add any additional person as a Relevant Adviser for the purposes of paragraph 2(b) of this Order, they shall apply to the Tribunal indicating whether each of the other parties consents or does not consent to the addition of that person
6. Costs be reserved
7. There be liberty to apply.

Andrew Lenon QC
Chairman of the Competition Appeal Tribunal

Made: 17 July 2015
Drawn: 17 July 2015

SCHEDULE

PART A

This part contains the names, for each party, of Relevant Advisers:

TalkTalk Telecom Group

In-house solicitors

Paul Vines

Michael Clark

External counsel

Meredith Pickford QC

Stefan Kuppen (both of Monckton Chambers)

External economists

Martin Duckworth

George Houpis

Tom Ovington

Christian Strobel (all of Frontier Economics Limited)

British Telecommunications PLC

In-house solicitors

George Ritchie

Karen Nightingale

External counsel

Rhodri Thompson QC

Nicholas Gibson

Anita Davies (all of Matrix Chambers)

External economists

Simon Bishop

Paulo Abecasis (all of RBB Economics)

Office of Communications

External counsel

Josh Holmes (of Monckton Chambers)

Tristan Jones (of Blackstone Chambers)

Sky UK Limited

External solicitors

Stephen Wisking

Andrew North

Dylan McIntyre

Luca Farrow (all of Herbert Smith Freehills LLP)

External counsel

Kieron Beal QC (of Blackstone Chambers)

External economists

Cristina Caffarra

Philip Kalmus

Pierre Regibeau (all of Charles River Associates)

PART B

In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser undertakes that they will comply with the following requirements in the following terms:

I, [name], of [firm, company or establishment] being [legal or other qualification] and regulated so far as my professional conduct is concerned by [regulatory body, if any] undertake to the Tribunal as follows:

1. I have read a copy of the Tribunal's Order of [date] ("the Tribunal's Order") and understand the implications of that Order and the giving of this undertaking.
2. Save in respect of provision to the Tribunal or the Competition and Markets Authority, I will not disclose the Confidential Information (as defined in the Tribunal's Order) to any person who is not an Office of Communications ("OFCOM") employee or a Relevant Adviser (as defined in the Tribunal's Order) without the express consent of the party originally disclosing the information or the permission of the Tribunal.
3. I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever without the express consent of the party originally disclosing the information or the permission of the Tribunal.
4. The pleadings and documents containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser or OFCOM at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
5. The production of further copies shall only be done by me, a Relevant Adviser or OFCOM, or under the direct supervision of me, a Relevant Adviser or OFCOM. The production by me of the documents containing the Confidential Information shall be limited to those strictly required for the use of the Relevant Advisers or OFCOM for the purposes of these proceedings and shall be held in accordance with paragraph 4 of this undertaking.
6. Where the Relevant Advisor is also an employee of a party to these proceedings, the Relevant Adviser will not, during these proceedings and for a period of 24 months following the conclusion of these proceedings in the Competition Appeal Tribunal, be involved in, advise on or act in (whether as a legal adviser or otherwise) any other matters in relation to which the Confidential Information is relevant, save: (i) for further legal proceedings between the same parties in relation to the same or substantially the same subject matter as these proceedings where written notification has been provided to any party whose Confidential Information is relevant to those legal proceedings at least 7 days prior to acting or advising; or (ii) with the written consent of the party whose information is relevant to the new matter, which consent shall not be unreasonably withheld. In the event of a dispute

concerning this paragraph the parties will have liberty to apply for a direction from the Competition Appeal Tribunal.

7. Any and all copies and the pleadings and documents in paper form containing the Confidential Information will be returned to the party originally disclosing the pleading or documents or destroyed by the receiving party at the conclusion of the present proceedings; any copies of the pleadings and the documents containing the Confidential Information in electronic form will where possible be returned or where that is not possible will be rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person.

8. Save that none of the requirements listed at paragraphs 2 to 5 above shall prevent Relevant Advisers from disclosing to a person advised by them Confidential Information which such person has already legitimately seen.

Signed:

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Name:

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Date:

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