



IN THE COMPETITION
APPEAL TRIBUNAL

B E T W E E N :

Case No.: 1259/3/3/16

TALKTALK TELECOMMUNICATIONS GROUP PLC (“TalkTalk”)

Appellant

- and -

OFFICE OF COMMUNICATIONS (“Ofcom”)

Respondent

- and -

**BRITISH TELECOMMUNICATIONS PLC (“BT”)
CITYFIBRE INFRASTRUCTURE HOLDINGS PLC
NDR INTERVENERS (VODAFONE LTD AND HUTCHISON 3G UK LTD)
GAMMA TELECOM HOLDINGS LTD**

Interveners

ORDER

UPON the Tribunal making an order on 17 November 2016 referring to the Competition and Markets Authority (the “CMA”) a specified price control matter arising in these proceedings, namely whether Ofcom was wrong to decide that the NDR costs to be deducted from the price of the reference active products in deriving the price for the DFA remedy at paragraph 10C.1 of the Condition should be based on an attribution of BT’s rates costs to the fibre (rather than on some other appropriate measure) for reasons set out in paragraphs 32 to 44 of TalkTalk’s Notice of Appeal (the “Specified Price Control Matter”)

AND UPON the Tribunal making an order on 10 March 2017 extending the time for determining the Specified Price Control Matter

AND UPON the CMA notifying the Tribunal on 7 April 2017 of its determination of the Specified Price Control Matter (the “Determination”)

IT IS ORDERED THAT:

1. For the purposes of this Order, capitalised terms not otherwise defined have the meanings given in the Determination.
2. TalkTalk’s appeal shall be allowed.
3. The NDR Decision shall be remitted to Ofcom pursuant to section 195(4) of the Communications Act 2003. Ofcom shall re-determine the NDR Decision as soon as reasonably practicable, taking account of the CMA’s findings in the Determination.
4. There shall be no order as to costs.

The Honourable Mr Justice Snowden
Chairman of the Competition Appeal Tribunal

Made: 29 June 2017
Drawn: 29 June 2017