



IN THE COMPETITION
APPEAL TRIBUNAL

Case No. 1024/2/3/04

BETWEEN:

FLOE TELECOM LIMITED
(in administration)

Appellant

-v.-

OFFICE OF COMMUNICATIONS

Respondent

supported by

VODAFONE LIMITED

and

T-MOBILE (UK) LIMITED

Interveners

ORDER

UPON considering the Respondent's Decision dated 3 November 2003 finding that Vodafone Limited had not infringed section 18 of the Competition Act 1998 by disconnecting the telecommunications services it was providing to the Appellant on or about 18 March 2003 (the "Decision").

AND UPON considering the Appellant's Amended Notice of Appeal dated 20 February 2004, the Respondent's Defence dated 14 May 2004 and the Interveners' respective Statements of Intervention dated 28 May 2004.

AND UPON hearing the legal representatives of the parties at a hearing held on 19 and 20 July 2004.

AND UPON the Tribunal unanimously deciding in a judgment dated 19 November 2004 (the "Judgment") that the Decision should be set aside on grounds of incorrect and/or inadequate reasoning.

AND UPON hearing the legal representatives of the parties at a directions hearing held on 1 December 2004.

AND UPON the Respondent having undertaken through counsel at the hearing to open a new investigation into the matter and consider whether Vodafone infringed section 18 of the Competition Act 1998 by disconnecting Floe's telecommunications services, taking account of the Judgment (the "Undertaking").

AND HAVING REGARD to the wider public interest in the matter.

IT IS ORDERED THAT:

1. Pursuant to paragraph 3(2)(a) of schedule 8 of the Competition Act 1998 (the "1998 Act"), the matter, being the Decision in its entirety, is remitted to the Respondent.
2. Pursuant to the Undertaking, the Respondent re-investigate the matter with a view to issuing either:
 - (a) a new non-infringement decision pursuant to section 31 of the 1998 Act; or
 - (b) a statement of objections pursuant to rule 4 of The Competition Act 1998 (Office of Fair Trading's Rules) Order 2004 (SI 2004 No. 2751)in either case within 5 months of the date of this Order.
3. A further case management conference is provisionally fixed for 5 May 2005 at a time to be notified to the parties.
4. The Respondent pay the Appellant's costs in respect of this matter on the standard basis, the parties to reach agreement as to the amount of costs recoverable, and failing agreement, such costs to be assessed pursuant to rule 55(3) of the Tribunal's rules following an application by either party.
5. There be general liberty to apply.

Marion Simmons QC
Chairman of the Competition Appeal Tribunal

Made: 1 December 2004
Drawn: 2 December 2004