



IN THE COMPETITION
APPEAL TRIBUNAL

Case No. 1027/2/3/04

BETWEEN:

VIP COMMUNICATIONS LIMITED

Appellant

-v.-

OFFICE OF COMMUNICATIONS

Respondent

supported by

T-MOBILE (UK) LIMITED

Intervener

ORDER

UPON considering the Appellant's notice of appeal dated 20 February 2004 against the Respondent's Decision dated 22 December 2003 finding that T-Mobile (UK) Limited had not infringed the Competition Act 1998 (the "1998 Act") by disconnecting the telecommunications services it was providing to the Appellant (the "Decision").

AND UPON the Tribunal issuing an Order dated 20 April 2004 that the Appellant's appeal be stayed pending the determination of the appeal in Case No. 1024/2/3/04, *Floe Telecom Limited (in administration) -v- Office of Communications* (the "Floe Appeal").

AND UPON the Tribunal deciding in the Floe Appeal in a judgment dated 19 November 2004 (the "Judgment") that the Respondent's Decision in that case should be set aside on grounds of incorrect and/or inadequate reasoning and that the matter should be remitted to the Respondent pursuant to paragraph 3(2)(a) of Schedule 8 of the 1998 Act.

AND UPON the Respondent having made an application for permission to withdraw the Decision.

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 to 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. By way of determination of the appeal in respect of the Decision the Decision is set aside.
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