



**IN THE COMPETITION  
APPEAL TRIBUNAL**

Case No. 1080/3/3/07

BETWEEN:

**ORANGE PERSONAL COMMUNICATIONS SERVICES LIMITED**

Appellant

-v-

**OFFICE OF COMMUNICATIONS**

Respondent

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**ORDER**  
**(as amended by Order of 9 November 2007)**

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**UPON** reading a decision by the respondent to accept, pursuant to sections 185 and 186 of the Communications Act 2003 (“the Act”), the reference of an alleged dispute between the appellant and British Telecommunications plc in connection with the charges that the appellant makes for terminating calls on its mobile communications networks published on 12 February 2007

**AND UPON** reading the appellant’s notice of appeal filed on 5 April 2007

**AND UPON** reading the requests for permission to intervene from: (i) Hutchison 3G UK Limited dated 4 May 2007, (ii) T-Mobile (UK) Limited dated 2 October 2007, (iii) British Telecommunications plc dated 2 May 2007, and (iv) Vodafone Limited dated 27 September 2007

**AND UPON** reading the parties’ submissions for the case management conference dated 19 October 2007 indicating that they did not object to any of the requests for permission to intervene

**AND UPON** the Tribunal writing to the parties and the potential interveners on 9 October and 25 October 2007 in respect of a number of matters arising in both this case and Case nos. 1089/3/3/07, 1090/3/3/07, 1091/3/3/07 and 1092/3/3/07

**AND UPON** considering the parties’ written submissions for the case management conference dated 19 October 2007

**AND UPON** hearing counsel for the parties and potential interveners at a case management conference on 31 October 2007

**AND UPON** the Tribunal indicating at the case management conference that it would determine the procedural timetable for these proceedings in due course

**IT IS ORDERED THAT:**

1. Pursuant to rule 18(1) of the Competition Appeal Tribunal Rules 2003 (S.I. 2003, No. 1372) (“the Tribunal Rules”) the proceedings are proceedings before a Tribunal in England and Wales
2. Hutchison 3G UK Limited, T-Mobile (UK) Limited, British Telecommunications plc and Vodafone Limited are permitted to intervene in the proceedings pursuant to Rule 16 of the Tribunal Rules
3. That the following issues raised in the appeal be tried as preliminary issues namely
  - (1) whether, on the true construction of section 185 of the Act and having regard to the events which have happened, there was a “dispute” between British Telecommunications plc and the appellant within the meaning of that section capable of being referred to the respondent for resolution in accordance with that section;
  - (2) whether, on the true construction of section 185 of the Act and Rule 8(1) of the Tribunal Rules, the appellant would, in proceedings challenging the final determination of the alleged dispute between the appellant and British Telecommunications, have been time barred from challenging the jurisdiction of the respondent to resolve that alleged dispute.
4. Further that in relation to those preliminary issues:
  - a. The respondent to file and serve its defence limited to the preliminary issues by 4.00pm on 23 November 2007
  - b. If so advised, the interveners file and serve their skeleton arguments by 4.00pm on 3 December 2007 together with any evidence on which they wish to rely
  - c. The appellant and respondent file and serve skeleton arguments by 4.00pm on 7 December 2007
  - d. the parties to liaise to ensure so far as practicable that there is no duplication of submissions
  - e. the parties prepare an agreed bundle of documents to serve as the main bundle for the hearing of the preliminary issue and an agreed bundle of authorities to be referred to at the hearing

- f. the parties file six copies of each of the said bundles by 4:00pm on 10 December 2007
  - g. A hearing be listed for 11-12 December 2007 with a time estimate of two days
5. Costs be reserved
6. There be permission to apply

Vivien Rose  
Chairman of the Competition Appeal Tribunal

Made: 6 November 2007  
Drawn: 8 November 2007

Marion Simmons  
Chairman of the Competition Appeal Tribunal

Made: 9 November 2007  
Drawn: 9 November 2007