



**IN THE COMPETITION
APPEAL TRIBUNAL**

Case: 1083/3/3/07

B E T W E E N:

HUTCHISON 3G UK LIMITED

Appellant

-v-

OFFICE OF COMMUNICATIONS

Respondent

supported by

02 (UK) LIMITED

T-MOBILE (UK) LIMITED

VODAFONE LIMITED

ORANGE PERSONAL COMMUNICATIONS SERVICES LIMITED

BRITISH TELECOMMUNICATIONS PLC

Interveners

ORDER

**(as amended by Order
of 20 November 2007)**

UPON reading the application by Hutchison 3G UK Limited (“H3G”) dated 12 October 2007 for permission to amend its notice of appeal and adduce further evidence filed with the application to amend, namely (a) a witness statement dated 12 October 2007 by Mr David Richard Dyson (b) an expert statement by Dr Stephen Littlechild dated 12 October 2007 and (c) a second witness statement by Mr Kevin Steven Russell dated 12 October 2007

AND UPON reading the letters and/or written submissions from the Office of Communications (“OFCOM”) dated 15 October 2007 and 29 October 2007, T-Mobile (UK) Limited (“T-Mobile”) dated 24 October 2007 and 5 November 2007, British Telecommunications plc (“BT”) dated 29 October 2007, and H3G dated 31 October 2007 and 1 November 2007

AND UPON hearing counsel for the parties at a case management conference on 6 November 2007

IT IS ORDERED THAT:

1. H3G be granted permission to amend its notice of appeal in the form of the draft amended notice of appeal filed with the Tribunal on 12 October 2007, subject to the following exceptions:
 - a. Permission to include the arguments relating to “on-net/off-net pricing” (paragraphs 17.22 to 17.26 of the proposed amended notice of appeal) is refused.
 - b. Permission to include reference to the “on-net/off-net pricing strategies” in paragraphs 17.30, 17.35 and 19.3 is also refused.
2. H3G be granted permission to adduce the witness statement of Mr David Richard Dyson and the expert statement of Dr Stephen Littlechild.
3. H3G be refused permission to adduce the second witness statement of Kevin Steven Russell in the form filed with the Tribunal on 12 October 2007.
4. H3G be granted permission to adduce a revised version of the second witness statement of Kevin Steven Russell provided that:
 - a. those sections which refer or relate to the “on-net/off-net pricing” issue are excised from it;
 - b. the witness statement and its exhibits are otherwise unchanged from the version filed on 12 October 2007; and
 - c. it is served as soon as reasonably practicable.
5. H3G shall file and serve (on all parties and the Competition Commission) as soon as reasonably practicable a single document containing its notice of appeal, as amended pursuant to this Order, using the same paragraph numbering as the draft amended notice of appeal filed on 12 October 2007.
6. OFCOM shall file and serve (on all parties and the Competition Commission) by 5.00pm on 16 November 2007, an outline defence to the price control matters raised in H3G’s appeal (being those matters contained in the appendix to H3G’s notice of appeal, as amended).

7. OFCOM shall file and serve (on all parties and the Competition Commission) by 5.00pm on 30 November 2007:
 - a. a single, composite document setting out (i) its full defence to the non-price control matters raised in H3G's appeal and (ii) its outline defence to the price control matters (which shall be unchanged from the version filed on 16 November 2007); and
 - b. any witness or other evidence on which it intends to rely.
8. Each of the interveners shall file and serve (on all parties and the Competition Commission) an outline statement of intervention on the price control matters raised in H3G's appeal by 5.00pm on 30 November 2007.
9. Each of the interveners shall file and serve (on all parties and the Competition Commission) by 5.00pm on 14 December 2007:
 - a. a single, composite document setting out (i) its full statement of intervention on the non-price control matters raised in H3G's appeal and (ii) its outline statement of intervention on the price control matters (which shall be unchanged from the version filed on 30 November 2007); and
 - b. any witness or other evidence on which it intends to rely.
10. The hearing of the appeal shall be fixed by further Order.
11. There be permission to apply.

Vivien Rose
Chairman of the Competition Appeal Tribunal

Made: 6 November 2007
Drawn: 8 November 2007