



IN THE COURT OF APPEAL, CIVIL DIVISION

5669

REF: C1/2008/0203



Hutchison 3G UK Ltd -v- Ofcom

ORDER made by the Rt. Hon. Lord/Lady Justice Buxton

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

Decision: granted, refused, adjourned. An order granting permission may limit the issues to be heard or be made subject to conditions.

Refused

Reasons

An appeal would have no reasonable prospect of success.

An appeal to this court from the CAT can only be brought on a point of law. I have not found any Grounds of Appeal annexed to the Notice of Appeal, so have had to spell out the grounds from the skeleton. The nearest that the skeleton comes to asserting a point of law is in §§ 5(1) and 48-84, that the CAT was wrong in determining that the amendments sought had already been determined by its decision of 23 November 2007, or that the same factors applied now to the exercise of the CAT's discretion as had applied in respect of the earlier determination. All of the matters to which the CAT referred, and more particularly in its statement of reasons of 15 January 2008, were matters of assessment and judgement, uniquely within the province of an expert tribunal with intimate and detailed knowledge of the case. The arguments in the skeleton do not come near to establishing that the CAT went so far wrong as to pass over the boundary between matters of judgement and errors sufficiently serious to amount to errors of law.

Further, and quite apart from the jurisdiction issue, it would be entirely inappropriate save in the most extreme case to seek to contest before this court case management decisions made by a specialist tribunal that has the continuing conduct of a major and specialist piece of litigation.

Information for or directions to the parties

The attention of those advising the applicant is drawn to CPR PD 52.4.14A. Any application to renew this application must be made on notice to the respondent and to the interested parties.

**Where permission has been granted, or the application adjourned**

- time estimate (excluding judgment)
- any expedition

Signed: 
Date: 20 February 2008

Notes

- Rule 52.3(6) provides that permission to appeal may be given only where –
 - the Court considers that the appeal would have a real prospect of success; or
 - there is some other compelling reason why the appeal should be heard.
- Rule 52.3(4) and (5) provide that where the appeal court, without a hearing, refuses permission to appeal that decision may be reconsidered at

By the Court