



IN THE COMPETITION APPEAL TRIBUNAL

Cases: 1095/4/8/08
1096/4/8/08

BETWEEN:

BRITISH SKY BROADCASTING GROUP PLC

Applicant

-v-

**(1) THE COMPETITION COMMISSION
(2) THE SECRETARY OF STATE FOR BUSINESS, ENTERPRISE AND
REGULATORY REFORM**

Respondents

VIRGIN MEDIA, INC.

Applicant

-v-

**(1) THE COMPETITION COMMISSION
(2) THE SECRETARY OF STATE FOR BUSINESS, ENTERPRISE AND
REGULATORY REFORM**

Respondents

ORDER

UPON reading the correspondence and written submissions from the legal representatives of British Sky Broadcasting Group plc, the Competition Commission, and the Secretary of State for Business, Enterprise and Regulatory Reform indicating that they have reached agreement to the establishment of a confidentiality ring according to the terms herewith;

AND UPON hearing the representatives of British Sky Broadcasting Group plc, Virgin Media Inc, the Competition Commission, and the Secretary of State for Business, Enterprise and Regulatory Reform at a case management conference on 11 March 2008;

AND UPON reading the letter dated 10 March 2008 from ITV plc and the enclosed submissions;

IT IS ORDERED THAT:

1. For the purposes of this Order:
 - a. “Confidential Information” means:
 - i. information the disclosure of which would be contrary to the public interest;
 - ii. commercial information the disclosure of which could significantly harm the legitimate business interests of the undertaking to which it relates; and/or
 - iii. information relating to the private affairs of an individual the disclosure of which could significantly harm his interests;

being the material contained in the Un-Redacted Documents (and which has not, prior to the making of this Order, been disclosed to all other Parties in the non-confidential versions of pleadings and other documents thus far served) which is identified as being confidential in the manner set out in paragraph 4 below. Information contained in submissions made by a Party to the Commission or to BERR and which was agreed as between that Party and the Commission and/or BERR, as the case may be, to be confidential shall be deemed to be Confidential Information for the purposes of this order.
 - b. “Parties” means British Sky Broadcasting Group plc (“Sky”), Virgin Media Inc (“Virgin Media”), the Competition Commission (“the Commission”), and the Secretary of State for Business, Enterprise and Regulatory Reform (“BERR”), and “Party” shall be construed accordingly
 - c. “Relevant Persons” are those persons:
 - i listed in Part A of the Schedule to this Order; or
 - ii authorised by the Tribunal upon further application
 - d. “the Un-Redacted Documents” means full, un-redacted versions of:
 - i. the pleadings and other documents filed at the Tribunal with the pleadings; and
 - ii any other documents served in connection with these proceedings;

which contain in un-redacted form any Confidential Information

2. Subject to any order the Tribunal may make to the contrary, each of the Parties shall provide copies of the Un-Redacted Documents to each of the other Parties on the conditions set out in paragraphs 3 and 4 below
3. The Un-Redacted Documents and any Confidential Information contained within the Un-Redacted Documents:
 - a. shall be provided to and inspected only by the Relevant Persons; and
 - b. shall be provided to the external counsel and solicitors named on behalf of Sky and Virgin Media in Part A of the Schedule only when such persons have each given a written undertaking to the Tribunal in the terms of Part B of the Schedule to this Order
4. For the purposes of paragraph 2 above, the Un-Redacted Documents must be marked so as to indicate the parts containing Confidential Information in the manner referred to in paragraph 13.22 of the Tribunal's Guide to Proceedings (October 2005)
5. In the case of the Parties' respective Notices of Application and documents served with those pleadings the Parties shall comply with paragraph 2 above by 4.00pm on 31 March 2008
6. This Order shall not require Sky or Virgin Media to provide to the Commission and/or BERR further copies of any documents which have already been served on the Commission and/or BERR in accordance with the provisions of this Order
7. Nothing in this Order shall prevent the disclosure by a Relevant Person to his or her client of any Confidential Information which was provided by such client and is contained in any Un-Redacted Document
8. If any Party wishes to add any person not listed in Part A of the Schedule to this Order as a Relevant Person for the purposes of paragraph 1c. above, they shall apply to the Tribunal indicating whether each of the other Parties consents or does not consent to the addition of that person
9. Costs be reserved
10. There be liberty to apply

SCHEDULE

Part A

This part contains the names, for each Party, of the Relevant Persons:

The Competition Commission

Any member of, or person employed by, the Competition Commission who is for the time being working on these proceedings or the matters which have given rise to them

External counsel and solicitors

John Swift QC
Daniel Beard
Rob Williams (all of Monckton Chambers)

Zane Denton
Nic Newling
Sarah Townsend
Arnikka Macintyre-Daly (all of Treasury Solicitors)

The Secretary of State for Business, Enterprise and Regulatory Reform

Any person employed by the Department for Business, Enterprise and Regulatory Reform who is for the time being working on these proceedings or the matters which have given rise to them

External counsel and solicitors

Rupert Anderson QC
Elisa Holmes (both of Monckton Chambers)

Adam Chapman
Jennifer Watson
Gareth Buttrill
David Sims (all of Treasury Solicitors)

British Sky Broadcasting Group plc

External counsel and solicitors

Michael J Beloff QC (of Blackstone Chambers)

James Flynn QC
Aidan Robertson (both of Brick Court Chambers)

Antonio Bavasso
John Wotton
Cerry Darbon
Dominic Long
Andrew Denny
Laura Lawton (all of Allen & Overy)

Virgin Media, Inc.

External counsel and solicitors

Nicholas Green QC (of Brick Court Chambers)

Duncan Liddell
Nigel Parr
Ben Tidswell
Ross Mackenzie
Scott Tatchell (all of Ashurst)

Part B

I, [name], of [chambers or firm] being [legal qualification] and regulated so far as my professional conduct is concerned by [regulatory body if any] undertake to the Tribunal as follows:

1. I will not disclose Confidential Information (as defined in the Tribunal's order of 31 March 2008) to any person outside those listed in Part A ("the Relevant Persons") without the consent of the person originally disclosing the information or the permission of the Tribunal.
2. I will use the Confidential Information only for the purpose of these proceedings (and for no other proceedings or use)
3. All documents which I receive that contain Confidential Information will remain in my custody or the custody of the other Relevant Persons at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access
4. The production of further copies by me of the documents containing the Confidential Information shall be limited to those required for my use or the use of the Relevant Persons for the purposes of these proceedings
5. Any such copies and the documents in paper form containing the Confidential Information will be (a) returned or (b) destroyed and certified as such to the Party originally disclosing the documents at the conclusion of the present proceedings; any such copies and the documents containing the Confidential Information in electronic form will either be returned where possible or where that is not possible will be rendered inaccessible from any computer system, disk or device so that it is not readily available to any person
6. Save that none of the requirements listed at paragraphs 1 to 4 above shall prevent the Relevant Persons from disclosing to the Party advised by them information which such Party has already seen