



**IN THE COMPETITION
APPEAL TRIBUNAL**

Cases No: 1083/3/3/07
1085/3/3/07
1089/3/3/07
1090/3/3/07
1091/3/3/07
1092/3/3/07

BETWEEN

HUTCHISON 3G UK LIMITED
-and-
BRITISH TELECOMMUNICATIONS PLC
-and-
T-MOBILE (UK) LIMITED
-and-
CABLE & WIRELESS & ORS

Appellants / Interveners

-and-
VODAFONE LIMITED
O2 (UK) LIMITED
ORANGE PERSONAL COMMUNICATIONS SERVICES LIMITED

Interveners

-v-
OFFICE OF COMMUNICATIONS

Respondent

ORDER

(as amended by further Orders on
3 January, 11 January, 24 January, 29 January,
30 January, 5 March, 2 April and 8 May 2008)

UPON reading the correspondence from the legal representatives of all the parties to the these Appeals relating to the establishment of a confidentiality ring;

AND UPON hearing the legal representatives of Vodafone Ltd, Orange Personal Communications Services Limited, British Telecommunications plc, T-Mobile (UK)

Limited and Hutchison 3G UK Limited at a case management conference on 17 December 2007;

AND UPON each of the persons named in Part A of the Schedule to this Order (“the Relevant Advisers”), having given a written undertaking to the Tribunal in the terms of Part B of the Schedule to this Order

IT IS ORDERED THAT:

1. For the purposes of this Order:
 - a. **“Confidential Information”** is defined as information justifying confidential treatment by the Tribunal in accordance with rule 53 of the Competition Appeal Tribunal Rules 2003 which is contained in (i) the full un-redacted versions of the parties’ pleadings and other documents served on the Tribunal 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, and/or (ii) any documents served hereafter.
 - b. **“Relevant Advisers”** are those persons:
 - i. listed in Part A of the Schedule to this Order; or
 - ii. authorised by the Tribunal upon further application.
2. Each of the parties shall hereafter disclose to the other parties un-redacted versions of their pleadings and other documents served in these proceedings on condition that such un-redacted versions and any Confidential Information contained within these shall be disclosed only to the Relevant Advisers listed Part A of the Schedule to this Order.
3. All such un-redacted versions of pleadings and other documents served in these proceedings must be marked so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 13.22 of the Tribunal’s Guide to Proceedings (October 2005).

4. Further,
 - a. in relation to disclosure of the documents containing the Respondents' decisions which are the subject of each appeal, paragraph 2 of this Order is limited to the main body of those decisions and the annexes thereto;
 - b. the parties to Cases 1083/3/3/07 and 1085/3/3/07 ("the MCT Appeals") shall not be obliged by paragraph 2 of this Order to disclose un-redacted versions of their pleadings and other documents served in those proceedings to any party that is not either an appellant or an intervener in those proceedings save to the extent that those pleadings and other documents relate to the overlapping issues identified in the Schedule to the Tribunal's Order of 20 November 2007 ("the 20 November Order") in Cases 1089/3/3/07, 1090/3/3/07, 1091/3/3/07 and 1092/3/3/07 ("the TRD Appeals");
 - c. the parties to the TRD Appeals shall not be obliged by paragraph 2 of this Order to disclose un-redacted versions of their pleadings and other documents served in those proceedings to any party that is not either an appellant or an intervener in those proceedings save to the extent that those pleadings and other documents relate to the overlapping issues identified in the Schedule to the 20 November Order.
5. In the case of pleadings and other documents served thus far in the proceedings, the parties shall comply with paragraph 2 above by 5.00pm on 4 January 2008.
6. If any party wishes to add any additional person as a Relevant Adviser for the purposes of paragraph 1(b) 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.
7. Costs be reserved.
8. There be liberty to apply.

Vivien Rose
Chairman of the Competition Appeal Tribunal

Made: 21 December 2007
Drawn: 21 December 2007

SCHEDULE

PART A

This part contains the names, for each party, of Relevant Advisers:

Ofcom

Any member of or person employed by Ofcom

External counsel

Peter Roth QC

Josh Holmes

Ben Lask (all of Monckton Chambers)

T-Mobile

External counsel

Jon Turner QC

Meredith Pickford

Alan Bates (all of Monckton Chambers)

In-house counsel

Robyn Durie, Regulatory Counsel¹

Xavier Mooyaart, Regulatory Counsel²

Deborah Sall³

External economists

Mike Walker,

Paul Muysert,

Sam McSkimming⁴ (all of Charles River Associates International)

Paul Reynolds, Competition Economists LLP

O2

External counsel

Nicholas Green QC

Kelyn Bacon, (both of Brick Court Chambers)

External solicitors

Stephen Kon

Niamh Grogan

¹ Included in Part A of this Schedule by way of an amending Order made on 3 January 2008.

² Included by way of an amending Order made on 3 January 2008.

³ Included by way of an amending Order made on 29 January 2008.

⁴ Included by way of an amending Order made on 2 April 2008.

Mark Simpson
Emilie Helm
Neil Davies⁵,
Matthew Townsend⁶ (all of SJ Berwin LLP)

External economists

Matt Hunt
Liam Colley
Alastair Macpherson
Benjamin Wreschner
Boon Min Ang
Suzi Gillespie
Peter Hope,
Silja Baller, (all of PricewaterhouseCoopers LLP⁷)

Orange

External counsel

James Flynn QC
Marie Demetriou, (both of Brick Court Chambers)

External solicitors

Nicholas Pimlott,
Charles Whiddington,
Daniel Geey
Cathy McKenna
Claire Brinn
Joseph Ward, (all of Field Fisher Waterhouse)

External economist

Dr Robin Mason⁸ (of Southampton University)

Vodafone

External solicitors

Elizabeth McKnight
Stephen Wisking
John McInnes
Alexandra Long (all of Herbert Smith)

⁵ Included by way of an amending Order made on 3 January 2008.

⁶ Included by way of an amending Order made on 2 April 2008.

⁷ Six individuals from PricewaterhouseCoopers LLP included by way of an amending Order made on 3 January 2008. Peter Hope and Silja Baller included by way of further amending Orders made on 24 January and 8 May 2008, respectively.

⁸ Included by way of an amending Order made on 11 January 2008.

External economists

Zoltan Biro

George Houpis

James Bellis

Martin Duckworth (all of Frontier Economics)

BT

External counsel

David Anderson QC⁹ (of Brick Court Chambers)

Sarah Lee (of Brick Court Chambers)

Sarah Ford¹⁰ (of Brick Court Chambers)

Graham Read QC (Devereux Chambers)

Anneli Howard (Monckton Chambers)

Fiona Banks¹¹ (of Monckton Chambers)

In-house counsel

Annemaree McDonough, Group Regulatory Counsel

Charlotte Mellor, Senior Competition Lawyer

David Olds¹²

Ashley Rose¹³

External economists

George Yarrow

Dr Daniel Maldoom

Tim Keyworth

Siong Wei-Lin Arisa¹⁴ (of DotEcon Ltd)

Cable & Wireless et al

External counsel

Matthew Cook, One Essex Court Chambers

External solicitors

Colin Long

Dan Tench

Catherine Bellsham-Revell

Ginny O'Flinn

Oliver Middleton (all of Olswang)

⁹ Included by way of an amending Order made on 3 January 2008.

¹⁰ Included by way of an amending Order made on 2 April 2008.

¹¹ Included by way of an amending Order made on 3 January 2008.

¹² Included by way of an amending Order made on 24 January 2008

¹³ Included by way of an amending Order made on 24 January 2008

¹⁴ Included by way of an amending Order made on 2 April 2008.

H3G

External counsel

Dinah Rose QC

Brian Kennelly, (both of Blackstone Chambers)

External solicitors

Keith Jones

Tom Cassels

Edyth Cormack

Richard Pike

Timothy Evans

Rosamund Browne¹⁵,

Ben Smith¹⁶,

Francesca Richmond¹⁷, (all of Baker & McKenzie LLP)

External economists

Fod Barnes

Sam Blackie

Neil Marshall

Helen Ralston

Jordi Casanova Tormo

Paul Oxley

Diego Villalobos Alberú

Hrushikesh Ramachandrappa

Amanda Rowlatt, and

Tuomas Haanpera (all of OXERA¹⁸)

Dr Stephen Littlechild

David Harbord (Market Analysis)

Adam Mantzos (Brockley Consulting)

¹⁵ Included by way of an amending Order made on 30 January 2008

¹⁶ Included by way of an amending Order made on 2 April 2008.

¹⁷ Included by way of an amending Order made on 2 April 2008.

¹⁸ The first seven individuals from OXERA listed above included by way of an amending Order made on 5 March 2008. Hrushikesh Ramachandrappa, Amanda Rowlatt, and Tuomas Haanpera added by way of an amending Order made on 8 May 2008.

PART B

In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser mentioned in Part A of this Order undertakes that they will comply with the following requirements in the following terms:

I, [name], of [firm or company] being [legal or other 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 the Confidential Information (as defined in the Tribunal's order of 21 December 2007) to any person outside those listed in Part A 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. The documents containing the Confidential Information will remain in my custody or the custody of the other Relevant Advisers 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 the use of the Relevant Advisers for the purposes of these proceedings.
5. Any such copies and the documents in paper form containing the Confidential Information will be returned 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 Advisers from disclosing to the party advised by them information which such party has already seen.