



[2005] CAT 17

**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Victoria House,  
Bloomsbury Place,  
London WC1A 2EB

Case Nos 1024/2/3/04

5<sup>th</sup> May 2005

Before:  
MARION SIMMONS QC  
(Chairman)  
MICHAEL DAVEY  
SHEILA HEWITT

Sitting as a Tribunal in England and Wales

**BETWEEN:**

**FLOE TELECOM LIMITED**  
(in administration)

Appellant

and

**OFFICE OF COMMUNICATIONS**  
supported by

Respondent

**VODAFONE LIMITED**  
**T-MOBILE (UK) LIMITED**

Interveners

And

**VIP COMMUNICATIONS LIMITED**

Appellant

and

**OFFICE OF COMMUNICATIONS**

Respondent

Supported by

**T-MOBILE (UK) LIMITED**

Intervener

Transcribed from the Shorthand notes of  
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Mr. Edward Mercer of Taylor Wessing appeared for the Appellants.

Miss Anneli Howard (instructed by the Director of Telecommunications and Competition Law, Office of Communications) appeared for the Respondent

Mr. Stephen Wisking of Herbert Smith appeared for the First Intervener, Vodafone Limited.

Miss Robyn Durie, Regulatory Counsel, T-Mobile appeared on behalf of the Second Intervener, T-Mobile (UK) Limited

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**RULING RE: EXTENSION OF TIME**

THE CHAIRMAN:

- 1 There is before us an application for an extension of time to the time period in our order dated 1 December 2004 for issuing a non-infringement decision or a statement of objections. The application is to extend the period for eight weeks.
- 2 In our view, it is unfortunate that this re-investigation is taking this length of time. This is particularly so in this case because Floe is in administration. As the Tribunal has previously noted, it is self-evident that the public interest requires matters remitted to a competition authority to be disposed of quickly and efficiently from the point of view of the complainant as well as the undertakings complained against. There is also the consideration of the wider public interest in the existence of a fair, competitive market for the benefit of consumers and users, which is of paramount importance.
- 3 We have heard the submissions today of OFCOM as to the reasons for seeking an extension of eight weeks, and take into account their assurance that they are prioritising this re-investigation. Having regard to what we have been told today we are prepared to grant an eight week extension.
- 4 The question of further extensions has been canvassed before us. However, we have also been told today that the eight weeks includes some slippage time. Although we cannot pre-empt our consideration of any application for further time, on the basis of what we have heard today we are not persuaded that further time should be required. We are concerned about OFCOM's indication that if they decide to issue a statement of objections that this document might require additional time to

draft. On what we have heard today we do not understand why eight weeks is not a sufficient period to draft such a document.

- 5 Floe has submitted that the Tribunal should make an Unless Order. On the basis of the powers of this Tribunal referred to in the Judgment handed down today we do not think it appropriate to consider these powers in the present circumstances where OFCOM are conducting and prioritising the re-investigation. In previous cases OFCOM have provided an undertaking in relation to time periods. We would be content to receive an undertaking in this case. The order would then provide for permission to apply so that OFCOM could apply if, through unforeseen circumstances, the period of eight weeks became unachievable.