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IN THE COMPETITION

Case Nos 1085/3/3/07

APPEAL TRIBUNAL

Victoria House
Bloomsbury Place
London WC1A.2EB

22nd January 2009

Before:
MISS VIVIEN ROSE
(Chairman)

Sitting as a Tribunal in England and Wales

BETWEEN:

BRITISH TELECOMMUNICATIONS PLC

Appellant

and

OFFICE OF COMMUNICATIONS

Respondent

with Interventions by:

HUTCHISON 3G LIMITED
ORANGE PERSONAL COMMUNICATIONS SERVICES LIMITED
TELEFÓNICA O2 UK LIMITED
T-MOBILE(UK) LIMITED
VODAFONE LIMITED

Interveners

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HANDING DOWN OF JUDGMENT

THE CHAIRMAN:

1. For the reasons given in the judgment I am handing down today, the Tribunal unanimously concludes, first, that BT's Notice of Appeal puts in issue the TACs for all the years covered by the price control not just the fourth year; and secondly, that the Tribunal would have power on disposing of this appeal to direct OFCOM to reset the price control for the whole of the period 2007 – 2011. By a majority the Tribunal further concludes that the Tribunal will not, when it comes to dispose of this appeal, direct OFCOM to make an adjustment to the future years of a new price control to reflect the fact that the MCT prices charged so far in accordance with the 2007 statement were too high. There is therefore no purpose to be served by the Competition Commission investigating whether or not to make such an adjustment.
2. A copy of this judgment will be published on the Tribunal's website shortly, together with a non-confidential copy of the Competition Commission's determination of the specified price control matters which were referred to it on 8th March 2008.
3. A further case management conference has been fixed for Monday, 2nd February 2009 to determine a timetable for the disposal of these appeals.
4. The date for filing any requests for permission to appeal against the judgment that I have just handed down is extended until further order, the intention being that the time for requesting such permission will not expire before the time expires for requesting permission to appeal against the final disposal of these appeals.
