

This Transcript has not been proof read or corrected. It is a working tool for the Tribunal for use in preparing its judgment. It will be placed on the Tribunal Website for readers to see how matters were conducted at the public hearing of these proceedings and is not to be relied on or cited in the context of any other proceedings. The Tribunal's judgment in this matter will be the final and definitive record.

IN THE COMPETITION
APPEAL TRIBUNAL

Case No. 1152/8/3/10 (IR)

Victoria House,
Bloomsbury Place,
London WC1A 2EB

28th April 2010

Before:
THE HON. MR JUSTICE GERALD BARLING
(President)

Sitting as a Tribunal in England and Wales

BETWEEN:

BRITISH SKY BROADCASTING LIMITED

Proposed Appellant

- v -

OFFICE OF COMMUNICATIONS

Proposed Respondent

- supported by

BRITISH TELECOMMUNICATIONS PLC
TOP UP TV EUROPE LIMITED
VIRGIN MEDIA, INC

Proposed Interveners

—————
Transcribed from tape by Beverley F. Nunnery & Co.
Official Shorthand Writers and Tape Transcribers
Quality House, Quality Court, Chancery Lane, London WC2A 1HP
Tel: 020 7831 5627 Fax: 020 7831 7737
info@beverleynunnery.com

—————
HEARING

APPLICATION FOR INTERIM RELIEF

APPEARANCES

Mr. James Flynn QC and Mr. Meredith Pickford (instructed by Herbert Smith LLP) appeared for the Proposed Appellant.

Miss Dinah Rose QC and Mr. Josh Holmes and Mr. Ben Lask (instructed by the Office of Communications) appeared for the Proposed Respondent.

Mr. Mark Hoskins QC and Mr. Gerard Rothschild (instructed by Ashurst LLP) appeared for the Proposed Interveners Virgin Media.

Mr. David Anderson QC and Miss Sarah Ford and Miss Sarah Love (instructed by BT Legal) appeared for the Proposed Interveners British Telecommunications PLC.

Mr. Daniel Beard (instructed by Milbank, Tweed, Hadley & McCloy LLP) appeared for the Proposed Intervener Top Up TV.

Mr. Keith Jones (of Baker McKenzie) appeared for the Proposed Intervener Orange Personal Communications Services Limited.

Ms Maya Lester (instructed by DLA Piper UK LLP) appeared for the Proposed Intervener Football Association Premier League.

1 THE PRESIDENT: Good afternoon again, people have been very busy by the look of it. I have
2 glanced at the various drafts. I cannot pretend that I have homed in on exactly where the
3 tissue paper needs to be inserted.

4 MR. FLYNN: Sir, perhaps I could just say, first of all, that the court is in open session, and it has
5 been suggested that we should actually go into, as it were, commercial in Camera, not
6 confidentiality ring, but business people. That has been suggested to me. There are
7 journalists in the room, and that is the position that has just been suggested to me by my
8 learned friends.

9 THE PRESIDENT: So everyone says it should be in Camera. By “business people”, you mean
10 clients?

11 MR. FLYNN: Yes.

12 THE PRESIDENT: Very well, I think so in these circumstances, as the matters being discussed
13 are somewhat delicate inevitably at this stage. Clients should remain but everyone else
14 should leave. Thank you very much. We will tell you as soon as possible when it is
15 appropriate to go back into open court.

16 (For proceedings in Private, see separate transcript)

17