



**IN THE COMPETITION APPEAL  
TRIBUNAL**

Case No: 1381/7/7/21

BETWEEN:

**JUSTIN LE PATOUREL**

Class Representative

- v -

**(1) BT GROUP PLC  
(2) BRITISH TELECOMMUNICATIONS PLC**

Defendants

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**ORDER (CONFIDENTIALITY REVIEW)**

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**UPON** the Amended Confidentiality Ring Order dated 13 February 2023 (the “Amended Confidentiality Ring Order”)

**AND UPON** the order of the Tribunal dated 9 October 2023 (the “First Confidentiality Review Order”)

**IT IS ORDERED BY CONSENT THAT:**

1. Paragraph 10 of the First Confidentiality Order is varied to read:

“10. BT shall:

- a. by **4pm on 24 November 2023**, provide the CR with marked up versions of any documents referred to in BT’s Reply Expert Reports over which BT seeks to

maintain confidentiality, clearly identifying the specific material over which confidentiality is asserted and an explanation of the reasons for the maintenance of confidentiality.

- b. by **4pm on 1 December 2023**, provide the CR with marked up versions of any documents referred to in the CR's Reply Expert Reports over which BT seeks to maintain confidentiality, clearly identifying the specific material over which confidentiality is asserted" and an explanation of the reasons for the maintenance of confidentiality.

2. By **4pm on 28 November 2023**, BT shall:

- a. undertake a review of the confidentiality highlighting in BT's Reply Expert Reports to reflect the output of the confidentiality review undertaken pursuant to paragraph 8 of the First Confidentiality Order; and
- b. provide the CR an updated version of BT's Reply Expert Reports with updated confidentiality highlighting (to the extent applicable).

3. By 4pm on **5 December 2023**, BT shall:

- a. undertake a review of the confidentiality highlighting in the CR's Reply Expert Reports to reflect the output of the confidentiality review undertaken pursuant to paragraph 9 of the First Confidentiality Order; and
- b. notify the CR which highlighting in the CR's Reply Expert Reports can be removed (to the extent applicable).

4. The Amended Confidentiality Ring Order is varied to include the following additional provision:

"22. A Party receiving disclosure of documents or information may request that the disclosing Party or disclosing non-party (and, where Ofcom is the disclosing non-party and contact details are known, the person(s) or undertaking(s) to which the document / information relates) amend the confidentiality designation of a document or

information to which the requesting Party proposes to refer to at trial or proposes to include in the trial bundle. The following procedures shall apply:

22.1. the requesting Party must provide a written request to the disclosing Party or disclosing non-party (and, where Ofcom is the disclosing non-party and contact details are known, the person(s) or undertaking(s) to which the information relates), specifying the relevant Confidential Information (by reference to the relevant documents).

22.2 The Parties will make reasonable endeavours to ensure that any such requests pursuant to 22.1 above are brought, as far as possible, in manageable batches;

22.3. following receipt of a request pursuant to 22.1 above, a recipient of any such request shall not unreasonably withhold or delay their consent, and if any such recipient objects to Confidential Information being de-designated as non-confidential or Outer Ring Confidential (as applicable), they shall notify the requesting Party in writing and provide specific reasons why the document / information should remain as Inner Confidential or Outer Confidential (as applicable);

22.4. A response pursuant to 22.3 above should be provided by the disclosing Party or disclosing non-party within 7 days of the written request by the requesting Party above being received, save that requesting Party shall not unreasonably withhold consent to an extension of time for this purpose, where it is reasonably required in view of the nature and/or number of documents which are the subject of the request;

22.5. If no response pursuant to 22.3 above is provided within 7 days, or the extended time period that the Parties and/or non-parties have agreed pursuant to 22.4 above, consent shall be deemed to have been given;

22.6. should an objection be received in accordance with 22.3, the requesting Party may apply to the Tribunal, on notice, for an order that the Confidential Information may be de-designated as non-confidential or Outer Ring Confidential (as applicable); and

22.7 should consent be provided by the disclosing Party or disclosing non-party pursuant to paragraph 22.4 above, the disclosing Party or disclosing non-party shall

provide an updated version of the relevant document with updated confidentiality markings and highlighting within 7 days of the consent being provided.”

5. Costs in the case.

**Mr Justice Waksman**  
Chair of the Competition Appeal Tribunal

Made: 8 November 2023  
Drawn: 8 November 2023