Amended pursuant to Rule 114(3) of the Competition Appeal Tribunal Rules 2015

Neutral citation [2026] CAT 44

Case Nos: 1624/7/7/23
1625/7/7/23
1626/7/7/23
1627/7/7/23

IN THE COMPETITION APPEAL TRIBUNAL

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

11 May 2026

Before:

THE HONOURABLE LORD RICHARDSON
(Chair)
JOHN ALTY
WILLIAM BISHOP

Sitting as a Tribunal in England and Wales

BETWEEN:

JUSTIN GUTMANN

Class Representative

- v -

(1) VODAFONE LIMITED
(2) VODAFONE GROUP PLC

Defendants

(the "Vodafone Proceedings")

AND BETWEEN:

JUSTIN GUTMANN

Class Representative

- v -

(1) EE LIMITED
(2) BT GROUP PLC

Defendants

(the "EE Proceedings")

AND BETWEEN:

JUSTIN GUTMANN

Class Representative

- v -

HUTCHISON 3G UK LIMITED

Defendant

(the "Three Proceedings")

AND BETWEEN:

JUSTIN GUTMANN

Class Representative

- v -

TELEFONICA UK LIMITED

Defendant

(the "O2 Proceedings")

RULING (COSTS)

A. INTRODUCTION

1. On 14 November 2025, the Tribunal issued its judgment ([2025] CAT 77) in the four proceedings (the **Judgment**) granting the Class Representative's (**CR**) four applications for collective proceedings orders (**CPOs**) in the Vodafone, EE, Three and O2 Proceedings. In addition, the Tribunal (i) granted the application by all four Defendant groups for strike out and/or reverse summary judgment of all claims for losses that arose before 1 October 2015 (the **First Period Application** or **FPA**); and (ii) refused the application by Vodafone, BT/EE and Three for strike out/reverse summary judgment of all claims for losses that arose between 1 October 2015 and 8 March 2017 (the **Second Period Application** or **SPA**).

2. This Ruling deals with the parties' consequential applications in relation to costs further to the Judgment. This Ruling uses the same abbreviations as the Judgment.

3. The parties filed their respective applications for costs further to the Judgment on 19 December 2025. Responsive submissions were filed on 9 January 2026. On 19 January 2026, the Tribunal directed the parties to file revised costs schedules which reflected the Solicitors' Guideline Hourly Rates, using the applicable guideline rate for the year in which the expense was incurred. The Tribunal also invited the parties to make submissions in support of any application for an uplift to the guideline rates. On 26 January 2026, the parties filed their revised costs schedules which were calculated on the London Band 1 Guideline Hourly Rates (the **Guideline Rates**). The parties also provided submissions in which they sought to justify a 30% uplift on the Guideline Rates.

4. The amounts referred to in Section B reflect the figures specified in the revised costs schedules (i.e. those reflective of the applicable guideline rates) and not those contained in the original costs schedules.

B. THE POSITIONS OF THE PARTIES

(1) The Class Representative

5. The Class Representative sought the following orders in relation to costs further to the Judgment:

   (1) The Defendants in all of the proceedings to pay:

      (i) The CR's reasonable and proportionate costs of and occasioned by his successful applications for CPOs, summarily assessed in the sum of £1,032,928.56 (the CR's **CPO Costs**); and

      (ii) The CR's reasonable and proportionate costs of and occasioned by successfully resisting, at the case management conference held on 23 May 2024 (the **May 2024 CMC**), the Defendants' applications for disclosure of additional information related to the CR's ATE arrangements (the **Disclosure Application**), summarily assessed in the sum of £60,675.60 (the CR's **Disclosure Costs**).

   (2) Vodafone, Three and BT/EE (as the Defendants who brought the Second Period Application (the **SPA Defendants**)) to pay the CR's reasonable and proportionate costs of and occasioned by successfully opposing the SPA, summarily assessed in the sum of £259,315.35 (the CR's **SPA Costs**).

   (3) All Defendants to pay the CR's reasonable and proportionate costs of dealing with costs-related matters consequential to the Judgment, including preparing these costs submissions and the CR's costs of seeking to reach agreement with the Defendants on such matters, summarily assessed at £81,564.97 (the CR's **Costs on Costs**).

6. To the extent the Tribunal was not minded to order a summary assessment of costs and instead orders costs to be subject to detailed assessment, the CR sought

a payment on account of his costs in a sum representing 65% of the costs claimed.

(2) The Defendants

7. The Defendants applied for the following orders further to the Judgment:

(1) The CR to pay the Defendants' costs of and occasioned by the First Period Application, to be summarily assessed at £499,260.82 (O2), £86,580.78 (BT/EE), £153,182.70 (Three) and £143,936.06 (Vodafone), as set out in the Defendants' respective statements of costs (the **FPA Costs**).

(2) In the alternative, should the Tribunal not be minded to assess the Defendants' costs summarily, an interim payment on account of costs at 65% of the amounts set out in the Defendants' respective statements of costs, pending detailed assessment.

(3) Separately, O2 also made a further application in respect of the costs of and occasioned by the claims brought by the CR which arose before 1 October 2015. This part of O2's claim for costs concerned the costs incurred by it in preserving documentation which related to the pre-October 2015 claims (the **O2 Document Preservation Costs Application**).

C. LEGAL FRAMEWORK

8. Rule 104(2) of the Competition Appeal Tribunal Rules 2015 (the **Rules**) provides that "[t]he Tribunal may at its discretion, ... at any stage of the proceedings make any order it thinks fit in relation to the payment of costs in respect of the whole or part of the proceedings."

9. Rule 104(4) sets out a number of factors which may be taken into account when making an order under r. 104(2), including:

> "(a) the conduct of the parties in relation to the proceedings;

(b) any schedule on incurred or estimated costs filed by the parties;

(c) whether a party has succeeded on part of its case, even if that party has not been wholly successful;

…

(e) whether costs were proportionately and reasonably incurred; and

(f) whether costs are proportionate and reasonable in amount."

10. Pursuant to r. 104(5), in relation to English cases, the Tribunal may make a summary assessment of costs or direct that costs be dealt with by way of detailed assessment by a costs officer of the Senior Courts of England and Wales.

11. In *Riefa v Apple* [2025] CAT 34, the Tribunal recently summarised the relevant principles in relation to costs at §13:

"(a) The Tribunal has a broad discretion as regards to costs, but in exercising that discretion it should make an order that reflects the overall justice of the case: *Royal Mail v DAF Trucks* [2023] CAT 31, [36].

(b) Although there is no prescribed "general rule" in the Tribunal Rules corresponding to CPR 44.2(2)(a) that the unsuccessful party should pay the costs of the successful party, the Tribunal generally follows the practice of the High Court. Accordingly, where a party has been wholly successful it should generally be awarded its costs. The question of who succeeded should be approached as a matter of common sense, in a practical and commercially realistic way: *Merricks v Mastercard* [2024] CAT 57 (*Merricks*), [18].

(c) Where there has been a trial of a preliminary issue or a split trial, a party that has been successful on that issue or that stage of the trial should generally be awarded the costs of that issue or that stage: *Merricks*, [19].

(d) An issue-based order may be appropriate where the overall successful party has lost on a discrete issue which caused additional costs to be incurred. In such a case, if the issue was raised unreasonably that will usually justify an adverse costs order. If the issue was raised reasonably, the mere fact that the successful party lost on that issue does not by itself normally make it appropriate to deprive it of its costs; rather, the question is what order in respect of that issue is just and appropriate in all the circumstances of the case: *Merricks*, [20]–[21]. The Tribunal

should not adopt an overly-granular approach to the identification of discrete issues: *Merricks*, [22].

(e) In evaluating recoverable costs, only reasonable and proportionate costs are recoverable, and the assessment of costs should pay close regard to the Guideline Rates: *Merricks*, [40]–[41]. As the Court of Appeal observed in *Samsung Electronics v LG Display* [2022] EWCA Civ 466, [6]:

> "If a rate in excess of the guideline rate is to be charged to the paying party, a clear and compelling justification must be provided. It is not enough to say that the case is a commercial case, or a competition case, or that it has an international element, unless there is something about these factors in the case in question which justifies exceeding the guideline rate."

(f) When assessing the amount of an interim payment on account of costs, the Tribunal should take a cautious approach and should seek to make a broad estimate of the reasonable and proportionate costs likely to be determined on detailed assessment, with an appropriate margin to allow for an overestimate: *Merricks*, [40] and [42].

(g) The same principles apply to costs in collective proceedings as in any other competition law claim: *Merricks*, [43]."

12. In *Neill v Sony* [2024] CAT 13, the Tribunal summarised the general approach in relation to costs following a successful CPO application:

> "13. There are now a number of decisions about costs following successful CPO applications, which establish a general approach in which:
>
> (1) The applicant's costs relating to the CPO application which would be incurred in any event (that is, in the absence of opposition to the CPO) should be costs in the case.
>
> (2) The applicant should be awarded its costs incurred by reason of meeting the opposition to the CPO, discounted to reflect significant or material issues on which the respondent has succeeded.
>
> 14. As a working proposition, costs prior to the date of filing of a response objecting to the CPO application will be treated as being costs in the case, although the Tribunal may order an earlier date where it is shown that material costs were incurred in dealing with objections prior to the response being filed. We will refer to this date as the "Start Date"."
>
> (Footnotes omitted).

13. In relation to summary assessments of costs, in *Ryder Limited v MAN* [2020] CAT 21, the Tribunal stated the following:

> "26. Finally, a summary assessment of costs is not a short-hand detailed assessment, where the Court or Tribunal goes through the schedule of costs on an item-by-item basis, assessing in each case whether the figure claimed is reasonable and proportionate. It inevitably involves a broad brush assessment by the judge who heard the case or application, drawing to some extent on his or her judicial experience.
>
> [...]
>
> 53. Summary assessment has become a feature of English litigation where a hearing lasts no more than about a day but even then it is by no means mandatory. However, it has the benefit that the costs will be assessed by the judge who heard the case and is therefore familiar with what the issues and evidence involved and what was reasonable and proportionate for the receiving party to do, as opposed to a costs judge coming to the matter 'cold', potentially many years later. For a shorter hearing, where assessment is not too complicated, it is therefore encouraged. It may also have the effect that the costs are payable much earlier than would otherwise be the case, but that is not inevitable since this depends on the terms of the court's order."

14. Finally, in relation to the use of Guideline Rates, in *Spottiswoode v Motorola* [2025] CAT 76, at §17, the President of the Tribunal noted:

> "17. First, in relation to the solicitors' costs, the starting point for summary assessment should be the Guideline Rates. The Tribunal is bound by the Court of Appeal's guidance in *Samsung Electronics v LG Display* [2022] EWCA Civ 466, §6, which requires a "clear and compelling" justification for the application of a rate in excess of the Guideline Rates. As the Court of Appeal explicitly noted, it is not enough to say that the case is a competition case. The London band 1 rate is already calibrated to reflect "heavy commercial and corporate work centrally based in London firms".
>
> 18. The issues raised in this case are not, in our judgment, so complex as to justify an uplift above that benchmark. The fact that some of the specific issues addressed at the hearing have not been considered in other cases does not render the case an unusually complex one: that is routinely the case for commercial litigation, including competition proceedings. The large sum claimed by the CR is also not in itself a reason to uplift the Guideline Rates, where that does not translate into a particularly complex hearing. Nor does the fact that a significant amount of

work had to be done to prepare for the hearing justify an uplift: that is already taken into account by consideration of the time spent by the solicitor team (although that was also excessive, as we consider below).

19. While the Tribunal has, in certain other cases, based its assessment on an uplift to the Guideline Rates, that should not be seen as creating any sort of expectation that in every case before the Tribunal the assessment of costs will take an uplift to the Guideline Rates as the starting point. Rather, it will be a matter for the Tribunal in each case, considering the particular facts and circumstances of that case."

D. ANALYSIS

15. With one exception, the parties' various applications for costs arise directly out of the three-day hearing at which the Tribunal heard oral submissions both in respect of the CR's four applications for CPOs and the Defendants' two applications for strike out/reverse summary judgment based on limitation. Broadly speaking, the submissions in respect of each application with which we dealt – the CPO Applications and the First and Second Period Applications – lasted for a day.

16. The exception is the CR's application for the costs associated with resisting the Disclosure Application. This application was dealt with at the May 2024 CMC which, in its entirety, lasted only half a day.

17. Given the discrete nature of these applications, we agree with the parties that it is appropriate for us to deal with each of them by way of summary assessment. We do not consider that the applications were unduly factually or legally complex. This approach is consistent with that taken by the Tribunal in *Ryder* (above at §13) and *Rowntree v PRS* [2026] CAT 25.

18. The parties were also agreed that the starting point for consideration of their applications should be that well recognised principle that costs follow success: "where a party has been wholly successful it should generally be awarded its costs": *Riefa* at §13(b). On this basis, there is no dispute between the parties that the CR should recover both a proportion of his costs in respect of the CPO Applications and his reasonable costs arising from the Second Period

Application and the Disclosure Application. Equally, there was no dispute that the Defendants were entitled to recover their reasonable costs relating to the First Period Application.

19. Therefore, the disputes between the parties related to the amounts to be awarded in respect of the various costs applications. We address them in turn.

(1) The CPO Costs

20. The parties are agreed that the CR is entitled to his costs from the date of service by the Defendants of the Joint CPO Response on 21 October 2024 until the end of the CPO Hearing, discounted to take account of the fact that a proportion of those costs would have been incurred in any event in satisfying the Tribunal that the grant of a CPO was justified in terms of the statutory criteria.

21. However, there are three points of dispute between the parties in respect of the CPO Costs as follows.

22. First, the parties are not agreed as to the level of discount that should be applied to the CR's costs associated with the CPO to take account of those elements of work which would have been required even in the absence of opposition (see *Neill* at §12). The CR claims that the level of discount ought to be 10% whereas the Defendants maintain that a discount of 25% would be appropriate.

23. Second, the parties are also not agreed as to the CR's entitlement to costs arising in the period from the conclusion of the CPO Hearing until the handing down of the Judgment. The CR claims his costs associated with the CPO during this period, in particular, because of the work carried out in October 2025 in response to issues raised by the Defendants in respect of the CR's funding arrangements (see Section E of the Judgment). The Defendants, on the other hand, submit that they were entitled to raise these issues and, as a result, the CR's entitlement should end at the conclusion of the CPO Hearing.

24. Third, the Defendants challenge the amounts sought by the CR as being manifestly excessive. In particular, the Defendants highlight the amount of time

expended by the CR's solicitors and the costs incurred in instructing the CR's expert, Dr Davis.

25. In respect of the first point, we consider that the CR is entitled to 80% of the costs claimed in respect of the CPO with the remainder being costs in the case. In our view, this level of discount appropriately reflects the level of costs which would have been incurred in any event. In this regard, we note that, beyond seeking, broadly, to remove common costs related to the other applications, the CR, in arguing for the lower level of discount, has not sought to differentiate between costs associated with dealing with issues raised by the Defendants' opposition and otherwise. Equally, we are not persuaded by the Defendants' suggestion that a higher percentage should be deducted. While recognising that each case turns on its own facts, we note that this level of discount was used in *Le Patourel v BT Group plc* [2021] CAT 32, at §8 which case was cited by the Defendants in support of their submissions.

26. In respect of the second point, we are persuaded that the CR is entitled to his costs in respect of the CPO Application up to the date of the Judgment. In essence, the question here is whether or not the issues raised by the Defendants in October 2025 fall to be treated as part of their opposition to the grant of the CPO. We are satisfied that they do. As is recorded in the Judgment, it is correct that the Defendants initially raised concerns arising from the content of the annual statement of the ultimate parent company of the CR's Funder (at §252). However, following the receipt of submissions by the CR, the Defendants then elected formally to oppose certification on this basis. As is recorded in the Judgment, we rejected the Defendants' argument for the reasons we have given there. Accordingly, as the CR has been successful on this point, we see no basis upon which the costs incurred by it in resisting the Defendants should be excluded.

27. Finally, we do not consider that the Defendants' description of the CPO Costs as being "manifestly excessive" is accurate once they have been calculated on the basis of the Guideline Rates (*cf Spottiswoode* at §§15–16). However, given the relatively straightforward nature of the issues raised in the context of certification we do consider that the costs claimed are on the higher side. There

is some force in the Defendants' points regarding both the overall number of hours spent by fee-earners (1,098.4) and, in particular, solicitors at the "Partner/Of Counsel" level (161.3 hours) in relation to "documents". In relation to the latter point, it has to be borne in mind both that this principally relates only to the preparation of a 61-page Reply and a Skeleton argument and that this is on top of significant counsel's fees. In all the circumstances, we consider that a reduction of 10% to the solicitor's fees is appropriate.

28. In relation to the costs incurred in instructing Dr Davis, essentially for preparing his second expert report, we do not consider either that it was unreasonable for the CR to instruct the report or that the overall cost itself can fairly be described as "remarkably high". The instruction of the report was clearly prompted by the arguments advanced by the Defendants relating to rr. 79(1)(a) and 79(2)(e).

29. For the reasons set out above, the Defendants shall pay the CR's CPO Costs summarily assessed as £793,885.92.

(2) The SPA Costs

30. In respect of the SPA Costs, the Defendants who made the SPA, BT/EE, Vodafone and Three, submit that the claimed SPA Costs are both unreasonable and disproportionate. These Defendants suggest, in particular, both that time expended by senior fee-earners and time spent preparing for and attending hearings is not proportionate. Having considered the SPA Costs as re-calculated on Guideline Rates, we are unpersuaded by the Defendants' arguments and summarily assess the CR's SPA Costs as £259,315.35.

(3) The CR's Disclosure Costs

31. The Defendants accept that the CR is entitled to the costs incurred in resisting the Disclosure Application made at the May 2024 CMC. However, the Defendants object to the fact that the CR appears to have claimed the entire brief fee charged by counsel for the attendance at the May 2024 CMC. We consider that this point is well made and will reduce the brief fees claimed by 40%. On

this basis, the CR's entitlement in respect of the Disclosure Costs, based on Guideline Rates, is £41,745.60.

(4) Costs on Costs

32. The Defendants do not dispute the CR's entitlement to recover the costs of dealing with costs related matters consequential on the Judgment insofar as they relate to matters in respect of which the CR succeeded. However, the Defendants do dispute the sum sought – £81,564.97– as being excessive.

33. We consider that there is force in the Defendants' submissions on this point. For example, it is not clear to us that the CR has reduced the costs claimed in respect of costs related matters to take account of dealing with the issues arising from the FPA. In any event, we consider the costs, in respect of which no breakdown was provided, are excessive. Accordingly, we will reduce the costs claimed by one third to £54,376.65.

(5) The FPA Costs

34. In its response to the Defendants' applications for costs, the CR differentiated between the costs claimed by O2 and the other Defendants. The basis for this approach was that, both in writing and in oral submissions, the argument in respect of the First Period was led by O2's legal team.

O2's FPA Costs

35. In summary, the CR accepts that, in principle, O2's reasonable and proportionate costs in preparing the FPA, considering the FPA Reply, and attending the hearing of the FPA, are recoverable. In addition, the CR accepts that O2 has a modest additional entitlement arising from consideration of the CPO Response and the Judgment insofar as they each dealt with the FPA.

36. However, the CR submits: that the costs claimed by O2 in respect of preparing the FPA are excessive; that O2 ought to be awarded no costs in respect of preparation for and attendance at the May 2024 CMC; and, that in a number of

particular respects, the FPA costs claimed by O2 were manifestly disproportionate.

37. We consider that there is considerable force in the CR's submissions. On any view, O2's claim for half a million pounds for preparing and arguing a discrete point of statutory construction over the course of less than a single day seems to us to be excessive. We accept that the point was a novel one but do not consider that this either justifies or explains the costs that have been claimed.

38. Approaching the matter broadly, in our view, the costs of preparing the FPA – 134 hours of solicitor time and £61,237.57 in counsel's fees – can reasonably be described as disproportionate when one bears in mind that the FPA consisted of just 8 pages. In the circumstances, we will reduce these costs by 50%. Again, approaching the matter broadly, we do not consider that O2 should properly recover anything in respect of the FPA in relation to the May 2024 CMC or the preparation of the CPO Response. In our view, the costs incurred in respect of both of these activities are properly to be regarded as forming part of the costs of the CPO which were awarded in favour of the CR. Finally, the costs claimed in respect of consideration of the Judgment and preparation of costs submissions are also excessive. Again, it is impossible to reconcile the number of solicitor hours claimed (more than 100) with the work related to the FPA. Accordingly, we will reduce this element of the costs by 50%.

39. Therefore, in total, leaving for the moment the claimed uplift in the Guideline Rates, we assess O2's recoverable FPA Costs as being £306,546.05.

The FPA Costs of the remaining Defendants

40. The CR objects, in principle, to any recovery of cost in respect of the FPA by the remaining three Defendants, Vodafone, BT/EE and Three. The CR contends that, as O2's legal team was leading in respect of the FPA, the costs incurred by the other Defendants were essentially duplicative and it would be disproportionate for the CR to bear the costs of all of the Defendants. Separately, the CR challenges the sums claimed by each of the remaining three Defendants raising similar points to those made in respect of O2's claimed FPA Costs.

41. We have no hesitation in rejecting the CR's objection in principle for two related reasons. First, the CR's submission overlooks the fact that the Tribunal is seized with four separate sets of proceedings albeit that, for obvious reasons of efficiency, those four sets of proceedings are being dealt with together. We consider it entirely reasonable that each Defendant, when confronted with a very significant claim, should retain its own legal team of solicitors and counsel to advise and represent it. Second, the CR has been unsuccessful in resisting the FPA as against each Defendant in each set of proceedings. We do not consider that the fact that the proceedings are being dealt with together provides a principled reason for not applying the general rule that costs follow success. That would seem particularly so when it is clear that the Defendants have, acting reasonably, divided the necessary work among them.

42. Turning to the FPA Costs claimed by the three remaining defendants:

(1) In respect of Three, we consider that the same points which we have made above in respect of O2's claim for FPA Costs (at §§37–38) apply with equal force when one bears in mind that O2 were leading on the FPA. Accordingly, we will reduce the costs (both solicitors and counsel) involved in preparation of the FPA by 50%; and we will not allow any recovery in respect of preparation for or attendance at the May 2024 CMC or preparing the CPO Response. In relation to the final workstream, Three has separated the costs of reviewing the Judgment and preparing costs submissions. We will not allow any costs in respect of the first and reduce the second by one third in light of our other adjustments to Three's FPA Costs claim. On this basis, in total, leaving for the moment the claimed uplift in the Guideline Rates, we assess Three's recoverable FPA Costs as being £91,194.55.

(2) In respect of Vodafone, we consider that the approach we have adopted in respect of Three's FPA Costs applies, *mutatis mutandis*, equally well to Vodafone's claimed FPA Costs. On this basis, we assess Vodafone's recoverable FPA Costs as being £91,659.70.

(3) In respect of BT/EE, there are a number of notable differences between BT/EE's FPA Costs and those of the other Defendants. First, it is notable that the FPA Costs claimed by this Defendant are significantly smaller than those of the other three Defendants (see §7(1) above). Second, we note that only relatively small claim has been made in respect of preparing for and attending the May 2024 CMC. However, consistently with the approach above, we will not allow any recovery for this. On this basis, leaving for the moment the claimed uplift in the Guideline Rates, we assess BT/EE's recoverable FPA Costs as being £82,033.12.

O2 Document Preservation Costs Application

43. Separately, O2 also made a further application in respect of the costs of and occasioned by the claims brought by the CR which arose before 1 October 2015. As we understood it, this part of O2's claim for costs concerned the cost of preserving documentation which related to the pre-October 2015 claims.

44. O2 has provided no detail of these costs beyond indicating that they had been incurred in instructing Ashurst LLP and Ashurst Risk Advisory LLP to investigate document repositories and then to identify and preserve relevant documents. O2's position was that, following the Judgment, it had intended to seek summary assessment of these costs. However, on 15 December 2025, the CR had provided O2 with a draft amended Claim Form that indicated that the CR continued to maintain allegations concerning O2's conduct prior to 1 October 2015. In these circumstances, O2 submits that it is not in a position to advance its claim for the O2 Document Preservation Costs at this time and, instead, seeks the reservation of these costs.

45. For his part, the CR contends that it is premature to make any order for O2's Document Preservation Costs at this time.

46. We agree with the CR. In the absence of detail as to what precisely O2 is claiming, we do not consider that it is either possible or appropriate to make any order in respect of O2's Document Preservation Costs. In particular, it is not clear to us whether there are any such costs which are properly attributable to

our disposal of the FPA as opposed to relating to ongoing proceedings. However, for the avoidance of doubt, our decision not to make any order at this time in respect of O2's application for the O2 Document Preservation Costs is without prejudice to O2's ability to renew its application for these costs at some point in future.

(6) Uplift to the Guideline Rates

47. The CR and the Defendants all submit that in the present proceedings it would be appropriate for the Tribunal to award an uplift of 30% to the Guideline Rates.

48. Notwithstanding this rare point of concord between the parties, we are unable to agree. We consider that the correct starting point for this issue is that set out by the President of the Tribunal in *Spottiswoode.* Having carefully considered the submissions of all the parties, we are unpersuaded that there is a clear and compelling justification for any uplift in the Guideline Rates. First, as is made clear in *Spottiswoode,* the mere fact that very significant sums are claimed in these proceedings is not, in itself, a justification for an uplift to rates which are calibrated to reflect "heavy commercial and corporate work centrally based in London firms". Second, although the parties have pointed to supposed complexities in the present proceedings which may yet prove to be of significance in the future, they have, in our view, failed to explain why these complexities affected the relatively straightforward three-day hearing the costs of which are our present concern.

E. CONCLUSION

49. For the reasons set out above, the Defendants are jointly and severally liable to pay the CR's costs, save that only the SPA Defendants are jointly and severally liable for the CR's SPA Costs, to be paid within 21 days of the date of this Ruling, summarily assessed as follows:

(1) £793,885.92 in relation to the CR's CPO Costs;

(2) £259,315.35 in relation to the CR's SPA Costs;

(3) £41,745.60 in relation to the CR's Disclosure Costs; and

(4) £54,376.65 in relation to Costs on Costs.

50. The CR shall pay the Defendants' FPA Costs, to be paid within 21 days of the date of this Ruling, summarily assessed as follows:

(1) £306,546.05 to O2;

(2) £91,194.55 to Three;

(3) £91,659.70 to Vodafone; and

(4) £82,033.12 to BT/EE.

51. The Tribunal makes no order in relation to the O2 Document Preservation Costs.

52. This Ruling is unanimous.

The Honourable Lord Richardson
Chair

John Alty

William Bishop

Charles Dhanowa C.B.E., K.C. (*Hon*)
Registrar

Date: 11 May 2026