



IN THE COMPETITION
APPEAL TRIBUNAL

B E T W E E N :

Case No.: 1207/3/3/13

(1) BRITISH SKY BROADCASTING LIMITED (“Sky”)
(2) TALKTALK TELECOMMUNICATIONS GROUP PLC (“TalkTalk”)

Appellants

- and -

OFFICE OF COMMUNICATIONS (“Ofcom”)

Respondent

- supported by -

BRITISH TELECOMMUNICATIONS PLC (“BT”)

Intervener

ORDER

UPON hearing the appeal in the above proceedings between 29 October 2013 and 22 November 2013

AND UPON handing down its main judgment in these proceedings on 1 August 2014 ([2014] CAT 14) (the “Judgment”)

AND UPON reading the written submissions of the parties as to: (a) the directions to be made to give effect to the Judgment; (b) costs; and (c) applications for permission to appeal

AND UPON handing down its supplementary judgment in these proceedings on 4 December 2014 ([2014] CAT 20) (the “Supplementary Judgment”)

IT IS ORDERED THAT:

1. Sky/TalkTalk's appeal be allowed as regards the payment of interest ("Ground 4").
2. Save as set out in paragraph 1, Sky/TalkTalk's appeal be dismissed.
3. The following matters be remitted to Ofcom pursuant to section 195(4) of the Communications Act 2003 for it to determine, as soon as reasonably practicable, in accordance with the Judgment and the Supplementary Judgment:
 - (a) the rate of interest payable in respect of BT's overcharge for Ethernet services; and
 - (b) the total amount payable as between BT and Sky and TalkTalk.
4. Sky/TalkTalk pay:
 - (a) the costs incurred by Ofcom in relation to Grounds 1 – 2 of their appeal; and
 - (b) 50% of the costs incurred by Ofcom in relation to Ground 3 of their appeal.
5. Ofcom pay the costs incurred by Sky/TalkTalk up to 23 May 2013 in relation to Ground 4.
6. BT pay:
 - (a) 75% of the costs incurred by Sky/TalkTalk after 23 May 2013 in relation to Ground 4; and
 - (b) the costs incurred by Ofcom in relation to Ground 4.
7. The costs referred to in paragraphs 4 - 6 above be the subject of detailed assessment on the standard basis by a costs officer of the Senior Court Costs Office, if not agreed.
8. TalkTalk's application for permission to appeal the decision in the Judgment as regards Ground 1 of its appeal be refused.
9. BT's application for permission to appeal the decision in the Judgment as regards Ground 4 of Sky/TalkTalk's appeal be refused.