



IN THE COMPETITION
APPEAL TRIBUNAL

Case No.: 1246/8/3/16

B E T W E E N:

BRITISH TELECOMMUNICATIONS PLC

Appellant

- v -

OFFICE OF COMMUNICATIONS

Respondent

- and -

SKY UK LIMITED

Intervener

ORDER

UPON considering the application by the Appellant (“BT”) dated 4 March 2016 for the disclosure of documents that were before the Respondent (“OFCOM”) in reaching its decision dated 19 November 2015 and entitled “*Review of the pay TV wholesale must-offer obligation*” and the request to OFCOM by BT dated 8 April 2016 for disclosure of specific documents

AND UPON OFCOM and the Intervener (“Sky”) agreeing to the disclosure of those specific documents in order to assist the efficient conduct of this appeal, while making no admissions as to the relevance of the specific documents to BT’s grounds of appeal

AND UPON the Tribunal receiving confirmation that the third party whose information will be disclosed pursuant to this Order does not object to such disclosure

AND UPON the Tribunal indicating to the parties that although BT’s request of 8 April 2016 to Ofcom would have been insufficiently detailed for the Tribunal to determine whether or not to order disclosure, it had concluded in light of the positions taken by Sky, OFCOM and relevant third parties that the efficient and expeditious conduct of the case would be best served by ordering the disclosure of the specific documents

AND UPON a confidentiality ring having been established by order of the Tribunal dated 24 February 2016 ([2016] CAT 1), as amended by the Tribunal's orders of 8 March 2016, 22 March 2016 and 8 April 2016 (the "Confidentiality Order")

AND UPON the Tribunal having given directions for the filing and service of pleadings in an Order dated 25 February 2016 (the "Directions Order")

AND UPON the parties having agreed the terms of this Order in so far as it relates to disclosure

IT IS ORDERED THAT:

1. Subject to paragraph 3 of this Order, by 5pm on 19 April 2016, OFCOM provide to the Relevant External Advisers of the parties un-redacted copies of the materials specified in the Confidential Annex hereto
2. For the purpose of this Order, "Relevant External Advisers" means the persons listed in part A(i) of the Schedule to the Confidentiality Order who have given a signed undertaking to the Tribunal in the terms of Part B(i) to the Confidentiality Order
3. In relation to Sky, OFCOM must not disclose any information which Sky has indicated constitutes Highly Sensitive Material in paragraph 9 of its observations dated 11 March 2016 on BT's application for disclosure ("Sky's observations"); for the avoidance of doubt, the documents referred to in the Annex hereto that constitute Highly Sensitive Material are:
 - a. those documents responsive to rows 30 and 31 of the Confidential Annex, which were identified as Highly Sensitive Material in paragraph 9 of Sky's observations;
 - b. all documents responsive to row 37 of the Confidential Annex
4. The hearing in this matter listed for 18 April 2016 be vacated
5. Paragraph 6 of the Directions Order be varied as follows:
 - a. BT (if so advised) file and serve a draft amended notice of appeal, with amendments agreed with the other parties where possible, by 5pm on 3 May 2016 (instead of 20 April 2016);
 - b. OFCOM file and serve its defence by 5pm on 24 May 2016 (instead of 13 May 2016);
 - c. Sky file and serve its statement of intervention in support of OFCOM by 5pm on 10 June 2016 (instead of 3 June 2016).
6. Costs be reserved
7. There be liberty to apply.