



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1280/3/3/17

BETWEEN

(1) **VIASAT UK LIMITED**  
(2) **VIASAT, INC.**

Appellants

-v-

**OFFICE OF COMMUNICATIONS**

Respondent

-and-

**INMARSAT VENTURES LIMITED**

Intervener

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**ORDER**

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**UPON READING** the documents recorded on the Court file as having been read

**AND UPON HEARING** Leading Counsel for the Appellants and Leading Counsel for the Respondent and the Intervener at a case management conference on 14 February 2018

**AND UPON** the parties having subsequently agreed to the terms of this Order

**IT IS ORDERED THAT:**

1. This Order becomes effective in respect of each of the persons named in Part A of the Schedule to this Order only upon receipt by the Tribunal of a signed undertaking in the terms of Part B of the Schedule to this Order.

2. For the purposes of this Order:
  - a. “**Confidential Information**” means information contained in the Relevant Document(s) (as defined below), where such information (i) has been identified by any party to these proceedings and (ii) is (or is likely to be) accorded confidential treatment pursuant to Rule 99 and/or Rule 101 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648).
  - b. “**Relevant Advisers**” are those persons:
    - i. listed in Part A of the Schedule to this Order who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order; or
    - ii. authorised by the Tribunal upon further application.
  - c. “**Relevant Document(s)**” means the confidential version(s) of pleadings and other documents filed, served and/or disclosed by the Respondent or the Intervener for the purposes of these proceedings.
3. The Respondent (and the Intervener shall hereafter disclose unredacted or partially unredacted (redacted only for irrelevance) version(s) of the Relevant Document(s) containing Confidential Information on the condition that such unredacted (or partially unredacted version(s) shall be disclosed only to the Relevant Advisers). The Relevant Advisers may communicate or refer to the Confidential Information without any further consent in any communication with (i) employees of the Office of Communications or their legal representative, Josh Holmes QC (of Monckton Chambers) and/or (ii) one or more of the following legal representatives of the Intervener: (Jones Day, and Tim Ward QC and Anneli Howard (both of Monckton Chambers).
4. All such unredacted or partially unredacted versions of the Relevant Document(s) must be marked or highlighted so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 7.46 of the Tribunal’s Guide to Proceedings 2015. A system of colour-coding shall be used to indicate to which party the Confidential Information belongs (or such other system as the parties shall agree where colour-coding is considered unworkable).
5. The Relevant Documents are to be used by the Relevant Advisers only for the purpose of these proceedings. The subsequent use of any Relevant Document provided in the course of these proceedings for any purpose is prohibited, even where the document has been read to or by the Tribunal, or referred to, at a hearing which has been held in public subject to an order of this Tribunal to the contrary.
6. If any party wishes to add any additional person as a Relevant Adviser for the purpose of this Order, they shall apply to the Tribunal in writing, copied to the other parties, indicating whether each of the other parties consents or does not consent to the addition of that person.

7. If any party wishes one of its Relevant Advisers to be removed as a Relevant Adviser for the purpose of this Order, they shall inform the Tribunal in writing (copying the representatives of the other parties).
8. This Order is to be reviewed at the Pre-Trial Review.
9. There be liberty to apply.

**The Honourable Mr Justice Mann**  
Chairman of the Competition Appeal Tribunal

Made: 14 February 2018  
Drawn: 8 March 2018

## **SCHEDULE**

### **Part A**

This Part contains the names of Relevant Advisers for the purposes of this Order:

#### **Viasat UK Limited and Viasat, Inc.**

*External solicitors (all of Latham & Watkins (London) LLP)*

John D. Colahan

Alexandra Luchian

*External counsel (all of Monckton Chambers)*

Michael Bowsher QC

Fiona Banks

*External expert*

Dr William Webb

## **Part B: Form of undertakings**

In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser listed in Part A of this Order undertakes that they will comply with the following requirements in the following terms:

### **UNDERTAKING**

I, *[name]*, of *[firm, company or establishment]* being *[legal or other qualification]* and regulated so far as my professional conduct is concerned by *[regulatory body, if any]* undertake to the Tribunal as follows:

1. I have read a copy of the Tribunal's Order of 24 January 2018, as amended (the "**Tribunal's Order**") and understand the implications of the Tribunal's Order and the giving of this undertaking.
2. Save in respect of provision to the Tribunal, I will not disclose the Confidential Information (as defined in the Tribunal's Order) to any person who is not (i) a Relevant Adviser (as defined in the Tribunal's Order), (ii) an employee of the Office of Communications, or counsel for the Office of Communications, Josh Holmes QC, or (iii) one of the following legal advisers of the Intervener: Jones Day, and Tim Ward QC and Anneli Howard (both of Monckton Chambers), without the express written consent of the party originally disclosing the Confidential Information (the "**Disclosing Person**") or the permission of the Tribunal.
3. For the avoidance of doubt:
  - any notes, copies, reports, submissions or other documents containing, reproducing or reflecting any aspects of the Confidential Information are themselves to be treated as Relevant Documents containing Confidential Information but versions of the same in which those parts containing, reproducing or reflecting the Confidential Information are redacted are not subject to obligations of confidentiality; and
  - any parts of documents containing, reproducing or reflecting Confidential Information shall not be deemed to have been read into the Court record in the proceedings or to have otherwise become public by reason of their being included in any trial bundle, referred to in any Skeleton Argument or other submission, read by the trial judge or otherwise.
4. I will use the Confidential Information only for the purpose of these proceedings (and for no other use or in connection with any other proceedings whether litigious or administrative) and will refrain from any subsequent use or disclosure after the end of these proceedings.
5. The Relevant Document(s) (as defined in the Tribunal's Order) containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access or disclosure.
6. The production of further copies by me of the Relevant Document(s) containing the Confidential

Information shall be limited to those required for the use of the Relevant Advisers for the purposes of these proceedings and shall be held in accordance with paragraphs 3 to 4 of this undertaking.

7. Any and all copies of the Relevant Document(s) containing the Confidential Information in paper form will be returned to the Office of Communications (or, where the Relevant Document has been served or disclosed by the Intervener, to the Intervener) at the conclusion of the present proceedings (including the determination of any appeals); any such copies and the Relevant Document(s) in electronic form will be returned where possible or, where that is not possible, will be securely disposed of insofar as technologically possible or rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person at the conclusion of these proceedings.
  
8. Save that none of the requirements listed at paragraphs 2 to 7 above shall prevent the Relevant Advisers from disclosing to the party advised by them information (i) of which that party was the original provider in these proceedings, or (ii) which that party has already legitimately seen in circumstances not subject to the provisions of the Tribunal's Order.

Name:.....

Signed:.....

Date: .....