



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1302/3/3/19

BETWEEN

VIRGIN MEDIA LIMITED

Appellant

-v-

OFFICE OF COMMUNICATIONS

Respondent

CONFIDENTIALITY RING ORDER

UPON reading the correspondence from the legal representatives of the parties to this appeal relating to the establishment of a Confidentiality Ring in case 1302/3/3/19

AND UPON the parties having agreed 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:
 - i. “**Confidential Information**” means information contained in the Relevant Document(s) (as defined below), where such information (i) has been identified by the Respondent 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).

- ii. **"Legal Representatives"** means the Respondent's legal representatives, Javan Herberg QC and Tom Coates (of Blackstone Chambers).
 - iii. **"Relevant Advisers"** are those persons:
 - (a) 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
 - (b) authorised by the Tribunal in accordance with paragraph 7 below.
 - iv. **"Relevant Document(s)"** means the version(s) of pleadings and other documents filed, served and/or disclosed by the Respondent for the purposes of these proceedings containing Confidential Information.
3. The Respondent shall hereafter disclose unredacted or partially unredacted (redacted only for irrelevance) Relevant Document(s) on the condition that such unredacted (or partially unredacted) Relevant Documents and any Confidential Information contained within them 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 employees of the Respondent or the Legal Representatives.
 4. All unredacted (or partially unredacted) 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.
 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 the Tribunal to the contrary.

6. Where the Respondent discloses into the confidentiality ring established by this Order a Relevant Document, the Respondent shall also provide a redacted, non-confidential version of the document which can be made available to the Appellant. This paragraph 6 does not apply where a Relevant Document constitutes Confidential Information in its entirety or where the very existence of a Relevant Document constitutes Confidential Information.
7. If the Appellant wishes to add any additional person as a Relevant Adviser for the purpose of this Order, it shall apply to the Tribunal in writing, copied to the Respondent, indicating whether the Respondent consents to the addition of that person.
8. If the Appellant wishes one of its Relevant Advisers to be removed as a Relevant Adviser for the purpose of this Order, the Appellant shall inform the Tribunal in writing (copying the representatives of the Respondent).
9. This Order is to be reviewed at the Pre-Trial Review or otherwise upon the application of the Appellant and/or the Respondent.
10. Costs be reserved.
11. There be liberty to apply.

The Hon Mrs Justice Falk
Chairman of the Competition Appeal Tribunal

Made: 27 February 2019
Drawn: 27 February 2019

SCHEDULE

PART A

This part contains the names, for the Appellant, of Relevant Advisers:

Virgin Media Limited

External solicitors (all of Ashurst LLP)

Ben Tidswell

Duncan Liddell

Edward McNeill

Alice Rosenthal-Erickson (Trainee Solicitor)

External counsel (both of Monckton Chambers)

Robert Palmer

Stefan Kuppen

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 the Schedule to this Order undertakes that they will comply with the following requirements in the following terms:

UNDERTAKING

I, of [FIRM, COMPANY OR ESTABLISHMENT] being [LEGAL QUALIFICATION] and regulated so far as my professional conduct is concerned by the [REGULATORY BODY] undertake to the Tribunal and each of the parties as follows:

1. I have read a copy of the Tribunal’s Order of (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 only disclose the Confidential Information (as defined in the Tribunal’s Order) in accordance with the terms of the Tribunal’s Order and will not disclose the Confidential Information 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 (iii) Counsel for the Office of Communications, Javan Herberg QC and Tom Coates, without the express written consent of the Office of Communications (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 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;
 - 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 without an Order of the Tribunal.

5. The Relevant Document(s) (as defined in the Tribunal's Order) 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.
6. The production of further copies by me of the Relevant Document(s) shall be limited to those strictly required for the use of the Relevant Advisers for the purpose of these proceedings and shall be held in accordance with paragraph 4 of this undertaking.
7. Any and all copies of the Relevant Document(s) in paper form will be returned to the Office of Communications at the conclusion of the present proceedings (including the determination of any appeals) and 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.

Signed:

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Name

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Date