

This Transcript has not been proof read or corrected. It is a working tool for the Tribunal for use in preparing its judgment. It will be placed on the Tribunal Website for readers to see how matters were conducted at the public hearing of these proceedings and is not to be relied on or cited in the context of any other proceedings. The Tribunal's judgment in this matter will be the final and definitive record.

IN THE COMPETITION
APPEAL TRIBUNAL

Case No. 1026/2/3/04

Victoria House
Bloomsbury Place
London WC1A.2EB

14th June 2005

Before:
SIR CHRISTOPHER BELLAMY
(The President)

Sitting as a Tribunal in England and Wales

BETWEEN:

WANADOO UK PLC
(formerly FREESERVE.COM PLC)

Appellant

and

OFFICE OF COMMUNICATIONS

Respondent

supported by

BT GROUP PLC

Intervener

Mr Nicholas Green QC and Mr. Keith Jones (instructed by Baker & McKenzie) appeared for the Applicant.

Mr Stephen Morris QC and Mr Meredith Pickford (instructed by The Director of Legal Services (Competition), Office of Communications) appeared for the Respondent.

Mr Gerald Barling QC, Miss Sarah Lee and Mr. Paolo Palmigiano (instructed by BT Legal) appeared for the Intervener.

Transcribed from the Shorthand notes of
Beverley F. Nunnery & Co.

Official Shorthand Writers and Tape Transcribers
Quality House, Quality Court, Chancery Lane, London WC2A 1HP
Tel: 020 7831 5627 Fax: 020 7831 7737

CASE MANAGEMENT CONFERENCE
(Including a Tribute to Richard Fowler QC)

1 THE PRESIDENT: Mr. Green, just before we start and before we officially go into camera, I would
2 just like to say that this is the first time that I have sat in a case in which Mr. Richard Fowler
3 QC had been instructed.

4 Richard was someone whom I had known extremely well for 40 years. He was
5 universally liked, admired and respected, not least by those on the Tribunal who had had the
6 pleasure of listening to his submissions. I would therefore like to take this opportunity to place
7 on record the Tribunal's deep appreciation of his many qualities, particularly his skill, courtesy
8 and integrity as an advocate, and to offer the Tribunal's condolences to his family, friends, and
9 to all those who knew him; and in particular our condolences to Ofcom who have lost the
10 services of a highly valued and distinguished leading counsel.

11 It is therefore appropriate that we now proceed with the case, as I am sure Richard
12 would have wished us to do, and for that we need to go into camera for the purposes of this
13 hearing. I just need to make sure that we are indeed in camera and there is nobody here who is
14 not authorised to be here.

15 MR. GREEN: Perhaps I could just say from the Bar side, it may be appropriate just to echo your
16 sentiments from the Bar, solicitors and the clients here, his loss is a profound shock to
17 everybody and we will miss him.

18 THE PRESIDENT: Thank you, Mr. Green.

19 MR. BARLING: We very much associate ourselves with those sentiments as well.

20 MR. MORRIS: Likewise.

21 THE PRESIDENT: Thank you.

22 **THE HEARING CONTINUED IN CAMERA**

23 (The hearing concluded at 2.30 p.m.)