



IN THE COMPETITION
APPEAL TRIBUNAL

Case Numbers: 1151/3/3/10
1168/3/3/10
1169/3/3/10

BETWEEN:

BRITISH TELECOMMUNICATIONS PLC
EVERYTHING EVERYWHERE LIMITED

Appellants

- v -

OFFICE OF COMMUNICATIONS

Respondent

EVERYTHING EVERYWHERE LIMITED
VODAFONE LIMITED
TELEFONICA O2 UK LIMITED
HUTCHISON 3G UK LIMITED

Interveners (Case 1151)

BRITISH TELECOMMUNICATIONS PLC
EVERYTHING EVERYWHERE LIMITED
VODAFONE LIMITED
TELEFONICA O2 UK LIMITED
HUTCHISON 3G UK LIMITED
OPAL TELECOM LTD
CABLE & WIRELESS UK

Interveners
(Cases 1168 and 1169)

ORDER

UPON considering the Tribunal's Order of 19 May 2010 in case 1151/3/3/10 establishing a confidentiality ring

AND UPON hearing the legal representatives of the parties to the appeals in cases 1151/3/3/10, 1168/3/3/10 and 1169/3/3/10 (together, "the related proceedings") at a case management conference on 3 November 2010

AND UPON reading the correspondence from the legal representatives of the parties to the related proceedings concerning the proposed extension of the confidentiality ring established for case 1151/3/3/10 to cases 1168/3/3/10 and 1169/3/3/10

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. Signed undertakings provided in respect of case 1151/3/3/10 remain valid and effective unless withdrawn and shall have effect for the purposes of the related proceedings.
2. For the purposes of this Order:
 - a. “**Confidential Information**” is defined as information justifying confidential treatment by the Tribunal in accordance with rule 53 of the Competition Appeal Tribunal Rules 2003 which is contained in (i) the full un-redacted versions of the parties’ pleadings and other documents served on the Tribunal which has not, prior to the making of this Order, been disclosed to all other parties in the non-confidential versions of pleadings and other documents thus far served, and / or (ii) any documents served or disclosed hereafter.
 - 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.
3. Each of the parties shall hereafter disclose to the other parties un-redacted versions of their pleadings and other documents served in the related proceedings on the condition that such un-redacted versions and save in respect of the Office of Communications’ employees any Confidential Information contained within those pleadings and documents shall be disclosed only to Relevant Advisers who have signed an undertaking to the Tribunal and to the parties in the terms of Part B of the Schedule to this Order.
4. All such un-redacted versions of pleadings and other documents served in these proceedings must be marked so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 13.22 of the Tribunal’s Guide to Proceedings (October 2005).
5. In the case of pleadings and other documents served thus far in the proceedings, the Appellants and Interveners shall comply with paragraph 3 of this Order by 5pm on 12 November 2010 and in the case of any other pleading and any other

document served by a party that party shall comply with paragraph 3 of this Order.

6. If any party wishes to add any additional person as a Relevant Adviser for the purposes of paragraph 2(b) of this Order, they shall apply to the Tribunal indicating whether each of the other parties consents or does not consent to the addition of that person.
7. Costs be reserved.
8. There be liberty to apply.

Marcus Smith QC
Chairman of the Competition Appeal Tribunal

Made: 9 November 2010
Drawn: 9 November 2010

SCHEDULE

PART A

This part contains the names, for each party, of Relevant Advisers:

British Telecommunications Plc

External counsel

Graham Read QC (of Devereux Chambers)
Maya Lester (of Brick Court Chambers)
Sarah Lee (of Brick Court Chambers)
Richard Eschwege (of Brick Court Chambers)

In-house solicitors

Maria Ouli
Stuart Murray
Frederic Dupas (all of BT Legal)

External economists

Professor Ian Dobbs
Dan Maldoom (of DotEcon)

Office of Communications

External counsel

Javan Herberg (of Blackstone Chambers)
Ewan West (of Monckton Chambers)

Everything Everywhere Limited

External counsel

Meredith Pickford (of Monckton Chambers)
Philip Woolfe (of Monckton Chambers)

In-house solicitors

Robyn Durie
Robert Wells
Lee Jones (all of Everything Everywhere)

Vodafone Limited

External counsel

Tim Ward (of Monckton Chambers)

External solicitors

Elizabeth McKnight
Stephen Wisking

Victoria Ripley
John McInnes (all of Herbert Smith LLP)

Telefonica O2 UK Limited

External counsel
Robert O'Donoghue (of Brick Court Chambers)

External solicitors
Niamh Grogan
Neil Davies (both of SJ Berwin LLP)

Hutchison 3G UK Limited

External counsel
Brian Kennelly (of Blackstone Chambers)

In-house solicitors
Jane Jellis
Victoria Harris

Opal Telecom Limited

External counsel
Marie Demetriou (of Brick Court Chambers)

In-house solicitor
Tim Morris (Opal/TalkTalk Group)

Cable & Wireless UK

External counsel
Daniel Beard (of Monckton Chambers)

External solicitors
Andrew Sharpe
Paul Stone
Elora Mukherjee (all of Charles Russell LLP)

PART B

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

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 and each of the parties as follows:

1. I have read a copy of the Tribunal's Order of [date] ("the Tribunal's Order") and understand the implications of that Order and the giving of this undertaking.
2. I will not disclose the Confidential Information (as defined in the Tribunal's Order) to any person who is not an Office of Communications employee ("OFCOM") or a Relevant Adviser (as defined in the Tribunal's Order) without the express consent of the party originally disclosing the information or the permission of the Tribunal.
3. I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever without the express consent of the party originally disclosing the information or the permission of the Tribunal.
4. The pleadings and documents containing the Confidential Information will remain in my custody or the custody of another Relevant Advisor or OFCOM at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
5. The production of further copies by me of the documents containing the Confidential Information shall be limited to those required for the use of the Relevant Advisers or OFCOM for the purpose of these proceedings and shall be held in accordance with paragraph 4 of this undertaking.
6. Any and all copies of the pleadings and documents in paper form containing the Confidential Information will be returned to the party originally disclosing the pleading or documents at the conclusion of the present proceedings; any copies of the pleadings and documents containing the Confidential Information in electronic form will where possible be returned or where that is not possible will be rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person.
7. Save that none of the requirements listed at paragraph 2 to 5 above shall prevent Relevant Advisers from disclosing to a person advised by them Confidential Information which such person has already legitimately seen.

Signed:

Name:

Date: