



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

Case No.: 1260/3/3/16

**BETWEEN:**

**BRITISH TELECOMMUNICATIONS PLC**

**Appellant**

**- and -**

**OFFICE OF COMMUNICATIONS**

**Respondent**

**- and-**

**CITYFIBRE INFRASTRUCTURE HOLDINGS PLC**

**CP GROUP (TALKTALK TELECOM GROUP PLC, COLT TECHNOLOGY SERVICES,  
HUTCHISON 3G UK LIMITED, VODAFONE LIMITED)**

**GAMMA TELECOM HOLDINGS LIMITED**

**VIRGIN MEDIA LIMITED**

**Interveners**

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**ORDER**

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**UPON** the Ruling in these proceedings of 26 July 2017 ([2017] CAT 17) (the “**Tribunal’s Ruling**”)

**AND UPON** the Tribunal handing down its reasoned judgment in respect of these proceedings on 10 November 2017 ([2017] CAT 25) (the “**Tribunal’s Judgment**”)

**AND UPON** considering the terms of a draft order filed by the Respondent on 16 November 2017

**AND UPON** hearing the legal representatives of the parties at a hearing in private on 20 November 2017

**IT IS ORDERED THAT:**

1. Those decisions of the Respondent contained in the statement dated 28 April 2016 entitled “Business Connectivity Market Review” (the “**Statement**”) that are referred to in Schedule A to this Order (the “**Identified Decisions**”) be quashed. The Respondent shall revoke any instruments giving effect to the Identified Decisions by the date 7 days after the making of this Order.
2. By virtue of the revocation directed in paragraph 1 above, the Directions that are referred to in Schedule B to this Order shall be quashed to the extent that they apply to the following markets:

- (a) Wholesale market for contemporary interface symmetric broadband origination in the Rest of the United Kingdom excluding the Hull Area; and
  - (b) Wholesale market for contemporary interface symmetric broadband origination in the London Periphery.
3. The matter be remitted to the Respondent for reconsideration in accordance with the Tribunal's Ruling and the findings set out in the Tribunal's Judgment.
4. BT's Amended Notice of Appeal be amended as follows:

**After para 144(8) insert:**

“(9) concluding that the RoUK including the CBDs comprises a single geographic market.”
5. All issues of costs (including of the hearing on 20 November 2017) be reserved to the Case Management Conference listed at 10.30am on 4 December 2017.

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

Made: 20 November 2017  
Drawn: 22 November 2017

## **SCHEDULE A**

1. Statement, Annex 35, Section 1, Table A, rows (b)-(d).
2. Statement, Annex 35, Section 1, Schedule 1, Table 1, substantive rows 2 and 3.
3. Statement, Section 4, §§4.630-31. Statement, Annex 15, §A15.2.

## **SCHEDULE B**

Statement, Annex 35, Section 2:

1. *“Direction under section 49 of the Communications Act 2003 and SMP Services Conditions 1 and 7, given as a result of the analysis in: (i) the wholesale market for contemporary interface symmetric broadband origination in the Rest of the United Kingdom excluding the Hull area; and (ii) the wholesale market for contemporary interface symmetric broadband origination in the London Periphery.*
2. *“Direction under section 49 of the Communications Act 2003 and SMP Services Condition 11.4 specifying the Regulatory Accounting Principles:*
3. *“Direction under section 49 of the Communications Act 2003 and SMP Services Condition 11.4 specifying the requirements in relation to consistency with regulatory decisions and regulatory asset value”*
4. *“Direction under section 49 of the Communications Act 2003 and SMP Services Condition 11.4 specifying the transparency requirements for the purposes of preparing and maintaining the accounting records, the Accounting Methodology Documents and the Regulatory Financial Statements”*
5. *“Direction under section 49 of the Communications Act 2003 and SMP Services Condition 11.4 setting the requirements in relation to audit, form of the FPIA opinion and form of PPIA opinion for Regulatory Financial Statements:*
6. *“Direction under section 49 of the Communications Act 2003 and SMP Services Condition 11.4 setting the requirements in relation to reconciliation report and accompanying audit opinion”*
7. *“Direction under section 49 of the Communications Act 2003 and SMP Services Condition 11.4 specifying the requirements in relation to additional reporting of information relating to BT’s adjusted financial performance”*
8. *“Direction under section 49 of the Communications Act 2003 and SMP Services Condition 11.4 setting the requirements in relation to preparation, delivery, publication, form and content of the Regulatory Financial Statements”*
9. *“Direction under section 49 of the Communications Act 2003 and SMP Services Condition 11.4 specifying network components”*