

**THE COMPETITION
APPEAL TRIBUNAL**



B E T W E E N :

Case No.1260/3/3/16

BRITISH TELECOMMUNICATIONS PLC (“BT”)

Appellant

- and -

OFFICE OF COMMUNICATIONS

Respondent

-and-

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

VIRGIN MEDIA LIMITED

GAMMA TELECOM HOLDINGS LIMITED

CITYFIBRE INFRASTRUCTURE HOLDINGS PLC

Interveners

Case No.1261/3/3/16

CITYFIBRE INFRASTRUCTURE HOLDINGS PLC (“CityFibre”)

Appellant

- and -

OFFICE OF COMMUNICATIONS

Respondent

-and-

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

GAMMA TELECOM HOLDINGS LIMITED

BRITISH TELECOMMUNICATIONS PLC

Interveners

ORDER

UPON reading the papers filed with the Tribunal

AND UPON hearing the legal representatives of the Appellants, Respondent and Interveners at a case management conference on 23 January 2017

IT IS ORDERED THAT:

Admission of evidence of Virgin Media Limited

1. Virgin Media Limited shall have permission to adduce and rely upon the expert report of Chris Osborne dated 2 November 2016, the second witness statement of Duncan Higgins dated 13 January 2017 and the second witness statement of Rob Orr dated 14 January 2017.

Timetable to trial

2. By 4pm on 17 February 2017, the parties shall file with the Tribunal a working draft “Issues Map” setting out:
 - (a) the issues raised in BT’s and CityFibre’s Notices of Appeal;
 - (b) references to where these are addressed in the pleadings (including the statements of intervention);
 - (c) references to where each identified issue is discussed in the factual evidence; and
 - (d) references to where each identified issue is discussed in the expert evidence.

The parties shall use best endeavours to agree the contents of the Issues Map as far as possible.

3. The Appellants, Respondent and Virgin Media Limited shall file a joint expert memorandum indicating areas of agreement and disagreement by no later than 4pm on 24 February 2017. Where possible, the joint expert memorandum should identify the extent to which areas in dispute are material to the outcome of the case and why.
4. The Appellants and Respondent shall use best endeavours to agree the terms of a Technical Primer for submission to the Tribunal by 4pm on 28 February 2017. The Appellants and Respondent shall afford the Interveners an opportunity to comment on the Technical Primer.
5. The Appellants shall file and serve their skeleton arguments by no later than 4pm on 10 March 2017. Each Appellant’s skeleton argument shall be limited to no more than 50 pages.
6. The Respondent shall file and serve its skeleton argument by no later than 4pm on 24 March 2017. The Respondent’s skeleton argument shall be limited to no more than the combined length of the Appellants’ skeleton arguments.

7. A pre-trial review shall be listed for 29 March 2017, with a time estimate of half a day.
8. A “teach in” outlining the technical background to the appeals to the Tribunal shall take place on 30 March 2017. The Appellants and Respondent shall take the lead in agreeing the content and format of the “teach in” and shall consult with the Interveners with a view to preparing the “teach in”, including (if necessary) delivery of parts of the “teach in” by the Interveners.
9. The Interveners shall file and serve their skeleton arguments by no later than 4pm on 31 March 2017. Each Intervener’s skeleton argument shall be limited to no more than 25 pages.
10. The Appellants shall file a single consolidated Authorities Bundle by 4pm on 31 March 2017.
11. The Appellants may file and serve brief supplemental skeleton arguments (if so advised) by no later than 4pm on 3 April 2017.
12. Each party is at liberty to provide in advance of the hearing window a brief summary of its factual and expert evidence and/or an Evidence Map containing cross-references between the party’s evidence and the pleadings and/or Issues Map.

Hearing window

13. The hearing window shall commence on 3 April 2017 and end on 26 May 2017.
14. The Tribunal will not sit during the week commencing 3 April 2017, which shall serve as a reading week.
15. The Tribunal will not sit during the week commencing 17 April 2017, which shall serve as an Easter break.

Formulating timetable for the hearing

16. By no later than 4pm on 28 February 2017, each Appellant, Respondent and Intervener shall indicate to all other parties the identity of any factual or expert witnesses that it does not wish to cross-examine.
17. The Appellant, Respondent and Interveners shall use best endeavours to agree a detailed timetable for the giving of factual and expert evidence by 28 February 2017. In the event that the parties are unable to agree any matters by that date, each party shall have liberty to apply to the Tribunal for appropriate directions concerning the giving of evidence.

Liberty to apply

18. The parties shall have general liberty to apply in respect of this order. Applications shall be made on paper in the first instance.

The Honourable Mr Justice Snowden
Chairman of the Competition Appeal Tribunal

Made: 23 January 2017
Drawn: 2 February 2017