



**IN THE COMPETITION
APPEAL TRIBUNAL**

Case No. 1381/7/7/21

BETWEEN:

JUSTIN LE PATOUREL

Class Representative

- v -

(1) BT GROUP PLC

(2) BRITISH TELECOMMUNICATIONS PLC

Defendants

ORDER

UPON the Collective Proceedings Order of Mr Justice Waksman dated 19 October 2021 (“**the CPO**”)

AND UPON the Defendants disclosing to the Class Representative (a) the redacted confidential information in Ofcom’s consultation on “Protecting voice-only landline telephone customers” dated 10 December 2020, on 13 April 2022; and (b) the confidential versions of all final submissions made and formal responses submitted to Ofcom (including, but not limited to, responses to requests under section 135 Communications Act 2003) relating to Ofcom’s 2017 Review and Ofcom’s 2020 Review, on 14 April 2022 (the “**First Tranche Disclosure**”)

AND UPON hearing Counsel for the Class Representative and Defendants at a case management conference on 13 May 2022

AND UPON the Tribunal ruling that the existing Tribunal will case-manage the case through to trial and will conduct the trial, with any application for approval of a Collective Settlement to be notified to the President, to be considered by a different Tribunal

AND UPON the Class Representative preparing an updated version of the Notice of CPO and the print advertisement in relation to that Notice, reflecting the Tribunal's comments on the same

IT IS ORDERED THAT:

Expert evidence

1. Each party shall have permission to adduce written and oral evidence in the field of regulatory and competition economics.
2. By **30 June 2022**, the parties' economic experts are to meet to:
 - a. Seek to agree the scope of issues for economic expert evidence;
 - b. Identify the factual material, which goes to the issues for economic expert evidence, that they wish (having regard to proportionality and to what material is likely to be available to the parties) to receive to inform their work;
 - c. Identify any gaps or limitations in the factual material available to the parties;
 - d. Seek to agree proposals for a methodology to address any missing factual material identified at paragraph 1(c) above; and
 - e. Seek to agree what (if any) disclosure of BT's data is required and, if so, the content, format and extent of any disclosure of BT's data or the provision of aggregated data or summaries of the data.
3. By **15 July 2022**, the parties' economic experts are to produce a joint note setting out their proposed methodology to address any missing factual or further disclosure, including any areas of agreement and disagreement.
4. Each party shall have permission to adduce written and oral evidence from one witness in the field of actuarial assessment relating to the estimated size of the Class as at the date of any judgment.
5. By **2 September 2022**, the Class Representative shall file and serve any application to adduce an expert in the field of behavioural science, such application to be determined at the next CMC.
6. By **8 October 2022**, BT shall file and serve any response to any application by the Class Representative pursuant to paragraph 5 of this Order.

Disclosure

7. The Defendants disclose to the Class Representative by **4pm on 30 August 2022** a second tranche of documents, data and information documents comprising (“**Second Tranche Disclosure**”):
 - i. relevant documents, data and information identified from the custodians agreed between the parties, during the time period agreed between the parties identified through the application of agreed search terms and the agreed review process;
 - ii. relevant price lists and board minutes identified during the time period agreed between the parties identified through the application of agreed search terms and the agreed review process; and
 - iii. any other relevant documents, data and information identified and not derived from the Defendants’ various databases and systems.

8. The Defendants disclose to the Class Representative by 4pm on **24 October 2022** a further tranche of documents, data and information comprising (“**Third Tranche Disclosure**”):
 - i. data sourced from the various BT databases and systems, such as information on customer product usage and individual billing records; and
 - ii. any other relevant documents, data and information agreed between the parties and not previously disclosed.

Hearings

9. There shall be a further case management conference on **18 November 2022** to consider any issues arising out of or in connection with disclosure and to set further directions to trial.

10. A PTR hearing shall be listed on **10 November 2023**.

11. A Trial shall be listed in the window **between 15 January 2024 and 5 April 2024**, with a time estimate to be confirmed at the next CMC.

Timetable for factual evidence

12. The Class Representative and Defendants shall file and serve any signed witness statements of fact by 4pm on **27 January 2023**.

13. The Class Representative and Defendants shall file and serve any signed reply witnesses statements of fact by 4pm on **10 March 2023**.

Timetable for expert evidence

14. The Class Representative and Defendants shall file and serve any signed expert reports by 4pm on **9 June 2023**.

15. The Class Representative and Defendants shall file and serve any signed reply expert reports by 4pm on **21 July 2023**.
16. The Class Representative and Defendants' experts in each discipline shall meet to discuss their respective reports by no later than **15 September 2023** and shall produce a joint statement of matters agreed and not agreed that shall be served by 4pm on **6 October 2023**.

Opting-out / Notification

17. The stay imposed under paragraph 22 of the CPO is lifted.
18. Paragraph 10 of the CPO is varied such that any Class Member who is domiciled in the United Kingdom on the Domicile Date (defined in the CPO as 27 September 2021) may opt out of the Collective Proceedings by giving the Class Representative notice in writing of their decision to opt out by 4pm **on 11 November 2022** in accordance with the CPO and Notice published pursuant to paragraphs 8 and 11 of the CPO.

General

19. Costs in the case.
20. There be liberty to apply.
21. By agreement the parties may vary without further order any deadline in this Order provided that they inform the Tribunal of such agreement in advance of the expiry of the relevant deadline and the extension does not affect the dates of any listed hearings.



The Hon Mr Justice Waksman
Chairman of the Competition Appeal Tribunal

Made: 13 May 2022
Drawn: 19 May 2022