STATUTORY INSTRUMENTS

2015 No. 1648

COMPETITION

The Competition Appeal Tribunal Rules 2015

Made - - - -	*7th September 2015*
Laid before Parliament	*8th September 2015*
Coming into force - -	*1st October 2015*

Having consulted in accordance with section 15(1) of the Enterprise Act 2002(**1**), the Secretary of State makes the following Rules in exercise of the powers conferred by section 15(1) to (3) of, and Part 2 of Schedule 4 to, that Act and sections 192(3) and (4) and 193(1), (2)(b) and (3) of the Communications Act 2003(**2**).

PART 1

INTRODUCTION

Citation and commencement

1. These Rules may be cited as the Competition Appeal Tribunal Rules 2015 and come into force on 1st October 2015.

Interpretation

2.—(1) In these Rules—

"the 1998 Act" means the Competition Act 1998(**3**);

"the 2002 Act" means the Enterprise Act 2002;

"the 2003 Act" means the Communications Act 2003;

"additional claim" has the meaning given in rule 39(1);

(**1**) 2002 c. 40; section 15 of, and Schedule 4 to, the Enterprise Act 2002 were amended by paragraphs 20 and 22 to 36 of Schedule 8 to the Consumer Rights Act 2015 (c. 15).
(**2**) 2003 c. 21; section 193 was amended by paragraph 98 of Schedule 6 to the Enterprise and Regulatory Reform Act 2013 (c. 24).
(**3**) 1998 c.41.

"a chairman" means a person who falls within one of the categories of persons specified in section 12(2)(aa) to (ac) or (b) of the 2002 Act (constitution of the Competition Appeal Tribunal)(**4**);

"the chairman" means the chairman of the Tribunal as constituted for particular proceedings;

"class representative" has the meaning given for representative in section 59(1) of the 1998 Act (interpretation)(**5**) or means a representative of a sub-class who is specified in a collective proceedings order;

"CMA" means the Competition and Markets Authority;

"collective proceedings" means proceedings under section 47B(1) of the 1998 Act (collective proceedings before the Tribunal)(**6**);

"collective settlement" means settlement under section 49A (collective settlements: where a collective proceedings order has been made) or 49B (collective settlements: where a collective proceedings order has not been made) of the 1998 Act(**7**);

"collective settlement order" means an order authorising the settlement representative to act in relation to the collective settlement;

"confidentiality ring" means an arrangement set up in accordance with a direction by the Tribunal under which documents are treated as confidential and disclosed only on such terms as the Tribunal thinks fit;

"costs" has the meaning given by rule 104;

"CPR" means the Civil Procedure Rules 1998(**8**);

"damages" means any sum of money (other than costs or expenses) which may be awarded in respect of a claim under section 47A (claims for damages etc.) or 47B (collective proceedings) of the 1998 Act(**9**);

"disclose", in rules 60 to 65, has the meaning given in rule 60;

"document" means anything in which information of any description is recorded, in whatever form; and "copy", in relation to a document, means anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly;

"filing", in relation to a document, means sending it to the Registrar in accordance with rule 111(1);

"foreign defendant" means a defendant domiciled outside the United Kingdom;

"infringement decision" has the meaning given by section 47A(6) of the 1998 Act;

"President" means the person appointed to be President of the Tribunal;

"Registrar" means the person appointed to be Registrar of the Tribunal;

"relevant period", in rules 47 to 49, has the meaning given in rule 45(1);

"Rule 45 Offer" in rules 45 to 49, has the meaning given in rule 45(1);

"settlement representative" means a person who is authorised by a collective settlement order to act in relation to a collective settlement;

"specified price control matter" means a price control matter(**10**) specified in rule 116(1);

(**4**) Section 12(2)(aa)–(ac) were inserted by section 82(1) of the Consumer Rights Act 2015.
(**5**) Section 59(1) was amended by paragraph 15 of Schedule 8 to the Consumer Rights Act 2015.
(**6**) Section 47B was substituted by paragraph 5 of Schedule 8 to the Consumer Rights Act 2015.
(**7**) Section 49A was inserted by paragraph 10 of Schedule 8 to the Consumer Rights Act 2015 and section 49B was inserted by paragraph 11 of Schedule 8 to that Act.
(**8**) S.I. 1998/3132, amended by S.I. 2008/2178, S.I. 2009/3131, S.I. 2009/3390, S.I. 2011/88, S.I. 2014/2948 and S.I. 2014/3299; there are other amending instruments but none is relevant to these Rules.
(**9**) Section 47A was substituted by paragraph 4 of Schedule 8 to the Consumer Rights Act 2015.
(**10**) A "price control matter" is defined in section 193 of the Communications Act 2003 (c. 21).

"statement of truth" means a statement that the party putting forward a document, or in the case of a witness statement, the maker of the witness statement, believes the facts stated in the document or witness statement are true;

"sub-class" means a member of a distinct class of class members, described in the collective proceedings order or a collective settlement order, as the case may be;

"TFEU" means the Treaty on the Functioning of the European Union(**11**);

"Tribunal" means (a) the Competition Appeal Tribunal or (b) in relation to any proceedings, the tribunal as constituted for the purposes of those proceedings, as the context requires; and

"undertaking as to damages" means an undertaking to pay damages which a person sustains as a result of an interim injunction or other interim order and which the Tribunal considers the person in whose favour the injunction or other order is granted should pay.

(2) These Rules are to be applied by the Tribunal and interpreted in accordance with the governing principles set out in rule 4.

Application of Rules

3. These Rules apply as follows—

(a) Parts 1 and 6 apply to all proceedings before the Tribunal;

(b) Part 2 applies to all proceedings before the Tribunal save as otherwise provided in Parts 3, 4, 5 and 7;

(c) Part 3 applies to proceedings for a review or an appeal against penalties under the 2002 Act;

(d) Part 4 applies to claims under section 47A of the 1998 Act and, subject to rule 74, to collective proceedings;

(e) Part 5 applies to collective proceedings and collective settlements;

(f) Part 7 applies to appeals under section 192(2) of the 2003 Act(**12**) relating to price control.

Governing principles

4.—(1) The Tribunal shall seek to ensure that each case is dealt with justly and at proportionate cost.

(2) Dealing with a case justly and at proportionate cost includes, so far as is practicable—

(a) ensuring that the parties are on an equal footing;

(b) saving expense;

(c) dealing with the case in ways which are proportionate—

(i) to the amount of money involved;

(ii) to the importance of the case;

(iii) to the complexity of the issues; and

(iv) to the financial position of each party;

(d) ensuring that it is dealt with expeditiously and fairly;

(e) allotting to it an appropriate share of the Tribunal's resources, while taking into account the need to allot resources to other cases; and

(**11**) OJ No C83, 30.3.2010, p.47.

(**12**) 2003 c.21; section 192 was amended by paragraph 28 of Schedule 7 to the Wireless Telegraphy Act 2006 (c. 36) and paragraph 43 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013 (c. 24) and is prospectively amended by section 20 of the Digital Economy Act 2010 (c.24).

(f) enforcing compliance with these Rules, any practice direction issued under rule 115, and any order or direction of the Tribunal.

(3) Each party's case shall be fully set out in writing as early as possible.

(4) The Tribunal shall actively manage cases.

(5) Active case management includes—

(a) encouraging the parties to co-operate with each other in the conduct of the proceedings;

(b) identification of and concentration on the main issues as early as possible;

(c) fixing a target date for the main hearing as early as possible together with a timetable for the proceedings up to the main hearing, taking into account the nature of the case;

(d) adopting fact-finding procedures that are most effective and appropriate for the case;

(e) planning the structure of the main hearing in advance with a view to avoiding unnecessary oral evidence and argument; and

(f) ensuring that the main hearing is conducted within defined time-limits.

(6) The Tribunal may—

(a) encourage and facilitate the use of an alternative dispute resolution procedure if the Tribunal considers that appropriate;

(b) dispense with the need for the parties to attend any hearing; and

(c) use technology actively to manage cases.

(7) The parties (together with their representatives and any experts) are required to co-operate with the Tribunal to give effect to the principles in this rule.

The Registrar

5.—(1) Any person appointed to be the Registrar under section 12(3) of the 2002 Act (constitution of the Competition Appeal Tribunal) shall—

(a) have a seven year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (qualification for judicial and certain other appointments)(**13**), or

(b) be an advocate or solicitor in Scotland of at least seven years' standing, or

(c) be—

(i) a member of the Bar of Northern Ireland of at least seven years' standing, or

(ii) a solicitor of the Court of Judicature of Northern Ireland of at least seven years' standing.

(2) The Registrar shall act in accordance with the instructions of the President and is, in particular, to be responsible for—

(a) the establishment and maintenance of a register in which all pleadings and supporting documents and all orders and decisions of the Tribunal are to be registered;

(b) the acceptance, transmission, service and custody of documents in accordance with these Rules;

(**13**) 1990 c. 41; section 71 was amended by paragraphs 4 and 9 of Schedule 6 to the Access to Justice Act 1999 (c. 22), paragraph 4 of Schedule 11 to the Constitutional Reform Act 2005 (c.4) and paragraphs 83 and 94 of Schedule 21 to the Legal Services Act 2007 (c. 29).

(c) the enforcement of decisions of the Tribunal under paragraphs 4 and 5 of Schedule 4 to the 2002 Act (procedure of the Tribunal)(**14**) and certification for the purposes of paragraph 1A of that Schedule(**15**);

(d) certifying that any order, direction or decision is an order, direction or decision of the Tribunal, the President or a chairman, as the case may be.

(3) Any function of the Registrar may be performed by any member of staff of the Competition Service(**16**) whom the President or Registrar may authorise for the purpose.

Tribunal address for service

6. The address for the filing or service of documents at or on the Tribunal (referred to in these Rules as "the Tribunal address for service") is: The Registrar of the Competition Appeal Tribunal, Victoria House, Bloomsbury Place, London WC1A 2EB or such other address as may be notified on the Tribunal website from time to time.

Tribunal website

7. The location of the Tribunal website is: www.catribunal.org.uk or such other location as may be notified from time to time in such manner as the President may direct.

Representation

8.—(1) In proceedings before the Tribunal, a party may be represented by—

(a) a qualified lawyer having a right of audience before a court in the United Kingdom; or

(b) any other person allowed by the Tribunal to appear on behalf of the party.

(2) A party shall notify the Tribunal where—

(a) the party changes its legal representative;

(b) the party, having conducted the proceedings in person, appoints a legal representative to act on its behalf; or

(c) the party, having conducted the proceedings by a legal representative, intends to act in person.

(3) The notice referred to in paragraph (2) shall state the party's new address for service and be served on—

(a) every other party to the proceedings; and

(b) where paragraph (2)(a) or (c) applies, the former legal representative.

(4) Until service of the notice referred to in paragraph (2), service of any document at the existing address for service is valid.

(**14**) Paragraphs 4 and 5 of Schedule 4 to the Enterprise Act 2002 were amended by paragraph 25 of Schedule 8 to the Consumer Rights Act 2015.

(**15**) Paragraph 1A of Schedule 4 to the Enterprise Act 2002 was inserted by paragraph 24 of Schedule 8 to the Consumer Rights Act 2015.

(**16**) The Competition Service is a statutory body established under section 13 of the Enterprise Act 2002.