TC03411

Appeal number: TC/2012/06849

CASE MANAGEMENT - application by Appellant to admit further witness statements and for parties to share costs of bundles – applications opposed by Respondents – application to admit further witness statements granted – application for shared costs refused - directions

FIRST-TIER TRIBUNAL
TAX CHAMBER

LONDON CELLULAR COMMUNICATIONS LIMITED

Appellant

- and -

THE COMMISSIONERS FOR HER MAJESTY'S REVENUE & CUSTOMS **Respondents**

TRIBUNAL: JUDGE GREG SINFIELD

Sitting in public in London on 14 March 2014

Harry Warner, counsel, instructed by Bark & Co, solicitors, for the Appellant

Aparna Nathan, counsel, instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents

DECISION

Introduction

1. This is a case management decision in relation to the appeal which is listed for a three day hearing starting on 24 March 2014. The Appellant ("LCC") applied for permission to serve and rely on four witness statements with exhibits. The original time limit for service expired in March 2014 and so this was really an application for an extension of time to serve the evidence. The Respondents ("HMRC") objected to the admission of the evidence on the grounds that it was not relevant to the issues in the appeal and, in any event, the application was made too late. At the hearing, LCC also applied for a direction that the parties should share the cost of preparing the bundles for the hearing which would otherwise be borne entirely by LCC. HMRC also objected to this application on the ground that the Tribunal had no power to make it.

2. At the conclusion of the hearing, I granted LCC's application to admit the further witness statements and refused to make any direction as to costs. I also directed that the parties should try to agree a timetable for the hearing. My reasons are set out below and the directions are at the end of this decision.

Background

3. LCC appeals against a decision of HMRC to refuse LCC's claim to deduct input tax of £102,609.40 for the quarterly VAT accounting period 01/11. LCC maintains that it incurred VAT during period 01/11 on Apple iPhones which were purchased in small numbers from Apple retail outlets by its employees. HMRC refused LCC's input tax claim because LCC did not hold valid VAT invoices for the iPhones. HMRC also refused to accept alternative evidence that LCC had incurred the input tax because HMRC were not satisfied that the people who purchased the iPhones were employees of LCC at the time. HMRC concluded that the individuals had purchased the iPhones as undisclosed agents of LCC.

4. The decision to refuse to pay LCC's claim for input tax was made following a visit to LCC by an officer of HMRC, Lydia Ndoinjeh, on 7 April 2011 to verify LCC's input tax claim. In her witness statement of 9 September 2013, Ms Ndoinjeh stated that she spoke with the director of LCC, Neeta Kotecha ("Neeta") and its company secretary, Gitesh Kotecha ("Gitesh"). Neeta is married to Gitesh's brother, Amit Kotecha ("Amit"). Ms Ndoinjeh said that one of the matters discussed at the meeting was how many staff LCC had. Gitesh and Nita said that, in addition to themselves, LCC employed five part time staff but they were unable to explain on what basis they were employed or produce any records relating to the staff because their accountant had made all the arrangements. In her witness statement, Ms Ndoinjeh said that, during the visit, she asked Gitesh to describe how the employees bought the phones and he told her that they did so using cash, usually between £1,000 and £2,000, which he provided to them.

5. Following the visit on 7 April 2011, there was some further correspondence including an email from Neeta to Ms Ndoinjeh on 25 May that included payslips for November and December 2011 and January 2012. The payslips showed the names of the people who worked for LCC and one name was "C Kotecha". I was not shown the email but Mr Harry Warner, who appeared for LCC, told me that the list of names included Chandrakant Kotecha ("Chandrakant") and Saryu Kotecha ("Saryu") who

are the parents of Gitesh and Amit. Ms Ndoinjeh was not present at the hearing but the statement about the email was not contradicted by Ms Aparna Nathan, who represented HMRC.

6. In a letter dated 18 July 2011, Ms Ndoinjeh informed LCC that the claim for input tax in the VAT return for period 01/11 was refused. In August 2011, LCC instructed Mr Steve Plowman of Veracis Limited to act on its behalf. Mr Plowman entered into correspondence with Ms Ndoinjeh. In a letter to HMRC dated 19 December, Mr Plowman requested a review of the decision that LCC was not entitled to reclaim the input tax claimed on its VAT return for period 01/11. The letter stated that the employees who were family members, namely Neeta, Gitesh, Saryu and Chandrakant, used their own credit cards to purchase the phones. The review officer, Robert Lamb, concluded that the original decision was correct and should be upheld. The conclusion of the review was notified to LCC by letter dated 28 February 2012.

7. LCC appealed to the Tribunal on 4 July 2012. The Tribunal issued directions under which witness statements were required to be served on 15 February 2013. By directions dated 28 January 2013, the Tribunal directed that LCC should serve statements of all witnesses on whom it proposed to rely by no later than 22 March. HMRC were directed to serve their witness statements by 12 April. LCC served its witness statements six days late on 28 March. Following an application by consent, the date for service of HMRC's witness statements was extended to 17 May. On 22 May, HMRC applied for an extension of time to serve their witness statements on the ground that the unexpected absence from the office of the lawyer with conduct of the appeal had caused compliance with the direction to be overlooked. The Tribunal extended the date for service of the witness statements to 12 June. On 12 June, HMRC applied for a further extension of time on exactly the same ground as before. The Tribunal extended the date for service of the witness statements to 12 July. On 12 July, HMRC applied for a further extension to 9 September on the same ground as before and that too was granted. HMRC served the witness statements of Ms Ndoinjeh and Mr Lamb on 9 September.

8. On 27 November 2013, the Tribunal notified the parties that the appeal was listed for hearing on three days starting on 24 March 2014.

Application and objection

9. By written application dated 24 February 2014, LCC applied to be permitted to serve and rely on four further witness statements with exhibits. The new witness statements were as follows

> (1) A second witness statement of Gitesh dated 24 February 2014 which contained two paragraphs and stated that he sometimes used his credit card to purchase phones. Gitesh produced five pages of bank and credit card statements that showed debit and credit transactions with Apple Retail UK Limited ("Apple UK").
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> (2) A second witness statement by Neeta dated 24 February 2014 which contained three paragraphs and which exhibited one page of a credit card statement which showed debit transactions with Apple UK.
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> (3) A first witness statement by Saryu dated 28 January 2014 that was just over three pages long and explained that she worked for LCC from November 2010 buying iPhones from Apple stores with cash provided by Neeta or Gitesh,

usually two at a time but sometimes more. She stated that she may have paid on her own credit card but could not remember. Saryu did not produce any exhibits.

(4) A first witness statement by Chandrakant dated 28 January 2014 that was also just over three pages long and stated, among other things, that he bought iPhones for LCC using cash provided by Gitesh or his own debit card if he could buy more than the usual two phones and did not have enough cash. Chandrakant exhibited one page of a bank statement for his current account which showed debit and credit transactions with Apple UK.

10. The Respondents served a Notice of Objection also dated 24 February. The ground of objection stated in the Notice were that HMRC would have insufficient time to consider the new evidence before the hearing on 24 March and that there was no good reason why the witness statements and exhibits could not have been provided earlier or the application made sooner. The objection also stated that HMRC did not accept that they were aware that Chandrakant and Saryu were employees of LCC.

11. Georgia Hajitheodosi, a solicitor at Bark & Co who has day to day management of the appeal, provided a witness statement, dated 26 February 2014, in response to HMRC's objections to LCC's application. Ms Hajitheodosi explained that Chandrakant and Saryu had not provided witness statements by the original deadline due to Chandrakant's ill health and family circumstances. It was thought that Chandrakant was too ill to give evidence at any hearing so it was decided that he should not provide a witness statement. Saryu was looking after Chandrakant and also her daughter-in-law, Gitesh's wife, who had suffered a miscarriage some three months earlier in December 2012 so she was unable to provide a witness statement in March 2013. Chandrakant's health and the family circumstances improved during 2013 and it was decided that Chandrakant and Saryu would provide witness statements. They attended the offices of Bark & Co on 6 December 2013 to give witness statements but these were not finalised until the end of January 2014 because English is not their first language and it took Chandrakant some time to locate the bank statement that he exhibits. In relation to Gitesh and Neeta, Ms Hajitheodosi states that the exhibits were not provided earlier because Gitesh and Neeta had overlooked the existence of the documents when they gave their documents to Bark & Co in March 2013 because LCC had changed its premises. Ms Hajitheodosi said that she asked Gitesh and Neeta to search for the documents on 24 January 2014. Ms Hajitheodosi explained that when it was realised that Gitesh and Neeta would be looking for further documents, it was decided to wait until they had been found before serving all further witness statements and making a single application to the Tribunal. She said that it was not expected that it would take a month for Gitesh and Neeta to locate the documents.

FTT Rules

12. In considering the applications, I seek to give effect to the overriding objective in Rule 2(1) of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 ("FTT Rules") to deal with cases fairly and justly. Under Rule 2(2) this includes,

> "(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;

…

(e) avoiding delay, so far as compatible with proper consideration of the issues."

13. I also bear in mind rule 15(2)(b) which gives the Tribunal power to exclude evidence, which would otherwise be admissible, where it was not provided within the time allowed by a direction or where it would be unfair to admit it.

14. Rule 10 provides that the Tribunal may only make an order in respect of costs in three circumstances, namely:

(1) an order for wasted costs under section 29(4) of the Tribunals, Courts and Enforcement Act 2007;

(2) where the Tribunal considers that a party has acted unreasonably in bringing, defending or conducting the proceedings; and

(3) where the proceedings have been allocated as a Complex case and an appellant has not opted out of the costs procedure.

Submissions

15. At the hearing, Mr Warner submitted that the witness statements and exhibits should be admitted because there was a good reason for late service. He contended that the new evidence related to existing issues that were in dispute, HMRC would not suffer any prejudice and admitting the evidence was consistent with the overriding objective to deal with cases fairly and justly. In relation to the cost of preparing the bundles for the hearing, Mr Warner accepted that, as the appeal had not been allocated as a Complex case under rule 23 of the FTT Rules and there was no suggestion that HMRC had acted unreasonably, the Tribunal did not have any power to direct that HMRC should pay half the cost of preparing the bundles. Nevertheless, Mr Warner asked the Tribunal to indicate that, given the circumstances of LCC, it would be fair and just for the parties to share the cost of preparing the bundles for hearing.

16. Ms Nathan submitted that the new evidence was not relevant to the issue in the appeal and should be excluded on that ground. She contended that the appeal was against HMRC's decision, in the absence of proper VAT invoices, not to accept alternative evidence of entitlement to deduct input tax. The issue for the Tribunal was whether HMRC's decision was reasonable; the only relevant evidence was the evidence available to the decision maker at the time and any information submitted subsequently was irrelevant to that issue. Ms Nathan's second objection to the evidence was that it would derail the proceedings in that the inclusion of the evidence of Chandrakant and Saryu could mean that the appeal could not be dealt with in the three days allotted to it. Ms Nathan stated that the Tribunal should adopt a robust approach to applications to admit witness statements late in the day as indicated by my decision in *HMRC v McCarthy & Stone (Developments) Limited, Monarch Realisations No 1 PLC (in administration)* [2014] UKUT B1 (TCC) ("*McCarthy & Stone*"). In relation to costs, Ms Nathan submitted that the Tribunal had no power under rule 10 of the FTT Rules to make any direction as to costs in this case.

Discussion

Relevance

17. In *O'Brien v Chief Constable of South Wales Police* [2005] UKHL 26, [2005] 2 WLR 1038, the House of Lords considered whether similar fact evidence should be admitted in criminal proceedings but their Lordships' opinions contain wider statements of principle in relation to the admission of evidence. Those principles have been applied by the Tribunal in the context admission of late evidence in VAT appeals – see, for example, *Atlantic Electronics Ltd v HMRC* [2011] UKFTT 314 (TC). In *O'Brien*, Lord Bingham said:

> "[3] Any evidence, to be admissible, must be relevant. Contested trials last long enough as it is without spending time on evidence which is irrelevant and cannot affect the outcome. Relevance must, and can only, be judged by reference to the issue which the court (whether judge or jury) is called upon to decide. As Lord Simon of Glaisdale observed in *Director of Public Prosecutions v Kilbourne* [1973] AC 729, 756, 'Evidence is relevant if it is logically probative or disprobative of some matter which requires proof … relevant (ie. logically probative or disprobative) evidence is evidence which makes the matter which requires proof more or less probable'.
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> …
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> [5] The second stage of the enquiry requires the case management judge or the trial judge to make what will often be a very difficult and sometimes a finely balanced judgment: whether evidence or some of it (and if so which parts of it), which ex hypothesi is legally admissible, should be admitted. For the party seeking admission, the argument will always be that justice requires the evidence to be admitted; if it is excluded, a wrong result may be reached. In some cases, as in the present, the argument will be fortified by reference to wider considerations: the public interest in exposing official misfeasance and protecting the integrity of the criminal trial process; vindication of reputation; the public righting of public wrongs. These are important considerations to which weight must be given. But even without them, the importance of doing justice in the particular case is a factor the judge will always respect. The strength of the argument for admitting the evidence will always depend primarily on the judge's assessment of the potential significance of the evidence, assuming it to be true, in the context of the case as a whole.
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> [6] While the argument against admitting evidence found to be legally admissible will necessarily depend on the particular case, some objections are likely to recur. First, it is likely to be said that admission of the evidence will distort the trial and distract the attention of the decision-maker by focusing attention on issues collateral to the issue to be decided. This is an argument which has long exercised the courts … and it is often a potent argument, particularly where trial is by jury. Secondly, and again particularly when the trial is by jury, it will be necessary to weigh the potential probative value of the evidence against its potential for causing unfair prejudice: unless the former is judged to outweigh the latter by a considerable margin, the evidence is likely to be excluded. Thirdly, stress will be laid on the burden which admission would lay on the resisting party: the burden in time, cost and personnel resources, very considerable in a case such as this, of giving disclosure; the lengthening of the trial, with the increased cost and

> stress inevitably involved; the potential prejudice to witnesses called upon to recall matters long closed, or thought to be closed; the loss of documentation; the fading of recollections. It is, I think, recognition of these problems which has prompted courts in the past to resist the admission of such evidence … In deciding whether evidence in a given case should be admitted the judge's overriding purpose will be to promote the ends of justice. But the judge must always bear in mind that justice requires not only that the right answer be given but also that it be achieved by a trial process which is fair to all parties."

18. Lord Phillips said at [11] of *O'Brien* that it was a consideration of general application that "evidence should not be admitted if its probative weight is insufficient to justify the complexity that it will add to the trial." At [43] he said,

> "In each case, there is a need to exert disciplinary control to avoid unbalancing the proceedings by the adducing of evidence of only marginal relevance."

19. I accept that the jurisdiction of the Tribunal in an appeal against a refusal by HMRC to exercise their discretion is supervisory. I also accept that the Tribunal's jurisdiction must be exercised in relation to materials that were before HMRC when the decision that is the subject of the appeal was made rather than in relation to later material (see the discussion of the point in *Taygroup Ltd v HMRC* [2013] UKFTT 336 (TC) at [27] – [30] and the cases cited therein). That does not necessarily mean that the evidence that LCC now seeks to adduce is irrelevant. The decision that is appealed is not the initial decision of 18 July 2011 but the decision in the letter dated 28 February 2012. There are two elements to that decision: first, that the simplified retail invoices issued by Apple UK for the iPhones were invalid and thus LCC was not entitled to deduct the VAT incurred on buying the iPhones; and, secondly, that LCC had not demonstrated that the individuals who purchased the iPhones were employees of LCC at the time and, for that reason, HMRC refused to exercise their discretion and accept the Apple UK invoices as alternative evidence. The first issue is a question of law and in relation to it, the Tribunal has full appellate jurisdiction. In relation to the second issue, the Tribunal's jurisdiction is supervisory and is confined to consideration of the information that was available to HMRC at the time. The further evidence of Chandrakant and Saryu that LCC now seeks to adduce relates to the second issue and, specifically, whether they were employees of LCC when they purchased the iPhones. The further evidence of Gitesh and Neeta does not relate to their employment status as there does not appear to be any dispute that they were employees of LCC at the relevant time. Their evidence, if accepted by the Tribunal, shows that Gitesh and Neeta bought iPhones from Apple UK using their credit or debit cards.

20. The review decision of 28 February 2012 was made in the light of further submissions and evidence provided on behalf of LCC. Specifically, the email of 25 May 2011 from Neeta to Ms Ndoinjeh stated that Chandrakant and Saryu were employees of LCC. A letter dated 28 October 2011 from Veracis to Ms Ndoinjeh stated that the employees used their own credit cards to purchase the iPhones. The letter dated 19 December 2012 from Veracis to HMRC asking for a review stated that the employees who were family members used their own credit cards to purchase the phones. Although the evidence of Chandrakant and Saryu and the credit card and bank statements that Gitesh, Neeta and Chandrakant have produced were not before Ms Ndoinjeh or Mr Lamb at the time of their decisions, there was material that showed that Chandrakant and Saryu were employees and that they, with Neeta and

Gitesh, used their own cards to purchase iPhones. HMRC did not accept that evidence. It appears to me, without deciding the point, that the further evidence, which LCC now seeks to adduce, could corroborate the evidence that it provided for the purposes of the review. The further evidence may be relevant to the issue of whether HMRC's decision not to exercise their discretion to accept alternative evidence of input tax was exercised reasonably. I consider that, having in mind the overriding objective and specifically the need to avoid delay so far as compatible with proper consideration of the issues, it is clearly more appropriate for the Tribunal that will hear the appeal to determine whether the further evidence is relevant. As I have concluded that the further evidence may be relevant and that it is appropriate for the Tribunal that will hear the appeal to determine the issue of relevance, I consider that the further evidence should be admitted, subject to the matters discussed below.

Late service and effect of delay

21. In *McCarthy & Stone*, HMRC applied, after a time limit had already expired, for an extension of time to serve a notice of appeal on the Upper Tribunal. I considered the guidance given by the Court of Appeal in *Andrew Mitchell MP v News Group Newspapers Ltd* [2013] EWCA Civ 1537 on how the courts should approach applications for relief from the consequences of a failure to comply with rules, practice directions and court orders following the coming into force of the new version of rule 3.9 of the Civil Procedure Rules ("CPR") on 1 April 2013. I decided that, although the CPR do not apply to tribunals, the Upper Tribunal should adopt the same approach to compliance with rules, directions and orders as the courts that are subject to the CPR. That approach meant that, while having regard to all the circumstances of the case and the need to deal justly with the application, the Upper Tribunal should give greater weight to the need for litigation to be conducted efficiently and the need to enforce compliance with the UT Rules, directions and orders than to the other factors. I apply the same approach to the application to admit further evidence in this case.

22. I accept that Chandrakant and Saryu did not provide their witness statements in March 2013 because of a combination of Chandrakant's ill health and family circumstances. I regard those factors as a good reason for the witness statements not being provided at that time. I also find that the situation changed at some point between March and early December 2013 although I do not know when. Having decided that Chandrakant and Saryu should provide witness statements and having attended a meeting at the offices of Bark & Co on 6 December 2013, I am not satisfied that there was any good reason why the statements were not finalised before the end of January 2014 or why an application to admit the evidence of Chandrakant and Saryu was not made before end of February. It appears to me that the application was not made promptly.

23. In the case of the further evidence produced by Gitesh and Neeta, Mr Warner frankly acknowledged that it was not produced earlier because of an oversight. No excuse was offered for this failure to produce relevant evidence at the required time. Once LCC's solicitors became aware that there might be further evidence that had not been disclosed, Gitesh and Neeta located it within a month and the application to adduce the evidence was made promptly thereafter. In the circumstances, I accept that a period of a month to find the bank and credit card statements was reasonable but this does not excuse the earlier failure to produce evidence within the time limit directed by the Tribunal.

24. Notwithstanding the matters described in the previous two paragraphs, I do not consider that it would be right to refuse to grant LCC permission to admit the further witness statements and their exhibits. The circumstances of this case are very different to those considered by the Court of Appeal in *Mitchell* and, more relevantly, in *Durrant v Chief Constable of Avon & Somerset Constabulary* [2013] EWCA Civ 1624 where the sanctions for failure to comply were clearly stated. In *Mitchell*, the sanction for failure to file a costs budget on time was clearly set out in the CPR. *Durrant* was an appeal against a decision to grant relief from a sanction for non-compliance with an order requiring service of witness statements by a specified date. The order in *Durrant* was as follows:

> "Defendant do file and serve any witness statements by 4 pm on 12 March 2013. The Defendant may not rely on any witness evidence other than that of witnesses whose statements have been so served."

That order was made in the context of repeated failure to file witness statements on time. The defendant served two witness statements a day late, four two months late and two a few days before trial, when it applied for relief. The Court of Appeal acknowledged that posting the first two witness statements just before the service deadline might be characterised as a trivial non-compliance (and thus excusable under *Mitchell*). However, this had to be weighed against the facts that:

(1) The defendant had failed to comply with the original deadline for service;

(2) The order had specified a sanction for non-compliance; and

(3) The defendant's explanations came nowhere near providing a good reason for non-compliance which was not the result of any unforeseeable event but of incompetence.

25. In this case, the directions dated 28 January 2013 did not state what consequences would follow from a failure to serve witness statements by the specified date. That factor distinguishes this case from *Durrant*. Where case management directions provide for a sanction for failure to serve witness statements on time, as was the case in *Durrant*, then I would expect that sanction to apply if there is a default that is not trivial and there is no good explanation for it. Further, LCC failed to comply with the original deadline of 22 March and the deadline for HMRC to serve their witness statements was extended on several occasions by application (including one after expiry of deadline and two on the due date). The HMRC witness statements were eventually served some five months after the original due date. As the directions in this case did not specify any sanction for failing to serve witness statements by the due date and as the specified date for service in the case of HMRC was repeatedly extended without sanction or condition being imposed, I consider that it would be neither just nor fair to refuse LCC's application to serve and rely on the further evidence. In reaching this conclusion, I take account of the need for litigation to be conducted efficiently and the need to enforce compliance with the UT directions but conclude that, in all the circumstances of the case, it would be just to allow LCC to be able to rely on the further evidence.

26. I take note of Ms Nathan's concerns that admitting the additional evidence creates a risk that the hearing of the appeal will require more than the three days allotted. Ms Nathan freely admitted that the concern did not relate to the additional evidence of Gitesh and Neeta, which could be dealt with quickly in the course of cross-examination, but the new evidence of Chandrakant and Saryu. I was told that

the parties had not agreed a timetable for the hearing, which is understandable in relation to a relatively short case. In view of the introduction of new evidence, however, I consider that it would be useful for the parties to agree a timetable to try to ensure that the submissions and evidence can be heard in three days. Accordingly, I direct that the parties should try to agree such a timetable appeal or should submit separate timetables to assist the Tribunal in managing the hearing.

Costs

27. I can deal with LCC's application in relation to the sharing of the costs of preparing the bundles for hearing quite shortly. The effect of rule 10 of the FTT rules is that the FTT cannot direct that one party shares the costs of another party in complying with a case management direction except in Complex cases where the taxpayer has not opted out, where a party or their representative has acted unreasonably, or a wasted costs order is appropriate. That was the conclusion reached by the Upper Tribunal in *HMRC v Eclipse Film Partners No 35 LLP* [2013] UKUT 141 (TCC), which has recently been upheld by the Court of Appeal [2014] EWCA Civ 184. Accordingly and as anticipated by Mr Warner, I refuse to make any direction as to the sharing of costs because the Tribunal has no power to do so. Even if I had the power to make such an order, it appears to me that the application is made rather late in the day and it would not be appropriate to direct costs sharing where the appellant is professionally represented and, presumably, able to bear the costs of such representation. Further, I decline to express any view on whether HMRC should voluntarily contribute to LCC's costs of preparing the bundles. That is a matter for HMRC.

Conclusion

28. For the reasons set out above, I make the following directions:

DIRECTIONS

The Tribunal hereby DIRECTS pursuant to rules 5(2), 5(3)(d), 6 and 15(2) of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 that:

(1) The time limit for the Appellant to serve upon the Respondents the statements of all witnesses on whose evidence they intend to rely in compliance with Direction 2 of the Directions released on 28 January 2013, as amended, is extended until 5:00 pm on 24 February 2014;

(2) By no later than 5:00 pm on Monday 17 March 2014, the Appellant is directed to provide the Respondents with a draft timetable for the three day substantive hearing in this matter listed between 24 and 26 March 2014 ("the Substantive Hearing").

(3) By no later than 5:00 pm on Tuesday 18 March 2014, the Respondents are directed to provide their comments on the draft timetable provided by the Appellant.

(4) In the event that the parties are able to agree a timetable for the Substantive Hearing, the Appellants are directed to provide a copy of that joint agreed timetable to the Tribunal by 12:00 on Wednesday 19 March 2014.

(5) In the event that the parties are unable to agree a joint timetable by the time listed at direction 3 above, each party is directed to provide the Tribunal

with its proposed draft timetable for the Substantive Hearing by no later than 5:00 pm on Thursday 20 March 2014.

(6) In the event that the parties are unable to agree a joint timetable for the Substantive Hearing by the time stated at direction 4, either party has liberty to apply to the Tribunal for an adjournment of the Substantive Hearing.

GREG SINFIELD
TRIBUNAL JUDGE

RELEASE DATE: 17 March 2014