

IN THE COPYRIGHT TRIBUNAL

CT 127/14

**IN THE MATTER OF A REFERENCE UNDER SECTION 126 OF THE
COPYRIGHT, DESIGNS AND PATENTS ACT 1988 (AS AMENDED)**

28 July 2016

BETWEEN:

ITV NETWORK LIMITED

Applicant

-and-

(1) PERFORMING RIGHT SOCIETY LIMITED

(2) MECHANICAL-COPYRIGHT PROTECTION SOCIETY LIMITED

Respondents

ORDER

UPON the Tribunal having handed down its Decision dated 27 June 2016

UPON the Applicant and the Respondents having agreed the terms of the licence agreements on the basis of the Decision

AND UPON the Tribunal having approved those agreed form of licence agreements

IT IS ORDERED THAT:

1. The Respondents shall continue to be entitled to the benefit of the licences between the Applicant and the Respondents on the terms of the licence agreements attached to this Order. Those terms, insofar as they were in dispute before the Tribunal, are determined to be reasonable in the circumstances.
2. The licence fee for such licences shall be:
 - a. for the calendar year 2014: £27,930,730;
 - b. for the calendar year 2015: £27,159,205;
 - c. for the calendar year 2016: £26,508,373; and
 - d. for the calendar year 2017 and subsequent calendar years: the licence fee for the preceding calendar year ("Year A") adjusted:

- i. by a percentage equal to half the percentage change in total BARB viewing figures for ITV between the calendar year preceding Year A ("Year A-1") and Year A; and
- ii. by the percentage change in December RPI-J between Year A-1 and Year A

as more fully described at paragraph 6.2(b) of the attached General Entertainment Television Licence.

3. The Applicant do pay the Respondents the sum of £7,058,457.66 as a retrospective adjustment to the interim licence fees paid by the Applicant for the period 30 July 2014 to 31 July 2016 under the licence in operation by virtue of s.126(3) of the CDPA 1988. The Tribunal notes that the Applicant has agreed to pay to the Respondents arrears payments between 1 January 2014 and 29 July 2014 in the sum of £2,562,499.18.
4. The Applicant do pay the Respondents interest on the sum ordered at paragraph 3 above, in the sum of (a) £432,777.73 for the period 30 July 2014 to 31 July 2016, plus (b) daily amounts of £922.56 accruing on 1 August 2016 and each day thereafter until payment.
5. The Applicant do pay the Respondents (a) 70% of the Respondents' costs of the reference prior to 12 November 2014, and (b) 90% of the Respondents' costs of the reference on and after 12 November 2014, such costs to be assessed on the standard basis and subject to detailed assessment if not agreed.
6. The Applicant do pay the Respondents, by 4pm on 11 August 2016, the sum of £900,000 on account of the Respondents' costs under paragraph 5 above.
7. The date for payment of the sums specified at paragraphs 3 and 4 of this Order shall be 21 days from the receipt by the Applicants of valid invoices from the Respondents in respect of such sums.
8. Pursuant to CPR 52.5(4)(a), the date for filing by the Respondents of a Respondents' Notice and Skeleton Argument in the Applicant's appeal to the High Court (CH-2016-000176) (the "Appeal") be extended to 19 September 2016. Subject to the approval of the High Court, the date for filing by the Appellant of the Appellant's Bundle in the Appeal be extended to 28 September 2016.
9. Costs of and incidental to the hearing on 28 July 2016 shall be in the reference.

Dated: 28 July 2016

Approved for and on behalf of the Tribunal

Richard Hacon (Chairman)

