Neutral Citation Number: [2020] EWHC 2868 (Ch)

Case No: IL-2018-000155

**IN THE HIGH COURT OF JUSTICE**
**BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES**
**INTELLECTUAL PROPERTY LIST**

Royal Courts of Justice
The Rolls Building
7 Rolls Buildings
Fetter Lane
London EC4A 1NL

Date: 29/10/2020

**Before** :

**MR JUSTICE BIRSS**

- - - - - - - - - - - - - - - - - - - - -

**Between :**

**(1) Matchroom Boxing Limited**
**(2) Matchroom Sport Limited** **Applicants**

**- and -**

**(1) British Telecommunications PLC**
**(2) EE Limited**
**(3) Plusnet PLC**
**(4) Sky UK Limited**
**(5) TalkTalk Telecom Limited**
**(6) Virgin Media Limited** **Respondents**

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**Mr Jaani Riordan** (instructed by **DLA Piper**) for the **Applicants**
The respondents did not appear

Hearing date: 23rd October 2020

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# Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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MR JUSTICE BIRSS

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email, release to BAILII and publication on the Courts and Tribunals Judiciary website. The date and time for hand-down is deemed to be 10:30 am on 29th October 2020.

## Mr Justice Birss :

1. This application concerns the operation of a website blocking injunction. The applicants ("Matchroom") run boxing events. They submit that a website blocking injunction is required to prevent access to certain IP addresses which are being used to infringe their copyright relating to live streams of the events.

2. By an order sealed on 20th September 2018 (the "2018 Order"), Arnold J (as he was then) granted Matchroom a website blocking injunction pursuant to section 97A of the Copyright, Designs and Patents Act 1988 ("CDPA 1988"). That order was extended and varied by a sealed order on 22nd May 2019 by Arnold J (the "2019 Order").

3. The 2018 Order (as varied) requires the respondents to take reasonable steps to disable access to IP addresses which make the live streams available. The Order contains a "sunset clause" whereby it ceases to have effect on 1st October 2020.

4. This application was issued on 28th September 2020 and first came before me on paper in the week of 12th October 2020. The applicants had explained that there was to be a boxing event between Lewis Ritson and Miguel Vazquez scheduled for 17th October 2020. They sought what they characterised as an extension and variation of the 2018 Order ahead of that date. The applicants sought an order running for a further two-year term to expire on 1st October 2022.

5. As I say, the application has been made on paper. Normally applications of this kind are made that way and they can often be handled that way without difficulty. However one ostensible reason why this one had been made on paper was because it was urgent. That is not a wise approach. Paper applications are not necessarily quicker. However after making enquiries, I was provided with a skeleton argument and informed that the first, second, third, fifth and sixth respondents had by then confirmed that they would not oppose the application. The fourth respondent had filed evidence in support of it. I was satisfied it could be dealt with on paper to an extent.

6. The applicants sought an order in similar terms to the website blocking order I made in a different case on 27th July 2020. That order concerned the same respondents as in this application, and the Football Association Premier League Limited ("FAPL") as applicant. I will call it the July FAPL 2020 order. It contained an updated version of the mechanism which dynamically blocks websites in real time which was first used in 2017 (***FAPL v British Telecommunications plc [No 1]*** [2017] EWHC 480 (Ch)). In that judgment Arnold J explained that in his judgment this kind of "live" blocking approach was appropriate and, amongst other things, did not give rise to a significant risk of over-blocking. As he also explained in paragraph 9, the details of the mechanism would be kept confidential because to make them public would facilitate infringement and circumvention of the order. In July 2020 I was satisfied that the updated version of the dynamic blocking mechanism was also appropriate and did not have a significant risk of over-blocking.

7. Matchroom have provided evidence in the form of two witness statements (see below) and a confidential expert report supporting their request that this updated dynamic website blocking mechanism, as granted in the July FAPL 2020 order, be granted in this application. Some of the detailed aspects of Matchroom's

evidence are based on the evidence put before the court in support of the July FAPL 2020 order.

8. Although the applicants present the application as seeking an order extending and varying the 2019 Order, it is not. This is simply an application for a fresh web blocking order and I will treat it as such. The application is for an order based on the website blocking system provided for in the July FAPL 2020 order.

9. A small point arises on procedure. This application was made as a Part 23 application. I questioned this approach because it appeared that this was not really an extension or variation of a previous order, it was a request for a fresh order, and so it seemed to me that a fresh Part 8 Claim Form ought to have been issued. It has now been explained to me that this Part 23 application approach has been followed for a number of years with a number of different applicants. It has the advantage of keeping together the series of applications by the same applicant with a single action number as a reference, which has some administrative advantages for applicants and their legal teams. I can see that that is so and so I will not require a Part 8 Claim form to be filed.

10. Since the application was filed, an additional two boxing events have been scheduled. One event is between Oleksandr Usyk and Derek Chisora scheduled for 31st October 2020, and the other event is between Alexander Povetkin and Dillian Whyte scheduled for 21st November 2020.

*Evidence*

11. The applicants have provided two witness statements in support of their application as well as a confidential expert report.

12. The witness statement of Mr Stephen Dawson is Mr Dawson's third witness statement, the first given in relation to the 2018 Order and the second relating to the 2019 Order. Mr Dawson has been the Chief Executive Officer of the applicants' group of companies since January 1984.

13. Mr Dawson summarised the status of the current website blocking mechanism, implemented under the 2019 Order, as having "operated smoothly and as intended" [7/10]. His evidence also notes the "significant positive impact in reducing in UK consumers' access to infringing live streams of Matchroom Events [boxing events organised by the applicants]" [7/11].

14. Mr Dawson submits that the rationale for varying the order is to "allow a greater proportion of the available unauthorised streams of Matchroom Events to be blocked, and to do so quicker and more effectively" [7/17]. Mr Dawson also refers to the evolving nature of the infringement as "pirates develop increasingly sophisticated and intricate ways in which to circumvent blocking" [7/38] so couching the proposed variation as proportionate to the scale and means of infringement.

15. The second witness statement filed in support of the application is of Mr Robert Kiessling. Mr Kiessling holds the position of Head of Cloud Engineering within the Technology UK Operations department of the fourth respondent Sky UK

Limited. Mr Kiessling has been employed by the fourth respondent, and its predecessor companies, for over 24 years.

16. Mr Kiessling states that "blocking has worked smoothly in practice" [9/6] and has operated so as not to result in the "blocking of access to any legitimate content" [9/10]. Mr Kiessling also provides evidence in the form of traffic maps which he submits suggest that the 2019 Order has made a "significant contribution to reducing unauthorised streams of Matchroom Content transmitted to customers using Sky's broadband network" [9/21]. Mr Kiessling submits that he is unaware of the fourth respondent having received any complaint that legitimate content has been blocked [9/30] thereby averting concerns as to over-blocking.

*The order sought*

17. The applicants submitted that it would be appropriate for the court to make the order sought on the basis of the reasons held by the court to justify the making of the orders in ***FAPL v British Telecommunications plc [No 1]*** and ***FAPL v British Telecommunications plc [No 2]*** [2017] EWHC 1877 (Ch).

*Assessment as at 15th October*

18. When I examined this evidence on 14th/15th October without a hearing, it was done at speed and without the benefit of oral assistance. I was satisfied that it would be appropriate to make an order in the form sought for a limited period, so as to ensure the injunction is in place for the boxing event scheduled for 17th October 2020. However it had not been not possible for me to go into this as fully as I would wish to and I was not satisfied that the order should be made to cover any events after the end of October and certainly not for two years. To decide that would require a more careful examination of the material than was possible at that stage.

19. Therefore I made a short term temporary order on 15th October 2020. The order was made to expire on 30th October 2020, i.e. the day before the event between Oleksandr Usyk and Derek Chisora. I directed that, assuming the applicants wanted to seek an order for a longer period, that would need to be dealt with at a later date either at a hearing or on the papers. That would allow the judge in question to review the relevant papers fully.

20. The 15th October 2020 order sought was to be confidential because it was said to contain confidential material. I was prepared to make that order in that form but at the same time I decided that I would annex a copy of the order being made to a brief judgment which would be handed down a few days later to explain what was going on. Although public versions of confidential orders of this kind had been made in the past, I thought it would be worthwhile going to the trouble of annexing a public form of the order to a judgment (with whatever properly confidential parts removed if necessary) so that the public are as fully informed as possible. Even though court orders (which are not themselves confidential) are publicly available in theory, they are not always accessed readily.

21. The draft judgment plus draft order to be annexed was sent to the parties in advance of being handed down. The draft judgment was broadly in the form of

this judgment up to this point (with tenses changed and some other minor changes). I indicated that I would be prepared to hold a brief remote hearing to resolve any issues of confidentiality.

22. A hearing was fixed for 23rd October 2020 to deal with two matters, first the issue of precisely which bits of the order should be kept confidential, and second, the making of the order in its original form – i.e. for a period of two years.

23. The applicants filed further materials to support their case about which parts of the order should remain confidential, including a letter from the fourth respondent Sky in support. I also had the opportunity prior to 23rd October 2020 to consider the evidence fully.

24. At the public hearing, I explained to counsel that I was satisfied that an order along the lines of the order sought was appropriate, subject to a minor detail which was resolved. That left two matters, both relating to the confidentiality issue. The first is the confidentiality issue itself, the second is a point about legitimate access to that information.

25. On the first point, Counsel reiterated and explained his clients' case why it is that the court was being asked to keep Schedules 2 and 3 of the order confidential. The reason is simply that all of it is information which would, if publicly available, undermine the purpose of the order itself. That is because it would help those seeking to circumvent the web blocking system to avoid it in various ways. Schedule 2 is a list of target IP addresses. It needs to be confidential because it would otherwise provide a list of addresses to use to try and get access to these infringing streams. Schedule 3 sets out the detection conditions and requirements which an IP address must satisfy in order for that IP addressed to be notified so that it will be blocked. I had hitherto thought that there might not be any risk caused by explaining the conditions and requirements at least in broad terms, but I am satisfied that even doing that bears a tangible risk of undermining the blocking and assisting the infringers. Accordingly I am satisfied that the public version of this order should not contain any of the content of Schedules 2 and 3.

26. On the second point, I raised with counsel the concern that while it was appropriate that the details remain confidential, it seemed that some thought should be given to whether there was a way, properly managed, whereby third parties with a legitimate purpose ought to have access to this information on appropriate terms. Counsel explained that in fact a practice of a sort already exists, in that not only had FAPL shared certain details of the dynamic web blocking arrangements, on a confidential basis, with Matchroom but also with other applicants for these orders, and that this practice had been in existence for some years, facilitated by orders of the court permitting the necessary variations to relevant confidentiality terms. The dynamic web blocking arrangements had been devised by a team working for FAPL, no doubt at considerable cost. Nevertheless the details were being shared with appropriate other organisations on suitable agreed terms. After all, all the potential applicants such as FAPL and Matchroom and others, as well as the broadcasters themselves such as Sky, have a clear interest in maintaining the confidentiality of the arrangements for the same reasons as I have kept them confidential in this case.

27. Having had the practice explained, I can see that it makes sense and that it appears to work satisfactorily. All the same, since I was unaware of it, one function of this judgment is to make clear in a public judgment that it exists. Therefore although the detailed terms of the order being made are being kept confidential, other applicants for related web blocking orders can see that they may be able to take advantage of this approach, on suitable terms. No doubt the organisation to approach in the first instance is FAPL (who have seen and had a chance to comment on the draft of this judgment). If suitable terms cannot be agreed then if need be the matter could be resolved by the court.

*The terms of the order made on 23rd October 2020*

28. The copy of the order I made on 23rd October will form annex A to this judgment, with redactions to preserve what I am satisfied is confidential material and to omit some irrelevant detail.

Annex A

**[ACTION HEADING]**

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**ORDER**

**[PUBLIC VERSION OF CONFIDENTIAL ORDER OF BIRSS J DATED 23 OCTOBER 2020]**

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**UPON** the order of Arnold J dated 20 September 2018 in these proceedings as varied by the order of Arnold J dated 22 May 2019 (the "**2018 Order**")

**AND UPON** the Football Association Premier League Limited having given permission to the Applicants to inspect the confidential material identified as the FAPL Material in Schedule 5 of this Order (the "**FAPL Material**")

**AND UPON** the application of the Applicants by application notice dated 28 September 2020 (the "**Application**")

**AND UPON** reading the documents recorded on the court file as having been read

**AND UPON** the Court being satisfied on the evidence before it that the operators of the Target Servers (as defined in Confidential Schedule 2 to this Order) use the services of each of the Respondents to infringe the Applicants' copyrights in the United Kingdom

**AND UPON** the Court recording that the Respondents are not wrongdoers and have not themselves infringed the Applicants' copyrights

**AND UPON** each of the Respondents confirming to the Applicant's solicitors that they either support (in the case of the Fourth Respondent) or do not oppose (in the case of the First, Second, Third, Fifth and Sixth Respondents) the Application

**AND UPON** deciding the Application on paper

**IT IS ORDERED THAT:**

**This order contains the following schedules:**

Schedule 1 – Matchroom Events
Schedule 2 – Target Servers (Confidential) [Omitted from public version of this order]
Schedule 3 – Detection and Notification Criteria (Confidential) [Omitted from public version of this order]
Schedule 4 – Technical Means
Schedule 5 – Confidential Material

**Disabling of access**

1 The Respondents shall, during each of the Matchroom Events specified in Schedule 1 of this Order (as may hereafter be varied) or as otherwise required by this Order, block or attempt to block access to each of the IP addresses for the Target Servers (as defined in Confidential Schedule 2 of this Order and as may hereafter be varied) which the Applicants or their appointed agents have notified to the Respondents in accordance with this Order.

2 The Applicants or their appointed agents may notify to the Respondents an IP address to be blocked as a Target Server pursuant to paragraph 1 of this Order if:

(a) the Applicants or their appointed agents have detected that the IP address is being used:

(i) during the Matchroom Event to communicate to the public live audio-visual footage of that Event ("**Matchroom Event Footage**") without authorisation; or

(ii) within the Pre-Monitoring Period (as defined in Confidential Schedule 3 of this Order) immediately preceding the Matchroom Event to communicate to the public without authorisation live footage from:

(A) a subscription television channel on which Matchroom Event Footage is to be broadcast; or

(B) a sports-related subscription television channel operated by the same broadcaster as a channel within sup-paragraph (A) above

(together, "**Channel Footage**"); or

(iii) in a manner that meets one or more of the detection conditions specified in Confidential Schedule 3 of this Order; and

(b) the Applicants or their appointed agents have concluded that at the time of detection the IP address satisfies the requirements of in Confidential Schedule 3 of this Order.

3 Upon the conclusion of each Matchroom Event, the Applicants or their appointed agent shall give a notice to the Respondents in accordance with paragraph 6 of this Order to unblock all Target Servers that have previously been notified for blocking during that Matchroom Event. The Respondents shall use their best endeavours to ensure that such unblocking occurs as soon as reasonably practicable after the expiry of the Matchroom Event.

4 For the avoidance of any doubt, paragraphs 1 and 3 of this Order are complied with by a Respondent if that Respondent uses the technical means set out in relation to that Respondent in Schedule 4 of this Order, or any alternative and equivalent (including replacement) technical means, provided that the Respondent gives notice to the Applicants of the change, and in respect of the customers identified in relation to that Respondent in Schedule 4 of this Order.

**Notifications to the Respondents**

5 Any notifications given by the Applicants or their appointed agents under paragraph 2 of this Order must:

(a) be notified to the Respondents by means of publishing a consolidated list of all the IP addresses of the Target Servers to be blocked during a Matchroom Event on a secure electronic platform to which each of the Respondents has been given access by arrangement with the Applicants or their agent;

(b) be published to the said platform at least twice during each Matchroom Event, and (save as set out in paragraph 6 below) not during other periods; and

(c) be published in such a manner that they are accessible to all Respondents as close to simultaneously as is reasonably practicable.

6 Any notifications given by the Applicants or their appointed agent under paragraph 3 of this Order must be notified to the Respondents by the same means as those specified in paragraph 5 of this Order and given within 15 minutes of the expiry of the relevant Matchroom Event, and shall be effected by publishing an empty list of IP addresses.

**Time for compliance**

7 When blocking access to an IP address pursuant to paragraph 1 of this Order, the Respondents shall use their best endeavours to disable access to the IP address as soon as practicable and subject to the limits of their networks and resources.

8 For the avoidance of any doubt, for a Respondent to comply with paragraph 7 of this Order it shall be sufficient for it to use the technical means set out in relation to that Respondent in Schedule 4 of this Order on at least two occasions during and prior to the conclusion of a Matchroom Event, or according to such other schedule as may be agreed between the relevant Respondent and the Applicants in writing.

**Sunset clause**

9 This Order shall cease to have effect on 1 October 2022, unless the Court orders otherwise.

10 The Applicants have permission to apply before the expiry of this Order to extend the operation of this Order for such further period as may appear to the Court to be proportionate, such application to be supported by evidence and on notice to the Respondents.

**Notifications to third parties**

11 Where the Applicants or their appointed agent notify an IP address for blocking in accordance with paragraph 2 of this Order, they must within a reasonable period of the first occasion when that IP address is notified (being no later than 1 hour

after the end of the Matchroom Event in question) send to the hosting provider associated with the IP address an electronic notice which contains the following information:

(a) that access to the IP address has been blocked in the United Kingdom by court order;

(b) the identity of the party who obtained this Order;

(c) a link to an internet location from which the public version of this Order may be accessed; and

(d) a statement that affected server operators have the right to apply to the Court to discharge or vary the Order.

12 Within 10 working days of this Order being implemented by a Respondent, that Respondent shall take reasonable steps to publish a statement to its customers (identified in relation to it in Schedule 4) in electronic form which contains the following information:

(a) that access to a number of (unidentified) servers associated with infringing Matchroom Event Footage has been blocked by court order, and further similar blocks will continue during Matchroom Events for the duration of this Order;

(b) the identity of the party who obtained this Order; and

(c) a statement that affected users have the right to apply to the Court to discharge or vary the Order.

13 For the avoidance of doubt, the Respondents are not required to make the information in paragraph 12 of this Order available to their customers at the same time as blocking occurs.

**Changes to Confidential Schedule 3**

14 All parties have permission to apply in writing to vary the contents of Confidential Schedule 3, such application to be supported by evidence and on notice to all the other parties.

**Suspension of blocking measures**

15 A Respondent will not be in breach of this Order if it temporarily ceases to take the steps ordered in paragraph 1 (either in whole or in part) upon forming the reasonable view that suspension is necessary:

(a) in order to:

(i) correct or investigate over-blocking of material which is, or is reasonably suspected to be, caused by the steps taken pursuant to paragraph 1;

(ii) ensure the reliable operation of its Internet Watch Foundation blocking system, if it reasonably considers that such operation is otherwise likely to be impaired;

(iii) maintain the integrity of its internet service or the functioning of its blocking system;

(iv) upgrade, troubleshoot or maintain its blocking system; or

(v) avert or respond to an imminent security threat to its networks or systems;

(b) and provided that:

(i) it notifies the Applicants or their appointed agent of such suspension and the reasons for the same as soon as reasonably practicable; and

(ii) such suspension lasts no longer than is reasonably necessary.

**Permission to apply**

16 The following persons have permission to apply on notice to vary or discharge this Order insofar as it affects them, namely:

(a) The operator of any Target Server having an IP address notified under paragraph 2 of this Order;

(b) The operator of any website or video streaming service who claims to be adversely affected by this Order;

(c) Any recipient of a notice under paragraph 11 of this Order; and

(d) Any customer of the Respondents who claims to be adversely affected by this Order.

17 Any application under paragraph 16 of this Order shall be on notice to all the parties and be supported by evidence justifying the grounds for the application, including a clear indication of the status of the applicant.

**Confidentiality**

18 In respect of the material identified in Schedule 5 of this Order ("**Confidential Material**"):

(a) Pursuant to CPR rule 31.22(2), the parties and their external advisors and experts may only make use of the Confidential Material for the purposes of these proceedings, whether or not they are read to or by the Court, referred to at the hearing of the Application or in skeleton arguments;

(b) Pursuant to CPR rule 32.13(2), the Confidential Material shall not be open to inspection; and

(c) The Confidential Material shall, if mentioned, be excluded from electronic and hard copy transcripts of the proceedings.

**Interpretation**

19 In this Order:

(a) A reference to a "**Matchroom Event**" is to be taken as a reference to any time which falls during a Matchroom organised boxing event, or a boxing event which Matchroom has the exclusive right to distribute and broadcast in the United Kingdom, and in either case which is:

(i) identified in Schedule 1 of this Order (as may subsequently be varied or updated); or

(ii) subsequently notified in writing to the Respondents by the Applicants or their appointed agent at least four weeks in advance of the starting time of the event,

and shall include:

(iii) Any changes to the start time, date or competitors for a boxing event which are published by the Applicants from time to time; and

(iv) The period ending 15 minutes after the (currently or subsequently) scheduled end time for a boxing event.

(b) A reference to "**the Applicants or their appointed agent**" is to be taken as a reference to either or both of the Applicants, or their appointed agent for the purposes of online enforcement, including the third party mentioned in Confidential Schedule 3 or such other agent as may be appointed from time to time.

**Other**

20 The proceedings shall be stayed, save for the purposes of any application to give effect to the terms of this Order and save that the parties have permission to apply on notice in the event of any material change of circumstances including, for the avoidance of doubt but without limiting the generality of the foregoing, in respect of the costs, consequences for the parties and effectiveness of the aforesaid technical means from time to time.

21 Costs reserved, as to which the parties have liberty to apply.

22 This Order shall be served by the Applicants upon each of the Respondents.

**Service of the Order**

The Court has provided a sealed copy of this order to the serving party:

**[solicitors name and address]**

## Schedule 1: Matchroom Events

The Matchroom Events are:

| Date | Venue | Scheduled Fights | Estimated Start Time | Estimated End Time |
|---|---|---|---|---|
| 31 October 2020 | TBC, UK | • Oleksandr Usyk v Derek Chisora | 5pm | 11pm |
| 21 November 2020 | TBC, UK | • Alexander Povetkin v Dillian Whyte | 5pm | 11pm |

and include any variations to the above events, and such additional Matchroom Events as may be notified to the Respondents in accordance with this Order from time to time.

All times in this Schedule 1 are given in Greenwich Mean Time or British Summer Time, as the case may be.

# Confidential Schedule 2: Target Servers

The Target Servers are:

[OMITTED FROM PUBLIC VERSION OF THIS ORDER]

and include any changes to this list (whether by way of addition or removal) which are notified to the Respondents in accordance with this Order from time to time (together the "**Target Servers**" and each a "**Target Server**").

## Confidential Schedule 3: Detection and Notification Criteria

[OMITTED FROM PUBLIC VERSION OF THIS ORDER]

# Schedule 4: Technical Means

**In relation to the First Respondent (British Telecommunications plc)**

1 In respect of its customers to whose internet service the system known as Hawking or Cleanfeed is applied, whether optionally or otherwise, the technical means are IP blocking.

2 For the avoidance of doubt, paragraph 1 of the Order is complied with if the First Respondent uses Hawking, Cleanfeed, blackholing or any subsequent system or measure that has equivalent relevant functionality.

**In relation to the Second Respondent (EE Limited)**

3 In respect of its customers whose internet service is provided through its fixed line network currently known as EE Home, and to whose internet service the system known as Wolf is applied, whether optionally or otherwise, the technical means are IP blocking.

4 For the avoidance of doubt, paragraph 1 of the Order is complied with if the Second Respondent uses the system known as Wolf or any subsequent system that has equivalent relevant functionality.

**In relation to the Third Respondent (Plusnet plc)**

5 In respect of its customers to whose internet service the system known as Hawking or Cleanfeed is applied, whether optionally or otherwise, the technical means are IP blocking.

6 For the avoidance of doubt, paragraph 1 of the Order is complied with if the Third Respondent uses Hawking, Cleanfeed, blackholing or any subsequent system or measure that has equivalent relevant functionality.

**In relation to the Fourth Respondent (Sky UK Ltd)**

7 In respect of its customers to whose internet service the system known as Hawkeye is applied, whether optionally or otherwise, the technical means are IP blocking.

8 For the avoidance of doubt, paragraph 1 of the Order is complied with if the Fourth Respondent uses the system known as Hawkeye or any subsequent system that has equivalent relevant functionality.

**In relation to the Fifth Respondent (TalkTalk Telecom Ltd)**

9 In respect of its customers to whose internet access service the measure known as blackholing is applied, whether optionally or otherwise, the technical means are IP blocking.

10 For the avoidance of doubt, paragraph 1 of the Order is complied with if the Fifth Respondent uses blackholing or any subsequent system or measure that has equivalent relevant functionality, up to an overall limit (under all live section 97A Orders to which the Fifth Respondent is subject) of 2000 simultaneous IP addresses.

**In relation to the Sixth Respondent (Virgin Media Ltd)**

11 In respect of its fixed-line residential and business retail broadband customers to whose internet access service the system known as Web Blocker 3 is applied, or to whose internet access the measure known as blackholing is applied, the technical means are IP blocking.

12 For the avoidance of doubt, paragraph 1 of the Order is complied with if the Sixth Respondent uses either the system known as Web Blocker 3 (or any subsequent system that has equivalent relevant functionality) or blackholing.

# Schedule 5: Confidential Material

The Confidential Material is:

[*The list of confidential material is not confidential but is omitted because it is irrelevant*]