*Draft Order laid before Parliament under section 58(4) of the Crime and Courts Act 2013, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

# 2022 No. XXXX

# COMPETITION

# The Competition Appeal Tribunal (Recording and Broadcasting) Order 2022

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|---|---|
| *Made - - - -* | *** |
| *Coming into force - -* | *** |

The Lord Chancellor, with the concurrence of the Lord Chief Justice, makes the following Order under section 32(1) of the Crime and Courts Act 2013(**a**).

In accordance with section 58(4) of that Act, a draft of this Order was laid before and approved by a resolution of each House of Parliament.

**Citation and commencement**

**1.** This Order may be cited as the Competition Appeal Tribunal (Recording and Broadcasting) Order 2022 and comes into force on the day after the day on which it is made.

**Definitions**

**2.** In this Order—

"broadcast" means the transmission to members of the public of a recording of proceedings of the Tribunal;

"the chairman" has the meaning given in rule 2(1) of the Rules;

"President" has the meaning given in rule 2(1) of the Rules;

"proceedings" means a hearing before the Tribunal conducted in accordance with the Rules;

"recording" includes a visual or sound recording on any medium from which a single image, a moving image or any sound may be produced or reproduced, or the making of any such recording, and "record" and "recorded" shall be construed accordingly;

"representative" means a person within rule 8(1)(a) or (b) of the Rules who represents a party to proceedings;

"Registrar" has the meaning given in rule 2(1) of the Rules;

"Rules" means the Competition Appeal Tribunal Rules 2015(**b**); and

(**a**) 2013 c. 22.
(**b**) S.I. 2015/1648.

"Tribunal" means the Competition Appeal Tribunal established by section 12 of the Enterprise Act 2002(**a**) however constituted in accordance with section 14 of that Act.

**Extent and application**

**3.** This Order extends to England and Wales, and applies to the recording of and broadcast of proceedings in England and Wales.

**Recording and broadcasting proceedings**

**4.** Section 41 of the Criminal Justice Act 1925(**b**) and section 9 of the Contempt of Court Act 1981(**c**) do not apply where proceedings are—

(a) recorded in accordance with the conditions in articles 5 to 7; or

(b) broadcast in accordance with the conditions in articles 8 and 9.

**Recording**

**5.** Recording is only permitted by a person who—

(a) is permitted in writing by the President or Registrar of the Tribunal to record proceedings in the Tribunal; and

(b) assigns copyright in the recording of proceedings to the Registrar on behalf of the Tribunal.

**6.** Recording is only of—

(a) submissions of a representative;

(b) exchanges between a representative and the Tribunal;

(c) exchanges between a representative or the Tribunal and a witness of fact or expert witness; and

(d) the Tribunal giving an order, direction or decision, including interim decisions or interim orders.

**7.** Recording of proceedings is only with the permission of the chairman, which permission may be limited to part or parts of the proceedings.

**Broadcast – broadcast of permitted recordings only**

**8.** Only recordings made in accordance with articles 5 to 7 may be broadcast.

**Broadcast – general conditions of use**

**9.**—(1) A report or presentation of proceedings that includes a broadcast must be fair and accurate having regard to—

(a) the overall content of the report or presentation; and

(b) the context in which the broadcast is presented.

(2) A broadcast must not be for the purposes of—

(a) a party political broadcast;

(b) advertisement or promotion, except where such advertisement or promotion relates to a report or presentation of proceedings that includes a broadcast;

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(**a**) 2002 c. 40. Section 12 was amended by section 82(1) of the Consumer Rights Act 2015 (c. 15).
(**b**) 1925 c. 86. Section 41 was amended by section 56(4) of and Part 4 of Schedule 11 to the Courts Act 1971 (c. 23), sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48) and by section 47(1) of the Constitutional Reform Act 2005 (c. 4).
(**c**) 1981 c. 49.

(c) light entertainment; or

(d) satire.

**Revocation of the Competition Appeal Tribunal (Coronavirus) (Recording and Broadcasting) Order 2020**

**10.** The Competition Appeal Tribunal (Coronavirus) (Recording and Broadcasting) Order 2020(**a**) is revoked.

*Name*
Parliamentary Under Secretary of State
Ministry of Justice

Date

I concur

Date

Lord Chief Justice

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes provision replacing the temporary provision to identical effect made by the Competition Appeal Tribunal (Coronavirus) (Recording and Broadcasting) Order 2020 (which expires on 25th March 2022, being the date on which the Coronavirus Act 2020 expires(**b**)). This Order prescribes the conditions to be satisfied for the recording and broadcast of proceedings in the Competition Appeal Tribunal. Where the conditions are satisfied, section 41 of the Criminal Justice Act 1925 ("the 1925 Act") and section 9 of the Contempt of Court Act 1981 "(the 1981 Act") do not have effect. Section 41 of the 1925 Act makes it an offence to film in court. Section 9 of the 1981 Act provides that it is a contempt of court to record sound in court except with the permission of the court.

Article 3 set out that the Order applies to all proceedings which take place in the Competition Appeal Tribunal in England and Wales. Article 4 sets out that section 41 of the 1925 Act and section 9 of the 1981 Act do not apply where the conditions of the Order have been satisfied.

Articles 5 to 7 sets out what part of the proceedings may be recorded and who can record proceedings.

Articles 8 and 9 set out when the recording of a proceeding can be broadcast and what content is permitted in a broadcast.

Article 10 revokes the Competition Appeal Tribunal (Coronavirus) (Recording and Broadcasting) Order 2020.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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(**a**) S.I. 2020/801.
(**b**) Coronavirus Act 2020 (c. 7), section 89.

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