

On Tower UK Ltd (formerly known as Arqiva Services Ltd) (Appellant) v AP Wireless II (UK) Ltd (Respondent)

Case ID: 2020/0168

Case summary

Issue

What is the meaning and effect of paragraphs 20 and 27 of the Electronic Communications Code as set out in Schedule 3A to the Communications Act 2003?

Facts

The appellant, On Tower is a provider of infrastructure for network operators and a "code operator". It was granted a 20-year lease over a site at Queens Oak Farm, Towcester which expired in October 2016. Prior to the expiry of the lease, On Tower had rights under the statutory predecessor to the Electronic Communications Code. After the expiry of the lease, On Tower remained in occupation of the site. The respondent, AP Wireless acquired the freehold to the site in 2014. In July 2019, On Tower gave AP Wireless notices seeking orders under paragraphs 20 and 27 of Part 4 of the Code which gives the court power to impose an agreement by which a person confers or is bound by Code rights. A reference was made to the Upper Tribunal (Lands Chamber) in August 2019. The Upper Tribunal struck out the reference finding that On Tower did not have Code rights and the Tribunal did not have jurisdiction to impose an agreement under para 20 of the Code. On Tower now appeals to the Supreme Court.

Judgment appealed

[\[2020\] UKUT 0195 \(LC\)](#)

Parties

Appellant(s)

On Tower UK Ltd (formerly known as Arqiva Services Ltd)

Respondent(s)

AP Wireless II (UK) Ltd

Appeal

Justices

Lord Hodge, Lord Sales, Lord Leggatt, Lord Burrows, Lady Rose

Hearing start date

1 February 2022

Hearing finish date

3 February 2022

Watch hearing

1 Feb 2022 [Morning session](#) [Afternoon session](#)

2 Feb 2022 [Morning session](#) [Afternoon session](#)

3 Feb 2022 [Morning session](#) [Afternoon session](#)