

## IN THE DIVISIONAL COURT OF THE QUEEN'S BENCH DIVISION

***R v Cameron***

On 29<sup>th</sup> August 2008, Cameron sat in his front garden, using his laptop. He was questioned by a passing police officer, who discovered that Cameron's laptop was at the time connected to his neighbour, Clegg's, wireless network. Cameron was arrested and charged under s125 of the Communications Act 2003. Clegg confirmed to the arresting officer that he had not given Cameron permission to access his broadband service, and furthermore that he was not happy at the thought of other people accessing his network in this way.

Cameron stated that he frequently used his laptop in his garden in order to send and receive emails, and that he had assumed he had been using his own wireless network to do so. He had not intentionally accessed Clegg's network but his laptop's wireless card had automatically switched to receive the strongest available open network, which in this instance had been Clegg's.

At Cameron's trial, the following facts were found:

1. Neither Cameron nor Clegg had password-protected their networks, which were therefore unsecured.
2. Cameron had never accessed Clegg's computer itself, nor used the network for any illicit purpose.
3. Both Cameron and Clegg were subscribed to internet service providers offering unlimited usage for a flat rate. Cameron's internet access was provided by Whig Broadband for £14.99 per month, and Clegg's was provided by Cablevince Online for £17.99 per month.
4. When the police force examined Cameron's laptop, they found that he had been connected to Clegg's network numerous times in the past.
5. Cameron had purchased his wireless router in 2005 for £20 from ebay. Clegg had paid £89 for his wireless router when he signed up to Cablevince Online earlier in 2008.
6. When Cameron's laptop connected to any network, a message box would pop up on screen indicating which network he was connected to. Cameron's network had the SSID "MaggieT", Clegg's had the SSID "Duckpond1645".

District Judge Brown found the defendant, Cameron, guilty of dishonestly obtaining an electronic communications service with the intent to avoid payment under the Communications Act 2003. Cameron was fined £500 and given a conditional discharge for twelve months, and his laptop computer and wireless card were confiscated.

Cameron appealed to the Crown Court where the conviction was upheld. Cameron appealed to a Divisional Court of the Queen's Bench Division by way of case stated on the following grounds:

1. As Clegg had not password-protected his own network, and Cameron's laptop had automatically connected to the strongest available signal, it could not be established that he had the necessary mens rea for the offence.
2. Since both Cameron and Clegg had paid for uncapped tariffs, it could not be said that he was intending to avoid payment for the service he received.