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BT'S RESPONSE TO OFCOM'S CONSULTATION "REVIEW OF THE UNIVERSAL SERVICE OBLIGATION"

BT would welcome any comments on its position as laid out in this document which is available electronically at <http://www.btplc.com/responses>

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UNIVERSAL SERVICE OBLIGATION BT's RESPONSE TO OFCOM'S CONSULTATION

1. Summary

BT supports the principle of Universal Service and we appreciate our wider responsibilities in the provision of certain services which have significant social benefit but are commercially unattractive. But we urge Ofcom to recognise that Universal Service should be treated as an industry issue, not simply a "BT issue". The market we all now operate in is increasingly competitive and the whole of the industry benefits from the USO through more people being able to make calls.

Our response sets out our detailed comments. Some of the key points are highlighted below.

Special tariff schemes and disconnection

BT has proposed an alternative scheme targeted at households with annual income below £10,400, the Government's definition of poverty. The scheme would replace existing special schemes which are poorly targeted and not fit for purpose, using low usage as a proxy for need. The new scheme addresses these issues. It offers less than half price line rental compared to standard prices and gives customers almost 100 more minutes talk time than the existing Low User Scheme (LUS) before standard pricing becomes a more appropriate choice.

Looking beyond specific schemes, BT has a fair and equitable credit management policy, implemented by skilled and customer-friendly individuals, backed up by sophisticated systems. As a result, BT customers are given every opportunity to settle their bills before any restrictive action is taken. BT has operated an "open door" policy actively encouraging Ofcom and representatives from consumer organisations to witness our credit management work at first hand. We have already implemented a number of initiatives for more active promotion of special schemes as part of the credit management process and continue to assess others.

Public Call Boxes (PCBs)

The social role and economics of call boxes have fundamentally and permanently changed. Payphones are no longer the primary method of making "away from base" calls. It is not appropriate to look at UK payphones as a single network without defining which boxes should make up the USO element of it. The scope of the call box obligation within the overall USO should reflect this.

Further, we believe that Ofcom should not devolve its powers, rather it should decide on the merits of removal against criteria which are objective and transparent. There should be an appropriate appeals procedure which reviews decisions against these criteria.

Services for customers with disabilities

BT remains absolutely committed to the provision of services for customers with any disability that prevents them from using standard facilities. We fully support the establishment of a Stakeholder Advisory Panel and a study into video relay.

BT is concerned, however, by the shift in positioning of the Universal Service Obligation from the requirement to fund a text relay, to the more general provision of services for customers with disabilities. The consultation has extended discussion to include payphone access and bill/contract provision. These are dealt with under General conditions and are not appropriate for the USO.

Provision of a connection on reasonable request

BT agrees that the application of a threshold is a sensible approach that meets the needs of efficiency, consistency and fairness. It ensures that customers with exceptionally costly requirements are not inappropriately subsidised by the vast majority of customers, particularly when these costs are generally out of all proportion to the level of use of the line and when alternative more cost effective solutions such as mobile are usually available. BT believes that the threshold should be set at £2,000.

Functional Internet Access

The Guidelines relating to this have only been in place for a relatively short period of time. In the vast majority of cases customers are achieving high quality line speed performance levels. Ofcom's consumer research shows that overall satisfaction with home Internet service is high, at around 90% of homes satisfied with narrowband Internet access. In the very few cases where customers are experiencing difficulties, the Guidelines require BT to take appropriate action. BT suggests that there is no need for substantive change to the Guidelines.

Maintenance and supply of a directory information database and directories

The requirement to supply printed directories should be to end-users on commercial terms.

Costs and benefits of providing the USO

This is an important area. BT is therefore concerned that the model used is outdated. Specifically, the fixed line costs are based on an extrapolation of a detailed model of uneconomic areas and uneconomic customers which was developed nearly 10 years ago. It is now time for Ofcom to take a fresh look at the model as the market in which the USO is operated has changed significantly since this time.

The costs of uneconomic payphones should be considered as the situation exists today, including the existence of many mobile networks, not by suggesting that decisions made by BT up to 20 years ago are reasons to exclude certain PCBs from the cost analysis.

The benefits have been significantly overstated. The brand benefit is not substantiated by any evidence and is contradicted by all circumstantial evidence. The advertising benefit arising from PCBs is negligible.

The financial position of PCBs is due entirely to the impact of mobile, circumstances beyond BT's control. This justifies separate treatment of PCBs with regards USO funding. The payphones USO is discrete and identifiable. It represents a significant burden on a declining business and should be considered for funding in its own right.

As competition intensifies not only does BT's market share diminish, but our margins are squeezed. Whilst this competition is good for customers, it has to be recognised that, over time, it will reduce our capability to fund loss-making USO services.

2. Special tariff schemes and disconnection

2.1 Introduction

Customers have never had more choice of telephone supplier, and competition in the consumer market is increasing. Currently customers can choose between hundreds of fixed and mobile offerings, all competing on price. Indeed, prices for end users have never been lower, whilst all other key economic indicators have risen. Against this backdrop, BT thinks there is less need for special schemes to address affordability issues. Telephony is, quite simply, affordable for the vast majority of consumers.

However, we remain committed to our obligation, and have proposed a new scheme for customers who want a fixed line but who may genuinely find it difficult to afford one. This offers access to a fixed line for around half the standard price: £14.50 per quarter, (or £11.50 if paid monthly by direct debit or monthly payment plan), and includes a call allowance of £1.00 a quarter.

BT's current schemes, whilst popular, are largely unfocused and Ofcom's research shows some customers have benefited who should not, for example, those with second homes. BT's proposed new scheme would replace these. Eligibility management - targeting the product at those in most need - is a key requirement if we are to ensure that the USO obligation is met appropriately. The new scheme, we believe, satisfies this.

2.2 Context

Headline RPI increased by 16.6% between Jan 98 and April 04 whereas fixed telephony charges fell by 15.1% over the same period (see Annex 1). In addition, the overall cost of fixed telephony has fallen when compared with basic foodstuffs and other forms of communications (see Annex 2). Since the last review of universal service, telephony has become much more widely available from many sources and much more affordable when compared to every other utility.

BT's market share has fallen as fixed and mobile competition has intensified. BT's revenue now accounts for 33% of the UK market and continues to fall. Almost every household in the UK has at least one phone: penetration of fixed and mobile telephony in UK homes remains constant at around 99%.¹ Mobile is substituting for fixed line calling to a considerable extent: 67% of all mobile users make or receive calls on their mobile when they are at home.² Research suggests that the main reasons consumers choose to use mobiles over fixed line services is either to use numbers stored in their phone or for privacy or convenience.³ Cost is not a major factor, as mobile call prices remain higher than those of fixed lines.

1 BT COS Monitor and Oftel May 2003

2 BT COS Monitor

3 BT COS Monitor

The percentage of mobile phone only households is increasing, as younger people set up home and see no need to have two services that essentially do the same thing. This currently accounts for just under 10% of UK households.⁴

The market, and BT's place in it, is therefore very different from the last time the USO was reviewed fully. However, BT has discussed with Ofcom the need for a "social telephony" product to meet the requirements of the USO obligation, and have proposed a new scheme to replace the existing products - the Light User Scheme (LUS) and In Contact Plus (ICP). These schemes, although relatively popular, are complex and unfocused and in their current form do not truly meet the requirement to be targeted at customers with affordability problems. This is confirmed by Ofcom's own research.

2.3 The requirement

The basic requirement of any new scheme is that it addresses the needs of customers with affordability problems. We propose a simple, easy to understand subsidised scheme based on publicly available tariffs, including the benefits of inclusive services like 1471. Crucially, it will be targeted more effectively at those who most need help and will give customers better control over their expenditure. When their circumstances change it will allow them to move seamlessly to a more appropriate price package.

2.4 BT's response to Ofcom's Questions on Special Tariff Schemes

Response to Ofcom's Question 4 on all aspects of BT's proposals for a new special tariff scheme

Question 4.1 - the tariff structure and levels

Against a backdrop of much more choice and affordable telecommunications, BT proposes the following:

- Less than half price line rental of £14.50 a quarter, further reducing to £11.50 for customers who pay by Monthly Payment Plan (MPP) or direct debit (DD).
- £1.00 per quarter inclusive call allowance (ICA).
- Fixed price call rate of 10ppm (excluding IDD, Premium Rate and F2M calls) giving bill predictability and the same as current ICP prices.
- Monitoring and control of expenditure: standard bill or direct debit or monthly payment plan with optional set call expenditure levels and the ability to ring BT to check the bill.
- Ability to pre-pay for calls if required. For even greater control, outgoing calls could be paid for using a pre-payment card. This type of service is already used by BT's In Contact Plus customers with high levels of satisfaction.
- All services associated with BT's commercial packages available as standard. This includes Calling Line Identification (CLI) for incoming calls, CLI

⁴ BT COS Monitor

suppression for outgoing calls, selective call barring for outgoing calls, voice messaging box (1471) and all special provisions for people with disabilities.

Overall BT believes that the proposed new scheme is simpler and easier to understand than the current social telephony schemes. The new tariff structure also has a number of advantages for customers over the existing schemes:

- **Predictability** - the combination of a fixed subsidised line rental and fixed call rates will enable customers to predict their overall telephone bill with certainty. This contrasts with LUS which offers a sliding scale of line rental rebate dependent on the customer's call spend.
- **More calls** - customers will be able to spend up to £23.15 per quarter on calls on the new scheme before they would be better off on BT Together Option 1. This equates to almost 100 minutes' worth of additional talk time
- **Simple to understand** - it will be clear whether an individual's calling habits, regardless of their income, makes the subsidised social telephony or a commercial package more advantageous. In comparison, LUS has four thresholds where customers would be better off moving between packages.

Question 4.2 - The use of direct debit and monthly payment plan discounts

BT is offering an extra discount for paying by direct debit or MPP because these payment methods offer cost savings to BT. These methods also help customers to manage their money more effectively, which is a key benefit to the target group. We recognise concerns that these methods may not be accessible to all. However, Department of Work and Pensions (DWP) data shows that over 85% of people on low income have access to a bank account. This number is increasing as a result of Government policy to pay state benefits through bank accounts and their support for the introduction of basic bank accounts.

BT respects customer choice and does not propose that direct debit or MPP be the only payment method for fixed telephony, unlike a number of other telecommunications providers. However we want to encourage take up, as we strongly believe these methods bring benefits to both parties.

Question 4.3 - the target market of households within the government's definition of poverty and in receipt of means tested benefits

It is important that this scheme is effectively targeted according to the Universal Service Obligation to 'those on low incomes or with special social needs' who may have trouble affording a phone. BT welcomes Ofcom's recognition that the scheme should be better targeted and that it 'seems sensible to mix poverty and significant means tested benefits'.

The current LUS relies solely on low use as proxy for low income and whilst this has served reasonably well, Ofcom's research shows that there are considerable numbers of customers benefiting inappropriately, and presumably others who should be able to join a scheme but for whom the current offerings are not suitable.

We therefore need to address this issue. To identify a target market of those on low income, BT has looked to the Government definition of the poor. Currently the Government defines poverty as households which have an annual household income

of less than £10,400 (60% of median income). This equates to 2.4 million households across the UK, which we believe to be around 10% of UK households.

The Government also makes available a number of benefits to those most in need, some of which are automatic and some of which are means tested.

Means tested benefits are provided to those on low incomes and most in need of financial assistance and, as a result, we believe the combination of low income and the receipt of these benefits provides a good indication of a consumer's ability to afford fixed telephone service. BT therefore believes that it is appropriate to stipulate this combination as the basis of eligibility for our social scheme.

BT notes Ofcom's research findings that almost half of the customers currently registered on LUS receive the state pension, an automatic benefit. It is highly likely that many of those on LUS and genuinely in need would qualify for the new scheme, albeit under the different rules.

Question 4.4 - the relevant means tested benefits

BT is currently seeking guidance from the Department of Work and Pensions and is also in dialogue with utility companies. We would welcome stakeholders' views on which benefits would be the best indicators of eligibility.

Question 4.5 - the proposed exclusion of IA/CPS and mobile users

BT welcomes Ofcom's support for the continued exclusion of customers who use IA/CPS from subsidised social telephony and their recognition that 'the scheme involves a balance between rental and call charges and is not intended to provide a subsidised line rental to customers who make calls using other providers' networks'.

BT proposes that the other existing social telephony exclusions continue to apply to any replacement scheme. These excluded:

- customers with more than one line whether at a single or multiple locations;
- customers with lines used exclusively for burglar alarms (not 'lifeline' alarms);
- customers with payphone, ADSL, ISDN or business lines; and
- mobile users.

BT notes Ofcom's comments with regard to mobile phone users. Mobile usage has been accepted as a reasonable exclusion from special tariff schemes in the past. We acknowledge that prices of mobile calls, including pre-pay, have reduced but the price of mobile calls and rental is still relatively high when compared to standard fixed line prices.

This suggests that for mobile users, including pre-pay, fixed line services still remain the more affordable alternative. It follows that consumers who use a mobile are able to afford a fixed line service. There will also be an increasing number of customers who choose a mobile service in preference to a fixed line, presumably because it offers the convenience and other benefits they value. BT recognises that this is a matter of personal choice. However, it would be inappropriate if BT were obliged to

offer either of these sets of customers a fixed line service on a subsidised basis, as they have already chosen the more expensive option, often in addition to a fixed line.

Ofcom goes on to state there are issues of 'coverage and reliability' that relate to mobile phone usage and that therefore mobile use should not continue to be an exclusion to the subsidised social scheme. Ofcom also says that functional Internet access, a key requirement of the USO, is not available from (2nd generation) mobiles and this is further evidence that mobile use should be dropped from the exclusion criteria.

We feel that this does not address the issues. BT is not suggesting the exclusion of mobile use because mobile phones offer all the benefits of fixed telephony in USO terms. Nor, at this stage, are we arguing that they should. What we are saying is that some customers have made a choice to access a higher cost option instead of or in addition to a fixed line, which in our view proves they do not have problems affording a fixed phone. This is the key issue social telephony schemes must address under USO.

It is also worth saying that without details of the 'coverage and reliability' issues to which Ofcom refers, it is difficult for BT to comment, other than to remind Ofcom that any comparisons between the coverage and reliability of services should be made with calls from home. It would be unreasonable to suggest that because a mobile user was not able to make calls elsewhere that they should be offered a subsidised fixed line at their home base in addition to their mobile. Affordability is the issue, and where the obligation lies.

Internet access is also now widely available at many locations other than in the home: for example libraries, schools, internet cafes and multi-media payphones. It is highly likely that the price of a computer would be the main limiting factor to accessing the Internet for customers on very low incomes, rather than the price of a telephone.

It therefore remains valid for mobile users to be excluded from the subsidised telephony scheme. This is a reasonable proposal to ensure that the scheme focuses the provision of subsidised social telephony on the most needy who genuinely have trouble affording a phone.

Question 4.6 - the use of self declaration and of a credit checking agency to minimise BT's exposure to risk of abuse

Eligibility for subsidised social telephony must be managed effectively if the requirements of the Universal Service Obligation are to be delivered. This is an essential prerequisite of any subsidised social scheme. Minimising BT's exposure to abuse is not the primary reason for the use of eligibility management, although it is an important one.

As a commercial organisation, BT does not have access to Government data on individuals, nor would this be desirable. It would be costly and inappropriate for BT to attempt to replicate social security systems or to enter into any form of means testing for social telephony.

BT therefore proposes to ask potential recipients of subsidised social telephony to self-declare that they are eligible for the scheme, against fair, transparent criteria. To ensure that the scheme remains targeted, BT proposes the use of an external agency to conduct eligibility checks.

BT is still evaluating how this could work in practice but it is possible that the agency would use external data and predictive modelling techniques to identify those customers who are unlikely to meet the eligibility criteria (for example with a financial profile associated with high income, or second home owners). BT would reserve the right to seek further clarification from applicants suspected of false declaration and, if proven, ask them to leave the scheme.

BT would welcome views from interested parties on this proposal.

Question 4.7 - the marketing approach

BT recognises the need for an innovative approach to raising awareness of subsidised social telephony. Past experience has demonstrated that non-BT customers and the untelephoned are hard to reach and traditional marketing methods have proved ineffective (see Annex 3). This can also be costly.

BT accepts fully its own role in promoting social schemes. For social telephony to reach those in need, BT and other agencies need to work together to bring the product to the attention of the customers who should benefit. In the past, consumer organisations appear to have been reluctant to work with BT primarily, we believe, due to BT's position as a commercial organisation and the complexity of the current social schemes. We believe that the replacement scheme proposed by BT, with its simple and transparent structure and clear benefits to those in need will help to change this situation. BT thinks Ofcom has a critical role in ensuring that the replacement scheme is recognised by key stakeholders for what it is: a non-commercial offering from BT to meet the requirement to offer a reduced cost telephony service in the UK to those who would otherwise have most difficulty affording it.

We know there are key organisations that interface direct with the very consumers this scheme is designed to help. BT wants to work with these organisations to bring subsidised social telephony to the attention of the target audience as part of their day-to-day activity. BT also would hope government agencies would play a role, for example by including details of the scheme in literature informing consumers about relevant benefit entitlements.

Ofcom also has an opportunity to promote the scheme and BT would suggest that details of the scheme should be published on Ofcom's website.

BT would welcome views from organisations on how promotion of the scheme could work in practice. For example, we propose to produce a brochure explaining the scheme and this could be used by BT and other organisations to highlight the existence of social telephony to potential beneficiaries.

Should it be decided to adopt BT's proposal for a new scheme, BT would contact all existing LUS and ICP customers to advise them of the change. BT would also

include details of the new scheme in a mailing to all customers and comprehensive details would be included in BT's Code of Practice for Consumers.

Response to Ofcom's Question 5 - views on the three options proposed:

Question 5.1 - No change to the BT scheme

Whilst the current schemes have served well and are relatively popular, they no longer represent the optimal social telephony offering. LUS bills are difficult to predict and the scheme is complex using sliding scales of discount based on call spend. It uses low use as a proxy for low income and Ofcom's own research shows what we have suspected for some time: the scheme is enjoyed by a significant number of customers who are not eligible for subsidised telephony as defined in the USO.

If, after this consultation exercise, the existing schemes are preferred to our new alternative, eligibility must be addressed. BT's proposals for managing eligibility could be applied to the existing schemes and this is necessary if the social telephony schemes are to meet the objectives of the USO.

Question 5.2 - BT's proposed new scheme to replace LUS and IC

The new social telephony product proposed by BT is a generous offering, particularly in the context of prices and choice available in the UK telecoms market. It offers less than half price line rental, is easy to understand and will enable customers to predict their telephone bill with confidence. All services included with BT's commercial packages will be offered, including CLI for incoming calls, CLI suppression for outgoing calls, selective call barring for outgoing calls, 1471 and all special provisions for people with disabilities.

The new scheme gives customers almost 100 more minutes of talk time than the current social telephony product (LUS) before a commercial package becomes advantageous. It also will be easy for customers to establish whether their calling pattern means they would be better off on a social or commercial product.

The simplicity of the proposed scheme means that customer communication should be more straightforward. This should remove any barriers that might prevent other agencies working with BT to bring this product to the attention of eligible customers.

Additionally, eligibility management will ensure appropriate targeting to those customers entitled to subsidised prices under the USO obligation.

We urge stakeholders to support BT's proposals.

Question 5.3- BT's proposed new scheme to replace LUS and IC but modifications to the Scheme would be required.

BT has invested significant time and resources to design a new subsidised social telephony scheme that meets the requirements of the USO. The product designed is the optimal scheme.

2.5 Disconnections

2.5.1 The why and how of disconnection

BT has a credit management process which we believe is market-leading in terms of the time a customer gets to pay, the number of times BT tries to contact the customer or alerts them if we do not manage to do so, and the graduated nature of the way service is restricted. Cessation of service only takes place, on average, nearly 10 weeks after the bill is produced.

BT makes details of its credit management policy available to customers by publishing a booklet called 'Bill Payment Code of Practice for Residential Customers' and submits its disconnection figures to Ofcom on a quarterly basis. We also publish the annual figures on our public website. The Regulator chose to use the BT process as the framework for the telecommunications industry bill payment code of practice, which we take as a compliment.

We think it would be helpful to outline the process for our quarterly billed residential customers:

- Step 1 Quarterly bill produced, which quotes a "pay by" date.
- Step 2 Reminder letter (in some cases the letter is replaced by a call but the letter is sent if no successful contact is made by phone)
- Step 3 Second reminder. BT will call the customer but if unable to contact by telephone will send a further written reminder.
- Step 4 Service is restricted by means of preventing further outgoing calls (other than to the emergency services and other free calls e.g. 0800 numbers). Incoming calls can still be received. If the customer tries to make a chargeable outbound call, they will hear an announcement advising they will be put through to a BT credit management adviser. The caller can choose to terminate the call. This is a safeguard in case they are not the bill payer.
- Step 5 The line will be restricted for both outgoing and incoming calls on a temporary basis. (This is known as 'disconnection' or Temporarily Out of Service – TOS). If the bill is paid at this point full service is able to be restored in between 3 and 24 hours.
- Step 6 A termination notice will be sent, warning of complete cessation of service.
- Step 7 The service will be ceased and a final bill produced. Customers would need to re-apply for service after this point.
- Step 8 Should the customer still fail to contact BT regarding payment, debt recovery will commence.

For those customers who are vulnerable, BT offers additional protection in the form of its Protected Service Scheme to guard against the disconnection of lifelines. This allows a customer to nominate a third party (friend, relative, welfare worker) to act as a point of contact in cases of late or non-payment, usually due to exceptional circumstances, such as a stay in hospital.

At each stage in the process, if we can contact the customer we will discuss how this and future bills can be managed. We will offer a payment plan to customers having problems with their bill. BT arranges some 1.5 million formal payment

postponements each year, the vast majority of which are concluded satisfactorily. If appropriate, Pay&Call, our pre-payment product, will be recommended.

BT's own data shows that 60% of customers who reach the disconnection stage fail to make contact with BT at any point in the process. This is despite BT using a combination of contact methods to attempt to discuss the situation. Even with such a sophisticated process it is difficult to identify why:

- some customers are unwilling to pay,
- which characteristics and/or behaviours, their outstanding amounts and the credit management process influence payment decisions and
- what factors, if any, would lead them to settle their accounts.

Research in this area is difficult due to reluctance on the part of customers to discuss what they may view as an embarrassing experience. The University of Bristol research⁵ states that, even after agreeing to discuss their experiences with the researchers, interviews with their subjects were “challenging and often required a good deal of probing and double-checking to elicit a clear picture of people’s motivations with regard to paying their creditors”.

Our findings suggest that a majority of these customers are not particularly motivated to respond to contact from BT and therefore we conclude that restrictions placed on fixed line service are not a major issue for them. The availability of alternative telephony services, i.e. mobiles, is also a factor as discussed below.

2.5.2 Disconnections in context: Comparisons of BT’s disconnection numbers with other providers & utilities

Ofcom has quoted a headline figure of 1million BT customers disconnected each year for non-payment of bills and makes unfavourable comparisons with disconnection levels in the utilities sector. However Ofcom acknowledges (within the annex) that “this comparison is perhaps unfair, given that most would agree that gas and electricity are more essential services than telephony and that consumers have an alternative to fixed-line phones in the form of the mobile phone” (D.2.19).

Ofcom’s assumptions here are supported by debt advice agencies when counselling consumers about the repayment of priority and non-priority debt. Telecommunications is not rated as a priority debt by any of the advice agencies and is not even specifically mentioned by several of the debt advice agencies BT investigated on this issue. Gas and electricity, however, are priority debts, presumably because energy is a necessity, and, whilst there are substitutes within the fuel/energy categories there are no absolute substitutes. Consumers are therefore more likely to pay off priority debts first. This, together with the ease of access to substitute services for telephony, increases the propensity for BT’s customers to allow

⁵ Dominy, N and Kempson, E. ‘CAN'T PAY OR WON'T PAY? - A review of creditor and debtor approaches to the non-payment of bills’ March 2003, Personal Finance Research Centre, University of Bristol page 16

matters to reach disconnection/ restriction of service stage in telephony when compared with other industries.

The positioning of telecoms debt as non-priority by these agencies is also, we believe, evidence of the quality of BT's credit management process and the support it gives consumers who are experiencing genuine payment problems.

2.5.3 The USO context

Ofcom expresses concern in the context of BT being a USP with the obligation to provide special tariff schemes, commenting that "BT has higher levels of disconnections than other non-USO providers". In reality, the fact is that BT's social telephony customers are ten times less likely to be disconnected than any other customer. We think this alone should allay Ofcom's concern about BT's obligations to social scheme customers.

Returning to other Communications Providers' disconnection figures generally, differences are, we believe, marginal. All are in the region of 5% of the customer base. BT's figures also need to be viewed in the light of a different USO obligation on BT, that of providing service, in effect, to any customer who asks for it. Non-USO providers can, and do, refuse to provide service to customers they know or suspect have a poor credit history. Some of these providers also have more punitive disconnection policies than BT or may insist on direct debit as the only payment method, as mentioned before. It could be said to be surprising that there is not more of a difference between providers. BT believes this to be further evidence of the efficacy of our system.

Response to Ofcom's question 6 - comments on Ofcom's view that BT should promote its portfolio of debt management and affordability services more effectively to customers experiencing payment difficulties.

Despite what we believe to be a leading edge credit management process and a comprehensive range of products, BT does not suggest that our systems cannot be improved. There are many initiatives already under way designed to reduce the number of BT customers disconnected from service each year, including the better promotion of BT's Pay & Call service and more targeted communications.

Most recently these have included:

- information about Pay & Call on all termination notices (the penultimate step in the credit management process) with effect from November 2004. Customers are invited to call BT to discuss converting their account to Pay & Call. To date, this activity has resulted in a 3.5% response rate (compared to a typical direct mail response rate of 1 – 1.5%).
- From February, BT has been contacting c20k customers who have an overdue payment each month to offer Pay & Call. This activity is targeted at those customers BT believes would be suitable for Pay & Call based on their payment history.
- During the last quarter of 2004/05, BT despatched nearly 1.2 million letters to customers promoting Pay & Call and MPP. These mailers are targeted at

customers based on their payment history. A further 1.2 million letters are due for despatch in the first quarter of 2005/06.

- From mid February a standard message inviting customers to call BT to discuss payment options appears on all bills that are not settled by either direct debit or MPP. Encouraging customers to pay monthly, to reduce the bill size and align with the receipt of their income will, we hope, reduce bad debt. Encouraging payment by automatic payment methods helps budgeting and means that the bill is less likely to be overlooked.

BT notes Ofcom's mystery shopping result showed that two thirds of callers into BT's 150 contact centre were not informed about BT's social schemes, or other pre-pay schemes. These findings are disappointing. However, a factor in this is that BT's current social telephony schemes both use low use as the sole proxy for low income and are not therefore necessarily seen as the best option for customers having problems paying bills. A better targeted scheme would overcome this, as would better internal communications, which BT is addressing.

Pay & Call

Ofcom suggests that 'one approach would be for all customers prior to disconnection to be offered Pay & Call as an alternative to disconnection'. We agree. We undertook a trial of this approach recently with encouraging results. Many customers either paid in full or chose to convert to Pay & Call. This approach is now being rolled out to all credit management centres with a completion date of May 2005. However, it should be noted that Pay & Call may seem complex to some customers and therefore may not be suitable for everyone. Customers no longer receive a blue bill, instead they have a "moneybox", that needs to be topped up regularly. They also need to remember PIN numbers to use the service.

Social telephony and payment problems

As we have already said, customers benefiting from our current social telephony products are ten times less likely to be disconnected than other customers. In response to the suggestion by consumer stakeholders that a new targeted social tariff could be made available to groups outside the USO target group to others experiencing payment difficulties for short periods, BT believes this is not appropriate under the obligations of the USO, nor is it necessary.

BT's credit management process, as explained above, already accommodates those in short-term difficulty. For example, customers are able to postpone payment of their bill or come to a manageable arrangement with BT. They can also convert to Pay & Call to help budget better if this would be helpful. BT believes its recent and proposed initiatives to publicise better its existing products, as detailed earlier, will further improve this situation.

3. Public Call boxes

3.1 Introduction

BT believes the time is right for Ofcom to review the universal service obligations placed on providers of public payphones.⁶ The social role and economics of call boxes have changed fundamentally and permanently. It is vital that any decisions about the future regulatory regime governing public payphones takes into account these changes.

For many years public call boxes (PCBs) were the first, often only, choice for callers when they needed to make calls away from their homes or place of business. This is no longer the case. The near universal availability of fixed line telephony within homes⁷ and the rapid rise in mobile telephony, in particular pay as you go, have had significant impact on public payphone usage. The last three years have seen consumer use of payphones fall by 52% (as measured by call minutes) and this decline has continued in the current financial year, progressively accelerating in line with mobile growth.

Ofcom states in its consultation document that *'payphones provide a service that is valued and needed by many people without a landline or mobile or those away from home that cannot, for whatever reason, use a mobile'*. Clearly, the number of consumers for whom this statement applies is now significantly fewer than in the past. Today, public payphones are mainly used only when other modes of communication fail or are unavailable - when a mobile battery, or credit, runs out or the mobile has inadvertently been left at home.

The dramatic reduction in demand for public payphones has had a substantial impact on the costs of providing and maintaining a street payphone network in the UK. The number of payphones that fail to cover their costs is increasing as a proportion of the total street payphone network. At the end of January 2005, nearly 70% of the public payphones in BT's network failed to cover their costs.

BT has taken steps to address this problem, removing c.25,000 street payphones with the permission of the relevant local bodies (pursuant to Ofcom's current payphone removal rules). However, local bodies object to approximately 50% of proposals for payphone removals, with the result that the majority of these payphones – most of which were installed in the late 1980s/early 1990s to meet the level of consumer demand at that time – continue to operate at a loss.

BT has successfully reduced the costs of providing payphone service but there is a limit to the extent this can be done without affecting service. Most costs associated

⁶ BT notes that this consultation only addresses the c70,000 payphones on public land (i.e., street payphones) in the UK, and does not affect the c22,000 managed call boxes located on private land (i.e., airports, train and bus stations, Post Offices, hotels and shopping centres) or the unknown number of private payphones located in pubs, restaurants and retail outlets. Regardless of the outcome of the consultation, these non-street payphones/call boxes will continue to be available.

⁷ 92% of the UK population live in homes with a fixed line telephone and an additional 7% of homes choose to have mobile-only service. (Ofcom research (Feb03).)

with PCB provision are fixed and do not fall as a result of lower consumer use. The only way BT can reduce the cost associated with providing payphone service is to reduce the number of unprofitable payphones.⁸

Nonetheless, BT remains fully committed to its universal service obligations and will continue to provide and maintain a quality public payphone network that meets the reasonable needs of consumers across the UK. Where Universal Service requires a PCB, BT will ensure that a PCB is in place and maintained. However, where PCBs serve no Universal Service function, the decision whether they remain or are removed should be a commercial issue for BT (which would, of course, be managed in a consumer friendly manner).

3.2 BT's views on Ofcom's Identified Approaches

Ofcom has identified three approaches for consideration:

- Approach 1: Retain, but modify, the current 'local veto' arrangements
- Approach 2: Define a set of USO PCBs which would be protected from removal
- Approach 3: Remove the existing Direction

BT favours either Approach 2 or 3. In BT's view, these approaches are more proportionate and less-burdensome in relation to the universal service objective of ensuring that the provision of public payphones and call box services in the UK meets the reasonable needs of consumers. These two approaches also are a more uniform response to the payphone removal question.

In contrast, Ofcom's favoured approach - Approach 1 - is a disproportionate response to what Ofcom is attempting to achieve. Approach 1 continues to look at all public payphones in the UK as identical and subjects them to the same regulatory processes, despite the fact that some PCBs have Universal Service value and others do not. As a result, Approach 1 places an unnecessary regulatory burden on a large proportion of BT's public payphone network. Moreover, Ofcom's preferred approach leaves it to individual local public bodies to make the final decision whether a PCB has Universal Service value or not and, consequently, can be removed. As a result, regulatory treatment of PCBs across the UK would differ widely and be potentially discriminatory.

BT's own analysis of public payphones suggests that PCBs in the UK fall into three distinct categories:

1. commercially profitable PCBs that may or may not serve a Universal Service function;

⁸ Ofcom is correct in its statement that BT's payphones division is a cash positive and profitable business (para. 5.2). But at the current rate of decline of PCBs across the UK, this position is unsustainable in the long term. It has only been through extensive cost cutting and creative innovation in the development of new multi media marketing propositions that BT's payphones division has been able to sustain its profitable status.

2. PCBs that are commercially uneconomic but serve a Universal Service function; and
3. Commercially uneconomic PCBs installed to meet usage requirements that no longer exist, and which serve no Universal Service function.

Continuing to subject those PCBs that fall into the first and third categories to the level of regulation appropriate to PCBs with Universal Service value is untenable. This approach consumes significant and unnecessary resources within BT, Ofcom and local public bodies, and undermines the commercial prospects of BT payphones, without providing any additional material benefit or protection to the consumer.

3.2.1 Approach 3: Remove the existing Direction

Approach 3 is BT's preferred option. BT believes that a deregulatory approach to payphone removals would sufficiently and adequately ensure that PCBs which fulfil a Universal Service function are not removed by BT or Kingston, and that the reasonable needs of end-users in terms of geographic coverage of PCBs in the UK would continue to be met.

As noted above, BT views PCBs across the UK in three categories. Clearly, BT would not remove PCBs that are commercially profitable, whether or not they serve a Universal Service function.

For the other two categories, where the PCBs are uneconomic, BT would continue to place notices on the individual PCB where it intends to remove the box and consult with local public bodies (to the extent possible) in order to assess whether the box fulfils any Universal Service needs. Overall, BT would consider similar criteria to that proposed by Ofcom in its guidelines under Approach 1 to assess the Universal Service value of the individual PCB. Of course, any decision by BT to remove a PCB could be challenged by a local public body or by a member of the local community as a violation of BT's Universal Service Obligation.

3.2.2 Approach 2: Defining a Universal Service PCB

Response to Ofcom Question 8: Comments are invited on the approach to defining a Universal Service PCB, in particular on:

- *whether the use of an algorithm would be a practical, effective, transparent mechanism for defining a USO PCB; and if so*
- *the factors that might be included in the algorithm;*
- *whether there are other alternative methods of defining a USO PCB that could be considered.*

Approach 2 is BT's second preferred option. In BT's view, defining a list of Universal Service PCBs offers the most proportionate, transparent and non-discriminatory approach to payphone removals. Among the three approaches, it would ensure that the assessment of whether an individual PCB serves a Universal

Service function (and therefore should be protected from removal) is done on an objective and uniform basis, and would not be subject to the political and community pressures influencing the decisions of local public bodies under the current payphone removal arrangements (and likely in the future under Ofcom's Approach 1).

This approach also would provide the most regulatory certainty. Indeed, payphones qualifying as a USO PCB would have a secure, long term future. Local communities would know that 'their' box was safe from removal. Local public bodies and planning authorities would be free from the burden of time-consuming and administratively costly consultations on individual removals, and the effort of drafting and possibly defending objections to the box's removal.

BT believes that the criteria to determine the definition of a USO box should include:

- the amount of use that is made of an individual box;
- the number of households the box serves within a defined area (which could differ from urban to rural locations); and
- The walking distance to the nearest alternative public payphone (which again, may differ in rural areas to that set in urban areas).

BT is not opposed in principle to the use of a simple algorithm to define the USO base. If such a solution was deemed appropriate, BT proposes that the criteria listed above should be utilised. As an alternative to an algorithm, BT would recommend that Ofcom uses the straightforward selection criteria contained in the existing Direction that are currently used to establish if a new PCB should be provided. All information required to complete the selection criteria is publicly available and includes the size of the community, the quality of local housing and the distance between PCB sites.

3.2.2 Approach 1: Retain the local veto

Response to Ofcom Question 7: Comments are invited on the preferred approach regarding arrangements for the removal of PCBs (ie to retain but modify the existing arrangements).

Ofcom's preferred 'local veto' approach is not the best long term solution, even with the proposed modifications. This approach fails to provide the much needed regulatory certainty and uniformity, and instead continues to leave to the discretion of local public bodies whether or not an individual PCB should be removed. It is extremely difficult, if not impossible, for local public bodies to make these types of decisions on an objective and unbiased basis, particularly given the intense political and community pressures they face. Nonetheless, BT agrees that the existing PCB removal process has substantial deficiencies and, if Ofcom decides to retain the 'local veto' approach, that significant modifications are essential.

a. Delegation of power to local bodies to object to PCB removals (Question 7)

BT does not believe that it is appropriate or practical for Ofcom to delegate decision-making power on payphone removals to local public bodies. In BT's view, Ofcom - as the regulator of the industry - is the most appropriate body to make payphone removal decisions.

Ofcom's consultation document does not mention which provision(s) of the Communications Act empowers it to delegate its powers in this area to local public bodies. Assuming Section 45(10) (b) CA is the source of Ofcom's delegation, the provisions of this subsection, which talk in terms of obligations arising out of Ofcom or another person giving a *consent* or an *approval* (as opposed to an objection or veto), does not make clear whether a delegation to local authorities is permissible in the context of payphone removals.

A wider review of the Communications Act, however, suggests that delegation of PCB removal decisions to local public authorities was not the type of delegation envisaged under the Act. A delegation under Section 45(10) results in weighty procedural requirements under Section 49 which local public bodies would have to follow when making PCB removal decisions. These include:

- Publishing a notification (Section 49(4) CA);
- Taking representations (Section 49(4) CA);
- Sending a copy of the notification to the Secretary of State (Section 50(1) CA)⁹;
- Taking into account the six Community requirements set out section 4 of the Communications Act (Section 49(3) CA); and
- Satisfying itself that in making its objection that to do so is objectively justifiable, not unduly discriminatory, proportionate and transparent in relation to what it is intended to achieve (Section 49(2) CA).

These procedural requirements are disproportionate to the types of decisions local authorities typically make. It is impractical, expensive, time-consuming and unrealistic to expect local authorities to conduct a consultation and send a copy of the published notice to the Secretary of State. Moreover, local authorities cannot be expected to have the time to understand (or if they do, take account of) the fragile nature of the payphones market, the current levels of consumer demand and, arguably, may not have the resources to complete this task.

This disjuncture between local authority decision making and the weighty procedural requirements of the Communications Act suggest that this is not the type of decision that Ofcom should delegate to local public bodies.

In the event that Ofcom delegates this power to local public bodies, BT agrees with Ofcom's statement in paragraph 5.33 that it is important that the local bodies understand their powers and the procedural requirements imposed on them by the Act. However, we strongly disagree that BT and Kingston should be responsible for advising the local bodies of their powers and duties. If the local bodies are not in a position to understand their powers and duties on their own, then it clearly is Ofcom's

⁹ Under Sections 49(7), 49(8) and 50(8) CA, unless the universal service condition itself provides for notification by the local public body, this responsibility, as well as the duty to send the notification to the Secretary of State, falls on Ofcom.

responsibility to inform them, as it is Ofcom that has made the decision to delegate its own powers to them. Transferring this responsibility to BT and Kingston is unreasonable and disproportionate. The fact that local authorities are not in a position to understand or appreciate the powers Ofcom is seeking to delegate to them, and Ofcom is not in a position to inform them, is further evidence that Ofcom's delegation in this context is not the type of delegation envisaged by the Act.

*b. Other bodies that could undertake this delegated power
(Question 7)*

BT believes that Ofcom, as regulator of the telecommunications industry, is best placed to undertake the role of decision-maker as to whether a PCB can be removed and should not delegate its responsibility to other bodies.

Alternatively, if Ofcom decides that it does not want to be involved in the process, then BT believes that Ofcom should delegate its power to an independent body that would have the independence to make PCB removal decisions in an objective, timely and unbiased manner.

Regardless of whether it is Ofcom or another independent body that makes the decision, local public authorities would not be removed from the process. Ofcom or the independent body would be required under the Communications Act to hold a public consultation and receive and consider comments. Therefore, all local authorities, public officials and members of the community would have the opportunity to submit their comments and views, the same as BT. The result would be a more transparent and objective decision-making process.

c. Amendment to the definition of 'site' (Question 7)

BT welcomes the opportunity to re-assess the site definition. Given the Universal Service Obligation of adequate provision of public payphones, to have an unprofitable payphone within 100m of another box is over-provision.

BT notes that very few countries have defined a payphone "site" and those that have support a much larger distance between PCBs than the 100m imposed in the UK. Independent research¹⁰ shows that older pedestrians walk at a speed of 1.3m/s which equates to travelling a distance of 400m in little over 5 minutes. We believe this would be a suitable benchmark for adequate access to payphone services.

It is important to note that increasing the site definition does not mean that BT would automatically remove all boxes that are sited within that distance of another. BT currently has c.7,000 payphones located within the current site definition of another. We would not peremptorily remove these boxes but review their profitability and other factors.

BT also would wish it to be noted that it voluntarily consults with local authorities even in circumstances where it is not obliged to do so and ensures that there are no

¹⁰Research was undertaken by the Road Engineering Journal in October 1997 and is published on the US roads website at the following internet address
<http://www.usroads.com/journals/p/rej/9710/re971001.htm>

unknown circumstances that may be relevant before making a final decision to remove a box. BT always acts responsibly to any concern raised, indeed our responsible approach has been shown many times this last year through planned removals being halted in response to objections made that did not follow the prescribed process.

d. The appropriate local public bodies to have the power to object (Question 7)

The current consultation arrangements require BT to consult with c.12,000 separate organisations on the matter of payphone removals and this represents a huge regulatory and financial burden. BT supports a reduction in the number of bodies with whom it is obliged to consult and in the event of power being delegated would wish to see a single body having overall delegated power for any geographic location with resources and necessary expertise.

It makes little sense to require BT to consult with multiple local public bodies with respect to removal of the same PCBs when one body could be designated to hold the consultation and make the decision. Other local public bodies could make representations and offer comments in this consultation, the same as BT.

Any obligation to consult must be placed with bodies for which the necessary information is freely available. This is not the case for Parish Councils in England nor Community Councils in Scotland. Neither BT nor Ofcom have been able to obtain comprehensive boundary and contact information for these organisations.

The current arrangements mean that BT often has to embark on simultaneous consultation with the local authority and parish or community council, and has to take account of any objection raised even if there are differing views between these organisations. As is the case currently, BT cannot be expected to address concerns or disagreements from local bodies about the consultation process stipulated by Ofcom. In reference to both District Councils and County Councils, it is also essential that in “two-tier” areas that Ofcom clearly stipulates to which body these powers are being delegated.

e. Consultation period (Question 7)

The last review of universal service resulted in an increase in the consultation period for payphone removals from 28 days to 42 days. BT has significant concern at the proposed further increase from 42 days to 90 days that a local body would have to conduct a consultation. Payphone removals on average take nine months to complete and if the consultation period were to increase to 90 days this would add a further two months to the process.

Given the new consultation requirements to consult locally and to ensure compliance with new guidelines on objecting to proposed PCB removals BT believes that an increase in time to conduct the consultation may be required but that 60 days would be a more than adequate period.

f. Factors in guidance for objections (Question 7)

As noted above, Section 49 of the Communications Act requires that a decision by a local authority objecting to a PCB's removal be, among other things, objectively justifiable.

While the objective justification requirement of Section 49 currently applies to local authority PCB removal decisions, local authorities typically only provide minimum reasons for objecting. In many cases, local authorities provide no reasons at all, and make a blanket objection to any PCBs being removed by BT.

Even where local authorities provide reasons for their objections, these reasons, on occasion, are unrelated to whether the PCB has any Universal Service importance. For example, one Parish Council objected "because the light provides a useful beacon on dark nights". Another opposed the removal of a payphone whose annual revenue was £1.40 pa on the grounds that it provided a "useful landmark."

Consequently, BT welcomes Ofcom's proposal to draft guidelines that local authorities should follow in making objections to PCB removals. If objections are not based on relevant grounds they should be overturned on appeal.

Ofcom has suggested a number of potential factors for inclusion within guidelines. It is important that any requirement to take account of local circumstances is balanced against information being available against which to make an assessment.

Our comments on Ofcom's specific proposals:

- *Number of households in the area, distance to the nearest alternative PCB, housing type in the area*
BT believes that this information should be readily available to local bodies and is relevant in establishing whether a payphone is required under the USO. BT would however expect to see guidance on what type of circumstances would warrant retention of the box.
- *Profitability of the PCB and annual cost*
Revenue is a better measure of box usage and so a better indicator of its value to the community.
- *Incidence of vandalism*
Whilst BT has information on major incidents, it does not hold this information on a box by box basis and is not aware of any other data source. Use of anecdotal information is inappropriate and therefore BT would question how local bodies would be able to make objective decisions on this issue.
- *Number of emergency calls*
This information is not collected by BT. BT's research indicates that fewer than 7% of calls made to emergency services are made from payphones (compared with over 50% made from mobile phones). These statistics demonstrate that as with all away from base communications, in an emergency PCBs do not play the crucial role in the community that they once did. It is also an unfortunate fact that payphones generate a large number of hoax calls to the emergency services – this is known because the Fire Service measures hoax calls.

- *Mobile phone coverage in the area*
BT would question why mobile coverage should be a factor in determining whether a payphone continues to be required in a location under USO terms. Consumer usage of the box is a more relevant measure that will take into account whether or not people use the box regardless of whether there is mobile coverage. Should mobile coverage be a consideration then it would need to be based on rigorous, empirical data, authenticated by independent third parties. BT is unaware of any source that is able to provide this information to local bodies and believes that anecdotal information is not appropriate for use in this context.
- *annual volume of calls*
This BT data could be obtained but, as with profitability, is commercially confidential. More importantly, however, it can be misleading in that without knowledge of the duration of the calls it is still not possible to ascertain the true demand for the service based on the volume of calls.

Other factors local public bodies should take into account are:

- Distance to nearest box;
- box takings; and
- Number of households within a defined catchment area (the catchment areas may vary for rural and urban locations).

g. Right to appeal (Question 7)

The right to appeal local public bodies' decisions objecting to proposed payphone removals is fundamental to ensuring that all decisions are objectively justifiable, not unduly discriminatory, proportionate and transparent (as required under Section 49 of the Act). The lack of a right to appeal has been a major flaw in the current process and BT therefore welcomes Ofcom's affirmative declaration that a right of appeal does exist.

Assuming Ofcom's power to delegate in this area to local public bodies, the right to appeal decisions of these bodies necessarily follows under Section 192 of the Act. BT has concerns, however, surrounding the practicalities of the Competition Appeals Tribunal ('CAT') hearing these types of appeals. BT's payphone rationalisation programme will require it to consult with hundreds of local public bodies, which raises the possibility of hundreds of appeals to the CAT. In each case, the CAT will need to look at the facts relevant to each individual PCB to determine whether the local public body's decision objecting to the PCB's removal is consistent with Section 49. This could have significant time and resource implications for the CAT. Ofcom would be a more appropriate body to have responsibility for PCB removal decisions. Its independence and objectivity would ensure that appeals to the CAT would be kept to a minimum.

h. Use and level of a revenue threshold (Question 7)

The past regulatory regime included provision for the recovery of public payphones that took less than c£185¹¹ per annum. In the early 1990's BT had approximately 3,000 payphones taking less than that amount and removed fewer than 30 despite having the freedom to remove many more. There is a strong case for the re-introduction of a revenue threshold as an indicator as to whether consumer demand exists for payphone service to remain at that location. The introduction of a revenue threshold would negate the need for a burdensome consultation to take place on boxes that clearly are no longer required by consumers.

In supporting the re-introduction of a revenue threshold BT is not seeking to have an automatic right to remove the boxes that fall beneath the threshold. Local views on the proposal would remain valid, for example if there is a particular need for the box to remain from an emergency calls perspective, but in these circumstances it is inappropriate for the 'local veto' to apply.

It may be appropriate for a different revenue threshold to be set for rural and urban locations but BT would propose that the threshold should be set at no less a level than that used in the past, with allowance for inflation over the period.

Response to Ofcom Question 9 Should the existing requirement on BT and Kingston to offer cash payment facilities in the last PCB at a Site be retained or amended ?

There is clear evidence supporting the removal of the requirement for the last payphone at a site to offer cash payment facilities. There are many cases such as remote rural sites or repeatedly vandalised sites where having the freedom to change the box to one that did not accept cash would improve the viability of the payphone. The functionality of the box would be unchanged, only the ability to make calls with cash as a payment option would be removed. Consumers would benefit as sites prone to vandalism and cash attacks are less likely to experience breaks in service and remote communities would retain public payphone service in locations where cash payment facilities are not critical.

If this requirement were to be revoked BT would not undertake a large-scale conversion of PCBs that do not accept cash. Indeed, to do so would compound the economic problems of the PCB operation. Removing the requirement to offer cash at the last PCB at a site would enable BT to manage the cost of the payphone base more effectively and therefore retain more PCBs.

In common with Deutsche Telekom's "basic payphone¹²" BT would like the need for the last payphone at a site to offer cash as a payment option to be revoked. Such a move would enable BT to make cost savings and whilst maintaining service at rural or heavily vandalised sites.

¹¹ Condition 11 "Public Call Box Services" of the original Oftel granted BT licence 1984, allowed for cessation of services on certain specified grounds, one of which was that the revenue taken in any twelve month period ending not more than 6 months before cessation fell below the minimum figure applying to that call box or call boxes of that description. The minimum figure was defined as £185 or any other amount that the Director and the Licensee might agree.

¹² Payphone with no coin module or lighting, calls being charged at normal rates using calling cards and credit cards.

Response to Ofcom Question 10 Comments are invited on the introduction of emergency and freephone call boxes.

BT is not proposing to embark on an expensive programme changing out boxes to a new emergency type box. This would be contrary to the objective of reducing the costs associated with providing payphone service.

In specific circumstances, BT believes it would be better for the local community to retain their existing PCB and have the ability to access all public payphone services except the ability to pay in cash for a call. There are particular sites, such as very remote rural locations (national parks for example) and repeatedly vandalised PCBs where the cash box content attracts criminal activity, and in these locations BT wishes to be able to offer payphone service without cash payment facilities. Customers would be able to make calls using calling cards, 0800 reverse, BT Chargecard, via Operator Services and of course, still have free of charge access to emergency services. This would enable consumers to retain the use of a payphone that may be regularly out of service due to vandalism. In other remote sites the ability to change BT's business objective is to move as many PCBs from a position where they are unprofitable into profitability rather than recover boxes unnecessarily. Changing the box to one that does not accept cash payment is likely to be more acceptable to the local community than BT seeking to remove the box altogether.

Almost a quarter of objections to box removals cite the need to retain access to the emergency services. Converting an existing PCB to one that does not accept cash payment would enable BT to provide a more cost-efficient service whilst preserving the payphone with all other facilities other than the ability to pay in cash. Removing the ability to accept cash payment in effect shuts off BT's primary revenue stream, this option is therefore one of last resort for BT and is self-policing.

4. Services for customers with disabilities

4.1 Introduction

BT is committed to providing services for customers who have disabilities that prevent them from using standard facilities. BT continues to be a market leader in this area with the provision of bills in various formats and the functionality of the BT TextDirect platform. The Universal Service requirement for text provision is met by making the BT TextDirect platform available. This provides live translation by operators of voice into text and vice versa enabling hard of hearing and speech impaired users to communicate by telephone. Considerable investment is currently being made to further upgrade the BT TextDirect platform.

Universal Service sets out the financial terms under which BT supplies access to other communication providers' end-users. For these obligations to be adequately managed BT needs to remain in control of service provision in terms of technical delivery, commercial logistics and the management of the relationship with the Text Relay service provider. BT alone carries responsibility for meeting the requirements of USO Condition 4 and needs to have commercial control of all the elements necessary to such provision and funding. This includes the ability to select a Relay Service Provider and freedom to apply appropriate contractual terms that deliver an effective service at the most efficient cost to agreed Quality of Service levels.

The current obligation sets a financial limit¹³ for BT's funding of the text relay service with allowance for RPI increase yearly. We believe that this is no longer appropriate. The existence of the funding cap could create the wrong perception that the service is under-funded when in reality, its provision is managed efficiently. Quality of service to the end user should be the only criterion against which the service is judged.

4.2 General or specific requirements

In addition to sectoral regulation, the Disability Discrimination Act 1995 (DDA) applies. Specific regulation relating to the provision of electronic communications services under the General Condition 14 obliges any service provider to ensure that the interests of disabled customers are fully taken into account in the development and provision of its services.

BT has no issue with the revised obligation to provide bills and contracts in alternative format but questions why these issues are raised in a consultation on Universal Service. Bills in alternative media is an area generally accepted to be included within remit of the DDA and as such proper to General Conditions. Likewise payphone access is also covered in this consultation on Universal Service when again this is proper to the General Conditions. To ensure compliance by all appropriate communications providers, BT believes any amendment or extension to the current requirements should be conducted under a review of the General Conditions rather than USO.

4.3 Issues for consultation

BT considers that world-class innovation and considerable technological development has

¹³ £12,368,748 for the twelve-month period from 25 July 2003

¹⁴ within Schedule to the notification under section 45(1) of the Communications Act 2003

created benefit for stakeholders and customers alike and disagrees that the service has not kept pace with technology. This is expanded on in Annex 5.

4.3.1 Video relay

We support Ofcom's proposal for the commission of a study into a video relay service. However, provision of video relay is not appropriate to Universal Service. It is not for the telecommunications industry to fund provision of a service that may enable other businesses to discharge their own responsibilities under the DDA. BT would be pleased to work with Ofcom, stakeholders and customers to explore feasibility for use of video relay services in conjunction with fixed line text calls and other existing communications services but there are a number of complex issues in addition to the technical and commercial considerations that require considerable thought.

4.3.2 Web-based access to the relay service

The use of IP technology to support the communications requirements of people who need to use text represents a major step forward. It allows the simultaneous use of voice and text, and increases the number and variety of terminals that can be used. It also has the potential to reduce the need for third party involvement allowing direct person to person communications and thus should not be limited solely to access to the relay service. However, a concern is how costs would be recovered and from whom. This question is simple within the telephone network, but with IP and the Internet, ownership of the customer relationship is more abstract. Does responsibility rest with the provider of the telephone line that the customer is using or with the Internet Service Provider supplying actual access to the internet? Calls could be generated over IP from any geographic location, within or outside the UK. BT should not be placed in a position where it is subsidising use of text services by customers of other companies or countries.

4.3.3 Access to the relay services in alternative text formats

BT TextDirect and the Typetalk relay service are designed to support real-time communications between two people. The introduction of alternative text formats such as SMS and e-mail go against this principle as both SMS and e-mail have in-built delays due to the way messages are stored and then forwarded to the recipient. Nevertheless, BT welcomes the wide and varied availability of communication formats for customers who need to use text because the viability of a means of communication can be situation dependent. While relay could be appropriate for one situation, a service such as SMS to a fixed telephone line can be preferable in another.

It should not be overlooked that many such services are available on commercial terms and their consideration under regulation risks fettering industry ability to innovate and compete effectively in the future. BT does not consider their discussion or implementation appropriate to Universal Service.

4.3.4 Payphone accessibility

As already stated, we do not understand why public payphone access is raised within this consultation. Accessibility to public payphones for customers with disabilities is detailed within General Condition 6 as responsibility for provision rests with all payphone service providers. We are also surprised at Ofcom's comments that there has been no consultation regarding design changes to telephone kiosks as BT discussed all proposed public payphone modifications with the regulator and various consumer representative groups prior to any implementation. BT is committed to this type of consultation and therefore supports continuance of the existing condition as expressed by Ofcom under Option 2 of the consultation.

4.3.5 Acceptable formats for bills and contracts

BT already provides bills in alternative formats to people with disabilities other than visual impairment.

4.4 Other issues

Annex G of the consultation considers other issues relating to provisions made for disabled customers. Setting aside funding of Text Relay and the proposal for a feasibility study into provision of video relay service this section looks at the following issues:

- Mystery shopping on behalf of Ofcom into how providers promoted services for disabled customers
- The duty in section 10 of the Act on Ofcom to encourage the development and availability of telecoms apparatus, and
- The requirement on providers to consult with the Consumer Panel on the requirements and interests of disabled customers and proposes an amendment to the general condition 15.1.

It is the role of all Communications Providers to ensure adequate promotion and customer awareness of the services it makes available to its disabled customers. BT believes that all of these issues are proper to consideration under a review of General Condition 15 and again does not see the relevance of their inclusion in the Universal Service consultation.

BT produces communications apparatus following the 'design for all' principles in a number of its products (e.g. Big Button range and Relate 3000). In addition, BT designed and makes available the BT Textphone which remains to our knowledge the only rental based textphone on the market. However it should not be overlooked that any range of products is required to suit the population as a whole and it is neither appropriate nor necessary to produce every phone with every accessible feature.

BT already consults with a wide number of bodies including the Ofcom Consumer Panel and will continue to do this to gather information in relation to ensuring provision of appropriate facilities for older and disabled people.

Response to Ofcom Question 11: Do you agree that a feasibility study of a video relay service should be carried out? Comments are invited on the scope of such a study.

BT welcomes this and notes that this has been scheduled within the Ofcom Annual Plan 2005/6. We share Ofcom's forward thinking in this area and support the need for further investigation into the commercial and technical practicalities of such a service.

Response to Ofcom Question 12: Ofcom invites views on a Stakeholder Advisory Panel including the membership and terms of reference of such a Panel.

Responded to under Question 13

Response to Ofcom Question 13: Do you agree that the relay service could publish an annual plan and report?

BT welcomes the suggestion of a Stakeholder Advisory Panel, and sees it as a useful way of consolidating the various forms and channels for feedback from interested parties.

BT has always taken steps to ensure that development of the service is properly informed by those who represent end-users. For example, BT has been grateful for feedback from regular meetings with TAG which was instrumental in shaping development of the

TextDirect platform, particularly the provision of a 'no-operator' option for customers. More recently, a programme of customer fora has been set up so that specific topics of interest can be debated directly with end-users. Other informal channels for customer feedback include comment direct to the Typetalk helpdesk, analysis of customer complaints, and ad-hoc meetings with various representative bodies including the British Deaf Association. There is operational contact at a managerial level between BT and Typetalk, and also with the other contractors providing the service: all of this contributes to a rounded view of customer usage and need.

BT's view is that all these forms of feedback should continue in their present form and frequency. The purpose of the Stakeholder Advisory Panel should be to ensure that BT's management of, and strategy for, the service takes due account of all proper areas of stakeholder concern. However, it is equally BT's view that, as it alone carries responsibility for provision of the service, and is accountable for meeting the requirements of the USO, it must retain managerial and commercial freedom to deliver the most efficient and effective service in a manner that satisfies the needs of all stakeholders. That means that the strategy and plan should remain BT's prerogative and responsibility.

Prior to the set up of the Panel considerable thought will need to be given to the management and funding of the events themselves not exhaustively including, independent management and facilitation, meeting management, membership, communication, travel costs, venue arrangement/hire and provision of appropriate communication facilities for all stakeholders. BT, as the major stakeholder, would not wish to influence unduly the Panel by taking on this role and would anticipate that an appropriate share of the funding be levied on all those parts of the industry involved. Shared industry responsibility will better ensure transparency, accountability and impartial operation.

We set out below our view on representation, terms of reference, annual report content and its role in relation to the panel. These are BT's initial views, and we remain interested in and open to the contributions of other respondents as this concept is developed.

Representation

Key stakeholders include the following: people who use the service and bodies which represent them and possibly individuals with a particular interest; organisations which fund the service including fixed and mobile network operators and service providers and BT itself; Ofcom; businesses and government organisations which rely on the service for DDA compliance.

Membership of the Advisory Panel would be drawn from the above constituency. It is recommended that the panel should not exceed 20 members to ensure that meetings are effective. This membership would form the voice for the forum. BT as provider of the service would attend, and present, and be supported by key suppliers as required. BT's view is that the relay service provider would also always attend meetings, in support of BT, in order to receive and respond to stakeholder opinion directly with its own expert view.

Terms of reference

The aim of the Advisory Panel would be to ensure that BT's strategies and plans are duly informed as to:

- the needs of consumers
- the needs of business, government and other organisations who use the service

- the needs other network operators and telephony service providers in relation to their own regulatory obligations.

The Advisory Panel would not be a decision-making body, would not hold a veto, and if properly constituted and managed, should not act as a brake on efficient forward planning and implementation of change.

The subject matter for consideration by the Advisory Panel should include:

- Customer requirements and opinion.
- Quality of service targets and performance.
- Product and service developments.

It would not include:

- Operational matters
- Commercial or contractual issues between BT and its suppliers.
- Commercial issues between BT and other network operators and service providers to whom it provides service.

Meetings

BT recognises that it may be difficult to manage discussion at Advisory Panel meetings where interests may diverge strongly. For example, consumer bodies are expected to be mainly interested in service as it affects end-users; network operators and service providers may have a strong interest in technical developments, and not unreasonably in the drivers of costs eventually re-charged to them. The best way to deal with this divergence would be to make customer service the prime focus for Advisory Panel meetings, holding separate meetings if required for those on the supply side.

BT proposes that two meetings be held annually. The first would cover:

- Review of service performance against target for previous year.
- Review of service developments in previous year.
- Summary of customer feedback gained from various channels.
- Customer service expectations for coming year.
- Service and product developments planned for coming year.
- General discussion and feedback.

The second would occur 6 months later and cover:

- progress against plans and expectations previously outlined
- any new issues which have emerged
- further discussion to help early work on development of following year's plan.

Annual Plan and Report

This would be produced and circulated in draft form to Advisory Panel members prior to the first of the two annual meetings. Its subject matter would be the same as the proposed agenda for that meeting. Following the meeting, the Annual Plan could then be finalised taking into account comment, feedback and discussion from the meeting.

Response to Ofcom Question 14: Ofcom invites views on its conclusion that mobile/email access should not be pursued at this stage.

BT does not consider that responsibility for mobile or email access is relevant to USO and if considered appropriate to electronic communications should be consulted under General Condition 15.

Response to Ofcom Question 15: Do you agree that Option 2 (ie maintain existing

obligations) offers the best opportunity for improving the accessibility of public call boxes?

BT does not understand why this issue is being discussed under universal service. Obligations exist under General Conditions and are appropriate to the provision of PCBs – not to the funding of a text relay service for deaf customers.

Response to Ofcom Question 16: Do you agree that the obligation should be redefined to apply to all subscribers who are not able to read printed bills and contracts?

Acceptable formats for bills and contracts are covered within General Condition 15 so again should not be included within the USO. It is not appropriate to BT that end users take service on this basis as it is an obligation required of their service provider.

Response to Ofcom Question G1 Supplementary question: (Annex G). Do you agree that Communications Providers should be required to consult Ofcom to ensure that the requirements and interests of disabled End-users are fully taken into account in the development and provision of services?

Yes. BT supports Ofcom's proposal to amend the requirement to consultation with Ofcom, although BT will continue to consult, from time to time, with other bodies in addition to Ofcom. BT is confused as to why this issue is raised under a consultation of Universal Service when it is appropriate to the General Conditions.

5. Provision of a connection on reasonable request

BT is required to provide a single narrowband connection to the public telephone network upon reasonable request, irrespective of location. Except where Ofcom otherwise consent, BT is required to do this at uniform charges throughout the UK (except the Hull area). Where installation of a new line costs more than £3,400 BT bills excess construction charges. These amount to the actual costs of providing the connection, minus the £3,400 plus the standard connection charge. This is known as the '£3,400 rule'.

Whenever the rule is triggered, BT makes a site visit to discuss with the customer what options are available to keep charges to a minimum, including siting of equipment and possible self-help choices where customers can arrange to do some of the work themselves. If they choose to do so, customers are able to hire independent contractors to carry out the work with BT providing duct free of charge. The visiting planner is briefed to assess all options in determining the cheapest solution for the customer. For instance, multiple customers can total up individual allowances provided they organise this co-operation themselves. However, it is not practical to take account of future customers or, retrospectively to pay back to customers sums already paid if another customer uses the same plant at a later date.

It is difficult to estimate how many customers might apply for service if the rule did not exist. The rule is well known in many of the geographical areas concerned and it is inevitable that some demand for service is suppressed as a consequence. Similarly, it is difficult to estimate the true cost of providing service when no survey has been done because no line has been requested. These costs could, however, be significant. During the period August to November last year out of 8 cases where the £3,400 rule was triggered, 50% of customers decided not to proceed. Thus, during that period, 50% of customers required to pay excess construction charges cancelled their orders and could be added to the already existing level of suppressed demand. These cancelled charges ranged from £19,326 to £112,930 and totalled £166,829. This suggests that the level of suppressed demand is relatively high.

Response to Ofcom Question 17 Ofcom invites views on the proposal that there should be a threshold and that Ofcom should consent to BT charging non uniform prices above the threshold

Application of a threshold is a sensible approach that meets the needs of efficiency, consistency and fairness. It ensures that customers with exceptionally costly requirements are not inappropriately subsidised by the vast majority of customers, particularly when these costs are generally out of all proportion to the level of use of the line and when alternative more cost effective solutions such as mobile are usually available.

Ofcom should consent to BT charging non uniform prices above the threshold.

Response to Ofcom Question 18 If Ofcom were to consent to a threshold, what would the threshold be and what factors should be taken into account in deciding whether or not BT has complied with its universal service obligation.

We believe that the present threshold of £3,400 is too high. Based on the (ex VAT) connection charge of £64, annual rental of £107 and average call spend of £108pa for a residential customer (based on BT Option 1 between October and December 2004), it would take over 15 years for the revenues ever to repay the £3,400 (ex VAT). There is no requirement for a customer who benefits from the exemption to remain with BT for any extended period of time. Customers can keep the line but make their calls with another provider via, for example, carrier pre-selection. BT would thus receive no call revenue to offset the costs of provision, significantly extending the payback period.

We think a threshold of £2,000 is a more appropriate level. This implies a payback period of approximately 10 years, which strikes a fair balance between the interests of the majority of our customers in keeping costs down whilst addressing the needs of those customers in hardest to serve areas.

During a 3 months period between August and November last year BT had only 8 instances where excess construction charges became applicable. Of these, two were business customers. During that same period BT provided in the region of half a million new retail connections, although not all of these were USO connections. Of the eight, three customers opted to do some work themselves whilst four customers decided not to proceed and we await instructions from one customer. The charges ranged from £1,369 to £112,930. Whilst more people would have incurred excess construction charges should the threshold have been £2,000, we do not believe the numbers to be significant and these customers' excess construction charges would not have exceeded £1,400.

We believe that if a threshold was set at £2,000, this would continue to demonstrate our commitment to the USO as a safety net. If it is a socially desirable goal to provide service wherever requested without charging the customer when the work exceeds a certain level, it would be more appropriate for this to be funded by regional or national government.

6. Functional Internet Access

Introduction

The USO requirement is that the connection must support data rates which are sufficient to allow “functional Internet access”. The customer’s Internet experience is dependent on several factors such as data network bottlenecks, far end server loading, as well as modem connection speeds. Modem performance over a telephony line cannot be guaranteed as it in turn is subject to influences, usually beyond the control of any single organisation, such as its electrical environment, line length and degree of modem compatibility. Actual download speeds are further affected by the type of modem, how it is configured, the quality of the customer’s on site wiring, the Internet Service Provider (ISP) it is connected to and congestion on the Internet backbone. Modem *connection speed* is not the same as *download speed*.

Download speed, which is what the user experiences when waiting for the screen to fill (or file download to complete, email to receive etc.), is determined by the slowest link in this end to end chain. *Connection speed*, which is the speed at which data can be sent to the customer over the access line if, and only if, the data can be pulled from the source fast enough, is just one of these links. Download speeds therefore cannot be guaranteed on any switched telephony product as a number of the crucial variables which directly affect end to end performance are beyond the control of the telephony product provider such as BT.

Download speed is frequently significantly slower than the modem connection speed. This is due to bottlenecks elsewhere in the Internet connection path, which could be anywhere in the world depending on the location of the Internet site or at the far end server itself. This situation creates the perception that the modem connection is slow when in fact the problem is caused elsewhere on the Internet. To add further confusion, the download speed displayed by one of the most common web browsers (Netscape, bottom left corner) is shown in kbytes per second not kbits (kbps) per second, a factor of 8 smaller.

Prior to Ofcom’s USO consultation, BT carried out an extensive study collecting information on how access lines into its customers’ premises performed in relation to line speed. Over 9.5m “calls” to Internet Service Providers (ISP) were measured of which 7.6m were being used with a modem capable of 56kbps. Over three quarters of a million lines were involved representing 2.7% of BT’s line population and 8.9% of all BT lines generating ISP call over the first 6 months of 2004. The results show that:

- 99.12% of lines were capable of achieving speeds of 28.8 kbps or better.
- 94.2 % of lines were capable of achieving speeds of 33.6kbps or better.
- The most common achieved speed was just over 45kbps.

An assessment of the geographic distribution of the lines not achieving 28.8kbps showed there to be no significant clustering of those lines in particular areas anywhere in the country. Further analysis showed there to be no specific reasons for those lines not achieving the performance levels of the vast majority. There would therefore be a

major cost in ensuring that all lines achieved similar high levels of performance. We do not believe such costs would bring about commensurate benefits to justify them.

The analysis demonstrates that BT is delivering on its obligation with regards to functional Internet access. However, this should not be interpreted as suggesting that the benchmark minimum speed should be raised. Competition is helping to deliver good quality narrowband access to the majority of users. It is those users whose line speeds fall below the benchmark that the Guidelines are intended to protect.

Response to Ofcom Question 19: Do you agree that the guidelines do not require substantive change but only minor amendments to improve information flows and make them clearer ?

The Guidelines have only been in place for a relatively short period of time. In the vast majority of cases, as demonstrated by the analysis above, customers are achieving good quality line speed performance levels. Ofcom's consumer research shows that overall satisfaction with home Internet service remains fairly high, at around 90% of homes satisfied with narrowband Internet access. In the very few cases where customers are experiencing difficulties, the Guidelines require BT to take appropriate action.

We therefore do not do not believe there is a need for substantive change to the Guidelines. We are of course happy to work with Ofcom on improving information flows.

7. Maintenance and supply of a Directory Information database and Directories

7.1 Introduction

The Universal Service Obligation requires BT (as the relevant designated USO provider) to make available on terms that are fair, objective, cost-oriented and not unduly discriminatory the contents of its Directory Information database (currently called OSIS, and managed within BT Wholesale). Essentially, this requirement applies to the non-value add, core database to which other network providers input directory data relating to the subscribers to whom they supply telephone service, and the details for any subscriber provided with service that has been sub-allocated. This data is required for supply to any person wishing to provide publicly available directories and/or directory enquiry facilities.

The current legislation under the General Conditions that impact upon all providers of electronic communications services in the UK require that all end-users are supplied with a paper directory on request. The directory does not need to be produced by the Communications Provider but where it is, it must be updated at least once a year.

The USO places an additional requirement on BT to make available to any Communications Provider any directories that it compiles so that Communications Providers are able to meet the requirements of the General Conditions. The terms of this supply match those for access to the source data held on the directory information database.

7.2 Supply of Directories

Universal service exists to ensure that subscribers and end-users are able to access basic telephony services. It is not a tool to allow BT's competitors cheaper access to such services. Its benefits are intended to be consumer orientated and not commercial. Given that Communications Providers have access to the source data on cost-oriented terms BT considers that the extension of these terms to the printed Phone Book is unwarranted. This requirement does not protect the end-user – indeed there is nothing to prevent any Communications Provider from reselling a printed Directory to their end-users for profit.

BT remains the only producer of a UK comprehensive printed white page (alpha) directory and believes that the requirement for cost-orientation of the commercial supply is stifling competition within this sector of the market. To this end, BT is not seeking removal from the USO of the requirement to supply printed directories, but is instead seeking the following amendment:

7.2 BT shall, in accordance with paragraphs 7.3 and 7.4 below, and on request, make available:

- (a) ~~to any Communications Provider subject to paragraph 8.2 of General Condition 8 for the purpose of allowing that Communications Provider to comply with that paragraph;~~ to any person such Directories as BT compiles which comply with the requirements of ~~that~~ General Condition 8, paragraph 8.2;*
- (b) to any person seeking to provide publicly available Directory Enquiry*

Facilities and/or Directories, the contents of the database, in machine readable form.
7.3 BT shall supply the items in sub-paragraph (a) and (b) of paragraph 7.2 above at the reasonable request of the person requesting such items. Without prejudice to the generality of the foregoing, BT may refuse to supply such items if:

(a) the person requesting such items does not undertake to process the data or information contained in them in accordance with any Relevant Code of Practice, and/or

(b) BT has reasonable grounds to believe that the person requesting such items will not comply with Relevant Data Protection Legislation.

7.4 BT shall supply the items in sub-paragraph ~~[(a) and]~~ (b) of paragraph 7.2 above on terms which are fair, objective, cost oriented and not unduly discriminatory, and in a format which is agreed between BT and the person requesting the information. Where no such agreement is reached, the Director may determine the format to be applied to the information in accordance with his dispute resolution functions.

8. Costs and benefits of Universal Service Obligations

8.1 Introduction

We support the principle of Universal Service and appreciate our wider responsibilities in the provision of commercially unattractive services which have significant social benefit. But we urge Ofcom to recognise that universal service is treated within an industry framework, not simply as a “BT issue”. This is necessary because the market we now operate in is increasingly competitive. As competition intensifies not only does BT’s market share diminish, but our margins are squeezed. Whilst this competition is good for customers, it has to be recognised that it reduces our capability to fund loss-making USO services. The time has come for a serious review of the costs and benefits of USO as a prelude to spreading the burden of providing and supporting these services beyond BT and Kingston.

Response to Ofcom Question 20: Ofcom invites views on its updated estimates of costs and benefits.

Response to Ofcom Question 21: Do respondents consider that a more detailed assessment of costs and benefits should be undertaken once the new USO regime is in place?

8.2 Costs

Ofcom’s estimate of the direct costs of universal service are put at between £52m and £74m each year. Of this, £29m to £41m comprises loss-making fixed line activities (uneconomic customers and uneconomic areas) and £23m to £33m is attributable to uneconomic payphones.

Fixed services

The fixed line losses are based on an extrapolation of a detailed model of uneconomic areas and uneconomic customers developed by Analysys nearly 10 years ago. It is now time for Ofcom to take a fresh look at the model as the market in which BT operates has changed significantly. We realise this is a major task, and it would need to be tackled in a proportionate way. Extrapolation of past results, the basis for the fixed line costs quoted above, is an unsatisfactory way of completing a genuine review, and of providing a sound basis for a consultation. We trust that when Ofcom provides its next estimate of the costs of these obligations, they will represent the result of a new analysis.

Payphones

Ofcom’s lower estimate of the universal costs of payphones appears to be based on an assessment of long run avoidable costs. We note that this exercise has not been carried out in detail, but that Ofcom considers *up to* £10m of costs which are apportioned to payphones might not be avoided were uneconomic PCBs to be removed. We agree that this needs further consideration to derive a more accurate figure than the range of £23m to £33m for the payphones cost. At present, the *range*

for the downward adjustment for common costs is circa 1/3 of the original estimate, which is a wide “margin of error”.

Ofcom states in paragraph J.84 that their estimate of the cost of uneconomic payphones may be an over-estimate as PCBs which were added since 1984 were made in the full knowledge of re-siting restrictions and so should be excluded from the costing exercise. We do not consider this is at all justified. A decision made in 1985 to deploy a PCB could not have foreseen the growth of mobile phones which has completely changed the economics of the service. The costs of uneconomic payphones should be considered as the situation exists today, not by suggesting that decisions made by BT up to 20 years ago are reasons to exclude certain PCBs from the cost analysis.

8.3 Benefits

8.3.1 Fixed services

There has been a great deal of discussion in previous consultations on this subject of the notional benefits that arise from having social telephony obligations. The Ofcom consultation document reflects these debates but still includes a benefit of approximately £50m per year attributable to “brand enhancement”. This is justified in terms of “savings in advertising and marketing costs” that BT can make because it has social telephony obligations.

The brand enhancement benefit figure is apparently arrived at without any objective analysis but on the basis that “if the brand enhancement benefit is worth 20 per cent of BT’s retail marketing and sales expenditures, an indicative estimate of the benefit would be in the region of £50 - 52m”. This statement is purely conditional: it might just as well say, “if the brand enhancement benefit is worth 5 per cent [for example] of BT’s retail marketing and sales expenditures, an indicative estimate of the benefit would be in the region of £13m”. No evidence is, or has been, provided to support any figure. The estimate of brand enhancement benefits rests solely on unsubstantiated assertion.

On the basis of many years of brand research and brand valuation, BT’s Head of Brand Planning is of the view that there are 6 main factors which drive consumers to choose to buy fixed line home phone services from BT:

- price
- reliability
- quality of billing services
- quality of field service
- quality of customer service
- appeal of advertising

The fact that BT is the UK’s Universal Service Provider is irrelevant to consumers in making their decision between the many brands on offer. The vast majority of customers are simply unaware of BT’s role as the UK’s USP so it is impossible for them to choose BT on this basis. Our Brand Planning team have also had experience of commissioning, viewing, and reading numerous qualitative research projects based

on thousands of focus groups and in-depth interviews. Never in all that research have they ever encountered a single customer who has offered the USO as a reason for choosing to buy a fixed line home phone service from BT, either by mentioning the USO or by describing it in general terms. The same is true of thousands of verbatim reports from consumer tracking studies.

When they are actively considering which telephone provider to choose, the USO is simply not on people's mental radar, either consciously or sub-consciously. When weighing up whether to use for example, BT, ntl or One-Tel, the following types of questions run through customers' minds:

- "How much will it cost?"
- "Is it reliable?"
- "Will the bill be timely, accurate and easy to read?"
- "Will the engineers fix my line if it goes wrong?"
- "Will the people on the service desk be polite, helpful and effective?"
- "Do I like the advertising I have seen from this company?"

Very few, if any, customers ask themselves questions such as, "Are any of these companies obliged by the regulator to operate remote Payphones?" or, "Are any of these companies obliged to provide a phone service to anyone who wants it?"

Our research also suggests that the proportion of people who are aware of the USO is very similar among BT customers and among people who are using other providers for their home phone service. If knowing that BT is the Universal Service Provider (USP) was a factor in deciding which home phone provider to choose, one would expect to find that USO-awareness is significantly higher among BT customers than among non-BT customers. This is simply not the case.

We do not deny that customers do consider what they know about a supplier other than about the quality and value for money of its services. Other things being equal, customers prefer to deal with a company which they consider is well managed; that treats its suppliers and employees fairly; that is technologically innovative and so on. There is also a huge variation in the amount of knowledge people have about such issues and in whether these different issues matter to people in a way which affects their purchasing behaviour.

Reputation issues are now widely perceived to have the power to do a lot of damage to a brand if there is a disaster or a really big negative news story on any one particular issue. But it is notoriously hard to demonstrate increased propensity to buy or any other form of positive financial gain from positive reputation stories. Research we conducted in 2003 into attitudes of the British public to corporate social responsibility suggested only 14% of people in the UK claim to have chosen to buy products on the basis of a company's ethical reputation. This is usually on the basis that the company supports good causes and local communities and/or disadvantaged groups; and whether it behaves in a responsible way to the environment, including numerous specific issues including production of pollutants, use of non-sustainable resources, etc. Such factors can influence customer satisfaction in an indirect way by providing the right "background" to the company's brand.

It is *conceivable* that being the USP affects public perception of corporate responsibility but even then it is only one of numerous influences upon corporate reputation. Given that public knowledge of the USO only extends to about 25% of customers, and that only 14% of people even claim to be influenced in their purchasing decisions by ethical factors, the positive affect of the USO will be a “fraction of a fraction”. Taking into account the fact that reputation issues generally have much more power to damage a brand than to build it, it is questionable whether this influence makes any material impact whatsoever on purchasing behaviour which is dominated by price, reliability, billing, service, repairs, service and advertising. It is absolutely *inconceivable* that any company would spend 20% of its entire marketing and sales expenditure to gain such a small increment to its reputation.

Indeed, if the USO was likely to provide a significant brand advantage, one would expect to see USPs throughout the world promoting awareness of their regulatory obligations. However, we are not aware of *any* countries where this is the case and where incumbents do seek to make commercial capital out of regulatory obligations. An evidence-based regulator ought to take such verification into its analysis.

The Ofcom CD also suggests that the imputed benefits that BT derives from the USO (£50m to £52m) actually *exceeds* the direct costs of providing PST services in uneconomic areas and to uneconomic customers (estimated at between £29m to £41m). This turns on its head all standard concerns about universal service that it puts the constrained supplier at a commercial disadvantage. In addition, we would observe that if benefits did exceed costs, as the Ofcom numbers suggest, then there should be no need to impose obligations as these actions are something which the USP, and, indeed any other provider, would do anyway in its own commercial self-interest.

In summary, the imputed value for the USP brand benefit in the UK is not substantiated by any evidence and is contradicted by all circumstantial evidence. The *maximum* possible value of brand benefits must be no more than the direct cost of uneconomic customers and uneconomic areas if there is to be the need for any obligations to provide such services.

8.3.2 Payphones

Ofcom suggests that circa 45,000 PCBs are uneconomic and that one third of these yield an advertising benefit to BT in the range of £50 to £60 per month. We do not agree with this suggested advertising benefit, and believe it is much too high.

In the opinion of BT’s outside marketing consultants, Outdoor Connection, there is likely to be no advertising value to half of all BT’s payphones, with the other half being worth from £5 per month to a maximum of £40 per month. Outdoor Connection pointed out to us that advertising presence at a London bus stop, which Ofcom suggest might be equivalent, is far more valuable than a PCB as these locations are illuminated in 97% of cases, so less prone to seasonality. In addition, their kerbside proximity means such adverts are far more likely to be eye-catching than advertising on a PCB.

In contrast, Ofcom’s calculation assumes one in three uneconomic PCBs is worth £50-£60 per month. We think that a more realistic figure, where there is *any* implicit

advertising value to an uneconomic PCB, is £5 to £10 a month as uneconomic PCBs tend to be in out of the way locations.

Rather than conferring a benefit of £9m to £11m, a truer figure might therefore be a maximum of £1m to £2m. Even this figure might be too high if vandalised PCBs impart a negative “benefit” to the BT brand, as seems eminently possible.

We therefore believe that a true view of advertising benefits – the logo on those PCBs which BT would remove in the absence of regulatory restrictions - is that this is negligible, or at most perhaps £1m a year.

8.4 Conclusion

BT Group's corporate tax charge for 2003/4 was £568m. The direct cost of the Universal Service Obligation is estimated by Ofcom as being between £52m to £74m, so it is equivalent to an increase of some 9% (at the lower estimate) to 13% (at the higher estimate) of corporation tax. This represents a material amount and it cannot be sustained that this poses no "undue burden" on the business. This and the question of the scale of the benefits does justify conducting a full cost benefit analysis in BT's view. We suggest that Ofcom updates the Analysys model, a task which BT would be happy to support.

BT therefore believes that there already exists a clear and objective case for Ofcom to recognise that BT does, at a minimum, incur a net cost in delivering the USO in the case of its payphones business. For this activity, the net cost to BT is in the region of £30m each year. As is widely known, the commercial viability of this service has suffered as a result of the dramatic growth in the availability of mobile services which have had a severe, adverse, effect on payphones revenues. The provision of payphones for customers in remote areas, where there may not be mobile reception, or for occasions when they have forgotten their mobile handsets (or their handsets are not working) ought, in BT's view, to be met by a wider telecommunications industry fund as it meets a national need that would not be satisfied by any commercial criterion.

Annexes

Annex 1: In real terms telephony is more affordable

Economic Indicators	Jan-98 index	Apr-04 index	change
RPI (headline)	100	116.6	16.60%
Telephony (real) Calls + Lines	100	84.9	(15.1)%
Household Income (real)	100	120.9	20.90%
Household Expenditure (real)	100	123.9	23.90%
Average Earnings	100	130.4	30.40%
Pension (basic state)			
Single	100	127.4	27.40%
Married	100	127.6	27.60%

Retail Price Index: Fuel Components		
ANNUAL FIGURES	Gas	Electricity
1997	111.6	114.5
1998	107.8	109.3
1999	107.1	108
2000	104.5	105.7
2001	107.3	104.8
2002	114.1	105.3
2003	116.2	106.3
2003-1998	7.79%	(2.74)%

Sources: Economic Indicators (ONS), Retail Price Index: Fuel Components (ONS).

Annex 2: The cost of telephony has fallen compared with basic food stuffs and other forms of communication.

Basic Food Stuffs	96	97	98	99	00	01	02	03	04	% Change
Bread and Cereals	100.0	99.7	99.6	99.6	99.4	100.4	101.3	102.4	104.2	4.2%
Vegetables including potatoes and tubers	100.0	91.3	97.7	98.6	95.1	104	103.2	104.8	104	4.0%
Telephone and telefax equipment and services	100.0	96.7	95	91.9	87.7	81.3	82	82.3	81.5	(18.5%)

Forms of Communication	96	97	98	99	00	01	02	03	04	% Change
Postal Services	100.0	101.9	103	103.7	107.1	108.5	109	112.1	115.7	15.7%
Passenger transport by railway	100.0	102.3	106.7	110.5	112.3	117.1	120.1	121.3	126.3	26.3%
Newspapers and periodicals	100.0	103.6	106.5	110.6	113.9	118.6	120.6	127.8	133	33%
Telephone and telefax equipment and services	100.0	96.7	95	91.9	87.7	81.3	82	82.3	81.5	(18.5%)

Source: report from ONS, which gives the detailed annual average indices for 1996 to 2004.

http://www.statistics.gov.uk/downloads/theme_economy/FocusonCPI_Dec_2004.pdf
(Table 3.6 page 20-21)

Annex 3: An example of previous unsuccessful marketing activity to the target group

An In Contact Plus targeted leafleting campaign ran from 22nd April to 27th May 2002 inclusive and focused on 7 areas: Leeds, Liverpool, Birmingham, Greater London, Norwich, Manchester and Bristol. The leaflets were distributed via free local newspapers, and the newspapers used were chosen following a socio-geo-demographic analysis of postcodes to assess which areas were most likely to be inhabited by those who would most benefit from having In Contact Plus. Hence, the newspapers used were those which were delivered in areas inhabited by the In Contact target customer base. Around 500,000 leaflets were distributed. Any one who wanted to join the scheme was given a call to action number to ring to join the scheme. Awareness of the In contact scheme was measured both before the campaign (April 02) and after (July02) the campaign in the areas targeted by the campaign. The campaign results showed that awareness only increased by 1% from 12% to 13%. With only 3% using In Contact Plus (whereas 4% used it in the past).

Annex 4: Glossary of terms

Monthly payment plan (MPP)	MPP customers agree to pay a set amount of their bill each month based on their 'typical' spend profile. By signing up to MPP, customers are advised of what their 'typical' spend profile is and can budget accordingly. Additionally a customer can use BT's free 'Call my Bill' facility at any time to find out how much they have spent on their bill to help them budget for their telephony expenditure
Protected Services Scheme	Customer can nominate a third party (friend, relative, welfare worker) to act as a point of contact in cases of late or non-payment, usually due to exceptional circumstances such as a stay in hospital.
Call levels	Customers agree a quarterly call level which represents the maximum value of calls they would expect to make in a quarter. If the call level is reached, BT will contact the customer and agree a course of action.
Call my bill	A freephone number that customers call to find out the value of their unbilled usage on their fixed line telephony account.

Annex 5: Text communications

Before 1991, support for textphone communications in the UK was limited to charitable activities. The RNID and BT launched Typetalk which was the first step towards the integration of textphone users to communicate over the PSTN into mainstream telecommunications.

The introduction of Typetalk and TextDirect has shown BT's commitment to supporting textphone users. Both the services were introduced before there was a licence obligation requiring them and BT continues to develop the services by moving away from solely promoting relay communications to the promotion of all forms of textphone communication.

When introduced, Typetalk was a stand-alone service where customers had to wait to be connected to a relay operator before receiving a text message. The service involved a laborious pre-registered log-in process which could take up to three minutes only then to find the number they were calling was busy. The billing process was also separate from the customer's standard telephone bill. Textphone users had to pay their standard telephone bill before they were able to receive their Text Users' Rebate. However they were better off than standard telephone users, who had no access to the Text Users' Rebate. The recognition by BT of these customer issues led to the creation of TextDirect.

TextDirect was initially conceived by BT as a mechanism that would allow textphone users improved access to the PSTN by providing call progress announcements in text. It was soon realised that TextDirect could go further to improve the whole of the user's experience. One of the key features of TextDirect is the ability to make a call without needing to know what equipment is used at the other end. All other countries simply provide access to the relay service, with no support for text to text calls.

When TextDirect was introduced, the UK had 3 different textphone protocols. This led to incompatibility, even though theoretically, there shouldn't have been any. TextDirect means that if a textphone can communicate with TextDirect it can communicate with all other textphones, removing any barriers. This has implications for future use of the PC as a textphone. Since its introduction TextDirect has continued evolve to better serve the needs of it's users.

TextDirect within the UK, alone of all countries, provides information direct to the textphone screen relating to services messages in addition to line engaged and ring-tone.

TextDirect now means that textphone users can use a standard PC and modem to talk to TextDirect rather than having to try it with all textphones. They now know that if it works with TextDirect it will work with all textphones. This is because it allows users access to a wider number of terminals. The benefit of having a single textphone gateway is that new protocols can be introduced enabling new terminals and protocols to be available quickly. In the United States everything must be compatible with Baudot. This means there are considerable costs to make everything compatible which means that new technologies may be hard and expensive. Nowhere is this more apparent than in access to the emergency services where most States only support access by textphones that use the old Baudot protocol.

BT continues to develop TextDirect by reducing false tone detection, introducing the CTM textphone protocol, a diversion that diverts textphone calls around call steering platforms and providing an alternative to the 18002 prefix.

TextDirect is due for replacement and a new platform could bring further improvements which could be to use Internet protocols as the main mechanism which would greatly improve textphone communication.

Users in the United States have benefited from web access to the relay services (some UK users benefited until the US relay providers realised that they were paying for UK calls). In the US, web access to relay has developed as a direct result of the funding mechanism. Providers are paid for each call minute. Before web access, service was limited to textphone users within the State in which they provided the relay. Now, providers are able to 'poach' customers from other States. While there may be advantages to the funding mechanism used in the US, it is focused on relay and it is unlikely that they will see any development in textphone communications that doesn't require relay. Our approach has shifted the focus from simply providing a relay service to providing support for all forms of textphone communication.