

## Ofcom Strategic Review of Telecommunications Phase 2

### Response from TAG

1. TAG welcomes the opportunity to respond to the Ofcom Strategic Review of Telecommunications Phase 2 (SRT2). As a consortium of the full range of national and regional organisations in the UK working on behalf of deaf people, TAG promotes equality of access to electronic communications, including telecommunications and broadcasting, for deaf, deafened, hard-of-hearing, deafblind people and sign language users. In this response the word “deaf” will be used to cover the complete range of hearing loss unless otherwise specified.
2. This response attempts to comment on the general direction in which regulation of telecommunications is moving as it affects deaf users. This will inevitably involve reviewing the way in which universal service operates, and TAG will comment on some of the strategic issues involved. However, this consultation is inextricably linked with the separate consultation on universal service, to which TAG will also be responding. We understand that Ofcom will ensure that any overlap is appropriately considered and that responses to both will be collated.
3. TAG welcomes the statement in section 3.14 of the document that benefits are likely to be unequally shared and that as a consequence there must be action to address the needs of groups who might be left behind. Obviously deaf people fall into this category and TAG is pleased that Ofcom recognises their right to equality of access.
4. TAG notes that Ofcom believes the way to address this issue is through consideration of changes to the universal service obligations, and we would agree that a change in the way that universal service is delivered is required. TAG has concerns how much freedom of action Ofcom or the government is likely to have in this area, given that the framework for delivery is likely to be set at European level. Section K4 of the document makes it clear that the scope of universal service cannot be extended unless there is a change in the Universal Service Directive and a subsequent agreement by the government to extend the Universal Service Order. TAG is therefore disappointed that the Universal Service Directive will not be reviewed until late in 2005. Deaf people need action **now** to remove inequalities in access and should not be forced to wait years for this to take place.
5. It is therefore imperative that Ofcom is able to influence the direction that the Universal Service Directive is likely to take. TAG feels that historically too much stress has been laid on imposing the Universal Service Obligation on the provider with SMP rather than applying it to all providers as a mechanism to achieve a level playing field for those sectors of the population for whom competition and market forces are unlikely ever to deliver the same amount of choice. Deaf people obviously fall into this category, both those with a profound hearing loss whose needs are not easily met by mainstream products,

those whose first language is sign language and those with a less severe hearing loss who struggle to use the telephone with amplification. Of particular significance here are the needs and requirements of deafblind users which are the most difficult to fulfil and which market forces are totally unable to cope with.

6. TAG therefore totally supports the idea that Universal Service may be delivered by the use of mobile as well as by fixed line technology, and believes that the Universal Service Directive should be broadened to allow this. However, we see this not simply as a means of reaching uneconomic customers as suggested in section 10.11, but as a means of ensuring that deaf users have the same level of access as everyone else. There are inevitably additional costs in making mobile telephony available to deaf customers, both for industry and the users themselves, and TAG believes this is what Universal Service should be delivering – a level playing field. At the same time we would point out that currently mobile coverage is less than universal and that needs to be addressed. There are many areas where coverage indoors is very poor because of the strength and direction of signals, even in urban areas which would be assumed to have good mobile coverage.
7. TAG is disappointed that Ofcom considers the extension of Universal Service to broadband is inappropriate, and urges that this decision is reconsidered. Broadband has the capability of delivering real opportunities for deaf users and giving them equal access through mainstream technology rather than by means of niche products. It is likely to be the driver for the introduction of IP based products and services usable by deaf people. Figure 6 in the consultation document shows how broadband proved advantageous to a school, and it would be particularly important to deaf pupils, for whom the technology can provide fully accessible interactive text and multi-media based communication. The long timescale involved in the review of Universal Service means that if broadband is not included now it will be a number of years before it can be considered again, by which time the opportunity to ensure that developments are inclusive for deaf users will have been lost.
8. One of the main problems for deaf and disabled users is that their needs have in the past been shoe-horned into existing fixed technology not initially designed for that purpose, so we have in effect been playing catch-up throughout. It would be tragic if the mistakes of the past were to be repeated, and this can only be avoided if the needs of deaf users are built into the process from the start, which can be achieved by extending the scope of universal service at an early stage, since market forces will not produce the required outcome. TAG looks to Ofcom to take a pro-active stance on this matter.
9. TAG would also suggest that there are valid arguments for extending the scope of universal service to broadcasting, and this would fit in well with Ofcom's broader and converged responsibilities. It will become increasingly important as we move into the digital future that deaf users have appropriate access to broadcasting services, and broadening the scope of universal service would help to ensure this.

10. SRT2 rightly draws attention to the wider value chain beyond the traditional network concept of telecommunications. TAG has argued for many years that there is little or no point providing an accessible network if suitable equipment is not available. Equipment manufacture is unregulated and whilst that makes sense for mainstream markets, where competition ensures there is a great deal of choice so that users can purchase equipment offering various levels of functionality to suit their requirements and budget, levels of choice fall dramatically, and are often non-existent, as soon as there are different needs, as is inevitably the case for deaf users. Deaf users require either equipment that will enhance sound if they are hard of hearing, provide text equivalents if they are profoundly deaf, or provide video equivalents if they are sign language users. Ofcom now has a duty to promote inclusive design and TAG hopes that duty will be used proactively to remove the barriers that currently exist and to ensure that deaf users have the same level of choice as everyone else.
11. One way to achieve this is again to extend the scope of universal service so that it covers telecommunications equipment and thus provide end-to-end connectivity. The present structure is unhelpful and illogical, dividing the network services from the equipment used on that network, since developments to make the network accessible are useless if there is no suitable equipment available. This obviously requires strategic thinking, and the present review provides an ideal opportunity to move this argument, which has been debated for many years, forward in a positive way. TAG hopes that Ofcom will not let this opportunity to promote the interests of citizen consumers slip. We believe this would lead to the ability to phase out legacy technology, the use of which results in users becoming disadvantaged.
12. A glaring past example where this principle was not followed is the introduction of GSM digital mobile phones, which caused interference problems for hearing aid users and which has still not been fully resolved. This shows that if inclusive design principles are not encouraged from the outset emerging technology may not only fail to be universally accessible, but may in fact introduce significant new difficulties that did not previously exist.
13. We have referred above to the fact that regulation has historically concentrated on fixed line telecommunications, but, as SRT2 rightly makes clear, fixed line is now only one facet of the telecommunications sector. Mobile now has equal importance, and within a few years new voice services using IP over broadband will also play an integral role. It is essential that deaf users have appropriate access to all these different forms. The existing approach has been essentially backward looking, and has not properly recognised the development and provision of new services. The result has in fact been a deterioration of service for deaf users, as these services have been based on existing technology which is increasingly obsolete, and the current structure of the universal service obligation, with the onus falling on the provider with SMP, is not conducive to the development of new technological solutions. As we have already said this will require a different approach to universal service, which has been applied to the fixed telecommunications sector. Ofcom has

recognised this principle in setting up General Conditions which include requirements for disabled customers, and TAG would like to see this extended in the ways we have set out earlier in this response.

14. For instance, although the General Conditions set a requirement on both fixed and mobile services to allow **access** to a text relay service, the obligation to **provide** that service remains part of the universal service obligation, and is therefore rooted in fixed line communications. This dichotomy has caused problems and is likely to continue to do so. TAG will address the need for developments in the scope and operation of relay services in more depth in its response to the Universal Service consultation, but for the present would again stress the need for a fresh approach to the delivery of universal service.
15. SRT2 returns to this point in section 4.38 where it points out that there are a number of reasons why specific needs may not be met by market forces, and cites “special services” required by deaf people as an example. TAG is concerned that this only covers access to basic services. Leaving aside the problem of deciding what “basic services” means, this does not give true equality of access. Deaf people require not only access to basic services, but the same choice as everybody else. The danger of the basic services approach is that new services, such as VoIP, may be designed in such a way that deaf people are not able to use them, and are then left behind as these services become more widespread. Providing access to new services right from the beginning for all users, including deaf people, will prove cost effective in the long term. TAG is also concerned at the terminology used. Deaf people do not have special needs – they have the same rights to access as everyone else, which often are not met by the equipment available through market forces.
16. TAG notes that section 4.48 lists four factors of a well functioning market – choice, price, information and low switching barriers – and we would agree with that list. We welcome and agree with the statement in section 4.51 that a well functioning market would be flexible enough to deliver appropriate solutions for disabled customers who have particular requirements. However, TAG doubts that this can be achieved without strong regulation, as leaving it to market forces has not produced the desired result in the past. We also strongly agree with the need for information, which must be accessible to deaf people in an appropriate way.
17. TAG would agree that Option 3 (Real equality of access) as set out in sections 5.28 and following is the most appropriate course of action. TAG notes that Ofcom believes a change in definition of universal service may be required in achieving this, and agrees that this will be the case. However, in the consultation document the term “real equality of access” refers mainly to achieving this equality among industry players. But it is equally valid in application to users, and TAG strongly believes that real equality for access for deaf users should be supported by appropriate regulation where it will not be delivered by market forces.
18. TAG believes that the most appropriate mechanism to deliver this equality would be by setting up a Universal Service Fund. It is increasingly

unsustainable to place the burden of delivering these services on one provider with SMP, especially as the aim of SRT2 is to create a more competitive market. TAG believes that a Universal Service Fund would be a key driver in delivering real equality of access. There are a number of models that could be used, though some form of levy on all services would seem the best option. Such a Fund should be administered centrally rather than being under the control of any one provider. This would encourage competition in tendering for the provision of appropriate services, which TAG believes would lead to benefits for users that the current system fails to deliver. It could be used as a common fund to deliver combined technologies using video, voice and text, such as relay services, and TAG will consider such issues further in its response to the Universal Service consultation.

19. TAG is in broad agreement with the direction proposed by Ofcom in SRT2 and welcomes the recognition that groups with specific needs, such as deaf users, must be properly considered. TAG does not believe that those needs are likely to be met without firm regulatory intervention, especially if deaf people are to have the same range of choice as everyone else. TAG also believes that these needs must be considered from the very start, rather than considered as an after-thought. This will require a change in the scope and delivery of universal service.

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