

Review of the Universal Service Obligation

NCC response to Ofcom consultation

The National Consumer Council (NCC) welcomes the opportunity to respond to Ofcom's review of the universal service obligations (USO). This consultation follows another Ofcom consultation on the USO, published in January 2005, to which we responded in March 2005.

We broadly welcome this consultation document, as we believe it contributes to a better understanding of the functioning of the USO services and the circumstances of their provision. We also note that the consultation makes many useful recommendations for future change. However, we have a number of concerns, which, we believe, need to be addressed if the current review of the USO is to be a success.

In particular, we urge Ofcom to:

- reject BT's proposal to limit special tariffs to consumers on Income Support, Pension Credit and Housing Benefits and in stead determine eligibility by reference to households' true disposable income.
- require BT to modify its current proposal for special schemes by including a predictable payments scheme on a weekly, fortnightly or monthly basis in order to help vulnerable consumers manage their finances and prevent debt and disconnection.
- reconsider the impact of non-uniform connection tariffs on the USO and carry out a full cost-benefit analysis of these tariffs, taking into account their economic efficiency as well as their impact on different groups of consumers.
- ensure that, should non-uniform tariffs of connection be deemed an appropriate way of delivering the USO, the threshold for these tariffs is based on sound analysis that reflects economic reality of the provision of this service as well as its impact on consumers.

Scope of the Universal Service Obligation

NCC welcomes Ofcom's decision to begin a full cost-benefit analysis of the USO in 2006. We note that a meaningful cost-benefit analysis should not be limited to analysing economic efficiency of the provision of the USO services, it should also analyse the impact of the

provision of the USO services on different groups of consumers, in particular vulnerable consumers.

Moreover, we agree with Ofcom that there is no reason why the current scope of the USO should, at this stage, be expanded to include broadband Internet and mobile phones. However, telecoms markets are a fast developing economic area and we therefore keep the issue of the USO scope under constant review. Should our research indicate that the scope of the USO is too narrow, we would ask Ofcom to propose its expansion.

Finally, Ofcom emphasizes the fact that the ability to change the USO is determined by the Secretary of State and framed by the Universal Service Directive (USD)¹. We would like to avoid any misunderstanding on this issue and note that the USD only sets a minimum USO requirement, not a maximum, and that Ofcom is free to propose to the Secretary of State its extension beyond this minimum requirement if it deems this to be necessary.

Special tariffs for vulnerable consumers

NCC is unimpressed with BT's proposed changes to the special tariff scheme and strongly urges Ofcom not to accept them. This is for the following reasons:

1. Definition of poverty

According to the current proposal, only consumers in receipt of Income Support, Pension Credit or Housing Benefit would be eligible for special tariffs. We believe that the choice of this eligibility criterion is potentially disastrous. As we have already explained in our previous submission to Ofcom², there are several reasons why benefits are not the best way of measuring poverty:

- Many people are not claiming or receiving the benefits to which they are or should be entitled given their circumstances.
- The customer requesting a special tariff may not be claiming benefits, even though other members of the household may.
- People who struggle on low incomes may not qualify for these benefits because their circumstances fall outside the qualifying criteria.

For these reasons, we urge Ofcom to reject BT's proposal to limit special tariffs to consumers on Income Support, Pension Credit or Housing Benefits and to determine eligibility by reference to households' true disposable

¹ "Review of the Universal Service Obligation", Statement and Further Consultation, 30 June 2005, paragraph 3.7, page 10.

² "Review of the Universal Service Obligation", NCC's response to Ofcom's consultation, March 2005

income. The Government's poverty threshold of household annual income below £10,400 could provide a useful starting point for determining an appropriate benchmark.

2. Exclusion of mobile phone users

In BT's current proposal, consumers on monthly mobile phone contracts and those on pre-pay schemes who spend more than £10 per month would be excluded from special fixed line tariffs. We believe that this requirement is unreasonable and would be detrimental to vulnerable consumers. The fact that one member of a household uses a mobile phone does not provide any clear information about the household's level of prosperity or whether or not it deserves to qualify for a special tariff. In any case, we doubt whether it would be possible for BT to police such a requirement, since it would be unlikely to have detailed knowledge of all consumers' subscription and pre-pay mobile phone usage, and consumers would not have an incentive to provide BT with this information.

3. Differential pricing based on payment methods or schedules

BT's new proposal includes again a discount for payments by direct debit. As we have already explained in our previous submissions, vulnerable low-income consumers often have no bank account or only a basic bank account with limited services, and are therefore highly unlikely to be able to benefit from a direct debit discount.

Conversely, the introduction of an Early Payment Discount for consumers paying in cash is potentially beneficial to vulnerable consumers. However, we remain cautious about the actual benefits that this scheme can bring. Vulnerable low-income consumers often struggle to make ends meet and are rarely in a position to be able to pay earlier than expected. Moreover, disabled and older consumers often rely on carers and the timing of their payment may not be within their control. In sum, many vulnerable consumers are more likely benefit from a late payment scheme or a debt management mechanism, than an Early Payment Discount.

On balance, although we acknowledge that the current BT proposal for the special scheme is an improvement with respect to the previous one, we conclude that the new proposal is not satisfactory and provides only partial improvements. We therefore urge Ofcom to require BT to modify its current proposal to include the following changes:

- availability to low-income households regardless of whether they receive State benefits, own additional lines or mobile phones;
- availability to customers in debt and disconnected customers;

- predictable payments scheme on a weekly, fortnightly or monthly basis in order to help vulnerable consumers manage their finances and prevent debt and disconnection.

Disconnections

NCC agrees with Ofcom that action is needed to ensure that the most vulnerable consumers are not routinely disconnected. We also share Ofcom's view that disconnection levels could be significantly reduced if BT properly promoted its special schemes. We also believe that it is Ofcom's responsibility to compel BT to meet its obligations. Finally, it is our view that BT should develop and establish a better debt management mechanism which would allow vulnerable consumers to discharge their debts rather than be disconnected.

Public Call Boxes

We support in principle that a single public body in each area should hold the right of veto and that other local public bodies should be consulted. However, we believe that the designation of public bodies should be agreed with local communities. We support the proposal to extend the consultation period to 90 days.

We broadly support Ofcom's proposal to provide guidance to public bodies to assist them when making a decision to remove a PCB. However, we believe that this guidance should include all the factors mentioned by the respondents to the previous USO consultation and not only those chosen by Ofcom. The objective of this guidance is to provide responsible public bodies with a comprehensive list of factors that should be examined while deciding on a PCB removal. We therefore see no reason why the guidance could not be broadened to encompass all relevant factors mentioned by stakeholders in their responses.³

More specifically, we believe that the criterion "no mobile coverage" should be changed to "low or sporadic mobile coverage" and the number of mobile phone companies used to determine mobile coverage should be extended to all mobile phone providers.

Similarly, the definition of emergency calls should not be limited to emergency services such as the police, fire, ambulance and coastguard services, and should include other services mentioned by consumers as an emergency, such as roadside breakdown services, calls to parents by stranded children, calls to an employer if late for an important meeting, calling Childline, Samaritans, and so on.⁴

³ The relevant factors appear in paragraph 5.34, page 25 of the consultation document cited above.

⁴ Other emergency calls are described in paragraphs AA.4 to AA.7 in Guidance Annex AA, on page 89.

Finally, we broadly support Ofcom's proposed rules on cashless PCBs, providing that these PCBs continue to offer non-cash payment services and extensive emergency calls as described above.

Provision of a connection upon reasonable request and functional Internet access

In its consultation document, Ofcom accepts that BT charges customers whose costs of connection exceed £3,400 the excess cost of connection. The excess costs are charged at the top of the standard connection tariff (£74.99 for individuals and £116.33 for businesses).

We note that non-uniform connection tariffs, although economically rational for providers, appear to be inconsistent with the principle of USO. They can represent a particular challenge for people living in remote rural areas. In particular, we fear that in some of these places, the fixed line connection tariff may be prohibitive and, at the same time, mobile coverage may be poor, effectively leaving many consumers living in these areas without any telecomm connection. We therefore believe that any amendment to connection tariffs has to be carried out with utmost care and only after a full cost-benefit analysis has been completed, taking into account economic efficiency and impact of these tariffs on different groups of consumers.

Moreover, we are unimpressed by the existing tariff threshold of £3,400. This threshold seems arbitrary. Ofcom's consultation document provides no indication why this threshold has been chosen, whether it refers to the average cost of connection (mean), the middle value of the cost of connection (median), and so on. Moreover, there is virtually no information about the distribution of connection costs among various groups of consumers or regions, or indeed any other statistical measurement which would allow us to make a meaningful assessment of the representativity of this threshold.

Under these circumstances, we find it impossible to agree with Ofcom's proposal to allow BT to charge non-uniform prices above £3,400 and urge Ofcom to ensure that the threshold to which it grants its approval is based on sound analysis that reflects economic reality of the provision of this service as well as its impact on consumers.

Moreover, we disagree with Ofcom's proposal that "the Provider does not need to take into account whether other customers in a geographical area may subsequently also want service thereby benefiting from the construction work carried out. Nor does the Provider need to retrospectively pay back to the customer the sum already

paid if another customer uses the same plant, or some part of it, at a later date." ⁵

If the USO principle of a unique connection tariff is to be meaningfully replaced by more cost-reflective, non-uniform tariffs and the consumers whose costs of connection exceed certain level be required to pay the excess costs, it is logical that these costs are distributed fairly among consumers. We see no justification why the provider should take no account of the true incurred or expected costs of a connection and charge or compensate the customer accordingly. If this were not to be the case, Ofcom would contribute to a creation of a perverse system of incentives whereby no consumer in any non-served area would have the incentive to request the connection first, because he/she would be likely to pay for the entirety of the extra costs, while the subsequent consumers would be able to "free ride" on the first consumer by paying just the standard amount for their connection.

Finally, we also disagree with Ofcom's proposal to leave the decision to provide vulnerable consumers with a connection at the standard charge when the cost of providing a connection exceeds £3,400 pounds entirely to providers' discretion. ⁶ We believe that it is Ofcom's responsibility to ensure that vulnerable consumers can afford a connection and when necessary require providers to offer discounts or special connection tariffs.

⁵ Annex K, Reasonable Request Guidance, page 115, requirement 10.

⁶ Annex K, Reasonable Request Guidance, page 115, requirement 12.

Summary of NCC's recommendations

NCC urges Ofcom to:

- reject BT's proposal to limit special tariffs to consumers on Income Support, Pension Credit and Housing Benefits and instead determine eligibility by reference to households' true disposable income.
- require BT to modify its current proposal for special schemes by including a predictable payments scheme on a weekly, fortnightly or monthly basis in order to help vulnerable consumers manage their finances and prevent debt and disconnection.
- reconsider the impact of non-uniform connection tariffs on the USO and carry out a full cost-benefit analysis of these tariffs, taking into account their economic efficiency as well as their impact on different groups of consumers.
- ensure that, should non-uniform tariffs of connection be deemed an appropriate way of delivering the USO, the threshold for these tariffs is based on sound analysis that reflects economic reality of the provision of this service as well as its impact on consumers.