

CONTINUATION NOTICE TO ORANGE PERSONAL COMMUNICATIONS SERVICES LTD UNDER PARAGRAPH 9 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Notice that the conditions set out in Schedule 1 to this notice will have effect from 25th July 2003

1. The Director General of Telecommunications ('the Director'), in accordance with Paragraph 9 of Schedule 18 to the Communications Act 2003 ('the Act') hereby gives notice to Orange Personal Communications Services Ltd ('the Licensee') that the conditions set out in the licence granted by the Secretary of State for Trade and Industry on 27 July 1995 to the Licensee under section 7 of the Telecommunications Act ('the Original Licence') and set out in Schedule 1 to this notice, will continue to have effect from 25th July 2003 as modified and to the extent set out in Schedule 1 ('the Continued Provisions').

2. The Director considers, for the reasons set out in the statement which the Director will publish, that each of the Continued Provisions listed in Schedule 2 to this notice, correspond to one or more of the provisions contained in Paragraph 9(4) of Schedule 18 to the Act.

3. The modifications set out in the Continued Provisions are made:

- a) to secure that the Continued Provisions continue to have effect whilst this notice is in force; and, as appropriate,
- b) to ensure that a requirement of the Original Licence must continue to be met for so long as this notice remains in force.

4. Any directions, determinations, consents and other provisions made by or under the Original Licence which have been given or made for the purposes of the Continued Provisions and, in accordance with Paragraphs 9(8)(b) and (c) of Schedule 18 to the Act, are to remain in force for so long as this notice is in force.

5. This notice shall continue to have effect until the Director has given a further notice to the Licensee in accordance with Paragraph 9 of Schedule 18 to the Act that this notice shall cease to have effect.

6. The Director issued a consultation as to his proposals to continue the conditions on 3 July 2003 and requested comments by 14 July 2003. The Director has taken into account the comments he received during that consultation.

7. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act. For the purposes of interpreting this notice, headings and titles shall be disregarded.

DAVID ALBERT EDMONDS
DIRECTOR GENERAL OF TELECOMMUNICATIONS

23 July 2003

Schedule 1

In accordance with the continuation notice, the conditions of the Licence set out in this Schedule will continue to have effect as modified and to the extent set out below (“the Continued Provisions”):

Interpretation

1. In this Schedule, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them. Expressions cognate with those referred to in this Schedule shall also be construed accordingly. For the purposes of interpreting this Schedule, headings and titles shall be disregarded.
2. The Interpretation Act 1978 shall apply for the purposes of interpreting this Schedule as if it were an Act of Parliament.
3. For the purpose of interpreting the Continued Provisions in this Schedule the following definitions shall apply:

'Applicable Systems' means telecommunications systems of every description within the United Kingdom provided that a system (“the System”) is an Applicable System only to the extent it satisfies each of the following conditions:

- (a) the System is one by means of which Messages are conveyed or are to be conveyed:
 - (i) from one Network Termination Point to another such Point;
 - (ii) from a Network Termination Point to another place which is neither a Network Termination Point nor a Call Office or from such a place to such a Point;
 - (iii) between a place which is neither a Network Termination Point nor a Call Office and another such place where their conveyance is not by way of provision of a service to another person; or
 - (iv) between a Call Office and any other place,but in any case not beyond a Network Termination Point;
- (b) none of the apparatus comprised in the System is Relevant Terminal Apparatus installed on premises occupied by a person to whom there are provided telecommunications services by means of the System;

'Approved Apparatus' means in relation to any system apparatus approved under section 22 of the Telecommunications Act 1984 or which meets the appropriate essential requirements of regulation 4 of the RTTE Regulations;

'Call Office' means telecommunication apparatus not supplied by the Licensee to any particular person but made available for use by the public or a class of the public;

'Condition' means a Continued Provision in this Schedule;

'Director' means the Director General of Telecommunications or Ofcom as appropriate;

'End-user' means for the purposes of the definition of "Network Service" any person not running a telecommunication system or providing a telecommunication service;

'Fixed Public Telephone Network' means the public switched telecommunications network which supports the transfer between Network Termination Points at fixed locations of speech and 3.1 KHz bandwidth audio information, to support inter alia:

(i) voice telephony,

(ii) facsimile Group III communications, in accordance with ITU-T Recommendations in the "T-Series", and

(iii) voice band data transmission via modems at a rate of at least 2,400 bit/s, in accordance with ITU-T Recommendations in the "V-Series", where access to the end-user's Network Termination Point is via a number or numbers in either the National Telephone Numbering Plan or General Condition of Entitlement 17 (Allocation, adoption and use of telephone numbers);

'Fixed Public Telephone System' means the telecommunication systems run by a person and which form part of the Fixed Public Telephone Network by means of which Fixed Publicly Available Telephone Services are provided;

'Fixed Publicly Available Telephone Service' means the provision to end-users at fixed locations of a service for the originating and receiving of national and international calls, including voice telephony services and may include, in addition, access to emergency "112" services, the provision of operator assistance, directory services, provision of public-pay telephones, provision of service under special terms or provision of special facilities for customers with disabilities or with special social needs but does not include Value Added Services provided over the Public Telephone System;

"Framework Directive" means Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services;

"General Conditions of Entitlement" means those conditions set from time to time by the Director pursuant to section 45 of the Communications Act 2003;

'Integrated Services Digital Network' (ISDN) means a network evolved from the telephony integrated digital network that provides for end-to-end digital connectivity to support a wide range of services, including voice and non-voice services, to which

users have access by a limited set of standard multi-purpose customer interfaces;

'Interconnection' means the physical and logical linking of telecommunication systems used by the same or a different organisation in order to allow the users of one organisation to communicate with users of the same or another organisation or to access services provided by another organisation irrespective of whether services are provided by the parties involved or other parties who have access to the systems;

'Interconnection Directive' means Directive 97/33/EC on interconnection in telecommunications with regard to ensuring universal service and interoperability through the application of the principles of open network provision (ONP) which was in force prior to its repeal by the Framework Directive;

'Interconnection Regulations' means the Telecommunications (Interconnection) Regulations 1997 (S.I. 1997/2931) which were in force prior to their repeal by the Communications Act 2003;

"Interested Parties" means those persons (if any), other than the Licensee, with whom, in any particular case, the Director is required or considers it appropriate to consult;

'International Simple Resale Bearer Circuit' means a communication facility which is:

(i) comprised both in a public telecommunication system and in an equivalent telecommunication system in a country or territory other than the United Kingdom;

(ii) for the conveyance of Messages between:

(A) in the case of outbound Messages, the last point of connection within the United Kingdom at which the route of the Messages is selected and the first point of connection in any country or territory other than the United Kingdom;

(B) in the case of inbound Messages, the last point of connection in any country or territory other than the United Kingdom and the first point of connection in the United Kingdom at which the route of the Messages is selected;

(iii) made available to a particular Service Provider;

(iv) such that all of the Messages transmitted at any of the points mentioned in sub paragraph (ii) above are received at every other such point;

(v) such that all the points mentioned in sub-paragraph (ii) above are points of connection between telecommunication systems referred to in sub-paragraph (i) above and other telecommunication systems; and

(vi) such that all the points mentioned in sub-paragraph (ii) above are fixed by the way in which the facility is installed and cannot otherwise be selected by persons or telecommunication apparatus sending Messages by means of that facility; but

(vii) excluding from the extent of the facility any Private Leased Circuit installed between the particular Service Provider and any other person in the United Kingdom;

“**Licence**” means the Continued Provisions in this Schedule;

'Licensee' means Orange Personal Communications Services Ltd;

'Mobile Public Telephone System' means any telecommunication system by means of which Publicly Available Mobile Telephone Services are provided at Network Termination Points connected to telecommunication systems which are designed or adapted to be capable of being used while in motion;

'Mobile Radio Telecommunication Service' means any telecommunication service consisting in the conveyance of Messages by means of a telecommunication system where every Message that is conveyed thereby has been, or is to be, conveyed through the agency of Wireless Telegraphy to or from a telecommunication system which is designed or adapted to be capable of being used while in motion;

'Message' means anything falling within the following:

- (a) speech, music and other sounds;
- (b) visual images;
- (c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or
- (d) signals serving for the actuation or control of machinery or apparatus;

'National Telephone Numbering Plan' means the document published by the Director from time to time pursuant to section 56 of the Communications Act 2003;

'Network Connecting Apparatus' means telecommunication apparatus comprised in the Applicable Systems which is not Network Termination and Testing Apparatus and is connected to another telecommunication system

'Network Service' means any of the following:

- (i) a service consisting only of functions which enable End-users to send, receive, or both, Messages to or from one or more End-users, including functions which enable the establishment of a prior connection between such End-users;

(ii) a service which consists only of functions which could not practically be provided to any End-user in identical form by anyone other than the Licensee, because those functions are dependent upon the functions referred to in subparagraph (i) above;

(iii) any service which has been agreed by the Licensee and the Director;

'Network Termination and Testing Apparatus' means an item of telecommunication apparatus comprised in the Applicable Systems installed in a fixed position on Served Premises which enables:

(i) Approved Apparatus to be readily connected to, and disconnected from, the Applicable Systems;

(ii) the conveyance of Messages between such Apparatus and the Applicable Systems; and

(iii) the due functioning of the Applicable Systems to be tested, but the only other functions of which, if any, are:

(A) to supply energy between such Apparatus and the Applicable Systems;

(B) to protect the safety or security of the operation of the Applicable Systems; or

(C) to enable other operations exclusively related to the running of the Applicable Systems to be performed or the due functioning of any system to which the Applicable Systems are or are to be connected to be tested (separately or together with the Applicable Systems);

'Network Termination Point' means any point:

(i) within an item of Network Connecting Apparatus at which electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy is conveyed directly to or from apparatus comprised in a telecommunication system other than one in which that Network Connecting Apparatus is comprised; or

(ii) within an item of Network Termination and Testing Apparatus at which such energy is conveyed directly to any Relevant Terminal Apparatus; or

(iii) which, in the case of a radio based telecommunication system, is the last point at which Messages are transmitted or the first point at which Messages are received in the form of electromagnetic signals, by apparatus run by a person other than the Licensee and lawfully connected to that system;

'Number' means

(i) any identifier which would need to be used in conjunction with any public switched telecommunication service for the purposes of establishing a connection with any Network Termination Point, user, telecommunication apparatus connected to any Public Switched Network or service element, but not including any identifier which is not accessible to the generality of users of a public switched service;

(ii) [...]

'Operator' means any person running a telecommunication system for the purpose of providing telecommunication services

“Original Licence” means the licence granted to Orange Personal Communications Services Ltd by the Secretary of State for Trade and Industry on 27 July 1995 under section 7 of the Telecommunications Act 1984;

'Private Leased Circuit' means a communication facility which is:

(i) provided by means of one or more public telecommunication systems;

(ii) for the conveyance of Messages between points, all of which are points of connection between telecommunication systems referred to in subparagraph (i) above and other telecommunication systems;

(iii) made available to a particular person or particular persons;

(iv) such that all of the Messages transmitted at any of the points mentioned in sub-paragraph (ii) above are received at every other such point; and

(iv) such that the points mentioned in sub-paragraph (ii) above are fixed by the way in which the facility is installed and cannot otherwise be selected by persons or telecommunication apparatus sending Messages by means of that facility;

“Public Operator” means any person who runs publicly available telecommunication systems or provide publicly available telecommunication services or both;

'Public Switched Network' means a public telecommunication system by means of which two-way telecommunication services are provided whereby Messages are switched incidentally to their conveyance, and, for the avoidance of doubt, a Public Switched Network does not include Private Leased Circuits or International Simple Resale Bearer Circuits;

'Public Telephone System' means a Fixed Public Telephone System or a Mobile Public Telephone System, or both;

'Publicly Available Mobile Telephone Service' means a telecommunication service which consists, wholly or partly, in the provision of Mobile Radio Telecommunication Services to an end user and makes use wholly or partly of a

Mobile Public Telephone System but does not include Value Added Services provided over a Public Telephone System;

'Publicly Available Telephone Service' means either a Fixed Publicly Available Telephone Service or a Publicly Available Mobile Telephone Service, or both;

'Relevant Terminal Apparatus' means:

(i) "Terminal Apparatus", that is to say any telecommunication apparatus installed on Served Premises except a Call Office; and

(ii) any other telecommunication apparatus connected to the apparatus referred to in sub-paragraph (i) above constituting a system run by the person using that Terminal Apparatus;

'RTTE Regulations' means the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 as amended by the Radio Equipment and Telecommunications Terminal Equipment (Amendment) Regulations 2003;

'Schedule 2 Public Operator' means a Public Operator:

(i) who

(i) was, prior to 25 July 2003, authorised within a Member State other than the United Kingdom to provide public telecommunication networks or publicly available telecommunications services or both and whose name has been notified to the European Commission under Article 18 of the Interconnection Directive as an organisation covered by Annex II of that Directive and continues to provide those things referred to in paragraphs 1 to 4 of Annex II of the Interconnection Directive; and

[x] any other Public Operator who, after 25 July 2003, provides those things referred to in paragraphs 1 to 4 of Annex II of the Interconnection Directive; or

(ii) who

(A) was, prior to 25 July 2003, a Public Operator whose name has been notified to the European Commission, by the United Kingdom, as an organisation covered by Annex II of the Interconnection Directive and continues to provide those things referred to in paragraphs 1 to 4 of Annex II of the Interconnection Directive;

[y] any other Public Operator who, after 25 July 2003, provides those things referred to in paragraphs 1 to 4 of Annex II of the Interconnection Directive;

(B) provides switched and unswitched bearer capabilities to Users upon which other telecommunication services depend; and

(C) does any of the following:

(AA) runs public switched systems, or provides publicly available telecommunication services, or both, and in doing so controls the means of access to one or more Network Termination Points identified by one or more unique numbers in either the National Telephone Numbering Plan or General Condition of Entitlement 17 (Allocation, adoption and use of telephone numbers);

(BB) provides leased lines to Users' premises

(CC) makes available International Simple Resale Bearer Circuits;

(DD) runs public switched systems, or provides publicly available telecommunication services, or both, and in doing so controls the means of access, for the services concerned, to one or more end-users identified by one or more unique identifiers within an internationally recognised numbering and addressing plan;

(EE) provides publicly available telecommunication services and in doing so controls the means of access for the services concerned, to one or more end users identified by one or more unique numbers in either the National Telephone Numbering Plan or General Condition of Entitlement 17 (Allocation, adoption and use of telephone numbers); or

(FF) provides publicly available switched or unswitched bearer services between telecommunication systems run by one or more third parties;

'Served Premises' means a single set of premises in single occupation where apparatus has been installed for the purpose of the provision of telecommunication services by means of the Applicable Systems at those premises;

'Service Provider' means:

(i) any person who is in the business of providing telecommunication services of any description;

(ii) [...]

(iii) [...]

"Telecommunication Apparatus" means apparatus construed or adapted for use –

(a) in transmitting or receiving:

(i) speech, music and other sounds;

(ii) visual images;

(iii) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or

- (iv) signals serving for the actuation or control of machinery or apparatus

which is to be or has been conveyed by means of a telecommunications system; or

- (b) in conveying for the purposes of such a system, anything falling within paragraphs (i) to (iv) above.

and for the purposes of this definition:

(1) apparatus is connected to a telecommunication system if it is being used, or is installed or connected for use –

- (a) in transmitting or receiving anything falling within paragraphs (i) to (iv) above which is to be or has been conveyed by means of that system; or
- (b) in conveying, for the purposes of that system, anything falling within those paragraphs;

and reference in this sub-section (1) to anything falling within paragraphs (i) to (iv) shall include references to electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy;

2) the connection to a telecommunication system of any other telecommunication system or any apparatus shall not be regarded as a connection if that other telecommunication system or that apparatus would not be so connected but for its connection to another telecommunication system.

(3) “convey” includes transmit, switch and receive and cognate expressions shall be construed accordingly.

(4) references to the supply of telecommunication apparatus do not include the making available of apparatus comprised or to be comprised in any of the Applicable Systems.

“Telecommunication Service” means any of the following, that is to say –

- (a) a service consisting in the conveyance by means of a telecommunication system of;
 - (i) speech, music and other sounds;
 - (ii) visual images
 - (iii) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or

- (iv) signals serving for the actuation or control of machinery or apparatus;
- (b) a directory information service, that is to say, a service consisting in the provision by means of a telecommunication service of directory information for the purpose of facilitating the use of a service falling within paragraph (a) above and provided by means of that system; and
- (c) a service consisting in the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement of apparatus which is or is to be connected to a telecommunication service.

and for the purposes of this definition “convey” includes transmit, switch and receive and cognate expressions shall be construed accordingly.

“Telecommunication System” means a system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, of-

- (a) speech, music and other sounds;
- (b) visual images;
- (c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or
- (d) signals serving for the actuation or control of machinery or apparatus.

and for the purposes of this definition:

- (1) telecommunication apparatus which is situated in the United Kingdom and
 - (a) is connected to but not comprised in a telecommunication system; or
 - (b) is connected to and comprised in a telecommunication system which extends beyond the United Kingdom.

shall be regarded as a telecommunication system and any person who controls the apparatus shall be regarded as running the system.

(2) a telecommunication system is connected to another telecommunication System if it is being used, or is installed or connected for use, in conveying anything falling within paragraphs (a) to (d) above which is to be or has been conveyed by means of that other system; and

(3) the connection to a telecommunication system of any other telecommunication system or any apparatus shall not be regarded as a connection if that other telecommunication system or that apparatus would not be so connected but for its connection to another telecommunication system.

'Users' means individuals, including Consumers, or organisations using or requesting Publicly Available Telephone Services;

'Value Added Service' means any service which is provided by means of the Applicable System not being a service which consists wholly in the provision of any Network Service.

'Wireless Telegraphy' has the same meaning as in the Wireless Telegraphy Act 1949.

4. Any reference in any Condition in this Schedule, however expressed, to the Director notifying the Licensee about any matter, affording the Licensee an opportunity to make representations, taking representations made by the Licensee into account or explaining, or giving reasons for any matter to the Licensee, shall be without prejudice to any obligation of due process or similar obligation which the Director is or may be under by virtue of any rule or principle of law or otherwise.
5. Subject to paragraph 6 below, if the Director is considering whether a determination, direction or consent under any Condition in this Licence is appropriate, he shall notify the Licensee and any Interested Parties of his proposed decision or the options which he is considering, and his reasons, and give them a reasonable opportunity to make representations. On making and refusing a determination or direction or giving or refusing consent, he shall notify the Licensee and Interested Parties of the determination, direction or consent or refusal, as the case may be, and his reasons.
6. Paragraph 5 does not apply in relation to any determination, direction or consent the procedure for which is otherwise set out in this Licence or any other enactment.

Exceptions and Limitations on Obligations in the Continued Provisions

7. Unless the context otherwise requires the Licensee's obligations have effect subject to the following exceptions and limitations.
8. The Licensee is not obliged to do anything which is not practicable.
9. The Licensee shall not be held to have failed to comply with an obligation imposed upon it by or under this Licence if and to the extent that the Licensee is prevented from complying with that obligation by any physical, topographical or other natural obstacle, by the malfunction or failure of any apparatus or equipment owing to circumstances beyond the control of the Licensee, by the act of any national authority, local authority or international organisation or as the result of fire, flood, explosion, accident, emergency, riot or war.
10. The obligation to provide any telecommunication service under this Licence shall not apply:

- (a) where there is no reasonable demand for it;
- (b) where the provision of the service requested would expose any person engaged in its provision to undue risk to health or safety;
- (c) where the Licensee is unable to obtain (either because it has not been developed or for some other reason beyond the Licensee's control) anything necessary to provide a service of the quality or standard required by the person who requests the provision of the service and, in the event of dispute, the Director's decision as to whether anything is necessary shall be final;
- (d) where the person to whom the Licensee would otherwise be under an obligation to provide any service requests a service at a place in which the apparatus necessary to provide that service in that area has not been installed (or in which the installation of such apparatus has not been completed) or as the case may be such apparatus has not been adapted or modified to make it capable of providing the service of the kind requested or the trained manpower necessary to provide the service is not available in that area, provided that in every case where the Licensee declines to provide a service to which this sub-paragraph relates it shall have published, or furnished to the Director, or within 28 days (or such longer period as the Director considers reasonable) following receipt by it of the request that service be provided shall have furnished to the Director, proposals for:
 - (i) progressively installing or completing the installation or the adaptation or the modification of such apparatus; or
 - (ii) the allocation of the trained manpower,

necessary for the provision of that service in that area and the Director has not determined that those proposals are unreasonable or are not being effectively carried out; or
- (e) where the Licensee notifies the Director that it is not reasonably practicable in all the circumstances for the Licensee to provide the service requested at the time or place demanded and the Director agrees.
- (f) where the person to whom the Licensee would otherwise be under an obligation to provide any service requests a service at a place in an area in which the demand or the prospective demand for the service is not sufficient, having regard to the revenue likely to be earned from the provision of the service in that area, to meet all the costs reasonably to be incurred by the Licensee in providing the service, including:
 - (i) the cost of apparatus necessary for the provision of the service there;

- (ii)** the cost of installing, maintaining and operating such apparatus for the purpose of providing the service there; and
- (iii)** the cost of the trained manpower necessary to provide the service there; or

(g) where the Licensee notifies the Director that it is not reasonably practicable in all the circumstances for the Licensee to provide the service requested at the time or place demanded and the Director agrees.

11. The Licensee shall not be obliged to connect, or to keep connected to the Applicable Systems, or to permit to be so connected or kept connected any telecommunication system or telecommunication apparatus or to provide any telecommunication services or to permit the provision of any service if the person to or for whom that is done or is to be done:

- (a)** has not entered or will not enter into a contract for the purpose with the Licensee for reasons other than the unreasonable refusal of the Licensee to agree terms for the purpose but this paragraph does not apply in a case where the Director is satisfied that:
 - (i)** the Licensee has not published standard terms and conditions which it proposes to apply for the purpose in question, or the transaction is not fit to be governed by such terms and conditions; and
 - (ii)** the Licensee has unreasonably refused to agree terms and conditions for this purpose;
- (b)** is, or in the Director's opinion has given reasonable cause to believe that he may become:
 - (i)** in breach of a contract with the Licensee for the provision of telecommunication services by the Licensee; or
 - (ii)** in default in regard to any debt or liability owed to the Licensee in respect of any such contract;
- (c)** is using, or permitting the use of, apparatus so connected for any illegal purpose or has done so in the past and is likely to do so again; or
- (d)** has obtained, or attempted to obtain any telecommunication service from the Licensee by corrupt, dishonest or illegal means at any time.

12. Nothing in this Licence shall prevent the Licensee from withdrawing from, or declining to provide to, any person any telecommunication service which the Licensee has notified the Director that it is providing in a limited area, or to a limited class of customers, for the purpose of evaluating the technical feasibility of, or the commercial prospects for, that service.

13. Nothing in this Licence shall require the Licensee to provide any telecommunication service, or to provide any telecommunication service of any particular class or description, if it provides instead a service, or a service of a class or description, which satisfies the purposes of that requirement at least to the same extent.

14. Nothing in this Licence shall oblige the Licensee to:

- a) provide a service of any description; or
- b) supply apparatus of any description,

to any person if it otherwise provides or offers to provide that service or supplies or offers to supply such apparatus solely to Service Providers or persons who are in the business of providing any telecommunication service which is not a Mobile Radio Telecommunication Service to another by means of a telecommunication system lawfully connected to the Applicable Systems or persons who are in the business of securing the provision of such service by such means.

15. Paragraphs 7 to 14 shall apply without prejudice to any limitation or qualification of the requirements imposed by or under any Condition.

The Continued Provisions

Control of Interconnection Charges

CONTROL OF INTERCONNECTION CHARGES (FIXED TO MOBILE)

70A.1 The Licensee shall secure, and shall be able to demonstrate to the satisfaction of the Director, that the Average Interconnection Charge does not exceed the Target Average Charge on each and every day for so long as the Continued Provisions remain in force.

70A.2 For the purposes of this Condition, subject to where otherwise applies pursuant to a determination made by the Director under paragraph 70A.5, the Average Interconnection Charge for any day (the 'xth day') during the period for which the Continued Provisions remain in force shall be calculated on each and every day for so long as the Continued Provisions remain in force by employing the following formula:

$$AIC_x = \frac{\sum_{i=1}^3 c_{xi} m_i}{\sum_{i=1}^3 m_i}$$

where:

AIC_x is the Average Interconnection Charge on the xth day during the period for which the Continued Provisions remain in force;

c_{xi} is the Fixed-to-Mobile Interconnection Charge (which is in force on the xth day during the period for which the Continued Provisions remain in force in relation to the *i*th Charging Period) determined according to the Licensee's standard charges and does not include any discounts offered by the Licensee, whether in respect of any particular customer or any category of customers or any category of Fixed-to-Mobile Calls;

m_i is the sum of the volumes of minutes of Fixed-to-Mobile Calls and of Mobile-to-Mobile Calls in the *i*th Charging Period during the Year 2002-2003; and

***i*th Charging Period** is: (a) Weekday Daytime when *i* is 1; (b) Weekday Evening/Night when *i* is 2; and (c) Weekend when *i* is 3.

70A.3 For the purposes of this Condition, subject to where otherwise applies pursuant to a determination made by the Director under paragraph 70A.5, the Target Average Charge shall be calculated by employing the following formula:

$$TAC = \frac{\sum_{i=1}^3 \sum_{j=1}^{12} c_{ij} m_{ij}}{\sum_{i=1}^3 \sum_{j=1}^{12} m_{ij}} \text{ multiplied by } 0.8592$$

where:

TAC is the Target Average Charge;

c_{ij} is the Fixed-to-Mobile Interconnection Charge (for the i th Charging Period at the beginning of the j th month during the Year 2002-2003) determined according to the Licensee's standard charges and does not include any discounts offered by the Licensee, whether in respect of any particular customer or any category of customers or any category of Fixed-to-Mobile Calls;

m_{ij} is the sum of the volumes of minutes of Fixed-to-Mobile Calls and of Mobile-to-Mobile Calls in the i th Charging Period in the j th month during the Year 2001-2002; and

i th Charging Period is: (a) Weekday Daytime when i is 1; (b) Weekday Evening/Night when i is 2; and (c) Weekend when i is 3.

70A.4 [...]

70A.5 Where the Licensee makes any changes to any of its charging periods that apply on 24 July 2003 for its Fixed-to-Mobile Interconnection Charges or, as the case may be, introduces new such charging periods from that day:

- (a) the Director may, after consultation with the Licensee, determine to substitute the formula set out in either paragraphs 70A.2 or 70A.3 or, as the case may be, the formulae set out in both of these paragraphs for such other formula (or formulae) that he considers appropriate in the circumstances in order to reflect the changes made to the charging periods or, as the case may be, the introduction of new charging periods, and the Average Interconnection Charge and the Target Average Charge shall be calculated by employing the formula (or formulae) so determined by the Director;
- (b) in making any determination under paragraph 70A.5(a) above, the Director may consult with the Licensee in such manner and for such period (which may be no longer than 7 days notwithstanding such period during which he would normally have consulted, under paragraph 4 of Part 1 of Schedule 1 to the Original Licence) as he considers appropriate in the circumstances, and with any other person he considers may be affected by the determination; and
- (c) the Licensee shall immediately (and, in any event, not later than 7 days after making such changes) give to the Director a notice in

writing which identifies the changes made to its charging periods or, as the case may be, the new charging periods for its Fixed-to-Mobile Interconnection Charges.

70A.6 Unless the context otherwise requires, in this Condition:

- (a) **“Average Interconnection Charge”** has the meaning given to it in paragraph 70A.2 above;
- (b) **“Fixed-to-Mobile Call”** means a circuit switched conveyance of a speech teleservice (as defined in the relevant ETSI standards) only originating in a Fixed Public Telephone System (other than the Applicable Systems of the Licensee) and which terminates on a GSM device using the GSM air interface for the conveyance of that speech call, which is connected to the Applicable Systems of the Licensee. For the purposes of this definition:
 - (i) “the relevant ETSI standards” means the European Telecommunications Standard (ETS) of ETS 300 905 (GSM 02.03 version 5.3.2), Third Edition, January 1998, which has been produced by the Special Mobile Group (SMG) of the European Telecommunications Standards Institute (ETSI); and
 - (ii) “GSM” means the Global System for Mobile communications (GSM) as defined in the relevant ETSI standards;
 - (iii) In the event that a GSM device is able to use another air interface standard to terminate a speech call (such as 3G), then this definition will not include the time when the speech call is terminated using the non-GSM air interface standard.
- (c) **“Fixed-to-Mobile Interconnection Charge”** means the standard charge made by the Licensee for the Interconnection of a Fixed-to-Mobile Call;
- (d) **“Mobile-to-Mobile Call”** has the meaning given to it in paragraph 70B.6 of Condition 70B;
- (e) **“Target Average Charge”** has the meaning given to it in paragraph 70A.3 above;
- (f) **“Weekday Daytime”** means the periods of time beginning on 8 am and ending on 6 pm of every day of the week, except Saturday and Sunday;
- (g) **“Weekday Evening/Night”** means all periods of time of every day of the week other than Weekday Daytime and Weekend;

- (h) **“Weekend”** means the period of time of every week beginning on midnight on Friday and ending on midnight on Sunday; and
- (i) **“Year”** means the period of 12 months beginning on 1 April and ending on 31 March.

Condition 70B

CONTROL OF INTERCONNECTION CHARGES (MOBILE TO MOBILE)

70B.1 The Licensee shall secure, and shall be able to demonstrate to the satisfaction of the Director, that the Average Interconnection Charge does not exceed the Target Average Charge on each and every day for so long as the Continued Provisions remain in force.

70B.2 For the purposes of this Condition, subject to where otherwise applies pursuant to a determination made by the Director under paragraph 70B.5, the Average Interconnection Charge for any day (the 'xth day') during the period for which the Continued Provisions remain in force shall be calculated on each and every day for so long as the Continued Provisions remain in force by employing the following formula:

$$AIC_x = \frac{\sum_{i=1}^3 c_{xi} m_i}{\sum_{i=1}^3 m_i}$$

where:

AIC_x is the Average Interconnection Charge on the xth day during the period for which the Continued Provisions remain in force;

c_{xi} is the Mobile-to-Mobile Interconnection Charge (which is in force on the xth day during the period for which the Continued Provisions remain in force in relation to the i th Charging Period) determined according to the Licensee's standard charges and does not include any discounts offered by the Licensee, whether in respect of any particular customer or any category of customers or any category of Mobile-to-Mobile Calls;

m_i is the sum of the volumes of minutes of Fixed-to-Mobile Calls and of Mobile-to-Mobile Calls in the i th Charging Period during the Year 2002-2003; and

i th Charging Period is: (a) Weekday Daytime when i is 1; (b) Weekday Evening/Night when i is 2; and (c) Weekend when i is 3.

70B.3 For the purposes of this Condition, subject to where otherwise applies pursuant to a determination made by the Director under paragraph 70B.5, the Target Average Charge shall be calculated by employing the following formula:

$$TAC = \frac{\sum_{i=1}^3 \sum_{j=1}^{12} c_{ij} m_{ij}}{\sum_{i=1}^3 \sum_{j=1}^{12} m_{ij}} \text{ multiplied by } 0.8592$$

where:

TAC is the Target Average Charge;

c_{ij} is the Mobile-to-Mobile Interconnection Charge (for the i th Charging Period at the beginning of the j th month during the Year 2002-2003) determined according to the Licensee's standard charges and does not include any discounts offered by the Licensee, whether in respect of any particular customer or any category of customers or any category of Mobile-to-Mobile Calls;

m_{ij} is the sum of the volumes of minutes of Fixed-to-Mobile Calls and of Mobile-to-Mobile Calls in the i th Charging Period in the j th month during the Year 2001-2002; and

i th Charging Period is: (a) Weekday Daytime when i is 1; (b) Weekday Evening/Night when i is 2; and (c) Weekend when i is 3.

70B.4 [...]

70B.5 Where the Licensee makes any changes to any of its charging periods that apply on 24 July 2003 for its Mobile-to-Mobile Interconnection Charges or, as the case may be, introduces new such charging periods from that day:

- (a) the Director may, after consultation with the Licensee, determine to substitute the formula set out in either paragraphs 70B.2 or 70B.3 or, as the case may be, the formulae set out in both of these paragraphs for such other formula (or formulae) that he considers appropriate in the circumstances in order to reflect the changes made to the charging periods or, as the case may be, the introduction of new charging periods, and the Average Interconnection Charge and the Target Average Charge shall be calculated by employing the formula (or formulae) so determined by the Director;
- (b) in making any determination under paragraph 70B.5(a) above, the Director may consult with the Licensee in such manner and for such period (which may be no longer than 7 days notwithstanding such period during which he would normally have consulted under paragraph 4 of Part 1 of Schedule 1 to the Original Licence) as he considers appropriate in the circumstances, and with any other person he considers may be affected by the determination; and

- (c) the Licensee shall immediately (and, in any event, not later than 7 days after making such changes) give to the Director a notice in writing which identifies the changes made to its charging periods or, as the case may be, the new charging periods for its Mobile-to-Mobile Interconnection Charges.

70B.6 Unless the context otherwise requires, in this Condition:

- (a) **“Average Interconnection Charge”** has the meaning given to it in paragraph 70B.2 above;
- (b) **“Fixed-to-Mobile Call”** has the meaning given to it in paragraph 70A.6 of Condition 70A;
- (c) **“Mobile-to-Mobile Call”** means a circuit switched conveyance of a speech teleservice (as defined in the relevant ETSI standards) only originating in a Mobile Public Telephone System (other than the Applicable Systems of the Licensee) and which terminates on a GSM mobile device using the GSM air interface for the conveyance of that speech call, which is connected to the Applicable Systems of the Licensee. For the purposes of this definition:
 - (i) “the relevant ETSI standards” means the European Telecommunications Standard (ETS) of ETS 300 905 (GSM 02.03 version 5.3.2), Third Edition, January 1998, which has been produced by the Special Mobile Group (SMG) of the European Telecommunications Standards Institute (ETSI); and
 - (ii) “GSM” means the Global System for Mobile communications (GSM) as defined in the relevant ETSI standards;
 - (iii) In the event that a GSM device is able to use another air interface standard to terminate a speech call (such as 3G), then this definition will not include the time when the speech call is terminated using the non-GSM air interface standard.
- (d) **“Mobile-to-Mobile Interconnection Charge”** means the standard charge made by the Licensee for the Interconnection of a Mobile-to-Mobile Call;
- (e) **“Target Average Charge”** has the meaning given to it in paragraph 70B.3 above;
- (f) **“Weekday Daytime”** means the periods of time beginning on 8 am and ending on 6 pm of every day of the week, except Saturday and Sunday;
- (g) **“Weekday Evening/Night”** means all periods of time of every day of the week other than Weekday Daytime and Weekend;

- (h) **“Weekend”** means the period of time of every week beginning on midnight on Friday and ending on midnight on Sunday; and
- (i) **“Year”** means the period of 12 months beginning on 1 April and ending on 31 March.

Schedule 2

The Director considers, that each of the Continued Provisions listed in the table below corresponds to one or more of the following provisions of Schedule 18, paragraph 9(4):

- a) a provision contained in the Act that the Director has the power to include in SMP Conditions (“Paragraph 9(4)(a)”);
- b) a provision authorised by section 73(2) or (4) of the Act for inclusion in Access-Related Conditions (“Paragraph 9(4)(b)”); or
- c) a provision relating to matters mentioned in Article 16 of the Universal Services Directive or Article 7 of the Access Directive (“Paragraph 9(4)(c)”).

Continued Provision	Corresponding provision of Paragraph 9(4)
Condition 70A	Paragraph 9(4)(a)
Condition 70B	Paragraph 9(4)(a)