

11 January 2007

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Dear Theresa,

### **BT's undertakings regarding its Wholesale Calls product**

1. In early 2004, Ofcom started work on a market review into wholesale end-to-end calls. This work was discontinued in 2004 before any consultation document was published. Ofcom gave two reasons for the decision to discontinue this market review:
  - 1.1 Requiring BT to offer a cost-based wholesale calls product would have undermined investment by competitors in voice competition, especially given the CPS SAD and PPP work addressing the structural cost disadvantages; and
  - 1.2 That BT had agreed to publish its prices for its Wholesale Calls product and adhere to them.<sup>1</sup>
2. On 20 September 2006, BT wrote to Ofcom stating that the undertakings it gave in 2004 with regard to its Wholesale Calls product had served their purpose and should be discontinued.
3. On 16 November 2006, Ofcom wrote to all CPS operators in the UK asking for their views on the discontinuation of these undertakings and stated that it was minded to not ask that these undertakings are continued and that it is not appropriate to carry out a review of the wholesale end-to-end calls market at this time.

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<sup>1</sup> Section 3.2 of the Competition and Regulation report (July 2004) ([http://www.ofcom.org.uk/bulletins/crt/compreg\\_telecoms/section3/#content](http://www.ofcom.org.uk/bulletins/crt/compreg_telecoms/section3/#content)); the press release relating to Ofcom's broadband framework, April 2004 ([http://www.ofcom.org.uk/media/news/2004/05/nr\\_20040513#content](http://www.ofcom.org.uk/media/news/2004/05/nr_20040513#content)); and the Discontinuation consultation document, September 2004 ([http://www.ofcom.org.uk/consult/condocs/Prop1984tele/provis\\_terminate/#content](http://www.ofcom.org.uk/consult/condocs/Prop1984tele/provis_terminate/#content)).

4. Ofcom received five responses to its letter. Of these, the majority disagreed with Ofcom's view. Having considered the responses, Ofcom still considers that it is not necessary to ask that these undertakings be continued and that it is not appropriate to carry out a review of the wholesale end-to-end calls market at this time. This is for the reasons previously set out in Ofcom's letter of 16 November 2006, namely:
  - 4.1 The market for wholesale calls has significantly changed. In particular, there has been significant consolidation in the market both at the wholesale and retail level (e.g. Carphone Warehouse Group's acquisitions of Vartec, OneTel and Tele2; Pipex's acquisition of Caudwell Communications and Toucan; C&W's acquisition of Energis; and Thus's acquisition of Your Communications); and
  - 4.2 BT's Wholesale Calls product does not appear to have had the detrimental impact feared by some market entrants, e.g. CPS has grown from 3.5 million lines in June 2004 to 6.4 million lines by September 2006.
5. Ofcom notes BT is subject to the Competition Act 1998. Ofcom notes that it has previously carried out a Competition Act investigation into BT's pricing of its Wholesale Calls product (see [http://www.ofcom.org.uk/bulletins/comp\\_bull\\_index/comp\\_bull\\_ccases/closed\\_all/cw\\_802/](http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_ccases/closed_all/cw_802/)).

Yours sincerely

Steve Unger

*cc. published on Ofcom website*