



**BT exemption request - supply of
BT Basic in Ebbsfleet**
Consent to provide discounted telephony to BT Basic
customers in Ebbsfleet

Statement

Publication date: 25 November 2009

Contents

Section		Page
1	Executive Summary	2
2	Introduction	3
3	Summary of response to the consultation	5
4	Ofcom's decision	6
Annex		Page
1	Summary of Ofcom's Impact Assessment	12
2	Notification of proposals under section 49(4) of the Communications Act 2003	14

Section 1

Executive Summary

- 1.1 On 14 August 2009, Ofcom (the Office of Communications) published a consultation (“the Consultation”) proposing to consent to a request from BT to charge discounted calling and connection services to customers entitled to the social telephony service BT Basic (“BT Basic”)¹. The proposed consent was limited to a maximum of 300 homes in Ebbsfleet, Kent where BT is piloting provision of fixed telephony services using Fibre to the Premises (the “Ebbsfleet Pilot Area”), from 31 December 2009 to 31 December 2011.
- 1.2 We received only one response to the consultation. This was from BT and supported our impact assessment, and the wording of the proposed consent.
- 1.3 We have decided to confirm the proposed consent.
- 1.4 This document contains the legal notification granting the consent and also:
 - a summary of the response to the consultation and our comments;
 - a summary of our Impact Assessment in the Consultation; and
 - a final review of the legal tests.
- 1.5 The consent, which is in effect from 31 December 2009 to 31 December 2011, applies to a maximum of 300 homes in the Ebbsfleet Pilot Area where customers are eligible for the BT Basic service, where BT can charge discounted connection and calling rates.

¹ http://www.ofcom.org.uk/consult/condocs/bt_exemption_ebbsfleet/main.pdf

Section 2

Introduction

Legal Framework for the Universal Service Conditions

- 2.1 The Universal Service Conditions (“USC’s”) ensure that certain basic fixed telephony services which are considered essential for everyone are available at affordable and uniform prices to all customers in the UK. This especially assists customers who live in areas of the UK where services are more expensive to provide (generally rural areas).
- 2.2 Requirements for universal services are set out in *Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services*², (‘the Universal Services Directive’). The Universal Services Directive was implemented in the UK in part through the Communications Act 2003 (‘the Act’) and the Electronic Communications (Universal Service) Order 2003 (‘the Order’). The Order specifies the services which must be provided throughout the UK. It also provides that such services (‘USO Services’) have to be offered at prices that are uniform throughout the UK unless Ofcom has determined there is clear justification not to do so.
- 2.3 The Order has been implemented by Ofcom through specific conditions (the USCs) which are applied to certain communications providers designated by Ofcom as Universal Service Providers. Currently these are BT and KCOM. BT is required to provide USO Services in all parts of the UK excluding the Hull area and KCOM is required to provide USO Services in the Hull area.
- 2.4 The USCs are specified in a Notification published on 21 July 2003 by the Director General under Regulation 4 (10) of the Electronic Communications (Universal Service) Regulations 2003³. These automatically came into force by virtue of the transitional powers in the Act.
- 2.5 Under the USCs, BT is required to provide fixed telephony services in all areas of the UK excluding the Hull area in response to reasonable requests from end-users. BT must provide these services at a uniform price throughout the UK (again excluding the Hull area) unless Ofcom consents otherwise. This requirement is specified in Condition 1 which states:

Condition 1: Provision of telephony services on request

- 1.1 At the reasonable request of any End-user, BT shall provide Telephony Services, including the ability to make and receive calls employing facsimile and data communications, at data rates that are sufficient to permit functional internet access, to that End-user at any place in the UK except for the Hull Area, and BT shall ensure that its Electronic Communications Networks are installed, kept installed and run for those purposes.*

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:108:0051:0077:EN:PDF>

³ http://www.ofcom.org.uk/static/archive/oftel/publications/eu_directives/2003/uso0703.pdf

1.2 Unless the Director consents otherwise, BT shall provide the services referred to in paragraph 1.1 on the basis of uniform prices throughout the UK except for the Hull Area.

BT's request for non-uniform pricing

- 2.6 BT had a previous consent in the Ebbsfleet Pilot Area to provide fixed telephony connection and rental services to customers at a non-uniform price. That consent is due to expire on 31 December 2009. The consent includes a requirement that customer contracts should not contain minimum contract terms that extend beyond the term of the pilot, and was limited to 300 homes. The consent included customers eligible to receive the BT Basic service.
- 2.7 BT is now seeking permission to continue non-uniform pricing to a maximum of 300 homes in the Ebbsfleet Pilot Area who are eligible for the BT Basic service from 31 December 2009 to 31 December 2011. BT has undertaken to provide customers eligible for the BT basic service with a discount to the ordinary charges for fixed telephony connection and rental services.
- 2.8 BT has informed us that they are unlikely to be able to provide BT Basic to eligible customers in the Ebbsfleet Pilot Area by 31 December 2009. This is due to its systems in the Ebbsfleet Pilot Area not supporting the BT Basic service. BT expects that the systems in the Ebbsfleet Pilot Area will be able to provide the BT Basic service by 31 December 2011, and has requested consent to provide the service by that date. If BT is able to offer the BT Basic service in the Ebbsfleet Pilot Area before the end of the requested consent, it would seek to migrate eligible customers to the BT Basic service before the end of the requested consent.
- 2.9 BT will not include terms and conditions extending customer contracts past the date of the requested consent for customers eligible for BT Basic in the Ebbsfleet Pilot Area.
- 2.10 We are required to consult when BT requests consent for non-uniform pricing in the UK. In our consultation, we assessed the likely impact of BT's request, and proposed to provide consent to BT for non-uniform pricing under certain terms and conditions. Our consultation is located here:

http://www.ofcom.org.uk/consult/condocs/bt_exemption_ebbsfleet/main.pdf

Section 3

Summary of response to the consultation

Response

- 3.1 We received one response to the consultation, from BT. It is published on Ofcom's website at the following location:

http://www.ofcom.org.uk/consult/condocs/bt_exemption_ebbsfleet/responses/

- 3.2 BT supported and welcomed Ofcom's proposal to consent to its request. BT agreed with the terms of the consent, Ofcom's impact assessment, and the wording of the consent.
- 3.3 BT also commented that formal consultations for variations affecting so few customers may be disproportionate.

Ofcom's comments

- 3.4 BT's comments supported our conclusions on the Impact Assessment, terms, and wording of the proposed consent.
- 3.5 As noted in Paragraph 2.5, BT must obtain consent from Ofcom to offer fixed telephony services at non-uniform prices. We will continue to review the need for consultations on consent requests based on criteria including, but not limited to the public interest, the materiality of the request, and our statutory requirements.

Section 4

Ofcom's decision

- 4.1 Ofcom has considered the response to its consultation on the proposed Consent and has decided to grant the request. The notification and Consent to non-uniform pricing is set out in Annex 2. The consent takes effect on the 1 January 2010.
- 4.2 In making this decision, Ofcom has taken into account the following factors.

Communications Act tests

- 4.3 Ofcom regulates the communications sector under a framework established by the Act. The Act grants Ofcom the power, for the purposes of securing compliance with Community obligations in relation to universal services to designate undertakings as Universal Service Providers and to specify USCs with which designated undertakings must comply.
- 4.4 The tests that Ofcom must apply to give, modify or withdraw a direction, approval or consent are those specified in section 49(2) of the Act. Ofcom must also take account of its general duties in section 3 of the Act and the European Community requirements for regulation as specified in section 4 of the Act. Each of these requirements is considered in this section.

Requirement to publish a notification

- 4.5 Under section 49(4) of the Act, before a direction, approval or consent is given, modified or withdrawn, Ofcom is required to publish a notification:
- a) stating that there is a proposal to give, modify or withdraw it;
 - b) identifying the person whose proposal it is;
 - c) setting out the direction, approval or consent to which the proposal relates;
 - d) setting out the effect of the direction, approval or consent or of its proposed modification or withdrawal;
 - e) giving out the reasons for making this proposal; and
 - f) specifying the period within which representations may be made about the proposal to the person whose proposal it is.
- 4.6 The consultation period must not be less than one month after the day of publication of the notification.
- 4.7 This consultation, in conjunction with the Impact Assessment sets out in detail the effects of the proposed consent and the reasons for the proposed consent.
- 4.8 Annex 2 contains the notification of the proposed consent.
- 4.9 We also considered whether we were required to undertake a full Equality Impact Assessment for this review. On the basis of our Initial Equality Impact

Assessment Screening we determined that this was not required, because the terms of the consent do not raise specific equality issues; they will affect consumers equally regardless of race, gender, or disability.

Consideration of responses

- 4.10 Ofcom gave consideration to all comments received during the consultation period. Section 3 outlines the main points raised by the one respondent, and Ofcom's comments. In light of the submission received, Ofcom is providing consent.

Impact Assessment

- 4.11 Under section 7 of the Act, Ofcom has a duty to undertake impact assessments when it proposes to do anything in connection with carrying out its functions and it considers that its proposals are important. Ofcom's impact assessment was contained in Section 3 of the Consultation and a summary is included in Annex 1 of this document.

Test for granting consent

- 4.12 As set out under section 49 of the Act, when granting consent, Ofcom must be satisfied that the test set out under section 49(2) has been met. The test is that the granting of the consent is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- b) not unduly discriminatory against particular persons or against a particular description of persons;
- c) proportionate to what it is intended to achieve; and
- d) transparent in relation to what it is intended to achieve.

- 4.13 Ofcom considers that the proposed consent meets the test set out in section 49 being:

- a) **Objectively justifiable:** in that the proposed consent:
 - i) would allow BT to offer fixed telephony services below ordinary prices as an alternative to the BT Basic service at the Ebbsfleet Pilot Area from 31 December 2009 to 31 December 2011 without undermining the overall effectiveness of the USCs, (the purpose of which is to ensure that customers are able to obtain certain basic fixed line services at affordable and uniform prices throughout the UK) since the proposed consent:
 - o relaxes the uniform-pricing requirement only to the extent strictly necessary in the Ebbsfleet Pilot Area and is therefore restricted to no more than 300 homes for a limited period only; and
 - o requires BT to charge BT Basic customers no more than ordinary rates for the BT Basic service connection and line rental;

- ii) would permit BT to offer fixed telephony services to eligible customers at a discount to BT telephony services in the Ebbsfleet Pilot Area.
 - iii) includes a requirement that contractual terms do not extend beyond the maximum period of the consent.
 - iv) allows BT to provide the BT Basic service in Ebbsfleet before the end of the proposed consent if this becomes technically feasible.
- b) **Not unduly discriminatory** in that:
- the consent for non-uniform pricing for the Ebbsfleet Pilot Area is in recognition that services may be delivered and operate differently from standard fixed telephony services and that the period and scope of BT's request is limited, and is likely to affect a very small number of customers.
- c) **Proportionate** in that:
- i) the consent relaxes the uniform-pricing requirement under the USCs only to the extent strictly necessary for the affected customers at the Ebbsfleet Pilot Area, whilst maintaining the uniform pricing obligation elsewhere in the UK;
 - ii) the consent relates to a small number of homes for a restricted period (limited to 300 homes in the Ebbsfleet Pilot Area for the period between 31 December 2009 and 31 December 2011);
 - iii) Ofcom's impact assessment demonstrates that the consent would have little overall impact; and
 - iv) Ofcom has the power to modify or withdraw the consent at any time should it consider it appropriate.
- d) **Transparent** insofar as the nature and obligations of proposed consent as well as the reason and effects of the proposal are clearly set out in this consultation document.

Ofcom's general duties

- 4.14 Section 3(1) of the Act sets out the principal duty of Ofcom in carrying out its functions. That duty is to:
- a) further the interests of citizens in relation to communications matters; and
 - b) further the interests of customers in relevant markets, where appropriate by promoting competition.
- 4.15 Section 3(2) of the Act further states that in fulfilling the principal duty specified in section 3(1) one of the results Ofcom is required to secure is the availability throughout the UK of a wide range of electronic communications services.
- 4.16 Section 3(3) of the Act requires Ofcom, when performing its duties, to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases

in which action is needed; and any other principles appearing to Ofcom to represent the best regulatory practice.

- 4.17 Ofcom considers that the consent would be in accordance with these duties and principles because it ensures that customers who are eligible for the BT Basic service are able to receive discounts on normal telephony connection and rental as an alternative since the BT Basic service is not currently available for the Ebbsfleet Pilot Area.
- 4.18 Ofcom also considers that the consent would be consistent with these duties and principles because the consent:
- i) does not compromise the overall effectiveness of USCs (the purpose of which is to ensure that customers are able to obtain certain basic fixed line services at affordable and uniform prices throughout the UK) since the proposed consent:
 - o relaxes the uniform-pricing requirement only to the extent strictly necessary for the Ebbsfleet Pilot Area and is therefore restricted to no more than 300 homes for a limited period only; and
 - o requires BT to charge customers in the Ebbsfleet Pilot Area no more than standard rates for fixed telephony connection and line rental;
 - o applies for a limited period from 31 December 2009 to 31 December 2011;
 - o ensures consumers eligible for the BT Basic service have access to an affordable basic telephony service;
 - o benefits consumers eligible for the BT Basic service in the Ebbsfleet Pilot Area by providing access to discounted connection and rental services.
 - ii) would be likely to have a minimal impact, as demonstrated by Ofcom's Impact Assessment; and
 - iii) would be proportionate in that it would deliver the minimum necessary additional regulation to achieve the policy objectives.
- 4.19 Section 3(4) of the Act lists further factors that Ofcom must take into account to the extent they are relevant in each particular case when fulfilling its functions. Ofcom considers that the following are of particular relevance to these proposals:
- the desirability of promoting competition in relevant markets;
 - the desirability of encouraging investment and innovation in relevant markets;
 - the desirability of encouraging the availability and use of high speed data transfer services throughout the UK; and

- the needs of persons with disabilities, of the elderly and of those on low incomes.

4.20 Ofcom has taken these factors into account in developing its proposals and considers they are consistent with these considerations. In relation to the factors listed above as being of particular relevance, Ofcom considered the following in this case:

- **Promoting competition:** Ofcom considers that the consent would be likely to have a minimal impact on competition (see Ofcom's impact assessment in section 3 for more detailed consideration).
- **Encouraging investment and innovation in markets:** Ofcom considers that the consent is likely to have a minimal effect on this objective, due to the limited scope of the request.
- **Encouraging availability of high speed data transfer services:** Ofcom considers the consent is likely to have a small positive effect on this objective due to the limited scope of the request.
- **Needs of those on low incomes:** Consumers on low incomes, in particular those that meet the requirements of the BT Basic service will be ensured access to telephony connection and rental services provided over high speed data links.

European Community requirements for regulation

4.21 Section 4 of the Act requires Ofcom to act in accordance with the six European Community requirements for regulation, including the requirement to promote the interests of all persons who are citizens of the European Union. In summary, these requirements are to:

- a) promote competition in the provision of electronic communications networks and services, associated facilities and the supply of directories;
- b) contribute to the development of the European internal market;
- c) promote the interests of all persons who are citizens of the European Union;
- d) not favour one form of or means of providing electronic communications networks or services, i.e. to be technologically neutral;
- e) encourage the provision of network access and service interoperability for the purpose of securing:
 - i) efficient and sustainable competition; and
 - ii) the maximum benefit for communications providers' (CPs) customers; and
- f) encourage compliance with certain standards in order to facilitate service interoperability and secure freedom of choice for the customers of CPs.

4.22 In doing so, Ofcom has to read these requirements in accordance with the requirements of article 8 of the Framework Directive (Directive 2002/21/EC). These include, in particular, the obligation to:

- a) ensure that users, including disabled users, derive maximum benefit in terms of choice, price and quality (Article 8(2)(a));
- b) ensure a high level of protection for customers in their dealings with suppliers (Article 8(4)(b)); and
- c) promote the provision of clear information, in particular requiring transparency on tariffs and conditions for using publicly available electronic communications services.

4.23 Ofcom considers that the consent is consistent with these objectives in so far as they are relevant in this case.

Annex 1

Summary of Ofcom's Impact Assessment

Introduction

- A1.1 This section contains a summary of Ofcom's impact assessment for the Consent.
- A1.2 Please see Section 3 of the Consultation for the full impact assessment.

The citizen and/or customer interest

- A1.3 There are three aspects to citizen/consumer interests associated with Ofcom's proposal to grant BT Consent to provide BT Basic services at a discounted rate in the Ebbsfleet Pilot Area:
- USC 1 ensures that fixed telephony services are available to everyone at affordable and uniform prices throughout the UK. It is in consumers' interests that the effectiveness of the USCs is not undermined by the consent;
 - Encouraging the development and deployment of NGA technologies that would support high bandwidth broadband services would be in the interests of consumers and citizens generally;
 - Consumers entitled to the social telephony service BT Basic in the Ebbsfleet Pilot Area BT will be provided with access to connection and calling at a discount in Ebbsfleet.

Ofcom's policy objectives

- A1.4 In considering whether to grant BT's request Ofcom has sought to achieve a balance between two policy objectives:
- maintaining the effectiveness of the USCs which ensures that certain basic fixed line services are available at affordable and uniform prices (upon reasonable request) to all citizens and throughout the UK; and
 - ensuring customers eligible for the BT Basic service in the Ebbsfleet Pilot Area are able to access a suitable alternative fixed telephony service at an affordable price.

Assessment of Impacts

- A1.5 Ofcom's assessment of the impact of the Consent is summarised below.

Impact on BT

- A1.6 Granting the request would allow BT to provide discounted telephony access for BT Basic customers in the Ebbsfleet Pilot Area, and continue their existing

schedule for system and network upgrades in this area. By delaying the requirement for the BT Basic service in this area, BT is able to focus use of its resources more effectively and prioritise its workload.

- A1.7 This would also allow BT to continue to provide customers eligible for BT social telephony services at a discount to the standard price of the BT Basic service connection and rental tariff until 31 December 2011. BT is likely to lose a small amount of revenue from receiving discounted calling and connection rates from BT Basic entitled customers.

Impact on Customers

- A1.8 The impact would be limited to customers and their homes in the Ebbsfleet Pilot Area that are eligible for the BT Basic service between 31 December 2009 and 31 December 2011. BT has currently deployed FTTP to approximately 100 premises in the Ebbsfleet Pilot Area, and the Consent has been set to a maximum of 300 homes entitled to BT Basic in the Ebbsfleet Pilot Area. The customers entitled to BT Basic in the Ebbsfleet Pilot Area would pay discounted connection and rental charges below the ordinary charges for BT services in the Ebbsfleet Pilot Area and the rest of the UK.
- A1.9 The customers affected by BT's request in the Ebbsfleet Pilot Area are expected to benefit from the proposed consent.

Impact on Competition

- A1.10 The limited scope of the request ensures that only a small number of customers, limited to a maximum of 300 in Ebbsfleet are likely to be affected by this request. Furthermore, the consent is set to a maximum of two years. There are currently no competitors offering services in the Ebbsfleet Pilot Area to these customers, and it is unlikely there will be a substantial effect on competitors incentives to compete for the period of the consent. The length of the customer contracts are restricted to the length of the consent, reducing potential impact on customer choice and access to competing services.

Stakeholder comments about impact assessment

- A1.11 BT was the only respondent and agreed with our assessment of the impact of providing consent without any additional comments.

Annex 2

Notification of proposals under section 49(4) of the Communications Act 2003

Proposals for giving Consent to BT pursuant to section 49 of the Communications Act 2003 ('the Act') and the Universal Service Condition 1.2 which is set out in the Schedule to the Notification published by the Director General on 21 July 2003 under Regulation 4(10) of the Electronic Communications (Universal Service) Regulations 2003

Whereas

1. Ofcom hereby makes, in accordance with section 49 of the Act, the following proposal for Consent to be given to BT under section 49 of the Act and Universal Service Condition 1.2, which is set out in the Schedule to the Notification published by the Director General on 21 July 2003 pursuant to Regulation 4(10) of the Electronic Communications Regulations 2003.
2. The draft Consent is set out in the Schedule to this notification.
3. The effect of the draft Consent and the reasons for making the proposal are set out in the accompanying consultation document.
4. Representations may be made to Ofcom about the draft Consent by 5pm on 14 September 2009.
5. Copies of this Notification and the accompanying consultation document have been sent to the Secretary of State in accordance with section 50(1) (a) of the Act.
6. For the purposes of this notification:

"Act" means the Communications Act 2003;

"BT" means British Telecommunications plc, whose registered company numbers is 1800000, and any subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985 as amended by the Companies Act 1989 and the Companies Act 2006;

"Director General" means the Director General of Telecommunications;

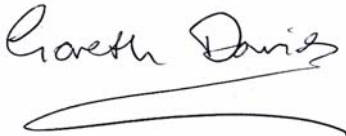
"Ebbsfleet Pilot Area" means a group of no more than 300 homes in Ebbsfleet, Kent whose connection to BT's local access node consists of green-field FTTP installations, and to which BT is delivering telephony services for a period from 31 December 2009 to 31 December 2011;

"Ofcom" means the Office of Communications; and

"Universal Service Conditions" means the conditions set out in the Schedule to the Notification published by the Director General on 21 July 2003 pursuant to Regulation 4(10) of the Electronic Communications Regulations 2003.

7. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the meaning as it has in the Universal Service Conditions and otherwise any word or expression shall have the same meaning as it has in the Act.
8. For the purposes of interpreting this Notification:
 - i. Headings and titles shall be disregarded; and
 - ii. The Interpretation Act 1989 shall apply as if this Notification were an Act of Parliament.
9. The Schedule to this Notification shall form part of this Notification.

Signed by

A handwritten signature in black ink, appearing to read 'Gareth Davies', with a long horizontal flourish underneath.

Gareth Davies

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

25 November 2009

Schedule

Consent to be given to BT under section 49 of the Communications Act 2003 ('the Act') and the Universal Service Condition 1.2 which is set out in the Schedule to the Notification published by the Director General on 21 July 2003 under Regulation 4(10) of the Electronic Communications (Universal Service) Regulations 2003

Whereas

1. On 21 July 2003, the Director General published a Notification under Regulation 4 (10) of the Electronic Communications (Universal Service) Regulations 2003 setting out his proposals for the designation of universal service providers and the setting of Universal Service Conditions, including Universal Service Condition 1, that he intended to be given effect upon the coming into force of any enactment which implemented the Universal Service Directive 2002/22/EC;
2. The proposals set out in the Notification dated 21 July 2003 under Regulation 4 (10) of the Electronic Communications (Universal Service) Regulations 2003 automatically entered into force by virtue of the transitional provisions in the Act;
3. The Consent concerns matters to which Universal Service Condition 1 relates, in particular the requirement for BT to provide the Telephony Services referred to in Universal Service Condition 1 on the basis of uniform prices in the UK except for the Hull area (as defined in those conditions);
4. For the reasons set out in the Statement accompanying this Consent, Ofcom is satisfied that, in accordance with section 49 (2) of the Act, this Consent is:
 - a. Objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - b. Not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c. Proportionate to what it is intended to achieve; and
 - d. In relation to what it is intended to achieve, transparent;
5. for the reasons set out in the Statement accompanying this Consent, Ofcom has considered and acted in accordance with its general duties in section 3 of the Act and the six Community requirements in section 4 of the Act;
6. a notification of a proposal to give this Consent was given under section 49 (4) of the Act on 14 August 2009 ('the Notification');
7. a copy of the Notification and accompanying consultation document was sent to the Secretary of State in accordance with section 50(1)(b) of the Act;
8. in the Notification and accompanying consultation document Ofcom invited representations about any of the proposals therein by 5pm on 14 September 2009;

9. by virtue of section 49(9) of the Act; Ofcom may give effect the proposal set out in the Notification, with or without modification, only if-
 - they have considered every representation about the proposal that is made to them within the period specified in the Notification; and
 - they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
10. [Ofcom received responses to the Notification and have considered every such representation made to them within the period specified in the Notification and accompanying consultation document and these representations are discussed in section 3 of the Statement accompanying this Consent; and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose];

NOW THEREFORE PURSUANT TO SECTION 49 OF THE ACT AND UNIVERSAL SERVICE CONDITION 1.2 OFCOM GIVES THE FOLLOWING CONSENT:

1. The obligation on BT in Universal Service Condition 1.2 to provide Telephony Services on the basis of uniform prices throughout the UK (except in the Hull Area) shall not apply in respect of connection and rental charges for Telephony Services for the Ebbsfleet Pilot Area with the proviso that:
 - a. connection and rental charges for Telephony Services for consumers eligible for the social telephony service BT Basic participating in the Ebbsfleet Pilot Area shall not exceed those charged by BT for that same BT Basic service elsewhere in the UK;
 - b. BT is permitted to supply a maximum of 300 homes eligible for the consent in the Ebbsfleet Pilot Area;
 - c. BT shall record and retain such records as is necessary to prove that it has complied with the terms of this consent; and
 - d. that customer contracts should not contain minimum contract terms that extend beyond the term of the Ebbsfleet Pilot Area.
2. For the avoidance of doubt, the consent specified in paragraph 1. does not include Telephony call charges.
3. Ofcom may, pursuant to section 49 of the Act at any time during the period of this Consent modify or withdraw the Consent.
4. For the purposes of interpreting this Consent (including the recitals above), the following definitions shall apply:

“Act” means the Communications Act 2003;

“BT” means British Telecommunications plc, whose registered company numbers is 1800000, and any subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the

Companies Act 1985 as amended by the Companies Act 1989 and the Companies Act 2006;

“Director General” means the Director General of Telecommunications;

“the Ebbsfleet Pilot Area” means a group of no more than 300 homes in Ebbsfleet, Kent whose connection to BT’s local access node consists of green-field FTTP installations, and to which BT is delivering telephony services for a period from 31 December 2009 to 31 December 2011;

“Ofcom” means the Office of Communications;

“Telephony Services” means as set out in the Schedule to the Notification published by the Director General on 21 July 2003 pursuant to Regulation 4(10) of the Electronic Communications Regulations 2003; and

“Universal Service Conditions” means as set out in the Schedule to the Notification published by the Director General on 21 July 2003 pursuant to Regulation 4(10) of the Electronic Communications Regulations 2003.