

Notice of Designation under Section 38 and 34 of the Communications Act 2003

1. The Office of Communications (“Ofcom”) in accordance with section 38 and section 34 of the Communications Act 2003 ('the Act') hereby gives notice of withdrawal of a designation and the making of a new designation, set out below, that it has made by way of publication of the notice on 31st March 2005 for the purposes of section 38 of the Communications Act 2003 (Fixing of charges).
2. The withdrawal of a designation and the making of a new designation follows “Ofcom Response to Consultation on Draft Statement of Charging Principles” dated 6th December 2004 and the Further consultation on the Notice of Designation and Relevant Activity Guidelines for the purposes of administrative charging dated 8 February 2005 and the consultation with the Secretary of State for Trade and Industry.

Designation for the purposes of section 38 of the Act

Definitions

3. For the purpose of interpreting this Designation the following definitions shall apply:-

‘Act’ means the Communications Act 2003;

‘Charging Year’ means a twelve month period ending 31 March;

‘Relevant Activity’ means any of the following:

- a. the provision of Electronic Communications Services to third parties;
- b. the provision of Electronic Communications Networks, Electronic Communications Services and Network Access to Communications Providers; or
- c. the making available of Associated Facilities to Communications Providers

‘Relevant Turnover’ means turnover made from carrying on any Relevant Activity after the deduction of sales rebates, value added tax and other taxes directly related to turnover.

4. Except in so far as 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.

Withdrawal of a Designation

5. The designation made by the Office of Telecommunications dated 25 July 2003 is hereby withdrawn.

Designation

6. During each Charging Year, the Electronic Communications Network, Electronic Communications Service or Associated Facility which is designated for the purposes of section 38 of the Act is any Electronic Communications Network, Electronic Communications Service or Associated Facility where the person providing that Network or Service, or making available that Associated Facility had a Relevant Turnover from Relevant Activities of £5 million or more in the last but one calendar year prior to the charging year in question. (For example, if the relevant Charging Year commences on 1 April 2007, the relevant turnover will be for the calendar year of 2005).

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