



# BT exemption request - supply of BT Basic in Ebbsfleet

Proposal to waiver BT requirement to provide BT  
Basic in the Ebbsfleet FTTP area

Consultation

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## Section 1

# Executive Summary

- 1.1 BT has informed Ofcom that it will not be able to provide the social telephony service BT Basic ("BT Basic") in Ebbsfleet, Kent before 31 December 2009. The homes in Ebbsfleet, Kent are piloting provision of fixed telephony services using Fibre to the Premises (the "Ebbsfleet Pilot Area"). BT has requested consent to continue non-uniform pricing in the Ebbsfleet Pilot Area for customers eligible for the social telephony service BT Basic ("BT Basic") until 31 December 2011, when further systems developments are completed. BT has asked for the consent to cover a maximum of 300 homes.
- 1.2 BT considers the systems developments required to provide BT Basic in the Ebbsfleet Pilot Area are likely to be completed before 31 December 2011.
- 1.3 BT has therefore asked Ofcom to grant a non-uniform pricing consent for customers eligible for BT Basic to no more than 300 homes in the Ebbsfleet Pilot Area for the period 31 December 2009 to 31 December 2011.
- 1.4 Our view is that customers eligible for the BT Basic service should continue to be able to receive a substitute service for a limited period until BT is able to provide BT Basic in the Ebbsfleet Pilot Area. We also think that allowing BT to discount telephony connection and line rental charges for customers eligible for the BT Basic services in the Ebbsfleet Pilot Area would not undermine the overall effectiveness of the USCs.
- 1.5 Furthermore, it is unlikely that the number of homes eligible for the BT Basic service in the Ebbsfleet Pilot Area would reach 300, as the proportion of low income consumers likely to be eligible for BT Basic is less than three percent of UK homes<sup>1</sup>. This would be approximately 8-9 customers in the Ebbsfleet Pilot Area.
- 1.6 We have assessed the impact of consenting to the request and our initial view is that it would have a minimal impact on consumers and competition in the UK. We propose to accept BT's consent request.

## Background

- 1.7 The Universal Service Conditions ('USCs') ensure that certain basic fixed line communications services are available at an affordable price to all citizens of the UK.
- 1.8 Currently BT and KCOM (formerly Kingston Communications) are designated as Universal Service Providers and consequently are required to provide a set of basic communications services in accordance with the terms specified by Ofcom in the USCs.
- 1.9 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.

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<sup>1</sup> UK National statistics. This estimate is based on the number of UK homes in 2006 at 24.9m: [http://www.statistics.gov.uk/cci/nugget\\_print.asp?ID=1866](http://www.statistics.gov.uk/cci/nugget_print.asp?ID=1866)

- 1.10 BT is required by Ofcom to offer a social telephony service. The service has replaced the Light User Service (LUS) and In Contact as BT's primary affordable telephony service in late 2008. BT Basic is available for customers in low-income homes.
- 1.11 Previously, BT has connected homes to its network using conventional copper wires. However at a housing development at Ebbsfleet in Kent, BT has been piloting Fibre to the Premises using a technology commonly known as 'FTTP'.
- 1.12 This is an example of Next Generation Access ("NGA") network technology which will support the delivery of broadband services with much greater bandwidth than conventional copper wires. FTTP can also be used to deliver telephony services and TV services.
- 1.13 To facilitate the pilot, in August 2008 we granted a consent to BT allowing it to offer discounts on telephony connection and line rental for no more than 300 homes in the Ebbsfleet Pilot Area. This consent expires on 31 December 2009. We also included an additional condition requiring that customer contracts should not contain minimum contract terms that extend beyond the term of the consent.

### Next Steps

- 1.14 In this consultation we are asking for stakeholders' views about:
- our assessment of the impact of consenting to BT's request;
  - our proposal to consent to BT's request for non-uniform pricing under the USCs in the Ebbsfleet Pilot Area; and
  - the specific terms of the consent and the legal notifications for this consent.
- 1.15 The closing date for responses is 14 September 2009. Guidance on how to respond is set out in Annex 1. Following receipt and consideration of the responses we will publish a policy statement setting our decision. We hope to publish our policy statement in October 2009.
- 1.16 If we do not make any significant changes to our proposals as a result of the responses, we envisage that our policy statement would contain the final notification granting the consent requested by BT.

## Section 2

# Introduction

## Legal Framework for the Universal Service Conditions

- 2.1 The USCs 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*<sup>2</sup>, ('the Universal Services Directive'). The Universal Services Directive was implemented in the UK amongst others in 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 2003<sup>3</sup>. These automatically entered 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.*

*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.*

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

<sup>3</sup> [http://www.ofcom.org.uk/static/archive/oftel/publications/eu\\_directives/2003/uso0703.pdf](http://www.ofcom.org.uk/static/archive/oftel/publications/eu_directives/2003/uso0703.pdf)

## **Communications Act tests**

- 2.6 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.
- 2.7 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**

- 2.8 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.
- 2.9 The consultation period must not be less than one month after the day of publication of the notification.
- 2.10 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.
- 2.11 Annex 5 contains the notification of the proposed consent.
- 2.12 Ofcom is inviting written views and comments by 5pm on 14 September 2009 on the proposed modifications.
- 2.13 Details of how to respond can be found at Annexes 1, 2 and 3.
- 2.14 Ofcom will give careful consideration to all comments received during the consultation period and in light of the comments received may give effect to the proposals set out in this document, with or without modification, by publication of a Notification and explanatory statement. Ofcom aims to publish this document in October 2009.

- 2.15 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 proposed consent to not raise specific equality issues; they will affect consumers equally regardless of race, gender, or disability.

### **Test for granting consent**

- 2.16 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.
- 2.17 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 social telephony 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:
    - o the proposed 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 proposed 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 proposed 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 proposed 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

- 2.18 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.
- 2.19 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.
- 2.20 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.
- 2.21 Ofcom considers that the proposed consent would be in accordance with these duties and principles because it ensures that customers who are eligible for BT's social telephony service BT Basic are able to receive discounts on telephony connection and rental as an alternative since the BT Basic service is not currently available for the Ebbsfleet Pilot Area.
- 2.22 Ofcom also considers that the proposed consent would be consistent with these duties and principles because the proposed 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:



- 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
  - requires BT to charge customers in the Ebbsfleet Pilot Area no more than standard rates for fixed telephony connection and line rental;
  - applies for a limited period from 31 December 2009 to 31 December 2011;
  - ensures consumers eligible for the BT Basic service have access to an affordable basic telephony service;
  - 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 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.

2.23 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.

2.24 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 proposed 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 proposed 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 proposed 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

- 2.25 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:
- promote competition in the provision of electronic communications networks and services, associated facilities and the supply of directories;
  - contribute to the development of the European internal market;
  - promote the interests of all persons who are citizens of the European Union;
  - not favour one form of or means of providing electronic communications networks or services, i.e. to be technologically neutral;
  - encourage the provision of network access and service interoperability for the purpose of securing:
    - efficient and sustainable competition; and
    - the maximum benefit for communications providers' (CPs) customers; and
  - encourage compliance with certain standards in order to facilitate service interoperability and secure freedom of choice for the customers of CPs.
- 2.26 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:
- ensure that users, including disabled users, derive maximum benefit in terms of choice, price and quality (Article 8(2)(a));
  - ensure a high level of protection for customers in their dealings with suppliers (Article 8(4)(b)); and
  - promote the provision of clear information, in particular requiring transparency on tariffs and conditions for using publicly available electronic communications services.
- 2.27 Ofcom considers that the proposed consent is consistent with these objectives in so far as they are relevant in this case.

### BT's request for non-uniform pricing

- 2.28 This consultation considers a formal request from BT dated 30 July 2009. This request has been included in Annex 6.
- 2.29 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 social telephony service BT Basic.

- 2.30 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.
- 2.31 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.
- 2.32 BT has also advised that it will provide customers at the Ebbsfleet Pilot Area eligible for the BT Basic service a discount on their connection and rental charges for the period of the consent, providing them with access to lower rental and calling charges than other BT customers in the Ebbsfleet Pilot Area and the rest of the UK. 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.
- 2.33 However, 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.
- 2.34 BT's request does not include fixed telephony call charges so customers participating in the Pilot would pay the same call charges as BT customers in other parts of the UK.

## Section 3

# Impact Assessment

## Introduction

- 3.1 The analysis presented in this section represents an impact assessment, as defined in section 7 of the Act.
- 3.2 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on our website:  
[http://www.ofcom.org.uk/consult/policy\\_making/guidelines.pdf](http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf)

## The citizen and/or customer interest

- 3.3 The USCs ensure that certain basic fixed line services which are considered essential for everyone are available at affordable and uniform prices to all customers in the UK. This assists customers who live in areas of the UK where services are more expensive to provide (generally rural areas).
- 3.4 BT has previously received consent from Ofcom for permission (under the USCs) to offer customers in participating in the Ebbsfleet Pilot Area discounts on connection and line rental charges for fixed telephony services, which may include offering connection and rental without charge. BT's request does not include fixed telephony call charges so customers participating in the Ebbsfleet Pilot Area would pay the same call charges as BT customers in other parts of the UK. That consent also included a requirement that contractual terms do not extend beyond the maximum period of the consent.
- 3.5 BT is seeking permission to continue to offer these discounts to customers eligible for the BT Basic service (with a maximum set to 300 customers) connected using FTTP technology at the Ebbsfleet Pilot Area for the period 31 December 2009 to 31 December 2011. BT has also agreed that customers included in this request (those customers eligible for a social telephony service) will not have contractual terms that extend beyond the end of 2011. If the BT Basic service is available in the Ebbsfleet Pilot Area prior to the expiry of the requested consent, BT intends to migrate customers eligible for social telephony services to the BT Basic service before the end of the requested consent.
- 3.6 There are three aspects to citizen/customer interests associated with BT's consent request.
- 3.6.1 The USCs ensure that fixed telephony services are available to everyone at affordable and uniform prices throughout the UK. It is in customers' interest that the effectiveness of the USCs in this respect is not undermined by the proposed consent;

- 3.6.2 The affected customers are those eligible for BT's social telephony service BT Basic. BT is not able to offer this service in the Ebbsfleet Pilot Area.
- 3.6.3 The affected customers are those eligible for the BT Basic service, who will receive a service at a discount to BT Basic, for a period of up to two years.

### **Ofcom's policy objectives**

- 3.7 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 social telephony service are able to access a suitable alternative fixed telephony service at an affordable price as BT Basic is not available in the Ebbsfleet Pilot Area.

### **Options considered**

- 3.8 Ofcom has considered two options:
- To consent to BT's request for non-uniform charging in the Ebbsfleet Pilot Area for customers eligible for BT Basic, set to a maximum of 300 customers; and
  - To refuse BT's request for non-uniform charging in the Ebbsfleet Pilot Area for customers eligible for BT Basic.

### **To consent to non-uniform charging in the Ebbsfleet Pilot Area**

- 3.9 Consenting to BT's request would allow BT to continue to set fixed telephony connection and line rental charges for customers eligible for the BT Basic service in the Ebbsfleet Pilot Area at a discount to its ordinary BT charges. BT would be permitted to apply the discounts to no more than 300 homes in the Ebbsfleet Pilot Area for the period from 31 December 2009 to 31 December 2011. The contractual terms for customers eligible for the BT Basic service would not extend beyond the end of the consent period.
- 3.10 Ofcom's assessment of granting the request is set out below.

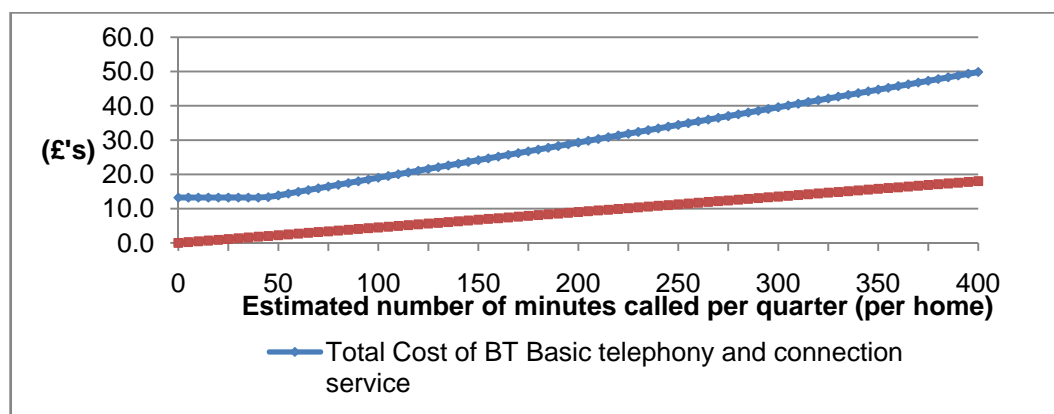
#### Impact on BT

- 3.11 BT argue that it would be too expensive to supply the BT Basic service in the Ebbsfleet Pilot Area for eligible customers. Granting the request would defer BT's requirement for provision of the BT Basic service fixed telephony connection and line rental in the Ebbsfleet Pilot Area.
- 3.12 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.

## Impact on Customers

- 3.13 The impact would be limited to customers and their homes participating in the Ebbfleet Pilot Area that are eligible for the BT Basic service between 31 December 2009 and 31 December 2011. This has been set to a maximum of 300 homes in the Ebbfleet Pilot Area.
- 3.14 The customers eligible for BT Basic in the Ebbfleet Pilot Area would pay discounted connection and rental charges below the ordinary charges for BT services in the Ebbfleet Pilot Area and the rest of the UK. The potential effect of the proposed discount can be seen in Figure 1<sup>4</sup>.

**Figure 1: Estimated charges for users on BT Basic service vs Ebbfleet Pilot Area service charges per quarter<sup>5</sup>**



Source: Ofcom various

- 3.15 Figure 1 shows that the discount of the proposed consent is likely to lead to consistently lower charges in the Ebbfleet Pilot Area for customers eligible for the BT Basic service, than for customers in the Ebbfleet Pilot Area, or ordinary BT services in the rest of the UK.
- 3.16 The Telecommunications Market Data update<sup>6</sup> allows us to estimate the average number of residential fixed to fixed minutes at 237 minutes per month per residential fixed telephony line in the UK. We can therefore estimate the likely impact on customers included in the consent request.
- 3.17 There is currently no connection and rental charge for customers in the Ebbfleet Pilot Area. Customers in the Ebbfleet Pilot Area are on a call plan with no charges for calls made during the weekend or during week day evenings. If we assume that 54%<sup>7</sup> of calls are made during hours outside of these periods, 54% of call minutes would be chargeable. This equates to approximately 128 minutes of calls per month

<sup>4</sup> In this example, we have used the number of geographic originated and terminated minutes per quarter to estimate average savings of consumers eligible for the BT Basic service in the Ebbfleet Pilot Area under the terms of the proposed consent. The pricing is based on BT's current charges for consumers who sign up to promotional service offerings in the Ebbfleet Pilot Area after September 1 2009 and 30 November 2009.

<sup>5</sup> Detail of the pricing for services in the Ebbfleet Pilot Area is available here:

[http://www.serviceview.bt.com/list/public/current/Notice08\\_boo/2-FrameworkImpl291576.htm](http://www.serviceview.bt.com/list/public/current/Notice08_boo/2-FrameworkImpl291576.htm)

<sup>6</sup> Telecommunications Market Data update Q4 2008, 21 May 2009.

<sup>7</sup> Current Cost Financial Statements for 2008 including Openreach Undertakings, Statement by Ofcom, pg 53. The estimate is based on the average percentage of minutes of Day minutes

that would be charged at the ordinary per-minute rate of 4.5ppm. In this example, we estimate that the cost of these calls to consumers in Ebbsfleet would be approximately £17.10 per quarter.

- 3.18 If the BT Basic service were provided in the Ebbsfleet Pilot Area, these consumers would face a higher set of charges for the same volume of fixed to fixed minutes. This is because there is a fixed charge of £13.20 per quarter (incl VAT and a £4.50 call allowance) normally for the BT Basic service, and a higher per call cost. For approximately 128 minutes of fixed to fixed calls per month (or 384 minutes per quarter), the cost of this service is approximately £47.80 per quarter<sup>8</sup>.
- 3.19 Over the full length of the consent, there is a potential saving for each customer eligible for the BT Basic service in the Ebbsfleet Pilot Area of approximately £245.50<sup>9</sup> under BT's proposal. It is unlikely that the number of homes in the Ebbsfleet Pilot Area will reach 300 during the period of the consent, as customers eligible for the BT Basic service usually represent a very small proportion of the overall population.
- 3.20 Therefore, the potential savings are likely to apply to far fewer than 300 eligible customers in the Ebbsfleet Pilot Area. The customers affected by BT's request in the Ebbsfleet Pilot Area are expected to benefit from the proposed consent.

### Impact on Competition

- 3.21 The direct effect of the proposed consent would be to allow BT to set charges for fixed telephony line connection and rental for some customers (those eligible for the BT Basic service) in the Ebbsfleet Pilot Area at a discount to standard rates offered to BT Basic customers elsewhere in the UK under the USCs. 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.
- 3.22 The number of social telephony customers in the Ebbsfleet Pilot Area is unlikely to reach 300 by the end of the period of the requested consent. Therefore, the total value of any discounts received by the affected customers is likely to be less. Restricting the period of customer contracts to the length of the consent reduces any potential impact on customer choice and access to competing services.
- 3.23 Ofcom notes that fixed telephony services fall within the market for Fixed Narrowband Retail Services<sup>10</sup> and that Ofcom has concluded that BT has Significant Market Power in the provision of those services. BT will continue to be subject to the SMP conditions determined by Ofcom as remedies to BT's SMP in this market. These remedies include a requirement not to unduly discriminate between retail customers.

### **To refuse BT's request for non-uniform charging for the Ebbsfleet Pilot**

- 3.24 Refusing BT's request would prevent BT from setting fixed telephony connection and line rental charges for customers in the Ebbsfleet Pilot Area at rates below its standard charges. BT would therefore have to apply its standard charges for fixed

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<sup>8</sup> Including use of the £4.50 call allowance, and estimating the average fixed to fixed call is charge is 11ppm. Fixed to fixed calls using the BT Basic service were estimated to cost 11ppm (including connection charges) based on an average 5 minute call.

<sup>9</sup> Calls from the FTTP service in the Ebbsfleet Pilot Area have been calculated at 4.5ppm. If 35% of these calls are assumed to have been made during peak times, and are chargeable at their ordinary rate.

<sup>10</sup> [http://www.ofcom.org.uk/static/archive/oftel/publications/eu\\_directives/2003/uso0703.pdf](http://www.ofcom.org.uk/static/archive/oftel/publications/eu_directives/2003/uso0703.pdf)

telephony connection and line rental for customers in the Ebbsfleet Pilot Area who would normally be eligible for BT's social telephony services.

3.25 Ofcom's assessment of not granting the request is set out below.

### Impact on BT

3.26 If Ofcom refused the request, BT would still be able to provide other services over an FTTP access network in the Ebbsfleet Pilot Area. However, refusing the request would prevent BT from offering fixed telephony services (connection and line rental) for eligible customers at a discount to ordinary BT services. The fixed telephony services in the Ebbsfleet Pilot Area would then have to be supplied with no discount for customers eligible for BT's social telephony services, or BT may simply lose customers who chose not to subscribe to the ordinary BT services.

3.27 The inability to offer such a discount could then cause BT to be in breach of the USCs requirement for affordable and uniform prices to all customers in the UK.

### Impact on Customers

3.28 The impact on customers would be limited to those homes participating in the Ebbsfleet Pilot Area eligible for the BT Basic service. This would mean these customers would not receive a discount for BT fixed telephony services equivalent to or better than the BT Basic service. This could affect these customers for the full period of the requested consent, from 31 December 2009 to 31 December 2011.

3.29 They would then have the choice of paying more for fixed telephony connection and rental services than they are entitled to under the BT Basic service, or choose not to take any services.

3.30 All of the alternatives are likely to result in an adverse impact on customers who are eligible for the BT Basic service in the Ebbsfleet Pilot Area.

### Impact on Competition

3.31 Ofcom's initial view is that refusing the request is unlikely to have a material impact on competition as the duration of the request is limited, the number of homes as part of the consent is limited, and the maximum length of the contractual terms is restricted.

### **The preferred option**

3.32 Ofcom proposes to consent to BT's request for permission under the USCs to be allowed to continue non-uniform charging for customers eligible for the BT Basic service at the the Ebbsfleet Pilot Area. Ofcom considers that granting the request is justified because:

3.32.1 it would not undermine the overall effectiveness of the USCs;

3.32.2 it is limited to no more than 300 homes eligible for the BT Basic service (and is unlikely to reach 300 homes before the end of the proposed consent);

3.32.3 the period of the consent is only from 31 December 2009 to 31 December 2011;



3.32.4 the contractual terms for eligible customers in the Ebbsfleet Pilot Area would not extend beyond the period of the consent.

3.33 Furthermore, it provides a benefit by way of a discount to consumers who are eligible for BT Basic, and does not adversely affect other BT customers in the Ebbsfleet Pilot Area, or in the UK. It also ensures customers eligible for the social telephony services are able to access fixed telephony services at an affordable price.

## Annex 1

# Responding to this consultation

### How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 14 September 2009**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at [http://www.ofcom.org.uk/consult/condocs/bt\\_exemption\\_ebbsfleet/](http://www.ofcom.org.uk/consult/condocs/bt_exemption_ebbsfleet/), as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email [adam.hibbs@ofcom.org.uk](mailto:adam.hibbs@ofcom.org.uk) attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Adam Hibbs  
Floor 4  
Competition Group  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- Fax: 020 783 4103
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

### Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Adam Hibbs on 020 7981 3959.

### Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether

all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

### Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement in October 2009.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: [http://www.ofcom.org.uk/static/subscribe/select\\_list.htm](http://www.ofcom.org.uk/static/subscribe/select_list.htm)

### Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is as easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk) . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential customers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's consultation champion:
- A1.16 Vicki Nash  
Ofcom  
Sutherland House  
149 St. Vincent Street  
Glasgow G2 5NW
- Tel: 0141 229 7401  
Fax: 0141 229 7433
- Email [vicki.nash@ofcom.org.uk](mailto:vicki.nash@ofcom.org.uk)

## Annex 2

# Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

### Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

### During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 Under Ofcom's recently revised consultation guidelines<sup>11</sup> we have classified this consultation as a Category 3 consultation and are therefore allowing one month for responses.

A2.6 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

### After the consultation

A2.8 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

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<sup>11</sup> [http://www.ofcom.org.uk/consult/consult\\_method/ofcom\\_consult\\_guide](http://www.ofcom.org.uk/consult/consult_method/ofcom_consult_guide)

## Annex 3

# Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk).
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at [www.ofcom.org.uk/consult/](http://www.ofcom.org.uk/consult/).
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

**Cover sheet for response to an Ofcom consultation**

**BASIC DETAILS**

Consultation title: Ebbsfleet Consent request for non-uniform pricing

To (Ofcom contact): Adam Hibbs

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

**CONFIDENTIALITY**

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

**DECLARATION**

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## Annex 4

# Consultation questions

*Question 1: Do you agree with Ofcom's proposal to consent to BT's request for permission under Universal Service Condition 1 to charge non-uniform prices for to customers eligible for social telephony services in the Ebbsfleet Pilot Area from 31 December 2009 to 31 December 2011?*

*Question 2: Do you have any comments on Ofcom's impact assessment for the proposed consent as set out section 3?*

*Question 3: Do you have any comments about the proposed wording of the draft consent specified in the schedule to Annex 5?*

*Question 4: Do you have any other comments?*

## Annex 5

# 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;

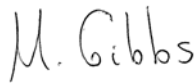
"Ofcom" means the Office of Communications; and

"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 that reads "M. Gibbs". The letters are cursive and slightly slanted to the right.

Marina Gibbs

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

14 August 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 x 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.

## Annex 6

# BT's request for consent under Universal Service Condition 1



Adam Hibbs  
Competition Policy Manager  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

31st July 2009

### **Ebbsfleet Trial – extension of consent request**

Dear Adam,

Further to Ofcom granting consent to BT (August 1st 2008) to charge non-uniform prices for telephony connection and rental at no more than 300 homes at Ebbsfleet, until 31st December 2009, we have a further minor request.

We already have a number of customers who have chosen to take service with BT at Ebbsfleet, and we do not anticipate this number increasing to more than 300 by the end of 2011. Whilst we fully anticipate charging customers at Ebbsfleet standard prices for telephony connection and rental (and calls) from 1 January 2010, this raises an issue for customers who meet the criteria for social telephony with BT.

Of the customers who have taken service with us, a number are Housing Association tenants, some of whom we assume may meet the eligibility criteria for BT Basic (BT's low cost social telephony scheme, which we are obliged to provide under the USO). Customers must make formal application to BT and meet the stipulated criteria for BT Basic before they can be accepted on to the scheme. However BT Basic is incompatible with the computer billing systems we are using at Ebbsfleet, and thus generation of customer bills for this social telephony service is technically impossible. Therefore, for BT, where so requested by a customer, to provide a social telephony service to those who might be eligible, an extension to the existing consent for non-uniform pricing is required. Where customers at Ebbsfleet are eligible for social telephony we would seek to migrate them to BT Basic as soon as technically feasible, accepting that this is unlikely to be prior to the requested extension term.

Having provided non-uniform/reduced prices for connection and rental to date at Ebbsfleet we believe we have fully met the needs of any customers eligible for social telephony within this location. From 1 January 2010 we would like to be able to continue to offer non-uniform telephony connection and rental prices to these qualifying customers until 31st December 2011 (and for those that move into Ebbsfleet during 2010/11), by which time the system issue will be resolved. We are confident that this will enable BT to meet its obligations for social telephony to qualifying customers at Ebbsfleet, by ensuring they are no worse off. Those

customers eligible for BT Basic are likely to form only a small percentage of the overall total at Ebbsfleet, in line with national patterns, so the maximum number of customers this request is for would be a small percentage of the total customer base at Ebbsfleet.

We would therefore request the consent to be formally extended for this very small group of customers until 31st December 2011. As of 1st January 2012 we would expect affected customers to migrate to BT Basic (or any alternative social telephony offering in place at that time) with associated Ts & Cs and prices, provided they still meet the eligibility criteria. Where any eligible social telephony customer requests full cessation of service from BT during the requested consent term, no contractual terms will extend beyond the end of 2011. We consider that the impact of this request to extend the consent in this manner is not material to the overall provision, particularly given that BT is the only Universal Service provider for this location and therefore the only provider with an obligation to provide social telephony services at Ebbsfleet.

Consent for this extension would be proportionate and appropriate for a very small number of vulnerable customers for a discrete and limited time period.

Yours sincerely

Jeremy Benson

BT Retail Regulatory Programmes

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EC1A 7AJ  
Registered in England no.  
1800000  
BT is an ISO 9001  
Registered Company

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