Proposals regarding the requirement on BT and Kingston to provide payphone access

Consultation document

Options for ensuring access to indirect access service providers from payphones and the collection of the payphone access charge.

Issued: 22 July 2004
Closing date for responses: 2 September 2004
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Section 1

Executive summary

What is this consultation about?

1.1 Ofcom is seeking views on its proposals:

- To discontinue former licence Condition 48 (a specific regulatory requirement on British Telecommunications plc (“BT”) and Kingston Communications (Hull) plc (“Kingston”) to provide payphone call origination on reasonable request to persons running telecommunications services (which include indirect access service providers (“IASP”));

- To seek undertakings from BT and Kingston to provide payphone users with access to indirect access service providers from their payphones; and

- To seek undertakings from BT and Kingston to continue their contractual agreements with other payphone providers to collect and distribute the Payphone Access Charge (PAC).

1.2 Preliminary discussions with BT and Kingston indicate that they are prepared to provide such undertakings.

1.3 Those undertakings are proposed to provide safeguards in the absence of formal regulation, to ensure:

- Payphone providers are compensated for allowing competing providers to supply their services over their networks;

- Payphone users, particularly those on low incomes without a fixed line, have access to competitive services; and

- That the level of the PAC is fair, non-discriminatory and reasonably derived from costs.

1.4 Ofcom’s approach to regulation is to operate with a bias against intervention, but with a willingness to intervene firmly, promptly and effectively where required. Ofcom is also committed to seeking the least intrusive regulatory mechanism to achieve its policy objectives.

1.5 A voluntary undertaking does not carry the legal weight of a regulatory requirement. If BT and/or Kingston were to renege on their commitments, which Ofcom does not anticipate, Ofcom retains the discretion to conduct a formal market review and consider the imposition of regulatory remedies.

Next steps

1.6 Interested parties are invited to comment on the proposals contained in this document no later than 17.00 on Thursday, 2 September 2004. Arrangements for submitting comments are detailed on page 14.
1.7 Draft discontinuation notices are attached at Annex 4 to this document. When given to BT and Kingston in final form, those notices will notify BT and Kingston that continued provision Condition 48 in BT and Kingston’s Continuation Notices will no longer apply with respect to payphone access.
Section 2
Regulatory background and process

Ofcom and the new regulatory regime

2.1 A new regulatory framework for electronic communications networks and services entered into force in the UK on 25 July 2003. The basis for the new Framework is five new EU Communications Directives that are designed to create harmonised regulation across Europe. Four of these Directives have been implemented in the UK via the Communications Act 2003 (the “Act”). The fifth Directive, on Privacy and Electronic Communications, was implemented by a set of Regulations under the European Communities Act 1972 on 11 December 2003. The Act provides for functions, powers and duties to be carried out by Ofcom which include, inter alia, functions, powers and duties flowing from the four EC Communications Directives referred to above. Certain functions carried out by legacy regulators were also transferred to Ofcom on 29 December 2003.

2.2 When the new EU communications regime was implemented in the United Kingdom on 25 July 2003, individual licences granted under section 7 of the Telecommunications Act 1984 were replaced by the general authorisation regime which includes General Conditions of Entitlement which apply to all persons providing Electronic Communications Networks (“ECNs”) and Electronic Communications Services (“ECSs”), or all such providers of a specified description. Additionally, individual communications providers may be subject to specific conditions, such as those imposed as a result of a finding of Significant Market Power (“SMP Conditions”), conditions necessary to secure end to end connectivity (“Access Related Conditions”) or conditions imposed as a consequence of a provider being designated as a universal service provider (“Universal Service Conditions”).

Continued licence Conditions

2.3 The new Directives require National Regulatory Authorities (“NRAs”), inter alia, to carry out reviews of competition in communications markets to ensure that regulation remains appropriate in the light of changing market conditions. For a limited period, while those reviews are conducted and/or until the new SMP conditions are imposed, some of the licence conditions which existed before 25 July 2003 continue in force by virtue of Continuation Notices which have been made by Ofcom's predecessor, the Office of Telecommunications (“Oftel”). These continuation notices can be found on Ofcom's website http://www.ofcom.org.uk/static/archive/oftel/publications/eu_directives/cont_notices/index.htm.

2.4 Ofcom takes the view that one such continued condition in both BT’s and Kingston’s old licence, Condition 48, governs the provision of services considered in this document. Continued Condition 48 concerns requirements to meet reasonable requests for interconnection, including the provision of telecommunications services, in respect of the markets for fixed public telephone networks and fixed public telephone services (which include the provision of public payphones) from persons running telecommunications systems. Ofcom’s view therefore is that Condition 48 requires BT and Kingston to offer payphone call origination interconnection services on the reasonable
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request of IASPs. Under Condition 48.3, BT and Kingston must secure that the charges for those interconnection services are:

- Transparent and cost-orientated
- Justifiable where they differ in different circumstances, and
- Sufficiently unbundled to ensure that nothing unnecessary is included.

2.5 Condition 48 only continues to apply to the extent that it has not already been discontinued as a result of the completion by Ofcom of various market reviews (and the replacement of Condition 48 with new SMP Conditions in the relevant markets as appropriate). Condition 48 has been discontinued in its application to BT and Kingston in respect of services covered by the following market reviews:


2.6 In its response to the Commission’s draft Recommendation on Relevant Products and Services Markets, Oftel indicated that the market segment for payphone call origination was a discrete segment of the call origination market (http://europa.eu.int/information_society/topics/ecomm/doc/useful_information/library/public_consult/relevant_markets/nra/nra_united KINGDOM_oftel.pdf). Ofcom has not yet defined and reviewed the payphone call origination market under the new Directives. Condition 48 has therefore not been discontinued in respect of this market, which is the subject of this consultation.

Discontinuing continued provisions

2.7 Ofcom is required under para 9(11) of Schedule 18 of the Act to take all necessary steps to decide whether or not to set a condition to replace a provision that has been continued from the former regulatory regime. Once Ofcom has decided whether or not to replace a continued condition with new formal regulation, Ofcom must give a Discontinuation Notice with respect to the Continuation Notice as soon as reasonably practicable. By way of this consultation document, Ofcom is considering its options with respect to the replacement of Condition 48 for the purposes of the payphone call origination market.

2.8 As a result of this consultation, Ofcom will decide on the appropriate mechanism (if any) to replace Condition 48 in respect of payphone call origination, and will then issue appropriate Discontinuation Notices to BT and
Kingston accordingly. When given in final form, those Notices will notify BT and Kingston that continued provision Condition 48 no longer applies in relation to payphone call origination.

2.9 Although the Act does not require the Director or, subsequently, Ofcom to consult before discontinuing a Continuation Notice, the Director General of Telecommunications stated that, in the majority of cases, before discontinuing any provisions of any Continuation Notice, he would consult on the matter for at least 14 days. Ofcom is following this policy in this case. Accordingly, draft Discontinuation Notices are attached at Annex 4 to the present consultation document. On this occasion, Ofcom is allowing 6 weeks so that interested parties can more fully consider the implications of Ofcom's proposals.
Section 3
Policy background

What is payphone call origination?

3.1 Payphone call origination (also referred to throughout this consultation document as “payphone access”) is a discrete segment of the wholesale call origination market. It is the service that conveys calls originating from a public or managed payphone over the payphone local loop to the remote concentrator (and from the remote concentrator over the local exchange to the network.) It is a separate form of call origination because it involves an additional telecommunications service, namely the provision of call origination to a third party from the provider’s payphone.
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Figure 1: Payphone call origination and the payphone access charge
3.2 In general, the payphone user pays the normal retail charge for a call directly to the payphone provider, typically with coins or a card. The difference with payphone access to freephone numbers and IASPs is that all or additional payment is due from the recipient of the call, not the originator, as explained in the following paragraphs.

3.3 Where the owner of a freephone number is an end user of a communications network provider, such as BT or Kingston, they pay for received calls so that the callers do not have to pay for calls themselves. Similarly, an IASP also pays the communications network provider but is using the service to facilitate its own business as a communications provider. An IASP may impose a surcharge on calling cards when a freephone number is used to access its platform, providing the customer is so advised.

3.4 Additionally the IASP may also have an interconnection agreement which allows it to receive and terminate calls and direct them back into the network to the desired destination number. (Those interconnection agreements and the settlements associated with it are outside of the scope of this consultation).

3.5 Dependent upon the digits dialled the payphone access call will be routed over the network, either:

- Directly to a terminating freephone platform (e.g. an answerphone, company switchboard, helpline, etc.): or
- To an IASP as an intermediate destination (either through a freephone or short code prefix), which recognises the dialling tones and routes the call back through the network to the destination number.

3.6 Where a payphone is provided by a party other than BT or Kingston, payment for the handling of payphone access services arises:

- Through a payment from the owner of the freephone number to BT and Kingston, which is then redistributed to the payphone provider; or
- Through a payment from the IASP, similarly arising from ownership of the freephone number or short code, to BT and Kingston which is also then redistributed to the payphone provider.

**Payphone access charge**

3.7 The Payphone Access Charge ("PAC") was introduced by Oftel in September 1996 as a method of compensating BT and Kingston for the costs incurred in handling freephone calls. This helped to contribute to their costs of maintaining the payphone network as required as part of their universal service obligation. The PAC is a levy on a pence per minute basis (ppm) charged to owners of freephone numbers or IASP short codes for calls terminating on those numbers. The PAC is important because it protects competition by enabling
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payphone providers to recover the costs of freephone and IA calls in circumstances where those costs would otherwise be irrecoverable.

3.8 The PAC is also important as an additional source of revenue which contributes to the cost of providing the payphone service (including call conveyance costs) and makes it worthwhile for payphone providers to allow access from their payphones to indirect access services. Ofcom’s February 2004 residential survey, found that frequent use of a payphone has declined over the last few years. Only 7% of adults (around 3 million) used a payphone at least monthly, compared to 12% at the end of 2000. The most frequent payphone users are younger consumers and low income groups.

3.9 As a consequence of this falling payphone usage, the underlying trend for total cash revenues from payphones in the UK is declining, as demonstrated by Figure 2 below.

Figure 2: Payphone revenues 2000 – 2003

Source: Ofcom

3.10 BT levies the PAC (currently 8.10 pence per minute) as a standard charge against terminating operators, and the PAC is included in BT’s carrier price list. It is calculated by dividing the sum of all relevant operating and capital costs (including relevant overheads and a reasonable rate of return on attributable assets) by the total call minutes from payphones. It covers all freephone numbers in the ranges 0500, 0800 and 0808 and any new freephone ranges in the 080x series.

3.11 Kingston provides call box services in the Hull area. Provision of the service includes access from payphones to a full range of “free to caller” services. Kingston also levies a PAC on freephone number owners to help recover its costs in respect of its payphone network. Kingston’s PAC differs from BT’s, in that it is currently set at 9.94 ppm. It is calculated using a similar methodology to BT based on cost orientation. It applies to all 0500, 0800 and 0808 “free to
caller” calls made from Kingston’s public and managed payphones and includes transfer charge calls.

3.12 The PAC was extended in 2002 through commercial agreement to “other qualifying payphone operators” who operate public and managed payphones at various locations throughout the UK. The level of the charge was negotiated through industry agreement, subject to OfTEL guidance that it should be “fair, non-discriminatory and cost-orientated”.

3.13 The PAC is distributed through a commercial agreement between BT and a payphone provider acting as agent for other participating UK payphone providers for the collection and distribution of the PAC on a monthly basis. It is a relatively complex administration procedure.

**Consumer issues**

3.14 Ofcom recognises the need to ensure that our proposals do not impact adversely on consumers, particularly those vulnerable consumers who may be reliant upon payphone usage to access telecommunications. It is important to ensure that payphone users have equal access to competitive services as fixed line users.

3.15 According to OfTEL’s August 2003 residential research survey, around 2 in 5 (39%) of regular payphone users who also use a mobile phone (just over 2 million adults) claim to make calls to 0800 numbers from payphones. Mobile operators either charge for calls to freephone numbers or bar access altogether. This suggests that whereas there may be some substitutability between payphones and mobile phones for access to telephony overall, payphones remain an important source of access to competitive services for some consumers.

3.16 The same survey also found that although calling international numbers from payphones was relatively infrequent compared to other types of calls, they were more popular with non-white ethnic groups using payphones, in conjunction with international calling cards for cheaper rates (using a freephone number to connect to the card company, and then entering a pin number). This finding was reinforced by a qualitative research study Telecoms usage amongst low income groups and identification of any issues specifically related to ethnicity (published by OfTEL in March 2003), [http://www.ofcom.org.uk/static/archive/oftel/publications/research/2003/ethnicity0403.htm](http://www.ofcom.org.uk/static/archive/oftel/publications/research/2003/ethnicity0403.htm) which found that asylum seekers and non-white ethnic groups used payphones fairly regularly to make international calls, specifically to keep costs down.

3.17 Retail payphone prices are not subject to sector specific regulation (although as universal service providers, BT and Kingston must charge the same price for services from payphones located on the street irrespective of geographic location). This helps make payphone use affordable in areas where the high costs of provision would otherwise disadvantage groups of customers. Access to indirect access services from payphones also contributes to overall affordability as demonstrated by the research findings referred to above.
Section 4
Policy going forward

4.1 Following the proposed discontinuation of continuing licence condition 48, Ofcom is considering:

• Whether BT and Kingston should be required to provide payphone access on reasonable request under the new regime;

• If so, which regulatory framework would be the most suitable; and

• What the appropriate level of the PAC should be.

4.2 Ofcom’s policy going forward is to safeguard access to a full range of competitive services from payphones for providers and users, whilst ensuring that the costs of provision are borne on a shared basis. In order to achieve this, Ofcom would like BT and Kingston to continue to provide access to IASPs from their payphones. Ofcom also recognises the benefits of the payphone access charge, provided it is not excessive, as it helps to contribute to the costs of maintaining the payphone network. This in turn should encourage all payphone providers to provide access to IASP services.

4.3 In order to achieve its desired policy objectives, the main options available to Ofcom are:

• To take no action;

• To seek voluntary undertakings from BT and Kingston; or

• To impose relevant conditions under the new regime (by undertaking a market review leading to the imposition of SMP Conditions or by imposing Access Related Conditions).

Regulatory impact assessment

Option 1: No action

4.4 This option would involve the discontinuation of Condition 48 in respect of payphone access without seeking to replace it with either informal or formal regulatory obligations. This could leave BT and Kingston free to:

• Refuse to allow access to freephone numbers and IASPs from their payphones (subject to their obligations to ensure end to end connectivity as a result of their universal service designation, discussed further below); and

• Raise the level of the PAC which it levies from freephone service providers beyond that required to cover the costs of maintaining the payphone network.

4.5 Universal Service Conditions imposed on BT and Kingston under the Communications Act 2003 and the Electronic Communications (Universal Service) Order 2003 (SI 2003 No. 1904) require them to ensure the adequate provision of public call boxes and call box services throughout the UK to meet the reasonable needs of end users. (Call box services are defined as “the
repair and maintenance of public call boxes and the provision of publicly available telephone services (PATS) to and from such call boxes.) In its Guidance on End to End Connectivity published in May 2003 (see http://www.ofcom.org.uk/static/archive/oftel/publications/eu_directives/2003/endcon0503.htm), Oftel set out its view that universal service providers, in providing access to PATS, should ensure that customers could call other customers and services, irrespective of the terminating network. This principle applies equally to users of public call box services, in that public call box services provided as a result of a universal service obligation should allow end to end connectivity, including access to freephone services and IASPs.

Benefits of this approach

4.6 The end to end connectivity principle which is a part of BT and Kingston’s universal service obligations would ensure that payphone users would continue to have access to indirect access services from public call boxes without further regulatory intervention.

Risks of this approach

4.7 The universal service obligations do not cover BT and Kingston’s network of managed payphones (eg those found in railway stations and shopping centres).

4.8 Further, the universal service obligations do not allow a mechanism by which the wholesale charges that BT and Kingston may levy for the provision of access from their payphones may be regulated. Therefore there would be no obligation or undertaking on BT and Kingston to maintain the PAC at a cost orientated level.

Option 2: Seek written voluntary undertakings from BT and Kingston

4.9 Written undertakings would be sought from BT and Kingston to the effect that BT and Kingston each agree to:

- Provide access from their public pay telephones to IASPs and freephone service providers on request (and to interconnect with them for this purpose, if necessary), provided requests are reasonable;

- To continue commercial arrangements with other payphone providers to collect and distribute the PAC; and

- To maintain the PAC at a level which is fair, non-discriminatory and reasonably derived from costs.

Benefits of this approach

4.10 IASPs should benefit from this approach because BT and Kingston will continue to provide access from payphones to their services. Payphone users should benefit because they will continue to have access to a wide range of competitive services (this is particularly beneficial to those payphone users on low incomes without a fixed line). The continuation of the PAC benefits payphone providers because the costs of provision are borne on a shared basis, helping to alleviate the financial demands on the payphone business. Maintaining the PAC at fair, non-discriminatory and cost-oriented levels will
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ensure that freephone services providers and IASPs are not required to disproportionately compensate payphone providers.

4.11 This approach would allow Ofcom to achieve its objectives ie to balance the promotion of choice and competition whilst protecting payphone customers, using the least intrusive regulatory mechanism available.

Risks of this approach

4.12 An informal commitment does not carry the legal weight of a regulatory requirement, and cannot be formally enforced against BT or Kingston. However, Ofcom retains the discretion under the new regime to conduct a formal market review into the payphone access market and, if appropriate, impose SMP Conditions in the unlikely event that BT or Kingston renege on their commitments. Ofcom also retains the discretion to consider the imposition of Access Related Conditions at any time for a similar purpose.

4.13 Should BT and Kingston choose to increase the PAC there is a risk that IASPs may choose not to offer services from payphones, or pass on the costs to the payphone user. However, Ofcom believes that the net effect of an increase on BT and Kingston’s revenues could be negative and therefore it may be in BT and Kingston’s commercial interests to maintain the PAC at a level that is fair, non-discriminatory and reasonably derived from costs. Ofcom would, in any case, retain the ability to impose more formal regulation setting or controlling the PAC as contemplated by Option 3 below.

Option 3: Impose relevant new conditions under the Act

4.14 Ofcom could achieve its policy aims in respect of payphone access and the PAC by the appropriate imposition of either SMP Conditions or Access Related Conditions on BT and Kingston. SMP Conditions may only be imposed as a result of a relevant market review, and hence Ofcom would need to analyse the payphone access market in the UK to determine whether any appropriate SMP Conditions were justified. Potentially, payphone access could be mandated, and the PAC controlled, by the imposition of ‘network access’ SMP Conditions as a result of a market review.

4.15 Alternatively, Ofcom could consider whether the imposition of appropriate Access Related Conditions on BT and Kingston was justified under Article 5 of the Access Directive and sections 73 to 76 of the Act. Access Related Conditions may be imposed where Ofcom finds it appropriate for the purpose of securing efficiency, sustainable competition and greatest possible benefit for end users in respect of communications services, including securing end to end connectivity for end users. Any proposed imposition of Access Related Conditions would require significant analysis and justification from Ofcom.

Benefits of this approach

4.16 Formal regulation has the advantage of certainty and enforceability. A formal requirement to maintain access to freephone numbers and IASPs and a control on the PAC would ensure the continuation of cost orientated pricing and ensure that BT and Kingston did not have scope to abuse their SMP or otherwise act to the detriment of end users.

Risks of this approach
4.17 If Ofcom were to undertake a market review this would require a review of the PAC which may currently be below its fully allocated cost. It is therefore possible that the outcome may be less favourable (that is, it may result in a recommended PAC which is higher than that currently in place) than could be achieved through commercial negotiations.

**Ofcom's proposals**

4.18 Ofcom does not consider that Option 1 will provide end users of payphones and IASPs sufficient protection in terms of access to freephone and IASP services from all of BT’s and Kingston’s payphones. Ofcom does not, therefore, prefer Option 1 at this stage.

4.19 Preliminary discussions with BT and Kingston indicate that they are prepared to give undertakings consistent with those suggested in Option 2 above.

4.20 Ofcom's favoured option is therefore Option 2. Ofcom considers it would be disproportionate to undertake a market review or conduct the analysis necessary to justify the imposition of an Access Related Condition with a view to imposing ex ante regulation at this stage (Option 3), when the same outcome can be achieved through voluntary undertakings. Ofcom notes that it will retain the discretion to implement Option 3 even where Option 2 is taken forward initially as the preferred option.

4.21 Further, given the existing commercial arrangements that are in place between BT, Kingston and other payphone providers, Ofcom considers it would not be appropriate to intervene to determine the actual level of the PAC. However, as the level of the PAC has an impact on the profitability of the provision of indirect access services and thus whether IASPs continue to compete in the retail market, Ofcom would expect the PAC to be fair, non-discriminatory and reasonably derived from costs.
Section 5
Responding to this consultation

How to respond

5.1 The Director General of Telecommunications said in his statement Continuing Licence Conditions after 25 July 2003 (http://www.ofcom.org.uk/static/archive/oftel/publications/eu_directives/cont_not ices/cont0903.pdf) that, in the majority of cases, before discontinuing any provisions of any Continuation Notice, he would consult on the matter for at least 14 days. On this occasion, Ofcom is allowing 6 weeks so that interested parties can more fully consider the implications of the proposal. Representations should arrive at Ofcom no later than Thursday, 2 September 2004. After considering any such representations, Ofcom will, if appropriate, issue the notice of discontinuation.

5.2 Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, 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 to indicate whether or not there are confidentiality issues. The cover sheet is attached or can be downloaded from the 'Consultations' section of our website.

5.3 Please can you send your response to rosalind.stevens-strohmann@ofcom.org.uk. Alternatively, responses may be posted or faxed to the address below, marked with the title of the consultation.

Rosalind Stevens-Strohmann
Competition Policy Manager
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Fax: 020 7981 3333

5.4 Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

5.5 It would be helpful if your response could include direct answers to the questions listed together at Annex 2. It would also help if you can explain why you hold your views, and how Ofcom’s proposals would impact on you.

Further information

5.6 If you have any questions about the issues raised in this consultation, or need advice on the appropriate form of response, please contact Rosalind Stevens-Strohmann tel 020 7783 4339.

Confidentiality

5.7 Ofcom thinks 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, as soon as possible after the consultation period has ended.

5.8 All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent’s identity.

5.9 Ofcom reserves its power to disclose certain confidential information where this is necessary to fulfil its functions, although in practice it would do so only in limited circumstances.

5.10 Please also note that copyright in responses will be assumed to be assigned to Ofcom unless specifically retained.

Next steps

5.11 Following the end of the consultation period, Ofcom intends to publish a final statement and notification in autumn 2004.

5.12 Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

5.13 Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 1) which it seeks to follow, including on the length of consultations.

5.14 Although not required by the Communications Act to do so, Ofcom is likely to consult for a short period before issuing discontinuation notices (normally 14 days). Given the potential impact on the level of the payphone access charge (a levy charged by BT and Kingston to third parties that use freephone numbers) and ultimately on vulnerable payphone users, Ofcom has decided in this instance to consult for 6 weeks. This consultation is shorter than Ofcom’s standard 10 week period because:

- Ofcom is required under the Act to consider the replacement of continued licence conditions as soon as is reasonably practicable; and

- Ofcom has already discussed its proposals informally with BT and Kingston.

5.15 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. 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 consumers, whose views are less likely to be obtained in a formal consultation.

5.16 If you would like to discuss these issues, or Ofcom’s consultation processes more generally, you can alternatively contact Philip Rutnam, Partner, Competition and Strategic Resources, who is Ofcom’s consultation champion: Philip Rutnam
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Annex 1

Ofcom’s consultation principles

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

Before the consultation

1. 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

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

3. 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.

4. We will normally allow ten weeks for responses, other than on dispute resolution.

5. 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.

6. 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

7. 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.
### Annex 2

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

#### BASIC DETAILS

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#### CONFIDENTIALITY

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If you want part of your response, your name or your organisation to be confidential, 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)?

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#### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom’s website, unless otherwise specified on this cover sheet. If I have sent my response by email, Ofcom can disregard any standard email text about not disclosing email contents and attachments.

<table>
<thead>
<tr>
<th>Name</th>
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Annex 3

Consultation questions

| Question 1: | Do you agree with Ofcom’s proposal to discontinue Condition 48 as outlined in the draft Notice attached at Annex 4? |
| Question 2: | Which of the three proposed options do you prefer and why? |
| Question 3: | What are your views on the importance of providing access to indirect access service providers from payphones? |
Proposals regarding the requirement on BT and Kingston to provide payphone access

Annex 4
Draft discontinuation notices

Proposed notice to British Telecommunications plc under paragraph 9 of schedule 18 to the Communications Act 2003

Notice that certain continued provisions set out in the continuation notice given to British Telecommunications plc on 23 July 2003 will cease to have effect from [xx/xx/xx]

1. Ofcom, in accordance with Paragraph 9(9) of Schedule 18 to the Communications Act 2003 (‘the Act’) hereby gives notice to British Telecommunications plc (‘BT’) that Condition 48 contained in Schedule 1 to the continuation notice given to BT on 23 July 2003, which took effect from 25 July 2003, (‘the Continuation Notice’), will cease to have effect from [xx/xx/xx] to the extent set out in Schedule 1 to this notice (‘the Discontinued Provision’).

2. In giving this notice, Ofcom has, in accordance with Paragraph 9(11) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a Condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the Discontinued Provision and whether or not to exercise its power to set a Condition under that Chapter for that purpose.

3. All directions, determinations, consents and other provisions which were continued under the Continuation Notice by virtue of Paragraph 9(8) of Schedule 18 to the Act will also cease to have effect from [xx/xx/xx] to the extent that they were given or made for the purposes of the Discontinued Provision.

4. To the extent that the Continuation Notice does not cease to have effect under Paragraph 1 of this notice, the Continuation Notice shall continue to have effect until Ofcom has given a further notice to BT in accordance with Paragraph 9(9) of Schedule 18 to the Act that it shall cease to have effect.

5. Ofcom issued a consultation as to its proposals to discontinue the Discontinued Provision on 22/07/2004 and requested comments by 02/09/2004. Ofcom has taken into account the comments it received during that consultation.

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

Signed
Philip Rutnam
Partner, Competition and Strategic Resources
Ofcom
A person authorised under paragraph 18 of the Schedule to the Office of Communications Act 2002

Date XX XXXX 2004
Schedule 1

The following provisions which were contained in Schedule 1 to the Continuation Notice will cease to have effect from [xx/xx/xx] to the extent set out below.

Condition 48 in so far as that condition relates to the provision of payphone call origination which has been reviewed in the document titled “Proposals regarding the requirement on BT and Kingston to provide payphone access” published on 22/07/04 and in respect of which Ofcom has decided not to set conditions to replace the continued provision.

Proposed notice to Kingston Communications (Hull) plc under paragraph 9 of schedule 18 to the Communications Act 2003

Notice that certain continued provisions set out in the continuation notice given to Kingston Communications (Hull) plc on 23 July 2003 will cease to have effect from [xx/xx/xx]

1. Ofcom, in accordance with Paragraph 9(9) of Schedule 18 to the Communications Act 2003 (‘the Act’) hereby gives notice to Kingston Communications (Hull) plc (‘Kingston’) that Condition 48 contained in Schedule 1 to the continuation notice given to Kingston on 23 July 2003, which took effect from 25 July 2003, (‘the Continuation Notice’), will cease to have effect from [xx/xx/xx] to the extent set out in Schedule 1 to this notice (‘the Discontinued Provision’).

2. In giving this notice, Ofcom has, in accordance with Paragraph 9(11) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a Condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the Discontinued Provision and whether or not to exercise its power to set a Condition under that Chapter for that purpose.

3. All directions, determinations, consents and other provisions which were continued under the Continuation Notice by virtue of Paragraph 9(8) of Schedule 18 to the Act will also cease to have effect from [xx/xx/xx] to the extent that they were given or made for the purposes of the Discontinued Provision.

4. To the extent that the Continuation Notice does not cease to have effect under Paragraph 1 of this notice, the Continuation Notice shall continue to have effect until Ofcom has given a further notice to Kingston in accordance with Paragraph 9(9) of Schedule 18 to the Act that it shall cease to have effect.

5. Ofcom issued a consultation as to its proposals to discontinue the Discontinued Provision on 22/07/2004 and requested comments by 02/09/2004. Ofcom has taken into account the comments it received during that consultation.

6. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act. For the purposes of interpreting this notice, headings and titles shall be disregarded.
Proposals regarding the requirement on BT and Kingston to provide payphone access

Signed

Philip Rutnam
Partner, Competition and Strategic Resources
Ofcom
A person authorised under paragraph 18 of the Schedule to the Office of Communications Act 2002

Date XX XXXX 2004

Schedule 1

The following provisions which were contained in Schedule 1 to the Continuation Notice will cease to have effect from [xx/xx/xx] to the extent set out below.

Condition 48 in so far as that condition relates to the provision of payphone call origination which has been reviewed in the document titled “Proposals regarding the requirement on BT and Kingston to provide payphone access” published on 22/07/04 and in respect of which Ofcom has decided not to set conditions to replace the continued provision.
Annex 5

Glossary

**Access Code:** Short, generally memorable, codes, usually beginning with ‘1’, which allow end users to access a wide range of telephony services.

**BT:** British Telecommunications plc.

**Call Box Services:** means the repair and maintenance of public call boxes (PCB) and the provision of publicly available telephone services from those PCBs.

**Fixed Public Telephone service:** means the provision to end users at fixed locations via a number or numbers in the national numbering plan of a service for the originating and receiving of national and international calls, including access to emergency services, the provision of operator assistance, directory services, provision of public payphones, provision of service under special terms or provision of special facilities for customers with disabilities or with special social needs or both such provisions.

**Freephone number:** means a number that is reached free of charge to the Customer except where a charge is notified to the End-User at the start of the call.

**Geographic Number:** a number from the national numbering plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point of the subscriber to whom the number has been assigned.

**Indirect Access:** where a customer’s call is routed and billed through operator A’s network even though the call originated from the network of operator B.

**Indirect Access Code:** means a type of Access Code used to provide Indirect Access.

**Indirect Access Service Provider (IASP):** means a provider of Indirect Access services.

**Interconnection:** the physical and logical linking of telecommunications networks used by the same or a different organisation in order to allow the users of one organisation to communicate with users of the same or another organisation, or to access services provided by another organisation. Services may be provided by the parties involved or other parties who have access to the network.

**Kingston:** Kingston Communications (Hull) Plc – communications company which operates in the Hull area.

**Network Termination Point (NTP):** means the physical point at which a Subscriber is provided with access to a Public Electronic Communications Network and, where it concerns Electronic Communications Networks involving switching or routing, that physical point is identified by means of a specific network address, which may be linked to the Telephone Number or name of a Subscriber.

**Payphone:** a telephone which requires prepayment for calls via coins, calling cards, phonecard, or credit/debit cards.
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**Payphone access charge (PAC):** the charge as specified in the Carrier Price list which the customer, as a qualifying payphone operator, is permitted to levy for freephone calls and which the conveyance operator is entitled under contract to levy from terminating operators participating in the calls.

**Public call box:** means a public pay telephone which is permanently installed on public land and to which the public has access at all times.

**Public pay telephones:** those which are generally available to the public for most of the day (12 hours or more), where certain services including freephone calls are available.