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Dear Catherine,

### **Consultation into the NTS Retail Uplift and PRS Bad Debt Surcharge**

Firstly we would like to thank you for the opportunity to respond to the above consultation and the help and guidance given to date in explaining the history and the analysis prepared supporting this consultation.

#### **General**

With regard to the Bad Debt Surcharge, we are pleased to note that Ofcom has taken onboard the concerns raised during the first round of consultation. We welcome the greater clarity now provided on the process methodology and Bad Debt classification gained through the BDO review process, the outcome of which has supported the validity of our concerns over the accuracy of the previously proposed surcharge of 9.7% proposed by BT. This has now been clearly shown to be proposed by BT in error, and the delay in agreeing the PRS Bad Debt Surcharge charge control, the further analysis prepared by BDO and a second consultation on the matter has been as a direct result of significant shortcomings in BT's original calculations. This has created uncertainty within the Industry – potentially inhibiting investment in new services over the last 18 months – and additional costs on industry to further consult and respond and increased regulatory costs.

We remain concerned that BT will look to retrospectively apply this PRS Bad Debt Surcharge charge control to July 2010 which has the effect of not only creating a dangerous precedent but goes against the statutory nature of the charge control process. We would welcome Ofcom's views on this in their final determination of this consultation.

We note that due to the inability of the BT account system to identify PRS traffic, the methodology has been forced to employ considerable reliance on averages and extrapolation of sample data. Whilst we have concluded that based on the described methodology there is no evidence to dispute the revised 5.2% surcharge to be materially inaccurate, we believe that BT should look to improve its account reporting functionality ahead of future reviews so as to enable the provision of a pure analysis of the Bad Debt level and thus remove any remaining speculation.

Having considered the BDO findings we are satisfied that the sample months used in the methodology do provide a reasonable cross section of the year, when considered against the backdrop of BT's quarterly billing. However, we believe that industry

would be provided with yet greater confidence in the sampling if, should the methodology be employed again, these sample months were selected by Ofcom or a suitable independent party or indeed were calculated on a complete data set rather than relying on sampling techniques.

We are pleased to gain clarity on the definition of Bad Debt within the context of the Surcharge. We note the Bad Debt Surcharge does not take account of individually disputed transactions and that the actions of Service Providers will therefore have no bearing on the control factors related to bad debt management; these being credit control and collections. As the ability to reduce bad debt rests exclusively with BT, we would hope to see BT aiming to tighten its credit control checks for early identification and management of high risk customers and thus mitigate the level of bad debt accrual during the period up until the next Surcharge review in 2013.

We note that this determination is progressive and that recovery of surcharge from July 2010 to implementation will be the subject of contractual arrangements between BT and individual networks, with Ofcom Dispute Resolution available in the event of disagreement. We also note that following the original submission of inaccurate data by BT both Ofcom and industry have incurred considerable expense through the requirement of engaging in an additional round of consultation.

#### Responses to questions

***Question 1: Do you agree with the proposed approach to the form and structure of the NTS Retail Uplift Charge Control, including the use of an RPI-X price cap for the period to September 2013, a single basket, a sub-cap on charges for freephone calls and a glidepath approach to price adjustments?***

Yes, we agree.

***Question 2: Do you agree that there is no longer any basis for excluding 20% of BT's sales and marketing costs?***

Yes, we agree to the extent that these costs can be uniquely identified as relating to telephony and not to wider BT products and services including broadband, television on demand and "bundles"

***Question 3: Do you agree with the proposal to reattribute generic sales and marketing costs using net revenues and to treat support costs as an uplift on causally attributed costs?***

Yes, we agree but again only to the extent that any loss leaders, discounted promotions or "branding" expenses are eliminated. We would not agree where marketing is not directly attributable to telephony – for example by merely being a sponsor of the 2012 Olympics which is aimed at driven awareness of the corporate structure and not telephony services specifically.

**Question 4: Do you agree with our approach to determining base year costs and volumes?**

Yes, we agree.

**Question 5: Do you agree that we should use a forecast of change in BT's overall retail service activity to project BT's costs?**

Yes, we agree.

**Question 6: Do you agree with our approach to forecasting the change in BT's overall retail activity and the proposed range of forecast decline of 3.5% to 7.5% per year? If possible, please provide evidence to support your view.**

Yes, we agree.

**Question 7: Do you agree with our preferred efficiency improvement assumption of 2.5%?**

Yes, we agree.

**Question 8: Do you agree that our proposal for the value X with no one off adjustment to prices at the outset of the control has no impact on any previous aspect of our proposals?**

Yes, we agree.

**Question 9: Do you agree with our assessment of the potential options regarding the structure of the recovery for bad debt on PRS calls?**

Yes, we agree.

**Question 10: Do you agree that BT's attribution methodology for bad debt is an appropriate starting point to use in assessing the incidence of bad debt on PRS calls?**

Yes, we agree.

**Question 11: Do you agree with our view that no adjustment should be made to the PRS Bad Debt Surcharge for inefficiency? If not, please provide analysis and evidence to support your arguments**

Yes. However, we believe that BT should continue to look for efficiency savings, in particular through tightening credit management of high risk customers.

**Question 12: Do you agree that in the current circumstances it is appropriate for the PRS Bad Debt Surcharge charge control to have effect on the first of the month following our final statement? If not, please supply reasons why this would be the case.**

Yes, we agree. However we would ask Ofcom to confirm in doing so that in their opinion that until such time as that charge control is effective, the last agreed Bad Debt Surcharge Charge Control should take precedence as any delay to date in agree the revised surcharge has been the fault of BT and it would be inappropriate to impose on industry what would be in effective a backward looking charge control notice should BT be allowed to impose the consulted upon and agreed surcharge for the current period.

**Question 13: Do you agree with our proposals for monitoring BT's compliance with the NTS Retail Uplift charge controls?**

Yes, we agree.

### Conclusion

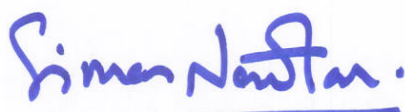
We welcome Ofcom's further consultation on the Retail Uplift and Bad Debt Surcharge. In particular we thank Ofcom for taking onboard the concerns raised by ourselves and AIME during the 2009 consultation in relation to the accuracy of the original 9.7% Bad Debt figure proposed by BT and for the clarity provided by BDO, on behalf of Ofcom, regarding the definition and methodology used to calculate the level of bad debt. We are satisfied to see a revised Bad Debt Surcharge of 5.2% and having reviewed the findings of BDO we can find no reason to dispute this revised figure. We and AIME therefore supports Ofcom's proposals on the retail uplift which we believe to be an effective method of charge control.

We note that this determination is forward looking as is required under the charge control process and that recovery of surcharge from July 2010 to implementation will be the subject of contractual arrangements between BT and individual networks, with Ofcom Dispute Resolution available in the event of disagreement. We also note that following the original submission of inaccurate data by BT both Ofcom and industry have incurred considerable expense through the requirement of engaging in an additional round of consultation and are mindful that in its pursuit of recovery of this now proposed (and hopefully agreed) surcharge going back to July 2010 BT is in effect trying to apply this charge control retrospectively which is a dangerous precedent to set and is counter to the statutory process. We would welcome Ofcom's comments on this in their final determination.

Many thanks again for granting us access to the detailed calculations supporting this consultation and the opportunity to discuss and respond. Should you require any clarification to our or if we can be of any further assistance please do not hesitate to contact us direct.

Kind Regards

Yours Sincerely



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