

## **Correction to Ofcom's Statement entitled 'Business Connectivity Market Review: Review of retail leased lines, wholesale symmetric broadband origination and wholesale trunk segments', published 28 March 2013**

On 28 March 2013, we published a statement entitled '*Business Connectivity Market Review: Review of retail leased lines, wholesale symmetric broadband origination and wholesale trunk segments*' (the "Statement").

There are some inadvertent textual errors in paragraph 19 of the legal instrument (i.e. the statutory notification under sections 48(1) and 79(4) of the Communications Act 2003), as published at Annex 7 to the Statement, concerning accounting obligations imposed on British Telecommunications plc in certain specific leased lines markets.

In Section 16 of the Statement, we set out our conclusions and reasoning on the accounting obligations we have decided to impose on BT in those markets. Specifically, we stated at paragraphs 16.10 and 16.11 of the Statement:

*"16.10 Only BT commented in detail on the proposed accounting separation obligations. BT queried our proposal in paragraph 10b of the draft legal instrument to impose conditions OA29 to OA31 (as set out in the 2004 Statement on Regulatory Reporting) in the retail market for low bandwidth TI leased lines. These conditions would require it to prepare and maintain a retail catalogue. BT noted that this proposal was contrary to our decision in our 2009/10 update to the regulatory financial reporting obligations, in which these obligations were withdrawn.*

*16.11 The inclusion of these obligations in paragraph 10b of the draft legal instrument was an oversight. As BT points out, we withdrew these obligations in our 2009/10 update to the regulatory financial reporting obligations. We do not consider that reimposition of these obligations is warranted given the limited scope of ex-ante retail regulation on BT (the retail very low bandwidth TI market being the only market), and have removed these obligations from the legal instrument in Annex 7 to this Statement."*

However, we inadvertently omitted to remove the reference SMP conditions OA29 to OA31 in the final legal instrument. In particular, paragraph 19 of the legal instrument reads:

*"19. Ofcom is setting, in relation to the services market in which Ofcom is making the market power determination as listed at (m) in **Table A** above, the SMP conditions OA1 to OA25, OA29 to OA31 and OA34 to be applied to BT, but excluding subparagraphs (b), (d) and (e) of SMP condition OA23, set out in the July 2004 (BT) Notification, but as read in light of the modifications to that Notification set out in **paragraph 19**. below. Those SMP conditions shall, unless otherwise is stated in that Schedule, take effect on the date of publication of this notification."*

Accordingly, we publish a legal instrument below to formally correct this error, together with correction of some minor typographical errors.

## NOTIFICATION OF MODIFICATION OF SMP CONDITIONS UNDER SECTION 48(1) OF THE COMMUNICATIONS ACT 2003

1. On 28 March 2013, Ofcom published a statement entitled '*Business Connectivity Market Review: Review of retail leased lines, wholesale symmetric broadband origination and wholesale trunk segments*' (the "Statement").
2. Ofcom concluded in Section 16 of the Statement that SMP conditions that OA29 to OA31 inclusive (as set out in a statement published by Ofcom on 22 July 2004, entitled '*The regulatory financial reporting obligations on BT and Kingston Communications: Final statement and notification*') should not apply to BT in the retail market for very low bandwidth traditional interface leased lines in the UK excluding the Hull Area, at bandwidths below 2Mbit/s. However, this conclusion was not reflected in paragraph 19 of the statutory notification under sections 48(1) and 79(4) of the Communications Act 2003, as published at Annex 7 to the Statement, which reads:

*"19. Ofcom is setting, in relation to the services market in which Ofcom is making the market power determination as listed at (m) in **Table A** above, the SMP conditions OA1 to OA25, OA29 to OA31 and OA34 to be applied to BT, but excluding subparagraphs (b), (d) and (e) of SMP condition OA23, set out in the July 2004 (BT) Notification, but as read in light of the modifications to that Notification set out in **paragraph 19.** below. Those SMP conditions shall, unless otherwise is stated in that Schedule, take effect on the date of publication of this notification."*

3. Therefore, Ofcom is hereby modifying paragraph 19 of the notification published at Annex 7 to the Statement by substituting that paragraph for the following new paragraph 19 (and paragraph 19 of the former notification shall be read accordingly):

*"19. Ofcom is setting, in relation to the services market in which Ofcom is making the market power determination as listed at (m) in **Table A** above, the SMP conditions OA1 to OA25 and OA34 to be applied to BT, but excluding subparagraphs (b), (d) and (e) of SMP condition OA23, set out in the July 2004 (BT) Notification, but as read in light of the modifications to that Notification set out in **paragraph 20.** below. Those SMP conditions shall, unless otherwise is stated in that Schedule, take effect on the date of publication of this Notification."*

M. Gibbs

**Competition Policy Director, Ofcom**

*A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002*

17 May 2013