



Review of the telephony universal service obligation

KCOM's response to Ofcom's consultation January 2022

1. Introduction

- 1.1 As the designated Universal Service ('USO') provider in the Hull Area KCOM Group Limited ('KCOM') welcomes Ofcom's review of the telephony universal service obligation.
- 1.2 Since the universal service obligation was last reviewed in 2006 there have been significant changes in the market, particularly in relation to the use of Public Call Boxes ('PCBs'). It is appropriate that Ofcom considers whether the current obligations remain relevant and proportionate and continue to meet the requirements of customers.
- 1.3 KCOM agrees with several of the changes being proposed, however we have serious concerns regarding some aspects of Ofcom's proposals, most notably in relation to the process for removal of PCBs. We are concerned that Ofcom has not considered the impact of its proposals in different geographic areas, particularly urban areas.
- 1.4 Strengthened rules regarding the removal of PCBs have the potential to have a significant detrimental effect in the Hull area. The removal of PCBs in the Hull area has largely been as a result of requests from the local authority and/or the police. These requests have been driven by concerns from residents about a range of anti-social behaviour including drug dealing and drug abuse, vandalism (including arson) and prostitution.
- 1.5 The criteria proposed by Ofcom will effectively block the removal of PCBs in the Hull area where there is not another PCB within 400m walking distance, irrespective of the extent of anti-social behaviour associated with their use and the distress that it causes to local residents. Ofcom must consider the impact its proposals would have on different communities and ensure that the process does not have unintended consequences.
- 1.6 Our preference would be to modify the proposed process to enable consultation to proceed where there has been a request from the local authority or the police.
- 1.7 KCOM also does not accept it would be proportionate to impose an obligation to assess and identify the PCBs that are likely to be relied upon in the event of a power outage and which therefore require a solution to ensure uninterrupted access to emergency calls. This is particularly the case where KCOM's PCB estate is in an urban environment where alternative solutions for making calls should be readily available.

2. Pricing and services provided by PCBs

- 2.1 KCOM welcomes Ofcom's proposals to:
- (a) allow free calls from PCBs;
 - (b) remove the requirement for PCBs to offer incoming calls where outgoing calls are free; and
 - (c) remove the requirement for PCBs to offer outgoing calls to unbundled tariff numbers (including premium rate and directory enquiries) and international numbers.
- 2.2 Apart from calls to free to caller numbers, including 0800, 999 and some helplines, KCOM does not currently offer free calls from its PCBs. However, we recognise the challenge that the current USO condition presents, particularly in relation to the use of other on-street devices to fulfil obligations. We welcome the flexibility Ofcom is proposing. We also agree with the proposal to remove the requirement to offer incoming calls where outgoing calls are free.
- 2.3 Similarly, we also support the removal of the requirement for PCBs to offer outgoing calls to unbundled tariff numbers and international numbers. The vast majority of calls made from KCOM PCBs are to geographic and mobile numbers. We have also seen instances of fraudulent calls to premium rate services from PCBs and the ability to block access to these numbers would be beneficial.
- 2.4 Ofcom is also proposing to remove the requirement for 70% of PCBs to accept cash payment and replace it with a requirement on BT and KCOM to assess whether cash payment facilities meet an ongoing need. In particular, if the majority of calls made from a PCB were paid for using cash, Ofcom would not expect that cash payment facility to be removed from that PCB.
- 2.5 All KCOM's PCBs are currently cash only. Ofcom's proposals would therefore effectively prohibit KCOM from removing cash payments from all PCBs unless we were to introduce non-cash payment methods and have a period of parallel running until the appropriate threshold was met. This would be costly and inefficient.
- 2.6 While we currently have no plans to remove cash payments, we may require that flexibility in the future. We would suggest that a formal restriction would be unduly limiting, is not necessary and does not recognise changes in consumer behaviour which have seen

significant reductions in the use of cash payments.¹ Ultimately, it would not be in KCOM's interests to remove cash payment where we believe it would impact usage. We would only do so where there were valid reasons for introducing non-cash payment, for example in instances where we have seen vandalism as a result of attempted theft from PCBs.

3. Process for removal of PCBs

3.1 Ofcom is proposing to introduce a new process for the removal of PCBs. Any PCB which is "last at site", i.e., there is not another PCB within 400 metres walking distance, would become a "Protected PCB". Removal of a Protected PCB would be prohibited if **any** of the following criteria are met:

- (a) the Protected PCB does not have coverage from all four mobile network providers;
- (b) the Protected PCB is sited at an accident or suicide hotspot;
- (c) the Protected PCB has made more than 52 calls over the past 12 months; or
- (d) there is a relevant exceptional circumstance which means the Protected PCB is needed.

3.2 To support the need for a change to the current process, Ofcom has presented evidence of the difficulties BT has experienced in using the current process. In particular, the length of time consultation takes and the inconsistent use of the local veto which effectively blocks the removal of a PCB, including the use of the veto for reasons unrelated to universal service and the factors set out in Ofcom's existing PCB guidance.

3.3 KCOM last undertook a large-scale review of its PCB estate several years ago. Since then, the removal of PCBs has **largely been as a result of requests from the local authority and/or the police force** (irrespective of their location relative to other PCBs). These requests have been driven by concerns from residents about a range of anti-social behaviour including drug dealing and drug abuse, vandalism (including arson) and prostitution.

¹ <https://www.ukfinance.org.uk/press/press-releases/contactless-now-accounts-more-quarter-all-uk-payments>

- 3.4 This has generated negative press coverage² and we have also been advised by Hull City Council that PCBs are a standing item for area committee meetings due to ongoing concerns about anti-social behaviour.
- 3.5 While the majority of these PCBs had another PCB within 400m walking distance, as more PCBs are removed, we will have an increasing number which are last at site.
- 3.6 The criteria Ofcom has proposed for assessing whether a Protected PCB can be removed, will have a significant impact on KCOM's ability to remove a PCB where there are legitimate concerns regarding its use. In particular, the inability to remove a Protected PCB where more than 52 calls have been made over the past 12 months will effectively mean that all Protected PCBs in the Hull area cannot be removed. Data provided to Ofcom showed that in the 12 months to May 2020 only 10 PCBs out of a total of 100 originated fewer than 52 calls; this number does not change if the call threshold is increased to 104 (and only goes up to 100 if the threshold is quadrupled to 208).
- 3.7 Put another way, in Hull, Ofcom's criteria will mean that virtually all of our PCBs will become Protected PCBs which cannot be removed, irrespective of the extent of anti-social behaviour associated with their use and the distress that it causes to local residents. Indeed, the usage of the phone may be positively correlated with the degree of disruption felt by the local community.
- 3.8 While we support the need for a more objective and timely process, we are concerned that Ofcom's proposals will have a detrimental impact on the local community. As Ofcom itself notes, it is subject to a duty to have regard to the different interests of people in different parts of the UK, including people living in rural and in urban areas. In this case, we do not believe Ofcom has considered the different circumstances that might arise in different areas, in particular the differing challenges faced in rural and urban areas.
- 3.9 KCOM suggests that there are two alternatives Ofcom should consider:
- 3.9.1 The proposed process should be changed so that where the removal of a Protected PCB has been requested by the local authority or the police, consultation on

²<https://www.hulldailymail.co.uk/news/hull-east-yorkshire-news/moment-shop-owner-catches-man-382665>
<https://www.hulldailymail.co.uk/news/hull-east-yorkshire-news/iconic-phone-boxes-drug-scandal-1500288>
<https://www.hulldailymail.co.uk/news/hull-east-yorkshire-news/hull-telephone-box-drug-removed-4715756>
<https://www.hulldailymail.co.uk/news/hull-east-yorkshire-news/phone-boxes-removed-drugs-prostitution-4848636>

removal can proceed regardless of the other criteria. The Protected PCB could be removed once KCOM has reviewed submissions and considered all evidence, including evidence relating to the objective criteria Ofcom is proposing.

3.9.2 Alternatively, the removal of the assessment criteria relating to the number of calls originated from a Protected PCB in the last 12 months.

3.10 Recognising that there may be valid reasons why a particular PCB should not be removed, KCOM's preference would be to enable consultation to proceed where there has been a request from the local authority or the police. As part of the consultation process, Ofcom's proposed criteria, including the volume of calls made from the Protected PCB, would be considered as part of the process.

4. Resilience

4.1 Currently KCOM has no confirmed plans to remove copper connections from its PCBs, although this is something that will be considered as we refine our plans for migration to an all-IP network.

4.2 We have reviewed the options presented by Ofcom for the provision of resilience at PCBs to ensure calls to emergency services can still be made in the event of a power cut. We agree that it would be disproportionate to expect all PCBs to have a resilience solution that allows continued access to calls in the event of a power cut.

4.3 As an alternative, we do not accept it would be proportionate to impose an obligation for KCOM to assess and identify the Protected PCBs that are likely to be relied upon in the event of a power outage and which therefore require a solution to ensure uninterrupted access to emergency calls. KCOM's PCB estate is in an urban environment where alternative solutions for making calls should be readily available.

4.4 The provision of battery back-up, even to a sub-set of Protected PCBs, would result in additional costs with little or no clear benefits, in a situation where, as Ofcom has identified, KCOM already makes a net loss on the provision of its PCB estate.³ The data we supplied to Ofcom show that only 2% of our PCBs were used to make emergency calls between 1 June 2019 and 31 May 2020 (compared with 10% that were used to call Directory Enquiries).

³ https://www.ofcom.org.uk/data/assets/pdf_file/0025/227680/consultation-review-of-telephony-USO.pdf, Paragraph 3.7

5. Requests for new PCBs

- 5.1 KCOM agrees with Ofcom's proposed amendments to the conditions concerning requests for new PCBs. KCOM has not received any requests for the installation of new PCBs in the last five years and given the declining use of PCBs and the urban nature of our network coverage we do not anticipate we will receive any requests.
- 5.2 We support Ofcom's proposal that we must assess whether there is a reasonable user need for the proposed new PCB and in making this assessment we must act reasonably, taking particular account of whether there is mobile coverage in the proposed site and/or whether it is a known accident or suicide hotspot.

6. Provision of fax services

- 6.1 KCOM agrees it is no longer appropriate for the USO obligations to require the provision of fax services in light of the impact of IP migration on the functionality of these services. More generally the use of fax services has significantly declined and, as Ofcom notes, there are now reliable alternatives including email and document management platforms.

7. Itemised Billing

- 7.1 As Ofcom notes, requirements in relation to itemised billing are covered in the General Conditions. To avoid any scope for conflict it is appropriate that the itemised billing requirement is revoked from the USO conditions.

8. Reporting requirements

- 8.1 KCOM agrees with Ofcom's proposal to remove the reporting requirements in relation to response times for operator services and directory enquiries, as well as the number of bill correctness complaints. Not only has the list of quality of services been removed from the Communications Act as part of the implementation of the European Electronic Communications Code, the nature of operator and directory enquiries services has changed. KCOM no longer offers a directory enquiries service itself, instead providing access to 118 services offered by various service providers. Additionally, operator services are in effect provided by all of our customer agents through one contact number rendering these measures meaningless.
- 8.2 As Ofcom notes, the telephony market is now very mature. KCOM has near ubiquitous coverage in the Hull Area and we do not anticipate future requests for telephony connections under the USO. We therefore agree that reporting on connection supply

times, as well as fault rates and repair times of fixed telephony services under the USO should be removed.

- 8.3 Ofcom is also proposing to introduce additional requirements to report on the number of faulty or damaged PCBs (including those reported via complaints), and the average time taken to repair those PCBs, together with information relating to the removal of Protected PCBs. KCOM has no objection to these reporting requirements.

9. Drafting

9.1 KCOM has the following comments on Ofcom's proposed drafting:

- Following KCOM's acquisition in August 2019 by MEIF 6 Fibre Limited and our subsequent delisting from the London Stock Exchange, KCOM is now a private limited company. As a result, the company name changed from KCOM Group PLC to KCOM Group Limited. References to KCOM Group in the Universal Service Conditions should be to KCOM Group Limited.
- We are unclear why term "Customers" is needed in Condition 4 and are concerned that this definition extends the application of the Condition to services provided to other communications providers. We believe that the term "End-Users" as defined in the General Conditions is sufficient to cover what is intended by Condition 4.
- Condition 5 Quality of Service and Reporting. We note that Ofcom is proposing that the first relevant period for reporting will be 1 April 2022 – 31 March 2023. We assume that this will be amended if the new USO Conditions have not been finalised before 1 April 2022 so that it does not cover a period before the revised Conditions come into force.