

21st April 2008

OFCOM,
Riverside House,
2a Southwark Bridge Road,
LONDON
SE1 9HA

For the attention of: Sarah Evans, Consumer Policy Manager

Dear Ms Evans,

Ref: Response to Consultation Document - BT Unfair Charges of £4.50 on quarterly bills

You may or may not be aware that I took British Telecommunications plc to court on the 28th March 2008 - case reference 7WJ02610 in Walsall County Court and the title of the action was Rosalinde Margaret Bond (née Fernihough) -v- British Telecommunications plc.

My argument was that the £4.50 charge was unfair within the meaning of the Unfair Terms in Consumer Contracts Regulations. British Telecommunications applied for summary judgment, the hearing lasted 3-hours and I lost the case. The District Judge stated that in his opinion the £4.50 charge was a core term and as such it was fair and not subject to the assessment of fairness under the Unfair Terms in Consumer Contracts Regulations because matters which are core terms relating to price and service are not assessable providing due notice has been given to the consumer that there is going to be a change in either price or service.

My argument is that the £4.50 charge for paying by non-direct debit is unfair, it has absolutely nothing to do with the price of renting the telephone line, neither does it have anything to do with the price of the telephone calls and if this charge was removed the price of the telephone calls and the line rental would remain the same as would the service. BT may have given due notice that they were going to introduce this charge which would not be imposed if people chose to pay their bills by direct debit. My argument is that no-one should be forced to pay by direct debit or have to give their private bank details to any third party.

BT's argument was that it costs money to collect payments from members of the public- this is not in dispute - however the money that it costs to collect payment by means other than direct debit from Barclays Bank is quite clear as their terms and conditions are published on the internet and a copy of those charges are enclosed. That is without any discount being negotiated by BT with Barclays Bank who are their banker and who happen to be my own bankers and just for the record any payments made by one Barclays customer to another Barclays customer by electronic debit card or transfer of money there is no charge, it is something that I do all the time with members of my family who also bank with Barclays. Technically it is not costing BT anything in respect of the payment of my telephone bill but that perhaps is a slightly different issue.

As you will see from the huge number of letters which I have received from members of the public and they have enclosed their correspondence they have received from BT, BT are actually stating that the £4.50 charge is also to cover late payers or non-payers and a point that I made in court was ... "*Why should I be responsible for anyone else's bad debts or the fact that they pay late*" and in any event BT charge £7.50 for a late payment fee so how can they be using part of the £4.50 for late payers if they are already charging the late payers £7.50.

I would be more than happy to pay the actual physical cost if there is any to BT which is charged by Barclays Bank and if I chose to pay by cheque it would be between 23p and 25p per transaction - I don't have a problem with that but what I do have a problem with is what I consider to be a rip off and an attempt to force ordinary members of the public to pay in a way that is abhorrent to them.

My bank details are private, they are not for the rest of the commercial industry to see or have anything to do with and with all this business of identity fraud and computer discs from various organisations going astray with confidential information, the last thing that I want is for my bank details to be on anyone else's computer disc and for them to go missing.

There is also the question of budgeting and it is unfair if one is forced into a situation where payment is by direct debit, the direct debit comes out on one day and you get paid the next day. This can happen where employees are paid monthly by cheque on the last working day and if the last working day happens to be a Friday and they are unable to put their cheque into the bank until a Monday and their direct debits go out on the last working day they could find themselves unfortunately overdrawn and then subject to bank charges. Further there is a problem with people not knowing how much is being taken out of their bank account.

In my opinion it is dangerous to give any organisation your bank details and whilst there is nothing wrong with paying by standing order which is a much safer option, by paying by direct debits go out on the last working day they could find themselves unfortunately overdrawn and then subject to bank charges. Further there is a problem with people not knowing how much is being taken out of their bank account.

In my opinion it is dangerous to give any organisation your bank details and whilst there is nothing wrong with paying by standing order which is a much safer option, by paying by direct debit you are giving control to the organisation with whom you have a contract.

This business of direct debits is not popular with APACS the banking clearing organisation. They have spent 26 million pounds on introducing a new system which comes on stream in May to make the transactions between banks faster and the clearing of cheques faster. Their view is that if everyone pays by direct debit they have wasted their money.

Judging by the response that I have had and you will see from the letters they are from a peer of the realm right down to pensioners on benefit, chairmen of industries and businesses right through to a person who is bankrupt. This is non-political, it goes right across income and class divides and is fundamentally appalled by all. No-one has any objections to actually paying for the cost of BT collecting the money, but the £4.50 charge or £1.50 a month if it is a monthly bill is abhorrent.

You will also note that there are references to other companies who also charge - Virgin has been mentioned in some of the correspondence. That is equally abhorrent but unfortunately there is nothing I can do about Virgin as I do not have any contracts with them neither would I wish to do so.

I think that you have to accept that all of these people who have written to me cannot be wrong. The other question that I ask is ... *"What is BT actually doing with the £4.50 charge."* Interestingly enough when they first introduced it they stated that it was inclusive of VAT and yet on later statements they are saying there is no VAT applicable. It must be one thing or the other and what do Revenue & Customs have to say about this.

I believe that BT are making a secret profit which they are not declaring they are and that it should be subject to assessment by Revenue & Customs for tax purposes. I do not see why BT should be allowed to make a secret profit at the consumers expense or it has even been suggested to me that if they have complete control over everyone's bank account and complete control over

the telephony services it would make them probably the most powerful organisation in the UK - this cannot be in the interests of democracy.

Therefore in conclusion this needs to be outlawed - it may take Parliament to change the law to stop these so-called penalty payments or it may be that through the courts on appeal the £4.50 charge and other similar charges may be outlawed - this still has to be tested and I have applied for permission to appeal the decision in my particular case. Unfortunately the appeal is not likely to be dealt with until after your closing date.

I have included a copy of the transcript of my proceedings, however please note the Judgment itself is not included because the transcript organisation has sent the Judgment to the court for the Judge to approve the wording and until we get that back I am not in a position to send it to you however I will send it as soon as I have it.

I have enclosed the documents which I consider are relevant in this matter and I trust that all these consumers who have written to me in very strong terms you will take note of.

I would be obliged if you could confirm safe receipt of this correspondence and documentation.

Yours sincerely,

MRS R.M. BOND (née Fernihough)

P.S. Judgment arrived by Email today.