

11 July 2008

The Telecommunications Industry and Consumers

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Dear Sirs,

Revocation of SMP Conditions MA6

Monitoring compliance with charge controls statement – 18 December 2007

Ofcom confirms today that it has revoked the significant market power ('SMP') conditions MA6 which were previously on H3G, O2, Orange, T-Mobile and Vodafone.

On 13 March 2008, we notified you of our proposal to revoke SMP conditions MA6. We have reviewed the responses to our notification and conclude that we should make these revocations. Attached to this letter is the formal notification of this.

Revocation:

It came to our attention that we had not notified, as we should have, the European Commission under s50 (3) of the Communications Act 2003 of our consultation on the proposed SMP conditions MA6.

This was an important part of the consultation process and therefore we have withdrawn our Monitoring Compliance with Charge Controls statement of 18 December 2007 and revoked the accompanying SMP conditions MA6. This also means that we have withdrawn the statement on the Charge Control Compliance Standard of 18 December 2007.

The effect of revoking SMP Conditions MA6 is to remove the requirement on mobile operators with significant market power, to carry out various procedures regarding compliance with the mobile charge control (as set out in the statement on mobile call termination of 27 March 2007 and SMP conditions MA3 and MA4). These procedures included requirements for those operators to: submit information to Ofcom according to the Charge Control Compliance Standard, to have an independent assurance report prepared on certain compliance information and to publish some of the information and the assurance report.

It remains our view that there has been no material change to the relevant product markets since the publication of the 27 March 2007 statement on mobile call termination.

Responses:

We received three responses from: Orange, the European Commission (The Commission) and British Telecommunications plc (BT). These are published on our website¹.

Orange agreed with the revocation, given the circumstances. However it then made various criticisms about Ofcom's previous processes. While we welcome all comments from stakeholders, the points made here were not relevant to the particular issue of the revocation which was being consulted on.

BT understood the need to revoke the condition but, as purchasers, asked us to provide reassurance that the mobile network operators have complied with the mobile call termination charge control. Ofcom is in the process of checking compliance with the first year of the charge control.

The Commission noted that we had identified a concern about our ability to monitor compliance with charge controls. They asked us to notify them of any further remedy that we proposed in the future. Ofcom will, of course, keep the Commission fully informed going forward.

Future plans:

We are currently considering our approach to monitoring compliance with charge controls and whether this can be made more effective.

Kind regards,



Craig Lonie
Competition Finance Director

¹ <http://www.ofcom.org.uk/consult/condocs/compliance/statement/responses/>