



Proposed modifications to BT's SMP service conditions AA4, BA4 and PA1

Amendments to the charge control conditions

Consultation

Publication date: **9 December 2004**

Closing Date for Responses: **13 January 2005**

Contents

Section		Page
1	Summary	2
2	Explanatory memorandum	4
3	Responding to this consultation	8

Annex		Page
1	Notification	10
2	Notification	18
3	Notification	23
4	Ofcom's consultation principles	29
5	Consultation response cover sheet	30

Section 1

Summary

- 1.1 Ofcom is proposing to modify BT's SMP services conditions AA4, BA4 and PA1. These are the conditions that place limitations on what BT can charge other communications providers for wholesale services in markets in which BT has been found to have significant market power (SMP). The SMP analyses giving the underlying reasons for setting these conditions is set out in the statements entitled *Review of fixed geographic call termination markets* and *Review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets*, which were published on 28 November 2003. The conditions themselves were established through those documents and that entitled *Review of BT's product management, policy and planning (PPP) charges*, which was published on 28 July 2004.
- 1.2 The markets to which these conditions relate are to those in the UK except for the Hull Area. They are:
 - call origination on fixed public narrowband networks;
 - local-tandem conveyance and transit on fixed public narrowband networks;
 - inter-tandem conveyance and transit on fixed public narrowband networks;
 - single transit on fixed public narrowband networks;
 - fixed geographic call termination;
 - wholesale residential analogue exchange line services;
 - wholesale residential ISDN2 exchange line services;
 - wholesale business analogue exchange line services;
 - wholesale business ISDN2 exchange line services; and
 - wholesale ISDN 30 exchange line services.
- 1.3 As well as the services directly in these markets, the conditions also control charges for interconnection circuits and the product management, policy and planning component.

Reasons for the proposed change and charge control compliance

- 1.4 BT has recently written to Ofcom to explain that it is unable to guarantee that it will be able to comply with the relevant conditions within the charge control year 2004/5 and any control set on the same basis thereafter. The reasons for this are quite simple. The current SMP services conditions require BT to meet the controls on the basis of volumes and revenues accrued in the charge control year concerned in comparison to the volumes and revenues accrued in the preceding charge control year. For instance, if the volumes remained constant BT would need to show that revenues in the charge control year concerned decreased in accordance with the controlling percentage. The problem with this is that BT does not know the volumes and therefore accrued revenues until the end of the charge control year. The current control therefore requires BT to forecast volumes and therefore revenues. In the event that any such

forecast was inaccurate, Ofcom and BT would have to take steps to ensure that BT adjusted its charges by a sufficient amount to satisfy the requirements of the condition.

- 1.5 Ofcom does not believe that it would be of benefit to any parties if Ofcom and BT had to recalculate whether or not BT had met the preceding year's controls after the end of that control year. This would not aid transparency and nor would it provide any certainty. This is not a satisfactory position to maintain. For these reasons, Ofcom believes that it is appropriate to modify these conditions now. The proposed modifications would allow BT to show compliance with the charge control on 1 April 2005 if it chose to change its charges on that date. The changes would be based on known volumes and therefore revenues.

Section 2

Explanatory memorandum

Introduction

- 2.1 Ofcom is proposing to modify BT's SMP services conditions AA4, BA4 and PA1. These are the conditions that place limitations on what BT can charge other communications providers for wholesale services in markets in which BT has been found to have significant market power (SMP). The SMP analyses giving the underlying reasons for setting these conditions is set out in the statements entitled *Review of fixed geographic call termination markets* and *Review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets*. Both documents were published on 28 November 2003. The conditions themselves were established through those documents and that entitled *Review of BT's product management, policy and planning (PPP) charges*, which was published on 30 July 2004.
- 2.2 The markets to which these conditions relate are to those in the UK except for the Hull Area. They are:
- call origination on fixed public narrowband networks;
 - local-tandem conveyance and transit on fixed public narrowband networks;
 - inter-tandem conveyance and transit on fixed public narrowband networks;
 - single transit on fixed public narrowband networks;
 - fixed geographic call termination;
 - wholesale residential analogue exchange lines services;
 - wholesale residential ISDN2 exchange line services;
 - wholesale business analogue exchange line services;
 - wholesale business ISDN2 exchange line services; and
 - wholesale ISDN 30 exchange line services.
- 2.3 As well as the services directly in these markets, the conditions also control charges for interconnection circuits and the product management, policy and planning component.
- 2.4 Each of these conditions requires BT to ensure that average charges for the baskets of services concerned do not breach the charge control in the relevant year. The relevant year in each case is 1 October to 30 September, except for Wholesale Line Rental and Existing Line Transfer Services where the relevant year is 1 September to 31 August. In addition, the effect of the charge changes had to be the same as if they had been made at the mid-point of the year. In the absence of this additional constraint, BT would have a strong incentive to reduce its charges on the last possible day in each charge control year, as this would mean that it could maintain higher charges for a longer period. The effect of any given charge change was calculated by multiplying it by a factor representing the fraction of the year for which it actually applied, known as the weighted average date of the change. In each year BT has chosen to change its charges on that mid-point date itself, i.e. 1 April. As BT has chosen to change its

charges on 1 April in each year (there was no direct obligation for it to do so), it has been possible for BT to show compliance with the charge cap at the same point in time.

The charge control mechanics and annual net revenues

- 2.5 As explained, in the statements referred to in paragraph 2.1, Ofcom set out the SMP services conditions which were effectively a replacement for the old licence condition (69). These new SMP service conditions reflect BT's SMP in the relevant markets and are therefore designed to prevent exploitation of its SMP. In analysing the mechanics and compliance requirements of what was Condition 69, which Ofcom believed to be unwieldy, Ofcom chose to move to a regime under which it would monitor annual net revenues accrued within the charge year to those accrued in the preceding charge control year. Ofcom believed that this would simplify the process and that it would ensure that charges and therefore costs were based on actual volumes. These changes also served to remove the weighted average date. But it did not lose the essential property of that calculation, which was that the effect of the charge changes had to be the same as if they had been made at the mid-point of the year.

Reasons for the proposed change and charge control compliance

- 2.6 BT has generally chosen to change its charges on 1 April in each charge control year. This date is the fulcrum point of each year and is, as explained in paragraph 2.4, the date by which the effects of average charge changes have been measured. In this particular year, as a direct consequence of changes to the relevant SMP services conditions, BT has found that it is unable to guarantee compliance within the charge control year. The reasons for this are quite simple. The SMP services conditions require BT to meet the controls on the basis of a comparison of volumes and revenues accrued in the charge control year against the preceding year's volumes and revenues accrued. The control, therefore, as established in the relevant SMP services conditions, requires BT to forecast volumes and the associated revenues that it is likely to accrue in the year concerned. Forecasts are, however, inevitably, prone to error. In this case, forecast error would require remedial steps. In other words, BT would have to subsequently adjust its charges to ensure that its charges were amended within the year to the extent necessary to satisfy the requirements of the condition. In addition, the current conditions do not allow for adjustments for under- or over recovery between charge control periods.
- 2.7 Ofcom does not believe that it would be of benefit to any parties if BT had to calculate whether or not it had met the preceding year's control after the event. This would not be transparent and nor would it provide any certainty. This is not a satisfactory position to maintain. For these reasons, Ofcom believes that it is appropriate to modify these conditions now. The proposed modifications would allow BT to show compliance with the charge control at the point in time in which it changed its charges to meet the various charge caps.
- 2.8 In the statement entitled *Partial Private Circuits Charge Controls*, which Ofcom published on 30 September 2004, Ofcom considered this very issue. In that statement Ofcom came to the conclusion that, on balance, prior year revenue weighting (i.e. weighting based on revenues that were known rather than forecast) was preferable to current year revenue weighting (i.e. forecast rather than known). The latter would be reliant on forecast weights and, as a consequence, it would be probable that such a system would result in the need for retrospective adjustments. This would be akin to the annual and interim determination regime, which was replaced on 1 October 1997. Under that regime Oftel had to forecast movements in cost and set interim charges

based on those forecasts. These were subsequently adjusted and applied once actual costs were known. A principal concern with the annual determination regime was the retrospective nature of it.

The proposed modifications

- 2.9 The main proposed changes to conditions AA4, BA4 and PA1 would reintroduce the definition of "Relevant Financial Year" and the weighted average date. The reintroduction of the defined term "Relevant Financial Year" would mean that compliance for the charge control year 1 October 2004 to 30 September 2005 would be measured against revenues accrued in the financial year 1 April 2003 to 31 March 2004. For wholesale line rental services, the relevant controls last until 31 August 2006 and therefore compliance in relation to these services for that year would be measured against the following financial year (i.e the year ending on 31 March 2005). As a result, BT would be able to change its charges on 1 April 2005 (and, for wholesale line rental services, 1 April 2006) and know that, if it did not change those charges again, it would be able to show compliance with the letter as well as the spirit of the control. The second change would make it clear that the effect of the charge changes had to be the same as if they had been made at the mid-point of the year.
- 2.10 In addition to these changes, Ofcom has proposed some further modifications to the relevant conditions to reflect the fact that the conditions are to last for one year only. These are intended to simplify the conditions. These simplifications are not likely to have any unintended consequences. For instance, Ofcom proposes to delete historic references to condition 69 and the Director, provisions requiring BT to remedy deficiencies between charge control years or benefit from reductions that were greater than those required (this is the final charge control year of the period concerned and these provisions are irrelevant), and has deleted reference to the average charge for product management, policy and planning equating to 0.012ppm per minute for the period 1 August 2004 to 30 September 2004 (the average charge for the period concerned was exactly that). Notable additions include the ability for Ofcom to require BT to adjust its charges within the final charge control year to ensure compliance (essentially, this is a backstop provision to reflect the changes to the conditions now proposed) and the insertion of relevant definitions within the conditions themselves.
- 2.11 The main proposed modifications, which were referred to in paragraph 2.9, would align monitoring and compliance of the controls set out in SMP services conditions AA4, BA4 and PA1 with those set out in SMP services conditions G4 and GG4, as amended on 30 September 2004, under which Ofcom controls BT's charges for traditional symmetric broadband origination up to and including 8Mbit/s in the UK excluding the Hull Area **and** traditional symmetric interface broadband origination over 8Mbit/s up to and including 155Mbit/s excluding the Hull Area respectively. Partial private circuit terminating segments are also controlled under both SMP services conditions G4 and GG4.
- 2.12 In particular, the formulae set out in SMP services conditions G4 and GG4 shall be replicated in SMP services conditions AA4, BA4 and PA1 and shall be used to monitor compliance with those conditions. The formulae concerned are set out in SMP services conditions AA4.2, AA4.3 and AA4.4, BA4.2 and BA4.3, and PA1.2 and PA1.3.
- 2.13 The proposed modifications to SMP services conditions AA4, BA4 and PA1 are set out in the Schedules to each of the Notifications at Annexes 1, 2 and 3 respectively.

The relevant tests

- 2.14 In proposing to modify the relevant SMP services conditions, Ofcom has considered its duties under sections 3 and 4 of the Communications Act 2003 (the "Act"). In particular, Ofcom believes that its proposals are in the interests of consumers in relevant markets (section 3(1)(b)), as BT would be able to show compliance and would therefore have met the control within the charge control year and not have to subsequently make adjustments to its charges. The services, and therefore the charges for them in the markets concerned, are crucial inputs to all communications providers' retail services. Ofcom therefore believes that the effect of its proposals would be likely to further the interests of citizens and consumers by promoting competition. For the same reasons, Ofcom believes that its proposals meet the Community requirements set in section 4 of the Act such as the requirement to promote competition (section 4(3)).
- 2.15 In terms of section 47(2) of the Act, the proposed modifications are objectively justifiable, as they would serve to ensure that BT could guarantee compliance with the relevant SMP services conditions limiting its ability to increase its charges. The proposals do not unduly discriminate against any persons, as all communications providers would benefit from the certainty and transparency that these changes would provide. All would know that BT had met the requirements of the charge control. The proposals are proportionate, as they would give BT certainty that it could meet the control and there would no need to subsequently adjust for any failure to meet the control. They are also transparent, as these changes would provide certainty that the controls would be met within the charge control year.
- 2.16 Section 86 of the Act states that Ofcom must not modify SMP services conditions unless it is satisfied that there has not been a material change in the markets identified. In this case, Ofcom is not aware of any material changes in the markets concerned. Moreover, Ofcom does not believe that there could be any changes that would materially change the markets in the year to 30 September 2005 or in those relating to wholesale line rental services to 31 August 2006. More generally, Ofcom intends to look at these matters in detail in its forthcoming review of the Network Charge Controls. The Network Charge Controls govern all of the services that are subject to regulation under conditions AA4, BA4 and PA1.

Conclusions and next steps

- 2.17 Ofcom believes that for the reasons set out in this consultation document it needs to modify the relevant conditions as proposed in the Notification to this document. Comments on the proposals set out in this document, including any comments by the European Commission, and on the proposed modifications to the SMP services conditions should be made in writing to Michael Galvin, Ofcom, Competition and Markets, 2A Southwark Bridge Road, London, SE1 9HA. These should be made by no later than **13 January 2005**. In the absence of any representations objecting to Ofcom's proposals, Ofcom intends to modify conditions AA4, BA4 and PA1. These conditions are set out at Annexes 1, 2 and 3 to this consultation document.

Section 3

Responding to this consultation

How to respond

Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on 13 January 2005**.

Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 2), among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.

Please can you send your response to michael.galvin@ofcom.org.uk.

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Michael Galvin
Competition and Markets
4th Floor
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Phone: 020 7783 4158
Fax: 020 7783 4109

Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

It would be helpful if your response could explain why you hold your views, and how Ofcom's proposals would impact on you.

Further information

If you have any want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact name of team member on 020 7783 4158.

Confidentiality

Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt (when respondents confirm on their response cover sheer that this is acceptable).

All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

Ofcom reserves its power to disclose certain confidential information where this is necessary to fulfil its functions, although in practice it would do so only in limited circumstances.

Please also note that copyright and all other intellectual property in responses will be assumed to be assigned to Ofcom unless specifically retained.

Next steps

Following the end of the consultation period, Ofcom intends to proceed to modify the conditions concerned.

Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 1) which it seeks to follow, including on the length of consultations.

This consultation is shorter than Ofcom's standard 10 week period because - for guidance on valid reasons see Ofcom's published consultation guidelines, available at http://www.ofcom.org.uk/consultations/consult_method/consult_guide.pdf.

Also include here reasons for any other departures from Ofcom's consultation principles.

If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Philip Rutnam, Partner, Competition and Strategic Resources, who is Ofcom's consultation champion:

Philip Rutnam
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
Tel: 020 7981 3585
Fax: 020 7981 3333
E-mail: philip.rutnam@ofcom.org.uk

Annex 1

Notification

NOTIFICATION UNDER SECTIONS 48(2) AND 86 OF THE COMMUNICATIONS ACT 2003

Proposals for the modification of SMP services condition AA4 in Schedule 1 to the November 2003 Notification (as amended in Schedule 1 to the July 2004 Notification) imposed on BT as a result of the market power determinations made by the Director that BT has significant market power in the markets set out in paragraph 2 to this notification

1. OFCOM hereby make in accordance with sections 48(2) and 86 of the Act the following proposals for the modification of an SMP services condition which was set by reference to market power determinations in relation to markets in which OFCOM are satisfied there has been no material change since those determinations were proposed or made.
2. The proposals contained in this notification are further to the market power determinations made in the November 2003 Notification under section 79 of the Act whereby BT was determined to have significant market power in the following markets in the United Kingdom, excluding the Hull Area:
 - a. wholesale residential analogue exchange line services;
 - b. wholesale residential ISDN2 exchange line services;
 - c. wholesale business analogue exchange line services;
 - d. wholesale business ISDN2 exchange line services;
 - e. wholesale ISDN30 exchange line services;
 - f. call origination on fixed public narrowband networks;
 - g. local-tandem conveyance and transit on fixed public narrowband networks;
 - h. inter-tandem conveyance and transit on fixed public narrowband networks;
and
 - i. single transit on fixed public narrowband networks.
3. As a result of, amongst other things, the market power determinations referred to in paragraph 2 above, BT has been subjected to a number of SMP services conditions, including SMP services condition AA4. SMP services condition AA4 was amended as set out in Schedule 1 to the July 2004 Notification in relation to the market referred to in paragraph 2(f) above.
4. OFCOM are proposing to modify SMP services condition AA4 in respect of its application to BT in the markets listed in paragraph 2 above as set out in the Schedules to this notification.

5. The effect of, and OFCOM's reasons for making, the proposals referred to in paragraph 4 above is set out in the accompanying explanatory statement.
6. OFCOM consider that the proposals referred to in paragraph 4 above complies with the requirements of sections 45 to 50 and sections 78 to 92 of the Act, as appropriate and relevant to each of the proposals.
7. In making the proposals set out in this notification, OFCOM have considered and acted in accordance with their general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.
8. Representations may be made to OFCOM about the proposals set out in this notification and the accompanying explanatory statement by **13 January 2005**.
9. Copies of this notification and the accompanying explanatory statement have been sent to the Secretary of State in accordance with section 50(1)(a), and to the European Commission and the regulatory authorities of every other Member State in accordance with section 50(3) of the Act.
10. In this notification (not including the Schedules) –
 - a. "Act" means the Communications Act 2003;
 - b. "BT" means British Telecommunications plc, whose registered company number is 1800000, and any British Telecommunications plc subsidiary or holding company, or any subsidiary of that holding company, all as defined by Section 736 of the Companies Act 1985 as amended by the Companies Act 1989;
 - c. "Director" means the Director General of Telecommunications;
 - d. "Hull Area" means the area defined as the 'Licensed Area' in the licence granted on 30 November 1987 by the Secretary of State under section 7 of the Telecommunications Act 1984 to Kingston upon Hull City Council and Kingston Communications (Hull) plc;
 - e. "July 2004 Notification" means the notification set out at Annex A to the review of the BT's product management, policy and planning (PPP) charge published by OFCOM on 30 July 2004;
 - f. "November 2003 Notification" means the notification set out at Annex A to the review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets published by the Director on 28 November 2003; and
 - g. "United Kingdom" has the meaning given to it in the Interpretation Act 1978.
11. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this notification and otherwise any word or expression shall have the same meaning as it has in the Act.
12. For the purpose of interpreting this notification:
 - a. headings and titles shall be disregarded; and

- b. the Interpretation Act 1978 shall apply as if this notification were an Act of Parliament

13. The Schedule to this notification shall form part of this notification.



DAVID K S THOMAS
DIRECTOR OF REGULATORY FINANCE

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

9 DECEMBER 2004

SCHEDULE 1

Proposed modification to SMP services conditions AA4 imposed on BT as a result of the market power determinations made by the Director in the November 2003 Notification, and subsequently amended by the July 2004 Notification in relation to the market referred to in paragraph 2(f) of this notification, that BT has significant market power in the markets set out in paragraph 2 of this notification

1. SMP services condition AA4, as amended, shall be deleted and replaced in its entirety as follows:

Condition AA4

Charge control

AA4.1 Without prejudice to the generality of Condition AA3, and subject to paragraphs AA4.2, AA4.5 and AA4.6, the Dominant Provider shall take all reasonable steps to secure that, at the end of each Relevant Year, the Percentage Change (determined in accordance with paragraphs AA4.3 or AA4.4 as appropriate) in:

- a. the aggregate of charges for Wholesale Line Rental Services;
- b. the aggregate of charges for Call Origination Services;
- c. the aggregate of charges for Single Transit Services and Local-tandem Conveyance Services;
- d. each discrete charge, including charges disaggregated by time of day, distance or route, for Inter-tandem Conveyance and Transit Services;
- e. the charge for Existing Line Transfer;
- f. each of:
 - i. the charge for the LECO circuit (excluding the FRIACO port at the Local Exchange);
 - ii. the charge for the FRIACO port at the Local Exchange; and
 - iii. the charge for PPP per FRIACO port;
- g. each of:
 - i. the charge for a flat rate internet access local-tandem circuit (including DLE facing port but excluding FRIACO port at the Tandem Exchange); and
 - ii. the charge for a FRIACO port at the Tandem Exchange,

in each case is not more than the Controlling Percentage (determined in accordance with paragraph AA4.7).

AA4.2 For the purpose of complying with paragraph AA4.1, the Dominant Provider shall take all reasonable steps to secure that the revenue it accrues as a result of all individual Charge Changes during any Relevant Year shall be no more than that which it would have accrued had all of those Charge Changes been made at 1 April

in the Relevant Year in question. The Dominant Provider shall be deemed to have satisfied this obligation where, in the case of a single Charge Change in the Relevant Year in question, the following formula is satisfied:

$$RC(1 - D) \leq TRC$$

where:

RC is the revenue change associated with the single Charge Change made in the Relevant Year in question, calculated by the relevant Percentage Change immediately following the Charge Change multiplied by the revenue accrued during the Relevant Financial Year;

TRC is the target revenue change required in the Relevant Year in question to achieve compliance with paragraph AA4.1, calculated by the Percentage Change required in the Relevant Year in question to achieve compliance with paragraph AA4.1 multiplied by the revenue accrued from the provision of the services or categories of services specified in paragraphs AA4.1(a) to AA4.1(g) during the Relevant Financial Year; and

D is the elapsed proportion of the Relevant Year in question, calculated as the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -182 to 30 September = 182, divided by 365.

AA4.3 The Percentage Change shall be calculated separately for each of:

- i. the category of services specified in paragraph AA4.1(a);
- ii. the category of services specified in paragraph AA4.1(b); and
- iii. the category of services specified in paragraph AA4.1(c);

by employing the following formula:

$$C_t = \frac{\sum_{i=1}^n \left[R_i \frac{(p_{t,i} - p_{0,i})}{p_{0,i}} \right]}{\sum_{i=1}^n R_i}$$

where:

C_t is the Percentage Change in the aggregate of charges for the services in the category of services in question at a particular time t during the Relevant Year;

n is the number of individual services in the category of services in question;

R_i is the sum of the revenue accrued during the Relevant Financial Year in respect of the individual service i that forms part of the category of services in question where i is a unique number from 1 to n for each of the n individual services in the category of services;

$p_{0,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of the category of services in question immediately preceding the beginning of the Relevant Year; and

$p_{t,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of the category of services in question at time t during the Relevant Year.

AA4.4 The Percentage Change shall be calculated separately for each individual service specified within paragraphs AA4.1(d) to AA4.1(g) by employing the following formula:

$$C_t = \frac{(p_t - p_0)}{p_0}$$

where:

C_t is the Percentage Change in charges for the service in question at a particular time t during the Relevant Year;

p_0 is the published charge made by the Dominant Provider for the service in question immediately preceding the beginning of the Relevant Year; and

p_t is the published charge made by the Dominant Provider for the service in question at time t during the Relevant Year.

AA4.5 For the purposes of the categories of service specified in paragraphs AA4.1(a) and AA4.1(e), where the Percentage Change in the Relevant Year starting 1 September 2004 is less than the Controlling Percentage (so that the Dominant Provider has made larger than necessary reductions), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4.7, but increased by the absolute value of such excess.

AA4.6 For the purposes of the categories of service specified in paragraphs AA4.1(a) and AA4.1(e), where the Percentage Change in the Relevant Year starting 1 September 2004 is more than the Controlling Percentage (so that the Dominant Provider has made smaller than necessary reductions), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4.7, but decreased by the absolute value of such deficiency.

AA4.7 Subject to paragraphs AA4.5 and AA4.6, the Controlling Percentage in relation to any Relevant Year is the amount of the change in the Retail Prices Index in the period of 12 months ending on 30th June immediately before the beginning of that Year expressed as a percentage (rounded to two decimal places) of that Index as at the beginning of that period reduced:

- a. for Wholesale Line Rental Services, by 2 percentage points;
- b. for Call Origination Services, by 10 percentage points;
- c. for Single Transit Services and Local-tandem Conveyance Services, by 13 percentage points;

- d. for Inter-tandem Conveyance and Transit Services, by 0 percentage points;
- e. for Existing Line Transfer, by 2 percentage points;
- f. for each service specified in paragraph AA4.1(f), by 7.5 percentage points;
and
- g. for each service specified in paragraph AA4.1(g), by 8.75 percentage points.

AA4.8 Where the Dominant Provider makes a material change (other than to a Charge) to any Charge Controlled Service for which a Charge is charged or to the date on which its financial year ends or there is a material change in the basis of the Retail Prices Index, paragraphs AA4.1 to AA4.7 shall have effect subject to such reasonable adjustment to take account of the change as Ofcom may direct to be appropriate in the circumstances. For the purposes of this paragraph, a material change to any Charge Controlled Service includes the introduction of a new product and/or service wholly or substantially in substitution for an existing Charge Controlled Service.

AA4.9 The Dominant Provider shall, no later than three months after the end of each Relevant Year, supply to Ofcom, in writing, the data necessary to perform the calculation of the Percentage Change.

AA4.10 If it appears to Ofcom that the Dominant Provider is likely to fail to secure that the Percentage Change does not exceed the Controlling Percentage for:

- i. the period of 12 months beginning on 1 September 2005 and ending on 31 August 2006 for the purposes of all categories of service specified in paragraphs AA4.1(a) and AA4.1(e); and
- ii. the period of 12 months beginning on 1 October 2004 and ending on 30 September 2005 for the purposes of all categories of service specified in paragraphs AA4.1(b), AA4.1(c); AA4.1(d); AA4.1(f) and AA4.1(g);

the Dominant Provider shall make such adjustment to any of its charges for any of the categories of service specified in paragraphs AA4.1(a) to (g) and by such day in that year as Ofcom may direct for the purpose of avoiding this failure;

AA4.11 Paragraphs AA4.1 to AA4.10 shall not apply to such extent as Ofcom may direct.

a. In this Condition:

- a. "Charge Change" means a change to any of the charges for any of the services or categories of services specified in paragraphs AA4.1(a) to AA4.1(g);
- b. "Controlling Percentage" is to be determined in accordance with Condition AA4.7;
- c. "Percentage Change" means:
 - i. for the separate categories of services specified in each of sub-paragraphs (a) to (c) of Condition AA4.1, has the meaning given to it in Condition AA4.3; and

- ii. for the separate services specified in each of sub-paragraphs (d) to (g) of Condition AA4.1, has the meaning given to it in Condition AA4.4.
 - d. "Relevant Financial Year" means the period of 12 months ending on 31 March immediately preceding the Relevant Year in question;
 - e. "Relevant Year" means for the purposes of the categories of service specified in paragraphs AA4.1(a) and AA4.1(e), any of the two periods of 12 months beginning on 1 September starting with 1 September 2004 and ending on 31 August 2006; and for the purposes of all categories of service specified in paragraph AA4.1(b), AA4.1(c), AA4.1(d), AA4.1(f) and AA4.1(g), the period of 12 months beginning on 1 October 2004 and ending on 30 September 2005; and
 - f. "Retail Prices Index" means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty's Government or a governmental department (which is the Office of National Statistics at the time of publication of this Notification) from time to time in respect of all items.
2. The following definitions set out in paragraph 2 of Part 1 of Schedule 1 to the November 2003 Notification shall be deleted and the definitions remaining in that Schedule to the November 2003 Notification shall be renumbered accordingly:
- (w) "Controlling Percentage" has, for the purposes of the categories of service specified in paragraph AA4.1, the respective meaning given to it in paragraphs (a) to (g) of Condition AA4.6;
 - (eee) "Percentage Change":
 - i. for the three separate categories of service specified in each of sub-paragraphs (a) to (c) of Condition AA4.1, has the meaning given to it in Condition AA4.2; and
 - ii. (for the seven separate categories of service specified in each of sub-paragraphs (d) to (g) of Condition AA4.1, has the meaning given to it in Condition AA4.3;
 - (ooo) "Relevant Year" means:
 - i. for the purposes of the category of services specified in paragraphs AA4.1(a) and (e) of Condition AA4, any of the three periods of 12 months beginning on 1st September starting with 1st September 2003 and ending on 31st August 2006;
 - ii. for the purposes of all categories of service specified in paragraph AA4.1 other than those specified in paragraphs AA4.1(a) and (e) of Condition AA4, any of the two periods of 12 months beginning on 1st October starting with 1st October 2003 and ending on 30th September 2005;
 - (ppp) "Retail Price Index" means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty's Government or a governmental department from time to time in respect of all items (which is the Office for National Statistics at the time of publication of this Notification);

Annex 2

Notification

NOTIFICATION UNDER SECTIONS 48(2) AND 86 OF THE COMMUNICATIONS ACT 2003

Proposals for the modification of SMP services condition BA4 in Schedule 1 to the November 2003 Notification imposed on BT as a result of the market power determination made by the Director that BT has significant market power in the market set out in paragraph 2 to this notification

1. OFCOM hereby make in accordance with sections 48(2) and 86 of the Act the following proposals for the modification of an SMP services condition which was set by reference to a market power determination in relation to a market in which OFCOM are satisfied there has been no material change since that determination was proposed or made.
2. The proposals contained in this notification are further to the market power determination made in the November 2003 Notification under section 79 of the Act whereby BT was determined to have significant market power in the market for fixed geographic call termination provided by BT.
3. As a result of, amongst other things, the market power determination referred to in paragraph 2 above, BT has been subjected to a number of SMP services conditions, including SMP services condition BA4.
4. OFCOM are proposing to modify SMP services condition BA4 in respect of its application to BT in the market listed in paragraph 2 above as set out in the Schedules to this notification.
5. The effect of, and OFCOM's reasons for making, the proposals referred to in paragraph 4 above is set out in the accompanying explanatory statement.
6. OFCOM consider that the proposals referred to in paragraph 4 above complies with the requirements of sections 45 to 50 and sections 78 to 92 of the Act, as appropriate and relevant to each of the proposals.
7. In making the proposals set out in this notification, OFCOM have considered and acted in accordance with their general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.
8. Representations may be made to OFCOM about the proposals set out in this notification and the accompanying explanatory statement by **13 January 2005**.
9. Copies of this notification and the accompanying explanatory statement have been sent to the Secretary of State in accordance with section 50(1)(a), and to the European Commission and the regulatory authorities of every other Member State in accordance with section 50(3) of the Act.
10. In this notification (not including the Schedules) –
 - a. "Act" means the Communications Act 2003;

- b. "BT" means British Telecommunications plc, whose registered company number is 1800000, and any British Telecommunications plc subsidiary or holding company, or any subsidiary of that holding company, all as defined by Section 736 of the Companies Act 1985 as amended by the Companies Act 1989;
 - c. "Director" means the Director General of Telecommunications; and
 - d. "November 2003 Notification" means the notification set out at Annex B to the review of the fixed geographic call termination market published by the Director on 28 November 2003.
11. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this notification and otherwise any word or expression shall have the same meaning as it has in the Act.
12. For the purpose of interpreting this notification:
- a. headings and titles shall be disregarded; and
 - b. the Interpretation Act 1978 shall apply as if this notification were an Act of Parliament
13. The Schedule to this notification shall form part of this notification.



DAVID K S THOMAS
DIRECTOR OF REGULATORY FINANCE

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

9 DECEMBER 2004

SCHEDULE 1

Proposed modification to SMP services condition BA4 imposed on BT as a result of the market power determination made by the Director in the November 2003 Notification that BT has significant market power in the market set out in paragraph 2 of this notification

2. SMP services condition BA4 shall be deleted and replaced in its entirety as follows:

Condition BA4 – Charge control

BA4.1 Without prejudice to the generality of Condition BA3, and subject to paragraph BA4.2, the Dominant Provider shall take all reasonable steps to secure that, at the end of the Relevant Year, the Percentage Change (determined in accordance with paragraph BA4.3) in the aggregate of charges for Fixed Call Termination Wholesale Services is not more than the Controlling Percentage (determined in accordance with paragraph BA4.4).

BA4.2 For the purpose of complying with paragraph BA4.1, the Dominant Provider shall take all reasonable steps to secure that the revenue it accrues as a result of all individual Charge Changes during any Relevant Year shall be no more than that which it would have accrued had all of those Charge Changes been made at 1 April in the Relevant Year in question. The Dominant Provider shall be deemed to have satisfied this obligation where, in the case of a single Charge Change during the Relevant Year in question, the following formula is satisfied:

$$RC(1 - D) \leq TRC$$

where:

RC is the revenue change associated with the single Charge Change made in the Relevant Year in question, calculated by the relevant Percentage Change immediately following the Charge Change multiplied by the revenue accrued during the Relevant Financial Year;

TRC is the target revenue change required in the Relevant Year in question to achieve compliance with paragraph BA4.1, calculated by the Percentage Change required in the Relevant Year in question to achieve compliance with paragraph BA4.1 multiplied by the revenue accrued from the provision of Fixed Call Termination Wholesale Services during the Relevant Financial Year; and

D is the elapsed proportion of the Relevant Year, calculated as the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -182 to 30 September = 182, divided by 365.

BA4.3 The Percentage Change shall be calculated for the purposes of complying with paragraph BA4.1 by employing the following formula:

$$C_t = \frac{\sum_{i=1}^n \left[R_i \frac{(p_{t,i} - p_{0,i})}{p_{0,i}} \right]}{\sum_{i=1}^n R_i}$$

where:

C_t is the Percentage Change in the aggregate of charges for the services in the category of services in question at a particular time t during the Relevant Year;

n is the number of individual services in the category of services in question;

R_i is the sum of the revenue accrued during the Relevant Financial Year in respect of the individual service i that forms part of the category of services in question where i is a unique number from 1 to n for each of the n individual services in the category of services;

$p_{0,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of the category of services in question immediately preceding the beginning of the Relevant Year; and

$p_{t,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of the category of services in question at time t during the Relevant Year.

BA4.4 The Controlling Percentage in relation to the Relevant Year is the amount of the change in the Retail Prices Index in the period of 12 months ending on 30 June immediately before the beginning of that Year expressed as a percentage (rounded to two decimal places) of that Index as at the beginning of that period reduced by 10 percentage points.

BA4.5 The Dominant Provider shall, no later than three months after the end of each Relevant Year, supply Ofcom, in writing, the data necessary to perform the calculation of the Percentage Change.

BA4.6 If it appears to Ofcom that the Dominant Provider is likely to fail to secure that the Percentage Change does not exceed the Controlling Percentage for the period of 12 months beginning on 1 October 2004 and ending on 30 September 2005 the Dominant Provider shall make such adjustment to any of its charges for Fixed Call Termination Wholesale Services and by such day in that year as Ofcom may direct for the purpose of avoiding this failure.

BA4.7 Paragraphs BA4.1 to BA4.6 shall not apply to such extent as Ofcom may direct.

BA4.8 In this Condition:

- a. "Charge Change" means a change to any of the charges for the provision of Fixed Geographic Call Termination Wholesale Services;
- b. "Controlling Percentage" is to be determined in accordance with Condition BA4.4;
- c. "Relevant Financial Year" means the period of 12 months ending on 31 March immediately preceding the Relevant Year;
- d. "Relevant Year" means the period of 12 months beginning on 1 October 2004 and ending on 30 September 2005; and
- e. "Retail Prices Index" means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty's Government or a governmental

department (which is the Office of National Statistics at the time of publication of this Notification) from time to time in respect of all items.

3. The following definitions set out in paragraph 2 of Part 1 of Schedule 1 to the November 2003 Notification shall be deleted:

"Controlling Percentage" is to be determined in accordance with Condition BA4.3;

"Percentage Change" has the meaning given to it in Condition BA4.3;

"Relevant Year" means any of the two periods of 12 months beginning on 1st October starting with 1st October 2003 and ending of 30 September 2005; and

"Retail Price Index" means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty's Government or a governmental department (which is the Office for National Statistics at the time of publication of this Notification) from time to time in respect of all items.

Annex 3

Notification

NOTIFICATION UNDER SECTIONS 48(2) AND 86 OF THE COMMUNICATIONS ACT 2003

Proposals for the modification of SMP services condition PA1 in Schedule 2 to the July 2004 Notification imposed on BT as a result of the market power determinations made by the Director in the November 2003 Notification that BT has significant market power in the markets set out in paragraph 2 to this notification

1. OFCOM hereby make in accordance with sections 48(2) and 86 of the Act the following proposals for the modification of an SMP services condition which was set by reference to market power determinations in relation to markets in which OFCOM are satisfied there has been no material change since those determinations were proposed or made.
2. The proposals contained in this notification are further to the market power determinations made the November 2003 Notification under section 79 of the Act whereby BT was determined to have significant market power in the following markets, amongst others, in the United Kingdom, excluding the Hull Area:
 - a. call origination on fixed public narrowband networks;
 - b. local-tandem conveyance and transit on fixed public narrowband networks;
 - c. inter-tandem conveyance and transit on fixed public narrowband networks;
 - d. single transit on fixed public narrowband networks; and
 - e. fixed geographic call termination markets
3. As a result of, amongst other things, the market power determinations referred to in paragraph 2 above, BT has been subjected to a number of SMP services conditions, including SMP services condition PA1 which was imposed on BT in the July 2004 Notification.
4. OFCOM are proposing to modify SMP services condition PA1 in respect of its application to BT in the markets listed in paragraph 2 above as set out in the Schedules to this notification.
5. The effect of, and OFCOM's reasons for making, the proposals referred to in paragraph 4 above is set out in the accompanying explanatory statement.
6. OFCOM consider that the proposals referred to in paragraph 4 above complies with the requirements of sections 45 to 50 and sections 78 to 92 of the Act, as appropriate and relevant to each of the proposals.
7. In making the proposals set out in this notification, OFCOM have considered and acted in accordance with their general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.

8. Representations may be made to OFCOM about the proposals set out in this notification and the accompanying explanatory statement by **13 January 2005**.
9. Copies of this notification and the accompanying explanatory statement have been sent to the Secretary of State in accordance with section 50(1)(a), and to the European Commission and the regulatory authorities of every other Member State in accordance with section 50(3) of the Act.
10. In this notification (not including the Schedules) –
 - a. "Act" means the Communications Act 2003;
 - b. "BT" means British Telecommunications plc, whose registered company number is 1800000, and any British Telecommunications plc subsidiary or holding company, or any subsidiary of that holding company, all as defined by Section 736 of the Companies Act 1985 as amended by the Companies Act 1989;
 - c. "Director" means the Director General of Telecommunications;
 - d. "Hull Area" means the area defined as the 'Licensed Area' in the licence granted on 30 November 1987 by the Secretary of State under section 7 of the Telecommunications Act 1984 to Kingston upon Hull City Council and Kingston Communications (Hull) plc;
 - e. "July 2004 Notification" means the notification set out at Annex A to the review of the BT's product management, policy and planning (PPP) charge published by OFCOM on 30 July 2004;
 - f. "November 2003 Notification" means the notification set out at Annex A to the review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets published by the Director on 28 November 2003; and
 - g. "United Kingdom" has the meaning given to it in the Interpretation Act 1978.
11. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this notification and otherwise any word or expression shall have the same meaning as it has in the Act.
12. For the purpose of interpreting this notification:
 - a. headings and titles shall be disregarded; and
 - b. the Interpretation Act 1978 shall apply as if this notification were an Act of Parliament
13. The Schedule to this notification shall form part of this notification.

DAVID K S THOMAS
DIRECTOR OF REGULATORY FINANCE

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

9 DECEMBER 2004

SCHEDULE 1

Proposed modification to SMP services conditions PA1 imposed on BT as a result of the market power determinations made by the Director in the November 2003 Notification that BT has significant market power in the markets set out in paragraph 2 of this notification

1. SMP services condition PA1 shall be deleted and replaced in its entirety as follows:

Condition PA1

Charge control for PPP and Interconnection Circuits

PA1.4 Without prejudice to the generality of Conditions AA3 and BA3, and subject to paragraphs PA1.2 and PA1.7, the Dominant Provider shall take all reasonable steps to secure that, at the end of the Relevant Year, the Percentage Change (determined in accordance with paragraph PA1.3) in the aggregate of charges for:

- a. PPP per call minute and Interconnection Circuits;
- b. PPP per call minute; and
- c. Interconnection Circuits

in each case is not more than the Controlling Percentage (determined in accordance with Paragraph PA1.4).

PA1.5 For the purpose of complying with paragraph PA1.1, the Dominant Provider shall take all reasonable steps to secure that the revenue it accrues as a result of all individual Charge Changes during the Relevant Year shall be no more than that which it would have accrued had all of those Charge Changes been made at 1 April in the Relevant Year. The Dominant Provider shall be deemed to have satisfied this obligation where, in the case of a single Charge Change during the Relevant Year, the following formula is satisfied:

$$RC(1 - D) \leq TRC$$

where:

RC is the revenue change associated with the single Charge Change made in the Relevant Year, calculated by the relevant Percentage Change immediately following the Charge Change multiplied by the revenue accrued during the Relevant Financial Year as defined by the term defined in paragraph PA1.3;

TRC is the target revenue change required in the Relevant Year to achieve compliance with paragraph PA1.1, calculated by the Percentage Change required in the Relevant Year to achieve compliance with paragraph PA1.1 multiplied by the revenue accrued from the provision of the categories of services specified in paragraphs PA1.1(a) to PA1.1(c) during the Relevant Financial Year as defined by the term defined in paragraph PA1.3; and

D is the elapsed proportion of the Relevant Year, calculated as the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -182 to 30 September = 182, divided by 365.

PA1.6 The Percentage Change shall be calculated separately for each of:

- i. the category of services specified in paragraph PA1.1(a);
- ii. the category of services specified in paragraph PA1.1(b); and
- iii. the category of services specified in paragraph PA1.1(c);

by employing the following formula:

$$C_t = \frac{\sum_{i=1}^n \left[R_i \frac{(p_{t,i} - p_{0,i})}{p_{0,i}} \right]}{\sum_{i=1}^n R_i}$$

where:

$$R_i = \frac{1}{2} \left(p_{0,i} + \frac{p_{0,i}}{(1 + (RPI - X))} \right) \cdot V_i$$

C_t is the Percentage Change in the aggregate of charges for the services in the category of services in question at a particular time t during the Relevant Year;

n is the number of individual services in the category of services in question;

$p_{0,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of the category of services in question immediately preceding the beginning of the Relevant Year;

$p_{t,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of the category of services in question at time t during the Relevant Year;

V_i is the volume of transactions for the individual service i that forms part of the category of services in question during the Relevant Financial Year; and

$RPI-X$ is the Controlling Percentage as defined in Paragraph PA1.4.

PA1.4 The Controlling Percentage in relation to the Relevant Year is the amount of the change in the Retail Prices Index in the period of 12 months ending on 30 June immediately before the beginning of that Year expressed as a percentage (rounded to two decimal places) of that Index as at the beginning of that period reduced:

- a. for PPP per call minute and Interconnection Circuits, by 8.25 percentage points;
- b. for PPP per call minute, by 0 percentage points; and
- c. for Interconnection Circuits, by 0 percentage points.

PA1.5 Where the Dominant Provider makes a material change (other than to a Charge) to any service which is subject to this Condition or to the date on which its financial year ends or there is a material change in the basis of the Retail Prices Index, paragraphs PA1.1 to PA1.4 shall have effect subject to such reasonable adjustment to take account of the change as Ofcom may direct to be appropriate in the circumstances. For the purposes of this paragraph, a material change to any service which is subject to this Condition includes the introduction of a new product and/or service wholly or substantially in substitution for that existing service.

PA1.6 The Dominant Provider shall, no later than three months after the end of the Relevant Year, supply to Ofcom, in writing, the data necessary to perform the calculation of the Percentage Change.

PA1.7 Where the Percentage Change in the aggregate of charges for services in each of the categories set out in subparagraphs (a) and (c) of paragraph PA1.1 exceeds the Controlling Percentage in the Relevant Year, the Dominant Provider shall be deemed to have satisfied the requirements of paragraph PA1.1 where it can demonstrate that:

- a. any such excess is solely the result of an increase in the aggregate of charges for Interconnection Circuits in the Relevant Year; and
- b. any such excess is not more than 21.6 million pounds. The Dominant Provider shall be deemed to have satisfied this obligation where, in the case of a single change in charges during the Relevant Year, the following formula is satisfied:

$$RC(1 - D) \leq TRC + £21.6m$$

where RC, TRC and D are defined as in paragraph PA1.2.

PA1.8 If it appears to Ofcom that the Dominant Provider is likely to fail to secure that the Percentage Change does not exceed the Controlling Percentage for the period of 12 months beginning on 1 October 2004 and ending on 30 September 2005 the Dominant Provider shall make such adjustment to any of its charges for any of the categories of services specified in paragraphs PA1.1(a) to PA1.1(c) and by such day in that year as Ofcom may direct for the purpose of avoiding this failure.

PA1.9 Paragraphs PA1.1 to PA1.8 shall not apply to such extent as Ofcom may direct.

PA1.10 In this Condition:

- a. "Charge Change" means a change to any of the charges for the provision of any of the services specified in paragraphs PA1.1(a) to PA1.1(c);
- b. "Controlling Percentage" is to be determined in accordance with Condition PA1.4;
- c. "Percentage Change" has the meaning given to it in PA1.3;
- d. "Relevant Financial Year" means the period of 12 months ending on 31 March immediately preceding the Relevant Year;

- e. "Relevant Year" means the period of 12 months beginning on 1 October 2004 and ending on 30 September 2005; and
 - f. "Retail Prices Index" means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty's Government or a governmental department (which is the Office of National Statistics at the time of publication of this Notification) from time to time in respect of all items.
2. The following definitions set out in paragraph 2 of Part 1 of Schedule 2 to the July 2004 Notification shall be deleted:
- "Controlling Percentage" has the meaning given to it in paragraph PA1.4;
- "Percentage Change" has the meaning given to it in paragraph PA1.3;
- "Relevant Year" means the period beginning on 1 October 2004 and ending on 30 September 2005;

Annex 4

Ofcom's consultation principles

Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A4.1 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A4.2 We will be clear about who we are consulting, why, on what questions and for how long.

A4.3 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A4.4 We will normally allow ten weeks for responses to consultations on issues of general interest.

A4.5 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A4.6 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

A4.7 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 5

Consultation response cover sheet

- A5.1 In the interests of transparency, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, without disclosing the specific information that you wish to remain confidential.
- A5.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.
- A5.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their cover sheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A5.4 We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.
- A5.5 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Proposed modifications to BT's SMP service conditions AA4, BA4 and PA1

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

☐

Name/contact details/job title

☐

Whole response

☐

Organisation

☐

Part of the response

☐

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

☐

Name

Signed (if hard copy)