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Telecoms services in the UK

We'd like to hear what you think

Ofcom is the independent regulator for the UK communications industries. Our role is to look after television, radio, telecommunications (telecoms) and wireless communication services.

One of our many activities in the last few months has been to carry out a review of telecoms in the UK. We started in April 2004 by asking you how you think the telecoms industry sector is changing. Your replies have helped us to suggest new ways that we could regulate telecoms in the future, and we'd now like your opinions about these suggestions.

Telecoms are at the heart of our economy and society, giving us:

- fixed phone lines at home or work;
- mobile phone services; and
- the internet.

It's in everyone's interests, whether we are private citizens or businesses, to have a high-quality, competitive telecoms industry to serve us.

That's why our review is asking whether we could all be getting more choice and better value. We are looking closely at the opportunities for more competition, investment and new services. In turn, the conclusions from our review will help shape how we encourage competition and regulate the telecoms market.

What happens next?

We want to know what you think about our suggestions for regulating the telecoms sector. It is very important that we hear from as many different people as possible, representing the widest possible range of views and interests.

This will help us to understand:

- whether you agree that our ideas will work as we think they will; and
- what problems we might meet if we put them into practice.

In spring 2005, once we have heard and considered all your opinions during this review, we will be issuing a statement. This will set out our future approach to regulating the industry.

This summary document is for those of you who would like to give us your opinion, but who don't have the time – or the technical knowledge – needed to go through the main consultation document. (But if you want to see it, go to: **www.ofcom.org.uk**)

This plain English summary outlines the main issues, and asks for your opinions on the central questions for the review.

How to respond

If you have an opinion or an experience you'd like to share, we would value your feedback. We are particularly interested in the reasons behind your opinions and, where possible, actual evidence to support them.

We would also like to hear from interested groups such as consumer organisations and trade associations. If you are representing one of these groups, please let us know which one.

Please e-mail your response to dougal.scott@ofcom.org.uk, marked **'Strategic review of telecoms – consultation response'**.

If possible, we prefer responses as e-mail attachments, in Microsoft Word format. Please also attach the cover sheet, which you can download separately from the 'consultations' section of our website.

You can also post or fax your response to:

Dougal Scott

Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA.
Fax: 020 7981 3333

Please note that we do not usually acknowledge responses.

The closing date for responses is 3 February 2005 at 5pm.

We think it is important that anyone interested in the review can see the views we have received on our website (www.ofcom.org.uk). For this reason, we will only treat your contribution as confidential if you ask us to. We will put all other responses on our website when the consultation period has ended.

How are telecoms changing?

If there's one message that came through from your replies to our first consultation document, it's that the telecoms sector is changing very quickly. Our own market research tells us that what you want from telecoms is changing too. We think it's vital that our rules stay up to date with all these changes, and do not get in the way of changes that could benefit people in future.

What you told us

We received over 100 replies to the first document of our review, which we published in April 2004. In it, we asked five main questions.

- 1. What are the main qualities of a telecoms market that is serving its customers well?** Many people pointed out that, while competitive prices and reliability are certainly important, they also wanted to see new services (such as broadband) introduced quickly, and in as many areas as possible. Many people also pointed out how confusing the range of different services and packages on offer could be – and that this confusion could put people off changing between telecoms companies.
- 2. Where can we achieve effective, long-term competition in the UK telecoms market?** 'Telecoms' is a general term, and your answers here varied for the different parts of the industry. With mobile phones, people pointed out that there is competition

between five networks. And, for the central ('core network') parts of fixed-line phone networks, many people thought that we could introduce long-term competition – for example, on long-distance routes between telephone exchanges. On the other hand, when it comes to the parts of fixed networks that run between the telephone exchange and people's houses and workplaces (the 'access network'), most people agreed that there wouldn't be much room for competition.

- 3. Should there be less regulation in telecoms? Or do the major companies have too much power for us to consider this route?**

Many people thought that telecoms regulation was too complicated, and that some rules could be taken away. Most people wanted us to be a bit 'smarter' – in other words, have less regulation but, where it's needed, to focus it better.

- 4. How can we make sure that new-technology networks get the investments they need, and without delay?** Lots of people thought that investment in new networks was very important, both for consumers and for the UK's economy. Many people said our main aim should be to make sure that our regulation didn't get in the way of investment in telecoms. People suggested, for example, that if a telecoms company makes a high-risk investment, we should allow them to make a profit that reflected the risk the company had taken.

5. Over the years, people have argued that the relevant regulator should somehow break up BT, or increase others' ability to compete with it. Do you think this is still a relevant question? Although some people thought that it would be right to split up BT, most didn't. Instead, the majority suggested that when another telecoms company uses BT's network, the rules should make sure it gets the same deal as when BT 'sells' the network to itself. This is called 'equivalence', and we talk about it later in this summary.

The need for change

Last April, in the first document of our review, we suggested that people were getting quite a good deal from telecoms in the UK. We still think this is true. For example, we have some of the lowest fixed-line call prices. We have the competition of five main mobile networks. After a slow start, broadband is now growing very quickly, and people who want to access the internet have a choice of several major suppliers.

So, if we're doing well, why change? We believe that there are three reasons.

1. There isn't much competition in fixed-access networks. In the last 20 years, lots of new telecoms companies have been set up and many have built new networks. Apart from cable in some areas, there is still little competition in 'fixed-access' networks, which is the part

of the network between your house and the local telephone exchange. In fact, 82% of household phone lines are still supplied by BT. This is a problem because other providers may rely on that BT access network to deliver their services. So, an internet provider like AOL or a phone-service provider like OneTel may have to negotiate with BT before they can provide services to customers. This puts BT in a very powerful position.

2. Fixed -line telecoms companies are facing some big challenges.

Many of the companies that use their own networks are struggling to compete. Many of them are making low profits or a loss, and many are too small to be able to provide services at a cost that competes with BT. It also follows that many are in a poor position to go out and raise money to invest in new networks and new services.

Why does this matter to consumers? We think it matters because, as many people have told us, it is vital to consumers – and the UK economy as a whole – that telecoms companies can invest in new services. And the evidence shows that telecoms companies move more quickly when there are several companies competing with each other. That's why if it's only BT who can make big investments, it's bad for consumers.

3. **Current regulation could work**

better. There's a huge amount of regulation for telecoms, much of it very detailed. Sometimes the regulations overlap, contradict each other or have effects that weren't intended. They also cost a lot to run.

Although there is a lot of regulation in place, it has not been very effective. We mentioned earlier that most people thought there could be long-term competition in core networks, but not much competition in access networks. That's why there are regulations that tell BT to allow other companies to use parts of its network, so that they too can offer a complete service. The problem is that regulations have often allowed BT to offer a better deal to itself than to other telecoms companies. Not surprisingly, this is making it hard for other companies to compete with BT.

For all these reasons, we think it's time for a new approach to regulation.

How we could regulate in future

We are suggesting three approaches to regulating telecoms in future, and we'd like to hear your views. These are:

- deregulation;
- reference under the Enterprise Act; and
- real 'equality of access'.

Deregulation

This option would mean removing all regulation in telecoms. The arguments for this are that regulation:

- is costly;
- can cause companies to do things that are not in the best interests of consumers; and
- can sometimes actually harm, rather than help, certain kinds of competition.

This deregulation would not lead to a free-for-all, however. Even if there were no telecoms regulations, companies would still have to obey the normal set of rules (called 'competition law') that stop any UK company competing unfairly.

Deregulation sounds attractive, but we don't think it would actually help consumers. The problem is that there is unlikely to be much competition in fixed-line access networks. Competition law is designed to **protect** competition, not to **promote** it, and it wouldn't be a very good way of making sure other companies could use BT's access network on an equal

footing. We believe that a lot of disputes would go to court, and make telecoms companies nervous about investing in a changing market.

Reference under the Enterprise Act

Some people think that the problems in the UK's fixed telecoms sector are too big to solve just by changing telecoms regulation. There could, for example, be a serious fault in the way the market is structured, with BT simply being too powerful compared with everyone else in the market. If we thought this was true, the Enterprise Act 2002 allows us to 'refer' the whole telecoms market to the Competition Commission. This commission can look at a much wider range of solutions than we can. For example, the commission would almost certainly look into separating BT's activities, perhaps into different wholesale and retail companies. The disadvantage of this kind of investigation is that it takes a long time, and any solution it put forward would be complicated, costly and cause a lot of disruption. However, it could be worth it if the result is more progress, new ideas and better service for us all as customers.

However, most of the people who replied to our first consultation agreed that they would instead like to see BT give all other telecoms companies access to its network on the same terms as it does to parts of its own business. We share the view that

achieving what we call ‘real equality of access’ is vital. However, if this approach fails to create a genuinely level playing field, a reference under the Enterprise Act may be the only reasonable alternative.

‘Real equality of access’

This is the option we prefer. It’s about focusing our powers of regulation more effectively. The full consultation document explains this term in more detail. There are three main parts to this approach:

- delivering ‘real equality of access’;
- more focused regulation in some areas and deregulation in others; and
- a new regulatory contract.

Delivering equality of access. We said earlier that regulation has not been as effective as it could be. This is shown by the fact that BT can still ‘sell’ the use of its network to itself on better terms than it sells it to others. ‘Real equality of access’ would see an end to this unfair situation, but it needs two changes to make it happen.

- *‘Equivalence’.* BT would have to allow other telecoms companies to use parts of its network on the same or similar terms as BT ‘sells’ to itself.
- *BT changing the way it works.* We think equality of access needs more than just a change in BT’s products. Instead, BT

needs to think again about how it asks its staff to work, removing any motivation or action that could lead to other companies being treated unfairly. It is not our place to tell BT how to run its business.

However, we have asked BT’s management to come up with clear proposals on the changes they will make.

More focused regulation in some areas and deregulation in others. We think that regulation should be focused where it’s needed – on the parts of telecoms networks where long-term competition isn’t likely to happen. As we’ve said, these parts of the network should offer equality of access to all. In turn, if this regulation is effective it will allow us to take regulation away in other areas. It’s our aim to make future regulation both simpler and more focused.

A new ‘regulatory contract’. There are regulations that set out the price that BT can charge other telecoms companies for using parts of its network, and we call these regulations the ‘regulatory contract’. To help everyone plan and invest in the future, these prices stretch some time ahead. We think a new regulatory contract should let all companies make a return in proportion to the risks they face, and we are proposing to set the prices with this in mind.

This is our preferred option, as long as BT can make the necessary changes. We think that this approach will bring about fair competition with less regulation. We’re particularly interested in whether you think this is the right option, and how you think it could work.

The rules and you

We want to make sure that telecoms companies can compete with one another fairly. But we also need to make sure that competition between telecoms companies works well at delivering good value and better services to consumers. There are two reasons why this might not happen.

- Consumers may find it hard to choose and switch between different suppliers.
- Telecoms companies may not want to supply services to some types of vulnerable consumers (see page 10).

Choosing and switching between suppliers

Many people have told us that consumers are confused by the wide choice of different telecoms suppliers, products and packages. In fact, our market research showed that many people can't even name a telecoms supplier other than their own, and many more have never considered switching to another company. When consumers do think about switching supplier, our research showed that they didn't know how to use information about different suppliers to make a well-informed choice.

We have suggested some approaches that could help consumers find it easier to make choices. We don't necessarily recommend them all, but we would like your opinion on whether we should:

- not regulate at all and leave telecoms companies to provide information about themselves;
- provide pricing information that helps consumers to compare telecoms suppliers;
- help independent companies to supply information to consumers about different suppliers;
- work with the Advertising Standards Authority to make it easier to compare the information that advertising provides;
- tell telecoms companies that they can only sell certain products and types of price plan; and
- work with telecoms companies to make bills easier to understand.

We have also suggested things we could do to help consumers switch between telecoms suppliers and get more benefit from competition. We could:

- regulate the prices that telecoms companies can charge consumers who want to switch supplier;
- advise consumers to switch suppliers to get the best deal;
- encourage telecoms companies to put their customers on the best price plan for their needs; and
- encourage telecoms companies to make it easier for consumers to switch between suppliers.

Telecoms services for vulnerable customers

Competition doesn't always mean benefits. Without regulation, there are some people that telecoms companies may not want to supply at all, perhaps because they:

- live in remote areas that are expensive to supply;
- have special needs because of a disability; or
- struggle to afford telecoms services at all.

At the moment, they are protected by the 'universal service' regulation, which tells telecoms companies that they must supply these vulnerable people.

We think that this regulation may need to change at some point, and we want your opinions on how this might happen. We suggest the following.

• **The way that universal services are provided may need to change.**

Currently, we tell BT (and Kingston Communications in Hull) to provide these universal services, and to pay for them. In future, it may be unfair to single out these companies instead of, for example, the whole industry paying into a central 'pot'.

• **The services that are covered by this regulation may need to change.**

The idea behind the universal service regulation is that everyone has access to 'basic' services. But, as technology moves on, the meaning of 'basic' may change as well. For example, broadband may be considered a basic service in the future, and so could be covered by the regulation. However, we don't think that point has been reached yet.

Some questions for you

We're keen to hear your views on any issue relating to telecoms and, in particular, how you would answer the following questions.

- a. Should we stop regulating telecoms and rely instead on competition law?
- b. In what circumstances should we make a reference under the Enterprise Act?
- c. Should we aim to step up regulation to bring about 'equality of access' in parts of the network where there is unlikely to be much long-term competition? Should we also stop regulating in other areas?
- d. What should we do to help people choose, and switch between, telecoms suppliers?
- e. How should universal services be provided in future?