

Proposal that all provisions continued from licences made under the Telecommunications Act 1984 and all continued interconnection directions will cease to have effect except for specific provisions in specific markets listed in this document as exceptions



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Consultation

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Section 1

Explanatory note

- 1.1 This consultation exercise proposes that, with some important but narrow exceptions, all licence conditions and interconnection directions which were continued on a temporary basis when the new EU Regulatory Framework for Electronic Communications was implemented on 25 July 2003 should now be discontinued. To a large extent the proposed exercise is precautionary and it is intended to ensure that no continued provisions and directions are left in place inadvertently. The exercise is also intended to clarify the continued conditions and directions that remain in place for the time being, pending completion of reviews of the relevant markets. Finally, the exercise notes that those conditions and directions that continued the application of regulation depending on whether a provider was a Schedule 2 Public Operator (commonly known as having “Annex II” status) have now been discontinued. Therefore the requirement to maintain the “Annex II” list no longer exists. It had been intended that this list be replaced by a voluntary register, but Ofcom does not currently believe this to be appropriate, and proposes not to proceed with such a register.

Continuation of licence conditions and interconnection directions

- 1.2 On 10 September 2003 the Director General of Telecommunications (“the Director”) published a statement “Continuing Licence Conditions after 25 July 2003” (“the September Statement”). That statement explained that when the new EU Regulatory Framework was implemented in the United Kingdom on 25 July 2003, individual licences and certain class licences granted under section 7 of the Telecommunications Act 1984 were replaced by General Conditions of entitlement made under the Communications Act 2003 (the “Act”). These apply to all persons providing Electronic Communications Networks and Services. The statement also explained that, additionally, individual Communication Providers may be subject to specific conditions, such as those imposed as a result of a finding of Significant Market Power, Access Related Conditions or conditions imposed as a consequence of a provider being designated as a universal service provider.
- 1.3 There were a number of specific conditions included in some licences which could not, however, be replaced by new conditions under the powers contained in the Act until a review of relevant markets had been completed and implemented. In view of this and to avoid a regulatory gap, Schedule 18, paragraph 9 of the Act allowed Ofcom to issue Notices (“Continuation Notices”) to continue provisions in Licence Conditions until such time as it had reviewed the relevant market. For the same reasons, Schedule 18, paragraph 22 of the Act allowed Ofcom to issue Notices to continue Directions made under the provisions of Regulation 6 of the Telecommunications (Interconnection) Regulations 1997. (The power to issue Continuation Notices was previously exercised by the Director on behalf of Ofcom until Ofcom assumed its powers on 29 December 2003). A number of licence conditions and interconnection directions were made to continue in force by such Continuation Notices issued by the Director on 23 and 21 July 2003 respectively (which took effect from 25 July 2003).
- 1.4 Although the requirement for individual licenses no longer applied after 25th July 2003, the associated “Annex II” list of public operators did continue for a transitional period. This is because some of the continued conditions and directions continued to

apply by reference to a “Schedule 2 public operator”, being the status of public operators under Annex II of the Interconnection Directive. This transitional arrangement ceased when the relevant conditions and directions were discontinued as the market reviews were completed. Additionally, the Director published a statement on Guidelines for the Interconnection of Public Electronic Communications Networks on 23 May 2003 (“Interconnection Guidelines”) in which he proposed that following this transitional period the Annex II list should be replaced by a voluntary and legally non-binding register of Public Electronic Communications Networks. However, as explained below Ofcom proposes not to implement such a register.

Removal of continued regulatory obligations

- 1.5 Paragraphs 9(12) and 22(10) to Schedule 18 of the Act require Ofcom to withdraw (discontinue) Continuation Notices in respect of continued conditions and continued directions as soon as practicable after they have been made. While it is appropriate to keep such notices in place pending completion of planned market reviews, Ofcom does not believe it is appropriate to maintain Continuation Notices for services in a market where there are no plans to review that market under the Communications Act 2003.
- 1.6 Some provisions of some Continuation Notices have already been discontinued specifically for markets which have been reviewed and for markets which Ofcom has concluded it should not review with a view to imposing ex ante regulation. Given the progress of Ofcom’s programme of market reviews, Ofcom believes it is now appropriate that, instead of specifying the exceptional markets in which continued provisions should be deemed no longer to apply, it should now discontinue all Continuation Notices in their entirety except for specific provisions which should remain in force pending review of those specific markets.
- 1.7 Given that the new EU Regulatory Framework represents a shift from regulation of broad product and service sectors to market based regulation, this discontinuation exercise is intended to ensure that continued provisions are not inadvertently left in force where, for example, there is not a precise match between market definitions which apply to continued provisions and market definitions which have been adopted when conducting market reviews under the Act. This approach is also intended to provide interested parties with greater clarity about the extent to which continued provisions still apply.

Specific effects of the discontinuation notices proposed

- 1.8 As already mentioned, Ofcom is proposing this discontinuation exercise for clarification and as such Ofcom considers that, in the main, this exercise should not involve discontinuation of many specific provisions. However, Ofcom does consider that this exercise will involve discontinuation of the following specific provisions:
 - Ofcom intends that the discontinuation notice in respect of British Telecommunications plc (“BT”) should remove all continued provisions which still apply in respect of wholesale end to end calls. Ofcom had indicated that it intended to review the market for wholesale end to end calls and, with this review in mind, continued provision condition 43 was maintained in force in respect of this market. As BT has now agreed that it will publish its prices for wholesale end to end calls, and will adhere to those published prices, Ofcom no longer intends to review the relevant market. This view may of course change in the light of changing circumstances, and the proposed discontinuation would not prevent Ofcom from

conducting a market review and, if appropriate, imposing conditions at some time in the future.

- Ofcom also intends that the discontinuation notices in respect of BT and Kingston Communications (Hull) plc ("Kingston") should discontinue continued provision Condition 57 "Prohibition of undue preference and undue discrimination" and continued provision Condition 58 "Publication of charges terms and conditions". These continued provisions apply only where continued provision Condition 43 applies or, in the case of continued provision Condition 57, where a determination has been made under certain other continued provisions which relate to interconnection. Ofcom chose not to discontinue continued provisions Conditions 57 and 58 on a market by market basis when market reviews were completed, as these continued provisions ceased to have effect when the continued provision which triggered their application were discontinued. Ofcom proposed, in its consultation "Discontinuing licence conditions continued after 25 July 2003" published by Ofcom on 2 October 2003, that these continued provisions should be formally discontinued when the market review process had been completed. Ofcom believes that it is now appropriate to carry out that formal discontinuation.
- Ofcom also intends to discontinue four continued interconnection directions. These were not discontinued following completion of any single market review as they apply to more than one market. In Ofcom's view, these interconnection directions have served their purposes in resolving disputes, and no longer require continuation.

Continued provisions which Ofcom proposes should remain in force

1.9 Ofcom is proposing in this consultation document that the following continued provisions and directions should remain in force and all others should be discontinued;

- BT continued provision Condition 83 "Requirement to provide network access facilities" which was included in the Continuation Notice given to BT on 23 July 2003. This provision requires BT, amongst other things, to provide unbundled local loops. Ofcom is reviewing the wholesale local access market and has proposed that it should impose SMP conditions under the Act (see "Review of the wholesale local access market" published by Ofcom on 26 August 2004). The continued provision will be discontinued in its entirety when that review has been completed and, if appropriate, new SMP conditions imposed.
- BT and Kingston Communications (Hull) plc ("Kingston") continued provisions Condition 48 "Requirement to meet requests for access other than from schedule 2 public operators" but only in so far as these continued provisions relate to the market for payphone call origination. These continued provisions were contained in the Continuation Notices given to BT and to Kingston on 23 July 2003. Ofcom is consulting on the future regulation of payphone call origination and has proposed that reliance may be placed on voluntary undertakings which might be offered by BT and Kingston (see "Proposals regarding the requirement on BT and Kingston to provide . payphone access" published by Ofcom on 22 July 2004). The continued provisions will be discontinued in their entirety when the consultation exercise has been concluded. In the meantime Ofcom proposes to discontinue these continued provisions in respect of all markets other than Payphone call origination.
- BT and Kingston continued provisions Condition 50 "Requirement to have cost accounting systems and accounting separation for interconnection purposes" and

BT continued provision Condition 78 "Separate accounts". These continued provisions too were contained in the Continuation Notices given to BT and to Kingston on 23 July 2003. These provisions relate to the provision of regulatory accounts. Ofcom has already completed its review of the need for regulatory accounts in markets where BT or Kingston has been found to have SMP, and Ofcom has imposed new conditions under the Act (see "The regulatory financial reporting obligations on BT and Kingston Communications" published by Ofcom on 22 July 2004). However, as the provisions of the new conditions apply to accounting periods from 2004/5 onwards, the continued provisions must remain in force until 2003/4 accounting data has been received and assessed. When that exercise has been completed for each company Ofcom will discontinue the continued provisions which relate to that company in their entirety. However, Ofcom is proposing to discontinue without further delay Communications Networking Service (UK) (Concert Communications Company's ("Concert's") continued provision Condition 67 "Separate Accounts" as this is no longer appropriate given the findings of the market reviews relevant to CNS's activities and BT has agreed to provide some additional financial analysis of CNS in its 2003/04 regulatory Financial Statements.

- BT continued provision Condition 67 and Kingston continued provision Condition 66 "Control of Hardwired and other telephone rentals". These continued provisions were contained in Continuation Notices given to BT and to Kingston on 23 July 2003. It should be noted that these two Continuation Notices are distinct from the notices referred to above which were given to those companies in respect of other licence conditions, as these provisions relate to SMP Apparatus conditions. (The draft discontinuation notices at Annexes A and B do not relate to the provisions concerning hardwired and other telephone rentals). The continued provisions impose a charge control on certain rented telephone instruments. Ofcom has recently consulted on the future regulation of hardwired equipment and has proposed that, subject to BT and Kingston providing written undertakings which will ensure protection for customers with such equipment, the continued provisions should be discontinued in their entirety (see "Proposal that BT's and Kingston's price controls in respect of rental of hardwired telephone apparatus should be removed and replaced by written undertakings" published by Ofcom on 10 July 2004). Until that consultation is complete these provisions will remain in place.
- Vodafone and O2 continued provisions Conditions 69A "National roaming" which were included in the continuation notices given to O2 (UK) Ltd ("O2") and to Vodafone Ltd ("Vodafone") on 23 July 2003. Ofcom is re-consulting on the future regulation of national roaming (see "National roaming" published by Ofcom on 22 July 2004) and expects to discontinue these continued provisions when it concludes the re-consultation.
- All provisions continued by the continuation notices given to Crown Castle UK Ltd and to National Transcommunications Ltd on 23 July 2003. Ofcom has yet to conclude its consultation on the future regulation of the services to which these continued provisions relate (namely broadcasting transmission services) and expects to discontinue these continued provisions in their entirety when this consultation exercise has been concluded.
- All provisions continued by the continuation notice given to the class of person defined as the licensee for the purposes of the provision of access control services. These continued provisions apply only to Regulated Suppliers, of which Sky Subscribers Services Limited is the only such supplier. Ofcom is reviewing the relevant services and expects to discontinue these continued provisions in their entirety when the review has been concluded.

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- All provisions continued by the continuation notice given to the class of person defined as the licensee for the purposes of the provision of Electronic Programme Guide Services. Again, Ofcom has not yet completed its review of these services and expects to discontinue these continued provisions once its review is complete.

Annex II and the voluntary register of Public Electronic Communications Networks

1.10 As already mentioned, the Annex II list of public operators continued for a transitional period, but all relevant conditions and directions have now been discontinued, following completion of the relevant market reviews. For example, an important set of discontinuation notices relating to narrowband interconnection services was published on 28th November 2003, whilst further discontinuation notices in relation to broadband and leased line interconnection services were published on 13th May 2004 and 24th June 2004 respectively. Therefore the requirement to maintain the Annex II list no longer exists.

1.11 It had been proposed that the Annex II list be replaced by a voluntary and legally non-binding register of Public Electronic Communications Networks (PECN). The aim was to provide transparency as to which communications providers had rights and obligations to negotiate interconnection under condition 1 of the General Conditions of Entitlement. The advantages of such a register were set out in the Interconnection Guidelines as being:

- it is invidious to place the obligation of determining whether a given provider provides a PECN on another provider, such as BT;
- in the absence of a list, a provider may be required to disclose commercially confidential information to competitors in order to establish PECN status;
- the publication of a list is transparent and offers regulatory certainty; and
- the availability of a list avoids a potential cause of delay in reaching interconnection agreements.

1.12 It was however also recognised that the proposed PECN register seems to contradict the spirit of the new regulatory framework, and this is of particular concern to Ofcom. The move from a licensing regime to a system of general authorisations was intended as a step towards a more normal commercial environment, in which communications providers do not require permission from a regulator to be in business. The proposed PECN register could undermine this approach, and the change in mindset that it was intended to promote, and could only be justified if it provides substantial value. Ofcom does not believe this to be the case, for the following reasons:

- guidance as to when a communications provider might operate a PECN is set out in the Interconnection Guidelines. The definition of a PECN is more straightforward than the previous description of those with Annex II status. It should be possible in most cases for this guidance to be applied without reference to the regulator, in which case Ofcom considers that the register would not add value; and
- the register is unlikely to be a useful tool for resolving borderline cases, since it is both voluntary and legally non-binding. As noted in the Interconnection Guidelines, it is open to any provider to negotiate interconnection without appearing on the register, and vice versa appearance on the register does not confer a right to interconnection.

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Ofcom therefore proposes not to proceed with the creation of a voluntary register of PECNs.

Other matters for clarification

- 1.13 Notices discontinuing, amongst other continued provisions, the continued provisions relating to charge controls on mobile call termination were given to Orange Personal Communications Services Ltd ("Orange"), T-Mobile (UK) Ltd ("T-Mobile"), O2 and Vodafone on 28 May 2004 when Ofcom's review of mobile call termination was concluded and new conditions were imposed under the Act. As the new charge controls contained in the new conditions did not come into force until 1 September 2004, the discontinuation notices were deemed to be effective from 2 September 2004.
- 1.14 The continuation notices relating to premium rate services conditions in all individual licences and all class licences were discontinued in December 2003 when new General Conditions were imposed under the Act.
- 1.15 Cable and Wireless plc was given a continuation notice on 23 July 2003 which continued certain conditions. These continued provisions were discontinued in their entirety when the Director concluded his review of wholesale international services in November 2003. In Ofcom's view there is no need to issue a further discontinuation notice.

The proposed discontinuation Notices

- 1.16 Ofcom is proposing to issue discontinuation notices as follows;
 - To BT in respect of all continued provisions except for the 4 provisions specified in the schedule to the notice (see draft notice at Annex A);
 - To Kingston in respect of all continued provisions except for the 2 provisions specified in the schedule to the notice (see Annex B);
 - To Concert in respect of all continued provisions in their entirety (see Annex C);
 - To each of Vodafone and O2 in respect of all continued provisions excepting the national roaming condition (Condition 69A) (see Annexes D and E);
 - To BT and the 54 operators listed in the schedule to the notice in respect of the interconnection direction concerning BT's Review Supplemental Agreement made on 28 September 2001 (see Annex F);
 - To BT and Energis in respect of the interconnection direction concerning BT's rearrangement charges made on 30 January 2003 (see Annex G);
 - To BT and Kingston in respect of the interconnection direction concerning physical interconnection arrangements, Kingston's Reference Interconnection Offer and Kingston's Interconnection charges, made on 22 October 2001 (see Annex H); and
 - To BT and Colt Telecommunications Ltd concerning charges calculated in accordance with Element Based Charge matrix made on 17 December 2001 (see Annex I).

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Next steps

- 1.17 Although the Act does not require Ofcom to consult before discontinuing a Continuation Notice, the Director stated in the September Statement that, in the majority of cases, before discontinuing any provisions of any Continuation Notice, he would consult on the matter for at least 14 days. On this occasion, taking into account the holiday season, Ofcom is allowing 28 days for interested parties to consider the implications of the proposal. Information about how to respond to this consultation exercise is contained in the following Section 2

Section 2

How to respond to this consultation exercise

- 2.1 Where possible, comments should be made in writing and sent by email to michael.richardson@ofcom.org.uk. However, copies may also be posted or faxed to the address below. If any parties are unable to respond in one of these ways, they should discuss alternatives with:

Michael Richardson
Ofcom
Riverside House
2a Southwark Bridge Road
London
SE1 9HA

Tel: 020 7783 4157, Fax: 020 7783 4109

Or by email to michael.richardson@ofcom.org.uk

- 2.2 If possible please send responses in text form as email attachments, as this makes it easier to process them. If you have any queries about the issues raised in this consultation, or need guidance on the appropriate form of response, please contact us using the details above.
- 2.3 Also note that Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex L) which it seeks to follow. If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003. Alternatively you can contact Philip Rutnam, Partner, Competition and Strategic Resources, who is Ofcom's consultation champion, with any concerns or comments about consultation processes:

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

Further copies of this document

- 2.4 This document can be viewed on Ofcom's website, www.ofcom.org.uk. Paper copies can be made available on request.

Publication of representations

- 2.5 On this occasion, Ofcom will not be inviting interested parties to comment on the representations made by others. However, in the interests of transparency, all

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representations will be published, except where respondents indicate that a response, or part of it, is confidential. Respondents are therefore asked to separate out any confidential material into a confidential annex which is clearly identified as containing confidential material. Ofcom will take steps to protect the confidentiality of all such material from the moment that it is received at Ofcom's offices. In the interests of transparency, respondents should avoid applying confidential markings wherever possible.

2.6 Non-confidential representations can be viewed on Ofcom's website.

Annex A

PROPOSED NOTICE TO BRITISH TELECOMMUNICATIONS PLC UNDER PARAGRAPH 9 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Proposed notice that certain continued provisions set out in the continuation notice given to British Telecommunications plc on 23 July 2003 will cease to have effect from the [...]

1. Ofcom, in accordance with Paragraph 9(9) of Schedule 18 to the Communications Act 2003 ('the Act') hereby gives notice to British Telecommunications plc ('BT') that certain continued provisions contained in Schedule 1 of the continuation notice given to BT on 23 July 2003, which had effect from 25 July 2003 ('the Continuation Notice') will cease to have effect to the extent set out in Schedule 1 to this notice ('the Discontinued Provisions') from the [...].
2. In giving this notice, Ofcom has, in accordance with Paragraph 9 (11) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the continued provisions and whether or not to exercise its power to set a condition under that Chapter for that purpose.
3. All directions, determinations, consents and other provisions which were continued under the Continuation Notice by virtue of Paragraph 9(8) of Schedule 18 to the Act will also cease to have effect from [...] to the extent that they were given or made for the purposes of the Discontinued Provisions.
4. To the extent that the Continuation Notice does not cease to have effect under Paragraph 1 of this notice, the Continuation Notice shall continue to have effect until Ofcom has given a further notice to BT in accordance with Paragraph 9(9) of Schedule 18 to the Act that it shall cease to have effect.
5. Ofcom issued a consultation as to its proposals to discontinue the provisions on 9 September 2004 and requested comments by 7 October 2004. Ofcom has taken into account the comments it received during that consultation.
6. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them. For the purposes of interpreting this notice, headings and titles shall be disregarded.

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

[Date]

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Schedule 1

All continued provisions contained in Schedule 1 of the Continuation Notice will cease to have effect in their entirety, except for the following continued provisions in so far as they relate to the markets that are being reviewed or have been reviewed as stated below, from the [...];

- Continued provision Condition 48 “Requirement to meet requests for access other than from Schedule 2 public operators” which is being reviewed in *“Proposals regarding the requirement on BT and Kingston to provide payphone access”* published by Ofcom on 22 July 2004.
- Continued provision Condition 50 “Requirement to have cost accounting systems and accounting separation for interconnection purposes” which was reviewed in “The regulatory financial reporting obligations on BT and Kingston Communications” published by Ofcom on 22 July 2004.
- Continued provision Condition 78 “Separate accounts” which was reviewed in “The regulatory financial reporting obligations on BT and Kingston Communications” published by Ofcom on 22 July 2004.
- Continued provision Condition 83 “Requirement to provide network access facilities” which is being reviewed in *“Review of the wholesale local access market”* published by Ofcom on 26 August 2004).

In this Schedule, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act .

For the avoidance of doubt it should be noted that the Continuation Notice referred to in this Schedule is not that which was given to BT on 23 July 2003 and which contained only continued provision Condition 67 “Control of Hardwired and other telephone rentals” in its Schedule 1.

Annex B

PROPOSED NOTICE TO KINGSTON COMMUNICATIONS (HULL) PLC UNDER PARAGRAPH 9 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Proposed notice that certain continued provisions set out in the continuation notice given to Kingston Communications (Hull) plc on 23 July 2003 will cease to have effect from the [...]

1. Ofcom, in accordance with Paragraph 9(9) of Schedule 18 to the Communications Act 2003 ('the Act') hereby gives notice to Kingston Communications (Hull) plc ('Kingston') that certain continued provisions contained in Schedule 1 of the continuation notice given to Kingston on 23 July 2003, which had effect from 25 July 2003, ('the Continuation Notice'), will cease to have effect to the extent set out in Schedule 1 to this notice ('the Discontinued Provisions') from the [...].
2. In giving this notice, Ofcom has, in accordance with Paragraph 9 (11) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the continued provisions and whether or not to exercise its power to set a condition under that Chapter for that purpose.
3. All directions, determinations, consents and other provisions which were continued under the Continuation Notice by virtue of Paragraph 9(8) of Schedule 18 to the Act will also cease to have effect from [...] to the extent that they were given or made for the purposes of the Discontinued Provisions.
4. To the extent that the Continuation Notice does not cease to have effect under Paragraph 1 of this notice, the Continuation Notice shall continue to have effect until the Director has given a further notice to Kingston in accordance with Paragraph 9(9) of Schedule 18 to the Act that it shall cease to have effect.
5. Ofcom issued a consultation as to its proposals to discontinue the provisions on 9 September 2004 and requested comments by 7 October 2004. Ofcom has taken into account the comments it received during that consultation.
6. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them. For the purposes of interpreting this notice, headings and titles shall be disregarded.

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

[Date]

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Schedule 1

All continued provisions contained in Schedule 1 of the Continuation Notice will cease to have effect in their entirety, except for the following continued provisions in so far as they relate to the markets that are being reviewed or have been reviewed as stated below, from the []

- Continued provision Condition 48 “Requirement to meet requests for access other than from schedule 2 public operators” being reviewed in “Proposals regarding the requirement on BT and Kingston to provide payphone access” published by Ofcom on 22 July 2004).
- Continued provision Condition 50 “Requirement to have cost accounting systems and accounting separation for interconnection purposes” which was reviewed in “The regulatory financial reporting obligations on BT and Kingston Communications” published by Ofcom on 22 July 2004.

In this Schedule, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act.

For the avoidance of doubt it should be noted that the Continuation Notice referred to in this Schedule is not that which was given to Kingston on 23 July 2003 and which contained only continued provision Condition 66 “Control of Hardwired and other telephone rentals” in its Schedule 1.

Annex C

PROPOSED NOTICE TO COMMUNICATIONS NETWORKING SERVICE (UK) (CONCERT COMMUNICATIONS COMPANY) UNDER PARAGRAPH 9 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Proposed notice that all continued provisions set out in the continuation notice given to Communications Networking Service (UK) (Concert Communications Company) on 23 July 2003 will cease to have effect from the [...] in their entirety

1. Ofcom, in accordance with Paragraph 9(9) of Schedule 18 to the Communications Act 2003 ('the Act') hereby gives notice to Communications Networking Service (UK) (Concert Communications Company) ('Concert') that all continued provisions contained in Schedule 1 of the continuation notice given to Concert on 23 July 2003, which had effect from 25 July 2003, ('the Continuation Notice'), will cease to have effect in their entirety from the [...].
2. In giving this notice, Ofcom has, in accordance with Paragraph 9 (11) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the continued provisions and whether or not to exercise its power to set a condition under that Chapter for that purpose.
3. All directions, determinations, consents and other provisions which were continued under the Continuation Notice by virtue of Paragraph 9(8) of Schedule 18 to the Act will also cease to have effect from [...] to the extent that they were given or made for the purposes of the Discontinued Provisions.
4. Ofcom issued a consultation as to its proposals to discontinue the provisions on 9 September 2004 and requested comments by 7 October 2004. Ofcom has taken into account the comments it received during that consultation.
5. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them. For the purposes of interpreting this notice, headings and titles shall be disregarded.

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

[Date]

Annex D

PROPOSED NOTICE VODAFONE LIMITED UNDER PARAGRAPH 9 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Proposed notice that certain continued provisions set out in the continuation notice given to Vodafone Limited on 23 July 2003 will cease to have effect from the [...]

1. Ofcom, in accordance with Paragraph 9(9) of Schedule 18 to the Communications Act 2003 ('the Act') hereby gives notice to Vodafone Limited ('Vodafone') that certain continued provisions contained in Schedule 1 of the continuation notice given to Vodafone on 23 July 2003, which had effect from 25 July 2003, ('the Continuation Notice'), will cease to have effect to the extent set out in Schedule 1 to this notice ('the Discontinued Provisions') from the [...].
2. In giving this notice, Ofcom has, in accordance with Paragraph 9 (11) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the continued provisions and whether or not to exercise its power to set a condition under that Chapter for that purpose.
3. All directions, determinations, consents and other provisions which were continued under the Continuation Notice by virtue of Paragraph 9(8) of Schedule 18 to the Act will also cease to have effect from [...] to the extent that they were given or made for the purposes of the Discontinued Provisions.
4. To the extent that the Continuation Notice does not cease to have effect under Paragraph 1 of this notice, the Continuation Notice shall continue to have effect until the Director has given a further notice to Vodafone in accordance with Paragraph 9(9) of Schedule 18 to the Act that it shall cease to have effect.
5. Ofcom issued a consultation as to its proposals to discontinue the provisions on 9 September 2004 and requested comments by 7 October 2004. Ofcom has taken into account the comments it received during that consultation.
6. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them. For the purposes of interpreting this notice, headings and titles shall be disregarded.

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

[Date]

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Schedule 1

All continued provisions contained in Schedule 1 of the continuation notice given to Vodafone on 23 July 2003 and which took effect from 25 July 2003 will cease to have effect in their entirety, **except** for the following continued provisions in so far as they relate to the markets which are being or have been reviewed as stated below;

- Continued provision Condition 69A National roaming which is being reviewed in “*National roaming*” published by Ofcom on 22 July 2004.

In this Schedule, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act .

Annex E

PROPOSED NOTICE TO O2 (UK) LIMITED UNDER PARAGRAPH 9 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Proposed notice that certain continued provisions set out in the continuation notice given to O2 (UK) Limited on 23 July 2003 will cease to have effect from the [...]

1. Ofcom, in accordance with Paragraph 9(9) of Schedule 18 to the Communications Act 2003 ('the Act') hereby gives notice to O2 (UK) Limited ("O2") that certain continued provisions contained in Schedule 1 of the continuation notice given to O2 on 23 July 2003, which had effect from 25 July 2003, ('the Continuation Notice'), will cease to have effect to the extent set out in Schedule 1 to this notice ('the Discontinued Provisions') from the [...].
2. In giving this notice, Ofcom has, in accordance with Paragraph 9 (11) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the continued provisions and whether or not to exercise its power to set a condition under that Chapter for that purpose.
3. All directions, determinations, consents and other provisions which were continued under the Continuation Notice by virtue of Paragraph 9(8) of Schedule 18 to the Act will also cease to have effect from [...] to the extent that they were given or made for the purposes of the Discontinued Provisions.
4. To the extent that the Continuation Notice does not cease to have effect under Paragraph 1 of this notice, the Continuation Notice shall continue to have effect until the Director has given a further notice to O2 in accordance with Paragraph 9(9) of Schedule 18 to the Act that it shall cease to have effect.
5. Ofcom issued a consultation as to its proposals to discontinue the provisions on 9 September 2004 and requested comments by 7 October 2004. Ofcom has taken into account the comments it received during that consultation.
6. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them. For the purposes of interpreting this notice, headings and titles shall be disregarded.

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

[Date]

Proposal that all provisions continued from licences made under the Telecommunications Act 1984 and all continued interconnection directions will cease to have effect except for specific provisions in specific markets listed in this document as exceptions

Schedule 1

All continued provisions contained in Schedule 1 of the continuation notice given to O2 on 23 July 2003 and which took effect from 25 July 2003, will cease to have effect in their entirety, except for the following continued provisions in so far as they relate to the markets which are being or have been reviewed as stated below;

- Continued provision Condition 69A National roaming which is being reviewed in “*National roaming*” published by Ofcom on 22 July 2004.

In this Schedule, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act .

Annex F

NOTICE TO BRITISH TELECOMMUNICATIONS PLC AND THE 54 OPERATORS LISTED IN THE SCHEDULE TO THIS NOTICE UNDER PARAGRAPH 22 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Notice that the “Direction under the provisions of Regulation 6(6) of the Telecommunications (Interconnection) Regulations 1997 of a dispute between British Telecommunications plc (“BT”) and the operators listed in the Schedule to this Direction over BT’s April 2000 Review Supplemental Agreement” made on 28 September 2001 and continued by the continuation notice given to British Telecommunications plc and the Operators listed in the Schedule to this Notice on 21 July 2003 will be revoked with effect from []

1. Ofcom, in accordance with Paragraph 22(8) of Schedule 18 to the Communications Act 2003 (“the Act”) hereby gives notice to British Telecommunications plc (“BT”) and the Operators listed in the Schedule to this Notice (“the Operators”) that the “Direction under the provisions of Regulation 6(6) of the Telecommunications (Interconnection) Regulations 1997 of a dispute between BT and the Operators over BT’s April 2000 Review Supplemental Agreement” made on 28 September 2001 and which was continued by the continuation notice given to BT and the Operators on 21 July 2003, which had effect from 25 July 2003 (“the Continued Interconnection Direction”), will be revoked with effect from [].
2. In giving this notice, Ofcom has, in accordance with Paragraph 22(9) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the Continued Interconnection Direction and whether or not to exercise its power to set a condition under that Chapter for that purpose.
3. Ofcom issued a consultation as to its proposals to revoke the Continued Interconnection Direction on 9 September 2004 and requested comments by 7 October 2004. Ofcom has taken into account the comments it received during that consultation.
4. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act. For the purposes of interpreting this notice, headings and titles shall be disregarded.

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

[Date]

Proposal that all provisions continued from licences made under the Telecommunications Act 1984 and all continued interconnection directions will cease to have effect except for specific provisions in specific markets listed in this document as exceptions

Schedule

OPERATOR AGREEMENT DATE

OPERATOR	AGREEMENT DATE
ABS Telecom PLC (Inclarity plc)	November 27 1997
Allied Communications (UK) Ltd	August 18, 2000
Alpha Telecom (UK) Ltd	August 11, 1999
America First Ltd	October 19, 1998
Call-Link Communications Ltd	May 10 2000
Conglomerate Telecom (UK) Ltd	November 11 1998
Cellcom Ltd	December 4 1997
COLT Telecommunications	July 24, 1996
Convergent Communications Company	May 2 2000
Destia Network Services Ltd	March 13 1997
Ecosse Telecommunications Ltd	November 11, 1998
First Telecom PLC	April 22 1998
Frontel Communications Ltd	June 27 1997
IDT Global Limited	April 21, 1999
Energis Carrier Services UK Ltd	December 4 1997
INMS UK LTD	December 23, 1999
Intelnet Communications Limited	February 16, 1999
International Telecom plc	July 31, 2000
Interoute Telecommunications (UK) Ltd	July 10, 1997
Interweb Design Limited	April 6, 2000
Iomart Limited	March 29, 1999
IXnet Ltd (Ixnet UK Ltd)	December 20, 1996
Kingston Communications (Hull) PLC	December 17, 1998
London Digital Ltd	November 11 1998
Mannesmann Ipulsys UK Ltd	February 19 1999
North America Gateway Ltd	July 22 1999
Opera Telecom Ltd	February 16 2000
Pacific Gateway Exchange (UK) Ltd	June 30 1998
PageOne Communications Ltd	January 26 2000
Powernet Telecom Ltd	June 2 1999
Star Telecommunications Inc	January 15 1998
Starcomm Limited	November 2, 1999
Stentor Communications Ltd	February 24 1998
Swiftcall Ltd	March 27 1997
Swiftnet Ltd	August 8, 2000
Syntec UK Limited	February 5, 1999
Talk Telecom Limited	October 14 1999
Telecom Art Limited	April 20, 1999

Proposal that all provisions continued from licences made under the Telecommunications Act 1984 and all continued interconnection directions will cease to have effect except for specific provisions in specific markets listed in this document as exceptions

Telecom One Ltd	May 12, 1998
Teleglobe International (UK) Ltd	January 13 1997
TGC UK Ltd	July 18, 2000
Torc Europe Ltd	1 August 1996
Torch Communications Ltd	February 26, 1997
Unica Communications Ltd	February 1, 2001
Unitel Communications Limited	February 1 1999
Vartec Telecom (U.K.) Limited	October 21, 1998
VBCnet (GB) Ltd	August 15, 1999
Via-Fon Limited	April 23, 1999
Viatel Global Communications Ltd	April 28 1995
Viatel UK Ltd	22 July 1997
Vodafone Ltd	May 10 1996
World-Link, Inc	May 4, 2000
WXC London Limited	June 19 1997
Yourcommunications	February 28 1997

Annex G

NOTICE TO BRITISH TELECOMMUNICATIONS PLC AND ENERGIS PLC UNDER PARAGRAPH 22 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Notice that the “Direction under Regulation 6(6) of the Telecommunications (Interconnection) Regulations 1997 relating to a dispute between Energis plc and British Telecommunications plc over BT’s rearrangement charges” made on 30 January 2003 and continued by the continuation notice given to Energis plc and British Telecommunications plc on 21 July 2003 will be revoked with effect from [].

1. Ofcom, in accordance with Paragraph 22(8) of Schedule 18 to the Communications Act 2003 (“the Act”) hereby gives notice to Energis plc (“Energis”) and British Telecommunications (“BT”) that the “Direction under Regulation 6(6) of the Telecommunications (Interconnection) Regulations 1997 relating to a dispute between Energis plc and British Telecommunications plc over BT rearrangement charges” made on 30 January 2003 and which was continued by the continuation notice given to Energis and BT on 21 July 2003, which had effect from 25 July 2003 (“the Continued Interconnection Direction”), will be revoked with effect from [].
2. In giving this notice, Ofcom has, in accordance with Paragraph 22(9) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the Continued Interconnection Direction and whether or not to exercise its power to set a condition under that Chapter for that purpose.
3. Ofcom issued a consultation as to its proposals to revoke the Continued Interconnection Direction on 9 September 2004 and requested comments by 7 October 2004. Ofcom has taken into account the comments it received during that consultation.
4. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act. For the purposes of interpreting this notice, headings and titles shall be disregarded.

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

[Date]

Annex H

NOTICE TO BRITISH TELECOMMUNICATIONS PLC AND KINGSTON COMMUNICATIONS (HULL) PLC UNDER PARAGRAPH 22 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Notice that the “Direction under the provisions of Regulation 6(6) of the Telecommunications (Interconnection) Regulations 1997 of a dispute between British Telecommunications plc (“BT”) and Kingston Communications (Hull) plc (“Kingston”) over (i) the physical interconnection arrangements between BT and Kingston, (ii) the Dispute Resolution Provisions in Kingston’s Reference Interconnect offer, and (iii) Kingston’s Interconnection charges”, made on 22 October 2001 and continued by the continuation notice given to BT and Kingston on 21 July 2003 will be revoked with effect from [].

1. Ofcom, in accordance with Paragraph 22(8) of Schedule 18 to the Communications Act 2003 (“the Act”) hereby gives notice to BT and Kingston that the “Direction under the provisions of Regulation 6(6) of the Telecommunications (Interconnection) Regulations 1997 of a dispute between BT and Kingston over (i) the physical interconnection arrangements between BT and Kingston, (ii) the Dispute Resolution Provisions in Kingston’s Reference Interconnect offer, and (iii) Kingston’s Interconnection charges”, made on 22 October 2001 and which was continued by the continuation notice given to BT and Kingston on 21 July 2003, which had effect from 25 July 2003 (“the Continued Interconnection Direction”), will be revoked with effect from [].
2. In giving this notice, Ofcom has, in accordance with Paragraph 22(9) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the Continued Interconnection Direction and whether or not to exercise its power to set a condition under that Chapter for that purpose.
3. Ofcom issued a consultation as to its proposals to revoke the Continued Interconnection Direction on 9 September 2004 and requested comments by 7 October 2004. Ofcom has taken into account the comments it received during that consultation.
4. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act. For the purposes of interpreting this notice, headings and titles shall be disregarded.

Proposal that all provisions continued from licences made under the Telecommunications Act 1984 and all continued interconnection directions will cease to have effect except for specific provisions in specific markets listed in this document as exceptions

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

[Date]

Annex I

NOTICE TO BRITISH TELECOMMUNICATIONS PLC AND COLT TELECOMMUNICATIONS LTD UNDER PARAGRAPH 22 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Notice that the “Direction under the provisions of Regulation 6(6) of the Telecommunications (Interconnection) Regulations 1997 of a dispute between British Telecommunications plc (“BT”) and Colt Telecommunications Ltd (“Colt”) concerning charges calculated in accordance with the Element Based Charge (“EBC”) matrix” made on 17 December 2001 and continued by the continuation notice given to BT and Colt on 21 July 2003 will be revoked with effect from [].

1. Ofcom, in accordance with Paragraph 22(8) of Schedule 18 to the Communications Act 2003 (“the Act”) hereby gives notice to BT and Colt that the “Direction under the provisions of Regulation 6(6) of the Telecommunications (Interconnection) Regulations 1997 relating to a dispute between BT and Colt concerning charges calculated in accordance with the Element Based Charge (“EBC”) matrix” made on 17 December 2001 and which was continued by the continuation notice given to BT and Colt on 21 July 2003, which had effect from 25 July 2003 (“the Continued Interconnection Direction”), will be revoked with effect from [].
2. In giving this notice, Ofcom has, in accordance with Paragraph 22(9) of Schedule 18 to the Act, taken all steps necessary for enabling it to decide whether or not to set a condition under Chapter 1 of Part 2 of the Act for the purpose of replacing the Continued Interconnection Direction and whether or not to exercise its power to set a condition under that Chapter for that purpose.
3. Ofcom issued a consultation as to its proposals to revoke the Continued Interconnection Direction on 9 September 2004 and requested comments by 7 October 2004. Ofcom has taken into account the comments it received during that consultation.
4. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act. For the purposes of interpreting this notice, headings and titles shall be disregarded.

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

[Date]

Annex J

Ofcom's consultation principles

There are seven principles which we will follow for each written consultation:

Before the consultation

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

2. We will be clear about who we are consulting, why, on what questions and for how long.
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.
4. We will normally allow ten weeks for responses to consultations on issues of general interest.
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.
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

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.

We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website.

We would prefer people and organisations to give us views which they would be happy to see in public. But if those who have responded to a consultation tell us that some or all of their views must stay confidential, we will respect this.

We will also:

Proposal that all provisions continued from licences made under the Telecommunications Act 1984 and all continued interconnection directions will cease to have effect except for specific provisions in specific markets listed in this document as exceptions

- list these seven principles in every consultation document that we publish;
- run a consultation helpdesk – to help organisations such as small businesses and consumer and community groups make their views heard in response to our consultations; and
- keep a table on our website at www.ofcom.org.uk listing all current consultations, those recently closed and (as far as possible) those we are planning in the near future. The table will include a brief summary of each document.

Annex K

Consultation response cover sheet

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.
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.
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.
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.
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:

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)

Proposal that all provisions continued from licences made under the Telecommunications Act 1984 and all continued interconnection directions will cease to have effect except for specific provisions in specific markets listed in this document as exceptions