

Dispute between BT and various Providers about NTS Discounts Final determination

This is the non-confidential version of the decision. Confidential information and data have been redacted. Redactions are indicated by “[X]”.

Issued: 27 August 2004

Contents

Section		Page
	Determination under Sections 188 and 190 of the Communications Act 2003	- 3 -
	Explanatory statement	- 7 -
1	Summary	- 7 -
2	Background	- 9 -
3	History of the dispute	- 11 -
4	BT's original submission	- 13 -
5	Summary of responses to the draft Determination and Ofcom's comments	- 16 -
6	Ofcom's considerations	- 22 -
7	Ofcom's conclusions	- 33 -
Annex 1	Discount applicability schedule	- 34 -
Annex 2	BT's methodology for the production of the NTS discounts information (including the revised methodology for the attribution of option fees)	- 35 -
Annex 3	Format of BT's revenue and discounts	- 41 -

DETERMINATION UNDER SECTIONS 188 AND 190 OF THE COMMUNICATIONS ACT 2003 FOR RESOLVING A DISPUTE BETWEEN BRITISH TELECOMMUNICATIONS PLC AND VARIOUS COMMUNICATIONS PROVIDERS ABOUT NTS DISCOUNTS

WHEREAS:

- (A) Section 188(2) of the Communications Act 2003 (the “Act”) provides that where there is a dispute between different communications providers, and Ofcom has decided pursuant to section 186(2) of the Act that it is appropriate for it to handle the dispute, Ofcom must consider the dispute and make a determination for resolving it. The determination that Ofcom makes for resolving the dispute must be notified to the parties in accordance with section 188(7) of the Act, together with a full statement of the reasons on which the determination is based. Section 190 sets out the scope of Ofcom’s powers on resolving a dispute which may include, in accordance with section 190(2) of the Act, a direction requiring the payment of sums by way of adjustment of an underpayment or an overpayment;
- (B) On 28 January 2004, British Telecommunications plc (“BT”) issued Operator Charge Change Notices (“OCCNs”) notifying all those communications providers who purchase NTS Call Origination from BT of changes to BT’s average discount factors for NTS Calls, which are used in calculating the Net Retail Call Revenue passed to communications providers terminating NTS Calls originating on BT’s network, to be effective from 1 April 2004;
- (C) The communications providers listed in the Schedule to this Determination (the “Providers”) either formally rejected the OCCN or chose not to sign it;
- (D) On 7 April 2004, BT wrote to Ofcom asking it to resolve a dispute between BT and the Providers relating to the level of BT’s average discount factors for NTS Calls;
- (E) On 14 April 2004, Energis Communications Ltd (“Energis”) wrote to Ofcom asking it to resolve a dispute between Energis and BT in connection with the same issue;
- (F) On 30 April 2004, Ofcom decided pursuant to section 186(2) of the Act that it was appropriate for it to handle the dispute and informed the parties of this decision;
- (G) On 25 May 2004, following representations received from certain interested parties, Ofcom clarified the scope of the dispute;
- (H) In order to resolve this dispute, Ofcom has considered, among other things, the current regulatory framework for NTS Calls, the information supplied by the Providers and BT and the relevant duties set out in sections 3 and 4 of the Act and Article 10 of the EC Treaty;
- (I) An explanation of the background to the dispute and Ofcom’s reasons for making this Determination are set out in the explanatory statement accompanying this Determination;

- (J) Ofcom issued a draft of this Determination on 21 July 2004 and responses were invited by 4 August 2004. Ofcom has considered every representation about the proposed Determination duly made to it.

NOW, THEREFORE, PURSUANT TO SECTIONS 188 AND 190 OF THE ACT, OFCOM MAKES THE FOLLOWING DETERMINATION:

1. For the period between 1 April 2004 and 30 June 2004, BT shall apply the following average discount factors for NTS Calls when calculating the Net Retail Call Revenue passed to the Providers:

NTS call type	Average Discount Factor (%)
Local rate (0845) calls	14.7%
National rate (0870) calls	2.8%
Premium rate services	0.1%
0844/71 internet services	6.4%
0844/71 other services	0.0%

2. For the period from 1 July 2004, BT shall apply the following average discount factors for NTS Calls when calculating the Net Retail Call Revenue passed to the Providers:

NTS call type	Average Discount Factor (%)
Local rate (0845) calls	16.3%
National rate (0870) calls	4.7%
Premium rate services	0.1%
0844/71 internet services	0.9 %
0844/71 other services	0.0%

3. For the purposes of giving effect to paragraphs 1 and 2 of this Determination:

- (a) Where amounts have been paid by BT to the Providers which are greater than the amount due (on the basis of the average discount factors set out in paragraphs 1 and 2), the Providers shall, within a reasonable period, pay to BT such sums, as appropriate, by way of adjustment of any overpayment; and
- (b) Where amounts have been or should have been paid by BT to the Providers which are lower than the amount due (on the basis of the average discount factors set out in paragraphs 1 and 2), BT shall, within a reasonable period, pay to the Providers such sums, as appropriate, by way of an adjustment of any underpayment.
4. Words or expressions used in this Determination shall have the same meaning as in the Act, except as otherwise stated in this Determination and as follows:
- (a) “Net Retail Call Revenue” means the retail revenue for calls, excluding VAT and after any applicable discounts;
- (b) “NTS Call Origination” means originating NTS Calls and retailing those NTS Calls to the end-user on behalf of the Third Party who has requested NTS Call Origination;

(c) “NTS Calls” means a call to a number identified in the numbering plan for the United Kingdom as a special service number or a premium rate service number

- plus calls to 0500 freephone numbers;
- excluding calls to 0844 04 numbers for Surftime Internet access services and calls to 0808 99 numbers for flat rate internet access call origination.

(d) “Third Party” means either:

- a person providing a public electronic communications network; or
- a person providing a public electronic communications service;

5. For the purposes of interpreting this Determination:

- (a) Headings and titles shall be disregarded; and
- (b) The Interpretation Act 1978 shall apply as if this Determination were an Act of Parliament;

6. This Determination shall take effect on the day it is published;

7. This Determination is binding on BT and the Providers in accordance with section 190(8) of the Act.

**HEATHER CLAYTON
DIRECTOR OF INVESTIGATIONS**

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

27 AUGUST 2004

Schedule

The following communications providers are in dispute with BT:

1st Rate Telecom Ltd
Agregated Telecoms Ltd.
Bis Ltd
Cable and Wireless UK
Colt Telecommunications Ltd.
Easynet Group plc
EESCAPE Ltd.
Energis Communications Ltd.
Gamma Telecommunications Ltd.
GKC Communications Ltd.
IDT Global Ltd.
Inclarity plc,
Intelnet Communications Ltd.
Interweb Design Ltd.
MCI WorldCom Ltd.
Networks Direct plc
Norbridge Telecom Ltd.
NTL Group Ltd.
One World Interactive Ltd.
Opal Telecom Ltd.
Patientline UK Ltd.
Pipemedia Ltd.
Prodigy Internet Ltd.
Seven Telecom Ltd.
Skymaker Ltd.
Spitfire Network Services Ltd.
Swiftnet Ltd.
Syntec UK Ltd.
Talk Telecom Ltd.
Tele2 UK Communications Ltd.
Teleglobe International (UK) Ltd.
Telstra Europe Ltd.
Telxl Ltd.
Thus plc
Tiscali UK Ltd.
T-Mobile (UK) Ltd.
Torch Communications Ltd.
United Connect Ltd.

Explanatory Statement

Section 1

Summary

S1. Ofcom has published a Determination under sections 188 and 190 of the Communications Act 2003 (the Act) to resolve a dispute between British Telecommunications plc (BT) and the communications providers listed in Schedule 1 to the Determination (the Providers).

S2. This dispute relates to BT's proposed changes to its average discount rates for NTS calls. On 28 January 2004, BT issued Operator Charge Change Notices (the January OCCN) notifying parties purchasing NTS Call Origination from BT of changes to BT's average discount rates for NTS calls, effective from 1 April 2004. The proposed changes would have the effect of reducing the retail call revenue passed by BT to these parties.

S3. BT's Standard Interconnect Agreement requires the written acceptance of changes proposed in an OCCN in order for these changes to be binding. The Providers listed in the Schedule to the Determination have either formally rejected or chosen not to sign the January OCCN.

S4. On 7 April 2004 BT referred a dispute to Ofcom under section 185 of the Act about BT's proposed revised average discount rates. On 14 April 2004, Energis Communications Ltd (Energis) referred a dispute to Ofcom about the same issue.

S5. In accordance with Section 186(4) of the Act, Ofcom decided that it was appropriate for it to handle the dispute, by reference to both parties' submissions. Ofcom published the scope of the dispute on 30 April 2004 and subsequently clarified this scope on 25 May 2004.

S6. Ofcom published a draft Determination for resolving the dispute on 21 July 2004 and invited comments from the parties to the dispute and other stakeholders by 4 August 2004¹.

S7. In response to the draft Determination, comments were received from a number of parties. These comments have been taken into account in making the final Determination. Summaries of the non confidential responses and Ofcom's comments on those responses are set out in section 5.

S8. Ofcom has decided not to make any significant changes to its draft Determination, in particular the methodology used for calculating the average discount rates. However, it should be noted that the average discount rates differ slightly from the figures set out in the draft Determination for the following reasons. First, in the time between the draft and final Determination BT was able to attribute business option fees in accordance with the revised methodology at a more granular level. These refinements to the attribution methodology for option fees has been reflected in the final Determination. In addition, the average discount rates are now calculated to the nearest 0.1%, whereas in the draft Determination they were rounded to the nearest 1.0%.

¹ http://www.ofcom.org.uk/consultations/past/dd_nts_discounts/dd_nts_disc.pdf

S9. For the reasons detailed in this Explanatory Statement Ofcom determines that BT shall apply the following average discount rates:

For the period from 1 April 2004 to 30 June 2004.

Table 1 discount rates applicable from 1 April 2004 to 30 June 2004

NTS calls	Proposed discount rate
Local rate (0845) Calls	14.7%
National rate (0870) calls	2.8%
Premium Rate Services	0.1%
0844/71 internet services	6.4%
0844/71 other services	0.0%

For the period from 1 July 2004

Table 2 discount rates applicable from 1 July 2004

NTS calls	Proposed discount rate
Local rate (0845) Calls	16.3%
National rate (0870) calls	4.7%
Premium Rate Services	0.1%
0844/71 internet services	0.9 %
0844/71 other services	0.0%

S10. To the extent that there has been any under or overpayment by BT based on the current average discount rates, Ofcom proposes that such sums shall be repaid by BT or the Providers within a reasonable time, as appropriate.

S11. In making its determination, Ofcom has had regard to the regulatory obligations of the parties to the dispute. Ofcom has considered its duties under section 3 of the Act, in particular its duty to further the interests of consumers in relevant markets, where appropriate by promoting competition. Ofcom has also considered its duties under section 4 of the Act, in particular its duty to promote competition in relation to the provision of electronic communications networks and services. In addition, Ofcom has taken into account its obligations deriving from Article 10 of the EC Treaty.

Section 2

Background

Number Translation Services (NTS)

2.1 The term number translation services (NTS) describes a range of specially tariffed services that are used for a variety of different purposes, including the provision of information services and Internet access.

2.2 NTS refers to calls to the following numbers:
Special Service numbers (including freephone (0800), special local rate (0845) and special national rate (0870)) which lie in the 08 number range; and
Premium Rate Services (PRS) (services currently provided under 090 and 091 number ranges).

2.3 Within these ranges, calls to 0844 04 numbers for Surftime Internet access services and calls to 0808 99 for Flat Rate Internet Access Call Origination have different wholesale charging arrangements and are not classed as NTS calls.

NTS regulation

2.6 On 25 July 2003 a new regulatory regime for electronic communications networks and services came into force which, *inter alia*, required the abolition of licences for telecommunications operators. The new regime also required that National Regulatory Authorities (NRAs) undertake reviews of communications markets to establish whether Significant Market Power (SMP) exists in any market and, where it does, what regulatory obligations are considered necessary. Pending the outcome of those reviews certain licence conditions and directions made under the Telecommunications (Interconnection) Regulations 1997 (the 1997 Regulations.) were continued under Continuation Notices issued under the Act, so that they would continue to apply to relevant operators including BT.

2.7 Following the 'Review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets' published on 28 November 2003² (the relevant market review), BT was found to have SMP in certain markets (including the market for call origination on fixed public narrowband networks in the UK excluding the Hull Area) identified in that review, and certain SMP conditions were imposed on BT (including SMP Condition AA11 - Requirement to provide NTS Call Origination).

2.8 As from 28 November 2003, SMP Condition AA11 replaces the arrangements that were previously captured by the various determinations made under the previous regime.

SMP Condition AA11

2.9 SMP Condition AA11 imposes an obligation on BT to provide NTS Call Origination on fair and reasonable terms, and on such terms, conditions and charges as Ofcom may, from time to time, direct. NTS Call Origination is defined as "originating NTS Calls and retailing those NTS Calls to the End-User on behalf of the Third Party who has requested NTS call origination"

2

http://www.ofcom.org.uk/legacy_regulators/oftel/narrowband_mkt_rvw/fixednarrowbandstatement.pdf

2.10 SMP Condition AA11 specifies that the only charges that may be made for providing NTS call origination services are:

- a charge for the Call Origination Service used to originate the NTS Call;
- a charge for the NTS Retail Uplift; and
- a charge for bad debt relating to the retailing by BT of Premium Rate Services calls.

2.11 SMP Condition AA11 also requires BT to pass the Net Retail Call Revenue to the third party that is purchasing the NTS Call Origination, less the charges referred to above. Net Retail Call Revenue is defined as “the retail revenue for calls excluding VAT and after any applicable discounts”. Condition AA11 therefore specifically recognises that applicable discounts should be taken into account by BT in calculating the Net Retail Call Revenue.

For the purposes of this Explanatory Statement the payments that BT makes in accordance with Condition AA11 shall be referred to as Outpayments.

2.12 In order to calculate the level of ‘applicable discounts’ for use in deriving the Outpayment, BT calculates the average retail discount (the difference between gross revenues, calculated on ‘headline’ retail prices, and the actual amounts paid by customers after retail discounts) for the following different types of NTS Calls:

- local rate (0845) calls;
- national rate (0870) calls;
- Premium Rate Services;
- 0844/71 Internet services; and
- 0844/71 other services.

Links to other Ofcom work

2.13 Ofcom is currently working on an NTS framework re-examination project, which has been set up by Ofcom to review the current NTS framework at a fundamental level to ensure that it meets Ofcom’s strategic objective of furthering the interests of citizen-consumers through a regulatory regime which, where appropriate, encourages competition. Ofcom does not consider that there is any significant dependency between the outcome of this workstream and the resolution of this dispute. Where the NTS review leads to a change in the NTS regime, that change is likely to be forward-looking and subject to both consultation and an implementation period. Therefore, for the purposes of resolving this dispute, Ofcom has taken into account the current legal framework.

Section 3

History of the dispute

3.1 On 28 January 2004, BT issued an OCCN notifying parties purchasing NTS Call Origination from BT of changes to the average discount rates applied by BT to NTS calls, effective from 1 April 2004. The proposed changes would have the effect of reducing the Outpayment.

3.2 BT's Standard Interconnect Agreement requires the written acceptance of changes proposed in an OCCN in order for these changes to be binding. Ofcom understands that some providers have signed the January OCCN. A list of those communications providers who have not yet signed the OCCN and are in dispute with BT is set out in the Schedule to the Determination.

3.3 On 7 April 2004 BT referred a dispute to Ofcom under section 185 of the Act about BT's proposed revised average discount rates. On 14 April 2004, Energis referred a dispute to Ofcom about the same issue.

3.4 On 30 April, Ofcom published the scope of the dispute in its Competition Bulletin setting out the issues to be considered by Ofcom in resolving the dispute. Following representations, Ofcom clarified the scope of the dispute on 25 May 2004, as follows:

"In connection with the BT OCCN of 28 January 2004, to determine whether BT has accurately calculated the average discount rates in connection with the retail revenue for calls for the purposes of NTS call origination services provided by BT. For the avoidance of doubt, Ofcom intends to consider the issue of whether each of BT's retail discounts are 'applicable' discounts for the purposes of net retail call revenue.

In making its determination to resolve the dispute, Ofcom will consider as good regulatory practice in accordance with its duties under Section 3 of the Communications Act 2003 and Article 10 of the EC Treaty whether its resolution of the dispute could produce anti-competitive effects."

3.5 Ofcom considered the submissions made by BT and Energis in respect of the issues involved and published a draft Determination on 21 July 2004³ and invited comments from the parties to the dispute and other stakeholders by 4 August 2004.

3.6 In the draft Determination Ofcom proposed the following average discount rates⁴:

For the period from 1 April 2004 to 30 June 2004.

Table 3 discount rates proposed from 1 April to 30 June 2004

NTS calls	Proposed discount rate
Local rate (0845) Calls	16%
National rate (0870) calls	3%
Premium Rate Services	0%

³ http://www.ofcom.org.uk/consultations/past/dd_nts_discounts/dd_nts_disc.pdf?a=87101

⁴ Note that these figures were rounded to the nearest 1%

0844/71 internet services	6%
0844/71 other services	0%

For the period from 1 July 2004

Table 4 proposed discount rates from 1 July 2004

NTS calls	Proposed discount rate
Local rate (0845) Calls	17%
National rate (0870) calls	5%
Premium Rate Services	0%
0844/71 internet services	1 %
0844/71 other services	0%

3.7 In response to the draft Determination, Ofcom has received a number of comments which it has taken into account in making its final decision. A summary of the non-confidential responses and Ofcom's comments on those responses are set out in section 5.

Section 4

BT's original submissions

BT's proposed discounts

4.1 The January OCCN set out the following proposed changes to BT's average discount rates for NTS calls as from 1 April 2004:

Table 5 BT's proposed discount rates from 1 April 2004

NTS call	Proposed rate 1 April 04
Local rate (0845) Calls	24.3 %
National rate (0870) calls	3.4%
Premium Rate Services	1.0%
0844/71 internet services	15.5%
0844/71 other services	0.1%

4.2 The pre 1 April 2004 discount rates are as follows:

Table 6 BT's pre 1 April 2004 discount rates

NTS call	Pre 1 April 04
Local rate (0845) Calls	14.8%
National rate (0870) calls	2.4%
Premium Rate Services	0.3%
0844/71 internet services	17.8%
0844/71 other services	0.0%

BT's calculation of the average discount rates

4.3 BT calculates the average discount from the difference between gross revenues, calculated on 'headline' retail prices, and the actual amounts due from customers after retail discounts.

4.4 The outline calculation undertaken by BT is illustrated in Table 5.

Table 5 BT's calculation of the average discount rates

1. Gross revenues
Less
2. Discounts, including
- Standard real time discounts (eg BT Together) (not shown on the bill)
- Calling circle (eg Friends & Family)
- Inclusive call allowances (eg with BT Standard and Home Highway)
Plus
3. Option fees (eg additional fixed fees in excess of the minimum 'line rental' package)
Equals
4. Net revenues
5. Discount % = (Gross – Net) / Gross

4.5 Table 5 shows an indicative summary based on option schemes that relate to residential packages. The actual calculation of the relevant discounts includes both business and residential tariff options.

4.6 The method used by BT to calculate the level of discounts entails measuring the total retail revenue net of discounts as accounted for by BT across all its telephony customers for the relevant type of call. This net revenue is then compared with gross revenue to determine the actual discounts applied, in a certain time

period, calculated as a weighted average across all customers. The calculation methodology is designed to take into account any additional fees payable by customers ('option fees') to gain preferential call rates. These option fees therefore serve to reduce the overall discount figure calculated by BT. The proposed average discount rates set out in the January OCCN were based on revenue figures for the year 2002/2003.

Information submitted by BT

4.7 In support of its request to resolve the dispute with the Providers BT supplied the following information to Ofcom:

- a) a spreadsheet analysis of gross revenues and discounts, by package, for each quarter for 2002/03 for the call types set out in paragraph 2.12;
- b) a reconciliation of total net revenues for the year to the revenue figures published in the 2002/03 regulatory financial statements;
- c) an explanation of how BT had attributed gross revenues, discounts and options fees in order to prepare the spreadsheet analysis supplied; and
- d) a schedule outlining the applicability of BT's various customer packages to the calls types set out in paragraph 2.12.

BT's retail discounts

4.8 BT's residential and business customers may benefit from a number of different discounts on their NTS calls. These are set out in more detail in Annex 1.

Billed and real time discounts

4.9 A distinction is made between 'billed' and 'real time' discounts. Billed discounts are discounts which are calculated during the billing stage. For example, BT's 'Friends and Family' scheme gives set percentage discounts on particular numbers nominated by the customer and are calculated by BT after calls are made. Real time discounts are calculated as the call is made. For example, BT Together packages provide for set discounts on particular types of calls or at particular times.

Inclusive call allowances

4.10 Depending on the package taken by the customer, BT may offer certain 'inclusive call allowances'. For example, before 1 July 2004 BT Standard customers were able to make certain types of calls up to a fixed monetary amount at no extra charge above their fixed package fee (or line rental).

Option fees

4.11 In order to benefit from a particular discount scheme BT customers may have to pay an option fee, which is a fee paid by consumers over and above the fixed fee associated with the most basic package which includes line rental (i.e. BT Standard charge for residential customers pre 1 July 2004). For example, residential

customers paid a fee over and above the basic package fixed fee to benefit from BT Together Option 3 which enables them to make national calls within the UK without any further charge.

Attribution of discounts

4.12 In order to calculate its proposed average discount factors set out in table 5, BT relied on the following attribution methodology:

Billed and real time discounts

4.13 Under BT's current recording systems, the value of real time discounts are readily measured and therefore allocated to particular call types. However, BT's systems do not allow it to directly allocate 'billed' discounts to relevant NTS calls. BT models how the total of these 'billed' discounts should be attributed to each particular call type.

Inclusive Call Allowances

4.14 The total ICA given to residential customers under any one package is attributed between the different call types which can be set against the ICA for that package in the ratio of total package gross eligible call revenues. This approach 'averages' the ICA discount across the relevant call types. As there was no option fee for the BT Standard rental package, the ICA associated with BT Standard was effectively treated as a 100% discount on the full retail price of the calls against which it was applied.

Option fees

4.15 BT attributed option fees according to a number of methodologies. For example, the total business option fees are apportioned to call type in line with total billed discounts.

4.16 Details of Ofcom's review of BT's methodologies and calculations can be found in section 6. Additional details on BT's methodologies can be found in Annex 2.

Section 5

Summary of responses to the draft Determination and Ofcom's comments

5.1 Ofcom received six responses to its draft Determination. Non-confidential responses were received from Energis, the UK Competitive Telecommunications Association (UKCTA), Easynet and Tiscali. The full non-confidential responses can be viewed at: http://www.ofcom.org.uk/consultations/past/nts_disc/responses/.

Energis's Response

5.2 Energis submitted that Ofcom's proposals were a significant improvement on BT's OCCN in terms of competitive outcomes and sustainability of NTS markets. Energis supported the approach outlined in the draft Determination to use BT's latest data for 2003 / 2004 and agreed that the effective date should be 1 April 2004 as proposed by Ofcom.

5.3 In addition, Energis made specific comments on the applicability of discounts and the effect of NCCN 500 on the test for a margin squeeze, which are considered in turn below.

Summary of Energis's comments on the applicability of discounts.

5.4 Energis's comments on the applicability of the discounts are three-fold: (i) Ofcom's consideration of the applicability of discounts in the draft Determination; (ii) the "minimum requirements that would put BT on a level playing field for call origination"; and (iii) the "negative impacts of the incentive effects".

(i) Energis's comments on Ofcom's consideration of the applicability of the discounts

5.5 Energis expressed its disappointment that Ofcom had failed to consider the issue of the applicability of discounts more fully in the draft Determination and that Ofcom had decided that, at least in the short term, all discounts were applicable discounts.

Ofcom's comments

5.6 In accordance with the published scope of the dispute, Ofcom did consider whether each of BT's retail discounts should be considered as 'applicable discounts':

- (a) Ofcom decided that a discount should be considered as an 'applicable discount' only if that discount is applied to reduce the effective price paid for calls to services provided over the NTS numbers. To the extent that some discounts could not be utilised by consumers to reduce the effective price paid for certain call types, then these discounts were not applicable. Whether discounts are in fact 'applicable' or not for each of the different NTS call types is shown on the discount applicability schedule provided by BT and included at Annex 1; and

- (b) Ofcom reviewed BT's method of apportioning discounts and the options fees associated with particular discounts by call type to ascertain whether BT's chosen attribution methodologies were objective in the context of this discount rate determination, i.e. that the reduction in the Outpayment fairly reflected the revenue foregone by BT in respect of the particular call type.

(ii) Energis's comments on the "minimum requirements that would put BT on a level playing field for call origination"

5.7 Energis challenged Ofcom's view expressed at paragraph 6.22 of the draft Determination that it is reasonable for BT, as an originating provider, to offer discounts on calls made by its customers in the call origination retail markets (as its competitors are able to do), and for BT to take these discounts into account in calculating the level of the Outpayment. Energis submitted that Ofcom had not understood the "minimum requirements that would put BT on a level playing field for call origination". Energis made the following comments:

- It is not necessary for BT to be able to discount the terminating networks' activities in order for it to be on a level playing field in the call origination market. Rather the reverse is true - that BT's competitors are not able to compete in the relevant retail market by offering their own discount structure and sharing the cost of doing so amongst terminating operators (as BT is able to do).
- Non-BT originating operators have the flexibility to discount call prices – as should BT. But non-BT originating operators have to exercise this flexibility within the constraints of a fixed payment to terminating operators. If non-BT originating operators discount call prices there is no guarantee that they will recover their costs of call origination. To ensure a level playing field, these restrictions on pricing flexibility should also apply to BT. Hence allowing BT to include its own call discounts in the calculation of the terminating payment gives BT a greater degree of pricing flexibility than other originating operators.
- BT's ability to discount payments to terminating operators free from competitive pressures provides a competitive advantage to BT not available to other originating operators. To bring BT into line with other originating operators, all that is required is to give BT the 'flexibility' to discount only those things under the control of its own network. This would not include the ability to discount payments to terminating operators.
- Ofcom stated in the draft Determination that it had not found any evidence to suggest that changes to the discounts proposed in its decision would result in a margin squeeze. However, Energis submitted that under the current NTS formula, it is possible that BT could propose discount rates which would have anti-competitive effects. Energis submitted that there must come a point at which the level of discount could result in a margin squeeze on terminating operators.

Ofcom's comments

5.8 This dispute concerns the extent to which BT is able to take account of any discounts it applies at the retail level in calculating the level of the Outpayment it pays

to terminating communications providers and the appropriate methodology for doing so.

5.9 Energis's comments relate to the appropriateness of the NTS regime as a whole. The nature of the NTS regime is that when BT reduces prices (whether directly, or via discounts) for NTS calls, there will be a reduction in Outpayments. As stated at paragraphs 6.22 and 6.23 of the draft Determination, Ofcom believes it is reasonable for BT, as an originating provider, to seek to compete in the relevant retail markets by offering call discounts (as all its competitors are able to do). To the extent that these discounts reduce the effective price paid by consumers for calls to services provided over NTS numbers, and hence the revenue accruing to BT, this should be taken into account in the setting of the Outpayment. To do otherwise would prevent BT from recovering its costs (if BT maintained the discounts); or reduce BT's flexibility in competing in retail calls markets and deprive consumers of price reductions (if BT were to remove the discounts).

5.10 The appropriateness of the NTS regime as a whole and, in particular, its impact on non-BT originating operators, is beyond the scope of this dispute, and Energis's comments must be seen in this context. The appropriateness of the NTS regime will be addressed in the context of Ofcom's current NTS Framework Re-evaluation project.

5.11 As regards Energis's comments on the potential for a margin squeeze under the NTS formula, Ofcom notes that the potential for a margin squeeze exists in any situation where a vertically integrated dominant undertaking operates in both upstream and downstream markets and is able to control the price in one or both of these markets. This is not unique to the NTS formula. However, the key point is that, on the evidence available to it, Ofcom does not consider it likely that the proposed average discount factors will lead to BT engaging in a margin squeeze, based on BT's current prices.

(ii) Energis's comments on the negative impacts of the incentive effects.

5.12 In its original submissions, Energis argued that there were negative incentive effects resulting from including the ICA and Friends & Family discounts as applicable discounts. In the draft Determination, Ofcom stated that it was not clear that the incentive problem identified by Energis would result in detrimental outcomes from either a competition or welfare (efficiency) perspective. Energis responded to Ofcom's comments as follows:

- To ensure allocative efficiency, the critical relationship is between the actual marginal prices facing consumers and total marginal costs of provision. This suggests that the averaging effect claimed by Ofcom is not necessarily valid.
- Energis provided stylised numerical examples of the impact of the NTS regime with calls made under the ICA and Best Friends discounts. Energis stated that these examples showed that the averaging effect of the NTS discount regime breaks the link between what the customer pays for marginal calls and what the terminating operator receives, which creates the possibility of inefficient outcomes.
- Energis acknowledged that Ofcom had deferred these questions to the wider NTS Framework Re-examination. However, Energis remained

concerned that these fundamental questions, whilst still unanswered, created an ongoing period of risk and uncertainty.

Ofcom's comments

5.13 Ofcom understands Energis's concerns to be that the NTS regime provides BT with the incentive to excessively discount certain calls. In certain situations, this could result in marginal prices for certain calls being below marginal costs, resulting in a loss of allocative efficiency. Ofcom considers this contention to be unconvincing. It is true that, in a narrow sense, allocative efficiency requires alignment of prices with marginal costs. However, this 'first best' outcome is subject to significant qualification in practice, and Ofcom does not believe it would be appropriate to attempt to intervene in each and every instance where prices deviate from marginal cost. Rather, evidence would need to be provided that such deviations are significant in magnitude, such that the efficiency consequences were material. In this context, Ofcom notes that no evidence has been presented to show that BT's behaviour in setting the either the ICA or Friends and Family discounts has actually resulted in a 'sub-optimal' or inefficient outcome.

5.14 In any case, it is not clear that Energis's stylised examples demonstrate the claimed inefficiencies. The analysis of the ICA appears to argue that there will be negative efficiency implications if consumers do not spend their ICA (because the marginal price of calls will be below the marginal cost). However, this is predicated on the assumption that significant numbers of consumers only partly spend their ICA. Ofcom questions the significance of this point, when Energis itself acknowledges that there are "likely to be very few" consumers who do not use up their ICA. Whilst the potential suboptimal outcome that may arise from marginal price being below marginal cost is excessive consumption of calls, since the relevant consumers are those who do not even use up their ICA, it is unclear that this is a material concern.

5.15 In relation to the Friends and Family discounts, Energis appears to argue that, based on a stylised example, for additional calls stimulated by the discount, the amount the terminating operator would keep could well be below its marginal costs. It is not clear to Ofcom that these stylised examples demonstrate these claims. Rather, the examples appear to show a reduction in the outpayments resulting from this discount. Energis itself states that whether the outpayment would fall below marginal costs "will depend on the operator's cost structure". Given this uncertainty, Ofcom queries whether much weight can be placed on Energis's concerns regarding efficiency losses. In any event, Ofcom notes that Energis provides no evidence as to likely actual distortions from discounting. Consequently, Ofcom cannot conclude that the efficiency consequences of such discounting, to the extent it did lead to a divergence between price and marginal cost for terminating operators, would be significant.

5.16 Ofcom recognises that under the NTS regime, BT receives the same net revenue regardless of the retail price that it sets on those calls. Thus, it could be argued that BT has an incentive to excessively discount these calls to harm downstream competitors. However, BT is constrained in acting on this incentive. Given that BT operates downstream in termination, any price which ultimately results in the marginal or incremental costs faced by terminating operators to be above their marginal revenue would raise the possibility that BT would be engaging in a margin squeeze, which would potentially fall to be considered under the Competition Act 1998.

5.17 As regards Energis's concern that the averaging effect of the NTS discount regime creates the possibility of inefficient outcomes and broader questions on the operation of the NTS regime (e.g. the principles of the applicability of discounts), Ofcom re-iterates its view that it is not possible to consider these matters in isolation or in the partial way that Energis is suggesting. These questions will be considered further in the NTS Framework Re-examination.

Summary of Energis' comments on the effect of NCCN 500 on the margin squeeze test

5.18 On 1 April 2004, BT issued a Network Charge Change Notice (NCCN) notifying other communications providers of increases to the termination rate received by BT for calls originating on non-BT networks, effective 1 May 2004. In its response to the draft Determination, Energis made the following points in relation to the effect of NCCN 500:

- Energis expressed concern that Ofcom's consideration of a potential margin squeeze failed to consider the effect of NCCN 500. The effect of NCCN 500 was to raise the termination rate received by BT for calls originating on non-BT networks with effect from 1 May 2004. This facility is not available to non-BT terminating networks, since non-BT originating networks are able to transit calls destined for non-BT networks through BT, and hence have them treated as BT originated calls with respect to Outpayments made to the non-BT terminating network. As a result, for any given set of call terminations that include calls originated on non-BT networks, the total income available to BT as a terminating network is higher than that available to non-BT terminating networks.
- Given that non-BT terminating operators do not gain the additional income available to BT under NCCN 500, this income would need to be removed in conducting a margin squeeze analysis of BT's call termination operations. Failure to do so would be likely to result in BT (as a terminating operator) being able to squeeze all other terminating operators out of the market without being any more efficient in the provision of call terminating services.

Ofcom's comments

5.19 As noted in the draft Determination, Ofcom does not consider that it is likely that its resolution of this dispute will lead to a margin squeeze. The key point in Ofcom's analysis was that the proposed resolution of the dispute did not result in a material change in the revenue available to terminating operators compared with pre April 2004 levels, particularly when allowing for the decrease in call origination charges. Ofcom notes that NCCN 500 came into effect on 1 May 2004. The changes brought about by NCCN 500 did not therefore form a part of Ofcom's analysis of the potential margin squeeze. Consequently, the points raised by Energis in relation to NCCN 500 do not arise for consideration in the context of this dispute.

UKCTA's Response

5.20 UKCTA stated that it was pleased by the outcome of Ofcom's analysis and the proposed new retail discount factors. However, UKCTA stated that it would expect Ofcom to provide an opportunity for further consultation if the discounts proposed in the draft Determination were to increase by more than 0.5% in the final Determination.

Ofcom's response

5.21 Ofcom notes that to the extent the final average discount rates differ significantly from the proposed rates set out in the draft Determination, they are lower than proposed. In addition, the overall methodology that has been used for calculating the average discount rates remains the same as that used in the draft Determination. Moreover, Ofcom made it clear in the draft Determination that the proposed discounts were calculated to the nearest 1% but would be calculated to the nearest 0.1% for the final determination. For these reasons, Ofcom does not consider it necessary to consult further on the revised discount rates.

Tiscali and Easynet

5.22 Both Tiscali and Easynet supported the views expressed by UKCTA. In addition, Easynet commented that:

- it could be implied from the draft that BT would review the average discount rates every 3 months; and
- in setting a rate beyond 1 April 2004, i.e. from 1 July 2004, Ofcom had gone beyond the scope of the dispute and this gave BT the opportunity to increase the discounts without having to go through the standard OCCN process.

Ofcom's response:

5.23 Ofcom considers that it was clear from the published scope of the dispute that it intended to set the average discount rates on a forward looking basis. This is in line with the OCCN proposed by BT, which sought to revise the discount rates with effect from 1 April 2004.

5.24 Ofcom also considers that it is acting within the scope of its obligations by setting revised average discount rates for the period from 1 July 2004. Ofcom is of the view that it would be inconsistent with its duties, in particular its duty to promote competition in relevant markets, to ignore the fact that there had been a material tariff change during the period for resolving this dispute that could significantly affect the calculated discount rate from 1 July 2004. If Ofcom were to ignore this tariff change in setting the average discount rates, it would be relying on information which it knew, or at least had reason to suspect, may not reflect the average level of discounts incurred by BT on a forward looking basis at the time of making its final Determination.

5.25 Concerning the possibility that BT may review the average discount figures on a regular basis, Ofcom notes that BT may only review the average discount rates by means of the OCCN procedure. If other communications providers do not accept any changes proposed by means of an OCCN, and commercial negotiations with respect to such changes have failed, they are free to bring the matter as a dispute to Ofcom for resolution.

Section 6

Ofcom's considerations

6.1 This dispute was referred to Ofcom by BT under Section 185 of the Act. Energis also brought a dispute to Ofcom in connection with the same issues. In accordance with Section 186(4) of the Act, Ofcom decided that it was appropriate for it to handle the dispute, by reference to both parties' submissions. Ofcom published the scope of its investigation on 30 April 2004 and clarified the scope of the dispute on 25 May 2004.

6.2 In arriving at its conclusions, Ofcom has considered the responses to its draft Determination (as set out in Section 5).

Relevant market(s) and the position of the parties in dispute

6.3 In resolving a dispute, Ofcom considers it appropriate to take into consideration the current regulatory framework applicable to the products and services in dispute.

Call origination

6.4 The Director General of Telecommunications (the Director) determined that BT has Significant Market Power (SMP) in the market for call origination on fixed public narrowband networks in the UK excluding the Hull area, as specified in 'Review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets, 28 November 2003'⁵.

6.5 As noted in Section 1 above, SMP Condition AA11, which has been imposed on BT as a result of its SMP, requires BT to provide NTS Call Origination on fair and reasonable terms, conditions and charges and also to pass the Net Retail Call Revenue (less various charges identified in Section 2 above) to the third party on whose behalf BT is providing the NTS Call Origination (i.e. the Outpayments).

6.6 The other parties to this dispute have not been found to have SMP in respect of call origination.

Downstream call termination/retail markets

6.7 As noted previously, NTS services are used for the provision of a variety of value-added services, for example the provision of information services and Internet access. The relevant downstream markets include both wholesale markets for call termination and retail markets for the provision of voice and data services provided using NTS.

⁵ http://www.ofcom.org.uk/legacy_regulators/oftel/narrowband_mkt_rvw/fixednarrowbandstatement.pdf

6.8 BT and the other parties to this dispute all supply call termination services in downstream markets. Ofcom has yet to complete a market review in respect of call termination of non-geographic calls in general⁶. Therefore, no specific ex ante regulation is currently in place for the provision of termination of NTS calls, including NTS calls used for the provision of narrowband Internet services.

6.9 BT and some of the other parties to this dispute provide retail services using NTS, for example retail metered narrowband Internet access services. There is currently no specific regulation in place to regulate the retail markets for the provision of services using NTS.

Legal and analytical framework

6.10 In making its Determination Ofcom has had regard to the regulatory obligations of the parties to the dispute, including SMP Condition AA11.

6.11 Ofcom has also considered its duties under section 3 of the Act, in particular its duty to further the interests of consumers in relevant markets, where appropriate, by promoting competition. Ofcom has also considered its duties under section 4 of the Act, in particular its duty to promote competition in relation to the provision of electronic communications networks and services. In addition, Ofcom has taken into account its obligations deriving from Article 10 of the EC Treaty.

Effective date of the application of the discounts

6.12 In notifying the other parties to this dispute of its proposed changes to the average discount rates, BT followed the steps set out below:

- 16 October 2003 – At the NTS Focus group meeting, BT gave informal notice to parties purchasing NTS call origination from BT advising of the changes to the average discount rates, and further discussed the changes over a number of following NTS Focus Group meetings;
- 28 January 2004 – BT issued OCCNs notifying parties purchasing NTS call origination from BT of changes to the discount rate, effective from 1 April 2004;
- 7 April 2004 - BT referred a dispute to Ofcom about BT's calculation of the average discount rates.

6.13 Ofcom considers that the period of 58 days between BT issuing the OCCNs (28 January 2004) and the proposed effective date for the changes to come into effect (1 April 2004) was reasonable in the circumstances. Ofcom understands that a 56 days notice period has been common practice for OCCNs in the past.

6.14 Ofcom notes that those communications providers who have signed the January OCCNs have all entered the agreement with an effective date of 1 April 2004.

⁶ The Director General of Telecommunications carried out a review of the wholesale narrowband Internet termination services market, which concluded that no communications provider had significant market power in this market in the UK excluding the Hull Area. As a result, no regulation was imposed in this market.
http://www.ofcom.org.uk/legacy_regulators/oftel/narrowband_mkt_rvw/internet_term_uk_ex_hull.pdf

6.15 Ofcom considers that, were it to direct BT and the other parties to this dispute to accept the terms of the January OCCN (as adjusted) from any date other than 1 April 2004, it would reduce the incentive on providers to enter into future negotiations in good faith. It would, in fact, provide them with an incentive to delay the acceptance of new proposals.

6.16 Ofcom therefore considers that it is appropriate to direct that its resolution of this dispute should apply to the period from 1 April 2004 (i.e. the average discount rates proposed should be backdated to that date).

Applicability of discounts

Introduction

6.17 As noted in section 1 of this document, SMP Condition AA11 requires BT to pass the Net Retail Call Revenue to providers buying NTS call origination. The Net Retail Call Revenue is defined as “the retail revenue for calls excluding VAT and after any applicable discounts” (emphasis added).

6.18 Ofcom has therefore considered what discounts should be seen as applicable discounts for these purposes.

Applicability of discounts

6.19 The regulatory framework in place for NTS has been designed to address BT's SMP in the market for call origination on fixed public narrowband networks. As noted previously, SMP Condition AA11 requires BT to originate and retail calls on behalf of providers buying NTS call origination. BT is required to provide NTS call origination services on fair and reasonable terms.

6.20 In Ofcom's view it is reasonable for BT, in setting these terms and conditions, to seek to recover its costs of providing the NTS call origination services.

6.21 Ofcom also believes it is reasonable for BT, as an originating provider, to seek to compete in the relevant retail markets by offering call discounts (as all its competitors are able to do). To the extent that these discounts reduce the effective price paid by consumers for calls to services provided over NTS numbers, and hence the revenue accruing to BT, this should be taken into account in the setting of the Outpayment. To do otherwise would prevent BT from recovering its costs (if BT maintained the discounts); or reduce BT's flexibility in competing in retail calls markets and deprive consumers of price reductions (if BT were to remove the discounts).

6.22 The nature of the NTS regime is that when BT reduces prices (whether directly, or via discounts) for 0845 and 0870 calls, there will be a reduction in Outpayments. Ofcom has recognised that this is a consequence of the NTS regime, as is the reduction in terminating providers' ability to control their revenues. The 0844/71 number ranges were specifically set up to address this problem⁷. Ofcom is aware that terminating providers do not consider these arrangements to be sufficient to address the problems associated with a lack of revenue certainty. However, Ofcom considers that this is a matter which is more appropriately addressed in Ofcom's NTS framework re-examination (see paragraph 2.13).

⁷ http://www.ofcom.org.uk/static/archive/oftel/publications/licensing/2003/nts0303_5.htm

6.23 From a competition perspective, the lack of control over revenue does not, of itself, cause concern. However, Ofcom would be concerned if the Outpayments derived from NTS calls prevented efficient operators from competing with BT to provide services on NTS related numbers. That is, if BT were to continue to operate services further downstream even though they were loss-making (i.e. if BT were engaging in a 'margin squeeze'), this could be detrimental to competition in the relevant downstream market. As discussed in the following section, Ofcom has not found any evidence to suggest that changes to the discounts proposed in its decision are likely to create a margin squeeze in the downstream wholesale narrowband metered internet termination market.

6.24 Ofcom notes that certain issues raised by Energis both in its original submission and in its response to the draft Determination form part of a broader concern about the operation the NTS regime in general (i.e. on the effectiveness of the NTS remedy in delivering effective competition in downstream markets). Concerns relating to the incorporation of discounts into the NTS formula when purchasers of NTS call origination could be considered not to 'cause' these discounts to be incurred, face the consequences of decisions they cannot control and the uncertainty associated with future applicability of discounts are considered to fall into this category. These concerns will be considered further in the NTS framework re-examination; Ofcom does not believe it is desirable (or possible) to look at these matters in the partial way that Energis is suggesting.

6.25 In this instance therefore, Ofcom starts its analysis from the basis that BT should be entitled to recover discounts provided to consumers of NTS services and that all such discounts should therefore be treated as applicable for the purposes of calculating the average discount rates.

6.26 In the following paragraphs, Ofcom's considers the applicability of the ICA and the 'Friends and Family' discounts for the purposes of calculating the Net Retail Call Revenue passed to terminating communications providers.

Friends and Family

6.27 As noted in section 5, it is not clear to Ofcom that there is any detriment to competition or consumers from the current structure of the Friends & Family discount. To the extent that certain call types are included within the Friends and Family discounts (e.g. 0845 calls) whilst others are excluded (e.g. 0870 calls), such differential treatment impacts on all downstream providers, including BT's own downstream activities. In the absence of a specific allegation of anti-competitive conduct by BT, Ofcom cannot see that there are any grounds for changing the applicability status of the Friends and Family discounts on this basis.

6.28 As discussed above, in line with its duties under section 3 and 4 of the Act to promote competition, Ofcom believes it is reasonable for BT, as an originating provider, to seek to compete in the retail market by offering call discounts (as all its competitors are able to do). To the extent that these discounts reduce the effective price paid by consumers for calls to services provided over NTS numbers, and hence the revenue accruing to BT, this should be taken account of in the setting of Outpayments. To do otherwise may prevent BT from recovering its costs (if BT maintained the discounts), or reduce BT's flexibility in competing in retail calls markets and deprive consumers of price reductions.

6.29 For the reasons set out above, Ofcom considers that the Friends and Family discount is an applicable discount for the purposes of SMP condition AA11.

Inclusive Call Allowance

6.30 Ofcom considers that the ICA associated with BT Standard is a discount incremental to calls, and that it should therefore be attributed wholly to calls. Since BT Standard end-users do not pay any further amounts in respect of those for NTS calls against which their inclusive call allowance is applied, inclusive call minutes should be treated as effectively having a zero retail price for the purpose of calculating the average discounts for this determination. In other words there is 100% discount associated with inclusive minutes, since BT collects no additional revenue for it.

6.31 To the extent that the ICA creates a 'misalignment of incentives', as noted in section 5, it is far from clear that there is detriment to welfare or competition from the inclusion of 0845 calls in the ICA.

6.32 Ofcom therefore considers that the ICA is an applicable discount for the purposes of SMP condition AA11.

Relevant data to calculate the discounts

6.33 In determining the relevant data to use in this dispute, Ofcom has taken into account the objective of setting average discount rates. This objective is to ensure that BT has the ability to recover its costs of originating NTS calls from 1 April 2004 (the date of the determined change) on a forward-looking basis.

6.34 As noted in section 4, BT provided Ofcom with gross revenue, gross discount and option fee data for the financial year 2002/2003 in support of its discount proposal. This data does not, therefore, take account of some major revisions to BT's retail tariff packages implemented in 2003 and 2004 or any of the change in the relative uptake by BT's customers of the packages on offer over this period. For example on 1 June 2003 BT removed the ICA associated with BT Together Option 1. In addition, BT revised the standard local evening geographical call pence per minute charge and applied the revised standard price to the evening local NTS prices, thereby eliminating the BT Together discount hitherto available on these calls.

6.35 On 24 March 2004 BT announced a further series of changes. BT announced its plans to withdraw its standard residential retail line rental and its standard call prices and migrate existing customers paying standard rates to BT Together Option 1. In addition and at the same time BT announced changes to both the fixed fee element and the call prices of the BT Together residential telephony packages. The revised structure and pricing of BT Together Option 1, and the migration of customers previously on BT Standard, was introduced on 1 July 2004. The revised pricing on BT Together Options 2 and 3 was introduced on 1 April 2004.

6.36 These changes will have an impact on the average discount rates being earned by BT's customers for the following reasons:

- the migration of a BT Standard customer onto one of the remaining options packages will affect the average level of the gross discounts applied to certain types of BT calls;
- the tariff changes affect the calculation of option fees; and

- the inclusive call allowance associated with BT Standard will no longer be available and therefore will not apply to the calculation of the average discount rates.

6.37 In previous determinations, Ofcom set average discount rates using the most recent actual information readily available to it. This was because, in the absence of explicit knowledge to the contrary it was considered that the most recent actual take-up of discounts would provide the most reliable guide to the level of discounts likely to be received by BT's customers on a forward-looking basis. Due to the changes to BT's retail tariffs and the fact that the relative take-up of the discount packages on offer may vary over time. Ofcom considers that using financial information from 2002/2003 may not be a reasonable proxy for the average discounts being earned by BT's customers from 1 April 2004. Therefore Ofcom requested that BT provide 2003/2004 information analysed on a quarter-by-quarter basis. This information can be reconciled to the regulatory financial information for 2003/2004 to gain a level of assurance that it has either been prepared on a consistent basis with that of the regulatory financial statements or, if different, that difference would be disclosed and quantified. Ofcom chose the final quarter's data from 2003/04 (i.e. 1 January to 31 March 2004) on which to base its determination as this is the most up to date actual information available.

6.38 To assess the likely impact of the 1 July tariff changes on the calculation of the average discount rates, Ofcom requested that BT use the same information generated to provide the revenue and discount analyses for the period 1 January to 31 March 2004 and rework the results to model the best estimate of what discounts would have been earned on average by BT's customers had the changes to its residential telephony packages, fully effective from 1 July 2004, been in force from 1 January 2004.

6.39 The following table shows the results of the modelling exercise⁸:

Table 6 Results of BT's modelling exercise

NTS call	BT's proposal using 02/03 data	BT's discount rate using for Q4 03/04 data	BT's modelled post 1 July discount rate using Q4 03/04 data
Local rate (0845) Calls	24.3 %	14.1	17.1%
National rate (0870) calls	3.4%	3.7%	4.7%
Premium Rate Services	1.0%	0.0%	0.0%

⁸ BT modelled the impact of the 1 July 2004 tariffs for Local rate (0845), National rate (0870), and PRS calls only. Ofcom considers this was sufficient for illustrative purposes. BT did not however model the impact of the tariff changes for the 0844/71 internet and other services.

6.40 In Ofcom's view, the average discount rates should reflect as closely as possible the level of discounts earned, on average, by BT's customers from the tariff packages available during the relevant period. To this end, therefore, Ofcom proposes to set an average discount rate to be effective 1 April 2004 – 30 June 2004 using the most recent available information from 2003/2004; and to set a discount rate taking into account the July tariff changes, effective 1 July 2004. Ofcom's proposed calculations for the discount rates for those periods are discussed in the next section.

Calculation of the discounts

Ofcom's review of BT's discount calculations

6.41 Ofcom notes that BT has a number of different methodologies applied at different levels of granularity to attribute fixed fees to the different call types for the purposes of its regulatory financial reporting. Ofcom reviewed BT's methodologies to see whether the methodologies employed by BT were appropriate for the purpose of making this Determination. Ofcom identified three issues with BT's attribution of option fees which it considers in turn below:

- the attribution of BT Together Option 1 fee;
- the attribution of BT Together Options 2 and 3 fees; and

the attribution of option fees in relation to inclusive call allowances, most notably Business Highway.

6.42 BT attributed the option fee for BT Together Option 1 (the most significant in terms of option fees of BT's residential packages) to its different call types pro-rated to total residential billed discounts. Ofcom considers this attribution methodology to be inappropriate for the following reasons:

- it attributes the option fee based on discounts appearing on bills ('billed' discounts) whereas the discounts associated with this package are not shown on the bill (BT Together's advantageous call prices are not presented as discounts on BT Together bills);
- attributions are based on total billed discounts for all of BT's residential customers rather than discounts by the relevant package (here BT Together Option 1);
- discounts which do, in fact, appear on bills predominately relate to BT Standard, in the form of its inclusive call allowance, the uptake of which by call type is significantly different to the gross discounts by call type earned by customers on BT Together Option 1; and
- BT's Friends and Family (including Best Friend discounts) are available to all BT's residential customers (with the exception of its Light User Scheme etc customers), without the need to pay any further subscription fee.

6.43 The option fees for BT Together Options 2, 3 and Local calls were attributed exclusively to geographical calls notwithstanding that customers on these packages were also able to make NTS calls at the same discounted prices as BT Together Option 1 customers.

6.44 It appears to Ofcom that the option fee should be attributed on the basis of the discounts on standard call prices that they could earn as a result of take up of

that particular package. In Ofcom's view the most objective attribution methodology in this situation would be to pro-rate the option fees for a particular package on the basis of the gross discounts by call type earned by customers on that package.

6.45 In respect of option fees in relation to inclusive call allowances, most notably Business Highway, BT attributes these pro-rata to discounts appearing on customers bills by call type. Ofcom considers that this attribution is not appropriate in that that attribution is done on the basis of billed discounts for all business customers rather than the utilisation of the inclusive call allowance by customers on that particular package.

6.46 Ofcom therefore requested that BT re-calculate the average discount rates by re-attributing all option fees for each particular package on the basis of the gross discounts earned by its customers on that package relating to that package. Where the option fee is related to an inclusive call allowance the attribution basis should be based on the uptake of the inclusive call allowance by call type for that package.

Calculation of the determined discount rates

6.47 Ofcom is unable to publish details of the values of the call revenues and discounts supplied by BT, as these are considered to be commercially confidential. However, Ofcom has included, at Annex 2, a narrative provided by BT describing the different types of discounts and attribution methodology used to produce the discount rates determined by Ofcom. The format of the revenue and discount analysis provided by BT is in Annex 3 which shows the granularity of the information used to determine these discount rates.

6.48 To provide a reasonable level of assurance that the information BT used to calculate the average discount rates was prepared, before the re-attribution of option fees as required by Ofcom, on a basis consistent with its regulatory financial statements, Ofcom requested that the appropriate totals for each separate year be reconciled to the net revenues reported within the relevant product group financial statements for that financial year. For the 2003/04 analysis this meant that BT was asked to reconcile such totals to the revenues to be included in the product group financial statements. At the time of the draft Determination these figures were still in draft as the audit of these financial statements was not complete. BT has now delivered to Ofcom its audited regulatory product group results. The product group financial statements represent a more granular level of analysis of BT's retail call products than that provided by the published regulatory financial statements.

6.49 At the time of publication of the draft Determination, Ofcom had not received all of the information about the reconciliation described above. Since then BT has been able to demonstrate that total gross contracted revenues, the most significant element of net revenue, link through to its audited individual product groups revenues for 2003/04.

Average discount rates

6.50 The average discount rates set out in this Determination are the result of BT's re-calculation of the average discount rates to effect the revised attribution bases for the relevant periods as described in paragraph 6.47, with the exception of the post 1 July average discount rate for 0844/71 which was calculated by removing the BT Standard ICA which made up the bulk of the discounts associated with this call type.

Ofcom has decided not to make any significant changes to its draft Determination, in particular the methodology used for calculating the average discount rates.

6.51 However, it should be noted that the average discount rates differ slightly from the figures underlying the rounded percentages set out in the draft Determination for the following reasons. First, in the time between the draft and final Determination BT was able to attribute business option fees, including those relating to inclusive call allowances, in accordance with the revised methodology at a more granular level. These refinements to the attribution methodology for option fees has been reflected in this final Determination. In addition the final rates are calculated to the nearest 0.1%, whereas in the draft Determination the average discount rates were rounded to the nearest 1%.

For period 1 April – 30 June

Table 7 discount rates from 1 April 2004 to 30 June 2004

NTS calls	Proposed discount rate
Local rate (0845) Calls	14.7%
National rate (0870) calls	2.8%
Premium Rate Services	0.1%
0844/71 internet services	6.4%
0844/71 other services	0.0%

From 1 July 2004

6.52 The data underlying the above discount rates has been re-modelled by BT to simulate the effects of the 1 July 2004 price changes which results in the following average discount rates to be determined for the period from 1 July 2004.

Table 8 discount rates from 1 July 2004

NTS calls	Proposed discount rate
Local rate (0845) Calls	16.3%
National rate (0870) calls	4.7%
Premium Rate Services	0.1%
0844/71 internet services	0.9 %
0844/71 other services	0.0%

6.53 The discount level determined for local rate (0845) as well as national rate (0870) calls for the period from 1 July 2004 is slightly higher than that for the period to 30 June 2004. This is due to an increase in relevant benefits earned as residential customers are migrated from BT Standard to the BT Together Option 1 package and the re-calculation of the value of the option fees. In the case of local rate (0845) calls the change is net of the effect of the abolition of the ICA. The decrease in the discount level for 0844/71 internet services calls for the period from 1 July 2004 is attributable to the abolition of the BT Standard inclusive call allowance which made up most of the discounts applicable to these type of calls before the 1 July tariff changes. Also note that as all residential options attract the same NTS call prices (discounted in the case of local and national rate calls), none of the revised option fees are attributed to NTS calls.

Other issues

Alleged anti-competitiveness of the NTS discounts

6.54 In its original submissions to Ofcom during the course of this investigation, Energis made various allegations regarding the anti-competitive nature of BT's retail discounts for NTS calls and the impact that these have on terminating communications providers and ISPs competing against BT in downstream markets.

6.55 As a matter of good regulatory practice and in accordance with its duties under section 3 of the Act and Article 10 of the EC Treaty, Ofcom has considered whether its proposals for resolving this dispute are likely to lead to anti-competitive effects.

6.56 For the reasons set out below, Ofcom does not consider that the average discount rates set out in this Determination are likely to lead to anti-competitive effects.

6.57 Ofcom notes that any reduction in the level of the Outpayment as a result of an increase in the level of discounts BT charges customers at the retail level, will affect all terminating providers (including BT) equally. Ofcom does not consider that a reduction in the level of the Outpayment which affects all terminating providers (including BT) equally is in itself anti-competitive.

6.58 However, there would potentially be competition concerns if the level of the Outpayment made to terminating providers was insufficient to enable BT's own downstream operations or an equally efficient competitor to BT from operating profitably in relevant downstream markets (i.e. if there were a margin squeeze). The effects of a potential margin squeeze could be felt in respect of either wholesale narrowband metered internet termination (the wholesale termination market) or in further downstream markets such as retail metered narrowband internet access services (the retail ISP market).

6.59 Concerning the wholesale termination market (for which Ofcom has used data relating to BT's SurfPort product to inform its analysis), the available information, set out below, does not lead Ofcom to conclude that there is a risk that Ofcom's Determination will lead to a margin squeeze:

- Ofcom notes that the difference between BT's pre April 2004 rates and the rates determined by Ofcom post 1 July 2004, for 0845 traffic (this is the number range which carries the bulk of dial up "pay as you go" Internet traffic) is only 1.5%;
- Ofcom notes that there has been no allegation that there was a margin squeeze based on BT's average discount rates in force prior to 1 April 2004;
- Ofcom estimates, using the published tariffs applying during 2003/4 and per port volumes provided by BT, that BT's gross SurfPort margin (revenue from NTS outpayments and port rentals less per minute revenue shares) pre 1 April 2004 was, depending on user and contract type, between [X] per year per port;

- there was a decrease in call origination charges which took place on 1 April 2004 that more than offsets the increase in the discounts from pre April 2004 levels to Ofcom's determined level;
- factoring in the fact that there was a reduction in SurfPort outpayments on 9 June 2004, allowing for the decrease in call origination charges and Ofcom's determined discounts results in an increase in gross margin after 1 July 2004 compared with pre April 2004; and
- on 20 May 2004 Ofcom wrote to the Providers in dispute with BT requesting that any evidence about the imposition of a potential margin squeeze be submitted by 26 May 2004. No provider demonstrated any evidence of unprofitability in respect of wholesale termination.

6.60 Concerning the retail ISP market, Ofcom notes that this was the subject of an Ofcom own-investigation under the Competition Act 1998. In that investigation, Ofcom concluded that there were no grounds for action against BT under the Chapter II prohibition of the Competition Act 1998 or Article 82 of the EC Treaty in relation to a possible margin squeeze in the downstream narrowband metered internet access market based on the average discount rates in effect before 1 April 2004⁹. Ofcom notes that the discount rates determined in this decision are not materially different from the average discount rates in effect before 1 April 2004. Ofcom therefore considers it unlikely that its decision in this dispute is likely to materially alter the margin earned at the retail ISP level.

9

http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_ccases/closed_all/cw_647/decision/decis_647.pdf

Section 7

Ofcom's conclusions

7.1 Ofcom concludes that the following average discount rates should apply.

For period 1 April – 30 June 2004

7.2 Ofcom concludes that the following average discount rates should apply from period 1 April – 30 June 2004.

Table 9 discount rates from 1 April 2004 to 30 June 2004

NTS calls	Proposed discount rate
Local rate (0845) Calls	14.7%
National rate (0870) calls	2.8%
Premium Rate Services	0.1%
0844/71 internet services	6.4%
0844/71 other services	0.0%

From 1 July 2004

7.3 Ofcom concludes that the following average discount rates should apply from 1 July 2004.

Table 10 discount rates from 1 July 2004

NTS calls	Proposed discount rate
Local rate (0845) Calls	16.3%
National rate (0870) calls	4.7%
Premium Rate Services	0.1%
0844/71 internet services	0.9 %
0844/71 other services	0.0%

7.4 To the extent that there has been any under or overpayment by BT or the Providers based on the current average discount rates, Ofcom considers that such sums should be repaid within a reasonable time, as appropriate.

Annex 1

Discounts applicability schedule

BT's OPTION APPLICABILITY FOR PSTN, ISDN AND HIGHWAY CALLS									
Call Types		Local & Nat geo ldd	Fixed to Mobile	Locall (LCFA)	National Call (NCFA)	Premium Rate	0844/0871 internet	0844/0871 non internet	0844/0871 no discount
g/i chargebands						g1	i1, i2, i4, i5, i8-i12	g6, g7, g9-g15	g2, g3, g8, i3
RESIDENTIAL									
Main Options	All BT Together Options	Y	Y (5%)	Y	Y (5%)	N	N	N	N
	Option 15	Y	N	Y	N	N	N	N	N
	Call&Save	Y	N	Y	N	N	N	N	N
Secondary Options	Together IDD Option	Y (IDD only)	N						
	Friends& Family	Y	Y	Y	N	N	Y	N	N
	Best Friend	Y (Loc & Nat only)	N	Y	N	N	Y	N	N
Inclusive Call Allowances	Standard Res ICA	Y	N	Y	N	N	Y	N	Y (i3 only)
	Together ICA	Y	N	Y	N	N	Y	N	Y (i3 only)
	Home Highway ICA	Y	N	Y	N	N	Y	N	Y (i3 only)
BUSINESS									
Main Options	Commitment	Y	Y (5%)	Y	Y (5%)	N	N	N	N
	All BT Together Options	Y	Y (5%)	Y	Y (5%)	N	N	N	N
	BT Business Plan	Y	Y (5%)	Y	Y	N	N	N	N
	BT Premier Value	Y	Y (5%)	Y	Y	N	N	N	N
	Advantage	Y	N	Y	N	N	N	N	N
	Bus Choices	Y	Y (5%)	Y	Y (5%)	Y (5%)	N	Y (5%)	N
	Corp Choices	Y	Y (5%)	Y	Y (5%)	Y (5%)	N	Y (5%)	N
	Tier2000	Y	Y (5%)	Y	Y (5%)	Y (5%)	N	Y (5%)	N
	Embark	Y	Y (5%)	Y	Y (5%)	Y (5%)	N	Y (5%)	N
Secondary Options	ISDN reduced Min Fee	Y	Y	Y	Y	Y	Y	Y	Y
	Key City/Region	Y (Nat only)	N	N	N	N	N	N	N
	Key Country	Y (IDD only)	N						
	Key Numbers	Y	Y	Y	N	N	Y	N	N
	Key Contact	Y (Loc & Nat only)	N						
Inclusive Call Allowances	Advantage ICA	Y	N	Y	N	N	Y	N	Y (i3 only)
	Bus Highway/ISDN ICA	Y	N	Y	N	N	Y	N	Y (i3 only)
OTHER	Surftime Eve & Wnd/Anytime	N	N	N	N	N	N	N	N
	Schools Internet	N	N	N	N	N	N	N	N

Annex 2

BT's methodology for the production of the NTS discounts information (including the revised methodology for the attribution of option fees)

Introduction

A2.1 BT has introduced a range of customer packages which offer discounts to certain call types, normally for the additional payment of a quarterly fee. Some discounts are calculated during the billing process whereas others are priced directly when the call is made. This document aims to provide an overview of the overall impact on call revenues, relating in particular to the production of the discounts presented to Ofcom in the NTS discount submissions.

Summary of discounts/packages

A2.2 The following table lists the options relevant to the NTS discount submissions for the period 2003/04. Each category is labelled as:

- Billed – calculated within billing process, or
- Real time – calculated as call is made

TYPE OF PACKAGE / DISCOUNT	RESIDENTIAL	BUSINESS
Main Billed	Option 15 – withdrawn Jun 03 Call & Save	Advantage Business Choices Corporate Choices Tier 2000
Main Real Time (BT terminology - Off Switch Charged, OSC)	BT Together and BT Surf Together replaced by Option 1 – Jun 03 BT UK Option and BT UK and Surf Together replaced by Option 2 – Jun 03 BT Together Option 3 BT Together Local Option BT Local and Surf Together replaced by BT Local – Jun 03 BT Working Together BT Working Together Talk	Commitment Commitment Plus Commitment Reward – renamed BT Bus Plan (CR) BT Together for Business BT Working Together BT Business Plan BT Premier Value

--	--	--

Table cont

TYPE OF PACKAGE/ DISCOUNT	RESIDENTIAL	BUSINESS
Supplementary Real Time (BT terminology - Off Switch Charged, OSC)	Together IDD Option Surftime Options	Key Regions Key Cities ISDN reduced Minimum Fee Surftime Options
Calling Circles Billed	Friends & Family Friends & Family Overseas Friends & Family Gold Best Friend included with any of the above.	Key Number including a Key Contact
Call Allowances Billed	Standard excluding LUS BT Together – withdrawn Jun 03 BT Working Together BT Working Together Talk HomeHighway	Advantage Allowances with Together products ISDN/ BusHighway Start Up/Call Plan

A2.3 Note: Business Complete Savings Plans are split out to the individual packages of Choices and Key products. Highway versions of the Together options are included.

Combinations allowed

A2.4 Only one Main option (billed or real time).

- A Calling Circle is allowed with any standard combination except LUS.
- One Call Allowance in line with the Main option as detailed above.
- Supplementary Real Time options allowed in combination with any Standard Billed option.

Call types

A2.5 For the complete allocation of discounts, the call revenues (for PSTN, ISDN and Highway) were split into the following main categories:

Local geographic and non geographic
National geographic and non geographic
IDD
Fixed to Mobile
Directory Enquiries
Premium Rate Calls
Surftime Calls
0844/0871 Calls by Internet/Non Internet/No Discounts
Other

A2.6 The call types presented to Ofcom for the NTS discount submissions exclude Directory Enquiries and Surftime (except for Qtr 1 to show the allocation of Fees from the Together/Surftime combined options which were withdrawn in Jun 03).

Data systems used

A2.7 To cover both billed and real time discounts, a number of data systems need to be used:

A4.9.1 CSCS (Call Statistics Centralisation System):

- Main financial system for the measurement of call revenues.
- Daily feed produces call revenues by call type by time of day in total and by OSC package, revenues are post OSC.
- Revenues are as earned within a time period.
- Daily feed produces call revenues at standard prices by call type by time of day by OSC package.
- CSCS is call based and cannot measure bill based discounts.

A4.9.2 SWIFT:

- Database primarily sourced from billed data (revenues are all post OSC prices)
- Two specific reports are used in the analysis of call discounts:
 - Data by customer package combinations: Number of accounts, billed call revenue by call type and billed discount by standard option, threshold options and calling circle.
 - Calling Circle discounts by call type.

Real time (OSC) discounts

A2.8 Discounts from all OSC products are directly measured by CSCS on an accrued basis. The discounts include the effects of minimum fee and time of day.

A2.9 Note: Calls priced at 0 pence per minute are only local geographic and national geographic for the BT Together Local, Option 2 and Option 3 options. NTS calls on these options retain the BT Together Option 1 prices. All Surftime calls priced at 0 pence per minute are in the Surftime call type, not in local NTS.

Billed discounts

A2.10 All bill related discounts are applied to revenues post OSC prices. Billed discounts come from main packages, call allowances and/or calling circles. Further, these discounts are additive i.e. each discount is applied to the billed call spend.

A2.11 The total billed discount is measured in the financial systems but is not directly available by call type or by option. To provide the level of detail required for the NTS submissions (discounts by each option, by call type), the discounts are attributed based on the reports from SWIFT. In Swift, the billed discounts are reported separately for main packages, threshold options (eg call allowances and Call & Save) and calling circles.

A2.12 The billed discounts by each type of option are attributed to call type in 4 steps as follows:

1. Main Options

Discounts from main packages can be allocated directly from the billed data by package by call type, as the discounts are a set percentage for each call type (eg 11% on local, national and IDD and 0% on other calls for Option 15).

For Call & Save, the total Call & Save and call allowance discount is calculated based on the average bill of eligible revenues and aligned to the Swift reported threshold discount for Call & Save, which covers both., The Call & Save element is then apportioned to the eligible call types in line with the total billed revenues of those call types.

2. Call Allowances

The total call allowance is based on the reported Swift threshold discount. The allowance discount is allocated to call type in proportion to the eligible billed revenue by option.

3. Calling Circles

Calling circle options give set discounts on particular numbers nominated by the customer (within defined restrictions on call types etc). The amount of calling circle discount is dependent on the choice of numbers.

The total amount of calling circle discount is reported by Swift.

The apportionment of calling circle discounts to call type is applied using the directly measured Calling Circle report.

4. Adjustment to earned revenues

All the above apportionment is based on billed data. The billed results are aligned to the earned revenues by call type and to total earned discount for each quarter before use.

Option fee attribution: BT Financial reporting

A2.13 For products where there is a fixed fee (eg BT Together), the option fee element is the amount in excess of the basic rental.

A2.14 The following apportionment method replicates the financial reporting within BT.

- APPORTIONMENT FOR BUSINESS:

Total business option fees are apportioned to call type in line with total business billed discounts.

Where a ISDN or Highway Option offers a higher rental with a call allowance, the additional rental (compared to the basic ISDN or Highway rental) is apportioned to call type in line with Regulatory reporting.

- APPORTIONMENT FOR RESIDENTIAL:

For residential option fees the following call allocation rules are applied:

Apportioned to call type in line with total residential billed discounts:
Option 15, F&F overseas, BT Together Option 1, BT Working Together, BT Working Together Talk

Apportioned directly:

BT Surf Together: all to Surftime

BT Together Local Option: all to local geographic

BT Together Local & Surf Option: half to local geographic, half to Surftime

BT Together UK / Option 2: half to local geographic, half to national geographic

BT Together UK & Surf Option: a third to local geographic, a third to national geographic, a third to Surftime

BT Together Option 3: half to local geographic, half to national geographic

Note: All Together/Surftime combined options were withdrawn in Jun 03

For 0844/0871 Inet calls which were eligible for BT Together Call Allowance (withdrawn in Jun 03), option fees were allocated directly to this call type in line with the discount gained.

Where a Highway Option offers a higher rental with a call allowance, the additional rental (compared to the basic Highway rental) is apportioned to call type in line with Regulatory reporting.

Option fee attribution: modelled

A2.15 The following methodology has also been produced specifically for the NTS Discount discussions with Ofcom:

- **APPORTIONMENT FOR RESIDENTIAL**

BTT Option 1 – Fees apportioned to call type in line with its OSC discounts and ICA (withdrawn in June 03).

BTT Option 2 and 3 and Local Option – Fees apportioned to call type in line with its OSC discounts.

BT Working Together/ Working Together Talk - Fees apportioned to call type in line with its OSC discounts and ICA

Friends&Family Overseas, Together IDD Option – all to Idd.

Home Highway ICA Rental - apportioned to call type in line with the HH ICA

- **APPORTIONMENT FOR ISDN/HIGHWAY ADDITIONAL RENTALS**

BTT for Business - Fees apportioned to call type in line with its OSC discounts and ICA.

BT Working Together - Fees apportioned to call type in line with its OSC discounts and ICA.

Business Choices/Corporate Choices - Fees apportioned to call type in line with its billed discounts.

Complete Savings Plan - Fees apportioned to call type in line with Business Choices billed discounts and OSC discounts for Key Regions/City and Key Country.

Key Region/City – all to National

Key Country – all to Idd

Other Fees – Apportioned to call type in line with all discounts.

Bus Highway/ISDN ICA Rental - apportioned to call type in line with the BH/ISDN ICA.

Annex 3

Format of BT's revenue and discounts

The following can also be viewed/downloaded as a Microsoft Excel Spreadsheet:

http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_ocases/open_all/cw_766/final_dec/annex3.xls

	A	B	C	D	E	F	G	H	I	J	K	
1	BT's analysis of its call discounts across call types -Q4 03/04 Actual						BT's analysis of its call discounts across call types - Q4 03/04 Modelled on post 1 July changes to residential tariffs					
2												
3												
4												
5	RESIDENTIAL	b= billed discount r= real time discount	LOCALL	NATCALL	VALCALL		RESIDENTIAL		LOCALL	NATCALL	VALCALL	
6												
7	Gross Revenue by Main Option	BT Together Option 1	-	-	-		Gross Revenue by Main Option	BT Together Option 1	=D7	=E7	=F7	
8		BT Together Option 2	-	-	-			BT Together Option 2	=D8	=E8	=F8	
9		BT Together Option 3	-	-	-			BT Together Option 3	=D9	=E9	=F9	
10		BT Together Local	-	-	-			BT Together Local	=D10	=E10	=F10	
11		BT Working Together	-	-	-			BT Working Together	=D11	=E11	=F11	
12		BT Working Together Talk	-	-	-			BT Working Together Talk	=D12	=E12	=F12	
13		Call & Save	-	-	-		(BT Standard migrated to Option 1)	Call & Save	=D13	=E13	=F13	
14		BT Standard	-	-	-		(BT Standard migrated to Option 1)	BT Standard	=D14	=E14	=F14	
15		Light User Scheme	-	-	-			Light User Scheme	=D15	=E15	=F15	
16		Total	=SUM(D7:D15)	=SUM(E7:E15)	=SUM(F7:F15)			Total	=SUM(I7:I15)	=SUM(J7:J15)	=SUM(K7:K15)	
17												
18	Main Option Discounts	r BT Together Option 1	-	-	-		Main Option Discounts	BT Together Option 1	=D18	=E18	=F18	
19		r BT Together Option 2	-	-	-			BT Together Option 2	=D19	=E19	=F19	
20		r BT Together Option 3	-	-	-			BT Together Option 3	=D20	=E20	=F20	
21		r BT Together Local	-	-	-			BT Together Local	=D21	=E21	=F21	
22		r BT Working Together	-	-	-			BT Working Together	=D22	=E22	=F22	
23		r BT Working Together Talk	-	-	-			BT Working Together Talk	=D23	=E23	=F23	
24		b Call & Save	-	-	-		(C&S as though on Option 1)	Call & Save	=I18/I7*I13	=J18/J7*J13	=K18/K7*K13	
25		BT Standard	n/a	n/a	n/a		(BT Standard as though on Option 1)	BT Standard	=I18/I7*J14	=J18/J7*J14	=K18/K7*K14	
26		Total	=SUM(D18:D25)	=SUM(E18:E25)	=SUM(F18:F25)			Total	=SUM(I18:I25)	=SUM(J18:J25)	=SUM(K18:K25)	
27												
28	Secondary Option Discounts	b Friends & Family	-	-	-		Secondary Option Discounts	Friends & Family	=D28	=E28	=F28	
29		b Friends & Family Gold	-	-	-			Friends & Family Gold	=D29	=E29	=F29	
30		b Best Friend	-	-	-			Best Friend	=D30	=E30	=F30	
31		Total	=SUM(D28:D30)	=SUM(E28:E30)	=SUM(F28:F30)			Total	=SUM(I28:I30)	=SUM(J28:J30)	=SUM(K28:K30)	
32	Inclusive Call Time						Inclusive Call Time					
33		b BT Standard	-	n/a	n/a			BT Standard	n/a	=E33	=F33	
34		b BT Working Together	-	-	-			BT Working Together	=D34	=E34	=F34	
35		b BT Working Together Talk	-	-	-			BT Working Together Talk	=D35	=E35	=F35	
36		b Home Highway	-	-	-			Home Highway	=D36	=E36	=F36	
37		Total	=SUM(D33:D36)	=SUM(E33:E36)	=SUM(F33:F36)			Total	=SUM(I33:I36)	=SUM(J33:J36)	=SUM(K33:K36)	
38												
39	TOTAL RESIDENTIAL DISCOUNT		=D26+D31+D37	=E26+E31+E37	=F26+F31+F37		TOTAL RESIDENTIAL DISCOUNT		=I26+I31+I37	=J26+J31+J37	=K26+K31+K37	
40												
41	Fee apportionment - notes	BT Together Option 1	*1	*1	*1		Fee apportionment - notes	BT Together Option 1		No fees		
42	*1) by total residential billed discount	BT Together Option 2	*2	*2	*2		*1) by total residential billed discount	BT Together Option 2	*2	*2	*2	
43	*2) 50:50 local-national geographic	BT Together Option 3	*2	*2	*2		*2) 50:50 local-national geographic	BT Together Option 3	*2	*2	*2	
44	*3) 100% local geographic	BT Together Local	*3	*3	*3		*3) 100% local geographic	BT Together Local	*3	*3	*3	
45		BT Working Together	*1	*1	*1			BT Working Together	*1	*1	*1	
46		BT Working Together Talk	*1	*1	*1			BT Working Together Talk	*1	*1	*1	
47		Total	=SUM(D41:D46)	=SUM(E41:E46)	=SUM(F41:F46)			Total	=SUM(I41:I46)	=SUM(J41:J46)	=SUM(K41:K46)	
48												
49												
50	Residential Summary						Residential Summary					
51	Gross		=D16	=E16	=F16		Gross		=I16	=J16	=K16	
52	Discounts		=-D26-D31-D37	=-E26-E31-E37	=-F26-F31-F37		Discounts		=-I26-I31-I37	=-J26-J31-J37	=-K26-K31-K37	
53	Fees		=D47	=E47	=F47		Fees		=I47	=J47	=K47	
54	Net		=SUM(D51:D53)	=SUM(E51:E53)	=SUM(F51:F53)		Net		=SUM(I51:I53)	=SUM(J51:J53)	=SUM(K51:K53)	
55	Discount net of fees as % gross		=(1-D54/D51)	=(1-E54/E51)	=(1-F54/F51)		Discount net of fees as % gross		=(1-I54/I51)	=(1-J54/J51)	=(1-K54/K51)	
56												
57												

	A	B	C	D	E	F	G	H	I	J	K
58	BT's analysis of its call discounts across call types -Q4 03/04 Actual					BT's analysis of its call discounts across call types - Q4 03/04 Modelled on post 1 July changes to residential tariffs					
59											
60											
61			b= billed discount								
62	BUSINESS	r= real time discount	LOCALL	NATCALL	VALCALL	BUSINESS	LOCALL	NATCALL	VALCALL		
63											
64	Gross Revenue by Main Option	Commitment	-	-	-	Gross Revenue by Main Option	Commitment	=D64	=E64	=F64	
65		CommitmentPlus	-	-	-		CommitmentPlus	=D65	=E65	=F65	
66		Commitment Reward	-	-	-		Commitment Reward	=D66	=E66	=F66	
67		BT Together for Business	-	-	-		BT Together for Business	=D67	=E67	=F67	
68		BT Working Together	-	-	-		BT Working Together	=D68	=E68	=F68	
69		BT Business Plan	-	-	-		BT Business Plan	=D69	=E69	=F69	
70		BT Premier Value	-	-	-		BT Premier Value	=D70	=E70	=F70	
71		Advantage	-	-	-		Advantage	=D71	=E71	=F71	
72		Business Choices	-	-	-		Business Choices	=D72	=E72	=F72	
73		Corporate Choices	-	-	-		Corporate Choices	=D73	=E73	=F73	
74		Tier 2000 Series	-	-	-		Tier 2000 Series	=D74	=E74	=F74	
75		Embark	-	-	-		Embark	=D75	=E75	=F75	
76		No Main option	-	-	-		No Main option	=D76	=E76	=F76	
77		Total	=SUM(D64:D76)	=SUM(E64:E76)	=SUM(F64:F76)		Total	=SUM(I64:I76)	=SUM(J64:J76)	=SUM(K64:K76)	
78											
79	Main Option Discounts	r Commitment	-	-	-	Main Option Discounts	Commitment	=D79	=E79	=F79	
80		r CommitmentPlus	-	-	-		CommitmentPlus	=D80	=E80	=F80	
81		r Commitment Reward	-	-	-		Commitment Reward	=D81	=E81	=F81	
82		r BT Together for Business	-	-	-		BT Together for Business	=D82	=E82	=F82	
83		r BT Working Together	-	-	-		BT Working Together	=D83	=E83	=F83	
84		r BT Business Plan	-	-	-		BT Business Plan	=D84	=E84	=F84	
85		r BT Premier Value	-	-	-		BT Premier Value	=D85	=E85	=F85	
86		b Advantage	-	-	-		Advantage	=D86	=E86	=F86	
87		b Business Choices	-	-	-		Business Choices	=D87	=E87	=F87	
88		b Corporate Choices	-	-	-		Corporate Choices	=D88	=E88	=F88	
89		b Tier 2000 Series	-	-	-		Tier 2000 Series	=D89	=E89	=F89	
90		Embark	-	-	-		Embark	=D90	=E90	=F90	
91		Total	=SUM(D79:D90)	=SUM(E79:E90)	=SUM(F79:F90)		Total	=SUM(I79:I90)	=SUM(J79:J90)	=SUM(K79:K90)	
92											
93	Secondary OSC Discounts	r ISDN red min fee	-	-	-	Secondary OSC Discounts	ISDN red min fee	=D93	=E93	=F93	
94		r Key Region/City	-	-	-		Key Region/City	=D94	=E94	=F94	
95		r Key Country	-	-	-		Key Country	=D95	=E95	=F95	
96		Total	=SUM(D93:D95)	=SUM(E93:E95)	=SUM(F93:F95)		Total	=SUM(I93:I95)	=SUM(J93:J95)	=SUM(K93:K95)	
97											
98	Secondary Option Discounts	r Key Numbers	-	-	-	Secondary Option Discounts	Key Numbers	=D98	=E98	=F98	
99											
100	Inclusive Call Time	b Advantage	-	-	-	Inclusive Call Time	Advantage	=D100	=E100	=F100	
101		b BT Together for Business	-	-	-		BT Together for Business	=D101	=E101	=F101	
102		b BT Working Together	-	-	-		BT Working Together	=D102	=E102	=F102	
103		b Business Highway	-	-	-		Business Highway	=D103	=E103	=F103	
104		Total	=SUM(D100:D103)	=SUM(E100:E103)	=SUM(F100:F103)		Total	=SUM(I100:I103)	=SUM(J100:J103)	=SUM(K100:K103)	
105											
106	Fee apportionment - notes	Fees	-	-	-	Fee apportionment - notes	Fees	=D106	=E106	=F106	
107	Option fees are apportioned	ISDN/Bus Highway ICA Fees	-	-	-	Option fees are apportioned	ISDN/Bus Highway ICA Fees	=D107	=E107	=F107	
108	in line with total business billed discounts	Home Highway ICA Fees	-	-	-	in line with total business billed discounts	Home Highway ICA Fees	=D108	=E108	=F108	
109		Total	=SUM(D106:D108)	=SUM(E106:E108)	=SUM(F106:F108)		Total	=SUM(I106:I108)	=SUM(J106:J108)	=SUM(K106:K108)	
110											
111	BUSINESS SUMMARY					BUSINESS SUMMARY					
112		Gross	=D77	=E77	=F77		Gross	=I77	=J77	=K77	
113		Discounts	=-D91-D96-D98-D104	=-E91-E96-E98-E104	=-F91-F96-F98-F104		Discounts	=-I91-I96-I98-I104	=-J91-J96-J98-J104	=-K91-K96-K98-K104	
114		Fees	=D109	=E109	=F109		Fees	=I109	=J109	=K109	
115		Net	=SUM(D112:D114)	=SUM(E112:E114)	=SUM(F112:F114)		Net	=SUM(I112:I114)	=SUM(J112:J114)	=SUM(K112:K114)	
116		Discount net of fees as % gross	=(1-D115/D112)	=(1-E115/E112)	=(1-F115/F112)		Discount net of fees as % gross	=(1-I115/I112)	=(1-J115/J112)	=(1-K115/K112)	
117											
118	BUSINESS AND RESIDENTIAL SUMMARY					BUSINESS AND RESIDENTIAL SUMMARY					
119		Gross	=D112+D51	=E112+E51	=F112+F51		Gross	=I112+I51	=J112+J51	=K112+K51	
120		Discounts	=D113+D52	=E113+E52	=F113+F52		Discounts	=I113+I52	=J113+J52	=K113+K52	
121		Fees	=D114+D53	=E114+E53	=F114+F53		Fees	=I114+I53	=J114+J53	=K114+K53	
122		Net	=SUM(D119:D121)	=SUM(E119:E121)	=SUM(F119:F121)		Net	=SUM(I119:I121)	=SUM(J119:J121)	=SUM(K119:K121)	
123		Discount net of fees as % gross	=(1-D122/D119)	=(1-E122/E119)	=(1-F122/F119)		Discount net of fees as % gross	=(1-I122/I119)	=(1-J122/J119)	=(1-K122/K119)	