

Dispute between BT and various Providers about NTS Discounts

Draft determination

Consultation document

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DRAFT 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 make 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 Schedule 1 (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 Group plc (“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 [] 2004 and responses were invited by [] 2004.

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	16%
National rate (0870) calls	3%
Premium Rate Services	0%
0844/71 internet services	6%
0844/71 other services	0%

2. For the period from 1 July 2004 onwards, 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	17%
National rate (0870) calls	5%
Premium Rate Services	0%
0844/71 internet services	1 %
0844/71 other services	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
[] JULY 2004

Schedule 1

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 draft 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 Schedule 1 to the draft 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 Group plc (Energis) referred a dispute to Ofcom about the same issue.
- S5. The background to the issues in dispute is set out in section 2. The history of the dispute is set out in section 3.
- S6. During its investigation, Ofcom received representations from BT and some of the Providers. A summary of BT's submissions is set out in section 4. A summary of the Providers' submissions is set out in section 5. Ofcom's considerations and initial views are set out in section 6.
- S7. For the reasons detailed in the Explanatory Statement Ofcom's proposes that BT should apply the following average discount rates¹:

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

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

NTS calls	Proposed discount rate
Local rate (0845) Calls	16%
National rate (0870) calls	3%
Premium Rate Services	0%
0844/71 internet services	6%
0844/71 other services	0%

¹ Note that these figures are rounded to the nearest 1%

For the period from 1 July 2004

Table 2 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%

- S8. To the extent that there has been any under or overpayment by BT or the Providers based on the current average discount rates, Ofcom proposes that such sums shall be repaid within a reasonable time, as appropriate.
- S9. At the time of publication, Ofcom had not received all of the information about the reconciliation (see section 6). The information will be available for the final decision. Ofcom does not believe the final results are likely to materially change the proposed figures. It should be noted, however, that the average discount rates proposed in the draft determination may be modified in the final decision to reflect the final information and will be calculated to the nearest 0.1%.
- S10. As Ofcom's proposals may have an impact on providers other than the parties to the dispute, Ofcom has decided to publish its proposals for wider consultation. Comments are requested on Ofcom's proposals by 4 August 2004. Details of the consultation are set out in section 8 of this document. Ofcom will take responses into account when making its final decision.

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

- 2.5 In resolving a dispute Ofcom considers it important to take into consideration the relevant regulatory framework which is currently in place.
- 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

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

previous regime. These determinations are listed in Annex 3 to this Explanatory Statement.

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”
- 2.10 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 undertaking a number of other workstreams in the area of NTS. These are summarised below and are available on Ofcom’s website (www.ofcom.org.uk):
- Review of retail price and numbering arrangements for calls to 0845 and 0870 numbers, published 29 April 2004³;

³ http://www.ofcom.org.uk/consultations/past/0845_0870_review_responses/

- Consultation on options for NTS interconnection charging (consultation closed on 23 January 2004, and Ofcom is currently evaluating comments)⁴;
- Number Translation Services Retail Uplift charge control and Premium Rate Services bad debt surcharge⁵ (consultation closes 19 July 2004)⁶;
- Ofcom 'own initiative' investigation into suspected margin squeeze on 0845/0870 ISPs (investigation ongoing, competition bulletin entry available on website⁷); and,
- Ofcom 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.

2.14 Ofcom does not consider that there is any significant dependency between the outcome of the workstreams listed above and the resolution of this dispute. Where any of the workstreams lead to a change in the NTS regime, that change is likely to be forward-looking and subject to both consultation and an implementation period. For the purposes of resolving this dispute, Ofcom has taken into account the current legal framework.

⁴ http://www.ofcom.org.uk/legacy_regulators/oftel/nts_ic_condoc/nts_charging.pdf

⁵ http://www.ofcom.org.uk/consultations/current/nts_retail_uplift/

⁶ http://www.ofcom.org.uk/legacy_regulators/oftel/review_nts_retail_uplift/

⁷ http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_ocases/open_all/cwq_647/

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 OCCNs. A list of those communications providers who have not yet signed the OCCNs and are in dispute with BT is set out in Schedule to the draft 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 Group plc (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."

Section 4

BT's 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 3 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 4 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 within the BT Standard and Home Highway)
Plus
3. Option fees (eg additional fixed fees associated with the various for BT Together options)
Equals
4. Net revenues

$5. \text{Discount \%} = (\text{Gross} - \text{Net}) / \text{Gross}$
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- 4.5 Table 5 shows an indicative summary based on the 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;
 - 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 4.

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 customers received a fixed spend amount of free calls included in their fixed 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 (BT Standard charge pre 1 July 2004). For example, customers paid a fee over and above the fixed fee to benefit from the 'Friends and Family' discount scheme.

Attribution of discounts

- 4.12 In order to calculate its proposed average discount factors, 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 In order to calculate the net percentage discount on NTS calls, split between different types of NTS calls, BT calculates the gross call turnover, gross discount and option fees for these revenue streams. 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 is no option fee for the BT Standard rental package, the ICA is effectively treated as a 100% discount on the full retail price of the calls against which it is 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 calculations can be found in section 6.

Section 5

Submissions from other parties

Energis

- 5.1 In addition to Energis's dispute referral of 14 April 2004, Energis submitted supplementary comments on 9 June 2004. Energis's comments are set out below. Ofcom's initial views responding to these comments are set out in Section 6.
- 5.2 Energis's submissions provide comments both on the NTS regime as a whole and the specific discounts taken into account by BT in calculating the level of the Outpayment. In addition, Energis submitted a separate paper written by consultants employed by Energis (Ofcom considers this paper to be attributable to Energis and refers to the points made as Energis' comments), which examines the direct potential effects of the inclusion of retail discounts in the calculation of the relevant retail price used to determine the Outpayment. This paper comments on the two main discount types available to residential customers, the ICA and 'Friends and Family'.

Comments of the NTS regime and formula

- 5.3 In summary, Energis makes the following general comments on the discounts taken into account by BT in calculating the level of the Outpayment:
- discounts may reduce the intensity of competition between different operators, and Ofcom should prevent BT from applying an RDF which results in damage to BT's competitors;
 - BT's retail discounts affect not only its own prices but the revenues derived by its competitors. BT Retail makes all these decisions. This breaches BT's obligation to conduct its retail business separately from wholesale service supply;
 - competitors also therefore face consequences of decisions they cannot control. This is inherently unfair and unreasonable, and also offends against the principles of cost causation and cost minimisation;
 - terminating providers do not cause the 'cost' of discounts nor enjoy the benefits such as increased customer loyalty;
 - the current arrangements also fail to adhere to the principles of reciprocity, i.e. the NTS regime ensures that BT can recover costs of discounts when BT originates calls but the same does not apply when Energis originates calls.

Specific comments on 'Friends and Family'

- 5.4 In summary, Energis makes the following comments:
- BT's Friends and Family discount package specifically targets NTS calls in a discriminatory fashion;

- the terminating provider must discriminate between end users, in that the effective price charged to consumers for its services depends on the discount the service provider gets from BT;
- the operation of the discounts discriminates against NTS calls (and presumably NTS providers) because for discounts on other call types (e.g. fixed-to-mobile), BT bears the cost of the discount. For NTS calls, terminating providers bear the cost of the discount;
- Energis has no information on the rate of take-up of this scheme and cannot forecast a provision for it on any sound basis, whereas BT Retail can. Energis submitted that the lack of transparency alone is a cause for dispute;
- BT has inefficient incentive to apply discounts on 0845 numbers, knowing that it will target terminating providers by doing so (this includes itself, but this detrimental effect is mitigated by its low market share in termination). This incentive derives from BT receiving the average costs of call origination on all additional call minutes generated by the discount;
- Energis claims that BT's motivation is to discount more than is optimal in terms of additional call stimulation. This is because it will receive the *average* costs of call origination on *all* additional call minutes, irrespective of how low a price it has to offer in order to attract that additional call;

Comments on the applicability of the ICA discounts

5.5 In summary, Energis makes the following comments in relation to the applicability of the ICA:

- the ICA should not be an 'applicable' discount because it bundles calls with access. SMP Condition AA11 applies to calls originated using NTS; it is not a condition which affects the terms of access;
- Energis does not believe it is appropriate for it to subsidise what is a marketing tool for BT Retail and from which Energis (and its customers, e.g. ISPs) derive no benefit;
- even if there is a justification for the application of bundling as an 'applicable' discount, the discount actually applied is excessive. This is because BT benefits from these discounts (by inducing customer loyalty, in relation to calls and line rental) but bears no cost;
- the ICA leads to a misalignment of economic incentives, because BT has incentive to offer discounts (the ICA) without actually suffering any income loss;
- the ICA is not 'free'. The revenues from line rental charges, to the extent that they are above costs, are clearly paying for the free calls. This excess of price over cost should be included in the call revenues when calculating the discount percentage;

- the objective of the NTS regime is to pass through the residual 'value' of the call (price less cost) to terminating operators. In practice, the operation of the ICA undermines this objective. Including 0845 calls in the ICA allows BT to retain revenue that should flow to terminating operators. Consumers, to the extent that the ICA is usually fully used, do not benefit from this arrangement and would be no worse off if 0845 calls were not included in the ICA.

Other comments

- 5.6 In addition to the above comments, Energis made various allegations of anti-competitive conduct by BT, including an allegation that an increase in the average discounts rates would lead to a margin squeeze. Energis submitted an analysis of the impact on its margin from the discount factor change on its 0845 termination business, which concluded that the margin (NTS outpayment revenue less direct costs) would fall.

Comments from other interested parties

- 5.7 One of the communications providers in dispute with BT submitted evidence in relation to the allegation that an increase in the average discounts rates would lead to a margin squeeze. The evidence submitted, however, amounted to a calculation of that communications provider's gross margin & EBITDA reduction from the outpayments change, with the only cost provided being the provider's revenue share with the end ISP. Unprofitability was not demonstrated.

Section 6

Ofcom's considerations and initial views

- 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 initial views, Ofcom has considered the submissions made by the parties in dispute.

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 Ofcom has 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 2003'⁸.
- 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.

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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 carry out a market review in respect of call termination of non-geographic calls in general. However, a market review has been carried out in respect of unmetered wholesale narrowband Internet termination⁹. That market review concluded that no communications provider has SMP in the market for wholesale narrowband Internet termination in the UK excluding the Hull Area¹⁰. Therefore, with the exception of the Hull Area, 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 these proposals 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 and Article 10 of the EC Treaty, 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.

Effective date of the application of the discounts

- 6.12 Ofcom notes that it did not receive comments on the proposed effective date for the application of the new average discount rates.
- 6.13 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.
- 6.14 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

9

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

¹⁰ Kingston Communications (Hull) plc was found to have SMP in the market for narrowband Internet termination in the Hull Area.

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.

- 6.15 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.
- 6.16 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.
- 6.17 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

- 6.18 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).
- 6.19 Ofcom has therefore considered what discounts should be seen as applicable discounts for these purposes. In arriving at its initial views on the applicability of the discounts, Ofcom has considered and responded to the submissions made by

Applicability of discounts

- 6.20 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.
- 6.21 In Ofcom's view it is reasonable for BT, in setting these terms and conditions, to seek to recover its costs of the providing the NTS call origination services.
- 6.22 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).
- 6.23 The nature of the NTS regime is that when BT reduces prices (whether directly, or via discounts) for 0845 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 problem¹¹. 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).

- 6.24 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 continued to operate (for example) an ISP service using 0845 numbers even though it was loss-making (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.
- a. As regards Energis's comments on reciprocity, Ofcom notes that the NTS condition only applies to BT because it has been found to have SMP in the market for call origination on fixed public narrowband networks. NTS services on other originating providers' networks are not subject to the same conditions (i.e. they do not have a specific obligation to provide call origination on fair and reasonable terms).
- 6.26 Ofcom notes that certain other issues raised by Energis form part of a broader question on the operation the NTS regime (i.e. on the effectiveness of the NTS remedy in delivering effective competition in downstream markets). Questions relating to the appropriateness of discounts when competitors do not 'cause' discounts, 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 questions 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.
- 6.27 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.
- 6.28 As noted above, Energis made specific submissions that the ICA and the 'Friends and Family' discounts should not be considered as 'applicable discounts' for the purposes of calculating the Net Retail Call Revenue passed to TCPs, Ofcom's response to Energis's arguments is set out below.

Friends and Family

- 6.29 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

¹¹ http://www.ofcom.org.uk/static/archive/oftel/publications/licensing/2003/nts0303_5.htm

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 arm. 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.

- 6.30 As regards Energis's claim that the terminating provider must discriminate between end-users, Ofcom is unclear how this would occur, given that the NTS outpayments are set on the basis of average discount levels set in advance. In addition, even if such discrimination occurred, it is unclear what the suggested detriment is from this conduct.
- 6.31 Energis identifies an 'incentive problem' in the operation of the discounts. This incentive problem is that BT will over-discount calls on 0845 numbers (relative to the optimum) because it does not bear the additional costs of doing so (i.e. BT always recovers the average cost of call origination, regardless of the size of discounts). Energis suggests that this incentive problem can be corrected by removing Friends & Family as an applicable discount.
- 6.32 In Ofcom's view, to remove the discount as an applicable discount to address this problem would be inappropriate. Firstly, it is not clear to Ofcom whether the 'incentive problem' as described by Energis will result in detrimental outcomes. From a welfare perspective, the relationship between price and marginal cost of the call is the relevant factor. That is, any price fall (or discount) where price is above marginal cost for the call is likely to be welfare-improving.
- 6.33 The basis of Energis's claim that BT's discounting behaviour in setting discounts for 0845 numbers would be 'sub-optimal' is therefore unclear. Indeed, it is not clear why BT's behaviour in setting discounts for all types of calls in the retail market would be efficient, as claimed. It is clear that setting the marginal cost of discounts equal to the marginal revenue gained is profit-maximising for BT, but this is a different question as to whether these discounts optimise total welfare.
- 6.34 It is also unlikely that the incentives as described by Energis will result in a detriment to competition, as long as no margin squeeze is applied.
- 6.35 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 call to services provided over 0845 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.
- 6.36 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

- 6.37 Ofcom understands Energis's argument on the applicability of the ICA to be as follows. The ICA cannot be exclusively said to be a discount on calls, and it should therefore either not be classified as an applicable discount, or, if considered applicable, should be allocated as an offset to line rental revenues as well as to calls (including 0845 calls). Energis also suggests that by describing BT's tariff in a different way, "a tariff that reduces the retail line rental by the exact amount spent on eligible calls", the discount could be described as a discount on access.
- 6.38 Ofcom considers that the ICA 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 discounts. In other words there is 100% discount associated with inclusive minutes, since BT collects no additional revenue for them (other than the option fee associated with particular packages).
- 6.39 Ofcom believes this position is supported by Energis's comment made in its submissions that "If a customer does not make any BT billed calls it will not receive the benefit of the ICA." This suggests to Ofcom that the ICA is incremental to, and must be considered to be a discount on, calls. A reduction in the line rental by the amount spent on eligible calls (as described by Energis) – does not alter this view. In relation to Energis's point about whether the ICA is truly 'free', the calculation of discounts is about the difference between gross and net retail revenues. In Ofcom's view, the relationship between the price of access and its cost is simply unrelated to the question of discounts.
- 6.40 To the extent that the ICA creates a 'misalignment of incentives', then the arguments discussed above are relevant. That is, it is far from clear that there is detriment to welfare or competition from the inclusion of 0845 calls in the ICA. While the inclusion of 0845 calls in the ICA could be argued to result in certain calls being priced below marginal cost, as long as BT recovers its costs on average across all calls then there should be no detriment to either consumers or to competition from this practice. The inclusion of the ICA as an applicable discount would be consistent therefore with Ofcom's duties under sections 3 and 4 of the Act to promote competition.
- 6.41 In Ofcom's view, there is insufficient evidence to support the Energis' proposition that BT has deliberately manipulated the ICA (by including 0845 calls) to favour its origination and/or termination businesses. Such a claim would also seem unlikely given BT's exclusion of 0870 calls (to which the same incentives apply) from the ICA and the recent removal of the ICA altogether (from 1 July 2004).
- 6.42 For the reasons set out above, Ofcom considers that the ICA is an applicable discount for the purposes of SMP condition AA11.**

Relevant data to calculate the discounts

- 6.43 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 proposed change) on a forward-looking basis.
- 6.44 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. 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 price to the evening local NTS prices, thereby eliminating the BT Together discount available on these calls.
- 6.45 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 line rental element and the call prices of the BT Together residential payment plans. The new pricing on BT Together Option 1, and the migration of customers paying standard rates, was introduced on 1 July 2004. The new pricing on BT Together Options 2 and 3 was introduced on 1 April 2004.
- 6.46 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 discounts applied to BT calls;
 - the tariff changes affect the calculation of option fees; and
 - the inclusive call allowance associated with BT Together will no longer be available and therefore will not apply to the calculation of the average discount rates.
- 6.47 In previous determinations, Ofcom set average discount rates using historical information. This is because, in the absence of foreseen changes to discount packages, it was considered that historical take-up of discounts would provide a reasonable estimate of actual discounts received by customers on a forward-looking basis. However, due to the changes to BT's retail tariffs Ofcom considers that using financial information that 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. This information can be reconciled to the draft 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.
- 6.48 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.

6.49 The following table shows the results of the modelling exercise¹²:

Table 6 Results of BT's modelling exercise

NTS call	BT's proposal using 02/03 data	BT's estimated discount rate for Q4 03/04	BT's modelled post 1 July discount rate using Q4 03/04
Local rate (0845) Calls	24.3 %	14%	17%
National rate (0870) calls	3.4%	4%	5%
Premium Rate Services	1.0%	0%	0%

6.50 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 2003/2004 data; 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

6.51 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. 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.

6.52 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:

¹² Ofcom asked BT to model the calculation of the average discount rates for Local rate (0845), National rate (0870), and PRS calls only. Ofcom considered this was sufficient for illustrative purposes. Ofcom did not require BT to model the calculations for the 0844/71 internet and other services.

- 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;
- discounts which do, in fact, appear on bills predominately relate to BT Standard, in the form of the 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.

- 6.53 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.
- 6.54 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.
- 6.55 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.
- 6.56 Ofcom therefore requested that BT 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 proposed discount rates

- 6.57 Ofcom is unable to publish details of the call revenues and discounts supplied by BT, as these are considered to be commercially confidential. However, Ofcom has included, at Annex 4, a narrative provided by BT describing the different types of discounts and attribution methodology used to produce the discount rates proposed in Ofcom's decision. The format of the revenue and discount analysis provided by BT is in Annex 5 which shows the granularity of the information used to determine the rates proposed.
- 6.58 To provide a reasonable level of assurance that the information BT used to calculate the average discount rates is appropriate, 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. These figures are still in draft as the audit of these financial statements is not due to be completed until the end of August 2004 when the product group financial statements will be provided to Ofcom. 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. Because they are prepared at a more detailed level Ofcom considered that they were the appropriate information source that the analysis provided should be reconciled to.

- 6.59 BT provided the drafts of the 2003/04 Accounting Documents and Detailed Attribution Methods (DAM) in respect of the accounting for, and attribution of, telephony fixed fees, call revenues, discounts and options fees. To cover the eventuality that BT's planned write-ups for 2003/04 for the Accounting Documents and DAM would not go into sufficient detail to fully describe the basis of preparation, Ofcom also requested BT to describe in detail a number of points.

Proposed average discount rates

- 6.60 The proposed average discount rates in this draft determination are the result of BT's calculation of the average discount rates to effect the revised attribution bases for the relevant periods as described in paragraph 6.56. It should be noted that the changes requested to the attribution described in paragraph 6.56 are not obviously apparent in the proposed figures shown in Tables 7 and 8. This is due to different changes cancelling the effect of other changes and rounding.

For period 1 April – 30 June

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

NTS calls	Proposed discount rate
Local rate (0845) Calls	16%
National rate (0870) calls	3%
Premium Rate Services	0%
0844/71 internet services	6%
0844/71 other services	0%

From 1 July 2004

- 6.61 Putting the above figures into BT's model, which simulates the effects of the 1 July 2004 price changes, the following average discount rates are proposed to be applied from 1 July 2004.

Table 8 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%
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- 6.62 At the time of publication, Ofcom had not received all of the information about the reconciliation described in paragraph 6.58. The information will be available for the final decision. Ofcom does not believe the final results are likely to materially change the proposed figures. It should be noted, however, that the average discount rates proposed in the draft determination may be modified in the final decision to reflect the final information and will be calculated to the nearest 0.1%.
- 6.63 Ofcom's proposed discount levels for Local rate (0845) calls for 1 July 2004 are higher than that for the period to June 30 2004. This is due to an increase in relevant benefits as customers are migrated from the standard package to the BT Together packages. The decrease for 0844/71 can be primarily 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

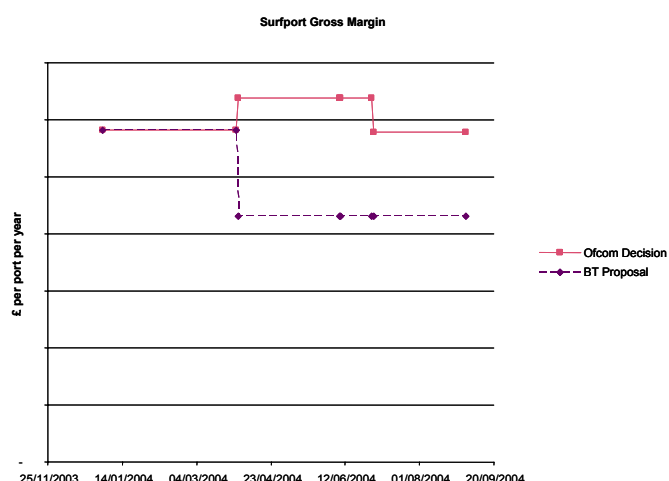
Alleged anti-competitiveness of the NTS discounts

- 6.64 In its 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.
- 6.65 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.
- 6.66 For the reasons set out below, Ofcom does not consider that its proposals for resolving this dispute are likely to lead to anti-competitive effects.
- 6.67 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.
- 6.68 Concerning the wholesale termination market, the available information, listed below, does not lead Ofcom to conclude that there is a risk that Ofcom's proposed resolution of this dispute will lead to a margin squeeze:
- 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 surport 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 [§<] per year per port;

- the 1st April decrease in call origination charges almost completely offsets the increase in the discounts from pre April 2004 levels to Ofcom's proposed level;
- factoring in the 9th June reduction in surfport outpayments, allowing for the decrease in call origination charges and Ofcom's proposed discounts results in an increase in gross margin after 1 July 2004 compared with pre April 2004;
- 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 on wholesale termination.

Figure 1 Changes in BT's gross margin (ignores 9th June surfport outpayment change)



- 6.69 Concerning the retail ISP market, Ofcom notes that this is the subject of an ongoing Ofcom investigation under the Competition Act 1998, reference CW647/07/03 'BT 0845 & 0870 retail price change- Suspected Internet Service Provider (ISP) margin squeeze' (the ISP margin squeeze investigation). To the extent that there was any margin squeeze based on the average discount rates in effect before 1 April 2004, this will be dealt with in the context of that investigation. Ofcom notes that the discount rates proposed 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 proposed resolution of this dispute is likely to materially alter the margin earned at either the wholesale termination level or the retail ISP level.

Section 7

Ofcom's proposed decision

- 7.1 Following these considerations, Ofcom invites comments on the following proposed average discount rates¹³.
- 7.2 At the time of publication, Ofcom had not received all of the information about the reconciliation described in paragraph 6.58. The information will be available for the final decision. Ofcom does not believe the final results are likely to materially change the proposed figures. It should be noted, however, that the average discount rates proposed in the draft determination may be modified in the final decision to reflect the final information and will be calculated to the nearest 0.1%.

For period 1 April – 30 June 2004

- 7.3 Based on Ofcom's revisions to BT's calculations, the following average discount rates are proposed for the period 1 April – 30 June 2004.

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

NTS calls	Proposed discount rate
Local rate (0845) Calls	16%
National rate (0870) calls	3%
Premium Rate Services	0%
0844/71 internet services	6%
0844/71 other services	0%

From 1 July 2004

- 7.4 Ofcom proposes the following average discount rates to be applied from 1 July.

Table 10 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%

- 7.6 To the extent that there has been any under or overpayment by BT or the Providers based on the current average discount rates, Ofcom proposes that such sums shall be repaid within a reasonable time, as appropriate.
- 7.7 In making these proposals, Ofcom has had regard to the regulatory obligations of the parties to the dispute, i.e. SMP Condition AA11 'Requirement to provide NTS call origination'.

¹³ Note that these figures are rounded to the nearest 1%

- 7.8 Ofcom has considered its duties under section 3 of the Act and Article 10 of the EC Treaty, 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.

Section 8

Responding to this consultation

How to respond

- 8.1 Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on 4 August 2004**.
- 8.2 Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 2), among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.
- 8.3 Please can you send your response to tanya.rofani@ofcom.org.uk.
- 8.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Tanya Rofani
Competition and markets
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- 8.5 Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.
- 8.6 It would also help if you can explain why you hold your views, and how Ofcom's proposals would impact on you.

Further information

- 8.7 If you have any want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Tanya Rofani on 020 7783 4342.

Confidentiality

- 8.8 Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt (when respondents confirm on their response cover sheer that this is acceptable).
- 8.9 All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

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

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

Next steps

- 8.11 Following the end of the consultation period, Ofcom intends to publish its decision around 30 August 2004.
- 8.12 Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

- 8.13 Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 1) which it seeks to follow, including on the length of consultations.
- 8.14 This consultation is shorter than Ofcom's standard 10 week period because Ofcom is resolving a dispute in this instance - for guidance on valid reasons see Ofcom's published consultation guidelines, available at http://www.ofcom.org.uk/consultations/consult_method/consult_guide.pdf.
- 8.15 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.
- 8.16 If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Philip Rutnam, Partner, Competition and Strategic Resources, who is Ofcom's consultation champion:

Philip Rutnam
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2A Southwark Bridge Road
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Fax: 020 7981 3333
E-mail: philip.rutnam@ofcom.org.uk

Annex 1

Ofcom's consultation principles

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

Before the consultation

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

During the consultation

2. We will be clear about who we are consulting, why, on what questions and for how long.
3. We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
4. We will normally allow ten weeks for responses to consultations on issues of general interest.
5. There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.
6. If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

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

Annex 2

Consultation response cover sheet

- A2.1 In the interests of transparency, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, unless we are asked not to.
- A2.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.
- A2.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to confirm on the response cover sheet that Ofcom can publish their responses upon receipt.
- A2.4 We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.
- A2.5 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

☐

Name/contact details/
job title

☐

Whole response

☐

Organisation

☐

Part of the response

☐

If there is no separate annex, which parts?

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

Yes

☐

No

☐

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and all intellectual property rights in the response vest with Ofcom. If I have sent my response by email, Ofcom can disregard any standard email text about not disclosing email contents and attachments.

Ofcom can publish my response: on receipt

☐

once the consultation ends

☐

Name

Signed (if hard copy)

Annex 3

Previous relevant determinations under the 1997 Regulations

- A3.1 Of tel Direction concerning BT's NTS Conveyance (November 1999)¹⁴
- A3.2 Of tel's Statement on the Relationship between Interconnection Charges and Retail Prices for Number Translation Services (December 1999)¹⁵
- A3.3 Amended Direction on BT's Retail Uplift Charge for calls to operators Number Translation Services from 1 April 2001¹⁶

¹⁴ <http://www.ofcom.org.uk/static/archive/oftel/publications/1999/consumer/nts1199.htm>

¹⁵ <http://www.ofcom.org.uk/static/archive/oftel/publications/1999/consumer/nts1299.htm>

¹⁶ <http://www.ofcom.org.uk/static/archive/oftel/publications/licensing/2003/nts0703.htm>

Annex 4

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

INTRODUCTION

A4.1 BT has introduced a range of customer packages which offers 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

A4.2 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

Table 5.1 Summary of discounts/packages

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

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

A4.5 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

A4.6 The combinations allowed are:

- 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

A4.7 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

- A4.8 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

- A4.9 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

- A4.10 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.
- A4.11 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

- A4.12 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.
- A4.13 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.

A4.14 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

A4.15 For products where there is a fixed fee (eg BT Together), the option fee element is the amount in excess of the basic rental.

A4.16 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

A4.17 The following methodology has also been produced specifically for the NTS Discount discussions with Ofcom:

- **APPORTIONMENT FOR RESIDENTIAL**

Apportioned to call type in line with the associated discounts for each Option, including OSC discounts and billed discounts as appropriate.

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

Apportioned to call type in line with the apportioned Call Allowance for the Options.

Annex 5

Format of BT's revenue and discounts

	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)	