



Public Call Boxes

Consent for non-uniform charging
for geographic tariffing trials

Statement

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Section 1

Summary

- 1.1 The Universal Service Obligation ('USO') ensures that certain basic fixed line services which are considered essential to everyone are available to all consumers upon reasonable request at an affordable and uniform price across the UK. Services provided under the USO include reasonable geographic access to call box services from Public Call Boxes ('PCBs').

BT's request for consent

- 1.2 Under the specific Universal Service Condition 3.5 BT has to provide services from PCBs on the basis of uniform prices throughout the UK (excluding the Hull area) unless Ofcom consents otherwise.
- 1.3 BT has requested consent to provide call box services in the UK (outside of Hull) at non-uniform prices to the extent necessary to operate geographic public payphone tariffing trial(s) periodically over the next three years.
- 1.4 If granted the consent will mean that some consumers will pay different prices for calls from certain BT PCBs depending on whether the consumer is using a box operating under the tariffing trial(s) or one of the boxes unaffected
- 1.5 BT explains that the ability to conduct geographic tariff trials from time to time will enable BT to test price sensitivity and to assess how consumers respond to new prices and whether the increased use of PCBs is stimulated. In addition, BT argues that tariff trials limit commercial risk associated with implementing an untested price nationally.
- 1.6 BT has proposed certain criteria that would apply to trials under the requested consent. These relate, amongst other things, to the proportion of the PCB base affected and the maximum length of trials.
- 1.7 At the end of each trial all affected PCBs will either revert to the original price or a new price will be implemented nationally.
- 1.8 BT will notify Ofcom with details of the trial at least six weeks prior to the implementation of the trial. BT will publish the price and terms of the trial two weeks prior to implementation.
- 1.9 BT has notified Ofcom of its intention to trial reduced price calls to mobiles from PCBs in the Nottingham area for four months if consent is granted.

Ofcom's Consent

- 1.10 On 6 March 2007, Ofcom published the consultation document *BT Public Call Boxes* in which we proposed to consent to non-uniform charging for geographic public payphone tariffing trials over the next three years in the circumstances set out in BT's request and provided certain conditions are met as set out in the consultation document and in Section 3 of this statement.
- 1.11 In making this proposal we took account of the disadvantages of implementing tariffing trials or untested tariffs nationally across BT's network and the importance of

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having effectively managed implementation of temporary geographic trials that resulted in an appropriate tariff that had been tested and minimised costs and disruption to consumers and to BT on a national basis.

- 1.12 The consultation document set out Ofcom's reasoning in an Explanatory Memorandum and included both the draft consent and an Impact Assessment. We invited views from stakeholders on Ofcom's proposal to consent to non-uniform charging for geographic tariffing trials and, in particular, on the terms and conditions of the Consent.
- 1.13 Alongside the general questions of whether respondents agreed with our proposal in principle, we invited comments on two specific issues in the consultation:
 - whether 26 weeks is appropriate for the maximum length of trials; and
 - whether the total number of trials at anyone time should be capped.
- 1.14 We have now considered all of the responses received to the consultation. Two responses, one from BT and one from a member of the public, agreed with the proposal to consent. Three members of the public opposed the proposal to consent on the grounds that geographic tariffing trials were unnecessary and discriminatory.
- 1.15 Taking account of the responses received and for reasons set out below, we have decided to consent to the provision by BT to provide call box services in the UK (outside of Hull) at non-uniform prices to the extent necessary to operate geographic public payphone tariffing trials periodically over the next three years until 3 June 2010 and under the proviso that certain criteria set, relating to the notification, extent and length of trials, are met.
- 1.16 Ofcom intends to monitor the impact of geographic tariff trials under this Consent and may modify or withdraw the Consent at any time under section 49 of the Communications Act 2003 should it consider it appropriate in the interest of users of PCBs.

Section 2

Introduction

Universal Service Obligation

- 2.1 The Universal Service Obligation ('USO') ensures that certain basic fixed line services which are considered essential for everyone are available at an affordable and uniform price upon reasonable request to all consumers across the UK.
- 2.2 The scope of the Universal Service Obligations is defined by the EC Universal Services Directive¹ ('USD'). The Secretary of State for Trade and Industry specifies the services which must be provided throughout the UK in the Universal Service Order² ('the Order'). The Order has been implemented by Ofcom through specific conditions on the designated Universal Service Providers³ ('USPs'), BT and Kingston Communications, and general conditions on all providers.
- 2.3 Under the Order, prices for services provided in accordance with the Order ('USO services') have to be offered at prices that are uniform throughout the UK, unless Ofcom consents and has determined that there is clear justification for not doing so. This is to ensure that customers are able to pay the same for basic telecommunications services wherever they live. This assists in particular those areas— generally rural parts of the UK – in which services are more expensive to provide.
- 2.4 Pursuant to Condition 3 of the Order, USO services include reasonable geographic access to call box services from Public Call Boxes ('PCBs').
- 2.5 Under the specific Universal Service Condition 3.5 BT has to provide call box services on the basis of uniform prices throughout the UK (excluding the Hull area) unless Ofcom consents otherwise.
- 2.6 A PCB is a public pay telephone located on a public highway. There are approximately 65,000 PCBs in the UK, of which around 62,700 are provided by BT.
- 2.7 Ofcom research in 2004 showed that over a third of adults use PCBs at least occasionally and 7 per cent use them at least once a month. The most frequent users of PCBs are younger consumers, consumers from lower income groups and those consumers with a mobile phone only or those without a fixed or mobile telephone. However Ofcom's research report Communications Market 2006 shows that virtually no consumers now rely on PCBs as their primary means of making calls, compared with 2% in 2004⁴.
- 2.8 This reduction in use has led BT to consider ways to stimulate use of PCBs and to address significant reductions in revenue.

¹ http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_108/l_10820020424en00510077.pdf

² <http://www.opsi.gov.uk/si/si2003/20031904.htm>

³ http://www.ofcom.org.uk/telecoms/ioi/g_a_regime/sce/uso/

⁴ <http://www.ofcom.org.uk/research/cm/cm06/>

Request for consent

- 2.9 BT requested consent from Ofcom on 1 February 2007 under section 49 of the Communications Act 2003 (the Act) and Universal Service Condition 3.5 to provide call box services in the UK (outside of Hull) at non-uniform prices periodically over a three year period to the extent necessary to operate geographic public payphone tariffing trial(s) (Annex 5) under the criteria set out below.
- 2.10 BT's request explains that consent is sought because the ability to conduct geographic tariff trials from time to time will enable BT to test consumer price sensitivity against call behaviour and, thus, determine consumer response to new prices. In addition, tariff trials limit commercial risks associated with implementing an untested price nationally.
- 2.11 Ofcom considered BT's request and, in the consultation document *BT Public Call Boxes* published on 6th March 2007, proposed to consent to non-uniform charging for geographic public payphone tariffing trials over the next three years provided certain criteria (set out below) are met.
- 2.12 The consultation included an Explanatory Memorandum, a draft consent, an Impact Assessment and a copy of the notification to the Secretary of State in accordance with section 50(1) of the Act.
- 2.13 Ofcom invited views from stakeholders on the proposed consent and the terms and conditions of such consent.

The Statement

- 2.14 This statement summarises the comments received and sets out our conclusions and reasoning on BT's request for consent to non-uniform charging for geographic public payphone tariffing trials over the next three years in the UK (outside of Hull).

Section 3

Decision on BT's request for consent

3.1 BT has requested consent from Ofcom under section 49 of the Communications Act 2003 (the Act) and Universal Service Condition 3.5 to provide call box services in the UK (outside of Hull) at non-uniform prices periodically over a three year period to the extent necessary to operate geographic public payphone tariffing trial(s) under the criteria set out below.

3.2 Ofcom has decided to issue consent as per the criteria set out below.

Criteria for each trial

3.3 Ofcom's consents that BT's obligations under Universal Service Condition 3.5 to provide Call Box Services on the basis of uniform pricing shall not apply to the extent strictly necessary to conduct geographically defined charge trials for such Call Box Services and under the proviso that the following specified criteria are met:

- each trial will be implemented for a period not exceeding 26 weeks;
- each trial will be implemented on boxes that are all only located within the defined geographic area(s) where the trial is centred as notified to Ofcom prior to the trial;
- during each trial and at least 14 days prior to implementation of such trial the trial pricing and terms are clearly annotated in the Notices section of the BT Retail Price List;
- once completed all affected PCBs are reverted to the original price and the Price List Notice is withdrawn accordingly or a new national price is uniformly implemented following the end of the trial period; and
- the total number of Public Call Boxes involved in all such tariffing trials will not exceed 16% of the total national box base at any one time.

3.4 In addition, BT has to notify Ofcom at least 6 weeks prior to implementation of a tariffing trial the details of each trial, including the geographic location(s) of the trial, the number of call boxes affected within the trial area(s), the current and proposed price being trialled, the start date of each trial and the envisaged end date. The trial will then only be implemented in the manner described to Ofcom in this notification but can be concluded earlier than envisaged.

3.5 In this respect BT has already notified Ofcom of its intention to trial reduced price calls to mobiles from PCBs in the Nottingham area for four months if consent is granted.

Consultation

3.6 Ofcom considered BT's request and, in the consultation *BT Public Call Boxes* published on 6th March 2007, proposed to consent to disapply the uniform charging requirement to the extent strictly necessary to implement such geographic public payphone tariffing trials over the next three years and under the proviso that the above criteria are always met.

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3.7 In issuing this consent, Ofcom has taken into account the following factors:

- the trials are important because they will enable BT to assess price sensitivity and consumer reaction to new prices with minimum disruption;
- following the completion of the trial, the price will either be withdrawn or a new price uniformly implemented nationally, thereby removing any non-uniform pricing and allowing for a more appropriate national tariff;
- trials are intended to ensure an appropriate tariff is implemented at the national level;
- BT's letter of request explains that it is not in BT's commercial interest to operate trials, or indeed implement long-term price changes, that de-stimulate payphone use or reduce calling behaviour compared with existing national prices;
- it is unlikely that consumers outside the trial location will be aware of any differences in pricing between the nationally implemented tariff and the tariff being trialled outside of their geographic areas; and
- Ofcom will be notified of the details of the trial in advance. This will allow Ofcom to assess any potential detriment to the interests of consumers and, if it considers appropriate, modify or withdraw the consent.

3.8 The consultation document invited views on:

- the proposal to consent to non-uniform charging for geographic tariffing trials under the conditions set out in the consultation document and in paragraphs 3.4 and 3.5;
- the proposed criteria relating to the scope and size of trials; and
- the notification requirements proposed for trials.

3.9 The consultation opened on 6 March 2007 and the closing date for responses was 14 May 2007.

Consultation responses

3.10 In all five responses were received. A list of respondents can be found in Annex 1. One respondent requested that their response remain confidential and another two respondents requested that their contact details remain confidential. All non-confidential responses can be found in full on Ofcom's website at: <http://www.ofcom.org.uk/consult/condocs/callboxes/responses/>.

3.11 The consultation document set out both BT's request and the justification for Ofcom's subsequent proposal for consent to non-uniform charging for geographic public payphone tariffing trials over the next three years according to set criteria.

3.12 Three responses from general members of the public argued that we should not allow BT to implement geographic tariffing trials on the basis that non-uniform pricing and trials were unnecessary and discriminatory.

3.13 Two responses, one from BT and one from a member of the public, said they agreed with Ofcom's proposal to consent to temporary non uniform charging in BT PCBs.

The non-BT respondent considered, however, that the proposed maximum 26 weeks time period for each trial was too short and also suggested that the trials should extend to other private independent companies that operated call boxes, such as in busy shopping high streets, hospitals, colleges and universities.

- 3.14 Ofcom notes the points made by three responses that geographic tariffing trials are unnecessary and discriminatory. We do not consider the trials unnecessary because they will likely provide BT with relevant market data on the appropriateness of new tariffs. Furthermore, we do not consider them to be unduly discriminatory since they will equally apply to all customers in any identified geographic area. The differences for customers in different geographic areas are objectively justified in order to collect the data with minimum consumer disruption and are, furthermore, limited in time.
- 3.15 We also note the point made by one member of the public that the proposed maximum 26 weeks time period for each trial is too short. BT itself argues that trials of around 4-6 months can provide meaningful data, and Ofcom considers that there is no objective justification for an extension of the proposed cap of 26 weeks per trial. Furthermore, other providers of public call boxes are not required to adhere to the requirements of the USO and are therefore not restricted from implementing tariffing trials or different geographic tariffs should they wish to.
- 3.16 No comments were received on the Impact Assessment which is set out for information in Annex 2.

Conclusions

- 3.17 Having taken into account the responses to the consultation, and for the reasons set out in paragraphs 3.7, 3.14 and 3.15 above and repeated in the explanatory memorandum (Annex 3), Ofcom believes that there is clear justification for BT not to price its PCB services uniformly to the extent set out in its request of 1 February 2007 in Annex 5. Ofcom, therefore, intends to consent to BT to provide call box services in the UK (outside of Hull) at non-uniform prices periodically over a three year period to the extent necessary to operate geographic public payphone tariffing trial(s) as set out in BT's request.
- 3.18 The notification and consent to non-uniform charging is set out in Annex 4.
- 3.19 Although the consultation related to the implementation of temporary geographical tariffing trials according to set criteria, not to the price changes themselves, it is important that PCB services remain affordable. Ofcom intends to monitor through research the impact on the users of PCBs of any charge increases that may occur, in particular those customers on low-incomes, and on the affordability of the service and also BT's compliance with all its obligations, in particular its Universal Service Obligations, when providing PCB services.

Annex 1

List of Respondents

A1.1 Ofcom received five responses to the consultation. Of these one was submitted on confidential basis and two respondents requested that their contact details remain confidential. Non-confidential responses were received from:

- Mr Julian Shersby; and
- British Telecommunications plc (BT)

Annex 2

Impact Assessment

Introduction

- A2.1 The analysis presented in this annex represents an impact assessment, as defined in section 7 of the Communications Act 2003 (the Act).
- A2.2 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on our website:
http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf

The citizen and/or consumer interest

- A2.3 BT has requested consent from Ofcom under section 49 of the Communications Act 2003 (the Act) and Universal Service Condition 3.5 to provide call box services in the UK (outside of Hull) at non-uniform prices for a maximum term not exceeding three years expiring 30 June 2010 to the extent necessary to operate geographic public payphone tariffing trial(s).
- A2.4 BT's request explains that consent is sought because the ability to conduct geographic tariff trials from time to time will enable BT to test price sensitivity and determine whether pricing of calls can significantly influence consumer behaviour and thereby potentially stimulate payphone calling. Tariff trials are also sought because they reduce commercial risk associated with implementing an untested price nationally in the first instance and are aimed to ensure the introduction of new, more appropriate prices with minimal disruption to consumers.
- A2.5 Each trial will have to adhere to specified criteria – explained in detail in section 3 and in BT's letter set out in annex 5 - and Ofcom has to be notified of certain information before start of the trial, including the period and location for each trial, the current and proposed price being trialled, the type of calls affected by the proposals, the notice given to consumers in each PCB affected and the nature of the notice to be given to Ofcom.
- A2.6 The total number of public call boxes involved in such tariffing trials will not exceed 16% of the total national box base at anyone time.
- A2.7 There are approximately 62,700 PCBs in the UK provided by BT. Ofcom research in 2004 showed that over a third of adults use PCBs at least occasionally and 7 per cent use them at least once a month. The most frequent users of PCBs are younger consumers, consumers from lower income groups and those consumers with a mobile phone only or those without a fixed or mobile telephone. However Ofcom's research report Communications Market 2006 shows that virtually no consumers

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now rely on PCBs as their primary means of making calls, compared with 2% in 2004.

- A2.8 The requirement that prices for USO services are uniformly priced assists in particular those areas - generally rural parts of the UK - in which such services are more expensive to provide.
- A2.9 BT's request that Ofcom consent to non-uniform prices for calls from BT Call Boxes to the extent necessary to operate geographic public payphone tariffing trial(s) means that, as a result, some consumers will pay different prices for a call from certain BT Call Boxes depending on whether the consumer is using a call box operating under the tariffing trial(s) or one of the call boxes unaffected.

Ofcom's policy objective

- A2.10 USO services provide a safety net that ensures certain basic fixed line services are available at an affordable price upon reasonable request to all citizens and consumers across the UK.

Options considered

- A2.11 Ofcom considered three options:
- to consent to non-uniform charging for geographic trials for a period of three years under the provisos set out above
 - to consent to individual geographic trials for non-uniform charging.
 - not to consent to non-uniform charging for geographic trials

Analysis of the different options

To consent to non-uniform charging for a period of three years under the provisos set out above

- A2.12 By consenting to BT's request, calls from PCBs will be charged on a non-uniform basis to the extent necessary to implement tariffing trials periodically during the next three years. Consumers using PCBs will pay different amounts for certain calls depending on whether they are using a PCB operating under the trial tariff or one of the PCBs unaffected.
- A2.13 The impact of non-uniform charging for geographic trials under the conditions mentioned is set out below:

Impact on BT:

- the consent will allow BT to carry out geographic tariffing trials to test how consumers react to the new price and whether the price increases PCB use;
- following the completion of the trial, BT will either withdraw and revert to the original price or will uniformly implement a new price nationally, thereby removing any non-uniform pricing and allowing for a more appropriate national tariff.

Impact on consumers:

- there will be less disruption for consumers as the consent will allow BT to test prices, which could help to ensure an appropriate tariff is implemented at the national level. Such disruption could be caused, for example by introducing a new tariff nationally and withdrawing the tariff again should it prove to be not viable;
- it is unlikely that consumers outside the trial location will be aware of any differences in pricing between the nationally implemented tariff and the tariff being trialled outside of their geographic areas; and
- BT will notify Ofcom of the details of the trial in advance. This will allow Ofcom to assess any potential detriment to the interests of consumers and, if necessary, withdraw consent promptly.

Consent to individual geographic trials for non-uniform charging

A2.14 Not consenting to BT's request for non-uniform charging for trials for a maximum of three years, could result in Ofcom having to consider, and consult upon each individual request for a trial to allow non-uniform pricing.

Impact on BT:

- BT has not specified the number of potential trials at this stage, but the alternative to consent to individual trials will mean that BT would have to request consent for each trial, and Ofcom would have to consult on each individual request. This is likely to prove burdensome for BT as it would require additional resources and would cause delays to the trialling and implementation of tariffs; and

Impact on consumers:

- the obligation of BT to request consent for each individual trial coupled with the fact that Ofcom would have to undertake individual consultations in each individual case is likely to delay the adoption of a more appropriate tariff nationally. This could harm the interests of consumers who may not be paying the most appropriate charges for calls in the interim period.

Not to consent to non-uniform charging for geographic trials

A2.15 Not consenting at all to BT's request for non-uniform charging for the purpose of conducting geographic trials is likely to result in BT choosing to either leave all national tariffs as they are or to implement trials at a national level. Under both circumstances, BT will meet its requirements for non-uniform charging across the UK (except for Hull).

A2.16 However, based on the information currently available Ofcom considers that constraints on BT's ability to conduct geographic trials for new prices could have effects which are not desirable, practical or cost effective.

Impact on BT:

- the inability for BT to assess consumer reaction to new tariffs in a geographic defined area could result in BT having to adopt new tariffs nationally without testing price sensitivity and may, thus, prevent BT from implementing the most appropriate tariff on a nationwide basis.

Impact on consumers:

- if BT is unable to carry out geographic tariffing trials it may choose to trial new tariffs on a nationwide basis. Trials conducted on a nationwide basis may result in more frequent price changes (introduction and subsequent withdrawal), thus, leading to a decrease in price transparency and to confusion for consumers and may not result in the most appropriate tariff being adopted nationally at any one time.

The preferred option

A2.17 Ofcom's conclusion is to consent to non-uniform charging for geographic trials taking place periodically over the next three years under the provisos set out in Section 3 above and in BT's request in Annex 5 taking account of:

- the desirability of BT implementing an appropriate tariff, which has been subject to a test of consumer price sensitivity, nationally;
- the desirability of minimising disruption to consumers caused by trials conducted nationally; and
- Ofcom's continued ability to assess the detriment of any trial to the interest of consumers before each trial commences and to withdraw consent promptly, if necessary.

Annex 3

Public Call Boxes: Explanatory Memorandum and Consent to non-uniform charging

Explanatory memorandum

- A3.1 Set out below is the justification for the consent, the effect of the consent, the reasons for consenting and an explanation of how Ofcom is meeting its duties under relevant sections of the Act in making this decision.
- A3.2 Ofcom has sent a copy of the notification set out in this Annex to the Secretary of State in accordance with section 50(1) of the Act.

Clear justification

- A3.3 Universal Service Condition 3.5 requires BT to provide call box services on the basis of uniform prices throughout the UK except for the Hull Area unless Ofcom consent otherwise.
- A3.4 BT has requested consent from Ofcom under section 49 of the Communications Act 2003 (the Act) and Universal Service Condition 3.5 to provide call box services in the UK (outside of Hull) at non-uniform prices for a maximum term not exceeding three years expiring 3 June 2010 to the extent necessary to operate geographic public payphone tariffing trial(s) and provided the criteria set out in the Consent are met.
- A3.5 Ofcom considers that there is clear justification for consenting to the provision by BT of non uniform prices in respect of the services referred to in Universal Service Condition 3.5 in the UK (except for the Hull Area) to the extent set out in BT's letter of 1 February 2007. Ofcom believes this clear justification for non-uniform prices in the circumstances referred to in BT's on the basis that it will allow the implementation of an appropriate tariff nationally, that has been tested in an effective manner and in a way that minimises costs and disruption to consumers and to BT.

Section 3 and section 4 analysis

- A3.6 Ofcom has considered its duties under section 3 of the Act and all the Community requirements set out in section 4. In particular, by consenting to non-uniform charging under certain strictly defined criteria, Ofcom is furthering the interests of citizens in relation to communication matters and of consumers in relevant markets because such consent enables the implementation of price changes in an effective manner and in a way that minimises costs and disruption to consumers and to BT.

Section 49 analysis

- A3.7 Section 49 (2) of the Act requires the proposed consent to be objectively justifiable, non-discriminatory, proportionate and transparent.

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A3.8 Ofcom considers that the Consent is:

- i) objectively justifiable as the Consent is intended to ensure the implementation of measures aimed at stimulating payphone use and to allow for the national introduction of appropriate tariffs, tested by consumers, in a way that minimises costs to BT and disruption to consumers;
- ii) proportionate as the Consent is limited to a period of three years, is intended to be given under the condition that BT adheres to certain provisos which shall prevent abuse and that Ofcom has the power to modify or withdraw the consent at any time, should it consider it appropriate;
- iii) not unduly discriminatory as it would apply to all persons using Public Call Box services in the geographical area where the trial was implemented; and
- iv) transparent as the duration of the draft consent, the provision under which the draft consent shall be given and the criteria which BT has to adhere to when conducting a trial are clearly set out in this document.

Annex 4

Notification of Consent under section 49 (4) of the Communications Act 2003

Consent to BT pursuant to section 49 of the Communications Act 2003 ('the Act') and Universal Service Condition 3.5, which is set out in the Schedule to the Notification published by the Director General on 21 July 2003 under Regulation 4(10) of the Electronic Communications (Universal Service) Regulations 2003

WHEREAS:

1. Ofcom hereby, in accordance with section 49 of the Act and under section 49 of the Act and Universal Service Condition 3.5, which is set out in the Schedule to the Notification published by the Director General on 21 July 2003 pursuant to Regulation 4(10) of the Electronic Communications (Universal Service) Regulations 2003 gives Consent to BT to the extent set out in the Schedule to this Notification.
2. The Consent is set out in the Schedule to this Notification.
3. The effect of the Consent and the reasons for making the proposal are set out in the accompanying regulatory statement and the explanatory memorandum.
4. Copies of the proposed Consent and the Notification under section 49 (4) of the Act have been sent to the Secretary of State in accordance with section 50(1) (a) of the Act.
5. For the purposes of this Notification:

"Act" means the Communications Act 2003;

"BT" means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;

"Director General" means the Director General of Telecommunications;

"Ofcom" means the Office of Communications; and

"Universal Service Conditions" means as set out in the Schedule to the notification published by the Director General on 21 July 2003 pursuant to regulation 4(10) of the Electronic Communications (Universal Service) Regulations 2003".

6. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has in the Universal Service Conditions and otherwise any word or expression shall have the same meaning as it has in the Act.

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7. For the purpose of interpreting this Notification:
 - (i) headings and titles shall be disregarded; and
 - (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

8. The Schedule to this Notification shall form part of this Notification

Claudio Pollack

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

4th June 2007

Schedule

Consent to be given to BT under section 49 of the Communications Act 2003 ('the Act') and under Universal Service Condition 3.5, which is set out in the Schedule to the Notification published by the Director General on 21 July 2003 pursuant to Regulation 4(10) of the Electronic Communications (Universal Service) Regulations 2003

WHEREAS:

- (A) On 21 July 2003, the Director General published a Notification under Regulation 4(10) of the Electronic Communications (Universal Service) Regulations 2003 setting out his proposals for the designation of universal service providers and the setting of Universal Service Conditions, including Universal Service Condition 3, that he intended to be given effect upon the coming in to force of any enactment which implemented the Universal Service Directive 2002/22/EC;
- (B) the proposals set out in the Notification dated 21 July 2003 under Regulation 4(10) of the Electronic Communications (Universal Service) Regulations 2003 automatically entered into force by virtue of the transitional provisions in the Act;
- (C) this Consent concerns matters to which Universal Service Condition 3 relates, in particular the requirement for BT to provide the Call Box Services referred to in Universal Service Condition 3.5 on the basis of uniform prices in the UK except for the Hull Area (as defined in those conditions);
- (D) for the reasons set out in the regulatory statement accompanying this Consent, Ofcom is satisfied that, in accordance with section 49(2) of the Act, this Consent is:
 - a. objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - b. not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c. proportionate to what it is intended to achieve; and
 - d. in relation to what it is intended to achieve, transparent;
- (E) for the reasons set out in the regulatory statement accompanying this Consent, Ofcom has considered and acted in accordance with its general duties in section 3 of the Act and the six Community requirements in section 4 of the Act;

NOW THEREFORE PURSUANT TO SECTION 49 OF THE ACT AND UNIVERSAL SERVICE CONDITION 3.5 OFCOM GIVES THE FOLLOWING CONSENT:

1. The obligation on BT in Universal Service Condition 3.5 to provide Call Box Services on the basis of uniform prices throughout the UK (except for the Hull Area) shall not apply up to and including 3 June 2010 to the extent strictly necessary to conduct geographically defined charge trials for Call Box Services and under the proviso that:-
 - (a) Each trial is implemented for a period not exceeding 26 weeks;

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- (b) Each trial is implemented only on Public Call Boxes that are located within the defined geographic area(s) identified in the notification referred to in sub-paragraph (f);
 - (c) BT has trial pricing and terms clearly annotated in the notices section of the BT Retail price list at least 14 days prior to implementation of the trial;
 - (d) BT reverts once the trial is completed all affected Public Call Boxes to the original price and withdraws the price list notice accordingly or uniformly implements a new price nationally following the end of the trial period;
 - (e) The total number of Public Call Boxes involved in all such trials at any one time does not exceed 16 % of the total national base of Public Call Boxes;
 - (f) BT notifies Ofcom at least 6 weeks prior to implementation of a trial the details of each trial including:-
 - The exact geographic location(s) of the trial;
 - The number of boxes affected within the trial area(s);
 - The price which is being trialled (current and proposed);
 - The types of calls affected by the proposed trial; and
 - The proposed start and proposed end date of the trial; and
 - (g) Each trial is only implemented in accordance with BT's notification to Ofcom referred to in sub-paragraph (f) but can be terminated before the proposed end date.
2. Ofcom may, pursuant to section 49 of the Act at any time during the period of this Consent modify or withdraw the Consent.
3. For the purpose of interpreting this Consent (including the recitals above), the following definitions shall apply:

“Act” means the Communications Act 2003;

“BT” means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;

“Call Box Services” means the repair and maintenance of Public Call Boxes, and the provision of Publicly Available Telephone Services to and from such Public Call Boxes;

“Director General” means the Director General of Telecommunications;

“Hull Area” means as set out in the Universal Service Conditions;

“Ofcom” means the Office of Communications;

“Public Call Box” means a Public Pay Telephone which is permanently installed on public land and to which the public has access at all times and

“Universal Service Conditions” means as set out in the Schedule to the notification published by the Director General on 21 July 2003 pursuant to regulation 4(10) of the Electronic Communications (Universal Service) Regulations 2003”.

4. Except insofar as the context otherwise requires, words or expressions used in this Consent shall have the meaning ascribed to them in paragraph 2 above and otherwise any word or expression shall have the same meaning as it has in the Universal Service Conditions and otherwise any word or expression shall have the same meaning as it has in the Act.
5. For the purpose of interpreting this Consent:-
 - a. headings and titles shall be disregarded; and
 - b. the Interpretation Act 1978 shall apply as if this Consent were an Act of Parliament.

Annex 5

BT's request for consent under Universal Service Condition 3



Alan Pridmore
Ofcom
Riverside House
2a Southwark Bridge Road
London
SE1 9HA

1 February 2007

Dear Alan,

BT Payphones – Consent request: Universal Service Condition 3.5

BT seeks consent from Ofcom under section 49 of the Communications Act 2003 (the Act) and Universal Service Condition 3.5 to provide call box services in the UK (outside of Hull) at non-uniform prices under the terms and conditions set out below and for a maximum term not exceeding 3 years expiring [01 June 2010]. BT understands that in carrying out its general duties Ofcom may at any time pursuant to section 49 (2) of the Act and following a consultation under section 49 (4) of the Act withdraw this consent, *inter alia* if it considers that a continuation of the proposed tariff trials might harm the interests of consumers. Furthermore, BT is aware that the consent sought by Ofcom only relates to BT's obligations under Universal Service Condition 3.5 and does in no way affect other obligations imposed upon BT under regulatory or competition law.

Such consent is sought since BT would like to conduct tariff trials from time to time to test price sensitivity and determine whether pricing of calls can significantly influence consumer behaviour and thereby potentially stimulate payphone calling. Tariff trials also are beneficial as they avoid the considerable commercial risk associated with implementing an untested price nationally in the first instance.

BT therefore seeks Ofcom's consent under section 49 of the Act and Universal Service Condition 3.5 to allow BT to operate geographic public payphone tariffing trial(s) under the following terms and conditions:

Each trial will:

- Be implemented for a period of not exceeding 26 weeks;
- Be implemented on boxes that are all only located within the defined geographic area(s) where the trial is centred as notified to Ofcom prior to the trial;
- Have trial pricing and terms clearly annotated in the Notices section of the BT Retail Price List at least 14 days prior to implementation;

- Once completed revert all affected PCBs to the standard national tariff quoted in the BT Retail Price List and withdraw the Price List Trial Notice accordingly.

The total number of public call boxes involved in such tariffing trials will not exceed 16% of the total box base at any one time.

BT will notify Ofcom at least [6 weeks] prior to implementation of a tariffing trial the details of each trial including:

- The exact geographic location(s) of the trial
- The number of boxes affected within the trial area(s)
- The price being trialled (current and proposed)
- The type of calls affected by the proposed trial
- The start and proposed end date of the trial

BT will immediately notify Ofcom should there be a requirement to end the trial before the notified end date of the trial.

BT does not believe that consumers making calls in public call boxes will be disadvantaged by these proposals. The trials that BT would seek to run would test customer price sensitivity against call generation behaviour. It is not in BT's commercial interests to operate trials, or indeed implement long term price changes, that de-stimulate payphone use, reduce calling behaviour or generate less revenue overall than the existing national price. In this way, customers themselves will set the boundaries of acceptable pricing of payphone calls but these can only be safely tested using a trials process.

Furthermore, it is unlikely that consumers outside the trial location will be aware of any differential charging between the nationally implemented tariff and the tariff being trialled outside of their geographical area. The published price will remain valid for all calls outside of the trial sites and, following the completion of the trial; the price will either be withdrawn or implemented nationally, thereby removing any non-uniform pricing.

Consistent with section 49(2) of the Act, BT considers that granting consent for non-uniform prices in these circumstances would be proportionate, objectively justifiable and transparent since it would enable BT to manage the potential risks associated with offering competitive prices for calls with minimal disruption to consumers.

Consent for non-uniform prices would also not be unduly discriminatory as the differential charging would apply to all persons using public call box services and in addition, the differential charging will only apply in the area of the trial for a limited time.

Yours sincerely



Sarah Jefferson
Consumer Regulation Specialist

Annex 6

Ofcom's response to BT

Anne McLaren
BT Retail - Commercial, Legal & Regulatory

4th June 2007

Dear Anne McLaren,

BT Payphones – Consent request: Universal Service Condition 3.5

Thank you for your letter dated 1 February 2007 requesting Ofcom's consent to provide call box services in the UK (outside of Hull) at non-uniform prices to the extent set out in your letter.

Pursuant to section 49 of the Communications Act 2003 and Universal Service Condition 3.5 Ofcom in its statement of 31 May 2007 (a copy of which is enclosed in this letter) issued its consent to provide call box services in the UK (except for the Hull area) at non-uniform prices for the maximum term of three years expiring 3 June 2010 to the extent strictly necessary to implement geographic tariffing trials and under the provisos set out in the Consent.

Ofcom understands that BT does not believe that consumers making calls in public call boxes will be disadvantaged by these trials since the trials are not intended to de-stimulate payphone use and that such price changes involved with each trial will be made sufficiently transparent to users of BT Payphones.

This letter will be published as an Annex to Ofcom's statement on our website.

Yours sincerely

Alan Pridmore

Annex 7

Glossary

PCB	Public Call Boxes. A public pay telephone located on a public highway
The Act	The Communications Act 2003 which came into force in July 2003
The Order	Electronic Communications (Universal Service) Order 2003 Statutory Instrument 2003 No. 1904
USD	Universal Service Directive. Directive 2002/22/EC of 7 March 2002 on universal service and users' rights
USO	The Universal Service Obligation
USP	Universal Service provider. Providers designated to provide services under Universal Service Obligation