



BT Public Call Boxes

Consent to be given to BT under
Universal Service Condition 3

Consultation

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Contents

Section		Page
1	Summary	1
2	Introduction	3
3	Request for consent	4
Annex		Page
1	Responding to this consultation	6
2	Ofcom's consultation principles	8
3	Consultation response cover sheet	9
4	Consultation question	11
5	Impact Assessment	12
6	Public Call Boxes: Explanatory Memorandum and Consent to non-uniform charging	14
7	BT's request for consent under Universal Service Condition 3	20

Section 1

Summary

- 1.1 The Universal Service Obligation (USO) ensures that basic fixed line services are available at an affordable price to all citizen and customers across the UK. Services provided under the USO include reasonable geographic access to call box services from Public Call Boxes (PCBs).
- 1.2 PCBs are still important to people who do not have access to a landline and cannot, for whatever reason, use a mobile but Ofcom's research report *Communications Market 2006*¹ shows that virtually no consumers now rely on PCBs as their primary means of making calls.

BT's request for consent

- 1.3 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.
- 1.4 BT has requested consent from Ofcom to provide these services at non-uniform prices until 30 November 2008 to the extent necessary to implement of two sets of price changes which it is not practical for BT to introduce simultaneously across all its PCBs. BT's request is set out in Annex 7.
- 1.5 The first price change relates to the withdrawal of a facility called 'meter pulsing', being carried out as part of wider changes in BT's network. Meter pulsing currently enables PCBs to calculate the call charges. With its withdrawal, the calculation of call charges will be made in individual PCBs rather than centrally in the network. However the software in PCBs will not be able to hold as much data about tariffs as that held currently by the network under meter pulsing.
- 1.6 BT is therefore reducing the range of tariffs for calls from PCBs to certain non-geographic numbers. For example in the case of 0844 there are currently 34 bands using meter pulsing ranging from 2ppm to 14ppm. Under the new tariffs these will be reduced to a single band of 14ppm. In all, around 200 tariff bands will be reduced to 8. These calls account for less than 1% of BT's total call traffic from PCBs. The rationalisation of tariffs does not affect tariffs for calls to fixed or mobile numbers.
- 1.7 Under the second change, BT is increasing the minimum fee for calls from a PCB from 30p to 40p. For calls to 01 and 02 numbers, the 30p charge currently allows a call of up to 15 minutes; under the new tariff, 40p will allow a call of up to 20 minutes.
- 1.8 Eight per cent of BT's PCBs (just over 5100 boxes) – BT refers to them as 'legacy PCBs' - will need to be modified or replaced to facilitate the implementation of these changes. BT estimates that the roll-out of the programme of modification and replacement will take up to two years to complete as each of these boxes needs to be visited by engineers. BT points out that the boxes affected tend to be lightly used, are mostly in rural areas and represent only 3.4% of chargeable call volume from PCBs. During the period of the consent, these boxes will be charging at generally

¹ <http://www.ofcom.org.uk/research/cm/cm06/telec.pdf> p158

lower tariffs - that is, at the current tariff rates for non-geographic codes and at the current minimum fee of 30p for 15 minutes.

- 1.9 As charges from PCBs will differ slightly during this period depending on whether the consumer is using the boxes operating the new tariff or one of the unmodified legacy boxes, BT is requesting that Ofcom consents to non-uniform charging for calls from PCBs to the extent necessary to carry out the planned up-dating of the legacy PCBs until the modification and replacement is completed.

Proposed Consent

- 1.10 Ofcom is proposing to consent to non-uniform charging in these circumstances, taking account of the technical constraints of BT's network and the importance of having an effectively managed implementation of the changes that minimise costs and disruption to consumers and to BT.
- 1.11 This consultation document invites views on the proposal to consent to non-uniform charging.

Section 2

Introduction

Universal Service Obligation

- 2.1 Universal Service ensures that basic fixed line services are available at an affordable price to all citizen and customers across the UK.
- 2.2 The scope of the Universal Service Obligations ('USO') is defined by the EC Universal Services Directive² ('USD'). The Secretary of State for Trade and Industry specifies the services which must be provided throughout the UK in the Universal Service Order³ ('the Order'). The Order has been implemented by Ofcom through specific conditions on the Universal Service Providers ('USPs'), BT and Kingston Communications⁴, and general conditions on all providers.
- 2.3 Services provided in accordance with the Order include reasonable geographic access to call box services from Public Call Boxes⁵ (PCBs). PCBs are important to people who do not have access to a landline and cannot, for whatever reason, use a mobile but Ofcom's research report *Communications Market 2006* shows that virtually no consumers now rely on PCBs as their primary means of making calls.
- 2.4 Under the Order, prices for services provided in accordance with the Order have to be offered at prices that are uniform throughout the UK, unless Ofcom has determined that there is clear justification for not doing so.
- 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.

Request for consent

- 2.6 This consultation considers a request from BT - set out in Annex 7 - that Ofcom consents to non-uniform pricing for calls for certain call box services until 30 November 2008 to the extent necessary to allow BT time to make modifications to its network of PCBs as BT implements changes to prices for certain call box services. It is important to be clear that BT's request relates to the implementation of the price changes, not to the price changes themselves.
- 2.7 Section 3 of this document considers BT's request and invites views on the proposal that Ofcom should grant consent to non-uniform pricing in these circumstances.
- 2.8 In the Annexes we set out the Explanatory Memorandum and draft consent and include an Impact Assessment.
- 2.9 Responses to the consultation are invited by 25 October 2006.

² Directive 2002/22/EC

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

³ SI 2003 No 1904 <http://www.opsi.gov.uk/si/si2003/20031904.htm>

⁴ http://www.ofcom.org.uk/static/archive/oftel/publications/eu_directives/2003/uso0703.pdf

⁵ A PCB is a public pay telephone located on a public highway

Section 3

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 until 30 November 2008 to the extent necessary to implement certain price changes set out below.

Price changes

3.2 BT intends to make two sets of price changes.

Withdrawal of the Meter Pulsing Facility

3.3 As part of implementation of changes to its network being rolled out geographically from November BT is withdrawing the meter pulse facility (MPF). MPF will be withdrawn in phases over two years.

3.4 With the withdrawal of MPF, charging will be calculated on the basis of tariff tables in the PCB. More than 90% of PCBs will be able to calculate tariffs on this basis without needing manual upgrade. However, the tariff tables in these PCBs will not be sufficiently large for BT to be able to retain the same number of tariff bands as currently available in the network with MPF. BT is therefore rationalising its tariff structure in PCBs by reducing the number of price bands for calls from PCBs for the following ranges:

- 0844 (special tariff services)
- 0871 (special tariff services)
- 070 (personal numbering services)
- 076 (paging services)
- 090 (premium-rate services)
- 091 (premium-rate services)
- 118 (directory enquiry services)

3.5 For example in the case of 0844 there are currently 34 bands using MPF ranging from 2ppm to 14ppm. Under the new tariffs these will be reduced to one band of 14ppm.

3.6 BT explains it has selected these non-geographic ranges because they have the broadest range of tariff bands but attract relatively few calls – less than 1% of its total call volume from PCBs. Taking all these number ranges together, around 200 tariff bands will be reduced to 8. BT is not rationalising its tariff bands for fixed or mobile calls.

- 3.7 Eight per cent of BT's PCBs (5,145) will not be able to calculate tariffs independently of the network and will need to be replaced in order to work without MPF. BT plans to replace them over two years as MPF is withdrawn. During this time the old, legacy boxes will be charging at the current tariff rates for these 07, 08, 09 and 118 ranges. BT points out that these tend to be lightly used boxes, representing only 3.4% of chargeable PCB call volume.

Minimum Fee

- 3.8 The second tariff change relates to the minimum fee.
- 3.9 BT plans to increase the minimum fee for calls from a PCB from 30p to 40p. For calls to 01 and 02 numbers, the 30p charge currently allows a call of 15 minutes; under the new tariff, 40p will allow a call of 20 minutes.
- 3.10 The 8% of PCBs referred to in paragraph 3.7 above need to be modified manually to implement this new tariff. BT estimates it will take up to nine months to complete these modifications. During this period the old boxes will charge at the current minimum charge.

Ofcom's Proposed Consent

- 3.11 Ofcom has considered BT's request and is proposing to consent to non-uniform charging for call boxes services to the extent necessary to implement the price changes described above until 30 November 2008.
- 3.12 In making this proposal Ofcom has taken into account the following factors:
- The nature of the PCB network means that it is not practical for BT to implement these price changes simultaneously across all its PCBs;
 - The phased implementation will enable BT to implement the changes effectively and in a way that minimises costs and disruption to consumers and to BT;
 - The extent of differential charging will be progressively reduced as PCBs are modified or replaced; and
 - The legacy PCBs that will be modified or replaced are distributed across the UK so that non-uniform pricing will not apply only to one region or nation.
- 3.13 An Explanatory Memorandum, with an assessment of the decision against the tests set out in sections 3, 4 and 49(2) of the Act, and draft consent are set in Annex 6. An Impact Assessment is included in Annex 5.

Do you agree with Ofcom's proposal to consent to BT providing call box services at non-uniform prices until 30 November 2008 to the extent necessary to implement the described price changes to non-geographic services and the minimum fee for calls from PCBs?

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 25 October 2006**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://www.ofcom.org.uk/consult/condocs/callboxes/howtorespond/form> 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 (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email sukhpreet.walia@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Sukhpreet Walia
Floor 6
Strategy and Market Developments
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3406
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the question asked in this document, which is repeated at Annex 4. It would also help if you can explain why you hold your views.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Alan Pridmore on 020 7981 3861.

Confidentiality

- A1.8 We believe 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 coversheet that this is acceptable).

- A1.9 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.
- A1.10 Ofcom reserves its power to disclose any information it receives where this is required to facilitate the carrying out of its statutory functions.
- A1.11 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use in order to meet its legal requirements. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.12 Following the end of the consultation period, Ofcom intends to publish a statement setting out our conclusion.
- A1.13 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.14 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.15 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, who are less likely to give their opinions through a formal consultation.
- A1.16 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email vicki.nash@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 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

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 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.

A2.5 We will normally allow ten weeks for responses to consultations on issues of general interest. In this case we are consulting for a shorter period because:

- The request for consent is on a very narrow issue around the implementation of the price changes
- The consultation is limited to a single question that is not complex.

A2.6 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 organizations 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.

A2.7 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

A2.8 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 3

Consultation response cover sheet

- A3.1 In the interests of transparency, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, without disclosing the specific information that you wish to remain confidential.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). 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 coversheets confidential.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your coversheet 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	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Consultation question

Do you agree with Ofcom's proposal to consent to BT providing call box services at non-uniform prices until 30 November 2008 to the extent necessary to implement the price changes to non-geographic services and the minimum fee for calls from PCBs?.

Annex 5

Impact Assessment

Introduction

- A5.1 The analysis presented in this annex represents an impact assessment, as defined in section 7 of the Communications Act 2003 (the Act).
- A5.2 You should send any comments on this impact assessment to us by the closing date for this consultation. We will consider all comments before deciding whether to implement our proposals.
- A5.3 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

- A5.4 There are approximately 67,000 PCBs in the UK, of which around 64,000 are provided by BT. Ofcom research shows that over a third of adults use PCBs at least occasionally and 7 per cent use them regularly. 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
- A5.5 The requirement that prices for services provided under the USO are uniformly priced assists in particular those areas— generally rural parts of the UK - in which services are more expensive to provide.

Ofcom's policy objective

- A5.6 Universal Service provides a safety net that ensures basic fixed line services are available at an affordable price to all citizens and consumers across the UK.

Options considered

- A5.7 There are two options:
- To consent to non-uniform charging
 - Not to consent to non-uniform charging

Analysis of the different options

To consent to non-uniform charging

A5.8 By consenting to BT's request, PCBs will charge on a non-uniform basis for up to two years to the extent necessary to implement the new price regimes. Consumers using PCBs will pay slightly different amounts for certain calls depending on whether they are using a PCB upgraded with the new tariffs or one of the legacy PCBs. However arguments in support of non-uniform charging are:

- the nature of the PCB base means that it is not practical for BT to implement BT's price changes simultaneously across its network;
- the phased implementation will enable BT to implement the changes effectively and in a way that minimises costs and disruption to BT and to its consumers;
- the extent of differential charging will be progressively reduced as PCBs are modified or replaced; and
- the legacy PCBs that will be modified or replaced are distributed across the UK so that non-uniform pricing will not apply to only one region or nation.

Not to consent to non-uniform charging

A5.9 By not consenting to BT's request, PCBs will have to charge on a uniform basis. However BT will still need to withdraw MPF (as part of its scheduled network changes) and want to change its minimum fee (for commercial reasons). The options available to it in these circumstances while complying with the uniform pricing requirement are not desirable, practical or cost effective:

- make modifications or upgrades simultaneously across 8% of its PCB base requiring engineers to be deployed to around 5,100 sites at the same time; or
- restrict call box services from the legacy PCBs in a way that ensures compliance with the uniform pricing condition until modifications or replacements could be made (which might conflict with other aspects of the USO requirement to provide call box services and might have a detrimental effect for consumers).

The preferred option

A5.9 Ofcom's preferred option is to consent to non-uniform charging in the circumstances set out in BT's request taking account of the:

- The practical constraints;
- The desirability of minimising cost and disruption;
- The decreasing extent of differential charging; and
- The distribution of the differential charging uniformly across the UK.

Annex 6

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

Explanatory memorandum

- A6.1 Set out below is the justification for the proposed consent, the effect of the proposed consent, the reasons for making the proposal and an explanation of how Ofcom is meeting its duties under relevant sections of the Act in making these changes.
- A6.2 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

- A6.3 The Order says that the matters set out in the schedule to the Order should be offered at prices that are affordable for all end-users and uniform throughout the United Kingdom unless Ofcom have determined that there is clear justification for not doing so.
- A6.4 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.
- A6.5 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 until 30 November 2008 to the extent necessary to implement certain price changes to calls to non-geographic numbers and to the minimum fee from PCBs.
- A6.6 Ofcom considers that it has clear justification for consenting to the provision by BT of non uniform prices in respect the services referred to in Universal Service Condition 3.5 in the UK except for the Hull Area. Ofcom believes there is clear justification for non-uniform prices in the circumstances referred to in BT's request on the basis that it will allow the implementation of price changes in an effective manner and in a way that minimises costs and disruption to consumers and to BT. The nature of the PCB network means that it is not practical for BT to implement these price changes simultaneously across all its PCBs. The extent of differential charging will be progressively reduced as PCBs are modified or replaced. The legacy PCBs that will be modified or replaced are distributed across the UK so that non-uniform pricing will not apply only to one region or nation

Section 3 and section 4 analysis

- A6.7 Ofcom has considered its duties under section 3 of the Act and all the Community requirements set out in section 4. By consenting to non-uniform charging and issuing guidance, Ofcom is furthering the interests of citizens in relation to communication matters and of consumers in relevant markets because it enables

the implementation of price changes in an effective manner and in a way that minimises costs and disruption to consumers and to BT. The proposals will help improve transparency and consistency and are proportionate in reflecting that it is not practical for BT to implement these price changes simultaneously across all its PCBs and that the extent of differential charging will be progressively reduced as PCBs are modified or replaced. Consent to non-uniform charging also promotes the interest of all persons who are citizens of the European Union because it 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

A6.8 In addition, Ofcom is satisfied that, in accordance with section 49 (2) of the Act, the consent is objectively justifiable because it enables the implementation of price changes in an effective manner and in a way that minimises costs and disruption to consumers and to BT. Providing consent does not discriminate unduly against particular persons in that the differential charging would apply to all persons using public call box services. It is proportionate because it reflects that it is not practical for BT to implement these price changes simultaneously across all its PCBs and that the extent of differential charging will be progressively reduced as PCBs are modified or replaced. Through this process of consultation, Ofcom is ensuring that its proposals, and the reasoning behind them, are transparent.

Consultation

A6.9 Ofcom is inviting written views and comments by **5pm on 25 October 2006** on the notification and the proposal to consent to non-uniform charging as set out in this Annex.

A6.10 Details on how to respond are set out in Annex 1.

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

Proposals for giving Consent to BT under Universal Service Condition 3, 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:

1. Ofcom hereby makes, in accordance with section 49 of the Act, the following proposal for Consent to be given to BT 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.
2. The draft Consent is set out in the Schedule to this Notification.
3. The effect of the draft Consent and the reasons for making the proposal are set out in the accompanying explanatory memorandum.
4. Representations may be made to Ofcom about the draft Consent by **5pm on 25 October 2006**.
5. Copies of this Notification and the accompanying explanatory memorandum have been sent to the Secretary of State in accordance with section 50(1)(a) of the Act..

6. 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”..

7. 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.
8. 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.
9. The Schedule to this Notification shall form part of this Notification

[person]

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

[date]

Schedule

[Draft] Consent to be given to BT under Universal Service Condition 3, 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 explanatory memorandum 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 explanatory memorandum 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;
- (F) on 21 September 2006, Ofcom published a notification of the proposed Consent in accordance with section 49(4) of the Act;
- (G) [Ofcom has considered every representation about the proposed Consent duly made to it]; and

NOW THEREFORE Ofcom gives the following consent:

1. The obligation on BT in Universal Service Condition 3.5 to provide the call box services in Universal Service Condition 3 on the basis of uniform prices throughout the UK except for the Hull Area shall not apply up to and including 30 November 2008 to the extent necessary to implement new call charges for Call Box Services introduced by BT as set

out in BT's letter of 15 November annex hereto in respect of calls to non-geographic numbers and the minimum fee for calls.

2. 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 time sand

"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"..

3. 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.
4. 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.

[person]

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

[date]

Annex 7

BT's request for consent under Universal Service Condition 3

[On next page]



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

15th September 2006

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 to the extent set out below and for the maximum term of 2 years expiring 30 November 2008 when replacement of all legacy BT Payphone products will be complete.

This requirement arises as a result of the significant changes BT is presently implementing to its network infrastructure in order to improve service to customers.

As a necessary part of these changes, BT Payphones will be undertaking a phased withdrawal of the Meter Pulse Facility (MPF). MPF currently allows individual public call boxes to charge for call duration on a unit basis. The vast majority of BT's public call boxes in the UK will accommodate MPF withdrawal by charging at rates based on tariffing tables accessed independently of the network. Although extensive, these replacement tariffing tables will not allow for the implementation of as many variant charges as currently exist on the network based system and for this reason a limited number of non-geographic area codes will be rationalised. This rationalisation will allow national, international and mobile charges to continue to operate at their current charges without any impact caused by the withdrawal of the Meter Pulse Facility. The new non-network based charging will take effect from November 2006 and the tariffs will be published in the BT Retail Price List.

A small number of BT's older legacy public call boxes however – accounting for 8% of the total base and only 3.4% of chargeable payphone calls – will be unable to charge without the network meter pulse and therefore will be unable to charge in the same manner a limited number of non-geographic call types, excluding those which apply to mobile telephones. From November 2006 these boxes will charge, for these non-geographic call types, at a marginally lower rate than the published tariffs. Over a period of 2 years, these older public call boxes will be replaced to ensure that future pricing is applied on a uniform basis.

Additionally, from November 2006 BT plans to change the minimum fee payable for a UK cash call from 30p for 15 minutes to 40p for 20 minutes. The 40p charge includes a 20p connection charge and unit charges of 10p for 10 minutes. As with the meter pulse facility change, this change cannot be implemented for the small number of older legacy public boxes that rely on MPF for pricing. There will be a manual programme of box updates which is anticipated for completion within 6-9 months. The User Notice displayed in all PCBs will be updated to reflect the published prices.

BT does not believe that consumers making calls in the legacy public call boxes will be disadvantaged by these proposals. It is unlikely that consumers will be aware of any differential charging between the two types of call boxes. Moreover, to the extent that these consumers are charged at different tariffs than if they made their calls in newer boxes, these consumers will be charged at marginally lower rates.

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 costs of installing replacement products 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.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Sarah Jefferson', is positioned above the typed name.

Sarah Jefferson
Consumer Regulation Specialist

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