

Annex 3

Statutory Notification & Withdrawal of Direction

Part I – Services market identifications, market power determinations and SMP services conditions

NOTIFICATION UNDER SECTIONS 48(1), 79(4) AND 86 OF THE COMMUNICATIONS ACT 2003

WHEREAS:

- (A) on 28 November 2003, the Director published a document entitled 'Review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets — Identification and analysis of markets, determination of market power and the setting of SMP conditions — Final Explanatory Statement and Notification';
- (B) at Annex A to that Market Review 2003 Statement, the Director published a notification identifying, in accordance with section 79 of the 2003 Act, the following nine services markets in each of which the Director determined that, for the purposes of making market power determinations under the 2003 Act, BT has significant market power in the United Kingdom excluding the Hull Area:
 - (i) wholesale residential analogue exchange line services
 - (ii) wholesale residential ISDN2 exchange line services;
 - (iii) wholesale business analogue exchange line services;
 - (iv) wholesale business ISDN2 exchange line services;
 - (v) wholesale ISDN30 exchange line services;
 - (vi) call origination on fixed public narrowband networks;
 - (vii) local-tandem conveyance and transit on fixed public narrowband networks;
 - (viii) inter-tandem conveyance and transit on fixed public narrowband networks;
 - (ix) single transit on fixed public narrowband networks;
- (C) as a result of those market power determinations, in accordance with section 48(1) of the 2003 Act, the Director set on BT pursuant to section 45 of the 2003 Act the SMP services conditions set out in Schedule 1 to the November 2003 Notification, including Condition AA4 which imposes on BT certain price controls;

- (D) on 28 November 2003, the Director also published a document entitled 'Review of fixed geographic call termination markets — Identification and analysis of markets, determination of market power and setting of SMP conditions — Final Explanatory Statement and Notification';
- (E) at Annex B to that Fixed Call Termination 2003 Statement, the Director published a notification identifying, in accordance with section 79 of the 2003 Act, fixed geographic call termination provided by BT as a market in which the Director determined that, for the purposes of making market power determinations under the 2003 Act, BT has significant market power;
- (F) as a result of that market power determination, in accordance with section 48(1) of the 2003 Act, the Director set on BT pursuant to section 45 of the 2003 Act the SMP services conditions set out in Schedule 1 to the Fixed Call Termination Notification, including Condition BA4 which imposes on BT price controls in respect of Fixed Call Termination Wholesale Services (as defined therein);
- (G) on 29 December 2003, OFCOM took over the responsibilities and assumed the powers of the five former regulators it has replaced, including the Director and, by virtue of the Transitional Provisions, the above-mentioned market power determinations made by the Director are to have effect as if made by OFCOM;
- (H) on 30 July 2004, OFCOM published a notification under sections 48(1) and 86 of the 2003 Act at Annex 1 to the Statement entitled 'Review of BT's product management, policy and planning (PPP) charge' with the effect of:
 - (i) modifying the above-mentioned Condition AA4 as set out in Schedule 1 to that notification in respect of its application to BT in the call origination on fixed public narrowband networks market in the UK excluding the Hull Area;
 - (ii) setting SMP services condition PA1 as set out in Schedule 2 to that notification so as to apply to BT in each of the following markets: (a) call origination on fixed public narrowband networks in the UK excluding the Hull Area; (b) local-tandem conveyance and transit on fixed public telephone networks in the UK excluding the Hull Area; (c) inter-tandem conveyance and transit on fixed public telephone networks in the UK excluding the Hull Area; (d) single transit on fixed public narrowband networks in the UK excluding the Hull Area; and (e) fixed geographic call termination provided by BT;

in relation to which markets OFCOM were satisfied, in accordance with section 86 of the 2003 Act, that there had been no material change since the relevant market power determinations were made;

- (I) furthermore, on 10 February 2005, OFCOM published three separate notifications under sections 48(1) and 86 of the 2003 Act at Annexes 1 to 3 to the Statement entitled 'Modifications to BT's SMP services conditions AA4, BA4 and PA1' with the effect of:
 - (i) modifying the above-mentioned Condition AA4 as set out in the Schedule to the notification at Annex 1 of that Statement by, in effect, substituting it for a new Condition AA4;

- (ii) modifying the above-mentioned Condition BA4 as set out in the Schedule to the notification at Annex 2 of that Statement by, in effect, substituting it for a new Condition BA4;
- (iii) modifying the above-mentioned Condition PA1 as set out in the Schedule to the notification at Annex 3 of that Statement by, in effect, substituting it for a new Condition PA1;

in relation to all markets to which those respective SMP services conditions apply for which OFCOM were satisfied, in accordance with section 86 of the 2003 Act, that there had been no material change since the relevant market power determinations were made;

- (J) on 23 March 2005, OFCOM published a notification under sections 48(2), 80(1) and 86 of the 2003 Act setting out their proposals:
 - (i) for the identification of the two services markets specified in paragraphs (vii) and (viii) of recital (B) above having carried out a further market review of them;
 - (ii) for the making of market power determinations in respect of those two markets;
 - (iii) for the setting, and modification, of SMP services conditions in respect of the markets specified, on the one hand, in paragraph (vii) of recital (B) above and, on the other hand, in paragraphs (vi) and (ix) of that recital and in recital (E) after being satisfied there have been no material change in them;
 - (iv) for the revocation of SMP services conditions in respect of the market specified in paragraph (viii) of recital (B);
- (K) copies of that Consultation Notification were sent to the Secretary of State for Trade and Industry in accordance with section 50(1)(a) of the 2003 Act, and to the European Commission and to the regulatory authorities of every other Member State in accordance with section 50(3) and 81 of the 2003 Act;
- (L) in the Consultation Notification and the accompanying explanatory statement, OFCOM invited representations about any of the proposals set out therein by 1 June 2005;
- (M) by virtue of section 80(6) of the 2003 Act, OFCOM may give effect to any proposals to identify a market for the purposes of making a market power determination or any proposals to make a market power determination set out in the Consultation Notification, with or without modification, where—
 - (i) they have considered every representation about the proposals made to them within the period specified in the Consultation Notification; and
 - (ii) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State; but
 - (iii) OFCOM's power to give effect to such proposals is subject to sections 82 and 83 of the 2003 Act;

- (N) by virtue of section 48(5) of the 2003 Act, OFCOM may give effect to any proposals to set, modify or revoke SMP services conditions set out in the Consultation Notification, with or without modification, where—
 - (i) they have considered every representation about the proposals made to them within the period specified in the Consultation Notification; and
 - (ii) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
- (O) OFCOM received responses to the Consultation Notification and have considered every such representation duly made to them in respect of the proposals set out in the Consultation Notification and the accompanying consultation document; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;
- (P) the European Commission has not made a notification for the purposes of Article 7(4) of the Framework Directive as referred to in section 82 of the 2003 Act and the proposals do not relate to a transnational market as referred to in section 83 of the 2003 Act; and

NOW, therefore, OFCOM hereby publish this Notification to make the following decisions:

Service market identifications and market power determinations

1. For reasons set out in Section 2 of the explanatory statement accompanying this Notification, OFCOM have, in accordance with section 84(2) of the 2003 Act, considered it an appropriate interval to carry out further analyses of the two identified services markets specified in paragraph 2 of this Notification for the purposes of both:
 - (a) reviewing the relevant market power determinations made on the basis of the analysis set out in the Market Review 2003 Statement; and
 - (b) deciding whether to modify SMP services conditions set by reference to those market power determinations made on such a basis.
2. The two identified services markets are—
 - (a) local-tandem conveyance and transit on fixed public narrowband networks;
 - (b) inter-tandem conveyance and transit on fixed public narrowband networks;

in the United Kingdom excluding the Hull Area.
3. OFCOM have decided that, in accordance with section 79 of the 2003 Act, the two identified markets in paragraph 2 of this Notification continue to be identified as services markets in relation to which it is appropriate, in OFCOM's opinion, to consider whether to make market power determinations.

4. For reasons set out in Sections 4 and 5 of the explanatory statement accompanying this Notification, OFCOM have decided, in accordance with section 79 of the 2003 Act, to make the following market power determinations, namely—
 - (a) in relation to the market specified in paragraph 2(a) of this Notification, to confirm that BT has significant market power;
 - (b) in relation to the market specified in paragraph 2(b) of this Notification, to determine that BT does not, either individually or jointly with others, have significant market power and, therefore, paragraph 2(a) of the November 2003 Notification shall have no effect to the extent that it provides for the making of a market power determination in respect of that market and that paragraph 2(a) shall be amended and read accordingly.
5. The effect of, and OFCOM's reasons for making, the decisions to identify the markets specified in paragraph 2 (as referred to in paragraph 3) of this Notification, and to make the market power determinations set out in paragraph 4 of this Notification, are set out in Sections 4 to 6 of the explanatory statement accompanying this Notification.
6. In identifying and analysing the markets referred to in paragraph 2 of this Notification, and in considering whether to make the decisions in paragraph 4 of this Notification, OFCOM have, in accordance with section 79 of the 2003 Act, taken due account of all applicable guidelines and recommendations which have been issued or made by the European Commission in pursuance of a Community instrument, and relate to market identification or analysis.

SMP service conditions

7. OFCOM have decided, in accordance with sections 48(1) and 84(4) of the 2003 Act, to revoke as set out in **Schedule 1** to this Notification each and every SMP services condition imposed on BT as a result of the November 2003 Notification (as amended by the February 2005 Notifications) in the services market identified in paragraph 2(b), by reference to the market power determination set out in paragraph 4(b), of this Notification.
8. OFCOM have further, in accordance with section 48(1) of the 2003 Act, decided—
 - (a) in relation to the services market identified in paragraph 2(a) of this Notification and the services markets identified in sub-paragraphs (vi) and (ix) of paragraph 1(a) of the November 2003 Notification, to set SMP services conditions AA4(a), AA4(b), AA4(c), AA4(d) and AA4(e) by inserting them after Condition AA4 in Part 2 of Schedule 1 to the November 2003 Notification (as amended by the February 2005 Notifications) as set out in **Schedule 2** to this Notification in respect of their application to BT;
 - (b) in relation to the services market identified in paragraph 1(a) of the Fixed Call Termination Notification, to set SMP services condition BA4(a) by inserting it after Condition BA4 in Part 2 of Schedule 1 to the Fixed Call Termination Notification (as amended by the February 2005 Notifications) as set out in **Schedule 3** to this Notification in respect of its application to BT;

- (c) in relation to the services market identified in paragraph 2(a) of this Notification, and the services markets identified in sub-paragraphs (vi) and (ix) of paragraph 1(a) of the November 2003 Notification and in paragraph 1(a) of the Fixed Call Termination Notification, to set SMP services condition PA1(a) as set out in **Schedule 4** to this Notification in respect of its application to BT;
 - (d) in relation to the services market identified in paragraph 2(a) of this Notification and the services markets identified in sub-paragraphs (vi) and (ix) of paragraph 1(a) of the November 2003 Notification, to modify SMP services conditions AA2, AA6(a) and AA6(b) in Part 2 of Schedule 1 to the November 2003 Notification as set out in **Schedule 5** to this Notification in respect of their application to BT;
 - (e) in relation to the services market identified in sub-paragraph (vi) of paragraph 1(a) of the November 2003 Notification, to modify SMP services condition AA12 in Part 2 of Schedule 1 to the November 2003 Notification by substituting the definition of “AR (DLE) (LECO)” in paragraph AA12.3(c) for a new definition of “AR (DLE) (LECO)” as set out in **Schedule 6** to this Notification in respect of its application to BT;
 - (f) in relation to the services market identified in paragraph 1(a) of the Fixed Call Termination Notification, to modify SMP services conditions BA2 and BA6 in Part 2 of Schedule 1 to the Fixed Call Termination Notification as set out in **Schedule 7** to this Notification in respect of its application to BT.
9. In making the decisions to set the SMP services conditions specified in sub-paragraphs (a) to (c) of paragraph 8 of this Notification, OFCOM are, in accordance with section 86(1)(b) of the 2003 Act, setting those SMP services conditions by reference to the respective market power determinations made in relation to the identified services markets referred to in that paragraph 8 in which markets that are material to the setting of the SMP services conditions in question OFCOM are satisfied there have been no material change since those determinations were made. As regards the decision to modify the SMP services conditions specified in sub-paragraphs (d) to (f) of paragraph 8 of this Notification, OFCOM are, in accordance with section 86(4)(a) of the 2003 Act, modifying those SMP services conditions by reference to the respective market power determinations made in relation to the identified services markets referred to in that paragraph 8 in which markets that are material to the modification of the SMP services conditions in question OFCOM are satisfied there have been no material change since those conditions were set.
10. OFCOM have further, in accordance with sections 48(2) and 86(1)(a) of the 2003 Act, decided that, in relation to the services market identified in paragraph 2(a) of this Notification by reference to the market power determination set out in paragraph 4(a) of this Notification, the SMP services conditions—
- (a) in Part 2 of Schedule 1 to the November 2003 Notification (other than the proposed Condition AA4(c), which is proposed to be set in accordance with paragraph 8(a) of this Notification); those conditions being AA1(a); AA1(b), AA2, AA3, AA5, AA6(a), AA6(b), AA7 and AA12;
 - (b) in Schedule 2 to the Financial Reporting Notification (excluding Conditions OA29 to OA31 and OA34),

continue to be set in respect of their application to BT.

11. The effect of, and OFCOM's reasons for making, the decisions:
 - (a) for setting and modifying the SMP services conditions set out in Schedules 1 to 7 to this Notification; and
 - (b) for continuing to set the SMP services conditions specified in paragraph 10 of this Notification,

are set out in Sections 4 to 6, and Annex 5, of the explanatory statement accompanying this Notification.

12. OFCOM consider that the modifications and setting of SMP services conditions referred to in paragraphs 8 to 10 of this Notification comply with the requirements of sections 45 to 47, 87 and 88 of the 2003 Act as appropriate and relevant to each of those SMP services conditions.

OFCOM's duties

13. In making all of the decisions set out in this Notification, OFCOM have considered and acted in accordance with their general duties set out in section 3 of, and the six Community requirements set out in section 4, of the 2003 Act.

Delivery of copies of notifications under the 2003 Act

14. Copies of this Notification and the accompanying explanatory statement have been sent to the Secretary of State for Trade and Industry in accordance with section 50(1)(a) and section 81(1) of the 2003 Act, and to the European Commission in accordance with sections 50(2) and 81(2) of the 2003 Act.

Interpretation

15. Except for references made to identified services markets in this Notification (including the recitals hereto) and in the 2003/2005 Notifications and except as otherwise defined in paragraph 16 of this Notification, words or expressions used in this Notification (and in the recitals hereto) shall have the same meaning as they have been ascribed in the 2003 Act.
16. In this Notification (and in the recitals hereto)—
 - (a) **"2003 Act"** means the Communications Act 2003 (c.21);
 - (b) **"2003/2005 Notifications"** means the November 2003 Notification, the Fixed Call Termination Notification, the Financial Reporting Notification, the July 2004 Notification, and the February 2005 Notifications;
 - (c) **"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;
 - (d) **"Consultation Notification"** has the meaning given to it in recital (J) to this Notification;

- (e) **“Director”** means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - (f) **“February 2005 Notifications”** has the meaning given to it in recital (I) to this Notification;
 - (g) **“Financial Reporting Notification”** means the notification published under sections 48(1) and 86(1) of the Act on 22 July 2004 concerning the regulatory financial reporting obligations imposed on BT;
 - (h) **“Fixed Call Termination 2003 Statement”** has the meaning given to it in recital (D) to this Notification;
 - (i) **“Fixed Call Termination Notification”** has the meaning given to it in recital (E) to this Notification;
 - (j) **“Hull Area”** means the area defined as the 'Licensed Area' in the licence granted on 30 November 1987 by the Secretary of State under section 7 of the Telecommunications Act 1984 to Kingston upon Hull City Council and Kingston Communications (Hull) plc;
 - (k) **“July 2004 Notification”** has the meaning given to it in recital (H) to this Notification;
 - (l) **“Market Review 2003 Statement”** has the meaning given to it in recital (A) to this Notification;
 - (m) **“November 2003 Notification”** has the meaning given to it in recital (B) to this Notification;
 - (n) **“OFCOM”** means the Office of Communications; and
 - (o) **“Transitional Provisions”** means sections 408 and 411 of the 2003 Act, the Communications Act 2003 (Commencement No.1) Order 2003 (S.I. 2003/1900 (C. 77)) and the Office of Communications Act 2002 (Commencement No.3) and Communications Act 2003 (Commencement No 2) Order 2003 (S.I. 2003/3142 (C. 125)).
17. For the purpose of interpreting this Notification—
- (a) headings and titles shall be disregarded; and
 - (b) the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.
18. The Schedules to this Notification shall form part of this Notification.
19. Unless otherwise stated in the Schedules to this Notification, the decisions set out in this Notification shall take effect on the publication of this Notification.

DAVID K S THOMAS
DIRECTOR OF REGULATORY FINANCE

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

18 August 2005

SCHEDULE 1

Revocation of SMP services conditions imposed on BT pursuant to the November 2003 Notification (as amended by the February 2005 Notifications) as a result of the market power determination in respect of the identified services market for inter-tandem conveyance and transit on fixed public narrowband networks in the United Kingdom excluding the Hull Area hereby made by OFCOM as set out in paragraph 4(b) of this Notification in which it has been determined that BT no longer has significant market power

1. For paragraph 1 of Part 1 of Schedule 1 to the November 2003 Notification, there shall be substituted the following new paragraph 1—

“1 The SMP conditions in Part 2 of this Schedule 1 shall, except insofar as it is otherwise stated therein, apply to each and all of the markets set out in paragraph 1(a) of this Notification other than the market set out in subparagraph (viii) of that paragraph, and to Interconnection Circuits.”

SCHEDULE 2

Setting of SMP services conditions AA4(a), AA4(b), AA4(c), AA4(d) and AA4(e) as a result of the market power determination in respect of the services market for local-tandem conveyance and transit on fixed public narrowband networks in the United Kingdom excluding the Hull Area hereby made by OFCOM as set out in paragraph 4(a) of this Notification in which it has been determined that

BT has significant market power and as a result of the market power determinations made by the Director in respect of the identified services markets set out in paragraphs 1(a)(vi) and 1(a)(ix) of the November 2003 Notification in each of which BT has been determined to have significant market power

1. In Part 2 of Schedule 1 to the November 2003 Notification (as amended by the February 2005 Notifications), there shall be set the following SMP services conditions AA4(a), AA4(b), AA4(c), AA4(d) and AA4(e) by inserting them after Condition AA4—

“Condition AA4(a)

Charge control – Call Origination

AA4(a).1 Without prejudice to the generality of Condition AA3, and subject to paragraphs AA4(a).2, AA4(a).4 and AA4(a).5, the Dominant Provider shall take all reasonable steps to secure that, on the last day of each Relevant Year, the Percentage Change (as determined in accordance with paragraph AA4(a).3) in the aggregate of charges for the provision of Call Origination Services is not more than the Controlling Percentage (as determined in accordance with paragraph AA4(a).6).

AA4(a).2 For the purpose of complying with paragraph AA4(a).1, the Dominant Provider shall take all reasonable steps to secure that the revenue it accrues as a result of all individual Charge Changes during any Relevant Year shall be no more than that which it would have accrued had all of those Charge Changes been made on 1 April in the Relevant Year in question. The Dominant Provider shall be deemed to have satisfied this obligation where, by example in the case of a single Charge Change in the Relevant Year in question, the following formula is satisfied—

$$RC(1 - D) \leq TRC$$

where—

RC is the revenue change associated with the single Charge Change made in the Relevant Year in question, calculated by the relevant Percentage Change immediately following the Charge Change multiplied by the revenue accrued during the Relevant Financial Year;

TRC is the target revenue change required in the Relevant Year in question to achieve compliance with paragraph AA4(a).1, calculated by the Percentage Change required in the Relevant Year in question to achieve compliance with paragraph AA4(a).1 multiplied by the revenue accrued from the provision of Call Origination Services during the Relevant Financial Year; and

D is the elapsed proportion of the Relevant Year in question calculated as:

- (i) for any Relevant Year other than the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a

scale ranging from 1 October = -182 to 30 September = 182, divided by 183;

- (ii) for the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -183 to 30 September = 182, divided by 183.

AA4(a).3 The Percentage Change shall be calculated for the purposes of complying with paragraph AA4(a).1 by employing the following formula—

$$C_t = \frac{\sum_{i=1}^n \left[R_i \frac{(p_{t,i} - p_{0,i})}{p_{0,i}} \right]}{\sum_{i=1}^n R_i}$$

where—

C_t is the Percentage Change in the aggregate of charges for the provision of Call Origination Services at a particular time t during the Relevant Year;

n is the number of individual services that form part of (or are comprised in) the provision of Call Origination Services;

R_i is the sum of the revenue accrued during the Relevant Financial Year in respect of the individual service i that forms part of (or is comprised in) the provision of Call Origination Services where i is a unique number from 1 to n for each of the n individual services in the provision of Call Origination Services;

$p_{0,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of (or is comprised in) the provision of Call Origination Services immediately preceding the beginning of the Relevant Year; and

$p_{t,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of (or is comprised in) the provision of Call Origination Services at time t during the Relevant Year.

AA4(a).4 Where the Percentage Change in the Relevant Year in question is less than the Controlling Percentage (the “Excess”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4(a).6, but increased by the absolute value of the Excess.

AA4(a).5 Where the Percentage Change in the Relevant Year in question is more than the Controlling Percentage (the “Deficiency”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4(a).6, but decreased by the absolute value of the Deficiency.

AA4(a).6 Subject to paragraphs AA4(a).4 and AA4(a).5, the Controlling Percentage in relation to the Relevant Year in question is the amount of the change in the Retail Prices Index in the period of 12 months ending on 30th June immediately before the beginning of that Year expressed as a percentage (rounded to two decimal places) of that Index as at the beginning of that period reduced by 3.75 percentage points.

AA4(a).7 Where—

- (a) the Dominant Provider makes a material change (other than to a Charge) to the Charge Controlled Service for which a Charge is charged;
- (b) the Dominant Provider makes a change to the date on which its financial year ends; or
- (c) there is a material change in the basis of the Retail Prices Index,

paragraphs AA4(a).1 to AA4(a).6 shall have effect subject to such reasonable adjustment to take account of the change as OFCOM may direct to be appropriate in the circumstances. For the purposes of paragraph AA4(a).7(a), a material change to the Charge Controlled Service includes (but is not limited to) the introduction of a new product and/or service wholly or substantially in substitution for the existing Charge Controlled Service.

AA4(a).8 The Dominant Provider shall, no later than three months after the end of each Relevant Year, supply to OFCOM, in writing, the data necessary to perform the calculation of the Percentage Change.

AA 4(a).9 If it appears to OFCOM that the Dominant Provider is likely to fail to secure that the Percentage Change does not exceed the Controlling Percentage for the last Relevant Year beginning on 1 October 2008 and ending on 30 September 2009, the Dominant Provider shall make such adjustment to any of its charges for the provision of Call Origination Services and by such day in that Relevant Year (or, if appropriate in OFCOM's opinion, by such day that falls after the end of that Relevant Year) as OFCOM may direct for the purpose of avoiding such a failure.

AA4(a).10 Paragraphs AA4(a).1 to AA4(a).9 shall not apply to such extent as OFCOM may direct.

AA4(a).11 In this Condition—

- (a) “**Charge**” means, for the purposes of paragraph AA4(a).7, the charge (being in all cases the amounts offered or charged by the Dominant Provider) to a Communications Provider for the Charge Controlled Service;
- (b) “**Charge Change**” means a change to any of the charges for the provision of Call Origination Services;
- (c) “**Charge Controlled Service**” means a product or service which forms part of (or is comprised in) the provision of Call Origination Services;
- (d) “**Controlling Percentage**” is to be determined in accordance with paragraph AA4(a).6;
- (e) “**Leap Year**” means the Relevant Year beginning on 1 October 2007 and ending on 30 September 2008;
- (f) “**OFCOM**” means the Office of Communications;
- (g) “**Percentage Change**” has the meaning given to it in paragraph AA4(a).3;

(h) “**Relevant Financial Year**” means the period of 12 months ending on 31 March immediately preceding the Relevant Year in question;

(i) “**Relevant Year**” means any of the four periods of 12 months beginning on 1 October starting with 1 October 2005 and ending on 30 September 2009; and

(j) “**Retail Prices Index**” means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty’s Government or a governmental department (which is the Office of National Statistics at the time of publication of this Notification) from time to time in respect of all items.

Condition AA4(b)

Charge control – Single Transit

AA4(b).1 Without prejudice to the generality of Condition AA3, and subject to paragraphs AA4(b).2, AA4(b).4 and AA4(b).5, the Dominant Provider shall take all reasonable steps to secure that, on the last day of each Relevant Year, the Percentage Change (as determined in accordance with paragraph AA4(b).3) in the aggregate of charges for the provision of Single Transit Services is not more than the Controlling Percentage (as determined in accordance with paragraph AA4(b).6).

AA4(b).2 For the purpose of complying with paragraph AA4(b).1, the Dominant Provider shall take all reasonable steps to secure that the revenue it accrues as a result of all individual Charge Changes during any Relevant Year shall be no more than that which it would have accrued had all of those Charge Changes been made on 1 April in the Relevant Year in question. The Dominant Provider shall be deemed to have satisfied this obligation where, by example in the case of a single Charge Change in the Relevant Year in question, the following formula is satisfied—

$$RC(1 - D) \leq TRC$$

where—

RC is the revenue change associated with the single Charge Change made in the Relevant Year in question, calculated by the relevant Percentage Change immediately following the Charge Change multiplied by the revenue accrued during the Relevant Financial Year;

TRC is the target revenue change required in the Relevant Year in question to achieve compliance with paragraph AA4(b).1, calculated by the Percentage Change required in the Relevant Year in question to achieve compliance with paragraph AA4(b).1 multiplied by the revenue accrued from the provision of Single Transit Services during the Relevant Financial Year; and

D is the elapsed proportion of the Relevant Year in question calculated as:

(i) for any Relevant Year other than the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -182 to 30 September = 182, divided by 183;

- (ii) for the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = - 183 to 30 September = 182, divided by 183.

AA4(b).3 The Percentage Change shall be calculated for the purposes of complying with paragraph AA4(b).1 by employing the following formula—

$$C_t = \frac{\sum_{i=1}^n \left[R_i \frac{(p_{t,i} - p_{0,i})}{p_{0,i}} \right]}{\sum_{i=1}^n R_i}$$

where—

C_t is the Percentage Change in the aggregate of charges for the provision of Single Transit Services at a particular time t during the Relevant Year;

n is the number of individual services that form part of (or are comprised in) the provision of Single Transit Services;

R_i is the sum of the revenue accrued during the Relevant Financial Year in respect of the individual service i that forms part of (or is comprised in) the provision of Single Transit Services where i is a unique number from 1 to n for each of the n individual services in the provision of Single Transit Services;

$p_{0,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of (or is comprised in) the provision of Single Transit Services immediately preceding the beginning of the Relevant Year; and

$p_{t,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of (or is comprised in) the provision of Single Transit Services at time t during the Relevant Year.

AA4(b).4 Where the Percentage Change in the Relevant Year in question is less than the Controlling Percentage (the “Excess”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4(b).6, but increased by the absolute value of the Excess.

AA4(b).5 Where the Percentage Change in the Relevant Year in question is more than the Controlling Percentage (the “Deficiency”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4(b).6, but decreased by the absolute value of the Deficiency.

AA4(b).6 Subject to paragraphs AA4(b).4 and AA4(b).5, the Controlling Percentage in relation to the Relevant Year in question is the amount of the change in the Retail Prices Index in the period of 12 months ending on 30th June immediately before the beginning of that Year expressed as a percentage (rounded to two decimal places) of that Index as at the beginning of that period reduced by 11.5 percentage points.

AA4(b).7 Where—

(a) the Dominant Provider makes a material change (other than to a Charge) to the Charge Controlled Service for which a Charge is charged;

(b) the Dominant Provider makes a change to the date on which its financial year ends; or

(c) there is a material change in the basis of the Retail Prices Index,

paragraphs AA4(b).1 to AA4(b).6 shall have effect subject to such reasonable adjustment to take account of the change as OFCOM may direct to be appropriate in the circumstances. For the purposes of paragraph AA4(b).7(a), a material change to the Charge Controlled Service includes (but is not limited to) the introduction of a new product and/or service wholly or substantially in substitution for the existing Charge Controlled Service.

AA4(b).8 The Dominant Provider shall, no later than three months after the end of each Relevant Year, supply to OFCOM, in writing, the data necessary to perform the calculation of the Percentage Change.

AA 4(b).9 If it appears to OFCOM that the Dominant Provider is likely to fail to secure that the Percentage Change does not exceed the Controlling Percentage for the last Relevant Year beginning on 1 October 2008 and ending on 30 September 2009, the Dominant Provider shall make such adjustment to any of its charges for the provision of Single Transit Services and by such day in that Year (or, if appropriate in OFCOM's opinion, by such day that falls after the end of that Relevant Year) as OFCOM may direct for the purpose of avoiding such a failure.

AA4(b).10 Paragraphs AA4(b).1 to AA4(b).9 shall not apply to such extent as OFCOM may direct.

AA4(b).11 In this Condition—

(a) “**Charge**” means, for the purposes of paragraph AA4(b).7, the charge (being in all cases the amounts offered or charged by the Dominant Provider) to a Communications Provider for the Charge Controlled Service;

(b) “**Charge Change**” means a change to any of the charges for the provision of Single Transit Services;

(c) “**Charge Controlled Service**” means a product or service which forms part of (or is comprised in) the provision of Single Transit Services;

(d) “**Controlling Percentage**” is to be determined in accordance with paragraph AA4(b).6;

(e) “**Leap Year**” means the Relevant Year beginning on 1 October 2007 and ending on 30 September 2008;

(f) “**OFCOM**” means the Office of Communications;

(g) “**Percentage Change**” has the meaning given to it in paragraph AA4(b).3;

(h) “**Relevant Financial Year**” means the period of 12 months ending on 31 March immediately preceding the Relevant Year in question;

(i) “**Relevant Year**” means any of the four periods of 12 months beginning on 1 October starting with 1 October 2005 and ending on 30 September 2009; and

(j) “**Retail Prices Index**” means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty’s Government or a governmental department (which is the Office of National Statistics at the time of publication of this Notification) from time to time in respect of all items.

Condition AA4(c)

Charge control – Local-tandem Conveyance

AA4(c).1 Without prejudice to the generality of Condition AA3, and subject to paragraphs AA4(c).2, AA4(c).4 and AA4(c).5, the Dominant Provider shall take all reasonable steps to secure that, on the last day of each Relevant Year, the Percentage Change (as determined in accordance with paragraph AA4(c).3) in each discrete charge, including charges disaggregated by time of day, distance or route, for the provision of Local-tandem Conveyance Services is not more than the Controlling Percentage (as determined in accordance with paragraph AA4(c).6).

AA4(c).2 For the purpose of complying with paragraph AA4(c).1, the Dominant Provider shall take all reasonable steps to secure that the revenue it accrues as a result of all individual Charge Changes during any Relevant Year shall be no more than that which it would have accrued had all of those Charge Changes been made at 1 April in the Relevant Year in question. The Dominant Provider shall be deemed to have satisfied this obligation where, by example in the case of a single Charge Change in the Relevant Year in question, the following formula is satisfied—

$$RC(1 - D) \leq TRC$$

where—

RC is the revenue change associated with the single Charge Change made in the Relevant Year in question, calculated by the relevant Percentage Change immediately following the Charge Change multiplied by the revenue accrued during the Relevant Financial Year;

TRC is the target revenue change required in the Relevant Year in question to achieve compliance with paragraph AA4(c).1, calculated by the Percentage Change required in the Relevant Year in question to achieve compliance with paragraph AA4(c).1 multiplied by the revenue accrued from the provision of Local-tandem Conveyance Services during the Relevant Financial Year; and

D is the elapsed proportion of the Relevant Year in question calculated as:

- (i) for any Relevant Year other than the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -182 to 30 September = 182, divided by 183;

- (ii) for the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = - 183 to 30 September = 182, divided by 183.

AA4(c).3 The Percentage Change shall be calculated for the purposes of complying with paragraph AA4(c).1 by employing the following formula—

$$C_t = \frac{(P_t - P_0)}{P_0}$$

where—

C_t is the Percentage Change in each discrete charge, including charges disaggregated by time of day, distance or route, for the provision of Local-tandem Conveyance Services at a particular time t during the Relevant Year;

p_0 is the published charge made by the Dominant Provider for the provision of Local-tandem Conveyance Services immediately preceding the beginning of the Relevant Year; and

p_t is the published charge made by the Dominant Provider for the provision of Local-tandem Conveyance Services at time t during the Relevant Year.

AA4(c).4 Where the Percentage Change in the Relevant Year in question is less than the Controlling Percentage (the “Excess”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4(c).6, but increased by the absolute value of the Excess.

AA4(c).5 Where the Percentage Change in the Relevant Year in question is more than the Controlling Percentage (the “Deficiency”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4(c).6, but decreased by the absolute value of the Deficiency.

AA4(c).6 Subject to paragraphs AA4(c).4 and AA4(c).5, the Controlling Percentage in relation to the Relevant Year in question is the amount of the change in the Retail Prices Index in the period of 12 months ending on 30th June immediately before the beginning of that Year expressed as a percentage (rounded to two decimal places) of that Index as at the beginning of that period reduced by 0 percentage points.

AA4(c).7 Where—

(a) the Dominant Provider makes a material change (other than to a Charge) to the Charge Controlled Service for which a Charge is charged;

(b) the Dominant Provider makes a change to the date on which its financial year ends; or

(c) there is a material change in the basis of the Retail Prices Index,

paragraphs AA4(c).1 to AA4(c).6 shall have effect subject to such reasonable adjustment to take account of the change as OFCOM may direct to be appropriate in

the circumstances. For the purposes of paragraph AA4(c).7(a), a material change to the Charge Controlled Service includes (but is not limited to) the introduction of a new product and/or service wholly or substantially in substitution for an existing Charge Controlled Service.

AA4(c).8 The Dominant Provider shall, no later than three months after the end of each Relevant Year, supply to OFCOM, in writing, the data necessary to perform the calculation of the Percentage Change.

AA 4(c).9 If it appears to OFCOM that the Dominant Provider is likely to fail to secure that the Percentage Change does not exceed the Controlling Percentage for the last Relevant Year beginning on 1 October 2008 and ending on 30 September 2009, the Dominant Provider shall make such adjustment to any of its charges for the provision of Local-tandem Conveyance Services and by such day in that Year (or, if appropriate in OFCOM's opinion, by such day that falls after the end of that Relevant Year) as OFCOM may direct for the purpose of avoiding such a failure.

AA4(c).10 Paragraphs AA4(c).1 to AA4(c).9 shall not apply to such extent as OFCOM may direct.

AA4(c).11 In this Condition—

- (a) “**Charge**” means, for the purposes of paragraph AA4(c).7, the charge (being in all cases the amounts offered or charged by the Dominant Provider) to a Communications Provider for the Charge Controlled Service;
- (b) “**Charge Change**” means a change to any of the discrete charges, including charges disaggregated by time of day, distance or route charges, for the provision of Local-tandem Conveyance Services;
- (c) “**Charge Controlled Service**” means a product or service which forms part of (or is comprised in) the provision of Local-tandem Conveyance Services;
- (d) “**Controlling Percentage**” is to be determined in accordance with paragraph AA4(c).6;
- (e) “**Leap Year**” means the Relevant Year beginning on 1 October 2007 and ending on 30 September 2008;
- (f) “**OFCOM**” means the Office of Communications;
- (g) “**Percentage Change**” has the meaning given to it in paragraph AA4(c).3;
- (h) “**Relevant Financial Year**” means the period of 12 months ending on 31 March immediately preceding the Relevant Year in question;
- (i) “**Relevant Year**” means any of the four periods of 12 months beginning on 1 October starting with 1 October 2005 and ending on 30 September 2009; and
- (j) “**Retail Prices Index**” means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty's Government or a governmental department (which is the Office of National Statistics at the time of publication of this Notification) from time to time in respect of all items.

Condition AA4(d)

Charge control – LECO circuits, Local Exchange FRIACO ports and PPP per FRIACO port

AA4(d).1 Without prejudice to the generality of Condition AA3, and subject to paragraphs AA4(d).2, AA4(d).4 and AA4(d).5, the Dominant Provider shall take all reasonable steps to secure that, on the last day of each Relevant Year, the Percentage Change (as determined in accordance with paragraph AA4(d).3) in each of:

- (a) the charge for the LECO circuit (excluding the FRIACO port at the Local Exchange);
- (b) the charge for the FRIACO port at the Local Exchange; and
- (c) the charge for PPP per FRIACO port,

is not more than the Controlling Percentage (as determined in accordance with paragraph AA4(d).6).

AA4(d).2 For the purpose of complying with paragraph AA4(d).1, the Dominant Provider shall take all reasonable steps to secure that the revenue it accrues as a result of all individual Charge Changes during any Relevant Year shall be no more than that which it would have accrued had all of those Charge Changes been made at 1 April in the Relevant Year in question. The Dominant Provider shall be deemed to have satisfied this obligation where, by example in the case of a single Charge Change in the Relevant Year in question, the following formula is satisfied—

$$RC(1 - D) \leq TRC$$

where—

RC is the revenue change associated with the single Charge Change made in the Relevant Year in question, calculated by the relevant Percentage Change immediately following the Charge Change multiplied by the revenue accrued during the Relevant Financial Year;

TRC is the target revenue change required in the Relevant Year in question to achieve compliance with paragraph AA4(d).1, calculated by the Percentage Change required in the Relevant Year in question to achieve compliance with paragraph AA4(d).1 multiplied by the revenue accrued from the provision of any of the individual services specified in paragraph AA4(d).1(a) to (c) in question during the Relevant Financial Year; and

D is the elapsed proportion of the Relevant Year in question calculated as:

- (i) for any Relevant Year other than the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -182 to 30 September = 182, divided by 183;
- (ii) for the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -183 to 30 September = 182, divided by 183.

AA4(d).3 The Percentage Change shall be calculated for the purposes of complying with paragraph AA4(d).1 by employing the following formula—

$$C_t = \frac{(P_t - P_0)}{P_0}$$

where—

C_t is the Percentage Change in each of:

(i) the charge for the LECO circuit (excluding the FRIACO port at the Local Exchange);

(ii) the charge for the FRIACO port at the Local Exchange;
and

(iii) the charge for PPP per FRIACO port,

in question at a particular time t during the Relevant Year;

p_0 is the published charge made by the Dominant Provider for the provision of each separate service specified in paragraph AA4(d).1(a) to (c) in question immediately preceding the beginning of the Relevant Year; and

p_t is the published charge made by the Dominant Provider for the provision of each separate service specified in paragraph AA4(d).1(a) to (c) in question at time t during the Relevant Year.

AA4(d).4 Where the Percentage Change in the Relevant Year in question is less than the Controlling Percentage (the “Excess”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4(d).6, but increased by the absolute value of the Excess.

AA4(d).5 Where the Percentage Change in the Relevant Year in question is more than the Controlling Percentage (the “Deficiency”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4(d).6, but decreased by the absolute value of the Deficiency.

AA4(d).6 Subject to paragraphs AA4(d).4 and AA4(d).5, the Controlling Percentage in relation to the Relevant Year in question is the amount of the change in the Retail Prices Index in the period of 12 months ending on 30th June immediately before the beginning of that Year expressed as a percentage (rounded to two decimal places) of that Index as at the beginning of that period reduced by 8 percentage points.

AA4(d).7 Where—

(a) the Dominant Provider makes a material change (other than to a Charge) to the Charge Controlled Service for which a Charge is charged;

(b) the Dominant Provider makes a change to the date on which its financial year ends; or

(c) there is a material change in the basis of the Retail Prices Index,

paragraphs AA4(d).1 to AA4(d).6 shall have effect subject to such reasonable adjustment to take account of the change as OFCOM may direct to be appropriate in the circumstances. For the purposes of paragraph AA4(d).7(a), a material change to the Charge Controlled Service includes (but is not limited to) the introduction of a new product and/or service wholly or substantially in substitution for an existing Charge Controlled Service.

AA4(d).8 The Dominant Provider shall, no later than three months after the end of each Relevant Year, supply to OFCOM, in writing, the data necessary to perform the calculation of the Percentage Change.

AA 4(d).9 If it appears to OFCOM that the Dominant Provider is likely to fail to secure that the Percentage Change does not exceed the Controlling Percentage for the last Relevant Year beginning on 1 October 2008 and ending on 30 September 2009, the Dominant Provider shall make such adjustment to any of its charges for the provision of any of the individual services specified in paragraph AA4(d).1(a) to (c) in question and by such day in that Year (or, if appropriate in OFCOM's opinion, by such day that falls after the end of that Relevant Year) as OFCOM may direct for the purpose of avoiding such a failure.

AA4(d).10 Paragraphs AA4(d).1 to AA4(d).9 shall not apply to such extent as OFCOM may direct.

AA4(d).11 In this Condition—

(a) “**Charge**” means, for the purposes of paragraph AA4(d).7, the charge (being in all cases the amounts offered or charged by the Dominant Provider) to a Communications Provider for the Charge Controlled Service;

(b) “**Charge Change**” means a change to any of the charges for the provision of any of the individual services specified in paragraph AA4(d).1(a) to (c) in question;

(c) “**Charge Controlled Service**” means a product or service which forms part of (or is comprised in) the provision of any of the individual services specified in paragraph AA4(d).1(a) to (c);

(d) “**Controlling Percentage**” is to be determined in accordance with paragraph AA4(d).6;

(e) “**Leap Year**” means the Relevant Year beginning on 1 October 2007 and ending on 30 September 2008;

(f) “**OFCOM**” means the Office of Communications;

(g) “**Percentage Change**” has the meaning given to it in paragraph AA4(d).3;

(h) “**PPP**” means product management, policy and planning provided by the Dominant Provider;

(i) “**Relevant Financial Year**” means the period of 12 months ending on 31 March immediately preceding the Relevant Year in question;

(j) “**Relevant Year**” means any of the four periods of 12 months beginning on 1 October starting with 1 October 2005 and ending on 30 September 2009; and

(k) “**Retail Prices Index**” means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty’s Government or a governmental department (which is the Office of National Statistics at the time of publication of this Notification) from time to time in respect of all items.

Condition AA4(e)

Charge control – Flat rate internet access local-tandem circuit and Tandem Exchange FRIACO ports

AA4(e).1 Without prejudice to the generality of Condition AA3, and subject to paragraphs AA4(e).2, AA4(e).4 and AA4(e).5, the Dominant Provider shall take all reasonable steps to secure that, on the last day of each Relevant Year, the Percentage Change (as determined in accordance with paragraph AA4(e).3) in each of:

- (a) the charge for a flat rate internet access local-tandem circuit (including DLE facing port but excluding FRIACO port at the Tandem Exchange); and
- (b) the charge for a FRIACO port at the Tandem Exchange,

is not more than the Controlling Percentage (as determined in accordance with paragraph AA4(e).6).

AA4(e).2 For the purpose of complying with paragraph AA4(e).1, the Dominant Provider shall take all reasonable steps to secure that the revenue it accrues as a result of all individual Charge Changes during any Relevant Year shall be no more than that which it would have accrued had all of those Charge Changes been made at 1 April in the Relevant Year in question. The Dominant Provider shall be deemed to have satisfied this obligation where, by example in the case of a single Charge Change in the Relevant Year in question, the following formula is satisfied—

$$RC(1 - D) \leq TRC$$

where—

RC is the revenue change associated with the single Charge Change made in the Relevant Year in question, calculated by the relevant Percentage Change immediately following the Charge Change multiplied by the revenue accrued during the Relevant Financial Year;

TRC is the target revenue change required in the Relevant Year in question to achieve compliance with paragraph AA4(e).1, calculated by the Percentage Change required in the Relevant Year in question to achieve compliance with paragraph AA4(e).1 multiplied by the revenue accrued from the provision of any of the individual services specified in paragraph AA4(e).1(a) and (b) in question during the Relevant Financial Year; and

D is the elapsed proportion of the Relevant Year in question calculated as:

- (i) for any Relevant Year other than the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -182 to 30 September = 182, divided by 183;
- (ii) for the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -183 to 30 September = 182, divided by 183.

AA4(e).3 The Percentage Change shall be calculated for the purposes of complying with paragraph AA4(e).1 by employing the following formula—

$$C_t = \frac{(p_t - p_0)}{p_0}$$

where—

C_t is the Percentage Change in each of:

- (i) the charge for a flat rate internet access local-tandem circuit (including DLE facing port but excluding FRIACO port at the Tandem Exchange); and
- (ii) the charge for a FRIACO port at the Tandem Exchange,

in question at a particular time t during the Relevant Year;

p_0 is the published charge made by the Dominant Provider for the provision of each separate service specified in paragraph AA4(e).1(a) and (b) in question immediately preceding the beginning of the Relevant Year; and

p_t is the published charge made by the Dominant Provider for the provision of each separate service specified in paragraph AA4(e).1(a) and (b) in question at time t during the Relevant Year.

AA4(e).4 Where the Percentage Change in the Relevant Year in question is less than the Controlling Percentage (the “Excess”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4(e).6, but increased by the absolute value of the Excess.

AA4(e).5 Where the Percentage Change in the Relevant Year in question is more than the Controlling Percentage (the “Deficiency”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph AA4(e).6, but decreased by the absolute value of the Deficiency.

AA4(e).6 Subject to paragraphs AA4(e).4 and AA4(e).5, the Controlling Percentage in relation to the Relevant Year in question is the amount of the change in the Retail Prices Index in the period of 12 months ending on 30th June immediately before the beginning of that Year expressed as a percentage (rounded to two decimal places) of that Index as at the beginning of that period reduced by 8.5 percentage points.

AA4(e).7 Where—

(a) the Dominant Provider makes a material change (other than to a Charge) to the Charge Controlled Service for which a Charge is charged;

(b) the Dominant Provider makes a change to the date on which its financial year ends; or

(c) there is a material change in the basis of the Retail Prices Index,

paragraphs AA4(e).1 to AA4(e).6 shall have effect subject to such reasonable adjustment to take account of the change as OFCOM may direct to be appropriate in the circumstances. For the purposes of paragraph AA4(e).7(a), a material change to the Charge Controlled Service includes (but is not limited to) the introduction of a new product and/or service wholly or substantially in substitution for an existing Charge Controlled Service.

AA4(e).8 The Dominant Provider shall, no later than three months after the end of each Relevant Year, supply to OFCOM, in writing, the data necessary to perform the calculation of the Percentage Change.

AA 4(e).9 If it appears to OFCOM that the Dominant Provider is likely to fail to secure that the Percentage Change does not exceed the Controlling Percentage for the last Relevant Year beginning on 1 October 2008 and ending on 30 September 2009, the Dominant Provider shall make such adjustment to any of its charges for the provision of any of the individual services specified in paragraph AA4(e).1(a) and (b) in question and by such day in that Year (or, if appropriate in OFCOM's opinion, by such day that falls after the end of that Relevant Year) as OFCOM may direct for the purpose of avoiding such a failure.

AA4(e).10 Paragraphs AA4(e).1 to AA4(e).9 shall not apply to such extent as OFCOM may direct.

AA4(e).11 In this Condition—

(a) **“Charge”** means, for the purposes of paragraph AA4(e).7, the charge (being in all cases the amounts offered or charged by the Dominant Provider) to a Communications Provider for the Charge Controlled Service;

(b) **“Charge Change”** means a change to any of the charges for the provision of any of the individual services specified in paragraph AA4(e).1(a) and (b) in question;

(c) **“Charge Controlled Service”** means a product or service which forms part of (or is comprised in) the provision of any of the individual services specified in paragraph AA4(e).1(a) and (b);

(d) **“Controlling Percentage”** is to be determined in accordance with paragraph AA4(e).6;

(e) **“Leap Year”** means the Relevant Year beginning on 1 October 2007 and ending on 30 September 2008;

(f) **“OFCOM”** means the Office of Communications;

(g) **“Percentage Change”** has the meaning given to it in paragraph AA4(e).3;

(h) “**Relevant Financial Year**” means the period of 12 months ending on 31 March immediately preceding the Relevant Year in question;

(i) “**Relevant Year**” means any of the four periods of 12 months beginning on 1 October starting with 1 October 2005 and ending on 30 September 2009;
and

(j) “**Retail Prices Index**” means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty’s Government or a governmental department (which is the Office of National Statistics at the time of publication of this Notification) from time to time in respect of all items.”

SCHEDULE 3

Setting of SMP services condition BA4(a) as a result of the market power determination made by the Director in respect of the identified services market for fixed geographic call termination provided by BT set out in paragraph 1(a) of the Fixed Call Termination Notification in which BT has been determined to have significant market power

1. In Part 2 of Schedule 1 to the Fixed Call Termination Notification (as amended by the February 2005 Notifications), there shall be set the following SMP services condition BA4(a) by inserting it after Condition BA4—

Condition BA4(a)

Charge control – Fixed Call Termination

BA4(a).1 Without prejudice to the generality of Condition BA3, and subject to paragraphs BA4(a).2, BA4(a).4 and BA4(a).5, the Dominant Provider shall take all reasonable steps to secure that, on the last day of each Relevant Year, the Percentage Change (as determined in accordance with paragraph BA4(a).3) in the aggregate of charges for the provision of Fixed Call Termination Wholesale Services is not more than the Controlling Percentage (as determined in accordance with paragraph BA4(a).6).

BA4(a).2 For the purpose of complying with paragraph BA4(a).1, the Dominant Provider shall take all reasonable steps to secure that the revenue it accrues as a result of all individual Charge Changes during any Relevant Year shall be no more than that which it would have accrued had all of those Charge Changes been made on 1 April in the Relevant Year in question. The Dominant Provider shall be deemed to have satisfied this obligation where, by example in the case of a single Charge Change in the Relevant Year in question, the following formula is satisfied—

$$RC(1 - D) \leq TRC$$

where—

RC is the revenue change associated with the single Charge Change made in the Relevant Year in question, calculated by the relevant Percentage Change immediately following the Charge Change multiplied by the revenue accrued during the Relevant Financial Year;

TRC is the target revenue change required in the Relevant Year in question to achieve compliance with paragraph BA4(a).1, calculated by the Percentage Change required in the Relevant Year in question to achieve compliance with paragraph BA4(a).1 multiplied by the revenue accrued from the provision of Fixed Call Termination Wholesale Services during the Relevant Financial Year; and

D is the elapsed proportion of the Relevant Year in question calculated as:

- (i) for any Relevant Year other than the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -182 to 30 September = 182, divided by 183;

- (ii) for the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = - 183 to 30 September = 182, divided by 183.

BA4(a).3 The Percentage Change shall be calculated for the purposes of complying with paragraph BA4(a).1 by employing the following formula—

$$C_t = \frac{\sum_{i=1}^n \left[R_i \frac{(p_{t,i} - p_{0,i})}{p_{0,i}} \right]}{\sum_{i=1}^n R_i}$$

where—

C_t is the Percentage Change in the aggregate of charges for the provision of Fixed Call Termination Wholesale Services at a particular time t during the Relevant Year;

n is the number of individual services that form part of (or are comprised in) the provision of Fixed Call Termination Wholesale Services;

R_i is the sum of the revenue accrued during the Relevant Financial Year in respect of the individual service i that forms part of (or is comprised in) the provision of Fixed Call Termination Wholesale Services where i is a unique number from 1 to n for each of the n individual services in the provision of Fixed Call Termination Wholesale Services;

$p_{0,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of (or is comprised in) the provision of Fixed Call Termination Wholesale Services immediately preceding the beginning of the Relevant Year; and

$p_{t,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of (or is comprised in) the provision of Fixed Call Termination Wholesale Services at time t during the Relevant Year.

BA4(a).4 Where the Percentage Change in the Relevant Year in question is less than the Controlling Percentage (the “Excess”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph BA4(a).6, but increased by the absolute value of the Excess.

BA4(a).5 Where the Percentage Change in the Relevant Year in question is more than the Controlling Percentage (the “Deficiency”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph BA4(a).6, but decreased by the absolute value of the Deficiency.

BA4(a).6 Subject to paragraphs BA4(a).4 and BA4(a).5, the Controlling Percentage in relation to the Relevant Year in question is the amount of the change in the Retail Prices Index in the period of 12 months ending on 30th June immediately before the beginning of that Year expressed as a percentage (rounded to two decimal places) of that Index as at the beginning of that period reduced by 5 percentage points.

BA4(a).7 Where—

(a) the Dominant Provider makes a material change (other than to a Charge) to the Charge Controlled Service for which a Charge is charged;

(b) the Dominant Provider makes a change to the date on which its financial year ends; or

(c) there is a material change in the basis of the Retail Prices Index,

paragraphs BA4(a).1 to BA4(a).6 shall have effect subject to such reasonable adjustment to take account of the change as OFCOM may direct to be appropriate in the circumstances. For the purposes of paragraph BA4(a).7(a), a material change to the Charge Controlled Service includes (but is not limited to) the introduction of a new product and/or service wholly or substantially in substitution for the existing Charge Controlled Service.

BA4(a).8 The Dominant Provider shall, no later than three months after the end of each Relevant Year, supply to OFCOM, in writing, the data necessary to perform the calculation of the Percentage Change.

BA 4(a).9 If it appears to OFCOM that the Dominant Provider is likely to fail to secure that the Percentage Change does not exceed the Controlling Percentage for the last Relevant Year beginning on 1 October 2008 and ending on 30 September 2009, the Dominant Provider shall make such adjustment to any of its charges for the provision of Fixed Call Termination Wholesale Services and by such day in that Year (or, if appropriate in OFCOM's opinion, by such day that falls after the end of that Relevant Year) as OFCOM may direct for the purpose of avoiding such a failure.

BA4(a).10 Paragraphs BA4(a).1 to BA4(a).9 shall not apply to such extent as OFCOM may direct.

BA4(a).11 In this Condition—

(a) **“Charge”** means, for the purposes of paragraph BA4(a).7, the charge (being in all cases the amounts offered or charged by the Dominant Provider) to a Communications Provider for the Charge Controlled Service;

(b) **“Charge Change”** means a change to any of the charges for the provision of Fixed Call Termination Wholesale Services;

(c) **“Charge Controlled Service”** means a product or service which forms part of (or is comprised in) the provision of Fixed Call Termination Wholesale Services;

(d) **“Controlling Percentage”** is to be determined in accordance with paragraph BA4(a).6;

(e) **“Leap Year”** means the Relevant Year beginning on 1 October 2007 and ending on 30 September 2008;

(f) **“OFCOM”** means the Office of Communications;

(g) **“Percentage Change”** has the meaning given to it in paragraph BA4(a).3;

(h) “**Relevant Financial Year**” means the period of 12 months ending on 31 March immediately preceding the Relevant Year in question;

(i) “**Relevant Year**” means any of the four periods of 12 months beginning on 1 October starting with 1 October 2005 and ending on 30 September 2009;
and

(j) “**Retail Prices Index**” means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty’s Government or a governmental department (which is the Office of National Statistics at the time of publication of this Notification) from time to time in respect of all items.”

SCHEDULE 4

Setting of SMP services condition PA1(a) as a result of the market power determination in respect of the services market for local-tandem conveyance and transit on fixed public narrowband networks in the United Kingdom excluding the Hull Area hereby made by OFCOM as set out in paragraph 4(a) of this Notification in which it has been determined that BT has significant market power and as a result of the market power determinations made by the Director in respect of the identified services markets set out in sub-paragraphs (vi) and (ix) of paragraph 1(a) of the November 2003 Notification and in paragraph 1(a) of the Fixed Call Termination Notification in each of which BT has been determined to have significant market power

1. The following SMP services condition PA1(a) shall be set—

“Condition PA1(a)

Charge control – PPP and Interconnection Circuits

PA1(a).1 Without prejudice to the generality of Condition AA3 and BA3, and subject to paragraphs PA1(a).2, PA1(a).4 and PA1(a).5, the Dominant Provider shall take all reasonable steps to secure that, on the last day of each Relevant Year, the Percentage Change (as determined in accordance with paragraph PA1(a).3 in:

(a) the aggregate of charges for PPP per call minute; and

(b) the aggregate of charges for Interconnection Circuits

in each of sub-paragraphs (a) and (b) above is not more than the Controlling Percentage (as determined in accordance with paragraph PA1(a).6.

PA1(a).2 For the purpose of complying with paragraph PA1(a).1, the Dominant Provider shall take all reasonable steps to secure that the revenue it accrues as a result of all individual Charge Changes during any Relevant Year shall be no more than that which it would have accrued had all of those Charge Changes been made on 1 April in the Relevant Year in question. The Dominant Provider shall be deemed to have satisfied this obligation where, by example in the case of a single Charge Change in the Relevant Year in question, the following formula is satisfied—

$$RC(1 - D) \leq TRC$$

where—

RC is the revenue change associated with the single Charge Change made in the Relevant Year in question, calculated by the relevant Percentage Change immediately following the Charge Change multiplied by the revenue accrued during the Relevant Financial Year;

TRC is the target revenue change required in the Relevant Year in question to achieve compliance with paragraph PA1(a).1, calculated by the Percentage Change required in the Relevant Year in question to achieve compliance with paragraph PA1(a).1 multiplied by the revenue accrued from the provision of the category of service specified in paragraphs PA1(a).1(a) or (b) in question during the Relevant Financial Year; and

D is the elapsed proportion of the Relevant Year in question calculated as:

- (i) for any Relevant Year other than the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -182 to 30 September = 182, divided by 183;
- (ii) for the Leap Year, the date on which the Charge Change takes effect, expressed as a numeric entity on a scale ranging from 1 October = -183 to 30 September = 182, divided by 183.

PA1(a).3 The Percentage Change shall be calculated separately for each of:

- (i) the category of service specified in paragraph PA1(a).1(a); and
- (ii) the category of service specified in paragraph PA1(a).1(b),

by employing the following formula—

$$C_t = \frac{\sum_{i=1}^n \left[R_i \frac{(p_{t,i} - p_{0,i})}{p_{0,i}} \right]}{\sum_{i=1}^n R_i}$$

where—

C_t is the Percentage Change in the aggregate of charges for the provision of services in the category of services in question at a particular time t during the Relevant Year;

n is the number of individual services that form part of (or are comprised in) the provision of services in the category of services in question;

R_i is the sum of the revenue accrued during the Relevant Financial Year in respect of the individual service i that forms part of (or is comprised in) the provision of services in the category of services in question where i is a unique number from 1 to n for each of the n individual services in the provision of services in the category of services in question;

$p_{0,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of (or is comprised in) the provision of services in the category of services in question immediately preceding the beginning of the Relevant Year; and

$p_{t,i}$ is the published charge made by the Dominant Provider for the individual service i that forms part of (or is comprised in) the provision of services in the category of services in question at time t during the Relevant Year.

PA1(a).4 Where the Percentage Change in the Relevant Year in question is less than the Controlling Percentage (the “Excess”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with paragraph PA1(a).6, but increased by the absolute value of the Excess.

PA1(a).5 Where the Percentage Change in the Relevant Year in question is more than the Controlling Percentage (the “Deficiency”), then the Controlling Percentage

for the following Relevant Year shall be determined in accordance with paragraph PA1(a).6, but decreased by the absolute value of the Deficiency.

PA1(a).6 Subject to paragraphs PA1(a).4 and PA1(a).5, the Controlling Percentage in relation to the Relevant Year in question is the amount of the change in the Retail Prices Index in the period of 12 months ending on 30th June immediately before the beginning of that Year expressed as a percentage (rounded to two decimal places) of that Index as at the beginning of that period:

- (a) in respect of PPP per call minute, increased by 0.75 percentage points;
and
- (b) in respect of Interconnection Circuits, reduced by 5.25 percentage points.

PA1(a).7 Where—

- (a) the Dominant Provider makes a material change (other than to a Charge) to the Charge Controlled Service for which a Charge is charged;
- (b) the Dominant Provider makes a change to the date on which its financial year ends; or
- (c) there is a material change in the basis of the Retail Prices Index,

paragraphs PA1(a).1 to PA1(a).6 shall have effect subject to such reasonable adjustment to take account of the change as OFCOM may direct to be appropriate in the circumstances. For the purposes of paragraph PA1(a).7(a), a material change to the Charge Controlled Service includes (but is not limited to) the introduction of a new product and/or service wholly or substantially in substitution for the existing Charge Controlled Service.

PA1(a).8 The Dominant Provider shall, no later than three months after the end of each Relevant Year, supply to OFCOM, in writing, the data necessary to perform the calculation of the Percentage Change.

PA1(a).9 If it appears to OFCOM that the Dominant Provider is likely to fail to secure that the Percentage Change does not exceed the Controlling Percentage for the last Relevant Year beginning on 1 October 2008 and ending on 30 September 2009, the Dominant Provider shall make such adjustment to any of its charges for the provision of services in the category of services specified in paragraphs PA1(a).1(a) or (b) in question and by such day in that Year (or, if appropriate in OFCOM's opinion, by such day that falls after the end of that Relevant Year) as OFCOM may direct for the purpose of avoiding such a failure.

PA1(a).10 Paragraphs PA1(a).1 to PA1(a).9 shall not apply to such extent as OFCOM may direct.

PA1(a).11 In this Condition—

- (a) “**Charge**” means, for the purposes of paragraph PA1(a).7, the charge (being in all cases the amounts offered or charged by the Dominant Provider) to a Communications Provider for the Charge Controlled Service;

- (b) **“Charge Change”** means a change to any of the charges for the provision of services in the category of services specified in paragraphs PA1(a).1(a) or (b) in question;
- (c) **“Charge Controlled Service”** means a product or service which forms part of (or is comprised in) the provision of services in the category of services specified in paragraphs PA1(a).1(a) or (b) in question;
- (d) **“Controlling Percentage”** is to be determined in accordance with paragraph PA1(a).6;
- (e) **“Leap Year”** means the Relevant Year beginning on 1 October 2007 and ending on 30 September 2008;
- (f) **“OFCOM”** means the Office of Communications;
- (g) **“Percentage Change”** has the meaning given to it in paragraph PA1(a).3;
- (h) **“Relevant Financial Year”** means the period of 12 months ending on 31 March immediately preceding the Relevant Year in question;
- (i) **“Relevant Year”** means any of the four periods of 12 months beginning on 1 October starting with 1 October 2005 and ending on 30 September 2009; and
- (j) **“Retail Prices Index”** means the index of retail prices compiled by an agency or a public body on behalf of Her Majesty’s Government or a governmental department (which is the Office of National Statistics at the time of publication of this Notification) from time to time in respect of all items.

PA1(a).12 For the purpose of interpreting this Condition—

- (a) Except for references made to identified services markets in paragraph PA1(a).13 and except insofar as the context otherwise requires or as defined in paragraph PA1(a).11, words or expressions shall have the meaning ascribed to them in Part 1 of Schedule 1 to the November 2003 Notification or (as the case may be) in Part 1 of Schedule 1 to the Fixed Call Termination Notification and otherwise any word or expression shall have the same meaning as it has been ascribed in the Communications Act 2003 (c. 21);
- (b) headings and titles shall be disregarded; and
- (c) the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.”

PA1(a).13 This Condition shall apply to each and all of the following markets and to Interconnection Circuits—

- (a) call origination on fixed public narrowband networks in the UK excluding the Hull Area;
- (b) local-tandem conveyance and transit on fixed public telephone networks in the UK excluding the Hull Area;

- (c) single transit on fixed public narrowband networks in the UK excluding the Hull Area; and
- (d) fixed geographic call termination provided by the Dominant Provider,

in each market of which the Dominant Provider has been determined to have significant market power.

SCHEDULE 5

Modifications to SMP services conditions AA2, AA6(a) and AA6(b) imposed on BT pursuant to the November 2003 Notification as a result of the market power determination in respect of the services market for local-tandem conveyance and transit on fixed public narrowband networks in the United Kingdom excluding the Hull Area which market power determination OFCOM hereby confirms as set out in paragraph 4(a) of this Notification and as a result of the market power determinations made by the Director in respect of the identified services markets set out in paragraphs 1(a)(vi) and (ix) of the November 2003 Notification in each of which BT has been determined to have significant market power

1. Paragraph AA2.2 of SMP services condition AA2 in Part 2 of Schedule 1 to the November 2003 Notification shall be deleted in its entirety.

2. For paragraph AA6(a).2 of SMP services condition AA6(a) in Part 2 of Schedule 1 to the November 2003 Notification, there shall be substituted the following new paragraph AA6(a).2—

“AA6(a).2 Except where new or amended charges are directed or determined by Office of Communications (“Ofcom”) or where such charges are required by a notification or an enforcement notification given by Ofcom under sections 94 or 95 of the Act, the Dominant Provider shall send to the Director and to every Third Party with which it has entered into an Access Contract covered by Condition AA1(a) a written notice of any amendment to the charges on which it provides Network Access or in relation to any charges for new Network Access (an “Access Charge Change Notice”):

- (a) in the case of each of the markets set out in paragraph 1(a) of this Notification (except for the markets set out in sub-paragraphs 1(a)(ii), 1(a)(v), 1(a)(vii) and 1(a)(viii)), not less than 90 days before any such amendment comes into effect; and
- (b) in the case of each of the markets set out in sub-paragraphs 1(a)(ii), 1(a)(v) and 1(a)(vii) of paragraph 1(a) of this Notification, not less than 28 days before any such amendment comes into effect.”

3. For paragraph AA6(b).1 of SMP services condition AA6(b) in Part 2 of Schedule 1 to the November 2003 Notification, there shall be substituted the following new paragraph AA6(b).1—

“AA6(b).1 Save where the Director consents otherwise, where the Dominant Provider:

- (a) proposes to provide Network Access covered by Condition AA1(a), the terms and conditions for which comprise new:
 - (i) technical characteristics (including information on network configuration where necessary to make effective use of the Network Access);
 - (ii) locations of the points of Network Access; or
 - (iii) technical standards (including any usage restrictions and other security issues),

or

- (b) proposes to amend an existing Access Contract covered by Condition AA1(a) by modifying the terms and conditions listed in paragraph AA6(b).1(a)(i) to (iii) above on which the Network Access is provided,

the Dominant Provider shall publish a written notice (the “Notice”) of the new or amended terms and conditions not less than 90 days before either the Dominant Provider enters into an Access Contract to provide the new Network Access or the amended terms and conditions of the existing Access Contract come into effect. This obligation for prior notification shall not apply where new or amended charges or terms and conditions are directed or determined by the Office of Communications (“Ofcom”) or are required by a notification or an enforcement notification given by Ofcom under sections 94 or 95 of the Act.”

SCHEDULE 6

Modification to SMP services condition AA12 imposed on BT pursuant to the November 2003 Notification as a result of the market power determination made by the Director in respect of the identified services market set out in paragraph 1(a)(vi) of the November 2003 Notification in which BT has been determined to have significant market power

1. In paragraph AA12.3(c) of SMP services condition AA12 in Part 2 of Schedule 1 to the November 2003 Notification, for the definition of “AR (DLE) (LECO)”, there shall be substituted the following new definition of “AR (DLE) (LECO)”—

“**AR (DLE) (LECO)**” means the adjustment ratio (Local Exchange call origination (LECO)) which measures the number of LECO circuits that are needed for each FRIACO port at the DLE. The AR (DLE) (LECO) adjustment ratio is 1.7.”

SCHEDULE 7

Modifications to SMP services conditions BA2 and BA6 imposed on BT pursuant to the Fixed Call Termination Notification as a result of the market power determination made by the Director in respect of the identified services market for fixed geographic call termination provided by BT set out in paragraph 1(a) of the Fixed Call Termination Notification in which BT has been determined to have significant market power

1. Paragraph BA2.2 of SMP services condition BA2 in Part 2 of Schedule 1 to the Fixed Call Termination Notification shall be deleted in its entirety.
2. In Part 2 of Schedule 1 to the Fixed Call Termination Notification, for paragraph BA6.2 of SMP services condition BA6, there shall be substituted the following new paragraph BA6.2—

“BA6.2 Except where new or amended charges are directed or determined by Office of Communications (“Ofcom”) or where such charges are required by a notification or an enforcement notification given by Ofcom under sections 94 or 95 of the Act, the Dominant Provider shall send to the Director and to every Third Party with which it has entered into an Access Contract covered by Condition BA1 a written notice of any amendment to the charges on which it provides Network Access or in relation to any charges for new Network Access (an “Access Charge Change Notice”) not less than 90 days before any such amendment comes into effect.”

Part II – Proposed withdrawal of Direction

Withdrawal of the Credit Vetting Direction given under SMP services condition AA1(a) in respect of its application to the market for inter-tandem conveyance and transit on fixed public narrowband networks in the United Kingdom excluding the Hull Area

WHEREAS:

- (A) as a result of the November 2003 Notification, BT has been determined as a person having SMP in the services market for inter-tandem conveyance and transit on fixed public narrowband networks in the UK excluding the Hull Area and certain SMP services conditions have been set to apply to BT in respect of that market, such as Condition AA1(a);
- (B) on 28 November 2003, the Director published a Direction at Annex F of the November 2003 Notification, which Direction was given under Condition AA1(a) concerning BT's credit vetting proposals;
- (C) for the reasons set out in Annex 4 of the explanatory statement accompanying the publication of this withdrawal, OFCOM are satisfied that, in accordance with section 49(2) of the 2003 Act, the withdrawal of the direction referred to in recital (B) above in respect of its application to the identified services market referred to in recital (A) above is:
 - (i) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - (ii) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (iii) proportionate to what it is intended to achieve; and
 - (iv) in relation to what it is intended to achieve, transparent;
- (D) in withdrawing the said direction to the above-mentioned extent, for the reasons set out in Annex 4 of the explanatory statement accompanying the publication of this withdrawal, OFCOM have considered and acted in accordance with their general duties set out in section 3 of the 2003 Act and the six Community requirements set out in section 4 of the 2003 Act;
- (E) on 23 March 2005, OFCOM published a notification of the proposed withdrawal in accordance with section 49 of the 2003 Act;
- (F) OFCOM have considered every representation about the proposed withdrawal duly made to them; and

NOW, therefore, pursuant to section 49 of the 2003 Act, OFCOM have decided that:

1. The Credit Vetting Direction shall be withdrawn only to the extent it applies to BT in the services market for inter-tandem conveyance and transit on fixed public narrowband networks in the United Kingdom excluding the Hull Area, as identified in sub-paragraph (viii) of paragraph 1(a) of the November 2003 Notification.

2. In this withdrawal—
- (a) **“2003 Act”** means the Communications Act 2003 (c.21);
 - (b) **“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;
 - (c) **“Credit Vetting Direction”** means the Direction given by the Director General and signed by him on 27 November 2003 concerning BT’s credit vetting proposals published at Annex F of the November 2003 Notification, as referred to in recital (B) above;
 - (d) **“Director”** means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - (e) **“November 2003 Notification”** means the Notification published by the Director on 28 November 2003 at Annex A to his document entitled ‘Review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets — Identification and analysis of markets, determination of market power and the setting of SMP conditions — Final Explanatory Statement and Notification’; and
 - (f) **“OFCOM”** means the Office of Communications.
3. Except insofar as the context otherwise requires, words or expressions 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 been ascribed in the November 2003 Notification or, if the context so permits, in Schedule 1 thereto, as appropriate.
4. For the purpose of interpreting this withdrawal, the Interpretation Act 1978 (c. 30) shall apply as if this withdrawal were an Act of Parliament.
5. This withdrawal shall take effect on the day it is published.

DAVID K S THOMAS
DIRECTOR OF REGULATORY FINANCE

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

18 August 2005