

**Removing the price controls
on BT's and Kingston's
hardwired telephone rental
prices in exchange for written
undertakings**

**Discontinuation of conditions in accordance with the
Communications Act 2004, whilst ensuring adequate
protection for consumers**

Statement

Issued: 25 November 2004

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Section 1

Explanation

The June consultation

1. On 22 June 2004, Ofcom published a consultation paper, Proposal that BT's and Kingston's price controls in respect of rental of hardwired telephone apparatus should be removed and replaced by written undertakings, ('the June consultation'). The consultation period closed on 22 July 2004.
2. Three non-confidential responses were received during the consultation period. Having considered these responses, Ofcom has decided to implement the proposal set out in the consultation, that is, to discontinue the price controls in exchange for satisfactory undertakings from British Telecommunication plc ('BT') and Kingston Communications (Hull) plc ('Kingston') to take certain measures in the interests of customers with hardwired telephones.

Hardwired telephones

3. Most UK consumers with a landline use a 'plug and socket' telephone, which they can easily plug in and unplug, and have a terminal connection which allows them to fit and use different telephone equipment ('a universal socket').
4. However, BT and Kingston still have a small number of customers (approximately 140,000 in total) who rent an older style of telephone, which is fixed or 'hardwired' into their premises and cannot be easily removed by hand. Before they can connect and use other telephone equipment, these customers ('hardwired customers') need to have their terminal connection altered to a universal socket. BT and Kingston no longer fit hardwired apparatus.

The Continued Hardwired Price Controls

5. Until now, BT and Kingston have been required by means of formal price control licence conditions, which were first put in place in 1993 and 1999 respectively, not to raise their rental prices for hardwired telephones above RPI+0% per year. The price control conditions in place in July 2003 were continued by means of continuation notices given to BT and Kingston under the Communications Act ('the Act'), following the abolition of licences on 25 July 2003. These continued conditions (Condition 67 for BT, Condition 66 for Kingston) are referred to in this document as the 'Continued Hardwired Price Controls'.

Removal of continued regulatory obligations

6. Individual licences granted under section 7 of the Telecommunications Act 1984 have now been replaced in part by General Conditions made under the Act. However, there are a number of specific conditions previously included in some individual licences which cannot be replaced by new conditions under the powers contained in the Act without first conducting a market review. Such conditions include the Continued Hardwired Price Controls.

7. Ofcom cannot leave the Continued Hardwired Price Controls in place indefinitely. Under the Act, they need to be removed as soon as practicable and can only be replaced by new conditions if, having reviewed the relevant market, Ofcom finds that the communications provider is dominant, that is, it has a certain degree of market power known as 'Significant Market Power' ('SMP').
8. Under section 93 of the Act, Ofcom is able to impose certain types of conditions in respect of hardwired telephone rentals where it finds that the communications provider has SMP in the relevant market. Under section 93 of the Act, Ofcom can set SMP apparatus conditions which:
 - require the communications provider to maintain separate accounts in relation to hardwired telephones; and/or
 - impose price controls.

Ofcom's regulatory principles

9. Ofcom's approach to regulation is to operate with a bias against intervention, but with a willingness to intervene firmly, promptly and effectively where required. Ofcom is also committed to seeking the least intrusive regulatory mechanisms to achieve its policy objectives.

Ofcom's proposal

10. Ofcom believes that this is an area requiring continued consumer protection, particularly because:
 - there is no option to buy hardwired apparatus, only to rent;
 - rental prices appear high, in relation to the costs to the provider;
 - hardwired customers have often been paying rent for many years (BT last installed a hardwired telephone over 20 years ago); and
 - customers may be deterred from requesting that their hardwired terminal connection be converted to a universal socket where the provider makes a charge for conversion.
11. However, in keeping with its regulatory principles mentioned above, Ofcom believes that its objectives to protect consumers and give incentives to consumers to change to universal sockets can be best achieved through informal regulation at this time.
12. Therefore, the June Consultation proposed that Ofcom should:
 - remove the Continued Hardwired Price Controls on BT and Kingston; and
 - obtain written undertakings:
 - from BT and Kingston not to raise rental prices of hardwired prices by more than RPI + 0% per year;
 - from Kingston to provide free socket conversions upon request; and
 - from BT to provide free socket conversions to elderly customers and customers it considers 'vulnerable' upon request (essentially, customers with a disability or serious illness), and to publicise the availability of free conversions appropriately.

13. In making this proposal, Ofcom took into account that the undertakings were wider-ranging than the conditions which Ofcom could impose following a market review.

Responses to the consultation

14. BT, Kingston and the Public Utilities Access Forum ('PUAF') responded to the June consultation.
15. BT stated that it had approximately 140,000 customers renting hardwired telephones at 30 June 2004 and that this represented a decline of 16,000 over a six month period. Its view was that the remaining hardwired customers are not predominantly elderly or otherwise vulnerable. BT also pointed out that its rental charges for hardwired telephones are less than for standard plug and socket telephones, and that it already provides free socket conversions to 'vulnerable' customers and where hardwired equipment develops a fault.
16. BT therefore did not believe that there was a *'proven need for new customer protection measures'* in this area. However, it indicated that it was willing to accede to Ofcom's proposal.
17. In addition to the proposal set out in the consultation, BT has agreed that, where a vulnerable customer has faulty hardwired equipment, as well as providing a free socket conversion, BT will provide that customers with a basic plug and socket telephone free of charge.
18. Kingston's response to the June consultation was very supportive of Ofcom's proposal. It already provides free socket conversions upon request to any hardwired customer and agreed in response to provide a written undertaking to this effect.
19. PUAF felt very strongly that hardwired customers needed greater protection than Ofcom's preferred proposal would afford. It argued that costs are very low in this area whilst profits are high and that it was therefore *'unconscionable'* that BT and Kingston should be charging rental for hardwired telephones. PUAF was also under the impression that many hardwired customers are elderly. In fact, according to BT, the proportion of retired people amongst its hardwired customers is very similar to that amongst its total customer base, ie about 25 per cent.
20. PUAF suggested that Ofcom should ask BT and Kingston to cancel all hardwired rental charges with immediate effect, and contact all hardwired customers offering them a free socket conversion. Customers accepting this offer should either be able to keep their hardwired telephone *'converted so it can be unplugged and replaced if it develops a fault'* or buy a new telephone. Ofcom's understanding is that adapting a hardwired telephone handset so that it may be used with a universal socket is not in fact a straightforward matter.

Ofcom's decision

21. Ofcom has considered the responses to the June consultation carefully. It remains of the view that the Continued Hardwired Price Controls should be discontinued upon receipt of satisfactory undertakings from BT and Kingston.

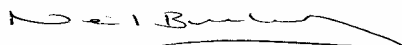
22. Whilst Ofcom does not consider PUAF's specific proposals to be appropriate on this occasion, Ofcom appreciates the basis of PUAF's concerns and has given the question of consumer protection further thought. As a result, Ofcom has now requested and obtained additional undertakings from BT and Kingston. These are set out in full in Annexes 3 and 4.
23. In particular, where a vulnerable customer (this now includes a customer of pensionable age) has a hardwired phone which develops a fault, in addition to a free socket conversion, BT will provide that customer with a basic plug and socket telephone handset free of charge. This ensures that such customers are not left without a telephone service.
24. Ofcom believes that the measures set out in the undertakings represent a significantly greater level of consumer protection for hardwired customers and will accelerate the already steady number of socket conversions per month. In addition, the removal of formal legal requirements in this instance is consistent with Ofcom's light touch approach to regulation.
25. Should BT and Kingston renege on the undertakings, which Ofcom does not anticipate will happen, Ofcom could decide to conduct a formal market review and, if appropriate, impose SMP apparatus conditions.
26. Having carefully considered the responses to the June consultation, Ofcom is now discontinuing the Continued Hardwired Price Controls. The reasons for this decision are set out in this Statement and the June consultation. Notices are attached at Annexes 1 and 2 to this statement, notifying BT and Kingston respectively that the Continued Hardwired Price Controls will no longer apply. As the discontinuation notices are served by post, the relevant continuation notices will cease to have effect from the date that the discontinuation notices are deemed to be effected in accordance with section 7 of the Interpretation Act 1978 and section 394(7) of the Act.

Annex 1

NOTICE TO BRITISH TELECOMMUNICATIONS PLC UNDER PARAGRAPH 9 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Notice that Condition 67 set out in Schedule 1 to the continuation notice given to British Telecommunications plc on 23 July 2003 will cease to have effect from the date this notice is deemed to be effected in accordance with section 7 of the Interpretation Act 1978 and section 394(7) of the Act

1. The Office of Communications ('Ofcom'), in accordance with Paragraph 9(9) of Schedule 18 to the Communications Act 2003 ('the Act') hereby give notice to British Telecommunications plc ('BT') that Condition 67 contained in Schedule 1 to the continuation notice given to BT on 23 July 2003, which had effect from 25 July 2003, ('the Continuation Notice'), will cease to have effect from the date this notice is deemed to be effected in accordance with section 7 of the Interpretation Act 1978 and section 394(7) of the Act.
2. Ofcom issued a consultation as to their proposals to discontinue Condition 67 on 10 July 2004 and have considered all representations made. Ofcom have decided to issue this discontinuation notice to BT following receipt of undertakings from BT relating to the supply of Hardwired Telephones.
3. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act.
4. For the purposes of interpreting this notice, headings and titles shall be disregarded.



Neil Buckley

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

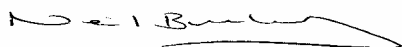
25 November 2004

Annex 2

NOTICE TO KINGSTON COMMUNICATIONS (HULL) PLC UNDER PARAGRAPH 9 OF SCHEDULE 18 TO THE COMMUNICATIONS ACT 2003

Notice that Condition 66 set out in Schedule 1 to the continuation notice given Kingston Communications (Hull) plc on 23 July 2003 will cease to have effect from the date this notice is deemed to be effected in accordance with section 7 of the Interpretation Act 1978 and section 394(7) of the Act

1. The Office of Communications ('Ofcom'), in accordance with Paragraph 9(9) of Schedule 18 to the Communications Act 2003 ('the Act') hereby give notice to Kingston Communications (Hull) plc ('Kingston') that Condition 66 contained in Schedule 1 to the continuation notice given to Kingston on 23 July 2003, which had effect from 25 July 2003, ('the Continuation Notice'), will cease to have effect from the date this notice is deemed to be effected in accordance with section 7 of the Interpretation Act 1978 and section 394(7) of the Act.
2. Ofcom issued a consultation as to their proposals to discontinue Condition 66 on 10 July 2004 and have considered all representations made. Ofcom have decided to issue this discontinuation notice to Kingston following receipt of undertakings from Kingston relating to the supply of Hardwired Telephones.
3. In this notice, except as otherwise provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meaning as it has in the Act.
4. For the purposes of interpreting this notice, headings and titles shall be disregarded.



Neil Buckley

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

25 November 2004



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Neil Buckley
Head of Consumer Policy
Office of Communications
Riverside House
2A Southwark Bridge Road
London SE1 9HA

19th November 2004

Dear Neil

Voluntary undertaking by British Telecommunications plc in relation to Hardwired telephones

As part of Ofcom's ongoing consultation process on removing and replacing BT's and Kingston's price controls in respect of rental of hardwired telephone apparatus by written undertakings, BT voluntarily makes the following commitments to Ofcom. The offer of these voluntary undertakings in no way implies that BT has taken any view as to market definition or market power. These undertakings will be effective from the date on which Ofcom discontinues BT's License Condition 67.

Rental price

1. BT agrees not to raise rental prices for Hardwired Equipment by more than RPI+0% per year.

Socket conversions

2. Where there is a fault with a customer's Hardwired Equipment, BT agrees to convert the Hardwired Socket to a Universal Socket free of charge.

Provision of a new telephone handset

3. Where there is a fault with a Vulnerable Customer's Hardwired Equipment, in addition to the matters set out in Paragraph 2 above, BT agrees to replace the Hardwired Telephone with a basic Plug and Socket Telephone Apparatus free of charge.

Socket conversions for Vulnerable Customers

4. BT agrees to provide conversions of Hardwired Sockets to Universal Sockets to Vulnerable Customers upon request and free of charge.

Information for customers

5. BT agrees to be proactive in raising awareness of the availability of free conversions of Hardwired Sockets to Universal Sockets through appropriate means. This includes, but is not limited to:

BRITISH TELECOMMUNICATIONS PLC
BT CENTRE – PP B4, 81 Newgate Street, LONDON EC1A 7AJ

BT is an ISO 9001 Registered Company
British Telecommunications plc Registered Office 81 Newgate Street LONDON EC1A 7AJ Registered in England no. 1800000

- providing information regarding free conversions on the bills of all customers who rent Hardwired Equipment;
- including such information in all relevant BT brochures and publications
- ensuring that such information can be easily accessed on BT's website; and
- working closely with a wide range of groups and organisations which seek to represent the interests of Vulnerable Customers

Definitions for the purposes of this undertaking

'Hardwired Telephone' – this includes a telephone which is only capable of being connected to BT's network by means of hardwiring or a round-pin plug.

'Hardwired Socket' – this is a terminal connection which is only compatible for use with a Hardwired Telephone.

'Hardwired Equipment' – this may be either a Hardwired Telephone or its corresponding Hardwired Socket or both.

'Plug and Socket Telephone Apparatus' – this is any type of telephone apparatus which may be plugged in and removed by hand from a Universal Socket.

'Universal Socket' – this is a terminal connection which is compatible for use with Plug and Socket Telephone Apparatus, but not with a Hardwired Telephone, and which enables such apparatus to be easily fitted or removed.

'Vulnerable Customer' – a customer is vulnerable where they live in a household with Hardwired Equipment, and the customer or someone else in the household:

- is of pensionable age;
- needs a social community alarm; or
- has any of the following disabilities or conditions:
 - impaired hearing
 - impaired eyesight
 - uses a wheelchair
 - a serious or progressive disability, illness or condition (temporary or permanent)
 - walking or mobility difficulties
 - difficulty handling objects
 - a severe learning difficulty
 - a severe mental health problem
 - speech difficulties
 - difficulty getting out of the house unaided
 - any other serious medical condition
 - registration under the Chronically Sick and Disabled Persons Act 1970

Should questions arise over clarification or interpretation of these undertakings, please contact me.

Yours sincerely

Alan Lazarus

Alan Lazarus

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16 November 2004

Dear Neil

Undertaking by Kingston Communications (Hull) plc ('Kingston') in relation to hardwired telephones

On 10 July 2004, Ofcom published a consultation paper entitled *Proposal that BT's and Kingston's price controls in respect of rental of hardwired telephone apparatus should be removed and replaced by written undertakings*. This proposed discontinuing the formal price control on Kingston which prevents Kingston from increasing the rental price of hardwired telephones by more than RPI+ 0% per year in exchange for certain undertakings from Kingston.

Following that consultation, Kingston hereby provides the following undertakings to Ofcom. Kingston agrees that it will not depart from these undertakings unless Ofcom has given Kingston prior consent to do so (subject to such consent not being unreasonably withheld).

Definitions for the purposes of this undertaking

'Hardwired Telephone' – this includes a telephone which is only capable of being connected to Kingston's network by means of hardwiring or a round-pin plug.

'Hardwired Socket' – this is a terminal connection which is only compatible for use with a Hardwired Telephone.

'Hardwired Equipment' – this may be either a Hardwired Telephone or its corresponding Hardwired Socket or both.

'Plug and Socket Telephone Apparatus' – this is any type of telephone apparatus which may be plugged in and removed by hand from a Universal Socket.

'Universal Socket' – this is a terminal connection which is compatible for use with Plug and Socket Telephone Apparatus, but not with a Hardwired Telephone, and which enables such apparatus to be easily fitted or removed.

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Rental price

1. Kingston agrees not to raise rental prices for Hardwired Equipment by more than RPI+0% per year.

Socket conversions

2. Kingston agrees to convert a Hardwired Socket to a Universal Socket upon request and free of charge.

Faulty equipment

3. Where there is a fault with a customer's Hardwired Equipment, Kingston agrees to convert the Hardwired Socket to a Universal Socket free of charge.

Information for customers

4. Kingston agrees to be proactive in raising awareness of the availability of free conversions of Hardwired Sockets to Universal Sockets through appropriate means. This includes, but is not limited to:
 - providing information regarding free conversions on the bills of all customers who rent Hardwired Equipment; and
 - ensuring that such information can be easily accessed on Kingston's website.

Yours sincerely



HUW SAUNDERS
Group RA & TD Director