

**Ofcom Review of the Universal Service Obligation
Consultation Document
Response from the Ofcom Consumer Panel**

Foreward

1. This paper addresses the questions recently posed by Ofcom in its consultation on the current Universal Service Obligation (USO) arrangements. We have, in what follows, answered the questions put, which we recognise are limited in scope, bound as they are by the prevailing regulatory framework. As Ofcom has done, we have focussed on the questions of what kind of tariffs best suit people on low incomes; how schemes expressly aimed at people on low incomes might best be marketed; and what is the best way to handle the question of public call boxes – where and how many? – in a world where many, but, crucially, not all of us have mobiles – and where mobile signals are not universally available.
2. In this response we also want, however, to put down a couple of markers about wider considerations that arise when considering the nature and delivery of the USO in future.
3. In our response to Phase 2 of Ofcom’s Strategic Review of Telecommunications earlier this year, the Consumer Panel said:

*“the concept of universal service is the provision of the basic “safety net” of services at affordable prices [and it is] central to a citizen- and consumer-centred approach to the telecoms market”.*¹
4. We propose to devote further consideration this year to unpacking the idea of universal service and considering how best it might be delivered. In doing so, we will be aiming to move the discussion on from ‘who pays for what’ to a more people-centred approach, which we believe, logically, has to precede future discussion of USO. By this, we mean: what does universal service actually mean in this different

¹ Consumer Panel response to Ofcom’s Strategic Review of Telecommunications, 2005.

world (different from the post-privatisation settlement on BT and Kingston)? What do people need by way of access to affordable communication?

5. We think the answer will need to involve a view about access to broadband; about the limitations imposed by the geography of the UK and how this might be transcended; about the possibilities afforded by wireless technology; and about the needs of people who may, solely because of who they are, have difficulty in getting access to communications at affordable prices. And, we will need to ask, how do we understand affordability? Is it a moving concept? If so, how can it be tracked without unacceptable and costly intrusions into people's lives?
6. All of these issues take us far from the matters on which we are responding here – but we will be working on them as the year goes on and look forward to a constructive and open debate with Ofcom and others as our work progresses.

Ofcom Review of the Universal Services Obligation - questions

Section 3 – Universal Service and the Strategic Review of Telecommunications

Q1. What should be the arrangements for funding USO in future?

7. We believe that there are two reasons that make it appropriate to review the current USO funding model. First, competition from mobile operators, cable companies, carrier pre-selection services (CPS) and others is combining to create a vibrant competitive telecommunications market. It is therefore appropriate to consider whether the current funding arrangements run the risk of becoming an unfair economic burden on the incumbent universal service providers – if not now then at some point in the future. If they do at some point represent an unfair burden then the cost of USO provision should be spread more broadly across the network. Secondly, depending on the future vision for the USO and the advances in technology, it may become necessary to involve new providers in the delivery of universal service obligations.
8. We think there are three possible USO funding models - all of which would lead to the creation of a central USO fund which would then be used to pay for social telephony schemes:
 - i) A levy on all licensed telephony companies – a model used in the United States.
 - ii) A levy on all telephony consumers.
 - iii) General taxation of the population.
9. Whatever the option, the model must be flexible enough to take into account any changes to the cost of USO delivery or structural movements within the telecommunications market. Until however we are clearer about the longer-term future for USO, and without detailed analysis by Ofcom of the impact of these possible funding options we are unable to comment further.

Q2. How could competition for the delivery of USO be organised in future?

10. We consider that there are two options for introducing competition to USO delivery:

- i) Allow telecommunications companies to either provide universal services directly or to fund a third-party to deliver on their behalf. Third-party providers may then be able to offer a range of USO solutions to meet diverse consumer needs. A working example of this is the different delivery mechanisms used by mobile operators to provide access to a text relay service for deaf, hearing or speech impaired consumers when meeting General Condition 15's obligation.
 - ii) Put the delivery of US services up for tender. The tender would set service standards and the contracts would be reviewed or re-let at intervals. Though not delivering choice to users, the process will provide competition and innovation of delivery by companies attempting to outbid each other and win the US contract.
11. In order to understand whether or not a particular model would be sustainable in the long-run we would need to see an analysis of the possible competition models.

Q3. Should mobile technologies be used to help address the existing USO?

12. We do accept that there needs to be a wider debate about the role that mobile technologies can play in the future of the USO. At this time however we believe that mobile technology should only be able to contribute to the meeting of a providers universal service obligations in exceptional circumstances i.e. if access to a fixed line to a household is economically unfeasible, where there is a robust mobile signal in the locality and where without the provision of a mobile phone the consumer would be barred from the telephony market.
13. The longer term contribution that mobile and other telecommunications technologies can make to the provision of universal service is a subject that we all need to return to – as outlined in paragraphs 4 and 5 above.

Section 4 – Special Tariff Schemes and Disconnections

14. We welcome Ofcom's review of BT's low income schemes. Affordable access to today's telecommunications network is essential for citizens and consumers to remain fully connected with society. But we do not agree that BT's proposal for a new targeted low income scheme, based on status checking and income levels, is workable and we suggest that it will not achieve its aim of ensuring affordable access to the telephony network for low income consumers.

15. Whilst we recognise that the In Contact (IC) and Low User Scheme (LUS) are not perfectly targeted to low income users we do believe that they deliver affordable access to the telephony network. If part of the rationale for revising the current schemes are concerns about a) inappropriate targeting of the current scheme and b) abuse then we would suggest that the new proposals neither remedy the abuses nor improve the position of low income customers. Equally, if BT is concerned by the cost of the current schemes, we note that Ofcom estimates the current cost of provision is in the region of £19-23m and falling². With costs of telephony services continuing to fall, additional customers may migrate to new and cheaper telephony products. In our view we do not believe this cost represents an undue burden on BT in the short term.

Q4. Ofcom is seeking views on all aspects of BT's proposals for a new special tariff scheme:

- **The tariff structure and levels**

16. As stated in paragraph 14, we do not believe that the proposed scheme is an acceptable replacement for the current IC or LUS schemes. These current schemes have, in our view, tariff structures and call levels that are right.

² Ofcom, Review of the Universal Service Obligation, Annex J, January 2005.

- **The use of direct debit and monthly payment plan discounts**

17. We cannot support the proposal to use direct debit as a means to reduce the monthly line rental on a low income scheme for three reasons. First, 12% of British households have no current account³. This prohibits their access to cheaper line rental because they are unable to opt for a direct debit payment mechanism. Second, direct debit can inhibit peoples' ability to budget. Third, some people will reject the direct debit option because money can be removed from their bank account before having a chance to review their bill which will leave them in a worse negotiating position with BT if accidental over-charging occurs.

- **The target market of households within the government's definition of poverty**

18. We have a number of concerns about the proposal to target households whose income is below £10,400 per annum. Primarily, we believe that BT has failed to understand the government's definition of poverty – which is not based on income alone but by equivalised household income. The definition of equivalised income – which also takes into account housing costs - is:

“... total (weekly net) income from all sources of all household members including dependents. Income is adjusted for household size and composition by means of equivalence scales, which reflect the extent to which households of different size require a different level of income to achieve the same standard of living.”⁴

19. We also think that BT is confusing billing units, household units, and benefit units. The billing unit is the name of the consumer on the bill. A household unit is the number of people in a household - this could be five adults, two adults and one child, one adult etc. The benefit unit is the person whom the benefit relates to. We believe that this confusion over units will impact on BT's ability to target low income consumers effectively. If we take the household unit of five adults as an example, the billing unit that triggers entitlement may be the person who has the least income but

³ National Consumer Council, Mind the Financial Gap, access to financial services, 2004.

⁴ Department for work and Pensions, Households Below National Income, 2004.

this might not reflect the make up of the household. The other four members may earn more than £10, 400 per annum each.

20. Problems with targeting will also occur when benefit units are applied to test for scheme eligibility. For example, a household with a married couple in receipt of the Child Tax Credit and an elderly parent in receipt of the Pension Credit is one household with two benefit units. Which benefit unit will BT use to test eligibility and which adult will BT accept as the billing unit?
21. We are also concerned that people have to jump over *two* hurdles to achieve scheme eligibility. First, by earning £10, 400 per annum or less. Second, by being in receipt of a means tested benefit. (We go on in paragraph 23 to discuss some of the problems observed with take-up of means tested benefits). These two strict hurdles do not, unlike the existing schemes, provide sufficient flexibility to accommodate relatively small changes in a low income consumer's personal circumstances. For example, a person loses their benefit entitlement due to an increase in income but only earns a few pence above the £10, 400 per annum threshold - the consumer is not significantly better off but will lose eligibility for the proposed scheme.
22. Finally, we do wonder whether ultimately, BT wants to base a commercial proposition so closely on government policy? A government may change the qualifying criteria for benefits at any time.

- **The relevant means tested benefits**

23. We have two concerns about the use of 'significant means tested state benefits' being used as a passport for scheme eligibility. First, historically means testing has a tendency to exclude people and it is likely that many of the approximate 2.4m households that fall within the UK government's definition of poverty⁵ fail to claim (or take-up) their full benefit entitlements. This can be due to the stigma attached to means-testing or by people simply being unaware of their entitlements.

⁵ Ofcom, Review of the Universal Service Obligation, 2005.

24. Second, we are also unsure as to what BT means by a 'significant means tested state benefit'. For example, would the Child Tax Credit be one? This would enable approximately 90% of households with children to be covered⁶.

- **The proposed exclusion of Indirect Access /Carrier Pre Selection**

25. We agree that the existing exclusion of Indirect Access (IA) and Carrier Pre-Selection Services (CPS) should continue on low income schemes. The schemes must remain fundamentally focussed on basic access to affordable telephony.

- **The proposed exclusion of mobile users**

26. Mobile phone ownership should **absolutely not** exclude people from the current, or any future, low income telephony schemes.

- **The use of self-declaration and of a credit checking agency to minimise BT's exposure to risk of abuse**

27. As stated above, we do not accept the proposal to base any new scheme around receipt of means-tested benefits; it therefore follows that we do not recognise the need for self-declaration and/or credit-checking.

- **The marketing approach**

28. We absolutely agree that BT must be more effective in promoting its current low income tariffs - the responsibility is on BT to meet its US obligations. We are concerned by the results of Ofcom's low income consumer mystery shopping exercise - which revealed that BT operators are failing to advise low income consumers of their low cost schemes⁷.

29. We agree with Ofcom that BT cannot rely on government agencies or consumer services to advertise its low income tariffs but do recognise that, in the past, the

⁶ H. M. Treasury, Tax Credits: reforming financial support for families, March 2005.

⁷ Ofcom, Review of the Universal Service Obligation, Annex D, January 2005.

same agencies and services have been unwilling to allow the promotion of BT's low cost telephony schemes in their buildings. We hope for a more co-operative relationship in the future because the advertising of low income schemes in post and benefit offices is likely to reach the majority of the target audience. We would also like to see BT clearly promote its low income tariffs on its website – this is not the case at the moment.

Q5. Ofcom is seeking views on which three options proposed: (i) No change to the BT schemes; (ii) BT's proposed new scheme to replace LUS and IC and (iii) BT's proposed new scheme to replace LUS and IC but modifications to the Scheme would be required.

30. Faced with the considerable difficulties we see with the proposal from BT we believe that Option (i) No change to the BT schemes remains the better option. The current schemes do succeed in their objective in allowing affordable access to the network and – whilst we do recognise the need for better and more effective promotion – we do not believe that a fundamental overhaul is required at this time.

Q6. Ofcom invites comments on Ofcom's view that BT should promote its portfolio of debt management and affordability services more effectively to customers experiencing payment difficulties.

31. BT's current disconnection rate is just over 5% (approximately a million customers) per year⁸. Around 60% of these are disconnections of customers who receive a means tested benefit⁹. We recognise that BT needs to retain the option to disconnect customers who deliberately and consistently fail to pay their bills. But the results of Ofcom's mystery shopping exercise suggest that BT is not effectively promoting its affordability and debt management schemes – schemes which should help people to avoid disconnection.

32. We would encourage BT to better promote the following services: its call level service (BT contacts the customer if call costs exceeds an agreed amount); monthly

⁸ See reference 5.

⁹ Ofcom Source.

payment schemes (which helps customers avoid a large quarterly bill); its payment card service (this allows customers without bank accounts to pay their bills at Post Offices and Paypoints); its low income schemes and its pre-pay scheme Pay and Call.

33. We would like BT be more ambitious with its Pay and Call scheme and allow customers of Pay and Call access to all BT packages. BT should promote the scheme in the same way pre-pay mobile phones are advertised - rather than view the scheme as a debt management tool as is current practice. The success of the scheme (3000 people were joining a week by the end of December 2004¹⁰) illustrates customers value a pre-pay service to aide their budgeting requirements and help them avoid the problems of debt.

Section 5 – Public Call Boxes ('PCB')

Q7. Comments are invited on the preferred approach regarding arrangements for the removal of PCBs (i.e. to retain but modify the existing arrangements), in particular on:

- **The principle of delegating power to local public bodies to object to PCB removal**

34. We agree with the principle of delegating power to local public bodies to object to the removal of a last site Public Call Box (PCB). The local body will have a social overview of the area where the contested PCB is situated and will have the clearest mandate to express a view, being accountable to locally elected officials and to the local population.

- **Whether there are other bodies that could undertake this delegated power**

35. In our view a local public body has the necessary proximity and accountability to the local population to contest a last site PCB removal.

¹⁰ Ofcom, Review of the Universal Service Obligation, Annex E, January 2005.

- **An amendment to the definition of “Site”**

36. There should be no amendment to the definition of a ‘site’ at this time. Increasing the size of a site will have an adverse impact on the distance travelled by older people and people with disabilities to reach a PCB. We recognise revenues for BT and Kingston from their PCB network have fallen by 40% between the period of 2001 and 2004¹¹ but with PCB operating profits for BT standing at £60m¹² we do not believe the current network of PCBs is an undue burden.

37. However, as we note throughout this document, the impact of increasing ownership of mobile phones coupled with greater mobile network coverage will inevitably necessitate a rethink on how we view the PCB network in the medium term.

- **The appropriate public bodies to have the power to object**

38. We think the higher level district councils listed in the consultation document (District and County Councils in England (and Other), Unitary Councils in Scotland, Unitary Counties in Wales and Unitary Districts in Northern Ireland) are the appropriate bodies to have the power to object to a last site PCB removal.

39. This reduction in the number of public bodies that BT will have to consult with should enable a) a greater transparency and ease of process for local objections to be heard; b) for BT to know who the relevant bodies are; and c) for the public bodies to have the necessary resources required to contest a last site PCB removal.

- **The consultation period for the public body to object**

40. We agree with Ofcom’s proposal to extend a last site PCB consultation period from 42 to 90 days. The extension will not only benefit the local community, giving more time for any objections to be co-ordinated, but should also assist BT’s and Kingston’s community relations.

¹¹ Ofcom, Review of the Universal Service Obligation, Annex F, January 2005.

¹² See reference 11.

- **Factors that might be considered in guidance for objecting**

41. We agree with Ofcom's list of guidance factors for local bodies when contesting a last site PCB removal but suggest some additions: the serviceability of the PCB in question; the neighbouring PCBs serviceability; availability of managed payphones in the vicinity and the level of social deprivation in the area.

42. We would also ask Ofcom to include a consultation/negotiation element in the objection process. Instead of the two parties ticking each guideline as they contest a PCB removal, negotiation between the two parties may be able to achieve a mutually beneficial outcome, e.g. the introduction of an emergency and freephone call box and not the complete removal of a PCB unit.

- **The use and level of a revenue threshold**

43. We do not believe that a revenue threshold alone should be the sole grounds for a PCB removal – this is too deterministic and may not reflect the overall value the PCB has to the local community. In rural communities, for example, where mobile coverage is often poor, sporadic or non-existent, the PCB network is valued by its role in reducing a community's isolation and its availability in possible emergency cases. Additionally, for people excluded from the telephone network the PCB enables them to arrange doctors' appointments, employment interviews or remain in touch with friends and families. And finally, many vulnerable citizens rely on a PCB to contact support services in private e.g. for calling Childline or the Samaritans.

Q8. Comments are invited on the approach to defining a Universal Service PCB, in particular on:

- **Whether the use of an algorithm would be a practical, effective, transparent mechanism for defining a USO PCB; and if so**
- **the factors that might be included in the algorithm; and**

- **whether there are other alternative methods of defining a USO PCB that could be considered**

44. The concept of an algorithm is attractive. It is simple to understand and universal in its approach when defining a USO PCB. But in our view this approach is inflexible and impractical for dealing with e.g. the social factors – such as the local community's view - which must be considered when defining a USO PCB. These are factors which cannot be easily incorporated into an algorithm.

Q9. Should the existing requirement on BT and Kingston to offer cash payment facilities in the last PCB at a Site be retained or amended? Please give reasons

45. We do not think a requirement should be imposed on BT and Kingston to offer cash payment facilities in the last site PCB. Rather, BT and Kingston should be able to negotiate with the local public body over what payment facility could be offered. This would more accurately reflect the local situation. Possible payment options would be: cash payment facilities; card payment facilities; or the installation of an emergency and freephone call box.

Q10. Comments are invited on the introduction of emergency and freephone call boxes. In what circumstances could they replace the PCB? Should the local public body have to consent if they are to replace the last PCB on a site?

46. As we have just mentioned, we see no problem with an emergency and freephone call box being installed as a last site PCB providing the relevant local authorities support that course of action.

Section 6 – Services for customers with disabilities

11. Do you agree that a feasibility study of a video relay service should be carried out? Comments are invited on the scope of such a study.

47. We agree that a feasibility study for a video relay service should take place. The introduction of a video relay service could be an important means for inclusive

communication for many deaf or hard of hearing people who use sign language – and will reduce a barrier to active participation in many areas of their life.

48. However, we think the scope of the study should be widened in two directions. First, there should be a comprehensive review of the support services required to access telephony by those with a range of sensory and physical impairments. For example, a text relay display service that supplements the voice channel for deaf or hard of hearing people with good spoken English or, the example discussed at paragraph 57.

49. Second, the scope of the feasibility study should be widened to consider the economic costs and possible delivery mechanisms for providing these different communication services, including other sign languages in addition to BSL and the services for speech or dexterity impairments.

50. It is vital that any video or other relay service achieve cost-equivalence with standard rate telephone call charges for End-users. This has already been achieved in the United States with video relay for example. A disability should not impose a higher access cost to the telephony network.

51. We expect that the results of the study will inform any response made to the forthcoming European Commission review of the Universal Service Directive.

Q12. Ofcom invites views on a Stakeholder Advisory Panel including the membership and terms of reference of such a Panel.

52. A Stakeholder Advisory Panel for the text relay service (and for any future relay services) would, we believe, add real value to the present system of governance currently undertaken by the RNID and BT. We would expect it to create an environment for managing the service where problems can be aired and resolved - removing some of the current stakeholder concerns about their limited influence on the standards or management of the service.

53. We would expect the Advisory Panel to be comprised of End-users and a number of representatives from telephony companies who provide access to the relay service. Service users will have first hand experience of the successes and failures of the relay service and their knowledge will help in determining the future direction of the service. The service providers will have an interest in its management and development and they will bring a commercial and technical awareness to the Panel.
54. The Panel's terms of reference should include: quality of service; service development (including technological changes); and involvement in establishing and publishing performance targets and achievements.
55. We do not agree with Ofcom's proposal to mirror the Australian model for the relay Advisory Panel in that we believe the posts should be advertised, enabling open competition, and for the positions to be salaried. This later will ensure a wider pool of talent is drawn upon. Additionally, members of the Panel should be recompensed for their costs when undertaking the Panel's duties and responsibilities, e.g. transport, communications, and administration. The question of how to fund the Advisory Panel should be included in the consideration of a future USO funding model.

Q13. Do you agree that the relay service could publish an annual plan and report?

56. We agree the relay service should publish an annual plan and report. The publication would aid transparency and alleviate stakeholder concerns surrounding the relay service. It would also be critical information for the stakeholder community when reviewing the success, failures and future direction of the relay service.

Q14. Ofcom invites views on its conclusion that mobile/email access should not be pursued at this stage.

57. We accept that mobile access to a Typetalk terminal or email access to the relay service should not be pursued at this stage. But, as Ofcom remarks there is evidence that users would value such access. We therefore think access to the services must be included in the broader feasibility study we suggest and discussed at paragraph

48; where cost, convenience and level of uptake can be ascertained before a definitive conclusion can be made.

Q15. Do you agree that Option 2 (i.e. maintain existing obligations) offers the best opportunity for improving the accessibility of public call boxes?

58. We think neither option offered by Ofcom fully reflects the accessibility needs of people with disabilities. Option 1 is too prescriptive and Option 2 does not raise the PCB accessibility benchmarks. The benchmarks should be viewed as a minimum but with BT and Kingston working towards the universal accessibility of their PCBs. The consultation process with stakeholders on new designs should help to raise these benchmarks voluntarily.

59. However, when providers replace a PCB we would argue that they must put an 'accessible' terminal in its place. We would also support a requirement on providers that any last site PCB must be an 'accessible' terminal.

60. The combined purchasing power of BT and Kingston should give the companies the economic leverage needed to demand manufacturers meet the accessible PCB requirements as defined by the British Standards Institute. We note the Inclusive Communication's (INCOM) review for the EU commission on PCB standards. If their recommendations become EU wide; BT and Kingston will have increased economic leverage on manufacturers, who will have to meet the EU standards if they want access to the European market.

Q16. Do you agree that the obligation should be redefined to apply to all subscribers who are not able to read printed bills and contracts?

61. We agree with Ofcom's conclusion that General Condition 15 should be expanded to oblige communication providers to supply contracts and billing forms in a format that meets the needs of any consumer with a disability. It would be unacceptable for any consumer with a disability to be unable to make an effective choice because of inadequate access to market information. We would encourage Ofcom and providers

to consult fully with all stakeholders to ensure the widest possible set of delivery methods for contracts and bills is produced.

(Annex G) G1 Supplementary Question. Do you agree that communications providers should be required to consult Ofcom to ensure that the requirements and interests of disabled End-users are fully taken into account in the development and provision of services?

62. Though General Condition 15.1 recommends that communications providers should consult the Consumer Panel, we believe consultation should take place directly between Ofcom, communication providers and disabled End-users. Ofcom should use this process to ensure that providers consult effectively with disabled End-users in order to improve their access to providers' existing services and to any new developments.

63. Section 10 of the Communications Act 2003 imposes on Ofcom a duty to encourage the availability, as widely as possible, of accessible and affordable terminal equipment. We believe that without access to useable and affordable products for people with disabilities the USO fails certain sections of society. The scope of the General 15.1 consultation, therefore, should be expanded to include the encouragement of telephony providers engaging with equipment manufacturers in providing affordable and accessible equipment.

Section 7 – Provision of a connection upon reasonable request

Q17. Ofcom invites views on the proposal that there should be a threshold and that Ofcom should consent to BT charging non-uniform prices above that thresholds

64. We do agree that a fixed line connection threshold is a proportionate measure for BT to adopt – providing the majority of consumers can be connected to the telephony network at an affordable and reasonable cost. The current threshold achieves this as a result of BT cross-subsidising connection costs across the telephony network.

Without further evidence from BT we do not see any reason to change the present threshold level of £3400.

65. We recognise that costs can escalate above a reasonable level and we accept BT can charge non-uniform prices above the threshold.

Q18. If Ofcom were to consent to a threshold what should the threshold be and what factors should be taken into account in deciding whether or not BT has complied with its Universal Service obligation?

66. We agree with Ofcom that option 2 offers the best solution for consumers. We are unable to make a more qualified judgement on threshold levels because data that may show a suppressed demand for fixed lines has not been held by BT in the past.

67. We note that BT will now keep this data for a period of three months but we believe the data should be collected for a year. This will enable a clearer picture of whether or not a suppressed demand for a fixed line exists. And if a demand exists; how big is that demand and will its inclusion within the threshold impose an unacceptable cost on BT. In addition, we would like BT to record how they came to any costing for a requested connection – in particular by physical survey or general estimate.

68. In considering whether or not BT has complied with its Universal Service obligation we believe both Ofcom and BT should consider the actual social need of a connection. For instance, in a remote rural area, where mobile reception is poor and there are high incidences of low income, the cost barrier to accessing a fixed line will directly impact on an individual's or a community's ability to engage fully and equally in society. In these circumstances we suggest that BT should consider spreading the additional cost of provision across its network.

69. There is also a role for Ofcom in thinking creatively to solve the problems of access for rural and remote communities. Any threshold must not be seen as an absolute fixed concept but one that is capable of flex where there is risk of significant social detriment.

Section 8 - Functional internet access

Q19. Do you agree that the guidelines do not require substantive change but only minor amendments to improve information flows and make them clearer?

70. We concur with Ofcom's preferred option, option 2, which proposes the retention for the present time of a benchmark speed for Functional Internet Access at 28.8kbit/s. We are quite clear though that it must be emphasised that 28.8kbit/s is a **minimum** speed. We note that BT is almost achieving the higher 33.6kbit/s benchmark (of option 3) with 94.2% of lines providing an average data rate at this speed¹³ and we note that it is likely that this percentage will rise further with BT's continual removal of DACS (Digital Access Carrier System). It is therefore our view that formal requirement and enforcement of this higher benchmark – bearing in mind the additional cost BT claims will be incurred – will only lead to additional costs being passed on to the consumer for negligible benefit.

71. However, we would urge Ofcom to look again at the way it views functional internet access. Instead of viewing speed as a minimum it should be a more fluid concept – with the intention of consumers gaining ever greater speeds.

72. This leads us to the question of broadband and the USO. Whilst we accept that broadband is not part of this consultation we do intend to raise it in the context of the forthcoming European review of the Universal Service Directive later this year. We will also be looking closely at the impact of geographical de-averaging and its potential impact on the 'digital divide'.

Section 9 – The costs and benefits of providing universal service

Q20. Ofcom invites views on its updated estimates of costs and benefits.

¹³ See reference 5.

Q21. Do respondents consider a more detailed assessment of cost and benefits should be undertaken once the new USO regime is in place?

73. We believe that Ofcom is in a stronger position than ourselves to determine whether a review of BT's costs is necessary. Ofcom has the means and resources. It would also be helpful to know the cost on other telephony providers when meeting their obligations under General Condition 15 in providing access to the text relay service.