

Consumer Panel Response to Ofcom's Review of the Universal Service Obligation Statement and Further Consultation

1. We welcome the opportunity to respond to Ofcom's Universal Service Obligations (USO) statement. We recognise that Ofcom has to make USO policy judgments that balance the needs of the industry (to avoid imposing an unfair burden on it) with the USO concept of, "*the provision of a basic "safety net" of services at affordable prices. [This is] central to a citizen and consumer centred approach to the telecoms market*".¹ In meeting this balance, we note that Ofcom has reviewed its original proposals and taken into consideration some of the concerns, raised not only by ourselves but by other stakeholders, to achieve this aim.

Q1 Ofcom is seeking views on the proposal that BT should proceed with the revised targeted scheme and on Ofcom's proposed measures to ensure take-up.

2. We think it is sensible and correct that Ofcom has removed the income threshold criteria for passport eligibility to the low income scheme. In our response to the USO consultation we said that we had serious reservations about the use of an income threshold. First, because it is extremely difficult for the UK government to correctly determine a household's income - let alone for a private company. Second, we felt that BT had failed to understand the government's definition of poverty which does not mean, as BT inferred, a household or individual whose income is below the government's benchmark of £10,400 per annum. The government's definition of poverty is not based on annual income alone, but by equivalised 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."²

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

² Department for work and Pensions, Households Below National Income, 2004.

Third, we were concerned that to achieve scheme eligibility, people would be required to jump over two hurdles: i) by earning £10, 400 per annum or less; ii) by being in receipt of a means tested benefit.

3. However, it is of grave concern to us that BT is proposing to combine Pension Credits and Housing Benefit as a passport to scheme eligibility for older people. This is because an older person may be in receipt of a Pension Credit but may not be eligible for Housing Benefit because they own their own home and are therefore deemed to be asset rich. Yet, the older person's annual income could still be below the government's definition of poverty and therefore they are income poor. Thus, the outcome of BT's proposal is to hit one of society's most vulnerable groups hardest by excluding it from the proposed scheme. We therefore urge Ofcom to rethink the eligibility criteria for the low income scheme to achieve a more inclusive outcome.
4. We had the same concerns as Ofcom did over its research which revealed that low income consumers have a poor awareness of BT's alternate telephony schemes – schemes that may be more suitable to their needs. Thus, we welcome Ofcom's introduction and requirement of a 600 000 consumer take-up target before BT can close its Low User Scheme (LUS) and In Contact Scheme (IC). The target should also provide BT with an incentive to proactively market the scheme to low income consumers - alleviating some of our take-up concerns.
5. We are pleased to see that Ofcom has removed the ownership of a pay as you go mobile phone as a barrier to scheme eligibility. We recognise that fixed and mobile handset convergence is occurring, and that the cost of mobile calls is declining but importantly it has not yet reached parity with a fixed line. Therefore it would be wrong to impose a higher telephony cost burden on a low income consumer by excluding them from a scheme that is intended for them. We do recognise that this question, and our answer, will have to be reviewed again in the future as fixed and mobile telephony costs fall and convergence gathers pace.
6. We agree with Ofcom's decision to amend BT's proposal to obtain cheap line rental via a direct debit scheme by including the 'Early Payment Discount' scheme as another means. We felt it was wholly inappropriate that a direct debit scheme was being proposed as the sole means for a reduction on the cost of line

rental on a targeted low income scheme. This is because 12% of the population, the very section of the UK population who are likely to be eligible for the scheme, do not have a bank account³ and are thus prohibited from accessing the cheaper line rental option by being unable to opt for the direct debit payment mechanism. Also, a number of consumers, who do have bank accounts, would reject this payment option because the use of direct debit would inhibit their ability to budget. Thus, we think that the Early Payment Discount has an equitable outcome for scheme adopters by being available to everyone on the scheme.

7. We agree with Ofcom that better marketing by BT of its social telephony schemes could help lower BT's present disconnection rate and that the Pay and Call scheme should be seen by BT as a tool to achieve this objective, rather than as a debt recovery tool - as it is currently. We note that Ofcom has warned BT that if it misses its own take-up target of 180 000 customers on its Pay and Call scheme in 2006⁴, or if its disconnection levels do not decline, presently running at just over 5% of its customer base⁵, then in the next USO review Ofcom will propose that BT must migrate its consumers to Pre-Pay schemes or restrict a consumer's service rather than instantly disconnecting them from the network.
8. We also welcome Ofcom's proposal to extend General condition 15 to ensure that people with a disability who are reliant on a fixed line service and are eligible for the free priority Fault Repair Service and the third party nomination scheme, will avoid being automatically disconnected from the telephony network over a payment default. A disconnection will now only occur if an individual persistently fails to pay their bill.

Q2 Ofcom is inviting views on amendments proposed in Annex E to the USO designation to implement the changes to the definition of Site.

9. We accept Ofcom's proposal to change the present definition of a 'site' from "*any area that is within a walking distance of 100 metres from that PCB*"⁶ to: any area that is within a walking distance of 400 metres from that PCB. The present site definition means that if there are two PCBs within 100 metres of each other, BT can remove one PCB without consultation but if it wants then to remove the

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

⁴ Review of the Universal Service Obligation: Statement, page 18, 2005

⁵ Review of the Universal Service Obligation: Statement, page 17, 2005

⁶ Review of the Universal Service Obligation: Statement, page 21, 2005

remaining PCB BT has to follow the consultation requirements set out in the USO. We argued in our response to the USO consultation that changing a site's definition to 400 metres would adversely affect older and disabled people by increasing the distance they would have to travel to use a PCB. However, we acknowledge Ofcom's research in this area and believe that its proposal to increase the site definition from 100 to 400 metres is evidence based and has not been shown to "*discriminate unduly against particular persons or against a particular description of persons, proportionate to what the modification is intended to achieve*"⁷.

Q3 Ofcom is inviting views on amendments proposed in Annex G to the Direction on PCBs to implement the changes to:

The public bodies with the local veto

10. As we stated in our response to the USO consultation, we agree with Ofcom that the list of higher level district councils in the USO statement and consultation documents are the appropriate bodies to have the power to object to a last site PCB removal. These bodies are: the District and County Councils in England (and other); Unitary Councils in Scotland; Unitary Counties in Wales; and the Unitary Districts in Northern Ireland.

11. We think that a reduction in the number of public bodies will a) aide citizens and BT to know who the appropriate bodies are when contesting or requesting a last site PCB removal; b) ensure greater transparency and ease of process for citizens and BT; c) ensure that those public bodies involved in a contested last site PCB removal will have the necessary resources required to deal with the matter.

The extended consultation period

12. We agree with Ofcom's proposal to extend the consultation period for a last site PCB removal from 42 to 90 days. The extension will benefit the local community in giving it more time to co-ordinate an objection against a PCB removal and it

⁷ Annex E, Review of the Universal Service Obligation: Statement, page 64, 2005

will assist BT's and Kingston's community relations because there will be more time for dialogue between the groups.

The rules on cashless PCBs

13. We accept Ofcom's proposal to allow BT and Kingston to remove the cash payment facility on a PCB across 30% of its network, with those PCBs in question retaining the ability to make: emergency; freephone; reverse charge calls; and retain card payment facilities. We also agree that Ofcom's proposed checklist must be met before the cash payment facility can be removed from a PCB. The checklist is: where a PCB is subject to constant vandalism and crime; where cash-related maintenance costs exceed cash revenue for the PCB; where consultation about the removal of a PCB has resulted in an objection by the relevant public body on the grounds of safety i.e. access to the emergency services – as this is not affected by the removal of the cash payment facility; and in very remote locations e.g. National Parks where usage is extremely low.

Q4 Ofcom is inviting views on guidance proposed in Annex H

14. We recognise that the appropriate public body will need guidance when contesting a last site PCB removal for practical and legal reasons. The guidance factors that Ofcom has laid out will also help create regulatory certainty for BT or Kingston when petitioning for a last site PCB removal. Thus, we agree with Ofcom's proposed (non-exhaustive) guidance factors, these are: the need to make emergency calls from the PCB in question; is there mobile phone coverage in the area; what is the housing type in the area; what is the number of households in the area; and what is the revenue for the PCB in dispute?

Q5 Ofcom is inviting views on amendments proposed in Annex F to General Condition 6 to implement the changes relating to the accessibility of PCBs

15. We accept Ofcom's plan to raise the accessibility level for BT's PCBs from 75% to 80%. We do, however, think that this percentage should not include BT's 'red telephone boxes'. We realise that there are issues which surround these PCBs that are often out of BT's control and therefore make the accessibility level impracticable, e.g. a 'red telephone box' may be listed.

16. We hope that the proposed consultation process between industry and stakeholders on the PCB accessibility needs of a person with a disability will help to raise the accessibility benchmarks voluntarily. Though we welcome this Ofcom initiative, we do wonder whether anything substantive can materialise from the consultation process as it will be a one day, one off event.

17. We welcome the restoration of the obligation on PCB operators to provide inductive coupling access on its network. This move will ensure that hearing aide users will be able to continue to use PCBs and will benefit from the fact that when a PCB is upgraded its replacement will include the inductive coupling capability.

Q6 Ofcom is inviting views on amendments proposed in Annex I to General Condition 15 to implement the changes relating to the obligation to provide:

Bills and contracts in acceptable formats

18. We endorse fully Ofcom's conclusion that General Condition 15 should be amended to oblige communications operators to provide contracts and bills in an acceptable format for any subscriber who is unable to read the standard contract or bill due to a disability. As we stated in our USO response to the consultation document, we think it would be unacceptable for any consumer with a disability to be unable to make an effective market choice because of inadequate access to information. This amendment will help lower the barriers to market information for some consumers.

Short code number access to a Directory Enquiry Facility

19. We accept Ofcom's need to amend General Condition 15.4 and replace the short code number access to a directory enquiry facility in order to be in line with the rest of the directory enquiry service sector.

Stakeholder Advisory Panel for the text relay service, Section 10, and the video feasibility study

20. Although Ofcom does not invite comments on its proposals for the above policy decisions, we would like to acknowledge them. First, we welcome the establishment of the Stakeholder Advisory Panel. We think it will bring

transparency to the present process and will help alleviate some of the stakeholder concerns that relate to their lack of influence over the network. Second, we would also like to welcome Ofcom's comments and initiatives on its Section 10 duties. We think it is essential that in the market place there is the availability of easily usable apparatus for people with a disability which will enable them to effectively engage with the communications market. Third, in our response to the USO consultation we called for the widening of the scope for the video feasibility study. We are pleased to see Ofcom has taken on board this comment and will include alternative relay services in its research. We think the research will be invaluable to Ofcom and its stakeholders in understanding what services can be delivered to consumers at an affordable cost.

Q7 Ofcom is inviting views on the consent to non-uniform charging proposed in Annex J

21. We accept that BT can charge non-uniform prices above the set threshold in order to avoid an unacceptable cost when responding to a request for a fixed line connection – but we are pleased to see that Ofcom will introduce a measure of flexibility to the threshold for vulnerable groups (see paragraph 22). We also welcome the fact that Ofcom has accepted our recommendation that, *“BT should record data on all requests for connections, including those declined for cost reasons and details of how much it cost (or would have cost) to provide those connections, for a period of one year. Ofcom has asked BT to collect such data on all requests for connections over that period. Ofcom will use this information to review, as appropriate, the threshold policy going forward.”*⁸ We believe this data is essential to understand whether or not a suppressed demand for a fixed line connection exists. And knowing whether or not this demand exists is imperative if we or Ofcom are to make a qualified decision as to what the threshold level should be - or indeed whether there should be a threshold at all. Thus, without this data, we accept that at present the current threshold level should remain at £3400.

⁸ Review of the Universal Service Obligation: Statement, page 43, 2005

Q8 Ofcom is inviting views on guidance on reasonable requests proposed in Annex K

22. In our response to the USO consultation we said that any threshold imposed by Ofcom must not be seen as an absolute fixed concept but one that is capable of flex where there is a risk of significant social detriment. We are therefore pleased to see that Ofcom will publish guidance to ensure BT uses its discretion when complying with its USO in response to a request for a fixed line connection. We agree with the Ofcom examples of consumers that BT should apply its discretion to. These are: *“residential customers eligible for special tariff schemes targeted at low income customers; residential customers who are unable to meet the costs of connection and have an acute need for connection for reasons of vulnerability or disability and where the customer’s location means they do not have access to mobile services.”*⁹

23. However, we do not agree with Ofcom that when the cost of providing a fixed line connection exceeds the threshold of £3400 a consumer who is identified as being vulnerable should be charged the standard installation cost of £74.99. To charge the £74.99 standard installation cost to a person who has already jumped over numerous hurdles to prove they are vulnerable, and when the cost of the connection is likely to greatly exceed £3400, is in our view petty.

Q9 Ofcom is inviting views on amendments to guidelines on Functional Internet Access (FIA) proposed in Annex M

24. We concur with Ofcom that fixed line providers must achieve optimal data speeds on its network and that the 28.8 kbps benchmark must be seen as a minimum. We said in our response to Ofcom’s USO consultation document that the cost involved in enforcing a higher benchmark would only lead to additional costs being passed on to the consumer for negligible benefit. We still believe this to be true.

⁹ Review of the Universal Service Obligation: Statement, page 115, 2005