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STATUTORY INSTRUMENTS

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**1999 No. 3448**

**TELECOMMUNICATIONS**

The Telecommunications (Interconnection)  
(Carrier Pre-selection) Regulations 1999

<i>Made</i>	- - - -	<i>23rd December 1999</i>
<i>Laid before Parliament</i>		<i>29th December 1999</i>
<i>Coming into force</i>		
<i>except as provided in regulation 1(b)</i>		<i>1st January 2000</i>
<i>as provided in regulation 1(b)</i>		<i>1st April 2000</i>

The Secretary of State, being a Minister designated<sup>M1</sup> in pursuance of section 2(2) of the European Communities Act 1972<sup>M2</sup> in relation to measures relating to telecommunications, in exercise of the powers conferred on him by that section, hereby makes the following Regulations:—

**Marginal Citations**

**M1** S.I. 1996/266.

**M2** 1972 c. 68.

**PART I**

**PRELIMINARY**

**Citation and Commencement**

1. These Regulations may be cited as the Telecommunications (Interconnection) (Carrier Pre-selection) Regulations 1999 and shall come into force as follows:

- (a) except as provided in sub-paragraph (b), on 1st January 2000;
- (b) in respect of the BT Licence, on 1st April 2000.

**Interpretation**

2.—(1) In these Regulations—

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“the Act” means the Telecommunications Act 1984 <sup>M3</sup>;

“the Amending Interconnection Directive” means Directive [98/61/EC](#) of the European Parliament and of the Council amending the Interconnection Directive with regard to operator number portability and carrier pre-selection <sup>M4</sup>;

“the BT Licence” means the licence granted by the Secretary of State under section 7 of the 1984 Act to British Telecommunications plc on 22 June 1984 to run the telecommunication systems referred to in Annex A thereof, in relation to which that company became the licensee as the nominated successor company on the transfer date <sup>M5</sup>;

“the Interconnection Directive” means Directive [97/33/EC](#) of the European Parliament and of the Council of 30 June 1997 on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision <sup>M6</sup>;

“Integrated Services Digital Network” (ISDN) means a network evolved from the telephony integrated digital network that provides for end-to-end digital connectivity to support a wide range of services, including voice and non-voice services, to which users have access by standard multipurpose customer interfaces;

“the principal Regulations” means the Telecommunications (Interconnection) Regulations 1997 <sup>M7</sup>;

“the Standard Schedules Regulations” means the Telecommunications (Licence Modification) (Standard Schedules) Regulations 1999 <sup>M8</sup>.

(2) Any expression used in these Regulations which is also used in the Amending Interconnection Directive has the same meaning in these Regulations as it has in that Directive.

(3) Any other expression used in these Regulations which appears in Schedule 1 to the Standard Schedule Regulations has the same meaning in these Regulations as it has in that Schedule.

(4) Except where the context otherwise requires and subject to paragraphs (1) to (3), any expression used in these Regulations which is also used in the Act has the same meaning in these Regulations as it has in the Act.

#### Marginal Citations

**M3** [1984 c. 12](#).

**M4** OJL No. 268 03.10.98, p. 37.

**M5** The transfer date appointed under section 60 of [1984 c. 12](#) was 6th August ([S.I. 1984/876](#), [article 5](#)).

**M6** OJL No. 199 26.07.97, p. 32.

**M7** [S.I. 1997/2931](#).

**M8** [S.I. 1999/2450](#).

## PART II

### AMENDMENTS TO THE PRINCIPAL REGULATIONS

#### Carrier Pre-selection

3. At the end of regulation 11(1) of the principal Regulations there shall be added the following subparagraphs:

“(e) ensure that at least operators having significant market power running the telecommunication systems described in Part 1 of Schedule 1 enable their subscribers,

including those using ISDN, to access the switched services of any interconnected provider of publicly available telecommunications services. The Secretary of State and the Director shall ensure that facilities are in place to enable subscribers to choose these services by means of pre-selection with a facility to override any pre-selected choice on a call by call basis by dialling a short prefix;

- (f) ensure that tariffs for interconnection which are related to the provision of the facility in accordance with paragraph (e) above are cost oriented and that any direct charges to consumers do not act as a disincentive for the use of the facility.”

#### **Modification of licences to include the Carrier Pre-selection condition**

4.—(1) The definitions set out in Part I of the Schedule hereto shall be inserted in the appropriate places in alphabetical order and shall where appropriate replace the existing definitions in paragraph 1 of Part I of Schedule 1 to the Standard Schedules Regulations.

(2) The conditions set out in Part II of the Schedule hereto shall be inserted within Part C of Part I of Schedule 1 to the Standard Schedules Regulations, after Condition 50 therein; and “and 50” shall be replaced by “50 and 50A” in the opening words of the said Part C.

*Patricia Hewitt*  
Minister of State for Small Business and E-  
Commerce,  
Department of Trade and Industry

23rd December 1999

## SCHEDULE

Regulation 4

### PART I

#### New Definitions

“Autodiallers” means apparatus by means of which Carrier Pre-selection Standard Services can be provided and which is located at the premises of the Subscriber and routes calls to the dialled number from that Subscriber to the Pre-selected Operator by means of the addition of a prefix.

“Carrier Pre-selection” means a facility whereby Subscribers who so request can:

1. choose certain categories of Publicly Available Telephone Service to be carried by the Pre-selected Operator without having to dial an Access Code prefix or follow any other procedure to invoke such routing; and
2. suspend any pre-selected choice in (1) above for individual calls on a call-by-call basis by dialling an Access Code prefix having made arrangements to do so with alternative Operators.

“Carrier Pre-selection Facilities” means those facilities which enable the Pre-selected Operator to provide to the Subscriber requesting Pre-selection from the Licensee the categories of Publicly Available Telephone Services specified in that request and comprise System Set-Up Facilities and Carrier Pre-selection Standard Services.

“Carrier Pre-selection Standard Services” comprise, Per Operator Set-Up Facilities and Per Customer Line Set-Up Facilities which are both Standard Services provided by the Licensee in accordance with Condition 45 of this Licence.

“Carrier Pre-selection Functional Specification” means a document published from time to time by the Director following consultation with the Licensee and Interested Parties which specifies technical and other principles which are intended to effect the efficient implementation and utilisation of Carrier Pre-selection and Carrier Pre-selection Facilities.

“Carrier Pre-selection System Set-Up Costs” means the costs incurred by the Licensee in developing and implementing System Set-Up Facilities.

“Carrier Pre-selection System Set-Up Facilities” means the software and any alterations needed on the Licensee’s switches and the modifications required for the Licensee’s support systems to enable the Licensee to provide Carrier Pre-selection Facilities.

“Per Customer Line Set-Up Costs” means the costs incurred by the Licensee in providing Per Customer Line Set-Up Facilities.

“Per Customer Line Set-Up Facilities” means the Carrier Pre-selection Facilities required by a Pre-selected Operator for a particular Subscriber Line in order to meet that Subscriber’s request for Carrier Pre-selection.

“Per Operator Set-Up Costs” means the costs incurred by the Licensee in providing Per Operator Set-Up Facilities.

“Per Operator Set-Up Facilities” means the Carrier Pre-selection Facilities required from the Licensee by any individual Pre-selected Operator for the routing of calls specified in a Subscriber’s request for Carrier Pre-selection and for the purposes of Condition 50A include activities similar to data management amendments and the setting up of arrangements for the electronic transfer of customer orders.

“Pre-selected Operator” means a Public Operator who:

1. is a Schedule 2 Public Operator;
2. who has notified the Licensee that it is able and willing to provide to the Subscriber who is requesting Carrier Pre-selection from the Licensee the same categories of Publicly Available Telephone Service as those included in that Subscriber's request for Carrier Pre-selection.

"Publicly Available Telephone Service" means either Fixed Publicly Available Telephone Services or Publicly Available Mobile Telephone Services or both and for the purposes of Condition 50A includes ISDN.

"Relevant Calls" means all calls which originate on the Licensee's network and which are of a type which are available for Subscriber selection in accordance with the Carrier Pre-selection Functional Specification.

## PART II

### New Condition

#### Condition 50A

#### CARRIER PRE-SELECTION

**50A.1** The Licensee shall provide Carrier Pre-selection in accordance with the Carrier Pre-selection Functional Specification which does not involve Autodiallers to any of its Subscribers who notify the Licensee in writing that they require it to provide Carrier Pre-selection in accordance with the Carrier Pre-selection Functional Specification which does not involve Autodiallers. Alternatively, the Licensee shall provide Carrier Pre-selection in accordance with the Carrier Pre-selection Functional Specification involving Autodiallers to any of its Subscribers who have been indicated, in a request received by the Licensee from a Pre-selected Operator, as requiring the Licensee to provide Carrier Pre-selection to them in accordance with the Carrier Pre-selection Functional Specification involving Autodiallers.

**50A.2** Pursuant to a request under paragraph 50A.1 above, the Licensee shall provide Carrier Pre-selection Facilities to the Pre-selected Operator on reasonable terms in accordance with the Carrier Pre-selection Functional Specification provided that the recovery of costs thereby incurred and any charges for the provision of such Facilities shall be made by the Licensee in accordance with the provisions contained in paragraphs 50A.3 to 50A.8.

**50A.3** The Licensee shall ensure that pricing for interconnection related to the provision of Carrier Pre-selection is cost-orientated and that direct charges to consumers, if any, do not act as a disincentive for the use of Carrier Pre-selection.

**50A.4** Subject to the provisions in sub-paragraphs 50A.4(1) and (2) and unless Carrier Pre-selection Facilities are provided in connection with a requirement in the Carrier Pre-selection Functional Specification involving Autodiallers, the Director may, at any time or on request by the Licensee or a Pre-selected Operator, make a determination specifying the charges of the Licensee for providing Carrier Pre-selection Standard Services with regard to the reasonable costs of the Licensee in providing those Services and allowing the recovery of such charges to be paid by each Pre-selected Operator in relation to each financial year ending on 31st March.

(1) Any determination specifying costs or charges made under 50A.4 shall:

- (1) unless some other cost-basis shall have been substituted by the Director, be based upon the Licensee's long-run incremental costs of providing Carrier Pre-selection Standard Services;

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- (2) be calculated on the basis of information provided by the Licensee to the Director in accordance with related provisions of this Licence and in response to any written request by the Director which shall be responded to within the reasonable time limits specified in the request; and
- (3) subject to sub-paragraph 50A.4(2) (2), categorise the Licensee's reasonable costs incurred in providing Carrier Pre-selection Facilities as Carrier Pre-selection System Set-Up Costs, Per Operator Set-Up Costs and Per Customer Line Set-Up Costs.

(2) The following provisions shall also apply with respect to any determination made under paragraph 50A.4:

- (1) the Director may determine that a cost is not reasonable if he considers that the Licensee could at the relevant time have used lower cost methods in implementing the relevant aspect of any Carrier Pre-selection Standard Service and in that event the Director may disallow the item of cost in question in whole or in part as appropriate;
- (2) in respect of any individual item of cost the Director may determine into which category of cost it falls, and if he considers that any such item of cost cannot reasonably be categorised as Carrier Pre-selection System Set-Up Costs, Per Operator Set-Up Costs or Per Customer Line Set-Up Costs, the Director may determine whether and to what extent the Licensee may reasonably recover such costs;
- (3) in the event that, in making any determination under paragraph 50A.4 the Director considers that the cost basis of any charges for a Carrier Pre-selection Standard Service in any preceding period has been inaccurately estimated, he shall make an adjustment to such a charge determined by him as he considers is appropriate for rectifying the matter.

**50A.5** When the Licensee provides Carrier Pre-selection Facilities in accordance with the Carrier Pre-selection Functional Specification which does not involve Autodiallers, the costs incurred by the Licensee in providing Carrier Pre-selection Standard Services shall be recovered by direct charges to Pre-selected Operators.

**50A.6** When the Licensee provides Carrier Pre-selection Facilities in accordance with the Carrier Pre-selection Functional Specification which does not involve Autodiallers, the costs incurred by the Licensee in providing System Set-Up Facilities shall be recovered by a separate surcharge on all Relevant Calls.

**50A.7** Subject to the provisions in paragraph 50A.8, when the Licensee provides Carrier Pre-selection Facilities in accordance with the Carrier Pre-selection Functional Specification involving Autodiallers, the Director may determine the proportion of the total costs of the provision of Carrier Pre-selection Facilities to be borne by the Licensee and the Licensee shall recover that proportion by a means of a surcharge on all Relevant Calls.

**50A.8** Subject to the provisions in sub-paragraphs 50A.8(1) and (2), the Director may, at any time, or on request, make a determination specifying the level of the surcharges referred to in paragraphs 50A.6 and 50A.7 and the period of time for which they shall apply.

- (1) Any determination specifying costs or charges made under paragraph 50A.8 shall:
  - (1) unless some other cost-basis shall have been substituted by the Director, be based upon the Licensee's long-run incremental costs of providing Carrier Pre-selection Facilities;
  - (2) be calculated on the basis of information provided by the Licensee to the Director in accordance with related provisions of this Licence and in response to any written request by the Director which shall be responded to within the reasonable time limits specified in the request;

(2) The following provisions shall also apply with respect to any determination made under paragraph 50A.8.

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- (1) the Director may determine that a cost is not reasonable if he considers that the Licensee could at the relevant time have used lower costs methods in implementing the relevant aspect of any Carrier Pre-selection Facility and in that event the Director may disallow the item of cost in question in whole or in part as appropriate;
- (2) in the event that, in making any determination under paragraph 50A.8 the Director considers that the cost basis of any charges for a Carrier Pre-selection Facility in any preceding period has been inaccurately estimated, he shall make an adjustment to such a charge determined by him as he considers is appropriate for rectifying the matter.

**50A.9** Where a notice for the purpose of paragraph 50A.1 has been given, the Licensee may refer in writing to the Director for a determination on any question as to the reasonableness of:

- (1) the request for the provision of Carrier Pre-selection or Carrier Pre-selection Facilities, taking into account the technical and operational characteristics of the Licensee's Applicable Systems, and, if relevant, those of the applicable systems of the Pre-selected Operators;
- (2) the costs of providing Carrier Pre-selection or Carrier Pre-selection Facilities;
- (3) the categorisation of costs;
- (4) the proposed use or use of a higher cost method in proposing to implement or implementing any aspect of Carrier Pre-selection where a lower cost method could or ought to have been used;
- (5) the charges to be made for providing Carrier Pre-selection Facilities;
- (6) the basis for calculating such charges.

**50A.10** In making any determination under paragraph 50A.4 or 50A.8 the Director shall follow the time limits and consult in accordance with the procedures set out in Schedule 1 Part I paragraph 6 of this Licence.

**50A.11** If requested in writing by the Director, the Licensee shall provide to the Director a record of each Subscriber in relation to which it is providing Carrier Pre-selection, specifying the relevant Pre-selected Operator.

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## EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Telecommunications (Interconnection) Regulations 1997 and the Telecommunications (Licence Modification) (Standard Schedules) Regulations 1999 in respect of the carrier pre-selection conditions contained in the licences granted under section 7 of the Telecommunications Act 1984 for the running of public telecommunications system.

These Regulations implement the carrier pre-selection provisions of Directive [98/61/EC](#) of the European Parliament and the Council with regard to operator number portability and carrier pre-selection (O.J. No L268 3.10.98 p. 37) amending Directive [97/33/EC](#) of the European Parliament and the Council with regard to operator number portability and carrier pre-selection (O.J. No L199 26.07.97 p. 32).

Part I of the Regulations contains general provisions. In particular, regulation 2 relates to the interpretation of the Regulations and defines "the principal Regulations" as being the Telecommunications (Interconnection) Regulations 1997 and the "Standard Schedules

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Regulations" as being the Telecommunications (Licence Modification) (Standard Schedules) Regulations 1999.

Part II relates to amendments to the principal Regulations. Regulation 3 modifies the principal Regulations by placing an obligation on the Secretary of State and the Director General to ensure, in exercising their functions under the Telecommunications Act 1984 (particularly concerning licensing), that the provisions of the Directive concerning CPS are complied with. Regulation 4 modifies all fixed PTO licences to include the CPS condition set out in the Schedule to these Regulations, which is inserted in the Standard Schedules Regulations in the appropriate place. A deferment was granted by the Commission of the European Communities on 22nd December 1999 in accordance with Article 1(4) of Directive [98/61/EC](#) in respect of British Telecommunications PLC, deferring compliance with the requirements of the CPS provisions of the Directive until 1st April 2000.

A regulatory impact assessment is available and can be obtained from Communications and Information Industries Directorate, Department of Trade and Industry, 151 Buckingham Palace Road, London SW1W 9SS. Copies have been placed in the libraries of both Houses of Parliament.



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**Changes and effects yet to be applied to :**

- Regulations revoked by [2003 c. 21 Sch. 19\(2\)](#)