

## **SCHEDULE 3**

### **PART A:**

## **OPERATORS WITH SIGNIFICANT MARKET POWER FOR THE PURPOSES OF THE INTERCONNECTION DIRECTIVE**

### *Condition 15*

#### **REQUIREMENTS RELATING TO INTERCONNECTION AGREEMENTS WITH SCHEDULE 2 PUBLIC OPERATORS**

##### **Cost Oriented Charges**

**15.1** Where the Licensee runs the systems or provides the services described in Parts I and II of Schedule 1 to the Interconnection Regulations (fixed public telephone network and leased lines services), the Licensee shall secure, and shall be able to demonstrate to the satisfaction of the Director at his request, that the charges offered, payable or proposed to be offered or payable by a Schedule 2 Public Operator to the Licensee for each Standard Service, including the amounts applied to each component within that Service, are reasonably derived from the costs of providing the Service based on a forward looking incremental cost approach (except to the extent the Director considers it appropriate that for a transitional period, or in any particular case, the Licensee apply another cost standard). The Licensee shall comply with any adjustment required by the Director in exceptional cases where justified to ensure effective competition or interoperability of services for users or both.

**15.2** The Licensee shall ensure that the amount applied and incorporated in the Transfer Charge and other terms and conditions for any service which the Licensee provides to itself or any member of the Licensee's Group which is Schedule 2 Public Operator and which is the same as a Standard Service, are the same as those applied to Schedule 2 Public Operators for such Service.

**15.3** Any offer by the Licensee to a Schedule 2 Public Operator pursuant to Condition 13.1 shall not be conditional on the acceptance by such Operator of any other terms and conditions except for terms and conditions which are necessarily incidental to the provision of the Standard Service in question.

**15.4** The Licensee may set different tariffs, terms and conditions for Interconnection for different categories of Schedule 2 Public Operators running telecommunication systems or providing telecommunication services, where such differences can be objectively justified on the basis of the type of Interconnection provided or on the basis of relevant Conditions of the licence.

##### **Network Charge Change Notice**

**15.5** The Licensee shall give notice in writing of any proposal to change any charge for a Standard Service or to introduce a charge for a proposed New Standard Service which identifies:

- (a) (i) the Standard Service, the current charge for, and the location in the Licensee's current standard Interconnection agreement of the terms and conditions associated with the provision of the Service and the proposed charge; or  
(ii) the proposed charge and associated terms and conditions for the proposed New Standard Service; and
- (b) the date on which or the period for which the proposed new charge will take effect, ("the effective date or period").

*Status: This is the original version (as it was originally made).*

The notice above shall be referred to in these Conditions as a “Network Charge Change Notice”.

**15.6** The Licensee shall send the Network Charge Change Notice to the Director and to all Schedule 2 Public Operators with which it has entered into (or offered to enter into) an agreement pursuant to Condition 13.1:

- (a) in the case of a Competitive Standard Service, a Prospectively Competitive Standard Service, or a New Standard Service, not less than 28 days before the proposed change is to take effect; and
- (b) in the case of all other Standard Services, not less than 90 days before the proposed change is to take effect,

and the Licensee shall not apply any proposed new charge before the effective date or period.

**15.7** When the Director decides to investigate a proposed charge for a Standard Service or a charge for a New Standard Service before the period of notice specified in paragraph 15.6 expires, on the basis that:

- (a) it is not independent of the type of application of the Service which Operators implement or may implement;
- (b) except in the case of a Competitive Standard Service, it will not differ by time of day in accordance with the Licensee’s retail time of day gradient; or
- (c) the unit of payment or method of charging is to be changed, for example, by the introduction of a minimum fee or a charge comprising a set up charge and an ongoing usage related charge, or to capacity based charging, or as a result of the repackaging of a Service,

the Director may direct that the Licensee:

- (d) change the effective date specified in accordance with paragraph 15.5(b) from which the New Standard Service will be offered, or as the case may be, the proposed charge will take effect, to a date specified in the direction; or
- (e) withdraw the Network Charge Change Notice and that, except to the extent that enforcement action is taken against the proposal, the proposal may not take effect except in accordance with a further Notice under paragraph 15.5 sent after a date specified in the direction.

**15.8** Without prejudice to Condition 8, if, in the opinion of the Director, the information provided in a Network Charge Change Notice does not contain all the information specified in paragraph 15.5 or is inaccurate, then the Licensee shall provide to the Director, in the manner and at the times as the Director may request, such information or such further information as the Director may reasonably require to address the deficiency in the Notice. If the Director makes such a request, he may direct that the Licensee:

- (a) change the effective date specified in accordance with paragraph 15.5(b) from which the proposed charge will take effect, to a date specified in the direction; or
- (b) withdraw the Network Charge Change Notice and that, except to the extent that enforcement action is taken against the proposal, the proposal may not take effect except in accordance with a further Notice under paragraph 15.5 sent after a date specified in the direction.

**15.9** If, before it comes into effect, the Licensee withdraws a Network Charge Change Notice, or changes the effective date, the Licensee shall send to the Director, to all Schedule 2 Public Operators with which it has entered into (or offered to enter into) an agreement or amendment pursuant to Condition 13.1, and to every person who on or before that date requested a copy of the Network Charge Change Notice which has been withdrawn or changed, written notice of the withdrawal or change forthwith.

### **Determination of Competitive Standard Services and Prospectively Competitive Standard Services**

- (a) (a) The Director shall, following a representation by the Licensee or by a Schedule 2 Public Operator that the market for a Standard Service is competitive, or prospectively competitive, determine whether or not that market is competitive or prospectively competitive. If the Director determines that the market is competitive or prospectively competitive, then that Standard Service shall be a Competitive Standard Service, or a Prospectively Competitive Standard Service, as the case may be.
- (b) The Director may, following a representation by the Licensee or a Schedule 2 Public Operator that the market for a Competitive Standard Service, a New Standard Service or a Prospectively Competitive Standard Service is not or has ceased to be competitive, or prospectively competitive, make any determination as follows:
  - (i) the Director may determine that the market for a Competitive Standard Service is not competitive, and the Standard Service shall, accordingly, cease to be a Competitive Standard Service;
  - (ii) the Director may determine that the market for a Prospectively Competitive Standard Service is not prospectively competitive, and the Prospectively Competitive Standard Service shall, accordingly, cease to be a Prospectively Competitive Standard Service; and
  - (iii) the Director may determine that the market for a New Standard Service is not competitive or prospectively competitive, and the New Standard Service shall, accordingly, cease to be a New Standard Service.

### **Other Publication Requirements relating to the Standard List and Network Charge Change Notices**

**15.11** Except to the extent that the Director may otherwise consent, within 10 working days from the date on which a proposal to change a charge or to offer a New Standard Service comes into effect, the Licensee shall amend the Standard List to take account of the change and shall publish the amendment by sending it to the Director and to all Schedule 2 Public Operators with which it has entered into (or offered to enter into) an agreement pursuant to Condition 13.1.

**15.12** Except to the extent that the Director may consent to an alternative location or to an alternative method of publication, the Licensee shall make available in a publicly accessible part of every Major Office, in such manner and in such place that it is readily available for inspection free of charge by members of the public, a notice of the address and telephone number of the person to whom any request may be made for any of the following:

- (a) a copy of the current Standard List, any amendments thereto or the standard Interconnection agreement;
- (b) copies of the Network Charge Change Notices;
- (c) written notice of any withdrawal or change of a Network Charge Change Notice.

**15.13** The Licensee shall send a copy of the current Standard List, any amendments not incorporated into the List or the current standard Interconnection agreement offered by the Licensee pursuant to Condition 13.1 to any person who may request such items upon payment of a reasonable charge. The Licensee shall send the copy within 7 working days after receipt of such request.

**15.14** The Licensee shall send a copy of any notice to which paragraph 15.12 applies to any person who makes a request for such a notice within a period of a year after it has been sent to the Director. The Licensee shall send such notice to such person within 7 working days of receipt of the request.