

SCHEDULE 3

PART A:

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

Condition 16

REQUIREMENT TO MEET REQUESTS FOR ACCESS OTHER THAN FROM SCHEDULE 2 PUBLIC OPERATORS

16.1 Except in relation to agreements with Schedule 2 Public Operators where Condition 13 applies and subject to paragraph 16.3 below, the Licensee shall offer to provide Interconnection to the Applicable Systems to any person running a telecommunication system under a Licence reasonably requesting it in accordance with an agreement to which this Condition applies.

16.2 An agreement to provide Interconnection to the Applicable Systems shall provide for:

- (a) the connection to the Applicable Systems at such points, including points other than Network Termination Points on Served Premises, of telecommunication systems or telecommunication apparatus run by the person making the request; and
- (b) the provision by means of the connection so made of such telecommunication services (including the conveyance of message which have been or are to be transmitted or received thereby), information and other services,

as may reasonably be requested.

16.3 The Licensee shall provide such Interconnection on charges, terms and conditions set out in the reference interconnection offer and referred to in Condition 14.2(b), and in setting the charges, terms and conditions shall secure that

- (a) charges shall be transparent and cost oriented;
- (b) different charges, terms and conditions for different circumstances shall be objectively justified on the basis of the services or service elements provided to the person concerned; and
- (c) charges shall be sufficiently unbundled to ensure that there is no requirement to pay for anything not strictly related to the services requested,

and shall ensure that it is able to demonstrate the same to the Director at his request.

16.4 Where the Licensee or a member of the Licensee's Group which is not a Schedule 2 Public Operator uses services or facilities equivalent to services provided by means of the Applicable Systems and to which paragraph 16.2 above applies, it shall ensure that the quality of and the terms and conditions applying to services provided to others in accordance with that paragraph shall be the same as for those provided to or used by the Licensee or a member of the Licensee's Group.

16.5 The Licensee or the person requesting Interconnection may at any time request the Director to make a direction in order:

- (a) to specify the issues which must be covered in the Interconnection agreement; or
- (b) to lay down specific conditions to be observed by one or more parties to the agreement,

and a direction under this paragraph operates as an exercise by the Director of the power of direction conferred by regulation 6(3) of the Interconnection Regulations.

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

16.6 The Licensee shall:

- (a) comply with the requirements of any direction given to the Licensee under paragraph 16.5 above or under regulation 6(3) or 6(4) of the Interconnection Regulations in relation to any agreement to which it is or is intended to be a party;
- (b) comply with the requirements of any direction given to the Licensee under regulation 6(6) or 6(7) of the Interconnection Regulations in relation to any dispute over the terms of any agreement made under paragraph 16.2 above;
- (c) where the Director specifies a condition based on essential requirements pursuant to regulation 7(1) of the Interconnection Regulations for inclusion in an Interconnection agreement to which the Licensee is a party, forthwith secure the incorporation of those terms and conditions in such an agreement;
- (d) comply with any requirement made by the Director as a last resort under regulation 6(10) of the Interconnection Regulations to interconnect in order to protect essential public interests, and comply with any terms set by the Director for such purpose;
- (e) comply with any decision by the Director under regulation 10(2) of the Interconnection Regulations; and
- (f) comply with any facility or property sharing arrangements, or both, specified by the Director in accordance with regulation 10(3) of the Interconnection Regulations.