

## Ofcom Review of the Universal Service Obligation: statement and further consultation

### Response from TAG

1. TAG welcomes the opportunity to respond to the statement and further consultation on the Ofcom Review of the Universal Service Obligation (USO). As a consortium of the full range of national and regional organisations in the UK working on behalf of deaf people, TAG promotes equality of access to electronic communications, including telecommunications and broadcasting, for deaf, deafened, hard-of-hearing, deafblind people and sign language users. In this response the word “deaf” will be used to cover the complete range of hearing loss unless otherwise specified.
2. This response will answer the specific questions posed in the statement, but we would like to also take the opportunity to make some more general points on the issues that have arisen. TAG believes it is imperative that the USO is used to address the many areas where the telecommunications market fails to provide access and viable solutions for deaf people, promotion of which should be the main purpose of the USO. To this end General Condition 15 needs not only to be strengthened, but also to be enforced in a timely manner when its requirements are not being implemented.
3. Section 3 of the statement deals with the more strategic issues related to universal service. We note that 3.2 admits that universal service is reactive, and “not at the forefront of ...changes”, and TAG also acknowledges that Ofcom has to act within the framework set by the European Commission. However, we still believe there is a fundamental misunderstanding of the reason for universal service where it relates to deaf and other disabled consumers. The arguments currently used in determining the scope and future development of universal service are wholly economic in nature. While this form of regulation might address economic barriers to usage, such as geographic coverage, it is not adequate to cover accessibility or wider problems of social inclusion. Where deaf consumers are concerned, the goal of universal service should be to ensure that they have equal access to electronic communications to that enjoyed by mainstream users. That is currently far from being the case.
4. TAG is therefore very disappointed that it has been decided that neither mobile nor broadband should be included in the scope of universal service at the present time, since the evidence shows that deaf people are facing increasing barriers in daily life as a result of not having equal access to telecommunication services and products. The reasons for reaching the conclusion that mobile and broadband should be excluded are entirely economic ones – that mobile is seen as being competitive and broadband take up is seen as being too low to justify inclusion. This approach completely ignores the fact that for deaf users mobile is most certainly not yet competitive, as real time text communication and video communication do not yet have the same degree of choice, availability and affordability. It also

ignores the fact that, for most hearing aid users, interference means that the use of voice with mobile handsets is often either difficult or impossible. It similarly ignores the fact that the development of services for deaf users will require increasing use of broadband technology to give choice and affordability. The concept of broadband as an enabling technology to address inclusion issues is strongly supported by the EU, but cannot be adequately pursued unless the regulatory framework includes it.

5. TAG feels that Ofcom should use its power as one of the leading regulators in Europe to influence the decisions taken by the EU in these matters far more than it currently does. Ofcom seems far too prepared to follow rather than to lead the way. If Ofcom took a more proactive stance TAG feels that European legislators would take heed. We need to get away from the idea that universal service is rooted in fixed line telecommunications, and start seeing it as the means of ensuring equal access for all users, and that means using whatever methods are most appropriate to achieve this, which might be fixed line in some cases, mobile in others, or a combination of the two. The USO needs to recognise that fixed line telecommunication is increasingly losing its dominance. Similarly universal service should encourage the use of appropriate technology, and not exclude specific methods such as broadband on purely economic grounds. Deaf people need to be empowered by enabling them to participate fully in new technologies, but this is unlikely to happen without regulatory support.
6. TAG urges Ofcom to return to this matter urgently, to ensure that these questions are dealt with appropriately in the EU review of universal service planned for next year, and to take this forward proactively and lead the way in ensuring that deaf users have equal access.
7. The first specific question asked relates to special tariff schemes, and seeks views on the proposal that BT should proceed with the revised targeted scheme and on Ofcom's proposed measures to ensure take-up. TAG considers the revised proposals represent a significant improvement on those in the earlier consultation, and supports this proposal.
8. Although no question is posed on the disconnection proposals TAG welcomes the statement in 4.39 that action is needed where vulnerable customers, which includes deaf people, are concerned, and fully supports the suggestions that Ofcom puts forward.
9. Questions 2, 3 and 4 all relate to public call boxes and changes to the definition of a site. TAG generally supports the proposals put forward, which seems reasonable and proportionate. We would like the Guidance set out in Annex H to stress the importance of not removing public call boxes where this would lead to a reduction in service for deaf people living in that area. Vulnerable people are mentioned in the context of emergency calls, but this could also apply to housing types if there are residential homes in the locality. TAG would like to see this guidance tied in with the provision of text payphones at a locality, i.e. there should be special provisions if the remaining call box at a site is a text payphone.

10. There are only two specific questions on section 6, which covers services for customers with disabilities. We will deal with those and then raise other issues from that section. Question 5 invites views on the proposed amendments to General Condition 6 as set out in Annex F. TAG welcomes any proposal that increases the accessibility of public call boxes, and therefore supports the increase in the proportion that have additional receiving amplification from 75% to 80%, though we would have liked that to be higher, as we understand that BT already exceeds that target. Indeed we see no reason why a 100% target should not be set, because as PCBs become less numerous the importance of those that remain being fully accessible becomes of greater importance. We also welcome the new clause relating to apparatus enabling people with hearing aids to use public call boxes. While there are benefits in this not being technology specific, since inductive coupling may not always be the best method of achieving this aim, we feel it needs to be recognised that inductive coupling is likely to remain the best solution for the next few years. We therefore feel the clause as currently worded is unduly convoluted and could be simplified. Again our understanding is that BT already provides inductive coupling in all their call boxes, so this is not going to be an onerous requirement. We similarly support the idea of an event on call box accessibility and look forward to taking part in this.
11. Question 6 invites views on the amendment to General Condition 15 as set out in Annex I. We support the replacement of “Consumer Panel” by “Ofcom” in Condition 15.1, as we indicated in our response to the earlier consultation. We also welcome and support the widening of the definition in 15.7 to any consumer who is unable to read because of a disability, and feel this is a very helpful development. However, we have concerns about the amendment to Condition 15.4 removing the requirement for short code access to a directory enquiry facility for users of the relay service. General concerns have been raised about the withdrawal of 192 and the development of a range of directory enquiry services with numbers starting with 118 and the fact that this has led to a drop in the quality of service and an increase in the cost of obtaining directory enquiry information. Vulnerable users, such as deaf people, are more at risk of not being able to find reliable information under the new directory enquiries regime and suffering detriment as a result. TAG would like to see further investigation on the use of directory enquiry services by vulnerable users and how they have been affected by these changes before the General Condition is amended.
12. TAG would like to make some further comments on Section 6 of the statement concerning services for customers with disabilities. While TAG welcomes the widening of the remit of the relay study to encompass alternative relay provision, such as speech and caption relay as well as video relay, we remain concerned at the whole approach that Ofcom is taking to this question. This relates back to our central view that the purpose of universal service is to ensure equal access for all users and that it should not be based simply on economic arguments. Equal access by certain users, such as those who have BSL as their first language or those who are too hard of hearing to use voice telephones easily or those who are speech impaired, depends on the existence,

availability and affordability of appropriate relay services that meet their specific needs. This is a need that TAG feels is the main purpose of universal service to promote and develop, as we pointed out in paragraph 2 of this response. While a feasibility study may well shed light on a number of questions of implementation it should not be used to query the actual need for these services, which should be taken as a given. At a recent well attended exhibition in London for deaf people visitors expressed considerable interest in captioned and video relay services and concern that they are not currently generally available at an affordable cost.

13. TAG strongly challenges BT's view that video relay is not appropriate to universal service, and regard their mention of the DDA as a red herring designed to confuse the situation. Video relay is essential to allow those whose first language is BSL to access the telecommunications network, and also to allow non-BSL users to communicate with them. Surely this is the whole basis of universal service. TAG similarly challenges the view of the Mobile Broadband Group and others that mobile video relay should not be included in universal service, since BSL users have equal right to access when on the move as they do in their own homes and offices. These statements by the industry are not supported by evidence of actual user needs.
14. In their response to the earlier consultation BT made a number of questionable statements such as the one mentioned above. They also said that in their view the universal service requirements for text provision are met by TextDirect. That is not correct – the requirement is for affordable access to a relay service while TextDirect is merely a platform enabling BT to overcome certain technical difficulties with PSTN based telephony. BT also claim the current model is meeting user needs and that it is important for them to retain control over funding and management to continue to provide this. In reality, the current model has led to under-provisioning of the relay service, has stifled innovation and has prevented the development of alternative methods of access. BT in its response claimed the service is not under funded, yet it has consistently missed its targets for much of the past year because of lack of sufficient staff, and users have regularly complained about the standard of service. BT also state the relay has kept pace with technology, but a comparison with the relay services that are now operating in other parts of the world shows how wrong this statement by BT is. Indeed there is evidence that many users who would benefit from using the text relay service refuse to do so because it remains based on legacy technology and requires the use of legacy equipment, such as textphones working at 300 baud, to access it. Therefore, TAG warmly welcomes and strongly supports the proposal in section 6.29 that “the future development of the relay service will be shaped by the additional features that IP potentially makes possible”, and would like to see this progressed as quickly as possible.
15. TAG welcomes the proposal to set up a Stakeholder Advisory Panel for the text relay service. However, TAG does not believe it is appropriate that BT should facilitate the panel, as proposed in section 6.17, since that would detract from its independence. TAG agrees that both BT and RNID (while they remain the text relay service provider) should be represented on the

panel, but it should be brokered and facilitated either by Ofcom or by some other completely independent body. Failure to do this will largely negate the reason for establishing the panel. TAG agrees that panel members should be nominated by groups rather than being elected as individuals, and would expect that TAG would have one of those nominations. We also welcome the proposal to publish an annual plan and report on the relay service, and that this should include TextDirect.

16. In the proposed amendments to General Condition 15 set out in Annex I TAG notes that no change is proposed to the definition of a relay service in 15.10 (e), and that the definition is still limited to a text relay service. Given the proposed study into alternative forms of relay service we feel the opportunity should have been taken to revise this definition to make it capable of including these alternative forms. We suggested a possible definition in our earlier response as follows: “Relay service: a communication support for people with disabilities that performs conversion between communication modalities (e.g. speech to text, signing to speech) or normalises a given modality (e.g. impaired speech to speech) for the purpose of enabling or improving communication.” TAG is disappointed that no attempt has been made to address this issue.
17. Similarly TAG is disappointed that no attempt has been made to revise General Condition 15.3(b) to reflect the fact that special tariffs should apply to back to back text calls as well as to calls using the relay service. We feel that the opportunity should have been taken to generally strengthen General Condition 15 as we pointed out in paragraph 2 above. However, no amount of regulation will be effective unless it is properly implemented and enforced, and TAG hopes there will be no further failures and delays such as those that have occurred with the implementation of access to the relay service by mobile providers.
18. Questions 7 and 8 relate to the charge made for provision of a connection. TAG has no objection to the proposal concerning non-uniform charging as set out in Annex J. TAG welcomes the introduction of guidance as set out in Annex K, especially the section on vulnerable groups and supports the proposal.
19. Question 9 relates to the amendments of the guidelines on functional Internet access as set out in Annex M. While TAG is disappointed at the exclusion of broadband from universal service, as explained at several points above, we have no objections to the proposed amendments.
20. Section 8 of the statement considers the costs and benefits of providing universal service. Although there are no specific questions on this section TAG would like to record its profound disappointment at Ofcom’s continued rejection of the need for a universal service fund, especially as the costs of providing services to disabled customers have not been calculated or considered in reaching this conclusion. We here return to our main theme – that there is an incorrect emphasis on purely economic arguments in reaching these conclusions, without any consideration of the social benefits that would

follow from a fresh approach. The social benefit of a universal service fund is that it would provide an independent source of finance for services that are mandated under this obligation, thus providing a much fairer and balanced approach to their provision and management. Many of the current problems in the delivery of the relay service are caused by the fact that the funding is controlled by the provider with SMP, which gives them undue influence on the way the service is delivered, and which may not be in the best interests of users, especially as they are vulnerable users and perceived as being a niche market. Creating a universal service fund would not necessarily increase the amount that was required to be provided, but it would ensure that the service was delivered in the most appropriate way and in the best interests of users. TAG believes that Ofcom is wrong not to consider this as a solution and that it uses purely economic arguments to do so. The Communications Act specifically provides Ofcom with the ability to set up a universal service fund, and this should be used where appropriate. It has nowhere been demonstrated that use of such a fund would be inappropriate or would place undue burden on the industry, but there is mounting evidence that it would help to resolve many of the current problems. TAG would like to see a full analysis of the costs of providing appropriate services for deaf users, including a social cost benefit analysis, carried out as soon as possible, and this must include not only current text services, but alternative forms such as video and captioned relay whose need has been established.

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