

Ofcom Review of the Universal Service Obligation

Response from TAG

1. TAG welcomes the opportunity to respond to the Ofcom Review of the Universal Service Obligation. 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. TAG is disappointed at the limited scope of the current review, though we appreciate that it is being carried out in conjunction with consideration of strategic issues connected with universal service in the Strategic Review of Telecommunications, to which we have already responded. Immediate action is required to provide deaf people with a similar level of access and quality of service to that enjoyed by hearing people. However, the proposed timescale means that fundamental changes would not be implemented for some years, which is unacceptable. At the very least Ofcom should put in place transitional measures to prevent continued disenfranchisement of deaf people.
3. TAG’s view is that the current definition and implementation of the Universal Service Obligation (USO) still reflects the way in which telecommunication was delivered when it was originally set up, and it is therefore historically rooted in fixed and narrowband telecommunications and places obligation on the provider seen to have SMP. This is increasingly inappropriate in the current pluralistic market. USO should be a mechanism to deliver real equality of access where the market fails to provide it. In addition, it seems logical that obligations are laid upon all providers, not just those identified as having SMP.
4. Ofcom has a duty to further the interests of citizen-consumers, and TAG believes that the evidence shows that the current implementation of the USO is failing deaf users. In fact, because it is so reactive it is actually leading to detriment for these consumers rather than benefit, since it offers no incentive to include deaf citizen-consumers in the development of new technological solutions, which in turn forces them into using niche solutions rather than being included in the mainstream from the start. There are numerous examples of this – the continued use of textphone technology based on standards that are now virtually obsolete everywhere else, the development of GSM mobile telephony in a way that caused interference with hearing aids, the lack of facilities for interactive texting in the development of GSM mobile technology as well as in new voice services, etc.
5. TAG therefore believes that to conduct a review solely based on the existing provisions of the Universal Service Order is unlikely to yield a level playing field or to deliver the real equality of access that is required. Given the time

that any fundamental review is likely to take, deaf users will fall even further behind and their needs may not be included in the developments that are now taking place. For instance, broadband has the potential to deliver many benefits for deaf users, and some developments are unlikely to be possible without it. Its exclusion from the USO is therefore extremely unhelpful. These things are needed now if deaf consumers are not to suffer even further exclusion and denial of their right to full participation in telecommunications, and thereby in society – something the USO should be urgently addressing.

6. There are some omissions from the current review that TAG believes should be considered, and we would like to highlight a few of these. The first concerns the definition and determination of a relay service. We will return to the scope of the relay service in our response to question 11 in the review, but for the moment we would point out that under General Condition 15.10 a relay service is a service which has been approved as such by the Chief Executive of Ofcom, but currently no quality of service guidelines exist to help in this process. TAG believes that even if there is currently little choice in such decision making there should be independent and objective guidelines that can be used. One possible source would be the ETSI *Guidelines for Telecommunication Relay Services for Text Telephones* (ETSI TR 101 806). Another possible source is the FCC *Telecommunication Relay Service Rules* (47 C.F.R. § 64.601-64.605). Whatever source is used, stakeholder input is essential in creating suitable guidelines. We would also point out that currently access to and functionality of the existing relay service is constrained by the functionality of the TextDirect platform, which does not always lead to the most appropriate outcome. It would not be appropriate to go deeper into this in the current response but TAG would be happy to expand on these comments to Ofcom.
7. General Condition 15.3 requires the application of a special tariff scheme to compensate customers who make calls using a relay service, but as currently drafted refers only to calls involving the relay and fails to mention back-to-back calls between two textphone users, which also require a special tariff to recognise the longer time taken to make them. Up to the present many providers have proved willing to offer a special tariff for these calls as well, but while they remain omitted from the Condition there can be no certainty that new providers will continue to agree to a special tariff for such calls. There is already variation in how this Condition is interpreted, and some indirect access suppliers are not applying a special tariff.
8. TAG is disappointed at the statement in Annex G.29 that terminal equipment falls outside the scope of the USO, but welcomes the announcement that Ofcom will publish proposals on how it intends to carry out its Section 10 duties. For the majority of deaf users access to the network and its services is impossible without appropriate equipment, and therefore the current split between the two is unhelpful. This is particularly the case for deafblind people and those with severe dual sensory disabilities, whose access to telecommunications is virtually non-existent because of the lack and high cost of suitable terminal equipment. TAG believes the USO should be extended to cover end-to-end connectivity.

9. We will now turn to responses to the various questions that Ofcom has posed in the review. Some fall outside TAG's remit, but we will attempt to respond to all that are appropriate to deaf users.
10. **Question 1** asks what should be the arrangements for funding USO in future. TAG firmly believes it is essential to set up a Universal Service Fund (USF), an instrument explicitly provided for in the Communications Act. Provided it is independently administered, this is the best way to achieve real equality of access and to create the essential separation of funding from management and service delivery. Also, in the context of a pluralistic market we feel it is unsustainable to continue to place the burden of delivering the USO on one provider with SMP, and that it needs to be shared across all providers to ensure there is competition and choice, especially in those areas where the free market will not deliver. The current funding framework has demonstrably stifled the development of inclusive and innovative new services, and TAG believes that a new approach using a USF stands a far better chance of succeeding to do so. We believe that various mechanisms should be further investigated to decide which would be the most suitable, whether that is an indirect levy or some other means.
11. **Question 2** asks how competition for the delivery of USO could be organised. TAG believes that competition will be made possible by means of a USF administered by an independent and neutral body which could also set service levels and impose control mechanisms. Various services would be identified as suitable for such funding and tenders invited to operate them. The USF would also be used to fund new technological developments and again this could be done by a tender process. It would be important that successful tenders are judged on quality and range of services and not simply on least cost. But it is vital that the USF is administered by a separate entity.
12. **Question 3** asks whether mobile technologies should be used to address the USO. From the points made earlier it will be evident that TAG believes that the USO should be proactive rather than reactive and should be make use of all technologies that will help to deliver real equality of access for deaf users. This can only be achieved by using not only mobile technology, but other developing technologies such as broadband. We recognise that this will require a change in the existing legislation, which would need to be pursued at the earliest opportunity.
13. **Questions 4 and 5** seek views on schemes for light users. These do not directly fall within TAG's remit and we would merely wish to ensure that any scheme that is implemented should be fully accessible to deaf customers. For example, voice prompts are unlikely to be accessible to deaf people and alternative means of access should be available. Tariff structures should also be appropriate for the needs of deaf users. For instance, if a profoundly deaf person is eligible for such a scheme the tariff should reflect the fact they will be making text rather than voice calls. We would also question whether the use of direct debit as a payment mechanism is appropriate for the target group,

and feel that means testing is likely to act as a deterrent and discourage take up.

14. **Question 6** asks whether BT's services for debt management should be promoted more effectively. This is again outside TAG's remit but we would support any measure that leads to greater consumer awareness and provides information in a more accessible manner.
15. **Questions 7 and 8** concern the siting of public call boxes (PCBs). Again this is not really within TAG's remit, but we would suggest that any PCB that provides access for deaf users, such as a text payphone, should be subject to in depth consideration before removal is agreed. We do not believe that an algorithm would be able to capture all the variables that need to be taken into account.
16. **Question 9** asks whether cash payment should be retained at the last PCB on a site. TAG appreciates the arguments concerning vandalism and that PCBs offering cash payment are the most likely to suffer from this, but we none the less feel that many of those who require the use of a PCB are the least likely to be able to use other payment mechanisms. We therefore believe that the facility for cash payment should remain.
17. **Question 10** suggests that emergency or freephone call boxes might replace a PCB. TAG has some concerns over this approach. PCBs still serve a social need, especially for vulnerable users. If a deaf person is stranded away from home and is unable to use a mobile to let others know of his or her whereabouts this could well constitute an emergency in which an accessible PCB might be vital. It is however unlikely that this would fall within the definition of how an emergency or freephone call box might be used.
18. **Question 11** asks whether a feasibility study of a video relay should be carried out. TAG believes that a video relay would allow those for whom BSL is a first language to use the telecommunications network in their preferred method of communication at a speed that is more or less equivalent to that of speech. BSL has been recognised by the government as a language, and this implies that the rights of BSL users to use that language for communication should be recognised and that this is their basic human right. Several small video relay services are already operating, proving that the service is feasible. A USF is required to enable a national service to be established. Mobile networks increasingly provide video services, which is further proof that this technology could also be used to benefit lipreaders. Until a USF is available, Ofcom must take steps to sustain the already emerging video relay services in the intervening period.
19. TAG believes this is exactly the sort of situation that a USF is designed to meet, so that funding becomes available to run essential services that a free market is unlikely to deliver, but which are required to allow sectors of the population access to telecommunications in the language and using the modality of their choice. We would also point out that a video relay, and

indeed any relay, also benefits all those who wish to communicate with deaf people.

20. TAG also believes there is a need for a relay service for people with speech impairments who require a speech to speech relay staffed by operators who are trained to understand the speech of these users and relay it to others. Additionally, there are well over a million hard of hearing people who find using voice telephony, especially with people they do not know, difficult, and who need text support in addition to what they hear in order to ensure they receive information correctly over the telephone. These users are perfectly able to speak and to use a voice telephone for that purpose, but need text as well as voice in reply. This is a different form of speech to speech relay that does not currently have a commonly accepted name, but which normally makes use of a captioned telephone (rather than a text telephone) and an operator who relays what is being said so that it appears on the screen of that captioned telephone simultaneously with what is being heard by the user through the receiver. The current review makes no mention of this at all, yet there is an equally valid need for such a service to be implemented.
21. TAG believes that a broader definition of a relay service is required under the USO, but appreciates that any definition must be legally enforceable. We suggest as a starting point something along the lines of the following: “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”. While TAG realises that the USO must be technology neutral it is also important that any relay service utilises the most appropriate technology and takes account of new developments. We again believe that a USF offers a means of accomplishing this, since the current funding methods tend to stifle innovation, e.g. the use of voice recognition and IP access technology in the text relay service.
22. The development of appropriate relay services is central to TAG’s view of universal service and how it should develop, hence our stress on this issue. Video and other forms of relay services are already a reality in other countries such as the United States. Trials and services already in place in the UK, such as the RNID video relay and the Teletec Captel service, show that these services are already technologically possible. However, to develop them for wider use requires a new approach to universal service, and TAG urges Ofcom to consider this in a proactive manner. While a feasibility study of video relay may be carried out this will take time, and the outcome is uncertain. Meanwhile, BSL users are still denied access to telecommunications in their first language, and this situation needs to be rectified.
23. **Question 12** asks whether a Stakeholder Advisory Panel should be set up for the relay service. TAG’s view is that stakeholder input is vital as soon as a new service is considered, and should be an integral part of service delivery to ensure it meets the needs and requirements of users. We also believe more is needed to make the relay service properly accountable and to break the link that currently exists between funding, governance and management. Setting

up a USF administered by an independent body would go a long way to achieving this aim. The contract to operate a relay service would be awarded by the body which administers the USF following a tender exercise which would take into account not just cost factors but definition and quality of service offered. The funding mechanism would therefore be completely separate from the management of the service.

24. However, a stakeholder panel would still be an appropriate means of ensuring that the relay was properly accountable and that it was developed in a way that was most appropriate for the users. The Australian model has much to offer, and the way the Australian relay is funded bears out most of what we are proposing as well. However, the Australian panel is drawn wholly from user groups, and TAG supports Ofcom's view that a fully representative panel would also include industry and provider representation. However, it is vital that decisions on matters such as required functionality lie with the user representatives. TAG believes that selection of membership for such a panel needs to be as open as possible and that members are chosen against an agreed person specification rather than specific organisations being invited to supply representatives. The panel should have a brief to consult directly with children and young people who are users (or potential users) of the relay service. Traditional meetings may not be appropriate for these users, but creative measures, including good use of new technology, could be employed to ensure that the views and experiences of children and young people are properly considered. The panel would need appropriate funding and support to facilitate this.
25. **Question 13** asks if the relay service should provide an annual plan and report. TAG fully supports this proposal and hopes it will be implemented as soon as possible. Since it is a critical instrument in providing access to the relay, we would wish to extend this requirement to BT TextDirect.
26. **Question 14** asks whether mobile/email relay access should be pursued. Again TAG is not sure this is the right question. We reaffirm that users should be able to use the method of communication of their choice, whatever that may be, and we would therefore support the widest possible range of services. Communicating on the move is an important aspect of modern life and therefore access to relay services should be available to deaf people on the move as well.
27. **Question 15** concerns the accessibility of PCBs. TAG recognises that usage of PCBs is dropping, but believes they still fulfil a social need and may be required when using a mobile is not possible (either because of lack of ownership, battery failure, lack of signal or other reasons). We therefore consider that existing PCBs should be as accessible as possible, and therefore that 100% should have additional amplification, not 70% as at present. However, inductive coupling to enable a hearing aid user to use the phone with the aid in the T position is required as well as additional amplification. TAG believes these modifications should be implemented in all PCBs at an early date.

28. TAG agrees with Ofcom that the current obligations need to be enforced. TAG would also suggest that all new multimedia payphones should be usable for interactive text, including IP based text. This would not require additional hardware and the network connectivity to support this already exists. Enabling multimedia payphones in this way would dramatically increase the availability of text based solutions beyond the existing range of text payphones and would be of great benefit. TAG does not believe that great changes are required in this area, and that the measures proposed are not unduly onerous to implement.
29. **Question 16** asks whether the obligation to provide bills in appropriate format should be redefined to apply to all subscribers unable to read conventional bills. TAG supports any proposal that increases accessibility. Deafblind customers are one group that may have difficulty reading conventional bills but may require tailored solutions depending on the degree of their loss of hearing and vision.
30. **Questions 17 and 18** concern the imposition of charges for a telephone connection above the standard charge in certain circumstances. This is again not strictly within TAG's remit, but we welcome the proposal that there should be guidance on BT's obligation and that one factor in this guidance should be whether the consumer is disabled. However, it is not clear if that would mean that additional charges would not be levied on disabled consumers, or whether they would be in some way reduced. TAG believes that, since deaf people are more likely to suffer social isolation without adequate means of communication, they should always be provided with a telephone connection at an affordable price.
31. **Question 19** asks about the guidelines for functional internet access (FIA). TAG's view is that this issue is closely linked to the fact that some innovatory services for deaf consumers will require broadband connections in order to deliver them in an appropriate way, e.g. video relay. Improved internet and broadband access may also help to deliver appropriate and affordable solutions for deafblind users whose access to telecommunications is currently severely restricted. If the benchmark for FIA remains at the current level it will not be sufficient to support these developments. TAG recognises the fact that under the current legislation the USO is limited to narrowband, but we have already indicated that we feel Ofcom needs to take a proactive role in moving this forward and extending the scope of USO. This requires action as soon as possible, otherwise deaf users are once again going to be left behind and denied appropriate access to developing technologies. It will therefore follow that the minimum requirement for FIA will need to take account of the way these services will be most appropriately delivered.
32. **Questions 20 and 21** concern the costs and benefits of delivering the USO. It will be obvious from what we have said earlier that TAG believes a new approach to the delivery of the USO is required. It should be a mechanism to deliver real equality of access for all citizen-consumers, and it is not appropriate to consider it as a burden on the provider with SMP. Therefore TAG considers that universal service regulation should be used to deliver

functionally equivalent telecommunications for deaf users, and should not be determined by the economic cost involved.

33. TAG is very concerned at the statement in annex J.16 that “The cost of provision of services to the disabled (sic)...has not been investigated in this exercise” because “some of the data required to carry out the evaluation...is not readily available”. A true picture cannot be obtained if the costs have not even been looked at. Also the costs of delivering the USO for deaf users must include not only existing services but also the additional services that are not currently being implemented, such as forms of relay service other than the existing text relay, and the cost of developing new technologies and solutions to ensure that deaf users are included in the provision of new services. TAG hopes that Ofcom will undertake a more detailed assessment that will include the appropriate costs of delivering the USO to deaf users now and in the future.
34. **Question QG1** following G.25 in annex G asks whether General Condition 15.1 should be amended to require communication providers to consult with Ofcom rather than with the Consumer Panel. TAG welcomes Ofcom’s view that such consultation is vital and needs to be maintained, and also welcomes the recognition that this is a strategic remit. We therefore support this proposal, as long as Ofcom always seeks the advice of the Consumer Panel, the Advisory Committee on Older and Disabled People and other appropriate stakeholders on these issues.
35. TAG welcomes the recognition by Ofcom of the importance of the USO, but remains disappointed at the narrow scope of the current review and the timescale that is proposed before more strategic issues around universal service and its scope can be resolved. The present time is a crucial point in the development of telecommunications systems and services in the UK, with the introduction of BT’s 21st century network, the rolling out of 3G mobile services and beyond, the development of broadband and the growth of new voice services over IP. The historical and reactive nature of the USO means that deaf users are lagging behind in their access to new and developing technology, resulting in social inequity. Unless action is taken swiftly to make universal service more appropriate for the new millennium, existing barriers will not disappear, but will increase significantly. Deaf users need a new approach to universal service now rather than in four or five years time so that they can achieve real equality of access to telecommunications. TAG looks to Ofcom to act firmly and proactively to make this a reality.

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