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From the Minister of State
for Industry and Information Technology

RT HON KENNETH BAKER MP

John Moore Esq MP
Financial Secretary to
the Treasury
Whitehall
LONDON
SW1

3 July 1984

I shall be announcing this afternoon by means of a written answer that we intend to grant Mercury Communications Ltd a licence under Section 7 of the Telecommunications Act 1984, and to apply to Mercury the telecommunications code contained in Schedule 2 to that Act. The licence, which would replace the 1981 Act licence under which Mercury currently operates, would give Mercury power to establish and run a national public telecommunication system in competition with BT. The application of the telecommunications code to Mercury would give it power to instal apparatus both on private land, subject to gaining the necessary consents, and in the streets.

A statutory notice announcing our intention will appear in appropriate national and local government newspapers tomorrow and later in the week. This notice initiates a statutory period of public consultation lasting until 17 September on the proposed licence.

I enclose a copy of the proposed licence together with explanatory notes which outline the main differences between it and BT's licence. Since many of the provisions in the two licences are the same, I also enclose a copy of the explanatory notes on the BT licence, which summarise the conditions in that licence.

I am copying this letter to the Prime Minister and to Lord Cockfield, David Waddington, Alan Butler, Alick Buchanan-Smith, John Stanley, Lord Gray of Contin, John Strading Thomas, Ian Gow, Kenneth Clarke, Lynda Chalker, John MacGregor and Sir Robert Armstrong.

KENNETH BAKER

M57/M57AAG

TELECOMMUNICATIONS ACT: PROPOSED LICENCE FOR
MERCURY COMMUNICATIONS LTD

EXPLANATORY NOTES

1 These notes are intended to outline the provisions in the licence which the Secretary of State proposes to grant to Mercury Communications Ltd ("Mercury") and in particular the main differences between the conditions it contains and those in the British Telecom (BT) licence.

2 In accordance with section 8(5) and 10(6) of the Telecommunications Act 1984, the Secretary of State has issued a notice declaring his intention to grant a licence to Mercury under section 7 of that Act, and to apply to Mercury the telecommunications code contained at Schedule 2 to the same Act. This initiates a consultation period which is required under that Act and which will last until Monday 17 September, during which representations and objections may be made to: the Department of Trade and Industry, Room 525, 1 Victoria St, London SW1.

3 The licence document is divided into six parts:

- the licence to run certain telecommunications systems;
- conditions regulating how the systems are to be run;
- arrangements for revoking the licence;
- authorisation to connect to other systems and to provide telecommunication services;
- exemptions and conditions relating to the application of the telecommunications code; and
- definition of the Mercury telecommunications system

4 The conditions of the proposed Mercury licence are similar to the conditions in the BT licence, but appropriate changes have been made to reflect the different circumstances of Mercury. An explanation of the detailed provisions common to both licences can be found in the explanatory notes on the BT licence (a copy of which is attached).

5 The main differences between the two licences are:-

- Mercury does not have BT's universal service obligation. This reflects the fact that it does not have a national system like BT's. However it is obliged to install applicable systems and to provide services by means of those systems.
- Mercury is licensed to operate in the whole of the UK, whereas BT's licensed area excludes Kingston-upon-Hull, where the City Council provides services equivalent to those of BT.
- Mercury cannot provide call box services unless it applies to provide them and the Director General of the Office of Telecommunications determines that there is a reasonable demand for such services.
- Mercury cannot provide telecommunication services for seagoing vessels other than offshore installations. With this exception, BT will remain solely responsible for maritime services.
- In view of its market position, Condition 24 in the BT licence, which restricts the amount by which BT can increase its prices, does not apply to Mercury. For the same reason, there is also a minor change in the way in which BT Condition 16 of the BT licence on the publication of terms and conditions applies to charges for new services.
- Since it is not already providing local services, Mercury does not have in its licence the BT licence conditions concerning charges for the maintenance and installation of certain exchange lines (BT Conditions 25 and 26).
- Mercury's licence contains a condition requiring it to pre-notify the Secretary of State of changes in the control of its share capital and gives the Secretary of State power to revoke the licence in certain circumstances. In BT's case, the question of changes in control of share capital is dealt with in the Articles of Association.
- The condition concerning payment of fees for Mercury differs slightly from the BT equivalent (Condition 46). BT's renewal fee is based on a percentage of its turnover: because Mercury, as a new entrant, will at first have a low turnover, provision is made for its renewal fee to be calculated differently in certain specified circumstances.

- Schedule 4 of Mercury's licence includes a condition requiring arrangements to be made so that in the event of, for example, Mercury ceasing to trade, funds would be available to meet liabilities that might subsequently arise in relation to apparatus installed in the street.

- A number of conditions will come into force earlier for Mercury than for BT because, as a new entrant to the market, Mercury can meet the obligations in those conditions at an earlier date. The relevant conditions concern the requirements:
 - to record any material transfer between different parts of the business (Condition 17);
 - to keep separate accounts for systems and apparatus supply businesses (Condition 18);
 - to set up a subsidiary company for any apparatus production (Condition 20);
 - to specify separately in quotations and invoices the charges for each service provided otherwise than by means of the Applicable Systems and the charges for apparatus (Condition 33);
 - to cease to install integrated wiring on served premises, subject to certain specified exceptions (Condition 37).

6 These differences are occasioned by the differences in circumstances between BT, which already provides a national public telecommunications service, and Mercury, which is developing a national network for the purpose of providing such a service. Generally however they will both be carrying the same duties and responsibilities.

LICENCE FOR BRITISH TELECOMMUNICATIONS

EXPLANATORY NOTES

INTRODUCTION

1 These notes are intended to provide an explanation of the provisions in the licence granted to British Telecommunications ("British Telecom") by the Secretary of State for Trade and Industry under section 7 of the Telecommunications Act 1984.

2 The licence was granted by the Secretary of State on 22 June and was laid before Parliament on 26 June. It is intended that the licence will come into effect on Sunday 5 August which is the day when the new licensing arrangements established under the Telecommunications Act enter into force. British Telecom will be converted from being a statutory corporation into a public limited company on Monday 6 August and will thereafter trade as British Telecommunications plc. The Government plans to sell 51% of the shares in British Telecom later in the year.

3 The licence has been laid before Parliament in accordance with section 9 of the Telecommunications Act. This provides that no order designating a telecommunication system as a "public telecommunication system" can come into effect until at least 28 days after both the order and the licence for the system have been laid before both Houses of Parliament. The British Telecom licence and the Hull licence, which is also being laid before both Houses of Parliament, will therefore lie before Parliament for 40 days.

4 The provisions of the British Telecom licence are substantially the same as those incorporated in the draft text which was published on 25 October 1983, with certain modifications and additions to reflect the comments made in the intervening period. The licence document is divided into six parts:

- The Licence to run certain telecommunications systems;
- Conditions regulating how the Systems are to be run;
- Arrangements for revoking the Licence;
- Authorisation to connect to other systems and to provide telecommunication services;
- Exemptions and Conditions relating to the application of the Telecommunications Code; and
- Definition of the telecommunication systems British Telecom is allowed to run.

THE LICENCE

5 The Licence itself has three paragraphs. Paragraph 1 gives British Telecom permission to run the telecommunication systems (known as the "Applicable Systems") which are described in Annex A and to connect to other telecommunication systems and to provide the telecommunication services specified in Schedule 3. But when it does these things British Telecom must abide by the conditions set out in Schedule 1 and the permission can be revoked, or taken away, in the (unlikely) circumstances described in Schedule 2. Paragraph 2 allows British Telecom to benefit from the provisions of the Telecommunications Code (contained in Schedule 2 to the Telecommunications Act) so that it can install all the telegraph poles, wires, underground cables and so on which are needed to provide services to customers. But when it uses the powers in the Code British Telecom must abide by the special conditions set out in Schedule 4. Paragraph 3 says that the Licence will last for at least 25 years and will go on for longer unless 10 years notice of termination is given. The long period of notice is needed so that fears that the Licence might not be renewed will not prevent British Telecom from raising the capital to invest in expensive new plant and equipment.

SCHEDULE 1: CONDITIONS INCLUDED UNDER SECTION 7 OF THE ACT

Introduction

6 Schedule 1 sets out the conditions which British Telecom must observe when it does the things permitted under paragraph 1 of the Licence. These conditions are set by the Secretary of State using the powers of section 7(5) and (6) of the Act. Since British Telecom's systems are to be "public telecommunication systems" he must include conditions of the kinds described in section 8(1) and (2) of the Act; these conditions are in Part 2 of Schedule 1. The conditions or rules are needed because the Act tells the Secretary of State that he must do certain things when he grants a licence. In particular section 3 of the Act places the Secretary of State under a duty, every time he grants a licence, to act in the way which he thinks best calculated to achieve a number of objectives:

- first, he must so far as practicable secure that everyone who wants a telecommunication service in reasonable circumstances can obtain service and he must pay special regard to those wanting emergency services, public call box services, directory information services, maritime services and services in rural areas;

- second, he must ensure that those like British Telecom who provide telecommunication services are able to finance the provision of those services.

7 These objectives are the most important ones. Once the Secretary of State has taken account of them, he must then act in the way best calculated to meet further objectives:

- he must promote the interests of those who use telecommunication services or who use telecommunication apparatus (including in particular the elderly and the disabled) in obtaining a variety of good quality services and apparatus at reasonable prices;
- he must maintain and promote competition so that telecommunication users obtain a choice of services and apparatus;
- he must promote efficiency and economy;
- he must promote research and development and the use of new techniques;
- he must encourage major users of telecommunications to set up business in the UK, promote the provision of international transit services here, and enable those providing telecommunication services and producing apparatus in the UK to compete effectively overseas.

8 British Telecom will be made to comply with these conditions by the new Director General of Telecommunications (who is called "the Director" in the Licence) using the powers in sections 16, 47, 49 and 53 of the Act. The Director will also have the assistance of the advisory bodies to be set up under section 54 of the Act. Where the Director considers that a breach of a Licence condition has occurred he must under section 16 make an order (of either a provisional or a final kind) requiring British Telecom to take such steps as he considers necessary to comply with the condition. Such orders are enforceable by civil proceedings in the Courts.

9 The Director may modify the conditions in Schedule 1. This can happen in two ways. First, if the Director and British Telecom agree that a change to a licence condition is needed or that a new condition is needed, and the Director gives public notice of his intention and then considers public comments about it, a condition can be modified by agreement under section 12 of the Act. Second, where there is no agreement between the Director and British Telecom but the Director thinks that a licence condition needs adding or changing, the Director may refer the matter to the Monopolies

and Mergers Commission (MMC). If the MMC considers that a modification would be in the public interest, then the Director may, under section 15 of the Act, modify the condition to put matters right. This power to modify applies only to the conditions in Schedule 1. The provisions of Schedules 2 and 3 and of Annex A cannot be modified under sections 12 and 15 and Schedule 4 can be modified only in accordance with the special procedures laid down in section 10 of the Act.

10 The Secretary of State's responsibility is limited to granting the initial licence and setting the initial conditions in Schedule 1. Once the conditions are set he has no power to initiate changes to them and only limited powers under sections 12 and 15 of the Act to prevent modifications.

SCHEDULE 1: PART 1

11 Schedule 1 is divided into three parts. Part 1 simply contains the definitions, interpretations and transitional provisions relating to the conditions in Parts 2 and 3. Schedules 2, 3 and 4 and Annex A each have their own definitions, interpretations and transitional provisions as appropriate. The definitions etc in Schedule 1, Part 1 can be modified if necessary using the procedures in section 12 and 15 of the Act. The convention is that terms which have a special meaning are normally given initial capital letters. If a term is used in only one condition (or in adjacent conditions) its definition is included in the Condition in question. If a term is used in several conditions its definition has been brought forward to Part 1.

SCHEDULE 1: PART 2

12 The conditions in Schedule 1 are divided into Part 2 and Part 3 because section 8(1) and (2) of the Act lays down the kinds of conditions which must be included in a licence before the system to which that licence relates can be designated under section 9 of the Act as a "public telecommunication system" and the operator as a "public telecommunications operator" or before the Telecommunications Code can be applied to them under section 10(2)(a). All the Conditions in Part 2 of Schedule 1 (ie Conditions 1 to 17) are set by reference to section 8(1) and (2). They impose a series of obligations on British Telecom specifying the services it must provide and how it must provide them. Under section 7 of the Act licences may also include other conditions apart from those included by reference to section 8(1) of the Act. Part 3 contains the other conditions which the Secretary of State thinks necessary. The obligations placed on British Telecom by the conditions in both Part 2 and Part 3 are subject to the exceptions and limitations in Condition 53 which set out the

circumstances where it would either be impracticable or not reasonably practicable to do those things or where demands would not be reasonable.

13 Condition 1 obliges British Telecom to continue to provide a universal telecommunication service; it must provide voice telephony services and other telecommunication services throughout the Licensed Area (ie all the United Kingdom except Hull). Condition 1 also obliges BT to install, keep installed and run the Applicable Systems for those purposes. British Telecom is thus obliged to install and maintain in good running order all the telecommunication apparatus (including wires, cables, radio links, exchanges, poles, ducts etc comprised in the Applicable Systems and to connect them to individual premises on request so that "Messages" (such as telephone conversations, telex communications and data signals) can be conveyed from one set of premises to another. The terms "telecommunication system", "telecommunication apparatus", "telecommunication services", "connect" and "convey" are all defined in section 4 of the Act.

14 Condition 2 supplements Condition 1 by making it clear beyond doubt that the universal obligation to provide voice telephony and other telecommunication services applies specifically to rural areas. There is no need to define rural areas for the purposes of Condition 2; either an area is a rural area in which case Condition 2 applies or it is not, in which case Condition 1 applies. The universal service obligations in both Conditions 1 and 2 will not apply where the Director is satisfied that any reasonable demand for telecommunication services is being met by others and that it would not be reasonable for British Telecom to be under an obligation to meet that demand.

15 Condition 3 contains a number of obligations on British Telecom to provide directory information. To all to whom British Telecom provides voice telephony services, it must under paragraph 3.1(a) also provide a full directory information service as defined in section 4 of the Act, that is to say the present Directory Enquiry Service. BT must also under paragraph 3.1(b) make available to anyone who requests them any directories (for telephone, telex or other services) it produces.

16 Paragraph 3.2(a) obliges BT to make available directory information to its customers about customers of systems such as the Hull system to which BT is connected. Paragraph 3.2(b) imposes a requirement to provide information to operators like Hull so that they can provide an equivalent service to their customers who want to find out the numbers of British Telecom's customers. Paragraphs 3.3 and 3.4 make provision for customers to have access to directory information about customers of overseas telecommunication systems. Reciprocal obligations will be contained in the licences for the other public telecommunication systems.

17 Paragraph 3.5 contains the protection for the blind and disabled required by section 8(2). It requires BT to provide a directory information service to blind and other disabled persons who cannot use printed telephone directories in a form appropriate to their needs (eg in an audible form like the present directory enquiry service, not a visual form). Whether or not BT decides to introduce charges for its present directory enquiry service, it must provide this directory information to the blind and other disabled persons free of charge or, if the Director agrees, appropriately recompense such persons. Paragraph 3.5 replaces Condition 34 of the draft licence published in October 1983.

18 Condition 4 obliges British Telecom, with certain exceptions, to provide "Maintenance Services" - defined in Schedule 1, Part 1 - in respect of telecommunication apparatus and systems which are connected to its systems but which are not comprised within those systems. Under Conditions 1 and 2 British Telecom is obliged to maintain apparatus comprised in its systems, for example Exchange Lines up to and including the socket or block terminal at which telecommunication apparatus like a telephone handset is connected to the Exchange Line. Conditions 1 and 2 do not require British Telecom to maintain or repair apparatus like telephone handsets which are connected to Exchange Lines and Condition 4 therefore requires British Telecom to provide Maintenance Services in respect of some connected apparatus. The obligation does not normally apply when a customer chooses to obtain telecommunication apparatus from someone other than BT.

19 Condition 5 obliges British Telecom to provide International Connection Services so that people in the United Kingdom can send Messages to places outside the United Kingdom (including the Isle of Man and the Channel Islands) and receive Messages from those places.

20 Condition 6 obliges British Telecom to provide a "Public Emergency Call Service", commonly known as the 999 service. Under this Condition British Telecom must provide this service at all places throughout the Licensed Area where people have access to its systems; whenever anyone picks up a normal working telephone then that person must also be able to make a 999 call from that telephone. The police, ambulance, fire and coastguard are the Emergency Organisations most frequently used but this condition also requires BT to continue to provide a Public Emergency Call Service to other organisations (eg the Mountain Rescue Service) to which it currently provides a 999 service.

21 Conditions 7 to 10 require British Telecom to continue to provide other emergency services and to formulate such plans and arrangements for emergencies as may be required by the appropriate authorities. Such services and requirements will include calls made by the Emergency Organisations (Condition 7), maritime services such as the Distress Watch Service

(Condition 8), special arrangements in the event of major accidents and plans to facilitate essential national communications in the event of damage to the network from whatever cause (Condition 9) and priority fault repair arrangements for essential services (Condition 9). British Telecom will be entitled, where this is appropriate, to recover the costs of such services, plans and arrangements.

22 Condition 11 obliges British Telecom to provide public call boxes. In large part this Condition follows the existing agreement between British Telecom and the Post Office Users' National Council (POUNC) governing the removal of call boxes. But a major difference is that whereas the present agreement has been only voluntary, Condition 11 imposes enforceable obligations on British Telecom. Because of the concern expressed by many about the future of public call boxes these notes explain Condition 11 in some detail.

23 Paragraph 11.1 contains the general obligation on BT to provide services at all call boxes in existence when the licence enters into force and those subsequently installed. Paragraphs 11.2, 11.3 and 11.4 limit the removal of call box facilities. Paragraphs 11.5 and 11.6 contain obligations to publish guidelines about the installation of new Public Call Boxes. Paragraph 11.7 defines the various terms used in Condition 11.

24 Paragraph 11.2 sets out the circumstances in which BT may withdraw a Public Call Box. Paragraph 11.2(a) allows withdrawal, provided the procedures set out in paragraph 11.3 are followed, where the provision is "impracticable", for example where the wayleave for the siting of a Public Call Box is withdrawn or a road is widened. Paragraph 11.2(b) is based on the existing arrangements whereby British Telecom and POUNC have agreed a guideline (or Minimum Figure) for a Public Call Box's annual takings below which a call box may be withdrawn. Paragraph 11.2(b) continues this practice. The minimum figure will be £185 per annum, which is the same as the latest guideline agreed between POUNC and British Telecom, and can only be changed after consultation with the four national advisory committees set up under section 54 of the Act and if the Director and BT both agree on the new figure under this arrangement. No Public Call Box will be able to be removed if its annual revenue (which includes an allowance for credit card calls, transfer charge calls etc) is above £185 per annum (unless any of the other circumstances covered in paragraph 11.2 apply) and before any such removal the procedures set out in paragraph 11.4 must be followed. However, if the annual revenue is below £185 per annum it is open to others, eg the local authority in the area, to make it up to that figure, and paragraph 11.2(b) provides that if this happens the Public Call Box must stay.

25 Paragraph 11.2(c) allows, for example, the withdrawal of one Public Call Box in a "bank" of several boxes if their use declines but provides that one box must remain on the same site or nearby so there is no question of complete withdrawal of Public Call Box services. Paragraph 11.2(d) is similar and allows removal of a Public Call Box provided that there is another box nearby but it also allows for a temporary cessation of service to the extent the Director agrees. This might happen for example when a road is widened to remove a corner on which a box is sited and British Telecom proposes to re-site the box.

26 Paragraph 11.2(e) allows for changes in the way that Call Box services are provided but as in paragraphs 11.2(c) and (d) the actual services must continue to be provided nearby. The term "Public Call Box" does not cover all "pay phones" normally found in pubs, cafes, clubs, airports etc. In many cases, although the public have access to these, they are in fact run not by British Telecom but by the publican, cafe owner etc, who normally pays a rent for the box and then keeps the coins put into it. However in terms of convenience to the public there is often little difference between the two except that in some cases pay phones are subject to opening hours. Paragraph 11.2(e) allows for rented or private pay phones (called "Private Call Boxes") to replace Public Call Boxes but this can only be done if there is a contract agreed between British Telecom and the provider of the pay phone. This contract must allow the public 24 hour access to the pay phone unless the Director agrees otherwise and the pay phone must also be fitted with an inductive coupler. The onus will be on British Telecom to ensure compliance with the conditions of such a contract.

27 Paragraph 11.3 sets out the procedure to be followed where British Telecom wishes to withdraw a Public Call Box on the grounds that its provision is impracticable under paragraph 11.2(a). British Telecom must try to install another Public Call Box nearby, but if it cannot, it must inform the local authority and consumer bodies in the area about its proposed removal. These bodies may make representations to the Director who may oblige BT to install a replacement Public Call Box nearby if he decides this is appropriate.

28 Paragraph 11.4 sets out the procedure British Telecom must follow if it wishes to withdraw a Call Box whose annual revenue falls below the Minimum Figure under paragraph 11.2(b). This procedure broadly follows the existing arrangements. The aim is to ensure that all those with a legitimate interest are informed and have an opportunity to make comments for the Director to consider.

29 Paragraph 11.5 is concerned with the provision of new Public Call Boxes, 11.5(a) dealing with the installation of new (permanent) Public Call boxes at new locations, for example on a new housing estate, and 11.5(b) with Temporary

Call Boxes, for example those installed at major conferences, exhibitions, sporting events etc. British Telecom must, after consulting with the Director, publish the criteria governing when it will provide such Call Boxes. It is expected that these guidelines will largely follow existing practice.

30 Paragraph 11.6 obliges British Telecom to provide Call Boxes at any location where the person requesting a box guarantees to pay its full cost.

31 Condition 12 obliges British Telecom to provide maritime telecommunication services in accordance with the Radio Regulations of the International Telecommunications Union. When they are at sea ships are normally outside the Licensed Area so the obligation on British Telecom is to both transmit and receive Messages to and from ships and to provide links from ships over its network in this country to any Network Termination Point, which could be on customer premises or a connection with another system (eg in Hull).

32 Conditions 1 to 12 are included in the draft licence in accordance with section 8 (1) (a) of the Act and require British Telecom "to provide such telecommunication services as are specified in the licence". Conditions 13 and 14 fulfil the requirement in Clause 8(1)(b) that the licence must require British Telecom "to connect or permit the connection to any telecommunication system to which the licence relates of such other telecommunication systems and such apparatus as are specified" or described in the licence.

33 Condition 13 has to be read in conjunction with Condition 14 in order to understand British Telecom's full obligation to make connections to its system. Condition 13 deals with a limited range of such connections to major systems run under licences granted to individuals rather than under class licences. Hull, Mercury and other systems that are individually licensed will be covered by condition 13, but not, for example private branch systems in office blocks (which will be run under a general licence). Where the Operator of such a major system requests that his system be connected, British Telecom is obliged to make an agreement with that Operator to make the connection and, if the Operator and British Telecom fail to reach agreement, the arrangements for connection are to be laid down by the Director. Where the Operator is what is called a "Long Line Public Telecommunications Operator" he will also be able to require an agreement from British Telecom which provides not only for basic connections to be made but also for people making use of the connections between his system and the British Telecom systems to be able themselves to choose to what extent their calls are conveyed by means of the Operator's system and British Telecom's system.

34 Paragraph 13.2 lays down the circumstances in which British Telecom will be exempt from these obligations to connect; for example when the necessary connections might be unsafe. Paragraphs 13.3, and 13.4 describe the matters which British Telecom may include in the relevant agreements. Paragraphs 13.5 and 13.6 give the Director the role of determining the terms of the agreement if, after a reasonable period of time, British Telecom and the Operator do not reach agreement, and they set out the criteria to which the Director is to have regard in making such a determination. Paragraph 13.7 provides for British Telecom to refuse to make a connection in circumstances where the Director agrees it is right to refuse and paragraph 13.8 enables the Director to require that British Telecom observes the arrangements for any connection.

35 Condition 14 obliges British Telecom generally to connect, or permit the connection, to its systems of any system which is not covered by Condition 13 and any apparatus which is approved under section 22 of the Act.

36 Condition 15, which is required by section 8(1)(c) of the Act, obliges British Telecom to permit any person who is running a telecommunication system connected to the British Telecom systems to provide any telecommunication services to others which he is permitted to provide under his licence. Condition 15 also obliges British Telecom to permit any person running such a system or using any apparatus connected to the British Telecom systems to provide services which do not fall within the definition of "telecommunication services" in section 4 of the Act. This is to ensure that people remain free to provide services like banking or the provision of information over the telephone.

37 Condition 16 obliges British Telecom to publish the charges, terms and conditions for the generality of its telecommunication services and to provide those services in accordance with those terms and conditions. In accordance with section 8(1)(e) of the Act the services covered by this obligation include those described in section 8(1)(a) to (c).

38 Condition 17 prohibits British Telecom from showing, whether in respect of charges or other terms and conditions or otherwise, undue preference or undue discrimination (particularly as respects persons in rural areas) in providing the generality of its telecommunication services including those described in section 8(1)(a) to (c) of the Act. Paragraph 17.2 provides that British Telecom will be showing undue preference or undue discrimination if it unfairly favours one part of its business so as to place persons competing with it at a significant competitive disadvantage. Paragraph 17.3 provides for the Director to decide when British Telecom is showing undue preference or undue discrimination as provided for in section 8(3) of the Act.

SCHEDULE 1: PART 3

39 Conditions 18 to 53 are not required by section 8 of the Act but are the remaining provisions which the Secretary of State considers it necessary to include in the British Telecom licence in order to secure the objectives set out in section 3 of the Act.

40 Condition 18 effectively prohibits British Telecom from cross-subsidising its Apparatus Supply Business, its Apparatus Production Company (see Condition 21), its provision of Land Mobile Radio Services or its provision of Value Added Services out of revenue from other parts of its business. Condition 18 has been greatly strengthened since the 25 October draft which failed to deal with capital transfers within British Telecom's business. These are now covered and the Director is given a new power to direct British Telecom to take immediate steps of any kind if it unfairly cross subsidises. This arrangement takes effect at once - there is no need for the Director to go through the slower procedures set out in section 16 of the Act which was envisaged in the October text. And the Director's powers to require British Telecom to take remedial action are wide ranging; for example, he could require an immediate price increase.

41 British Telecom's obligation to keep accounting records is considerably extended by paragraph 18.2. This takes effect as soon as practicable but British Telecom will not be in breach of its licence obligations, if in the period up to 1 April 1987, its management accounting procedures which are in the process of being introduced, fail to record every transfer within the business. British Telecom's Apparatus Supply Business is only covered by this condition for so long as that business constitutes a monopoly situation within the Fair Trading Act definition. Condition 18 does not prevent cross-subsidies where these are required under the licence, as for example where British Telecom provides the 999 service free of charge or where it runs Public Call Boxes at a loss.

42 Condition 19 permits, but does not oblige, British Telecom to share the cost of the loss-making services it is obliged to provide with other operators who make use of its networks in providing telecommunication services to their customers. The necessity for such subsidies cannot be established until British Telecom produces adequate accounts for services provided by its local areas and so detailed arrangements for "access charges" have not yet been worked out. The proceeds of "access charges" can be used only for meeting any losses incurred in providing apparatus for the disabled, the 999 service, Public Call Box services, or other services in specific local areas. The Director must approve any "access charge" that is introduced and British Telecom must contribute itself on the same basis as other operators.

43 Condition 20 requires British Telecom to establish separate accounting and reporting arrangements for its Systems Business and its Apparatus Supply Business. It lays down certain rules about how these arrangements are to be implemented. British Telecom must complete the separation of these accounts as quickly as practicable, but is given until 1 April 1987 to do so because its current nationalised industry accounts and organisation need substantial further alteration before the separation can be fully accomplished.

44 Condition 21 obliges British Telecom to establish a separate subsidiary company for its apparatus production activities by 1 July 1986. After that date British Telecom will not be allowed to engage in apparatus production. British Telecom is also obliged to ensure that the subsidiary does not become involved in running telecommunication systems. In order to assist the Director in carrying out his functions provision is made for him to receive the same kind of accounting information in relation to the apparatus production subsidiary as is required under Condition 20 in relation to the Systems and Apparatus Supply Businesses. Condition 21 also lays down an open tender procedure to be followed by British Telecom when it acquires apparatus from its apparatus production company in some circumstances, but there are exceptions for prototype apparatus etc.

45 Condition 22 requires that British Telecom must, when it combines the supply of apparatus with the provision of telecommunication services to a customer, give a fair opportunity for its competitors in the business of apparatus supply to obtain such services for their own customers on equivalent terms.

46 Condition 23 requires British Telecom to inform the Director about any proposals for changing its systems in ways which would require customers or manufacturers to buy or produce modified apparatus. British Telecom is also obliged to prepare, in consultation with the Director, and to publish a statement of its procedures for giving advance notice of such changes.

47 Condition 24 sets a limit for price increases for BT's main inland services. In any of the five years beginning 1 August 1984, price increases for business and residential rentals, local calls and trunk calls, taken together, must be at least 3 percentage points less than the annual rate of inflation. The annual rate of inflation is measured by the increase in the retail prices index (RPI) over the twelve months ending on the previous 30 June. If the actual price increases in any year are less than the limit, BT can take credit for this in either of the next two years. After BT's monopoly of the first telephones connected to Exchange Lines ends on 31 December 1984, the rental charge in respect of such telephones will be excluded from this Condition.

48 To calculate the average increase in prices for the services to which the limit applies, each such price increase is weighted in proportion to the revenue obtained by BT in respect of the service in the last financial year. The table illustrates the calculation as it would have applied to the increases in prices that took effect from 1 November 1983:

	Revenue £m	1982/3 %	1983 Price increase	Weighted increase
Exchange line rentals				
- Residential	823	22.9	4.8	1.1
- Business	313	8.7	4.8	0.4
Ordinary dialled local calls	1066	29.7	2.3	0.7
Ordinary dialled trunk calls	1391	38.7	2.3	0.9
	3593	100.0		3.1

Combining the price increase in proportion to 1982/3 revenues produces an average price increase of 3.1%. This can be compared with a rate of inflation over the year to the previous 30 June of 3.7%. If the RPI minus 3 limit had been in force BT would have been obliged to hold the average price increase for these services to 0.7%. However, there was no price increase the previous year (1982-83) when the rate of inflation was over 9%.

49 Condition 25 requires British Telecom to levy uniform maintenance charges for Exchange Lines over the first five years of the Licence. Maintenance charges are the main component of the present "rental" charged for exchange lines. Condition 26 provides that residential connection charges will be uniform over the first five years of the Licence when the work involved takes less than 100 hours.

50 Condition 27 obliges British Telecom to continue its present practice of issuing a Code of Practice for its employees and customers. The present Code describes the terms on which BT provides services, the quality of service BT aims to achieve and the procedures and contact points for customers who have complaints or queries about their bills, service faults, directories etc. The present Code will need to be amended to reflect the changes brought about by the Act, in particular the ending of provision of service under schemes. In future there will be a contract between BT and its customers which will substantially increase customers' legal rights and the Code has to reflect this change. Condition 27 therefore allows three months for the publication of the new Code, but in preparing this British Telecom must consult the Director. British Telecom must also consult the Director about the Code's operation at least once every three years.

51 Condition 28 enables British Telecom's customers to have access to independent arbitrators in respect of small disputes related to the provision of the telecom services by BT. This continues existing arrangements, whereby dissatisfied customers can take their complaints to the Chartered Institute of Arbitrators. In future, when schemes are replaced by contracts, it will be open to dissatisfied customers to take legal action but for the ordinary customer court action is normally too expensive and too lengthy. Condition 28 therefore enables them to seek resolution of disputes involving small sums through independent arbitrators. A limit, to be agreed between the Director and British Telecom, will be placed on the sums which can go to arbitration.

52 Condition 29 requires British Telecom to receive and consider representations from consumer bodies about its provision of services and its supply of apparatus. Condition 30 obliges British Telecom to ensure the accuracy of the meters it uses to measure the duration etc of telephone calls made by its customers. If any meter is a source of difficulty British Telecom can be obliged by the Director to keep additional records. Paragraphs 30.2 and 30.3 make provision for the time when the current discussions about independent approvals of British Telecom meters are brought into effect.

53 Conditions 31 to 33 impose obligations on British Telecom relating to the special requirements of the disabled for telecommunication services and apparatus. The Government has made clear its determination to ensure that after privatisation the disabled are looked after and British Telecom has also given public assurances on this. The Government is confident that British Telecom will look after the disabled and Conditions 31 to 33 are included in the Licence to provide reassurance to them.

54 Condition 31 covers the general needs of the disabled at large. It requires British Telecom to consult with the Director about the arrangements it makes to provide telecommunication apparatus (and its connection to the BT system and its maintenance thereafter) to meet all reasonable demands by disabled persons. British Telecom must also participate in the work of the advisory body for the disabled and persons of pensionable age which the Director must establish under section 54 of the Act. The effect of Condition 32 is to oblige British Telecom to continue to make available telephones which incorporate the inductive coupler (which enables people with suitable hearing aids to use the telephone) and telephones with amplifiers (which enable hearing impaired people without hearing aids to use the telephone).

55 Condition 33 requires British Telecom to install and keep installed in all Public Call Boxes apparatus to enable people with hearing aids to use the telephones in them. British Telecom has recently completed its programme to fit inductive

couplers in all Public Call Boxes and this Condition ensures that existing and new Public Call Boxes will continue to be so fitted. [Condition 34 of the draft licence published in October has been incorporated into Condition 3].

56 Condition 34 requires British Telecom to adopt a numbering plan which describes the arrangements for allocating numbers to customers and other systems and to give the details to the Director. Paragraph 34.4 requires British Telecom to consult the Director about its revisions of its numbering plan after consulting other public telecommunication operators and others concerned. If the Director is not satisfied about these proposals, paragraphs 34.6 to 34.9 make provision for the Director to decide what British Telecom's numbering plan should be so that it takes account of the interests of other operators and users.

57 Condition 35 prevents linked sales by placing an obligation on British Telecom, subject to certain specified exemptions, not to make it a condition of providing any telecommunication service, supplying any telecommunication apparatus, or connecting any other system or apparatus to any of British Telecom's systems authorised under the licence, that any other telecommunication service or apparatus should be acquired either from British Telecom or any other specified person. Condition 35 also prevents BT providing a service, supplying apparatus or making a connection on more favourable terms when it does any of those things in combination than when it does them alone.

58 Condition 36, which prohibits certain exclusive dealing arrangements, places an obligation on British Telecom, except with the written consent of the Director and subject to certain specified exemptions, not to make it a condition of buying any telecommunication apparatus that the supplier of that apparatus should:

- (a) supply other telecommunication apparatus to British Telecom or supply or not supply other telecommunication apparatus to another person;
- (b) supply other telecommunication services to British Telecom or provide or not provide other telecommunication services to another person; or
- (c) transfer to British Telecom or another person any interest in intellectual or industrial property which would confer an unfair competitive advantage on them.

59 Condition 36 also says that, while BT may agree with another person to act as sole supplier of some or all of the apparatus supplied by that person, if the Director is satisfied that that person did not willingly agree to give BT

that sole right, the Director may oblige BT not to impose such a condition in future either in all circumstances or in certain specified circumstances.

60 Condition 37 requires that, when British Telecom supplies a telecommunication service as part of a transaction or package also involving the provision of apparatus or another telecommunication service, it must separate the charges for each service and the apparatus in any quotation or invoice relating to the transaction. Paragraph 37.2 provides that the obligation in relation to the specification of prices of services in invoices (not quotations) does not arise until 1 July 1987 or until the necessary billing system has been introduced whichever is the sooner. Condition 37 is concerned only with the provision of information; the limitations on British Telecom's ability to offer discounts in the context of linked sales are dealt with in Conditions 16 and 35.

61 Condition 38 places an obligation on British Telecom to draw up, with the agreement of the Director, a code of practice on the confidentiality of customer information for those of its employees engaged in its Systems Business. The code must specify the people to whom information about a customer cannot be disclosed without the customer's consent, regulate the information about any customer or service which may be disclosed within the Business, and restrict the disclosure of information relating to the statutory testing of apparatus.

62 Condition 39 gives the Director powers to ensure that Industrial and Intellectual Property Rights (patents, design, knowhow, copyright etc) needed for telecommunication apparatus or services are not exercised by British Telecom in such a way as to prevent others providing telecommunication apparatus or services on reasonable terms and conditions.

63 Condition 40 gives the Director powers, where appropriate, to prevent British Telecom from making the connection of telecommunication apparatus to its systems subject to any approval or test other than those designated by the Secretary of State or by the Director under the Act.

64 Condition 41 obliges British Telecom to take all reasonable steps to ensure that information acquired in the course of any test or assessment of apparatus that it carries out for the purposes of section 25 of the Act is not disclosed, except with the agreement of those concerned, either to its own employees or to other people. Paragraph 41.2 is designed to ensure that people undertaking such work in British Telecom are not required to disclose information about it to those to whom they may be answerable in the Systems Business or the Apparatus Supply Business.

65 Condition 42 limits British Telecom's ability to install integrated wiring (eg wiring installed within a shared casing) after 31 December 1985. This is to ensure that, although British Telecom will continue to have sole responsibility for direct Exchange Lines, these are not installed so as to be "integrated" with, for example PABX extension wiring so as to inhibit the liberalisation of both the supply of PABX apparatus and the maintenance of such apparatus. Paragraph 42.2 deals with integrated wiring which is already installed or is installed before 31 December 1985 and gives customers the right to require the installation of additional wiring so that PABX extension wiring and Exchange Lines are separated.

66 Condition 43 requires British Telecom to make available (either by selling or renting it on reasonable terms) wiring which is already installed on customer premises but which will not in future be part of British Telecom's systems, to others who wish to run their own telecommunication system on those premises.

67 Condition 44 obliges British Telecom to ensure that, where it supplies a system or apparatus in relation to which it has a monopoly of maintenance, customers are told that it will provide maintenance services on the same basis irrespective of who supplies the apparatus. Paragraph 44.2 requires Maintenance Services to be provided in respect of such apparatus on standard terms and conditions which are published in accordance with Condition 16.

68 Condition 45 is a technical provision which deals with the way in which connections are to be made to the British Telecom system.

69 Condition 46 obliges British Telecom to prevent the connection to its system of other systems in such a way that Simple Resale services can be provided. This reflects the Government's present intention that in the period up to July 1989 it will not permit resale except in some limited forms. Condition 46 also frees British Telecom from any obligation to provide Private Circuits to any other public telecommunications operator who is authorised to provide such circuits for itself.

70 Condition 47 prohibits British Telecom from entering into agreements with the operators of foreign telecommunication systems in such a way that other UK operators licensed to provide international services would be unfairly excluded. Paragraph 47.2 prevents British Telecom from excluding other authorised public telecommunications operators from international arrangements for submarine cables.

71 Condition 48 makes special provision for controlling accounting methods, rates and divisions in international services.

72 Condition 49 obliges British Telecom to give the Director 30 days prior notice, subject to the exception specified in paragraph 49.5, of any agreement for the establishment or control of a body corporate or the establishment of a partnership for the running of a telecom system under a licence, the provision of telecommunication services which involve the running of a system under a licence or for the production of telecommunication apparatus resulting in the acquisition of a market share of more than 20%. The same obligation is also imposed about any other agreement or arrangement in the nature of a joint venture for running telecommunication systems or providing telecommunication services.

73 Condition 50 is designed to ensure that British Telecom cannot evade its obligations under the Licence by acting through an Associate. Condition 50 enables the Director to issue a direction requiring British Telecom to take remedial steps where he considers that it is trying to avoid such obligations in this way.

74 Condition 51 requires British Telecom to pay a fee on the grant of the Licence and an annual fee thereafter which will represent British Telecom's share, as determined by the Director, of the cost of running OFTEL and any related costs incurred by the Monopolies and Mergers Commission. The annual fee shall be subject to a maximum limit of 0.08% of the annual turnover of the Systems Business.

75 Condition 52 places an obligation on BT to provide the Director with any information he may reasonably require to enable him to carry out his functions.

76 Condition 53 sets out the limitations on British Telecom's obligations under Schedule 1 of the Licence. Paragraph 53.12 sets out the application of these limitations which do not all apply to all the obligations, for example where individual Conditions have their own limitations built in. Subject to that British Telecom is not obliged to do anything which is not practicable; nor will it be in breach of an obligation if it is prevented from complying by force majeure (paragraphs 52.2 and 52.3). Paragraphs 52.4, 52.5 and 52.6 set out the circumstances in which British Telecom is entitled to refuse service because the demand would not be reasonable. The questions whether it is "impracticable" to provide a service or whether there is no "reasonable" demand for a service can in the first instance be answered by the Director but in the final analysis his decisions can be challenged in the courts.

SCHEDULE 2: REVOCATION

77 Schedule 2 lists the circumstances under which the Licence may be revoked.

SCHEDULE 3: AUTHORISATION TO CONNECT OTHER SYSTEMS AND TO PROVIDE TELECOMMUNICATION SERVICES

78 Schedule 3 lists the kinds of system and the kinds of apparatus that may be connected to British Telecom's systems. It also specifies the services that may be provided; these Exclude Land Mobile Radio Services and Value Added Services for which BT will require separate licences.

SCHEDULE 4: EXCEPTIONS AND CONDITIONS RELATING TO THE APPLICATION OF THE TELECOMMUNICATIONS CODE

79 Schedule 4 to the Licence sets out the exceptions and conditions subject to which the various powers to install apparatus contained in the Telecommunications Code (Schedule 2 to the Telecommunications Act 1984) are conferred on British Telecom.

80 Many of the exceptions and conditions in Schedule 4 of the licence reflect two of the criteria set out in section 10(4) of the Act which are designed to ensure:

- (a) that the physical environment is protected and, in particular, that the natural beauty and amenity of the countryside is conserved; and
- (b) that there is no greater damage to streets or interference with traffic than is reasonably necessary.

81 It should be noted that the Telecommunications Code itself is not directly concerned with the purely planning aspects of the installation of telecommunication apparatus. The Code assumes that the planning status of telecommunications development is a matter to be determined separately under planning legislation. In this context the Department of Environment issued a consultation document in January 1984 on the revision of the General Development Order 1977 made under the Town and Country Planning Act 1971. (Similar proposals have been put forward in respect of the equivalent Scottish legislation.) In the section on telecommunications that document set out the Government's proposal that those operators to whom Telecommunications Code powers were applied should be granted a general permission to carry out minor telecommunications development (eg the installation of kiosks, wires, poles, small antennae, cables and ducts) without needing to seek specific planning permission in each case. The consultative paper made clear

the intention that this general permission should be qualified in the relevant telecommunications licences which applied the Code by exceptions and conditions designed to protect the physical environment, the practical result being to restrict the use that an operator would be able to make of the new GDO permission in a particular situation. Schedule 4 to the British Telecom licence has been drawn up on the assumption that the General Development Order will be revised along the lines previously proposed. Whatever the format of the General Development Order, the Secretary of State has power to modify Schedule 4 of the British Telecom Licence if, in its original form, it is not adequate to achieve the objectives set out in paragraph 80 above.

82 Condition 1 requires British Telecom to place underground all new telecommunication lines in designated conservation areas and the City of London, except in the limited circumstances defined in the licence where, for example, works are undertaken in an emergency or where additional service connections are made in an area where service is already provided by means of overhead lines.

83 Condition 2 requires British Telecom to give written notice to the appropriate local planning authority before installing any apparatus in proximity to a Grade I listed building. For the avoidance of doubt, Condition 2 also states that nothing in the Licence affects British Telecom's statutory obligations in respect of the protection of ancient monuments and listed buildings.

84 Condition 3 follows on from the specific restrictions placed on overhead lines in conservation areas and requires British Telecom to take steps to ensure that as many new non-service lines as possible are placed underground. Condition 3 also requires British Telecom to consider undergrounding its existing lines in certain circumstances and to consider whether telecommunication lines in new developments can be placed underground, on the basis of the costs being shared with the developer and any statutory undertaker concerned.

85 Condition 4 covers certain environmentally sensitive areas and in particular National Parks and Areas of Outstanding Natural Beauty. It requires British Telecom to give notice to the local planning authority (or other specified body) before installing overhead apparatus in the defined areas. Condition 4 extends the requirement to all apparatus in, for example, limestone pavement areas and sites of special scientific interest. British Telecom is obliged to consider any written representations made within 28 days of the giving of the notice and, where a decision is taken not to modify the original proposals in the light of any such representations, to give a written notification of its reasons. Condition 4 also enables the Secretary of State to add other areas to the list of those to which this condition applies.

86 Condition 5 takes account of the special status of land belonging to the National Trust (and the National Trust for Scotland). It requires British Telecom to give the Trust written notice before installing apparatus which provides a service to the occupier of land it owns or in which it has interest. This condition is made necessary by the provisions of the Telecommunications Code, under which an operator can install apparatus providing a service solely to the occupier of the land on which the apparatus is installed with consent of the occupier alone.

87 Condition 6 makes it clear, for the avoidance of doubt, that British Telecom will continue to be subject to the provisions of the Street Works Code in the Public Utilities Street Works Act 1950, which requires the agreement of the highway authority to a plan and section of major works. Condition 6 extends these arrangements, however, by obliging British Telecom to give written notice of its intention to install any apparatus which involves the breaking up of a maintainable highway. It also obliges British Telecom to consider any written representations made by the highway authority within specified periods, which periods are consistent with the requirements of the Street Works Code.

88 Condition 7 obliges British Telecom wherever practicable, to place all lines installed underground in the paved parts of a maintainable highway (ie the carriageway, footway or other hardened surface including, for example cycle tracks) in ducts.

89 Condition 8 lays down the minimum height at which lines must be installed over maintainable highways, unless the appropriate highway authority has agreed otherwise.

90 Condition 9 requires British Telecom to inspect its apparatus which is not inside a building and which is on or above the surface of the ground (eg a telegraph pole or a manhole cover) to ensure that it is not in a dangerous state. British Telecom is also required to investigate any report of its apparatus being unsafe and to remove any danger.

91 Condition 10 reaffirms the agreements and arrangements that exist between British Telecom and the Electricity Boards dealing with the measures necessary to protect telecommunication apparatus installed in proximity to electricity plant. The agreements also cover the apportionment of the costs of such protection.

92 Condition 11 requires BT to give instructions to its employees and agents with a view to securing that apparatus is installed in accordance with the provisions of the condition. In large part it replaces the proposal in the October 1983 draft of the Licence which would have obliged British Telecom to prepare and follow a code of practice on the installation of external telecommunication apparatus. The change has been made because of the concern expressed whilst the

Telecommunications Code was being considered by Parliament about the need for an effective and straightforward mechanism for protecting the environment. This has resulted in the abandonment of the idea of a separate code of practice in favour of more precise licence conditions. Where other conditions of Schedule 4 do not do so the instructions referred to in Condition 11 are intended to cover the matters originally envisaged as being suitable to be dealt with in a code of practice. One significant advantage of the new approach is a reduction in the number of documents to which reference will have to be made by those with an interest in the installation of apparatus by telecommunications operators. Condition 11 requires British Telecom within 3 months of the licence coming into force to inform the Director General of Telecommunications of the steps taken to give effect to the obligation.

93 Condition 12 also covers a matter originally intended to be covered in a code of practice. It requires British Telecom to keep records of where it has installed its apparatus underground and to provide information on the location of its underground apparatus to bona fide enquirers including, in particular, highway authorities. Condition 12 also requires British Telecom to cooperate with statutory undertakers in joint projects (eg computer mapping) to improve the provision of information about the location of underground apparatus.

94 Condition 13 simply provides for notice to be given after the event where under other conditions of Schedule 4, British Telecom is permitted to carry out works in an emergency which would otherwise require prior notice.

95 Condition 14 permits British Telecom to install overhead lines on a temporary basis for public events, construction sites notwithstanding those conditions of the licence which would otherwise prohibit the installation of such apparatus or require prior notice to be given.

96 Condition 15 gives British Telecom a similar permission to that in Condition 14 when providing services to an Emergency Organisation in an Emergency.

97 Condition 16 reflects section 10(5) of the Act. British Telecom must make available to the public in the office of the General Manager of each Telephone Area a copy of Schedule 4 to the Licence and a copy of any direction given by the Secretary of State under section 10(4) of the Act, for example a direction modifying the list of areas in Condition 4.

ANNEX A: DEFINITION OF THE APPLICABLE SYSTEMS

98 Annex A defines "the Applicable Systems", that is to say the systems which the licence authorises British Telecom to run. The systems include both British Telecom's major networks such as the Public Switched Networks and isolated point-to-point links (such as "external extensions").

99 The Applicable Systems are defined

- (a) by reference to specified points to or from which each system may convey messages (paragraph 1(a)); and
- (b) by specifying certain particular apparatus and systems which are excluded (paragraphs 1(b) and (c)).

100 The concept of the "Network Termination Point" (NTP) is central to the definition. The NTP is a precise location (in practice it will usually be the mating surfaces of the contacts in apparatus such as a socket or block terminal). It is the point at which energy (of the kinds mentioned in section 4(1) of the Act) may pass in either direction between an Applicable System and apparatus connected to it but not forming part of it. The Applicable Systems are then those systems that may convey messages from one NTP to another but no further. The NTP therefore forms the boundary of any Applicable System and the Licence does not authorise British Telecom to run anything beyond the NTP.

101 In addition to conveying messages between one NTP and another, the Applicable Systems are also defined to permit the conveyance of messages between other points:

- (i) between an NTP and another place; this permits such system facilities as operator services where Messages pass between a subscriber and a point within the system;
- (ii) between any two places which are not NTPs, without passing through an NTP, provided that the conveyance of such messages is not a telecommunication service (as defined in section 4(2) of the Act) provided to another; this permits a wide variety of necessary "system housekeeping" messages to be passed within the system;

- (iii) between a Call Office and any other place; this permits call box services to be provided.

102 These arrangements have another important effect. They mean that the system may not be used to provide telecommunication services except via an NTP. The NTP is therefore the uniform means of connection through which all telecommunication services (other than public call box services) must be provided. This provides for uniform means of connection, facilitating fair competition in the supply of telecommunication apparatus and services.

103 The NTP must be located in one of two classes of apparatus. For purposes of connection to the generality of apparatus including telecommunication systems such as private branch exchanges and data communication systems, the NTP is located in "Network Termination and Testing Apparatus" (NTTA), which forms part of the Applicable Systems. Condition 45 requires that NTTA must be on Served Premises unless the Director agrees otherwise. The NTTA is permitted only to have "network" functions, including providing the means of physical connection between the system and other apparatus, network testing and functions such as multiplexing and signal conversion, necessary to proper communication between apparatus and system. Customer apparatus functions, such as private branch switching and telex terminals, cannot be integrated with the NTTA, but must always form part of separate apparatus or systems, connected to the Applicable Systems at an NTTA.

104 When connection is to be made between the Applicable Systems and other individually licensed systems such as those run by Hull and Mercury, the NTP concept still applies but the NTP may instead be located in "Network Connection Apparatus" (NCA). In such cases, the connection arrangements will be subject to negotiation between the parties (or, if they disagree, to determination by the Director) and there are no restrictions placed on the functions that can be embodied in the NCA. This allows full flexibility in the negotiation of sensible arrangements within the framework of licence Conditions 13 and 14 which require British Telecom to connect other licensed systems to the Applicable Systems.

Excluded Systems

105 The Annex prevents British Telecom from running systems in the area in which the City of Kingston upon Hull is authorised to run systems. British Telecom may not therefore compete with Hull within the latter's area (paragraph 1(c)). Technical exceptions from this are made:

- (a) to allow British Telecom to connect to aircraft and seagoing vessels or hovercraft in the Hull area;
- (b) to allow connection between the British Telecom and Hull systems in the Hull area; and
- (c) to allow British Telecom to connect to any other public telecommunication system in the Hull area.

106 The Applicable Systems also exclude all systems used to provide land mobile radio services (paragraph 1(d) when read with the definitions in paragraph 2). This means that British Telecom may not, under this licence, run mobile radio services such as radio telephones and radio paging services and will require separate licences for these services.

107 The Applicable Systems also exclude telecommunication systems run under any other licence granted, or having effect as if granted, under section 7 of the Act. This is primarily intended to ensure that British Telecom is not able to use this licence to run branch systems (PBXs and data communication systems, including local area networks, are examples of such branch systems). Were British Telecom able to do so, it might obtain an unfair competitive advantage eg through the application of Telecommunication Code powers. If BT runs branch systems, it will only be able to do so under another licence, and in this respect will be on exactly the same footing as any other person.