
Removing fax from the universal service obligations on BT and KCOM

[Removing fax from the universal service obligations on BT and KCOM – Welsh overview](#)

CONSULTATION

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1. Overview

The telephony universal service obligation (USO) ensures that a minimum set of telephony services are available at an affordable price to people across the UK.

BT and KCOM are the designated universal service providers in the UK, and Ofcom's current USO rules require them to provide facsimile (fax) services. The scope of the USO is set by Government through legislation and, until recently, it had required that fax services be provided throughout the UK as a universal service.

Parliament has recently removed fax services from the USO legislation, following a consultation by Ofcom in November 2021. This amendment was made in light of the migration of telephony networks to internet protocol (IP) technology, which means that fax services will no longer work in the same way after the move to IP networks. It also reflects that use of fax services in the UK is now very limited, and there are a range of free, or low-cost, alternatives available.

What we are proposing - in brief

Amending our rules to remove the requirement for BT and KCOM to provide fax services under the USO. This will ensure that our rules reflect the requirements in the universal service legislation and are not unduly burdensome.

We are inviting comments on our implementation of this change by 28 November 2022. We expect to publish a statement in early 2023.

2. Removing fax from the universal service conditions

Background

- 2.1 The current telephony USO was established via legislation in 2003¹ and sets out the extent to which certain electronic communications services should be provided throughout the UK. The Universal Service Order 2003 ('the Order') requires that at least one designated universal service provider shall meet all reasonable requests by end-users for connection at a fixed location to the public electronic communications network and for access to publicly available telephone services at a fixed location.
- 2.2 Until 1 October 2022, the Order specified in particular that those connections must be capable of allowing end-users to make and receive local, national and international telephone calls, and facsimile.
- 2.3 The Order does not specify in any detail how and by whom these services should be provided to consumers. It is therefore for Ofcom to decide how to implement the Order in the most appropriate way.
- 2.4 Since 2003, we have implemented the telephony USO through a combination of universal service conditions on BT and KCOM (whom we designated as universal service providers)² and general conditions on all providers.
- 2.5 We have implemented the requirement to provide telephony services through two sets of universal service conditions, referred to as the 'Telephony Universal Service Conditions' and the 'Broadband Universal Service Conditions'.³ In particular, the requirement for the provision of a connection at a fixed location is contained in Broadband Universal Service Condition A2 on BT and KCOM.⁴ This condition requires the provision of 'Telephony Services' on reasonable request, and the definition of these services includes "*the ability to make and receive calls and facsimile*".

Migration to all-IP will impact the provision of fax services

- 2.6 The UK's fixed telecoms networks are undergoing substantial change as telecoms providers migrate their landline customers from the public switched telephone network (PSTN) to voice over IP technology over the next few years. BT has taken the decision to close the PSTN at the end of 2025 and other providers plan to follow a broadly similar timescale.⁵

¹ [The Electronic Communications \(Universal Service\) Order 2003](#), as amended.

² [Ofcom, July 2003. Statement on the designation of BT and Kingston as universal service providers and the specific universal service conditions.](#)

³ [Universal Service Obligations \(broadband and telephony\) - Ofcom](#)

⁴ The full legal framework is set out in Annex 6.

⁵ [The future of fixed telephone services: Ofcom policy positioning statement](#)

Migration to IP will offer benefits to consumers, such as clearer phone calls, and it will help ensure the UK's landline telephone services are fit for the future.

- 2.7 Fax machines use voice-band data (or 'tones') that are carried over the PSTN voice service. They require both ends, and intermediary networks, of the fax call to support an analogue voice-band data channel for the analogue data. The nature of all-IP (digital) networks means that the timing and synchronisation that is relied on by fax for the duration of the transmission cannot be guaranteed. This means that the successful delivery of facsimile data cannot be guaranteed over all-IP networks.

Our November 2021 consultation sought views on removing fax from the USO

- 2.8 In September 2021 the Minister for Digital Infrastructure consulted Ofcom on his proposal to remove the fax universal obligation from the Order.⁶ In particular he noted that removal may be appropriate given it will no longer be feasible for BT and KCOM to meet this obligation following the withdrawal of the PSTN.⁷
- 2.9 In November we consulted on a number of changes to the universal service conditions and as part of that consultation we sought views on the removal of fax from the universal service obligation.⁸ Thirteen responses to the consultation commented on this issue and the majority of respondents agreed with our view, albeit a few also raised some concerns.⁹
- 2.10 We published a statement on our review in June 2022.¹⁰ In the statement we summarised and responded to the comments raised by stakeholders. We concluded that it was appropriate for fax to be removed from the USO, given the limited ongoing use, the technological developments outlined above, and the availability of a range of alternatives. We also wrote to DCMS setting out this view and included a summary of the relevant stakeholder responses.¹¹

Amendment to the Universal Service Order and proposed consequential changes to the universal service conditions

- 2.11 On 6 September 2022, a Statutory Instrument was laid in Parliament to amend the Order (the '2022 SI'), removing the requirement to provide facsimile services from the universal service obligation. The change came into force on 1 October 2022.¹²

⁶ Under section 65(4) of the Communications Act 2003, the Secretary of State is required to consult Ofcom and such other persons as he considers appropriate before making a statutory instrument to change the Order.

⁷ [Letter from DCMS](#)

⁸ Ofcom, November 2021: [Consultation: Review of the telephony universal obligation](#)

⁹ The non-confidential responses are published [here](#).

¹⁰ Ofcom, June 2022: [Statement: Review of the telephony universal service obligation](#)

¹¹ [Letter from Ofcom to DCMS](#)

¹² [The Electronic Communications \(Universal Service\) \(Amendment\) Order 2022](#)

- 2.12 In her Ministerial statement, the Secretary of State for Digital, Culture, Media and Sport noted that she had consulted Ofcom in accordance with section 65(4) of the Communications Act 2003 ('the Act').¹³
- 2.13 The Secretary of State also noted that the Department for Digital, Culture, Media and Sport ('DCMS') had been working closely with other Government departments to raise awareness of this change and others expected as part of PSTN migration.
- 2.14 In the Explanatory Memorandum to the 2022 SI, DCMS explain that:
"[T]he Order is designed to offer a minimum safety net of services for consumers. The government is now satisfied that numerous alternatives to facsimile are available (some of which are free of charge) meaning this instrument will have a minimal impact on businesses, the public sector, and individuals. Alternatives to facsimile include document sharing services and email. The latter can also include read-receipts.
DCMS also notes that the COVID-19 pandemic is likely to have accelerated changes in business practices, likely reducing the impact of this change even further."
- 2.15 In light of Parliament's amendment to the Order, we are proposing a consequential amendment to the definition of 'Telephony Services' in BT and KCOM's universal service conditions. Specifically, we propose to remove the words "and facsimile" from the definition of 'Telephony Services' in both the Telephony and Broadband Universal Service Conditions, to reflect the fact that the requirement to provide facsimile services has been removed from the Order.
- 2.16 Before modifying the universal service conditions to give effect to these changes, we are required by s48A of the Act to publish a notification of the proposed changes, and consult on the same.
- 2.17 The effect of the proposed changes would be that:
- i) BT and KCOM will no longer be required to provide facsimile services upon reasonable request throughout the UK (Broadband Universal Service Conditions A.1 and A.2);
 - ii) BT and KCOM will no longer be required to ensure that their electronic communications networks are installed, kept installed and run for the purpose of providing facsimile services (Broadband Universal Service Condition A.4); and
 - iii) BT and KCOM will no longer be required to provide facsimile services on the basis of uniform prices (Telephony Universal Service Condition 1).
- 2.15 In order to reflect the changes made to the Order promptly, we propose that this amendment should come into immediate effect upon notification.
- 2.16 The proposed amendments are set out in Annex 7.

¹³ [Statement UIN HCWS284 made on 5 September 2022 by the Secretary of State for Digital, Culture, Media and Sport](#)

Relevant legal tests

2.17 When considering making decisions under sections 67 and 45 of the Act, we must be satisfied that the legal tests in section 47(2) of the Act are met.¹⁴ We consider that our proposed changes to the definition of ‘Telephony Services’ in both the Telephony Universal Service Conditions and the Broadband Universal Service Conditions (as set out in Annex 7) meet these tests. In particular we consider our proposed changes are:

- **objectively justifiable:** as they are consistent with our duties and policy objectives in that they reflect the changes made to the universal service requirements as set by the Secretary of State. They are also consistent with our duty, under section 6 of the Act, to keep the carrying out of our functions under review, with a view to securing that our regulation does not involve the maintenance of burdens which have become unnecessary;
- **not unduly discriminatory:** as the removal of the obligations relating to the provision of fax services apply equally to both BT and KCOM;
- **proportionate:** as the removal of the requirement to provide facsimile services reflects the requirements of the Order and removes a regulatory burden; and
- **transparent:** as we have explained our reasoning in this consultation and the proposals have been set out clearly in the attached draft Notification.

Impact assessment

2.18 The analysis presented in this document constitutes an impact assessment as defined in section 7 of the Act.¹⁵

2.19 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policymaking. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in our activities. However, as a matter of policy, we are committed to carrying out impact assessments in relation to the great majority of our policy decisions.¹⁶

Equality impact assessment

2.20 Section 149 of the Equality Act 2010 (the ‘2010 Act’) imposes a duty on Ofcom, when carrying out its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct related to the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership;

¹⁴ These tests are set out in detail in Annex 6.

¹⁵ The Explanatory Note to the 2022 SI notes that no significant impact on the private, voluntary or public sector is foreseen as a consequence of the change, and that it was not necessary for DCMS to carry out a full impact assessment.

¹⁶ For further information about our approach to impact assessments, see the guidelines, [Better Policy Making - Ofcom’s approach to Impact Assessment](#).

pregnancy and maternity; race; religion or belief; sex and sexual orientation. The 2010 Act also requires Ofcom to have due regard to the need to advance equality of opportunity and foster good relations between persons who share specified protected characteristics and persons who do not.

- 2.21 Section 75 of the Northern Ireland Act 1998 (the '1998 Act') also imposes a duty on Ofcom, when carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations across a range of categories outlined in the 1998 Act. Our Revised Northern Ireland Equality Scheme explains how we comply with our statutory duties under the 1998 Act.¹⁷
- 2.22 To help us comply with our duties under the 2010 Act and the 1998 Act, we have assessed the impact of our proposals on persons sharing protected characteristics and in particular whether they may discriminate against such persons or impact on equality of opportunity or good relations.
- 2.23 We do not consider that our proposals to implement the changes to the Order have equality implications under the 2010 Act or the 1998 Act. In particular, we do not envisage the impact of our proposals to be to the detriment of any group of society.

Consultation question

Question 1: Do you agree with our proposal to implement the changes to the Universal Service Order by amending the definition of 'Telephony Services' in BT and KCOM's universal service conditions to remove the reference to facsimile transmission?

¹⁷ Ofcom, 2019. [Revised Northern Ireland Equality Scheme for Ofcom](#).

A1. Responding to this consultation

How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by **5pm on 1 December 2022**.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/removing-fax-bt-and-kcom>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to telephonyuso@ofcom.org.uk, as an attachment in Microsoft Word format, together with the [cover sheet](#).
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Telephony USO team
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
 - upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential).
- A1.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A1.8 We also welcome joint responses.
- A1.9 It would be helpful if your response could include direct answers to the question asked in the consultation document. The question is at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A1.10 If you want to discuss the issues and question raised in this consultation, please contact telephonyuso@ofcom.org.uk

Confidentiality

- A1.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on [the Ofcom website](#) at regular intervals during and after the consultation period.
- A1.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.14 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department before we publish it on our website. This is the Department for Business, Energy and Industrial Strategy (BEIS) for postal matters, and the Department for Culture, Media and Sport (DCMS) for all other matters.
- A1.15 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

Next steps

- A1.16 Following this consultation period, Ofcom plans to publish a statement in early 2023.
- A1.17 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

A2. Ofcom's consultation processes

- A2.1 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex A2.
- A2.2 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A2.3 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A3. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A3.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A3.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A3.3 We will make the consultation document as short and simple as possible, with an overview of no more than two pages. We will try to make it as easy as possible for people to give us a written response.
- A3.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A3.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A3.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A3.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish the responses on our website at regular intervals during and after the consultation period. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A4. Consultation coversheet

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? _____

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom aims to publish responses at regular intervals during and after the consultation period. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

A5. Consultation question

Question 1: Do you agree with our proposal to implement the changes to the Universal Service Order by amending the definition of 'Telephony Services' in BT and KCOM's universal service conditions to remove the reference to facsimile transmission?

A6. Legal framework and Ofcom's role

Purpose of the universal service

- A6.1 The requirement to secure universal services in the UK derives from the European Electronic Communications Code ("EECC"). The EECC has been implemented into UK law through the Communications Act 2003 (the "Act") and secondary legislation.
- A6.2 Under the EECC, universal service means the provision of at least a minimum set of services to everyone on request and at an affordable price.¹⁸ It ensures that a basic set of telephony services are available to people who need them (particularly those in remote or rural areas or vulnerable customers, who the market might not otherwise choose to serve), and where there would otherwise be a risk of social exclusion arising from the lack of such access which would prevent their full social and economic participation in society.

Scope of the universal service

- A6.3 The scope of the telephony universal service in the UK is set by Government. In particular, the Secretary of State is required by section 65 of the Act to set out by order the extent to which electronic communications network and services must be provided, made available or supplied throughout the UK. Using his powers under section 65 of the Act, the Secretary of State made the Electronic Communications (Universal Service) Order 2003 (the "Order"). The Order has been amended a number of times to reflect changing technology and consumer need.
- A6.4 Amongst other things, the Order requires at least one designated universal service provider to meet all reasonable requests by end-users for connection at a fixed location to the public electronic communications network and for access to publicly available telephone services over that communication network. Until recent changes to the Order made by the Electronic Communications (Universal Service) (Amendment) Order 2022,¹⁹ this connection had to be capable of allowing end-users to make and receive facsimile, as well as local, national and international telephone calls.
- A6.5 However, as noted in Section 2, on 6 September 2022, a statutory instrument was laid in Parliament to amend the Order, removing the requirement to provide facsimile services from the universal service obligation. The change came into force on 1 October 2022.²⁰

¹⁸ Recital 212 of the EECC

¹⁹ [The Electronic Communications \(Universal Service\) \(Amendment\) Order 2022](#) SI 2022/937

²⁰ [The Electronic Communications \(Universal Service\) \(Amendment\) Order 2022](#)

Ofcom's role in securing the universal service

A6.6 The Order does not specify in any detail how and by whom the universal service should be provided to consumers. It is therefore for Ofcom to decide how to implement the Order in the most appropriate way.

Ofcom's power to set conditions

A6.7 To secure compliance with the obligations in the Order, Ofcom has the power to set different types of regulatory conditions, including:

- a) universal service conditions, which apply to designated providers only; and
- b) general conditions of entitlement ("general conditions"), which apply to all providers of electronic communications networks and/or electronic communications services or to providers of a particular description specified in the condition which supply such networks and/or services.

A6.8 We can only set or modify universal service conditions and general conditions where we are satisfied that the conditions are:

- a) not unduly discriminatory against particular persons or against a particular description of persons;
- b) proportionate to what they are intended to achieve; and
- c) transparent in relation to what they are intended to achieve.

A6.9 In addition, in relation to universal service conditions we must be satisfied that the conditions are objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which they relate.

Ofcom's statutory duties

A6.10 In fulfilling our role in respect of the implementation of the Order, we must have regard to our duties under the Act.

A6.11 In particular, we must consider our principal duty in s.3(1) of the Act to further the interests of citizens in relation to communications matters and the interests of consumers in relevant markets, where appropriate by promoting competition. In the carrying out of our functions, we are also required to secure (among other things) the availability throughout the UK of a wide range of electronic communications services (s.3(2)(b) of the Act).

A6.12 We must also have regard (among other things) to the following:

- a) the desirability of ensuring the security and availability of public electronic communications networks and public electronic communications services (s.3(4)(ea) of the Act);

- b) the desirability of ensuring that relevant markets facilitate end-to-end connectivity in the interests of consumers in those markets (s.3(4)(eb) of the Act); and
- c) the interests of those consumers in respect of choice, price, quality of service and value for money (s.3(5) of the Act).

A6.13 In addition, we must have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed (s. 3(3) of the Act).

A6.14 We must also act in accordance with the six requirements at s.4 of the Act, of which the following appear particularly relevant:

- a) promoting the interests of all members of the public in the UK;
- b) carrying out our functions in a manner which, as far as practicable, does not favour one form of network, communications service or associated facility; or one means of providing or making available such a network, service or facility; and
- c) promoting connectivity.

A6.15 We are also required by s.6 of the Act to keep the carrying out of our functions under review with a view to securing that our regulation does not involve either:

- a) the imposition of burdens which are unnecessary; or
- b) the maintenance of burdens which have become unnecessary.

How Ofcom has secured compliance with the Order to date

A6.16 Oftel (Ofcom's predecessor) exercised its powers under sections 45 and 67 of the Act to set the universal service conditions and to designate BT and KCOM (then known as Kingston Communications) as the telephony universal service providers.²¹ The universal service conditions have been amended by Ofcom over time.²²

A6.17 The universal service conditions are currently contained in:

- a) a notification under section 48 of the Act dated 21 July 2003 (the "Telephony Universal Service Conditions"). These conditions have been amended a number of times, the most recent amendment being on 8 June 2022;²³ and
- b) a notification under section 48 of the Act dated 6 June 2019 (the "Broadband Universal Service Conditions").²⁴ These conditions were amended in November 2021.²⁵

²¹ Under the universal service conditions, BT is required to provide Telephony Services in the UK except for the Hull Area, and KCOM is required to provide Telephony Services in the Hull Area.

²² In 2019, we also designated BT and KCOM as the universal service providers for broadband.

²³ A consolidated copy of the Telephony Universal Service Conditions is available in Annex 1 of [Statement: Review of the telephony universal service obligation \(ofcom.org.uk\)](#)

²⁴ [Statement: Delivering the Broadband Universal Service \(ofcom.org.uk\)](#), see Annex 1

²⁵ [Universal Service Obligations \(broadband and telephony\) - Ofcom](#)

Removing fax from the universal service obligations on BT and KCOM

- A6.18 In line with the Order (as drafted before the Government's recent amendment, effective 1 October 2022), the universal service conditions currently require BT and KCOM to provide telephony services (including the ability to make and receive facsimile) upon reasonable request throughout the UK (Broadband Universal Service Conditions A.1 and A.2), and on the basis of uniform prices (Telephony Universal Service Condition 1).
- A6.19 In addition, Ofcom has imposed a number of general conditions to secure the implementation of the Order. These include general conditions relating to the provision of directory information, measures for end-users with disabilities, and measures relating to billing. The general conditions do not place any requirement on communications providers to provide facsimile services throughout the UK.

A7. Notification of proposed modifications to the universal service conditions

Proposed modifications under sections 45 and 67 of the Communications Act 2003 (the “Act”) of Universal Service Conditions contained in (i) Ofcom’s notification under section 48 of the Act of 21 July 2003, and (ii) Ofcom’s notification under section 48 of the Act of 6 June 2019

Background

1. On 17 July 2003, the Secretary of State made secondary legislation (the “Order”) setting out the extent to which electronic communications networks and electronic communications services must be made available or supplied throughout the UK.
2. To secure the provision of the universal service specified in the Order, Oftel (Ofcom’s predecessor) designated BT and KCOM as the universal service providers²⁶ and exercised its powers to set universal service conditions in 2003.²⁷ These conditions have been modified on a number of occasions and are currently contained in:
 - i) a notification made by Ofcom under section 48 of the Act dated 21 July 2003 (the “Telephony Universal Service Conditions”). These conditions have been amended on a number of occasions, most recently in June 2022;²⁸ and
 - ii) a notification made by Ofcom under section 48 of the Act dated 6 June 2019²⁹ (the “Broadband Universal Service Conditions”). These conditions were amended in September 2020 and November 2021.³⁰
3. Ofcom has also secured the provision of some universal services specified in the Order through general conditions. In September 2017, Ofcom concluded a comprehensive review of the General Conditions, and a set of revised General Conditions came into force on 1 October 2018.³¹

²⁶ Oftel’s Universal Service Notification, 21 July 2003, took effect on 25 July 2003.

²⁷ The power to set universal service conditions derives from sections 45 and 67 of the Act.

²⁸ The universal service conditions were amended in 2003, 2011 and 2012. The most recent amendment in June 2022 can be found here: [Statement: Review of the telephony universal service obligation \(ofcom.org.uk\)](#)

²⁹ [Statement: Delivering the Broadband Universal Service \(ofcom.org.uk\)](#), see Annex 1

³⁰ [Universal Service Obligations \(broadband and telephony\) - Ofcom](#)

³¹ The General Conditions and changes to them can be accessed [here](#).

4. On 6 September 2022, a Statutory Instrument was laid in Parliament to amend the Order, removing the requirement to provide facsimile services from the universal service obligation. The change came into force on 1 October 2022.³²

Proposals to modify certain universal service conditions

5. Ofcom is giving notice of its proposals in accordance with section 48A of the Act to modify the universal service conditions imposed on BT and KCOM. Ofcom is proposing to remove “and facsimile” from the definition of “Telephony Services” and “Telephony Service” in each of BT’s and KCOM’s Telephony and Broadband Universal Service Conditions.
6. An explanation of the proposed changes and the justifications for them are set out in the attached Consultation document.
7. The proposed modifications are made under powers set out in sections 45(10) and 67(1) of the Act. It is proposed that the modifications take effect from the date of any notification under section 48(1) of the Act adopting the proposals set out in this notification.
8. The Telephony Universal Service Conditions are proposed to be amended as follows:
 - a. the words “and facsimile” shall be deleted from the definition of “Telephony Services” contained in Schedule 1 (Universal Service Conditions for BT), and
 - b. the words “and facsimile” shall be deleted from the definition of “Telephony Services” contained in Schedule 2 (Universal Service Conditions for KCOM).
9. The Broadband Universal Service Conditions are proposed to be amended as follows:
 - a. the words “and facsimile” shall be deleted from the definition of “Telephony Service” contained in paragraph 2 of Part 2 of Schedule 1 (Universal Service Conditions for BT), and
 - b. the words “and facsimile” shall be deleted from the definition of “Telephony Service” contained in paragraph 2 of Part 2 of Schedule 3 (Universal Service Conditions for KCOM).

Making representations

10. Representations may be made to Ofcom about any of the proposals set out in this notification and the accompanying consultation document by no later than 1 December 2022.

Ofcom’s duties and legal tests

11. Ofcom considers that the proposed modifications set out in this notification meet the tests contained in section 47(2) of the Act in that they are objectively justifiable, not unduly

³² [The Electronic Communications \(Universal Service\) \(Amendment\) Order 2022](#)

discriminatory, proportionate, and transparent.

12. In making the proposals referred to in this notification, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act and the six requirements in section 4 of the Act. We also consider that our proposals are consistent with our duty, under section 6 of the Act, to keep the carrying out of our functions under review, with a view to securing that our regulation does not involve the maintenance of burdens which have become unnecessary.
13. In proposing the modification referred to in this notification, Ofcom has also had regard to the Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services designated by the Secretary of State for Digital, Culture, Media and Sport for the purposes of section 2A of the Act.
14. A copy of this notification has been sent to the Secretary of State under section 48C(1) of the Act.

Interpretation

15. For the purpose of interpreting this notification:
 - a. except in so far as the context otherwise requires, words or expressions have the meaning assigned to them in paragraph 16 below, and otherwise any word or expression has the same meaning as it has in the Act;
 - b. headings and titles shall be disregarded;
 - c. expressions cognate with those referred to in this notification shall be construed accordingly; and
 - d. the Interpretation Act 1978 shall apply as if this notification were an Act of Parliament.
16. In this notification:
 - a. "Act" means the Communications Act 2003 (2003 c. 21);
 - b. "BT" means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 1159 of the Companies Act 2006;
 - c. "KCOM" means KCOM Group Limited, whose registered company number is 02150618, defined as "Kingston" in the 2003 Notification, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined in section 1159 of the Companies Act 2006; and
 - d. "Ofcom" means the Office of Communications as established pursuant to section 1(1) of the Office of Communications Act 2002 (2002 c. 11).

Signed

A handwritten signature in black ink, appearing to be 'Selina Chadha', enclosed in a thin black rectangular border.

Selina Chadha

Director of Connectivity

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

27 October 2022