BT Response
(November 2010)

to the BEREC consultation
"Electronic communications services: Ensuring equivalence
in access and choice for disabled end-users**"**

1. **Introduction**.

BT actively contributes in making the information society inclusive for all.

The acceleration and pervasive usage of ICT applications in all aspects of contemporary society make ensuring their accessibility for persons living with disabilities indispensable. BT and the UK have made significant progress and the UK is considered as an example of best practice in ensuring that all members of society can use ICT products and services[1].

In this document we provide our responses to the specific consultation questions.

BT supports the objective of improving accessibility of services. At the same time we believe this must be embedded into a wider policy of equality that goes beyond the telecom sector - otherwise it risks repeating and reinforcing problems with the current USO measures. These have led to some improvements, but limited to a few EU Member States, and have led to structures and systems that are fragmented across Europe.

As a result we believe that the EU should over time break with the restricted and telecom-specific USO based approach. Disabled users are looking for solutions that are embedded into mainstream products and that are supported across the whole value chain (from ICT product and service suppliers to providers of general services).

Therefore the EU should opt for a system that leads to the creation of market based solutions, within a structure of finance and procurement organised and funded by government and based upon European standards and the wider adoption of "design for all" principles. Recently a number of private companies have made available a set of products/services in that respect. Government funding may be a transitional measure until the market mechanisms starts to fully play.

This approach should be further supported by introducing measures such as European anti-discrimination legislation and the introduction of eAccessibility procurement standards. Such measures are already under development within the Commission and it would be inappropriate not to take them into account in any future review of the USO directive. Member States also have an important role to play to promote these horizontal measures and to create the right set of market conditions. The creation of a market for eAccessibility products and services, needs similar efforts at the demand side.

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[1] EC MeAC study – Measuring progress of eAccessibility in Europe (October 2007))

2. **Reponses to the consultation questions**.

Consultation Question 1: *Are there additional legal provisions, other than those listed in Section 2, currently in place in MS with respect to users with disabilities regarding electronic communications? If yes, please detail the provisions and the organisation responsible for implementing or monitoring these provisions.*
The Equality Act 2010 came into force in the UK on 1st October 2010. It consolidated over 100 pieces of separate pieces of legislation to act as a basic framework of protection against direct and indirect discrimination, harassment and victimisation in services and public functions; premises; work; education; associations and transport.

The United Nations Convention on the Rights of Persons with Disabilities (the UN Convention), the first legally-binding international human rights instrument to which the EU and its Member States are parties, will soon apply throughout the EU. The UN Convention requires States Parties to protect and safeguard all human rights and fundamental freedoms of persons with disabilities. Agreed in 2007 and signed by all Member States and the EU; ratified by October 2010 by 16 Member States (BE, CZ, DK, DE, ES, FR, IT, LV, LT, HU, AT, PT, SI, SK, SE, UK) while the rest are in the process of doing so. The UN Convention will be binding on the EU and will form part of the EU legal order.

The European Commission proposed a new communication "European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe" [COM(2010) 636 final – 15 November 2011]. This will set out a general accessibility framework in relation to goods, services and public infrastructure using different instruments such as standardisation, public procurement or state aid rules. The Commission will continue to support research on new technologies, such as assistive devices. The Commission will consider proposing a European Accessibility Act in 2012.

Consultation Question 2: *Do you agree that the factors listed in sections 3.1.1[2] and 3.1.2[3] are important to consider when assessing equivalent **access**? Are there other factors which should be considered? Are some factors more important than others?*
We agree that the factors listed at section 3.1.1 of the consultation are important although think additional set-up is less so with sufficient guidance available to end-users. However, we believe that inclusive design is key assessing equivalence in access. Inclusively designed terminal equipment allows all end-users to purchase those most suitable to their needs at equivalent prices. All suppliers should be required to supply non-discriminatory services to ensure customers have equal choice in providers, services and tariffs as non-disabled customers.

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[2] Availability of accessible terminal equipment; price; number of suppliers and additional set-up
[3] Accessible complaints process; accessible support and maintenance; accessible billing; accessible directory enquiry service; accessible directory (phone book)

With the exception of an accessible directory, the factors listed at section 3.1.2 of the consultation should all be available as standard and at no additional charge to ensure customers gain maximum benefit from their services. Accessible billing, complaints process and fault reporting is key to providing customers with disabilities with services equivalent to those who are not disabled.

Consultation Question 3: *Do you agree that the factors listed above (section 3.2.1[4] and 3.2.2[5]) are important to consider when assessing equivalent* **choice**? *Are there other factors which should be considered? Are some factors more important than others?*
The factors listed at section 3.2.1 of the consultation are all important in achieving equivalence. Availability of inclusively designed handsets within standard packages is a further factor that is beneficial to end-users and has the power to extend greatly their choice of providers and services.

As stated in our response to question 2 above, equivalence cannot be achieved without providing customers with access to the information they need to make informed decisions about services and providers. Therefore, the factors considered at section 3.2.2 of the consultation are all important in the provision of non-discriminatory services to end-users.

Consultation Question 4: *In your view, should the obligations currently in place under USO, for end-users with disabilities, be placed on all service providers? If no, what types of service providers, considering factors such as financial impact(cost), should the obligations be placed on? What is your view in relation to alternative mechanisms for funding?*
We believe that all providers should supply their services on an equivalent basis to all end-users. However, mandating provision of functional equivalence should not be confused with trying to achieve equivalence of experience which in a lot of cases simply isn't possible.

Communications providers should not have sole responsibility for funding services that improve end-user access to services. In many cases, the business community and government services as a whole benefit from their customers being able to contact them by telephone or the internet as this reduces their need to put alternative, specialist mechanisms in place. As the main beneficiaries, we believe that the business and public community should contribute financially to provision of equivalent services and therefore support government funding or business levies to achieve this.

Consultation Question 5: *In what form should the information provided by service providers to inform end-users with disabilities of details of products and services designed for them and information regarding pricing and contracts be provided in?*
Formats should be appropriate to customer need wherever this is reasonable and not cost prohibitive.

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[4] availability of service providers with accessible services; choice of packages with accessible handsets; accessible information about accessible services
[5] Accessible pricing information; accessible contract terms; accessible switching procedure

Consultation Question 6: *Do you consider it appropriate that NRAs have a role in encouraging the availability of terminal equipment, in accordance with Article 23 (a) (ii)? If yes, what do you consider that NRAs could do to achieve this?*
Terminal equipment should, wherever possible, be inclusively designed so that end users can access out of the box solutions. This greatly reduces any requirement for supply of expensive specialist devices with limited market audience and foreshortened technological life. Mandating Comms Providers to supply specialist devices risks fettering innovation and inclusion overall. Instead, we support improved methods for making devices more specialised in the form of downloadable apps and we believe these should be widely and commercially available to meet customer needs.

Consultation Question 7: *In addition to the services, features and types of terminal equipment listed are there any others which you consider necessary to ensure equivalent access?*
See question 6

Consultation Question 8: *Where services, features or terminal equipment suitable for end-users with disabilities have been provided voluntarily, has there been encouragement from NRAs Government or other parties, or does it appear that the market is delivering and will continue to deliver of its own accord?*
We do not believe that NRA encouragement is necessary to ensure the provision of suitable terminal equipment. We believe the market will continue to deliver until such time as the move to inclusively designed alternatives makes this unnecessary. National bodies (including NRA's) could stimulate the terminal equipment market by participating in European standardisation activities and promoting the use of eAccessibility standards in procurement.

Consultation Question 9: *What consideration should be given to NRAs mandating undertakings to provide services, features or terminal equipment for end-users with disabilities as part of the standard services and packages they offer?*
See question 6
NRAs may require reasonable adjustments to ensure services are accessible but these should not be unnecessarily onerous or cost prohibitive. Instead, NRAs should monitor and encourage providers to make their services accessible and functionally equivalent wherever possible. NRA's should also take into account the user's take-up (or decline) of particular services, and consider the most appropriate and effective way for sourcing of funding, including the stimulation of a market oriented approach over long term.

Consultation Question 10: *What is the role for public procurement of accessible terminal equipment, as it is likely that NRAs may have no powers with respect to design or supply?*
The European Commission is supporting the development of accessibility standards to ICT for their use in public procurement in the context of Mandate 376

Consultation Question 11: *Where a subsidy is available for services, features or terminal equipment needed for disabled end-users is the up-take as expected and are there any barriers to take-up? If yes, what are the barriers?*
We are not aware of any barriers to fixed line communication services.

End-users accessing the UK text relay service receive a rebate against the increased duration of the call.

Consultation Question 12: *If funding is provided to facilitate equivalent access for disabled people, is it best targeted at purchase of equipment, discounts on tariffs, by subsidising special services such as relay services or by direct payment to the user?*
Relay services are very expensive to provide and therefore may be cost prohibitive if charged to the end-user at cost-oriented rates. Any funding mechanism is therefore best used to compensate communications providers for these increased costs allowing standard access and call pricing to be charged to the end-user.

Consultation Question 13: *Are there any details available on the cost per user of implementing any of the measures mentioned in the report?*
We have no information of this type.

Consultation Question 14: *Are you in agreement that the steps, as proposed above, are appropriate for NRAs to consider when preparing to implement Article 23a? Are there any additional factors that should be considered?*
Our response to the above questions largely expresses our view. We believe that end-users all want access to the same choice of services, equipment and suppliers regardless of their physical or mental ability. Therefore, we support inclusive design wherever this is possible and welcome wider adoption of this principle to reduce the need for expensive, specialist services and equipment.

We believe that the Equality Act already in place in the UK requires all employers and providers of services to make any necessary adjustments to ensure accessibility. Where additional legislation like this exists, NRAs should not target the Communications industry to be the sole deliverer of improved equivalence in access. We recommend BEREC take a moment to look at www.bt.com/includingyou for information about how we make our services accessible.

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