

The reference and conduct of the inquiry

1. On 27 April 1995 the DGT sent to the MMC the following reference:

(1) The Director General of Telecommunications ('the Director'), in exercise of his powers under section 13 of the Telecommunications Act 1984 ('the Act'), hereby refers to the Monopolies and Mergers Commission ('the Commission') for investigation and report, the questions set out in paragraph (3), which relate to the matter set out in paragraph (2).

(2) The matter referred to in paragraph (1) is that:

(i) following the directions from the Director to BT dated 22 August 1994 made under Condition 34B.11 of the Licence and directing British Telecommunications plc ('BT') to provide Portability to the extent set out in paragraph 34B.12 of the Licence in the Licensed Areas of the Videotron Companies, BT has not been able to reach agreement with Videotron as to the basis upon which the costs of providing Portability shall be allocated between BT and Videotron;

(ii) the Licence does not provide for the Director to resolve such a dispute concerning the allocation of costs;

(iii) the unresolved dispute is impeding the conclusion of negotiations between BT and other Operators to whom BT might otherwise provide Portability

with the result that no Portability has been or is being provided by BT.

(3) The questions referred to in paragraph (1) are:

(a) whether the matter specified in paragraph (2) operates or may be expected to operate against the public interest; and

(b) if so, whether the effects adverse to the public interest which the matter specified in paragraph (2) has or may be expected to have could be remedied or prevented by modifications of the conditions of the Licence.

(4) The Director, in exercise of the powers conferred upon him by section 13(3) of the Act, and for the purpose of assisting the Commission in carrying out their investigation on this reference, specifies in the Schedule hereto certain effects adverse to the public interest which, in his opinion, the matter specified in paragraph (2) above has or may be expected to have.

(5) In this reference, unless otherwise indicated-

'Apparatus' means telecommunication apparatus as defined by paragraph 1(1) in Schedule 2 to the Act;

'Applicable Systems' means the Telecommunication Systems described in the licences granted under section 7 of the Act to the person, or class of persons, in question;

'Directly Provided Telecommunication Service' means any Telecommunication Service provided by an Operator which a person may obtain by lawfully connecting the Apparatus comprised in his Applicable Systems to any Network Termination Point in that Operator's Applicable Systems;

`Licence' means the licence granted to BT under section 7 of the Act on 22 June 1984;

`Licensed Area' has the meaning given in each of the licences granted under section 7 of the Act to each of the Videotron Companies;

`Network Termination Point' has the meaning given to it in the licence granted to the relevant Operator under section 7 of the Act;

`Operator' means a public telecommunications operator as defined in section 9(3) of the Act;

`Portability' means a facility provided by one Operator to another which enables a person to whom Directly Provided Telecommunication Services are provided by one Operator by reference to a telephone number to retain that telephone number if Directly Provided Telecommunication Services are instead provided to that person by another Operator;

`Telecommunication Service' and `Telecommunication System' each have the meanings given to them in section 4 of the Act;

`Videotron' means Videotron Corporation Limited;

`Videotron Companies' means the following companies under the control of Videotron: Videotron City and Westminster Limited, Videotron Ealing Limited, Videotron Harrow Limited, Videotron South London Limited, Videotron Thamesmead Limited, Videotron Southampton and Eastleigh Limited, Videotron West London Limited.

(6) The report on this reference shall be made within the period of six months beginning with the date of this reference.

27 April 1995

(signed) DON CRUICKSHANK
Director General of Telecommunications

SCHEDULE

EFFECTS ADVERSE TO THE PUBLIC INTEREST

At present, approximately 95% of businesses and households in the United Kingdom obtain Directly Provided Telecommunication Services from British Telecommunications plc (`BT'). A customer for those Services must, at present, change his telephone number if he wishes those Services to be provided by any Operator instead of BT. Such a change is inconvenient and can be costly. This has the effect that customers who might otherwise arrange for Telecommunication Services to be provided by an Operator instead of BT are discouraged to such a significant degree that competition in the market for Directly Provided Telecommunication Services is being inhibited.

This inhibition of competition is detrimental

- (a) to the interests of customers in respect of the prices charged for Telecommunication Services and the quality and variety of the Telecommunication Services provided; and
- (b) to the maintenance and promotion of effective competition between Operators; and
- (c) to the promotion of efficiency and economy on the part of Operators.

2. On 19 October 1995 the DGT granted an extension of the inquiry period up to 8 December 1995.

3. The composition of the Group of members of the MMC responsible for this investigation and report is indicated in the list of members in the preface.

4. Notices inviting interested parties to submit evidence to the MMC were placed in:

Communications International
Communicators News
LAN Magazine

5. In addition we sought evidence from the Department of Trade and Industry, cable companies and other operators, systems suppliers, consumer bodies, the Trades Union Congress and the Confederation of British Industry. Written evidence was received from many of these parties and we held hearings with nine of these. Their evidence is summarized in Chapter 10.

6. We received a number of written submissions from BT and OFTEL and held two hearings with each of them. The consultants Ovum Ltd advised us on some of the technical aspects of telecommunications.

7. Members of the Group, accompanied by staff, made visits to BT's laboratories at Martlesham and its world-wide Network Management Centre at Oswestry. A visit was also made to the NYNEX National Operations Centre at Hershaw.

8. Some of the evidence obtained in the course of our inquiry was of a commercially confidential nature and our report contains only such information as we consider necessary for a proper understanding of our conclusions.

9. We should like to thank all those who helped us in our inquiry, particularly BT, OFTEL, NYNEX and Videotron.