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Appeal Response

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Our Reference:
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Date: 24/9/04[]

Dear Ian,

Appeal by BGT Against a Decision of the MRA Forum Regarding MCP 144

In response to your letter dated 3rd September 2004, I am writing to address the issues raised by BGT and their request that Ofgem reject the MRA forum appeal decision to uphold MCP 144. We continue to support MCP 144 going ahead as per the MDB decision and we have set out our reasons for this below.

A key premise of effective competition is customer choice. The ability to exercise this choice allows customers to negotiate with suppliers to ensure that the contract best fits their needs, for example through better management of multi-site contracts and the prevention of erroneous transfers while achieving the best possible price available. A supplier's right to raise objections should therefore be expressly agreed in the supply contract, rather than by licence, industry agreement or indeed "deemed" terms and conditions.

If this is not the case, the ability to object to customers on deemed contracts would result in a significant proportion of customers effectively being locked in to deemed contracts and unable to enter into a contract with the supplier of their choice. This would not be in the interests of customers, particularly given the higher charges generally levied under deemed contracts, or indeed competition in general. The provisions of deemed contracts have only ever been intended to act as a temporary measure to enable supply until the customer enters into a specific contract with a supplier. The introduction of a right to object to customers under deemed contracts would completely change the purpose and effect of deemed contracts.

It would also weaken the incentive on suppliers to negotiate specific terms and conditions with the customer.

Against this background, therefore, we request that the decision made at the MRA Forum is upheld.

If you would like to discuss this further, please call.

Yours sincerely,

Rob McDonald
Director of Regulation