



## Telecommunications

### *Notice under Section 12(2) of the Telecommunications Act 1984 (as Amended by the Electronic Communications Act 2000)*

#### **PROPOSED MODIFICATIONS TO WORLD ONLINE UK LTD, HUTCHINSON 3G UK LTD AND MANET TELECOM LTD.**

1. The Director General of Telecommunications (the "Director") in accordance with section 12(2) of the Telecommunications Act 1984 as amended by the Electronic Communications Act 2000 (the "Act") hereby gives notice that he proposes to make modifications to the licenses of World Online UK Ltd, Hutchinson 3G UK Ltd and Manet Telecom Ltd, granted during the period 21st November, 2000 to 21st December 2000, having already made similar modifications to all 308 Licences granted during the period beginning 22nd June, 1984 and ending on 1st November 2000, under section 7 of the Act to particular persons and all of which the Secretary of State for Trade and Industry has designated by Order under section 9 of the Act as having Public Telecommunications Systems, collectively referred to hereinafter as the "PTO licences".

2. The effect of the modifications, which the Director proposes to make, is set out in the Schedule below.

3. The reason for the proposed modifications is to relax the regulatory burden on operators with an international business. This is in line with OFTEL's long term strategy that regulation should be proportionate to the level of competition, with lighter regulations where greater competition exists. The reasons for the proposed modifications and a fuller description of their effect have already been set out in the Consultation Document of May 2000 entitled 'International Controls in PTO Licences' and OFTEL's Statement on International Controls in PTO Licences of 24th November 2000. The full text of the proposed modifications is set out in Annex C to OFTEL's Statement of 24th November 2000. Both documents are available through the OFTEL website at [www.oftel.gov.uk](http://www.oftel.gov.uk).

The three Licences which the Director proposes to modify were granted by the Secretary of State for Trade and Industry on dates after the statutory public consultation to modify the 'PTO licences referred to above had commenced, but before those modifications were made by the Director and therefore could not be included in the previous modifications exercise.

4. Section 12A(7) of the Act provides that a modification is deregulatory if –

- (a) the effect of the conditions to be modified is to impose a burden affecting the holder of the licence in which those conditions are included;
- (b) the modification would remove or reduce the burden without removing any necessary protection; and
- (c) the modification is such that no person holding a licence granted under section 7 [of the Act] to a particular person would be unduly disadvantaged by the modification in competing with the holder of the licence in which those conditions are included.

5. In the opinion of the Director, the proposed modifications to the PTO licences of World Online UK Ltd, Hutchinson 3G UK Ltd and Manet Telecom Ltd which have already been made to all PTO Licences granted before 1st November, 2000 and after 21st December 2000, are deregulatory within the meaning of section 12A(7) for the reasons set out in the Schedule below. The proposed modifications to the Licences of World Online UK Ltd, Hutchinson 3G UK Ltd and Manet Telecom Ltd will ensure that the Licensees will operate under the same conditions as other PTO licensees.

6. The consultation procedure comprises two stages. In the first stage, representations on or objections to the proposed modifications may be made to:

Julia Bradford, OfTel, 50 Ludgate Hill, London, EC4M 7JJ (telephone 020 7634 8838, e-mail [julia.bradford@oftel.gov.uk](mailto:julia.bradford@oftel.gov.uk)) by no later than 17th May, 2001.

Any confidential information should be clearly marked as such and separated out into a confidential annex. All representations received by OfTel, with the exception of material marked confidential, will be made

available for inspection in OfTel's Research and Intelligence Unit and may be published.

7. In the second stage, interested parties are invited to send comments to Julia Bradford details as above, by no later than 31st May 2001, on representations or objections received in the first stage.

8. Copies of the proposed modifications can be obtained from Julia Bradford at the above address. OfTel's Statement on Competition in International Markets (in which the proposed modifications to condition 47.6 and 55.4 are set out) are also available on OfTel's website at [www.oftel.gov.uk](http://www.oftel.gov.uk)

#### **SCHEDULE**

##### *Condition 61*

1. Condition 61 of the PTO licences would be modified as follows:
  - (a) Condition 61.1 would be deleted. Condition 61.1 obliges licensees to give prior notice to the Director of accounting rate agreements with operators outside the EEA;
  - (b) Condition 61.2 would be deleted. Condition 61.2 obliges licensees to notify the Director and other licensees of the terms of any correspondent arrangement which they make with an overseas operator;
  - (c) Condition 61.3 would be retained although certain minor consequential amendments would be required (as a result of the deletion of Conditions 61.1 and 61.2). Condition 61.3 allows the Director in certain circumstances to direct Licensees not to enter into or to vary accounting rate agreements. The amendments would involve renumbering the condition and inserting a new Condition 61.2 to define "Accounting Rate Agreement" for the purposes of this condition.
2. Condition 61 imposes a burden on licence holders by requiring them to notify the Director and other licence holders of certain accounting rate and correspondent agreements, which they enter into with overseas operators. The proposed modification reduces this burden by removing these obligations to notify the Director and other licensees of such agreements. The director does not consider these provisions to be necessary to protect licence-holders or consumers, and will retain the power to take action where Accounting Rate Agreements are thought liable to prejudice the interests of providers and users of International Conveyance Service in the UK. The proposed modification does not, therefore, remove any necessary protection. Neither does the modification unduly disadvantage any licence holder as it is intended to be made to the licences of all public telecommunications operators. For these reasons, the Director considers this modification of the PTO licences to be deregulatory within the meaning of section 12A(7) of the Act.

##### *Condition 62*

1. Condition 62 would be removed from the PTO licences.
2. Condition 62 imposes a burden on licence holders by requiring them to maintain accounting records which deal separately with their International Business carried on in the UK. The proposed modification would reduce the burden by removing this obligation. The Director does not consider condition 62 to be necessary to protect operators or consumers from unfair cross-subsidy. Rather, he considers the condition to impose a burden on operators which is disproportionate to any potential benefit it may confer on other licensees and consumers of telecommunications services. He is therefore of the view that the modification does not remove any necessary protection. Neither does it unduly disadvantage any licence holder as it is intended to be made to all PTO licences. For these reasons, the Director considers this modification of the PTO licences to be deregulatory within the meaning of section 12A(7) of the Act.

##### *Condition 63*

1. Condition 63 would be removed from the PTO licences.
2. Condition 63 imposes a burden on licence holders by allowing the director to make determinations against them in certain circumstances where it appears to him that competition in the UK is being or is likely to be restricted, distorted or prevented as a result of any act or omission of the licence holder and/or an Associated Person. A determination under this condition may require the licence holder to take such steps as directed to remedy the situation. The condition also requires the licence holder to keep records of agreements with Associated persons and of any services, money or other things transferred or supplied by or to the Associated Person. The proposed modification would reduce this burden by removing the condition. The modification does not remove any necessary protection as the provisions of the Competition Act 1998 will continue to provide the Director with adequate powers to deal with agreements or conduct which restrict distort or prevent competition in the UK. The modification does not unduly disadvantage any licence holder as it is intended to be made to all PTO licences. For these reasons, the Director considers this modification of the PTO licences to be deregulatory within the meaning of section 12A(7) of the Act.