

Explanatory Memorandum to the Non-Domestic Rating (Communications Hereditaments) (Valuation, Alteration of Lists and Appeals and Material Day) (Wales) Regulations 2008

This Explanatory Memorandum has been prepared by Local Government Finance Division and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

(i) Description

These regulations allow British Telecommunications (“BT”) to make a proposal to alter the rateable value of its hereditament as a consequence of the full unbundling of local loops in relation to BT’s entry in the central rating list that came into force on 1st April 2005 and subsequent rating lists

(ii) Matters of special interest to the Subordinate Legislation Committee

These regulations must come into force after The Central Rating List (Wales) (Amendment) Regulations 2008, which are due to come into force on 29 October 2008.

(iii) Legislative Background

These Regulations are made under sections 55(2), (4) and (6), 143(1) and (2) and 146(6) of, and paragraph 2(6A) and (8) of Schedule 6 to the Local Government Finance Act 1988. These powers, so far as they are exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. The functions have now been transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

The Regulations follow the negative procedure.

(iv) Purpose and intended effect of the legislation

These Regulations allow BT to make a proposal to alter the rateable value of its hereditament as a consequence of the full unbundling of local loops. Local loops are the single pair of copper wires that connect a customer’s premises to the local telephone exchange through which the customer is receiving both telephone and broadband services. They comprise part of BT’s hereditament by virtue of regulation 8 of the Central Rating List (Wales) Regulations 2005, as amended by the Central List (Wales) (Amendment) Regulations 2008.

The Regulations apply in relation to BT’s entry in the central rating list that came into force on 1st April 2005 and subsequent rating lists, with

the effect that a proposal to alter the valuation of BT's hereditament can be made with respect to entries from 1st April 2005 onwards.

Local loop unbundling ("LLU") involves disconnecting local loops from BT's network and re-connecting them to a competing provider's equipment. This enables operators other than BT to use the local loop to provide services directly to customers. LLU services allow competing providers to innovate, to differentiate their products, and to provide higher bandwidth services and a wider range of applications and service levels. Operators that buy LLU are known as LLU Operators. BT is the only provider with an obligation to sell LLU across most of the UK.

(v) **Implementation**

If this legislation is not made, BT will not gain the right to appeal against the valuation of its hereditament as it appears on the 2005 central rating list on the grounds of a material changes of circumstances where local loops have been unbundled. The effects of unbundling on the value of the BT hereditament would not be taken into account when it is valued by the VOA.

(vi) **Consultation**

A consultation was undertaken between 9 July and 21 August 2008, wherein it was proposed that these changes should have effect from 1 April 2010. None of the LLU Operators objected, and whilst OFCOM and BT supported the general proposal, BT requested that any changes should take effect from 1 April 2005. The Regulations do this.

Vii Regulatory Impact Assessment

A regulatory Impact assessment has not been prepared, as these regulations apply only to BT, and bring it into line with the system that is in force for other ratepayers.