

Revised Statement of Charging Principles published by the Director General of Telecommunications on 10th October 2003 for the purpose of fixing charges in accordance with sections 38 and 39 of the Communications Act 2003

Explanatory Memorandum

Part 2 of Annex A sets out the Charging Principles levied on communications providers and those making available associated facilities with a turnover of £5million or more from relevant activities who are required to pay administrative charges in accordance with sections 38 and 39 of the Communications Act 2003.

The Charging Principles in Part 2 of Annex A replace the Charging Principles that were published by the Director General of Telecommunications ('the Director') on 25 July 2003 for the purposes of the administrative charges.

Part 3 of Annex A sets out for the first time the Charging Principles levied only on persons to whom the Electronic Communications Code ('the Code') applies in accordance with sections 38 and 39 of the Communications Act 2003. The Charging Principles in Part 3 explains the way charges will be fixed every charging year for covering the Director's costs in administering the Code and dealing with successful Code applications. Therefore, persons with code powers and prospective Code Applicants should take into account the Charging Principles in Part 3 of Annex A for the purposes of the code charges.

The turnover bands in Part 2 of Annex A are applicable only to persons liable to pay administrative charges for the provision of electronic communications networks, electronic communications services and associated facilities. They do not apply to persons with code powers and prospective Code Applicants who are liable to pay charges to cover the Director's costs in administering the Code and dealing with successful Code applications.

1. Definitions

1. For the purposes of interpreting these Charging Principles the following definitions shall apply:-

'Act' means the Communications Act 2003;

'Director' means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;

'Electronic Communications Code' has the same meaning as in section 106(1) of the Act;

'First Charging Year' means the period beginning with 25th July 2003 and ending on 31st March 2004;

'Relevant Activity' means any of the following:-

a. the provision of Public Electronic Communications Services to end-users;

b. the provision of Electronic Communications Networks, Electronic Communications Services and Network Access to Communications Providers; or

c. the making available of Associated Facilities to Communications Providers;

'Relevant Person' means a person providing a designated Electronic Communications Network or Electronic Communications Service or making available a designated Associated Facility, such designations being contained in a Notice of Designation published by the Director under sections 38 and 34 of the Act on 25th July 2003 and

'Relevant Turnover' means-

a. in the First Charging Year, the Turnover made by any Relevant Person in that Person's financial year ending in the period of 12 months ending on 24th July 2002;

b. in the Second Charging Year, the Turnover made by any Relevant Person in that Person's financial year ending in the period of 12 months ending on 24th July 2003; or

c. in any subsequent Charging Year, the Turnover made by any Relevant Person in that Person's financial year ending in the Charging Year immediately prior to the Charging Year before the Charging Year in question.

'Second Charging Year' means the period beginning with 1st April 2004 and ending on 31st March 2005.

'Turnover' means the turnover made from carrying on any Relevant Activity after the deduction of sales rebates, value added tax and other taxes directly related to turnover.

1.2 Except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall the same meaning as it has in the Act.

2. Charging Principles for Relevant Persons

2.1 For the purposes of section 38 of the Act in any Charging Year the Director shall fix the administrative charge to be paid by each Relevant Person in the manner set out below.

2.2 The administrative charge to be paid by each Relevant Person shall be a percentage of either:

a. the lower figure of the turnover band determined by the Director to be applicable to each such person in accordance with sub paragraph 2.3; or

b. in any case where in accordance with sub paragraph 2.3 no turnover band has been determined to apply to any Relevant Person, that person's Relevant Turnover.

2.3 The Director shall determine the turnover band applicable to each Relevant Person by reference to the turnover bands in sub paragraph 2.7 below and the amount of Relevant Turnover notified to the Director by that person, save that no

such applicable turnover band shall be determined by the Director where the Relevant Person's turnover is £1,000,000,000 or more.

2.4 The Director shall determine the percentage referred to in sub paragraph 2.2 by carrying out the calculation described in sub paragraph 2.5 below.

2.5 The Director shall:

a. take either the lower figure of the turnover band applicable to each person as determined in accordance with sub paragraph 2.3, or where in accordance with sub paragraph 2.3 no such turnover band applies, the total Relevant Turnover notified to the Director by that Relevant Person, and add all those amounts together;

b. divide the total amount of the Director's estimated annual costs of carrying out his functions set out in Section 38(5) of the Act (save for the functions referred to in paragraph 3 below) by the sum resulting from the calculation in paragraph (a); and

c. apply the quotient resulting from the calculation in paragraph (b) as the percentage.

2.6 The maximum percentage which may be applied by the Director under sub paragraph 2.2 shall be 0.08%.

2.7 The turnover bands for the purposes of fixing the administrative charges shall be as follows

Pounds (million)	To	Pounds (million)
5		Less than 10
10		Less than 25
25		Less than 50
50		Less than 75
75		Less than 100
100		Less than 150
150		Less than 200
200		Less than 300
300		Less than 400
400		Less than 500
500		Less than 600
600		Less than 750
750		Less than 1000

2.8 In the First Charging Year only the Director shall make an appropriate reduction to the amount of each administrative charge payable to reflect the shorter length of that year.

3. Charging Principles for persons to whom the Electronic Communications Code applies

3.1 For the purposes of section 38 of the Act in any Charging Year the Director shall fix the administrative charge to be paid by each person referred to in sub paragraphs 3.2 and 3.4 in the manner set out below.

3.2 Every person to whom the Electronic Communications Code applies on the first day of each Charging Year by virtue of a direction given under section 106 of the Act shall pay a charge calculated by taking the total amount of the Director's estimated costs of carrying out his functions listed in sub paragraph 3.3 below and dividing that amount by the total number of persons liable to pay a charge under this sub paragraph. In the case of the First Charging Year the Director shall make an appropriate reduction to the charge to reflect the shorter length of that Year.

3.3. The Director's functions referred to in sub paragraph 3.2 above are his functions under sections 108 to 119 of the Act and his functions under sections 38 – 43 of the Act insofar as they relate to administrative charges referred to in this paragraph.

3.4 Every person to whom a direction is given under section 106 of the Act in any particular Charging Year applying the Electronic Communications Code in that person's case shall pay a charge in that Year only which shall be calculated by estimating the costs in that Year of dealing with an application for the Electronic Communications Code under sections 106 and 107 of the Act.

4. All earlier statements of charging principles published under sections 38 and 39 of the Act are revoked. This statement shall come into force on the day it is published.

NEIL BUCKLEY

POLICY PROJECT DIRECTOR

**A person authorised under Paragraph 8 of Schedule 1 to the
Telecommunications Act 1984**

6 October 2003