
Consultation on changes to the General Conditions of Entitlement

Changes to General Condition C6, other minor drafting changes and changes to the guidance on the Calling Line Identification facilities

CONSULTATION:

Publication Date: 26 April 2018

Closing Date for Responses: 28 May 2018

About this document

The general conditions are the rules set by Ofcom that all communications providers must follow to operate in the UK. On 19 September 2017, Ofcom published a statement revoking the current general conditions and setting new general conditions with effect from 1 October 2018.

One of those conditions (condition C6.6) requires communications providers to take steps to identify calls with invalid calling line identification data and prevent them from being connected. This document is a consultation on Ofcom's proposal to amend condition C6.6 to clarify that calls to the emergency services should never be prevented from being connected.

We are also consulting on additional changes to our guidance on Calling Line Identification facilities, following feedback from stakeholders. These changes relate to the handling of calls to emergency services and additional guidance for CPs on best practice in respect of blocking or stopping non-emergency calls.

At the same time, we are also proposing a number of minor drafting changes that we think it would be useful to make to the new general conditions, in advance of them taking effect later this year.

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1. Summary

The review of the general conditions

- 1.1 The general conditions are the regulatory rules that all communications providers must follow to operate in the UK. In 2015, we began a comprehensive review of these conditions with the aim of producing a revised set of up to date conditions which reflect Ofcom's current priorities and concerns, and are simpler and clearer for industry to comply with.
- 1.2 We consulted on our proposed revised conditions in August 2016 and December 2016. We published our main decisions in September 2017 together with a consultation on a few further changes. Our decision on that consultation was published in March 2018. All the changes that we have decided to make will take effect from **1 October 2018**.

This consultation

- 1.3 One of those conditions (condition C6.6) requires communications providers to take steps to identify calls with invalid calling line identification data and prevent them from being connected. We are now consulting on a proposal to amend that condition to clarify that calls to the emergency services should never be prevented from being connected. We are also proposing a number of minor drafting changes to other conditions that we think it would be useful to make to the new general conditions, in advance of them taking effect later this year.
- 1.4 All the changes that we are proposing to make to the general conditions are shown (in mark-up) in the notifications annexed to this document (Annexes A5 and A6).
- 1.5 If we decide to implement the changes to GC C6.6, the Calling Line Identification (CLI) guidance will also need to be updated. Therefore, we are consulting on our proposed amendments to the guidance at the same time. In addition, following stakeholder feedback to our previous consultation on the CLI guidance¹, we are also consulting on the inclusion of additional guidance for CPs on best practice in respect of blocking and stopping calls non-emergency calls.
- 1.6 We invite stakeholders to provide comments by 5:00pm on 28 May 2018.

Next steps

- 1.7 Following this consultation period, Ofcom plans to publish a statement this summer.
- 1.8 The proposed changes, if implemented, will take effect from **1 October 2018**.

¹ <https://www.ofcom.org.uk/consultations-and-statements/category-2/guidelines-for-cli-facilities>

2. Introduction

Review of the General Conditions

- 2.1 In 2015, we began a comprehensive review of the general conditions of entitlement (the ‘**general conditions**’ or ‘**GCs**’).² The aim of the review was to produce a revised set of up-to-date conditions which reflect Ofcom’s current priorities and concerns, and are simpler and clearer for industry to comply with. This should also make it easier for us to enforce the rules in the interests of citizens and consumers.
- 2.2 The decisions we have taken as a result of this review of the general conditions are set out in two separate statements:
- a) on 19 September 2017, we published our main statement³ (the ‘**September 2017 Statement**’) setting out the majority of the changes we have decided to make to the general conditions, and including the revised conditions (the ‘**new general conditions**’);
 - b) on 26 March 2017, we published a second statement⁴ (the ‘**March 2018 Statement**’) setting out our decisions on:
 - i) updating a direction which specifies which public bodies may request industry to make arrangements for the restoration of communications services in the event of disasters;
 - ii) a further extension of our power to withdraw telephone numbers where they are used inconsistently with the National Telephone Numbering Plan or otherwise misused; and
 - iii) providing guidance about the procedures for terminating contracts.
- 2.3 All these changes will take effect from **1 October 2018**.
- 2.4 In addition, on 10 November 2017⁵ we introduced new transparency and information requirements to help small and medium sized businesses customers. When the new conditions come into force on 1 October 2018, these new requirements will be set out in GCs C2.16 - C2.19.

Purpose of this consultation

- 2.5 Since the September 2017 Statement was published, BT has also suggested a further change to GC C6, which relates to the provision of calling line identification (‘**CLI**’) facilities, in respect of the handling of calls to the emergency services. At the same time, we are

² For consultations and statements relating to the review of the general conditions, please see:

<https://www.ofcom.org.uk/consultations-and-statements/category-1/review-general-conditions>

³ https://www.ofcom.org.uk/data/assets/pdf_file/0026/106397/Statement-and-Consultation-Review-of-the-General-Conditions-of-Entitlement.pdf

⁴ https://www.ofcom.org.uk/data/assets/pdf_file/0017/112283/Statement-Review-of-the-General-Conditions-of-Entitlement.pdf

⁵ <https://www.ofcom.org.uk/consultations-and-statements/category-1/automatic-compensation>

proposing to amend the CLI guidance to address the same point and also to provide additional guidance for CPs on best practice in respect of blocking and stopping calls non-emergency calls. In addition, we have identified a number of minor drafting changes that we think it would be useful to make to the new general conditions, in advance of them taking effect.

- 2.6 We are also proposing to update the references to the general conditions in the telephone numbering condition binding non-providers, so that references in that condition to the general conditions are to the new general conditions from 1 October 2018.
- 2.7 Therefore, we are consulting on one substantive change to GC C6, amendments to the CLI guidance and some minor drafting changes that we are proposing to make to the new general conditions, as well as updating the references to the general conditions in the telephone numbering condition binding non-providers.
- 2.8 We propose that the changes we are consulting on in this document will take effect from 1 October 2018, the same date as the new general conditions come into force.

The legal framework and our duties

Section 3 – general duties of Ofcom

- 2.9 When considering the appropriateness of the proposals set out in this consultation document, we have had regard to our duties under the Act.
- 2.10 In particular, section 3(1) of the Act sets out our principal duty in carrying out our functions under the Act, which is:
- a) to further the interests of citizens in relation to communications matters; and
 - b) to further the interests of consumers in the relevant markets, where appropriate by promoting competition.
- 2.11 We have also considered, among other things, the requirements in section 3(2) of the Act to secure the availability throughout the UK of a wide range of electronic communications services and we have had regard to the matters mentioned in section 3(4) of the Act that appeared to us to be relevant in relation to each specific GC.
- 2.12 In line with section 3(3) of the Act, we have had regard to the principles under which our regulatory activity should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, together with our regulatory principles. These principles include, in particular, a bias against intervention and a commitment to seek the least intrusive regulatory mechanisms to achieve our policy objectives.

Section 4 – duties for the purpose of fulfilling EU obligations

- 2.13 Section 4 of the Act requires us to act in accordance with the six European Community requirements for regulation. These should be read in light of the policy objectives and

regulatory principles as set out in Article 8 of the Framework Directive. Those relevant to this review include promoting the interests of citizens by:

- a) ensuring all citizens have access to a universal service;
- b) ensuring a high level of protection for consumers in their dealings with suppliers;
- c) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using public electronic communications services; and
- d) addressing the needs of specific social groups, in particular disabled users, elderly users and users with special needs.

Section 47 – test for setting or modifying conditions

2.14 Our powers to make general conditions are set out in sections 45 to 64 of the Act. Section 45 of the Act allows us to set various different types of conditions, namely general conditions, universal service conditions, access-related conditions, privileged supplier conditions and significant market power conditions. The general conditions are conditions which are of general application. We can impose them on all CPs or on all providers of networks or services of a particular description. The matters that we can regulate through the general conditions are set out in sections 51, 52, 57, 58 and 64 of the Act (section 45(3) of the Act). Our power to set conditions that apply to persons other than communications providers (such as the Non-Provider Numbering Condition) are set out in section 59 of the Act.

2.15 Under section 47 of the Act, we can set or modify a GC only where we are satisfied that the condition or modification is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories which we regulate;
- b) not such as to discriminate unduly against particular persons or against a particular description of persons;
- c) proportionate to what the condition or modification is intended to achieve; and
- d) in relation to what it is intended to achieve, transparent.

2.16 In the following sections, we have set out why we consider that the proposals set out in this consultation meet these tests.

Impact assessment

2.17 The analysis in this document constitutes an impact assessment in respect of the proposals that we are setting out for consultation.

2.18 Ofcom is also required by statute to assess the potential impact of all our functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. Equality Impact Assessments also assist us in making sure that we are meeting

our principal duty of furthering the interests of citizens and consumers regardless of their background or identity. We do not envisage the impact of any outcome to be to the detriment of any particular group of society.

3. Change to General Condition C6

Introduction

- 3.1 Calling Line Identification ('CLI') facilities enable the telephone number of a person making a call to be displayed to the recipient of the call. This gives the recipient of the call the ability to identify the person or organisation calling them, and to make informed decisions about how to handle incoming calls. It also assists regulators and enforcement bodies with the identification, tracing and prevention of unwanted nuisance calls, which can cause significant annoyance and, in some cases, distress for consumers.
- 3.2 General condition C6 of the new general conditions sets out the requirements for the provision of CLI facilities, including that CPs must, so far as technically feasible ensure that any CLI data provided with or associated with a call includes a valid, dialable telephone number that uniquely identifies the caller. GC C6 is supplemented by Ofcom's CLI Guidance (the '**CLI Guidance**'), which is intended to assist CPs to comply with the requirements in GC C6 by outlining Ofcom's likely approach to investigating compliance with this condition, including examples of what we consider to be good practice.
- 3.3 Following a consultation, we have today published a statement on updating the CLI Guidance, so that it reflects the requirements of the new GC C6.⁶

Requirement to block calls with invalid CLI

- 3.4 One of the new requirements of GC C6 is that, where technically feasible, CPs must take all reasonable steps to identify calls with which invalid or non-diallable CLI data is provided, and prevent them from reaching the end user. The purpose of this requirement is to ensure that, wherever possible, calls which are identifiable as nuisance calls do not reach consumers.
- 3.5 This requirement is set out in GC C6.6, which states:

Where technically feasible, **Regulated Providers** must:

- (a) take all reasonable steps to identify calls in relation to which invalid or non-diallable **CLI Data** is provided; and
- (b) prevent those calls from being connected to the called party, where such calls are identified.

⁶ <https://www.ofcom.org.uk/consultations-and-statements/category-2/guidelines-for-cli-facilities>

Proposal to exempt calls to the emergency services from the requirement to block calls with invalid CLI

3.6 In response to our consultation on updating the CLI Guidance, BT made the following comment: *“To avoid potential risk to life, Ofcom must make clear that calls to the emergency numbers 999 and 112 should never be blocked, regardless of what, if any, CLI is present on the emergency call”*.⁷

3.7 We agree with BT that calls to the emergency services should never be blocked, regardless of the validity of the CLI data provided with the call. Further, GC A3.2 requires regulated providers to take all necessary measures to ensure uninterrupted access to emergency organisations. Therefore, given the importance of this requirement and to avoid any conflict between the conditions, we consider it appropriate to amend GC C6. We therefore propose to amend GC C6.6 by adding the text shown in red and highlighted below:

Where technically feasible, **Regulated Providers** must:

- (a) take all reasonable steps to identify calls, **other than calls to Emergency Organisations**, in relation to which invalid or non-diallable **CLI Data** is provided; and
- (b) prevent those calls from being connected to the called party, where such calls are identified.

3.8 “Emergency Organisation” is already defined in the general conditions. Its definition is set out below.

‘**Emergency Organisation**’ means in respect of any locality:

- (a) the relevant public police, fire, ambulance and coastguard services for that locality; and
- (b) any other organisation, as directed from time to time by **Ofcom** as providing a vital service relating to the safety of life in emergencies.

3.9 We consider that this change to GC C6.6 is sufficient to clarify that calls to the emergency services should never be blocked.

3.10 We propose that this amendment would come into force on 1 October 2018, at the same time as GC C6 comes into force. This would mean that, as soon as the requirement to block calls comes in to effect, calls to the emergency services would be exempted.

⁷ See section 2.3 of BT’s response to the consultation on revising the CLI Guidelines: https://www.ofcom.org.uk/_data/assets/pdf_file/0023/109607/BT.pdf

Legal tests

3.11 We consider that the change we are proposing to make to general condition C6.6 meets the test for setting or modifying conditions set out in section 47(2) of the Communications Act 2003. It is:

- a) **objectively justifiable**, in that it will ensure that calls to the emergency services are never prevented from being connected, which is necessary to ensure that all consumers can always make calls to the emergency services;
- b) **not unduly discriminatory**, because it will apply equally to all CPs who provide networks or voice call services and will benefit all consumers equally;
- c) **proportionate**, in that it goes no further than is necessary to achieve the objectives of ensuring that calls to the emergency services are never blocked; and
- d) **transparent** as the reasons for the change that we are proposing to make is explained above and the effects of this change will be clear to CPs on the face of the revised condition itself.

Consultation questions

1. Do you agree with our proposed change to general condition C6.6? If not, please give reasons.

4. Changes to the CLI Guidance

Introduction

- 4.1 The guidance on CLI facilities sets out our recommendations on how CPs should meet their responsibilities around the provision of CLI facilities. The guidance is not legally binding, but it sets out our expectations and interpretation of GC G6, which is enforceable.
- 4.2 As a result of the proposed change to GC C6.6, the guidance would also need to be updated to reflect how CPs should manage calls to the emergency services that are provided without any CLI Data or with invalid CLI Data. In addition, following stakeholder feedback, we are proposing to make a further addition to the guidance, setting out recommendations for CPs to provide a way for a caller or third party to challenge a CP where they think calls have been blocked in error.

Changes to the CLI Guidance relating to emergency calls

- 4.3 If we decide to make the proposed change to GC C6.6 to clarify that calls to the emergency services should never be blocked, we would also propose to add the explanatory wording below to the CLI Guidance to reflect this. We would do this by the wording below to paragraph 4.3 and section 6 of the updated CLI Guidance (as published today).⁸ The new wording is shown in red text and highlighted below:

4.3 GC C6 also specifies that when providing CLI facilities, the Regulated Provider must ensure, so far as technically feasible, that any CLI Data provided with and/or associated with a call includes a valid, dialable telephone number which uniquely identifies the caller. It also requires the Regulated Provider to respect the privacy choices of end users. **GC C6.6 also requires that, other than in relation to calls to the emergency services, where ~~Where~~ technically feasible, the Regulated Provider must take all reasonable steps to identify calls which have invalid or non-dialable CLI Data and prevent those calls from being connected to the called party. **For the avoidance of doubt, calls to the emergency services should always be connected, regardless of the validity of associated CLI data.****

⁸ https://www.ofcom.org.uk/_data/assets/pdf_file/0013/113215/annex-statement-guidelines-cli-facilities.pdf

6.3 In cases where a Regulated Provider receives an emergency call which has an invalid or non-dialable CLI that Regulated Provider should connect the call (as opposed to blocking or filtering the call as it would were it a non-emergency call). That Regulated Provider should then work with the Regulated Provider or customer who had initiated the call to ensure that future Emergency calls include the necessary CLI. This should apply to all Emergency calls: both those from the end-user to the CHA and those from the CHA to the emergency authority control room.

Changes to the CLI Guidance relating to CPs who are blocking or stopping calls.

- 4.4 GC C6.6, if amended as we have proposed above in section 3, will require CPs to prevent calls, other than calls to Emergency Organisations, with invalid or non-dialable CLI Data from being connected to the called party. In our revised CLI guidance, we explain that two of the ways that calls can be prevented from being connected are through blocking or stopping.⁹ Alternatively, CPs can also work with their upstream providers to ensure that any calls that are connected to their network have CLI Data that meets the requirements of GC C6.4.
- 4.5 In response to our consultation on the CLI guidance, some stakeholders suggested that there should be a process for a caller or a third party to challenge blocking decisions made by a CP. Microsoft suggested that were CPs allowed to act on reasonable suspicion that a source is carrying nuisance traffic they should also make available on request objective, valid and transparent criteria for these decisions and provide a way for third parties to challenge these decisions. First Orion also noted their concern about the transparency of blocking, but from the perspective of the customer, asking who a consumer can talk to when they are not receiving the calls that they want.
- 4.6 We agree that there needs to be a process for the caller or a third party to challenge where they think calls have been blocked in error. Therefore, we are proposing to insert a new annex to the CLI guidance which recommends that CPs who are blocking or stopping calls should have in place a dispute resolution process to manage any disputes about blocked calls and that this process should be published on the CP's website so that it is easily discoverable. The process should also be widely communicated with the parts of the organisation where queries about blocked calls will be received, such as the customer contact teams. The proposed text of this new annex is included in Annex A7.
- 4.7 We consider this change is proportionate as it is important that any legitimate calls that have been blocked in error are identified and unblocked in a timely way. This is to limit the unintended harm caused to the party whose number has been blocked in error.

⁹ https://www.ofcom.org.uk/_data/assets/pdf_file/0013/113215/annex-statement-guidelines-cli-facilities.pdf

Consultation questions

2. Do you agree with our proposed changes to the CLI Guidance? If not, please give reasons.

5. Drafting changes

Introduction

5.1 Since we published the new general conditions in the September 2017 Statement and the further changes that we set out in the March 2018 Statement, we have identified a few minor drafting errors. We are proposing to correct these in advance of the new general conditions taking effect on 1 October 2018.

Proposed changes

5.2 The changes that we propose to make to the drafting of the new general conditions are set out below, and highlighted. Proposed new text is shown in red, bold text, and proposed deletions are shown in strikethrough.

Condition A4

5.3 The new general condition A4.2 requires CPs to make arrangements for the restoration of communications services in disaster situations, on the request of the emergency organisations, or any department of central or local government that Ofcom directs.

5.4 In our March 2018 Statement, we decided to set a new direction under this condition (the ‘**Emergency Planning Direction**’).

5.5 For ease of reference, we are now proposing to add a website link to the Emergency Planning Direction in a footnote to condition A4.2.

Condition B1

Condition B1.18(e)

5.6 General Condition B1.18 sets out the circumstances in which Ofcom may withdraw a number allocation for the purpose of securing what appears to Ofcom to be the best and most efficient use of the numbers.

5.7 In the March 2018 Statement, we extended the circumstances in which Ofcom may withdraw numbers by adding parts (d) and (e) to GC B1.18. We are now proposing to add the words “*has been used*” in GC B1.18(e), as set out below, to clarify that Ofcom may withdraw allocations of numbers under GC B1.18(e) either:

- a) where Ofcom has advised the CP that a significant proportion of its telephone numbers has been used to cause harm or a nuisance; or
- b) where Ofcom has advised the CP that an allocation of telephone numbers has been used to a significant extent to cause harm or a nuisance.

5.8 The words that we are proposing to add are shown in red and highlighted below:

B1.18 Ofcom may withdraw an **Allocation of Telephone Numbers** from a **Communications Provider** where:

[(a)- (d)]

(e) **Ofcom** has advised the **Communications Provider** in writing that a significant proportion of those **Telephone Numbers** **has been used**, or that such **Allocation** has been used to a significant extent, to cause harm or a nuisance, and the **Communications Provider** has failed to take adequate steps to prevent such harm or nuisance.

Annex to condition B1

5.9 The annex to the new general condition B1 lists the Geographic Numbers which are Specified Geographic Numbers for the purposes of GC B1. We propose to correct a typographical error in this Annex:

01753	Slough
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Condition C1

5.10 In the March 2018 Statement, we set new guidance on GC C1.¹⁰ We propose to include a link to this guidance in the condition itself, for ease of reference.

5.11 We also propose to correct a drafting error in GC C1.2 by changing a reference to “End-Users” (plural) to “End-User”.

Condition C4

5.12 Paragraph 13(c) of the Annex to GC C4 includes a reference to a “Relevant Complaint”. We propose to change to this to “relevant Complaint”, as “Relevant Complaint” is not a defined term.

Definitions

5.13 Below, we set out the changes that we propose to make to the definitions set out in the “Definitions” section at the end of the new general conditions.

‘DSL Broadband Service’

5.14 In our November 2017 statement on automatic compensation¹¹, we introduced a number of new definitions to the definitions section of the new general conditions, including new definitions of “Broadband Service” and “DSL Broadband Service.” However, we did not remove the definition of “Broadband Service” that was already set out in the new general conditions. We also may have appeared to suggest that, in every place where it appeared

¹⁰ https://www.ofcom.org.uk/data/assets/pdf_file/0016/112282/Guidance-under-General-Condition-C1-contract-requirements.pdf

¹¹ <https://www.ofcom.org.uk/consultations-and-statements/category-1/automatic-compensation>

in the relevant definitions section, including the new definition of the term, “Broadband Service” should be replaced with “DSL Broadband Service.” We should have been explicit that this instruction applied to each instance of “Broadband Service” in the definitions section other than the newly inserted definition of that term itself. That is the way it does apply.

5.15 The net effect is that there are therefore currently two definitions of “Broadband Service” in the new general conditions, as well as a potential ambiguity:

i) The following definition which was added to the new general conditions in our November 2017 Statement:

‘Broadband Service’ means any service which is capable of supporting an always-on connection at a fixed location that provides data at speeds greater than a dial-up connection, including all DSL (including FTTC) services, **FTTP** services and services provided over a **Cable Network**, but excluding any **Leased Lines Service**.

ii) This definition which was set in the September 2017 Statement:

‘Broadband Service’ means all **DSL** (including **FTTC**) services which are capable of supporting always-on services that provide data at speeds greater than a dial-up connection, excluding services provided over a **Cable Network**.

5.16 We therefore propose that the single definition of “Broadband Service” in paragraph 5.15(i) above should be in the new conditions, along with the definition of “DSL Broadband Service” and the correctly read references to such services inserted in November 2017, and we will delete the definition set out in paragraph 5.15(ii).

‘Loss of Service’

5.17 In the definition of “Loss of Service”, we propose to replace the word “customer” with “Customer”, since this is a defined term.

Target Line

5.18 We propose to correct a drafting error in the definition of “Target Line” by replacing the words “**Switching Customer** request for a **Migration**” with “**Switching Customer**s request for a **Migration**”.

Legal tests

5.19 We consider that the changes we are proposing to make to the new general conditions meet the test for setting or modifying conditions set out in section 47(2) of the Communications Act 2003. They are:

- a) **objectively justifiable**, in that they are necessary to ensure the drafting of the general conditions is clear;
- b) **not unduly discriminatory**, because they will apply equally to all CPs to which the GCs apply and will benefit all consumers equally;

- c) **proportionate**, in that they go no further than is necessary to achieve the objectives of ensuring that the general conditions are clear and easy to understand; and
- d) **transparent**, as the reasons for the changes that we are proposing to make are explained above and the effects of these changes will be clear to CPs on the face of the revised conditions.

Consultation questions

3. Do you have any comments on the proposed drafting changes and corrections set out in this section?
4. Are there any other drafting errors or cross-referencing errors that you think we should correct in the GCs?

6. Changes to the Non-Provider Numbering Condition

Introduction

- 6.1 Ofcom set the telephone numbering condition binding non-providers (the ‘**non-provider numbering condition**’) in December 2013.¹² The non-provider numbering condition applies to non-providers (i.e. persons other than CPs) that have been allocated unbundled tariff numbers. It requires a “Service Provider” making use of an “Unbundled Tariff Number” for the provision of a service to include in any advertising or promotion of that number the applicable Service Charge for the number in question.
- 6.2 The non-provider numbering condition includes references to the general conditions which need to be updated in light of the review of the general conditions which revoked the old conditions and set new conditions.

Proposed changes

- 6.3 We propose to amend the following definitions set out in Part 1 of the non-provider numbering condition as highlighted below. Proposed new text is shown in red text, and proposed deletions are shown in strikethrough.

“**General Conditions of Entitlement**” means ~~those~~ **the general** conditions set ~~by the~~ **Director General of Telecommunications on 22 July 2003 under section 45 of the Act by Ofcom on 19 September 2017** by way of a Notification published pursuant to section 48(1) of the Act, and modified by Ofcom from time to time;

“**Service Charge**” means the rate set by a Communications Provider in accordance with General Condition ~~17B1~~ of the General Conditions of Entitlement in respect of the conveyance of a call to an Unbundled Tariff Number to the point of termination and the enabling of a Consumer to use an Unbundled Tariff Number to access a Relevant Service provided by means of that number;

Legal tests

- 6.4 We consider that the changes we are proposing to make to the non-provider numbering condition meet the test for setting or modifying conditions set out in section 47(2) of the Communications Act 2003. They are:

¹² See Ofcom’s statement “Simplifying non-geographic numbers”:
https://www.ofcom.org.uk/data/assets/pdf_file/0017/72116/final-statement.pdf and annexes
https://www.ofcom.org.uk/data/assets/pdf_file/0027/57753/annexes.pdf

- a) **objectively justifiable**, in that they are necessary to ensure the drafting of the non-provider numbering condition is clear;
- b) **not unduly discriminatory**, because they will apply equally to all non-providers to which the non-provider numbering condition applies and will benefit all consumers equally;
- c) **proportionate**, in that they go no further than is necessary to achieve the objectives of ensuring that the non-provider numbering condition is up-to-date and easy to understand; and
- d) **transparent**, as the reasons for the changes that we are proposing to make are explained above and the effects of these changes will be clear to CPs and non-providers on the face of the revised condition.

Consultation question

5. Do you agree with our proposed changes to the non-provider numbering condition set out above? If not, please give reasons.

A1. Responding to this consultation

How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 28 May 2018.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/consultation-changes-general-conditions-of-entitlement>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to gcreview@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>). This email address is for this consultation only, and will not be valid after 28 May 2018.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Lara Singer
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
 - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A1.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex A4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

A1.10 If you want to discuss the issues and questions raised in this consultation, please contact Lara Singer on 020 7981 3000, or by email to lara.singer@ofcom.org.uk.

Confidentiality

- A1.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, www.ofcom.org.uk, as soon as we receive them.
- A1.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

Next steps

- A1.15 Following this consultation period, Ofcom plans to publish a statement this summer.
- A1.16 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

Ofcom's consultation processes

- A1.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex A2.
- A1.18 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Consultation on changes to the General Conditions of Entitlement

Steve Gettings
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A2. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A3. Consultation coversheet

BASIC DETAILS

Consultation title: organisation realise

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? _____

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

A4. Consultation questions

1. Do you agree with our proposed change to general condition C6.6? If not, please give reasons.
2. Do you agree with our proposed changes to the CLI Guidance? If not, please give reasons.
3. Do you have any comments on the proposed drafting changes and corrections set out in section 5 of this document?
4. Are there any other drafting errors or cross-referencing errors that you think we should correct in the GCs?
5. Do you agree with our proposed changes to the non-provider numbering condition set out in section 6 of this document? If not, please give reasons.

A5. Notification of proposed modifications to the general conditions under section 48A(3) of the Act

Proposal to modify the general conditions

- A5.1 Ofcom proposes to modify:
- a) General Condition A4;
 - b) General Condition B1;
 - c) the annex to General Condition B1;
 - d) General Condition C1;
 - e) the annex to General Condition C4;
 - f) General Condition C6; and
 - g) the definitions set out in the Annex to the General Conditions.
- A5.2 The draft modifications are set out the Schedule to this Notification.
- A5.3 Ofcom's reasons for making these proposals, and the effect of the proposals, are set out in the accompanying consultation document.
- A5.4 Ofcom considers that the proposals comply with the requirements of sections 45 to 49C of the Act, insofar as they are applicable.
- A5.5 Ofcom considers that the proposals are not of EU significance pursuant to section 150A(2) of the Act.
- A5.6 In making these proposals, Ofcom has considered and acted in accordance with its general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act.
- A5.7 Representations may be made to Ofcom about the proposals until 5pm on 28 May 2018.
- A5.8 If implemented, the modifications shall enter into force on 1 October 2018.
- A5.9 A copy of this Notification is being sent to the Secretary of State in accordance with section 48C(1) of the Act.
- A5.10 In this Notification:
- a) "**Act**" means the Communications Act 2003;
 - b) "**General Conditions of Entitlement**" and "**General Conditions**" means the general conditions set by Ofcom under section 45 of the Act on 19 September 2017, as amended or replaced from time to time;
 - c) "**Ofcom**" means the Office of Communications.

Consultation on changes to the General Conditions of Entitlement

- A5.11 Words or expressions shall have the meaning assigned to them in this Notification, and otherwise any word or expression shall have the same meaning as it has in the Act.
- A5.12 For the purposes of interpreting this Notification:
- a) headings and titles shall be disregarded; and
 - b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
- A5.13 The Schedule to this Notification shall form part of this Notification.

Signed by

A handwritten signature in blue ink, appearing to read 'Polly Weitzman', with a horizontal line extending to the right.

Polly Weitzman

A person authorized by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

26 April 2018

Schedule 2: Draft modifications to the general conditions

The modifications that Ofcom is proposing to make to General Conditions A4, B1, C1, C4, C6 and the Definitions sections of the General Conditions are set out below. The words marked in red text and highlighted indicate the proposed insertions and the words marked in strike-through and highlighted indicate the deletions.

General Condition A4

A4.2 Subject to **Condition A4.4, Regulated Providers** shall, on the request of and in consultation with:

(a) the authorities responsible for **Emergency Organisations**; and

(b) such departments of central and local government as **Ofcom** may from time to time direct for the purposes of this **Condition¹³**,

make arrangements for the provision or rapid restoration of such communications services as are practicable and may reasonably be required in disasters (including in any major incident having a significant effect on the general public and in any incident of contamination involving radioactive substances or other toxic materials).

General Condition B1

B1.18 **Ofcom** may withdraw an **Allocation of Telephone Numbers** from a **Communications Provider** where:

[(a)- (d)]

(e) **Ofcom** has advised the **Communications Provider** in writing that a significant proportion of those **Telephone Numbers** **has been used**, or that such **Allocation** has been used to a significant extent, to cause harm or a nuisance, and the **Communications Provider** has failed to take adequate steps to prevent such harm or nuisance.

Annex to Condition B1

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¹³ See Ofcom's emergency planning direction, which is available at: https://www.ofcom.org.uk/data/assets/pdf_file/0017/112283/Statement-Review-of-the-General-Conditions-of-Entitlement.pdf (see Annex 1)

General Condition C1

Contract requirements¹⁴

C1.2 **Regulated Providers**, when offering to provide, or providing, connection to a **Public Electronic Communications Network** and/or **Public Electronic Communications Services** to a **Consumer** or other ~~End-Users~~**End-User** on request, must offer to enter into a contract or vary an existing contract with that **Consumer**, or other **End-User**, which specifies at least the following minimum requirements in a clear, comprehensive and easily accessible form:

General Condition C4

Annex to Condition C4, paragraph 13(b)

13(b) it must provide information solely about the ~~Relevant~~**relevant** **Complaint**;

General Condition C6

C6.6 Where technically feasible, **Regulated Providers** must:

- (a) take all reasonable steps to identify calls, **other than calls to Emergency Organisations**, in relation to which invalid or non-diallable **CLI Data** is provided; and
- (b) prevent those calls from being connected to the called party, where such calls are identified.

Definitions

Broadband Service¹⁵

~~'Broadband Service' means all DSL (including FTTC) services which are capable of supporting always-on services that provide data at speeds greater than a dial-up connection, excluding services provided over a Cable Network.~~

'Broadband Service' means any service which is capable of supporting an always-on connection at a fixed location that provides data at speeds greater than a dial-up connection, including all DSL (including FTTC) services, FTTP services and services provided over a Cable Network, but excluding any Leased Lines Service;

Loss of Service

'Loss of Service' means:

¹⁴ See also Ofcom's guidance, which is available at: https://www.ofcom.org.uk/data/assets/pdf_file/0016/112282/Guidance-under-General-Condition-C1-contract-requirements.pdf

¹⁵ The effect of this change is that the General Conditions will contain the single definition of Broadband Service shown, alongside the definition of DSL Broadband Service and the references to DSL Broadband Service inserted in November 2017 and as explained in paragraphs 5.14 – 5.16 of the accompanying statement.

Consultation on changes to the General Conditions of Entitlement

- (a) in relation to a **Fixed Voice** or **Other Fixed-Line Service**, where:
 - (i) the **Customer** is unable to make an outgoing call or to receive an incoming call; or
 - (ii) where the service only allows for one-way transmission;
- (b) in relation to a **Broadband Service**, where the **Customer** is unable to access the public internet,

in each case as a result of a planned or unplanned change in the operation of the **Electronic Communications Network(s)** (and/or elements of that network or networks) provided by the ~~customer's~~ **Customer's Communications Provider** or used by it to provide its services, including any failure of equipment;

Target Line

'**Target Line**' means the working **WLR, MPF** or **SMPF** line to which a **Switching Customer's** request for a **Migration**, or a **Home-Move Request**, refers;

A6. Notification of proposed modifications to the telephone numbering condition binding non-providers under section 48A(3) of the Act

Proposal to modify the telephone numbering condition binding non-providers

- A6.1 Ofcom proposes to modify the telephone numbering condition binding non-providers under sections 45 and 59 of the Act.
- A6.2 On 12 December 2013, Ofcom published a notification under section 48(1) of the Act (the “**December Notification**”) setting a telephone numbering condition binding non-providers.
- A6.3 Ofcom proposes to amend the definitions of “General Conditions of Entitlement” and “Service Charge” set out in Part 1 of the telephone numbering condition binding non-providers as set out below:

“**General Conditions of Entitlement**” means ~~those the general~~ conditions set ~~by the Director General of Telecommunications on 22 July 2003~~ **under section 45 of the Act by Ofcom on 19 September 2017** by way of a Notification published pursuant to section 48(1) of the Act, and modified by Ofcom from time to time;

“**Service Charge**” means the rate set by a Communications Provider in accordance with General Condition **17B1** of the General Conditions of Entitlement in respect of the conveyance of a call to an Unbundled Tariff Number to the point of termination and the enabling of a Consumer to use an Unbundled Tariff Number to access a Relevant Service provided by means of that number;

- A6.4 If implemented, the proposed changes shall take effect on **1 October 2018**.
- A6.5 Ofcom does not propose to modify the substance of the condition set out in the Schedule to the December Notification.
- A6.6 Ofcom’s reasons for making these proposals, and the effect of the proposed modifications, are set out in Section 5 of the accompanying consultation document.
- A6.7 Ofcom considers that the proposals comply with the requirements of sections 45, 47 to 49C and 59 of the Act, insofar as they are applicable. Ofcom considers that the proposals are not of EU significance pursuant to section 150A(2) of the Act.
- A6.8 In making these proposals, Ofcom has considered and acted in accordance with their general duty as to telephone numbering functions under section 63 of the Act, their general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act.
- A6.9 Representations may be made to Ofcom about the proposals until 17:00 on 28 May 2018.

Consultation on changes to the General Conditions of Entitlement

- A6.10 A copy of this Notification and the accompanying explanatory consultation is being sent to the Secretary of State in accordance with section 48C of the Act.
- A6.11 In this Notification:
- a) the “**Act**” means the Communications Act 2003; and
 - b) “**Ofcom**” means the Office of Communications.
- A6.12 Words or expressions shall have the meaning assigned to them in this Notification, and otherwise any word or expression shall have the same meaning as it has in the Act.
- A6.13 For the purposes of interpreting this Notification:
- a) headings and titles shall be disregarded; and
 - b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.



Brian Potterill
Competition Policy Director

26 April 2018

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

A7. Proposed addition to the CLI Guidance

Call Blocking and/or Stopping Guidance for CPs

General Condition C6.6 requires Communications Providers (CPs), where technically feasible, to take all reasonable steps to identify calls in relation to which invalid or non-dialable CLI data is provided and prevent those calls from being connected to the called party. There is further guidance in section 4 of this document [the CLI Guidance¹⁶] on what is meant by a valid, dialable telephone number and what transit and terminating providers should consider when identifying calls with invalid or non-dialable CLI.

This annex sets out high level guidance for any CP where they block or stop calls to prevent calls with invalid or non-dialable CLI from reaching the called party.

Process for stopping or blocking calls

Two of the ways a CP could prevent calls with invalid or non-dialable CLI from being connected to the called party are by blocking or stopping calls. There are also other ways that CPs can demonstrate compliance with the requirements of GC C6.6 that do not require stopping or blocking. Therefore, this is not intended to be an exhaustive list of the options.

Process for Stopping calls

“Stopping” calls refers to attempts by a CP to stop any future calls from a known or suspected nuisance caller from entering its network. This is typically achieved by refusing all traffic from a problem CLI, traffic route or interconnecting CP due to previous breaches of contractual prohibitions against nuisance call traffic. In this way, nuisance callers are essentially disconnected from the terminating UK networks - further calls are stopped "at source" before they can be made.

In their contracts with their interconnect partners, and with their originating customers, CPs should include a provision that they will not carry such traffic. When such traffic is identified, CPs will enforce these contractual conditions.

Process for Blocking calls

“Blocking” is applied on a call-by-call basis (in real-time) to calls that have already found their way onto a CP's network. Calls that have invalid or non-dialable CLI are identified and blocked - that is, the calls are not delivered to their intended recipient. When blocking calls, CPs should take appropriate steps to ensure they do not cause network congestion.

This process is typically implemented by CPs in the UK through programming their networks to automatically block traffic associated with invalid or non-dialable CLI, including those that matches the condition of malformed or PRS CLIs.

¹⁶ https://www.ofcom.org.uk/_data/assets/pdf_file/0013/113215/annex-statement-guidelines-cli-facilities.pdf

Dispute resolution process

Blocking or stopping calls that have invalid or non-dialable CLI is based on the presumption that legitimate calls have valid CLIs. However, it is possible that some legitimate calls may be blocked when they should not be. CPs should therefore have a process in place to remove the blocking/stopping in the event of disputes in which the blocking/stopping decision is reasonably rebutted. Where these calls are identified, CPs are encouraged to work with their customers to improve the accuracy of the CLI data. The dispute resolution process should be managed in a timely fashion to limit harm to inappropriately impacted callers.

The dispute resolution process should be published on the CP's website, so that it is discoverable by blocked callers or their CPs. It should also be widely communicated within their organisation particularly where queries about blocked calls will be received, such as the customer contact teams.