

Explanatory Note accompanying Ofcom’s Modification of Wholesale Local Access Market Review SMP Condition 7A

On 22 May 2018, Ofcom issued a modification (the Modification) to the SMP conditions contained in Ofcom’s notification dated 28 March 2018. As outlined below, the Modification modified the SMP conditions by adjusting, on a forward-looking basis, the charge ceilings for Metallic Path Facility (MPF) rental services and certain Local Loop Unbundling (LLU) ancillary services in SMP Condition 7A.

The reason for this Modification is to correct for a computational error in the top-down copper access model that was used to determine the level of the relevant charge ceilings. At Annex 17 to the Wholesale Local Access Market Review Statement dated 28 March 2018 (the WLA Statement), we said that we had assumed different pay and non-pay operating cost inflation rates for the three years of the control.¹ However, at the time when the final charge ceilings were generated for publication in the WLA Statement, the top-down model’s pay and non-pay inflation rates had not been updated to allow these different inflation assumptions to apply in each year.

Correcting this error has the effect of increasing the level of the charge ceiling for BT’s MPF rental services and certain LLU ancillary services by around 1% over the period of the charge control. The charge ceilings for other services contained in Ofcom’s notification dated 28 March 2018 are unchanged. These include the charge ceilings for Generic Ethernet Access (GEA) rental services and associated ancillary services.

The Modification will take effect from 30 May 2018, with new charge ceilings applicable from 1 June 2018 to 31 March 2021. The Modification is published at:

https://www.ofcom.org.uk/_data/assets/pdf_file/0010/114103/Modifications-SMP-conditions-28-March-2018.pdf

Ofcom has also published a revised version of the top-down copper access model, which corrects for the computational error, and a consolidated version of the legal instruments (Annex 33 to the WLA Statement).

For ease of reference, the tables below set out the charge ceilings in place pursuant to the SMP conditions as modified by the Modification.

Table 1: Charge controls on MPF and GEA 40/10 rentals

| | Annual charge as at 23 March 2018 | Charge control nominal 2018/19 | Charge control nominal 2019/20 | Charge control nominal 2020/21 |
|-----------------------|--------------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
| MPF | 84.38 | 85.74 | 85.36 | 85.36 |
| GEA 40/10* | 88.80 | 69.59 | 61.12 | 59.91 |
| MPF plus GEA 40/10 | 173.18 | 155.33 | 146.48 | 145.27 |

Source: Output from our control module and Openreach’s price list,

¹ See paragraph A17.4 and Tables A17.5 and A17.9 of Annex 17 to the WLA Statement.

² This is our estimate of the price in 2019/20 and 2020/21, the actual price will depend on the Consumer Price Index minus the ‘X’ applied.

* This price has not changed from the WLA Statement

Table 2: LLU (MPF and SMPF) ancillary services charge controls

| Basket/service | Cost standard/ charge control decision | Annual charge as at 23 March 2018 | Charge control for 2018/19 | Charge control for 2019/20 | Charge control for 2020/21 |
|---|--|---|-------------------------------|-------------------------------|-------------------------------|
| MPF Single Migration | LRIC | £30.26 | £26.73 | CPI-8.5% | CPI-2.5% |
| MPF Bulk Migration | LRIC | £20.97 | £19.19 | CPI-6.9% | CPI-2.4% |
| MPF New Provides Basket | FAC | Various | CPI-12.8% | CPI-8.0% | CPI-2.5% |
| MPF Soft Cease* | Flat nominal Cap | £0 | £0 | £0 | £0 |
| SMPF Soft Cease* | Flat nominal Cap | £0 | £0 | £0 | £0 |
| Hard Ceases Basket | FAC | Various | CPI-19.7% | CPI-11.7% | CPI-3.7% |
| Special Fault Investigations* | FAC | Various | CPI-15.0% | CPI-9.2% | CPI-2.6% |
| Time Related Charges* | FAC | Various | CPI-15.0% | CPI-9.2% | CPI-2.6% |
| LLU Tie Cables basket | FAC | Various | CPI+0.1% | CPI-1.4% | CPI-3.0% |
| LLU Co-mingling New Provides and Rentals services basket | FAC | Various | CPI+32.5% | CPI+13.6% | CPI-4.6% |
| MPF Standard Line Test* | Flat real cap at current charge | £3.93 | £4.05 | CPI-0% | CPI-0% |
| Cancellation of MPF orders* | Alignment of charges with GEA Bandwidth Modify to 40/10 | £10.28 | £7.26 | CPI-22.2% | CPI-5.5% |
| Amend MPF orders* | Alignment of charges with GEA Bandwidth Modify to 40/10 | £10.28 | £7.26 | CPI-22.2% | CPI-5.5% |

Source: Output from our control module and Openreach's price list,

* These prices have not changed from the WLA Statement

Key changes to SMP Condition 7A

The Modification sets out the detail of the changes to Condition 7A. The key changes are as follows:

- For the individual MPF services affected by the error (i.e. MPF SML1 Rental, MPF Single Migration and MPF Bulk Migration), we have corrected the error by setting revised charge controls for these services in relation to:
 - i) the part of the First Relevant Year (2018/19) which has not elapsed, which covers the period from 1 June 2018 to 31 March 2019 (defined in the legal instruments as the “Second Relevant Period Within Year 1”);
 - ii) the Second Relevant Year (2019/20); and
 - iii) the Third Relevant Year (2020/21).
- For the baskets of MPF services affected by the error (i.e. all four baskets), we have corrected the error by:
 - i) reducing the period during which the charge controls are to apply in the First Relevant Year (2018/19) from the 12-month period starting from 1 April 2018 to the 10-month period from 1 June 2018 to 31 March 2019 (the “Second Relevant Period Within Year 1”); and
 - ii) setting revised charge controls for these services for the “Second Relevant Period Within Year 1”, the Second Relevant Year (2019/2020) and the Third Relevant Year (2020/2021).
- We have also made further minor consequential changes to ensure consistency with the changes above. In particular, we have made reference to the new Second Relevant Period Within Year 1 where appropriate.

Implications of the Modification for Volume 2 of the WLA Statement and the associated annexes

The charge ceilings in the tables above replace and supersede relevant figures and tables contained within Volume 2 of the WLA Statement dated 28 March 2018 including:

- At paragraph 1.9 the reference to MPF Rental is replaced and superseded by £85.36³ in 2020/21;
- Tables 1.1, Table 1.2 and Table 4.5;
- At paragraph 4.68 the references to the charge control on MPF and GEA 40/10 combined is replaced and superseded by £85.74;
- At paragraph A11.67, the reference to £31.57 is replaced and superseded by £32.16⁴; and

³ This is our estimate of the price in 2020/21, the actual price will depend on the Consumer Price Index minus the ‘X’ applied.

⁴ This change is because the small increase in MPF Rental also increases the amount of common costs allocated to MPF on a per line basis.

- Tables A23.1 and A23.3.

We also note that the small increases in MPF Rental impacts our analysis of the forecast unit costs of MPF Rentals set out in Annex 16.

The charge ceilings in the tables above also replace and supersede relevant figures in Volume 1 of the WLA Statement dated 28 March 2018 including in Table 1.1. The reference to £12.06 at paragraph 1.41 is superseded by £12.11 and the reference to 7% is superseded by around 8%.

Additional information and clarifications to the WLA Statement Annex 13

In addition, in response to a stakeholder request we have unredacted certain additional assumptions in relation to our assessment of SLG payment costs within Annex 13 of the WLA Statement. In particular, we have confirmed that the average payable days for late provision (i.e. the second row in Table A13.15 of the WLA Statement) was 6.52 days for all products listed. We have also confirmed that our GEA-FTTC SLG estimates included all bandwidths and FTTP lines.

We have updated Table A13.15 and paragraph 13.89 in the WLA Statement Annexes 10-16.