



Financial reporting for standalone landline telephone services

Provisional conclusions

	Consultation
Publication date:	25 April 2017
Closing Date for Responses:	23 May 2017

About this document

On 28 February 2017, we consulted on our review of the retail market for standalone landline telephone services, that is the sale of telephone services to those people who buy such services in a standalone contract and not as part of a bundle with other services such as broadband or pay-TV. This affects around 2.9 million households in the UK. We provisionally concluded that BT holds significant market power in this market and we set out our proposals to address this, including a retail price control and consumer engagement remedies.

This consultation document sets out our further proposals for the financial reporting requirements that BT will need to follow in relation to these retail standalone landline telephone services.

We will take all responses to this consultation into account before reaching our final conclusions which we plan to publish in a statement at the turn of the year.

Contents

Section		Page
1	Introduction and executive summary	1
2	Proposals for regulatory financial reporting	2
Annex		Page
1	Responding to this consultation	9
2	Ofcom's consultation principles	11
3	Consultation question	13
4	Equality Impact Assessment	14
5	Draft legal instruments	15

Section 1

Introduction and executive summary

- 1.1 On 28 February 2017, we consulted on our review of the retail market for standalone landline telephone services (RMSLTS Consultation)¹, that is the sale of telephone services to those people who buy such services in a standalone contract and not as part of a bundle with other services such as broadband or pay-TV. This affects around 2.9 million households in the UK.
- 1.2 We provisionally concluded that BT holds significant market power in this market and we set out our proposals to address this, incorporating a retail price control on standalone fixed voice (SFV) services² alongside consumer engagement remedies. We also said that we were considering whether there was a need to impose regulatory financial reporting requirements on BT.³ This consultation sets out our regulatory financial reporting proposals for SFV services.
- 1.3 To carry out our duties it is important that financial information is available on the services and markets that we regulate. We propose that BT should prepare annual financial information on the volumes, revenues, costs and net margins for SFV services, to help identify trends and developments in the market and allow us to assess the impact of the remedies imposed. We propose that this information is provided to Ofcom each year.
- 1.4 We also propose that BT should publish volume information on SFV services to enable stakeholders to identify trends in the market and a non-confidential compliance statement to provide assurance about its compliance with the proposed price control.

Consultation and next steps

- 1.5 We invite comments on the proposals in this document. The consultation runs for 4 weeks and the deadline for responses is 23 May 2017. Annex 1 provides further details of how to respond. We aim to publish our overall conclusions on the RMSLTS market at the turn of the year.

¹ Available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0030/97806/Consultation-Review-of-the-market-for-standalone-landline-telephone-services.pdf.

² SFV services are landline services that are not sold as part of a bundle with non-voice service. This includes access (i.e. line rental) and calls. See the Glossary in the RMSLTS Consultation.

³ Paragraph 9.33, RLSLTS Consultation.

Section 2

Proposals for regulatory financial reporting

Introduction

- 2.1 As we set out in the 2014 Regulatory Financial Reporting Statement⁴, regulatory financial reporting “should provide us with the information necessary to make informed regulatory decisions, monitor compliance with SMP conditions, ensure that those SMP conditions continue to address the underlying competition issues and investigate potential breaches of SMP conditions and anti-competitive practices”.⁵ In addition, we said in that statement that sufficient information should be published to enable stakeholders to: contribute to the development of robust regulatory decisions; review and challenge data on which those decisions are made; assist us in monitoring compliance and to intervene in a timely fashion when required; and have reasonable confidence that BT has complied with its SMP conditions.⁶ We said we would consider and determine what level of information would provide reasonable confidence in any particular case, following input from stakeholders, and that published volume, revenue and cost information should reflect the level of the remedy.⁷
- 2.2 Section 91 of the 2003 Communications Act (the Act) authorises the imposition of SMP conditions in relation to the provision of retail services, including conditions relating to regulatory financial reporting.⁸
- 2.3 In this section, we set out our views on what specific regulatory financial reporting requirements are appropriate to ensure we have the information necessary to make informed regulatory decisions and to monitor the impact of the remedies proposed in the RMSLTS Consultation. This includes both information that BT provides to us privately as well as information that is published. Before doing so, we summarise the information that BT provided to inform the RMSLTS consultation and how that information was used to inform our review.
- 2.4 In the rest of this section we, therefore, set out:
- A summary of the information provided by BT to inform the RMSLTS Consultation;
 - The information that we propose BT should provide to us privately;
 - The information that we propose BT should publish in its RFS; and
 - The SMP condition we intend to impose on BT under section 91 of the Act.

⁴ Ofcom, *Regulatory Financial Reporting Statement*, 20 May 2014. Available at: https://www.ofcom.org.uk/__data/assets/pdf_file/0025/78460/financial-reporting-statement-may14.pdf.

⁵ Paragraph 2.28 of the 2014 Regulatory Reporting Statement.

⁶ Paragraphs 2.29 to 2.41 of the 2014 Regulatory Reporting Statement.

⁷ Paragraphs 4.76 to 4.85, 2014 Regulatory Financial Reporting Statement

⁸ BT is also subject to regulatory financial reporting requirements in wholesale SMP markets. As part of these requirements, each year BT prepares Regulatory Financial Statements (RFS). The RFS include published statements as well as information that is not published but submitted to us privately.

Information provided by BT to inform the RMSLTS consultation

Information provided by BT

- 2.5 To inform our review we asked BT to provide financial information on SFV services. Although BT provided information on SFV volumes, it was unable to provide sufficiently disaggregated financial information relating to revenues and costs for these services, distinct from other retail services.⁹
- 2.6 In relation to revenues and wholesale costs, BT provided information from its management accounts for all of its fixed voice customers. This data was not purely related to SFV services; it included the revenues and costs associated with customers that took any fixed voice service from BT, e.g. it also included financial information related to dual- and triple-play customers.
- 2.7 In relation to retail costs, BT provided information from its management accounts for the whole of BT Consumer, but it explained that it did not further break down these costs by the different types of service offered by BT Consumer, such as fixed voice, fixed broadband, mobile, sport and TV.¹⁰

Use of BT's information in our analysis

- 2.8 In the RMSLTS Consultation, we provided an estimate of the profitability of BT's SFV services, measured using return on sales (ROS).¹¹ We sought to estimate profitability of SFV services as BT itself was unable to provide specific financial information on these services. We therefore based our assessment on the best available data received from BT to determine levels of profitability.
- 2.9 To estimate the profitability of BT's SFV services we assumed that:¹²
- On a per-customer basis, the revenues and wholesale costs provided for all of BT's fixed voice customers were a reasonable proxy for BT's SFV customers; and
 - The retail costs of BT Consumer were spread equally on a per-line basis across BT's fixed voice and fixed broadband customers only (i.e. that no retail costs were associated with mobile, sport and TV).
- 2.10 The financial information provided by BT and our estimates of the profitability of BT's SFV services informed our SMP assessment¹³ and the options for a price control remedy, as summarised below.
- 2.11 In developing our price control remedies, we considered two options: the maximum price reduction we could impose on BT if we were not concerned about allowing

⁹ See paragraphs A5.35 to A5.42 in Annex 5 of the RMSLTS Consultation.

¹⁰ Source: BT's response to Question 11a of the 1st s.135 notice issued on 3 November 2016.

¹¹ ROS is equal to the earnings before interest and tax (EBIT) margin (as a percentage of revenues). Our approach to measuring profitability was set out in Annex 5 of the RMSLTS consultation.

¹² These are described in paragraphs A5.34 to A5.52 in Annex 5 of the RMSLTS Consultation.

¹³ See paragraphs 4.68 to 4.71, paragraph 5.28 to 5.30 and Annex 5 of the RMSLTS consultation.

competition to develop, and a price reduction consistent with promoting competition.¹⁴

- 2.12 When considering the maximum price reduction, we used our estimates of the profitability of BT's SFV services to estimate the maximum price reduction that would result in BT earning a ROS of no more than 10%, which was £8-10 per month including VAT.¹⁵
- 2.13 When estimating the price reduction consistent with promoting competition, we considered the profitability of fixed voice services for other communication providers (CPs)¹⁶ and we modelled the profitability of a hypothetical CP looking to acquire new SFV customers. Since other CPs did not supply any information which could provide insight into their wholesale or retail costs, we relied on BT's cost data to model the profitability of a hypothetical CP.
- 2.14 Given that our estimates of the profitability of BT's SFV services were used to inform the level of the proposed price control, we consider that it is important to monitor the impact of our proposed remedies on the profitability of these services going forward. In addition, we consider that it is important to improve the quality of financial information relating to SFV services, given that BT was unable to provide specific financial information on these services during our review. In the next section, we therefore set out proposals to require BT to i) provide us with information on SFV services privately and ii) publish certain information on these services.

Financial information to be provided privately

Financial template

- 2.15 It is important that BT maintains appropriate and reliable accounts that capture information on an ongoing basis relevant to its provision of services in regulated markets.
- 2.16 As set out above, while BT provided volume information for SFV services during the market review, it was unable to provide specific information on revenues, costs and returns for SFV services. We propose that BT should prepare annual financial information on SFV services to help identify trends and developments in the market and allow us to assess the impact of the remedies imposed on the profitability of BT's SFV services. This information will also help ensure that robust financial information is available when we review the market again and reduce uncertainty around the costs and profitability of SFV services.
- 2.17 Specifically, we propose to require BT to complete a financial template each year which will provide details of the volumes, revenues, wholesale costs, retail costs and net margins for SFV services. In completing this template, BT will be required to provide further detail on the categories of retail costs within BT Consumer¹⁷ and attribute these costs to SFV services. BT will be required to explain its attribution methodology.

¹⁴ See paragraph 8.7 in the RMSLTS Consultation.

¹⁵ See paragraph 8.17 in the RMSLTS Consultation.

¹⁶ As noted in footnote 190 of the RMSLTS Consultation we were not able to calculate the other CPs' profitability of providing SFV products.

¹⁷ For example, we propose to require BT to split out the 'sales, general and admin' (SG&A) category of retail costs.

- 2.18 We propose to require that BT provides this financial information for all of BT Consumer (to enable comparison with BT's published annual reports) and for all fixed voice services (to enable comparison with the information used to inform the RMLTS Consultation, as set out above) as well as for SFV services. The proposed template can be found in Annex 5.

Preparation of financial template

- 2.19 BT has not reported financial information for retail markets since 2009, when we concluded that BT no longer had SMP in the provision of retail fixed narrowband analogue access and retail calls.¹⁸
- 2.20 BT has explained to us that it would be a significant and expensive task to incorporate retail reporting within its existing regulatory accounting system (called REFINE), involving investment in staff and systems development.¹⁹
- 2.21 Given that SFV services represent a relatively small proportion of BT Consumer revenues²⁰ we do not consider it would be proportionate to require BT to include retail reporting in REFINE. Instead, we consider that it would be reasonable for BT to complete the financial template using information derived from its management accounts, consistent with the information BT provided during the market review. However, as noted above, we expect BT to be able to reconcile information in the template to the BT Consumer financial information reported in its annual report and to explain the methodology used to attribute retail costs to SFV services.
- 2.22 We also propose to require BT to provide an assurance statement from the auditor of its RFS that the completed financial template is free from calculation errors and has been prepared following the attribution methodology set out by BT.
- 2.23 The review period for SFV services will run from 1 October 2017 to 30 September 2020. To be consistent with other regulatory financial information provided by BT, we propose that the template should be completed for each financial year covered by the review, i.e. for the years ending March 2018, 2019, 2020 and 2021.

Financial information to be published

Publication of volume information

- 2.24 As noted above, in our 2014 Regulatory Financial Reporting Statement, we said that, in general, sufficient information should be published to enable stakeholders to contribute to the development of robust regulatory decisions; review and challenge data on which those decisions are made; assist us in monitoring compliance and to intervene in a timely fashion when required; and have reasonable confidence that BT has complied with its SMP conditions. We also said that published volume, revenue and cost information should reflect the level of the remedy.
- 2.25 In the published RFS, financial information on specific wholesale markets broadly relates to three areas: market level information, services level information and cost

¹⁸ Fixed Narrowband Retail Services Market Statement, 15 September 2009, https://www.ofcom.org.uk/_data/assets/pdf_file/0023/51836/statement.pdf. BT's 2008/09 RFS were the last to show financial information on retail markets.

¹⁹ Slide presented by BT to Ofcom at a meeting on 15 March 2017.

²⁰ See paragraph A5.26 in Annex 5 of the RMLTS Consultation.

components for reported services. Retail markets are not currently included in the published RFS, and as explained above, we propose to require BT to provide us with information on SFV services derived from management accounts rather than require BT to incorporate retail reporting into its regulatory accounting system REFINE.

2.26 Given that the price control remedy we proposed to apply to BT's SFV services is not based directly on BT's costs, and that financial information on SFV services will come from management accounts rather than from REFINE, we do not consider it is appropriate to require BT to publish information on the revenue, costs and net margins for these services.

2.27 However, we consider it is important that stakeholders can identify the degree to which our regulation impacts on the market. To this end, we consider it is appropriate for the trends in the volumes for SFV services to be in the public domain. We therefore propose that BT should publish, either in the published RFS or on its website, the following volume information each year :

- Number of SFV lines;
- Number of gross SFV customer additions;
- Number of gross SFV customer losses, split by:
 - Ceased lines;
 - Customers who remained with BT but were no longer SFV customers, e.g. they took up a dual-play bundle with BT;
 - Customers who migrated to BT Basic; and
 - Customers who migrated to another CP.
- Total volume of SFV calls, split between:
 - Call plans included in line rental;
 - Call plans not included with line rental; and
 - Out-of-plan calls.

Publication of non-confidential compliance information

2.28 In paragraph 8.71 of the RMSLTS Consultation we proposed to require BT to publish non-confidential compliance schedules for the price-controlled SFV services, as Ofcom may from time to time direct, to provide assurance to stakeholders about BT's compliance with the price control.²¹ Annex 5 sets out a proposed direction in this respect.

SMP condition

2.29 Section 91 of the Act authorises the imposition of SMP conditions in relation to the provision of retail services. Section 91(6) allows us to set and apply an SMP

²¹ See also Condition 2.7A at Annex 9 of the RMSLTS Consultation.

condition which requires, to the extent that we consider appropriate, the use of cost accounting systems, the publication of an annual statement about compliance with this obligation and the annual auditing of such accounting systems by a qualified auditor.

- 2.30 We propose to impose a retail cost accounting obligation on BT, which includes a requirement to keep separate accounts, in the market for SFV services in the UK excluding the Hull area. For the reasons set out below we are satisfied that the conditions we are proposing to impose on BT meet the various tests set out in the Act.
- 2.31 In making our proposals, we have considered, in particular, our duties under section 3 of the Act. We consider that requiring BT to provide regulatory financial information supports our proposals in the RMSLTS Consultation to address the direct and indirect consumer detriment that we identified, and that the proposed regulations will, taken as a whole, further the interests of citizens in relation to communications markets and further the interests of consumers in relevant markets, including by promoting competition. We have also had particular regard to our duty under section 3(4)(i) and the needs of the elderly who form a large part of the relevant retail markets.
- 2.32 In making our assessment, we have also taken into account the Community requirements set out in section 4 of the Act and Article 8 of the Framework Directive. We consider that our proposals support those made in the RMSLTS Consultation and will promote competition in relation to the provision of electronic communications services by ensuring that users derive maximum benefit in terms of choice, price and quality.
- 2.33 In addition, we have considered whether our proposal to impose a retail cost accounting obligation satisfies the test set out in section 47 of the Act that conditions are objectively justifiable, not unduly discriminatory, transparent and proportionate. The obligation has been proposed to monitor the impact of the remedies imposed in the RMSLTS Consultation on the profitability of BT's SFV services and to ensure that a greater detail of information on the relevant market is available than BT is currently able to provide. The obligation has also been proposed to require BT to publish certain information which we consider will allow stakeholders to assess the impact and effectiveness of the SMP conditions, monitor developments in the market and contribute to the regulatory regime. We consider that this remedy is:
- Objectively justifiable, as it relates to the need to ensure that BT prepares financial information relating to this market which will allow Ofcom and stakeholders to monitor the impact and effectiveness of the remedies proposed in the RMSLTS Consultation;
 - Not unduly discriminatory, as it is only imposed on BT, which is the only CP which we propose to find has SMP in the relevant markets in the UK excluding the Hull Area;
 - Transparent, in that it is clear the intention is to monitor the impact and effectiveness of the remedies proposed in the RMSLTS Consultation; and
 - Proportionate, in that it is the least onerous obligation necessary as a mechanism to allow us and third parties to monitor the impact and effectiveness of the remedies proposed in the RMSLTS Consultation.

2.34 The form of the retail cost accounting condition we are proposing for BT in this market is set out in Annex 5.

Consultation question

Question: Do you agree with our proposals for BT's regulatory financial reporting? Please provide reasons and evidence in support of your views.

Annex 1

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 23 May 2017**.
- A1.2 We strongly prefer to receive responses via the online form at <https://www.ofcom.org.uk/consultations-and-statements/category-3/consultation-on-financial-reporting-for-standalone-landline-telephone-services>. We also provide a cover sheet <https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>) for responses sent by email or post; please fill this in, as it helps us to maintain your confidentiality, and speeds up our work. You do not need to do this if you respond using the online form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to retailvoicemarketreview@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>).
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- Catherine Warhurst
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 If you would like to submit your response in an alternative format (e.g. a video or audio file), please contact Catherine Warhurst on 020 7981 3382, or email catherine.warhurst@ofcom.org.uk.
- A1.6 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.
- A1.7 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.
- A1.8 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 X. 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.
- A1.9 If you want to discuss the issues and questions raised in this consultation, please contact Catherine Warhurst on 020 7981 3382, or by email to catherine.warhurst@ofcom.org.uk.

Confidentiality

- A1.10 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.
- A1.11 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.
- A1.12 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.
- A1.13 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

- A1.14 Following this consultation period, Ofcom plans to publish a statement at the turn of the year.
- A1.15 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

- A1.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.17 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.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Email: corporationsecretary@ofcom.org.uk

Annex 2

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.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

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	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	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)

Annex 3

Consultation question

*Question: Do you agree with our proposals for BT's regulatory financial reporting?
Please provide reasons and evidence in support of your views.*

Annex 4

Equality Impact Assessment

A4.1 The equality impact assessment can be found in Annex 4 of the RMLTS Consultation.

Annex 5

Draft legal instruments

PART I - NOTIFICATION OF PROPOSALS UNDER SECTION 48A THE COMMUNICATIONS ACT 2003

Proposals for setting SMP services conditions in relation to BT under section 45 of the Communications Act 2003 (“the Act”)

Background

1. On 28 February 2017, Ofcom published a document titled “*The review of the market for standalone landline telephone services*” (“the **2017 RMSLTS Consultation**”)²². Annex 9 to the 2017 RMSLTS Consultation set out the notification under sections 48A and 80A of the Act, in which OFCOM proposed to:

- identify certain markets;
- make market power determinations; and
- set SMP services conditions

(“the **RMSLTS Notification**”)

2. In relation to BT, OFCOM proposed in the RMSLTS Notification that BT has Significant Market Power in the following markets:
 - Residential Standalone Fixed Voice access services; and
 - Residential Standalone Fixed Voice call services.
3. As a result of the proposed market power determinations in the markets listed above, OFCOM proposed in the RMSLTS Notification to set a number of SMP services conditions on BT in each of the relevant markets (see Conditions 1 and 2 in the RMSLTS Notification).

²² https://www.ofcom.org.uk/_data/assets/pdf_file/0030/97806/Consultation-Review-of-the-market-for-standalone-landline-telephone-services.pdf.

Proposed addition of Condition 3

4. OFCOM hereby gives notice of its proposals, in accordance with section 48A of the Act, in relation to the markets set out in paragraph 2 above to add Condition 3, set out in the Schedule to this Notification, to the RMSLTS Notification.
5. Consequently, the RMSLTS Notification should be read accordingly. It is proposed that this condition will take effect from the date of any notification under section 48(1) of the Act adopting the proposals set out in this present notification.
6. The effects of, and reasoning for making, the amendments set out in paragraph 4 above are set out in the consultation document accompanying this notification.

Ofcom's duties and legal tests

7. OFCOM considers that the proposals set out in this notification comply with all the applicable legal tests, including the requirements of sections 45 to 47.
8. In making the proposals referred to in this Notification, OFCOM has:
 - a) considered and acted in accordance with its general duties set out in section 3 of the Act and the six Community requirements in section 4 of the Act;
 - b) taken due account of all applicable recommendations issued by the European Commission in accordance with section 4A of the Act; and
 - c) taken utmost account of any relevant opinion, recommendation, guidance or regulatory practice adopted by BEREC in accordance with Article 3(3) of Regulation (EC) No 1211/2009.

Making representations

9. Representations may be made to OFCOM about any of the proposals set out in this Notification and the accompanying consultation by no later than 23 May 2017.
10. A copy of this Notification and the accompanying consultation document have been sent to the Secretary of State in accordance with section 48C(1) of the Act.

Interpretation

11. For the purposes of interpreting this Notification:

- a) except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the RMSLTS Notification and otherwise any meaning they have in the Act;
- b) headings and titles shall be disregarded;
- c) expressions cognate with those referred to in this direction shall be construed accordingly; and
- d) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

12. The Schedule to this Notification shall form part of this Notification.

Signed

A handwritten signature in blue ink that reads "D. Clarkson." The signature is written in a cursive style.

David Clarkson
Competition Policy Director, Ofcom

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

25 April 2017

SCHEDULE

Condition 3 – Regulatory Reporting

- 3.1.** Within four months of the end of each Financial Year, starting with the First Financial Year, the Dominant Provider must, for that Financial Year, complete the template at the Annex to this Condition 3 with the required information and provide it to Ofcom. .
- 3.2.** In relation to the template supplied to Ofcom in accordance with Condition 3.1, the Dominant Provider must also provide to Ofcom:
- a. an explanation of the source data that the Dominant Provider used in calculating the data inputted in each row under sub-headings 1 to 6 of the template;
 - b. the Regulatory Accounting Methodology for the purposes of preparing the data inputted in columns B and C of the template;
 - c. for each Subsequent Financial Year, a description of any changes made to the Regulatory Accounting Methodology in comparison to that of the previous Financial Year, including the reason for making the changes and the impact of each of the changes on the figures, by setting out the figures that would have been presented in the previous Financial Year in accordance with the revised Regulatory Accounting Methodology; and
 - d. a reconciliation statement setting out how the data inputted in Column A of the template reconciles with the financial information published for BT Consumer in the BT Annual Report.
- 3.3.** The Dominant Provider must obtain and provide to Ofcom an assurance statement by the Regulatory Auditor in relation to the template provided pursuant to Condition 3.1, which must report:
- a. whether the figures in columns B and C of the template have been calculated in accordance with the Regulatory Accounting Methodology provided by the Dominant Provider in accordance with Condition 3.2(b); and
 - b. whether each figure inputted in the template has been correctly calculated.

- 3.3A** The Dominant Provider must notify Ofcom in writing of the Regulatory Auditor appointed for the purposes of Condition 3.3 before the Regulatory Auditor carries out any work for that purpose. The Dominant Provider must notify Ofcom of any proposed change of Regulatory Auditor 28 days before effect is given to that change.
- 3.3B** The Regulatory Auditor that the Dominant Provider from time to time appoints must at all times be satisfactory to Ofcom having regard to such matters as Ofcom consider appropriate.
- 3C** In the event that the Regulatory Auditor is in the opinion of Ofcom unsatisfactory, the Dominant Provider must appoint and instruct an Alternative Regulatory Auditor that is at all times satisfactory to Ofcom having regard to such matters as Ofcom consider appropriate.
- 3D** The Dominant Provider's letter of engagement appointing the Regulatory Auditor or Alternative Regulatory Auditor must include such provisions acknowledging the acceptance by them of duties and responsibilities to Ofcom in respect of his assessment.
- 3.4.** Four months after the end of each Financial Year, starting with the First Financial Year, the Dominant Provider must publish the information supplied under heading 6 of Column C of the template provided in accordance with Condition 3.1.
- 3.5.** Four months after the end of each Financial Year, starting with the First Financial Year, the Dominant Provider must publish a statement confirming that it has provided to Ofcom the information required under Conditions 3.1, 3.2 and 3.3.
- 3.6.** Where Ofcom have reasonable grounds to believe that any or all of the information provided in accordance with Conditions 3.1 or 3.2 is deficient, the Dominant Provider must, where required by Ofcom:
- i. amend the information provided in accordance with Condition 3.1 or 3.2 in order to remedy the deficiencies identified by Ofcom;
 - ii. revise the information published in accordance with Condition 3.4 as required by Ofcom;
 - iii. update the information published in accordance with Condition 3.5;

- iv. in relation to information amended pursuant to letter (i), secure the provision of an assurance statement by a Regulatory Auditor regarding the matters set out in Condition 3.3; and
- v. deliver to Ofcom the information amended under letter (i) and corresponding assurance statement under letter (iv), as applicable.

3.7. The Dominant Provider must comply with any direction Ofcom may make from time to time in relation to the Dominant Provider's obligations under this Condition 3.

3.8. In this Condition 3:

- a. "**Alternative Regulatory Auditor**" means any auditor not for the time being appointed as the Dominant Provider's Regulatory Auditor;
- b. "**BT Annual Report**" means the report published by BT on an annual basis, containing, amongst other things, BT's financial statements;
- c. "**Financial Year**" means a financial year of the Dominant Provider in respect of which annual statutory financial statements are required to be (or to have been) prepared and audited in accordance with the requirements of the Companies Act 2006;
- d. **First Financial Year** means the Financial Year ending on 31 March 2018;
- e. "**Regulatory Accounting Methodology**" means the rules, policies, methods, allocations, calculations, assumptions and procedures used by the Dominant Provider for the purpose of completing the template according to Condition 3.1;
- f. "**Regulatory Auditor**" means the auditor for the time being appointed by the Dominant Provider in accordance with this Condition 3; and
- g. "**Subsequent Financial Year**" means the Financial Years ending on 31 March 2019, 31 March 2020 and 31 March 2021, as applicable.

ANNEX

Financial year: 20XX

	Column A BT Consumer	Column B All fixed voice services	Column C SFV services
1) Revenue excluding VAT (£m)			
Total revenue	X.X	X.X	X.X
Line rental	X.X	X.X	X.X
Call plans not included with line rental	X.X	X.X	X.X
Out-of-plan calls	X.X	X.X	X.X
Other fixed voice revenue	X.X	X.X	X.X
Other revenue	X.X	X.X	X.X
2) Wholesale costs (£m)			
Total wholesale costs	X.X	X.X	X.X
Wholesale fixed voice line rental costs	X.X	X.X	X.X
Wholesale fixed voice call costs	X.X	X.X	X.X
Other wholesale fixed voice costs (if any)	X.X	X.X	X.X
Other wholesale costs	X.X	X.X	X.X
3) Gross margin (£m)			
Gross margin	X.X	X.X	X.X
4) Retail costs (£m)			
Total retail costs	X.X	X.X	X.X
Total SG&A	X.X	X.X	X.X
- SG&A internal	X.X	X.X	X.X
- Cost type 1	X.X	X.X	X.X
- Cost type 2	X.X	X.X	X.X
- etc	X.X	X.X	X.X
- SG&A external	X.X	X.X	X.X
- Cost type 1	X.X	X.X	X.X
- Cost type 2	X.X	X.X	X.X
- etc	X.X	X.X	X.X
Total cost of sales	X.X	X.X	X.X
- Internal cost of sales	X.X	X.X	X.X
- Cost type 1	X.X	X.X	X.X
- Cost type 2	X.X	X.X	X.X
- etc	X.X	X.X	X.X
- External cost of sales	X.X	X.X	X.X
- Cost type 1	X.X	X.X	X.X
- Cost type 2	X.X	X.X	X.X
- etc	X.X	X.X	X.X
Total other retail costs	X.X	X.X	X.X
- Cost type 1	X.X	X.X	X.X
- Cost type 2	X.X	X.X	X.X
- etc	X.X	X.X	X.X
5) Net margin (£m)			
Net margin	X.X	X.X	X.X
6) Volumes of lines and calls			
Number of fixed voice lines (thousands)	X,XXX	X,XXX	X,XXX
- Number of gross additions for SFV lines	X,XXX	X,XXX	X,XXX
- Number of gross losses for SFV lines	X,XXX	X,XXX	X,XXX
- Due to ceased lines	X,XXX	X,XXX	X,XXX
- Switched to BT broadband bundle	X,XXX	X,XXX	X,XXX
- Migrated to BT Basic	X,XXX	X,XXX	X,XXX
- Switched to another CP	X,XXX	X,XXX	X,XXX
Total volume of fixed voice calls (thousands of minutes)	X,XXX	X,XXX	X,XXX
- Included with line rental	X,XXX	X,XXX	X,XXX
- Call plans not included with line rental	X,XXX	X,XXX	X,XXX
- Out-of-plan calls	X,XXX	X,XXX	X,XXX

Notes to the Annex:

1. In Column B, "All fixed voice services" means all services consisting in the provision by the Dominant Provider of an access connection between a local exchange and an end-user's premises, to the exclusion of services provided as part of a BT Business Service, and all services that allow the making of voice calls using a fixed access connection, on a standalone basis.
2. In Column C, 'SFV Services' refers to services provided to Customers.
3. "Line Rental" means all Exchange Line services provided by the Dominant Provider. This includes Standard Line Rental, Line Rental, Line Rental Saver, Line Rental Plus and Home Phone Saver as per the BT Consumer Price Guide, effective from 10 February 2017. For the avoidance of doubt, this excludes BT Basic.
4. Total retail costs should be split between Total SG&A costs, Total cost of sales and Total other retail costs.
5. Total SG&A costs should be split between SG&A internal costs and SG&A external costs and Total cost of sales should be split between internal cost of sales and external cost of sales. Internal costs are those that arise within BT Consumer while external costs are those that arise in other BT divisions.
6. SG&A Internal costs, SG&A External costs, Internal cost of sales, External cost of sales and Total other retail costs should each be further split by cost types.
7. The total value of the cost types should represent at least 80% of the value of each of SG&A Internal costs, SG&A External costs, Internal cost of sales, External cost of sales and Total other retail costs.
8. Descriptions of each cost type should be sufficiently granular to enable Ofcom to understand the nature of the cost.

PART II: NOTIFICATION OF PROPOSED DIRECTION UNDER SECTIONS 49 AND 49A OF THE COMMUNICATIONS ACT 2003 (“the Act”) AND CONDITION 2.7A RELATING TO THE PUBLICATION OF COMPLIANCE STATEMENTS

1. On 1 December 2016, Ofcom published a document titled “*The review of the market for standalone landline telephone services*” (“the **2017 RMSLTS Consultation**”)¹. In that consultation, OFCOM set out its provisional view that BT has Significant Market Power in the markets for Residential Standalone Fixed Voice access and call services in the UK (excluding the Hull Area).
2. OFCOM proposed to impose a price control on BT. It also proposed to require BT to record, maintain and supply the data necessary for Ofcom to monitor compliance with the price control (Condition 2.7 in Annex 9 of the 2017 RMSLTS Consultation) and to publish such information provided to OFCOM as OFCOM may from time to time direct (Condition 2.7A in Annex 9 of the 2017 RMSLTS Consultation).

Proposal to give a direction

3. OFCOM is proposing, in accordance with section 49 of the Communications Act 2003 (“the Act”), to give directions pursuant to proposed Condition 2.7A in Annex 9 of the 2017 RMSLTS Consultation, setting requirements in relation to the publication of non-confidential information in relation to each of the markets referred to in paragraph 1 above.
4. The proposed Direction is set out in the Schedule to this Notification.
5. The effect of, and the reasons for giving, the proposed Direction are set out in the consultation document accompanying this Notification.

OFCOM’s duties and legal tests

6. For the reasons set out in the consultation document accompanying this Notification, OFCOM considers that the proposed Direction set out in the Schedule to this Notification complies with the requirements of section 49(2) of the Act.
7. In making the proposals set out in this Notification, OFCOM has considered and acted in accordance with its general duties set out in section 3 of the Act and the duty

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0030/97806/Consultation-Review-of-the-market-for-standalone-landline-telephone-services.pdf.

to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making representations

8. Representations may be made to OFCOM about the proposals set out in this Notification and the consultation document accompanying it by no later than 23 May 2017.
9. In accordance with section 49C(1)(b) of the Act, a copy of this Notification, together with the Direction set out in the Schedule to this Notification, will be sent to the Secretary of State.
10. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed conditions set out at Annex 6 of the 2017 RMSLTS Consultation. Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in blue ink that reads "D. Clarkson." The signature is written in a cursive style.

David Clarkson

Competition Policy Director

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

25 April 2017

SCHEDULE

[DRAFT] Direction under sections 49 and 49A of the Communications Act 2003 and Condition 2.7A relating to the publication of Compliance Statements

Background

1. On 28 February 2017, Ofcom published a document titled “*The review of the market for standalone landline telephone services*” (“the **2017 RMSLTS Consultation**”)¹. In that consultation, OFCOM set out its provisional view that BT has Significant Market Power in the markets for Residential Standalone Fixed Voice access and call services in the UK (excluding the Hull Area).
2. OFCOM proposed to impose a price control on BT. It also proposed to require BT to record, maintain and supply the data necessary for Ofcom to monitor compliance with the price control (Condition 2.7 in Annex 9 of the 2017 RMSLTS Consultation) and to publish such information provided to OFCOM as OFCOM may from time to time direct (Condition 2.7A in Annex 9 of the 2017 RMSLTS Consultation).
3. On 25 April 2017 OFCOM published a document titled “*Financial reporting for standalone landline telephone services, Provisional Conclusions*” (“the **Financial Reporting Consultation**”). In Part II of Annex 5 of that consultation, OFCOM proposed to make a direction requiring BT to publish certain information, pursuant to Condition 2.7A in Annex 9 of the 2017 RMSLTS Consultation.

OFCOM’s duties and legal tests

4. For the reasons set out in the explanatory statement accompanying this Direction, OFCOM is satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0030/97806/Consultation-Review-of-the-market-for-standalone-landline-telephone-services.pdf.

- d) in relation to what it is intended to achieve, transparent.
5. For the reasons set out in the explanatory statement accompanying this Direction, OFCOM is satisfied that it has acted in accordance with the relevant duties set out in sections 3 and 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.
 6. OFCOM has considered every representation about the proposed Direction duly made to it and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for the purposes of section 49A(6)(b) of the Act.
 7. The proposals set out in the Financial Reporting Consultation contained proposals of EU significance for the purposes of the Act. Therefore, after making any modifications of the proposals that appeared to OFCOM to be appropriate following domestic consultation, OFCOM sent on [DATE] a copy of them, and of a draft of the statement accompanying this Notification setting out the reasons for them, to the European Commission, BEREC and the regulatory authorities of every other member State for EU consultation, in accordance with section 49B(2) of the Act.
 8. [OFCOM received comments from the European Commission on its proposals on [DATE], and has made such modifications to this Notification and the statement accompanying this notification as it considers appropriate].

Direction

9. OFCOM has decided to give the following Direction with effect from [date of final notification]:
10. The Dominant Provider must publish for each of (a) the Residential Standalone Fixed Voice access services and (b) the Residential Standalone Fixed Voice call services markets, the Compliance Statements set out in the Annex to this Direction, completed with the required information, at the time it provides the information required in Condition 2.7 of Annex [X] of the [*title of final statement on review of the market for standalone landline telephone services*] to OFCOM.
11. The effects of, and the reasons for the decision to give the direction are set out in the accompanying statement.

Interpretation

12. For the purposes of interpreting this direction:

- a) except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed at Annex [X] of the [*title of final statement on review of the market for standalone landline telephone services*], and otherwise any meaning they have in the Act;
- b) headings and titles shall be disregarded;
- c) expressions cognate with those referred to in this direction shall be construed accordingly; and
- d) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

Signed

[NAME]

[Position]

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

[DATE]

ANNEX

1. Compliance summary

		Period	20XX/20XX+1	Notes
Basket total	Condition X.xx	CPI	X.XX%	
		X	X.XX%	
		Controlling percentage (CPI-X)	X.XX%	
		Prior year Revenue	£x,xxx	
		Weighted revenue change made	£x,xxx	
		Weighted % price change made	X.XX%	
		Complies	True/False	
Single charge category 1	Condition X.xx	CPI	X.XX%	
		X	X.XX%	
		Controlling percentage (CPI-X)	X.XX%	
		Price ceiling	X.XX%	
		Complies	True/False	
Single charge category 2	Condition X.xx	CPI	X.XX%	
		X	X.XX%	
		Controlling percentage (CPI-X)	X.XX%	
		Price ceiling	X.XX%	
		Complies	True/False	

2. Compliance detail

Redacted

Period: 20XX/20XX+1

Basket 1

CPI X.XX%
 X X.XX%
 Controlling percentage (CPI-X) X.XX%

Basket	Revenue weight			Prior period average price				Current period average price				Average price change	Average price change x Revenue weight		
	Average price	Volume	Revenue	Initial price	Price change 1	Price change 2	etc	Average price	Initial price	Price change 1	Price change 2			etc	
Days in year				x	x	x	x		x	x	x	x			
Service 1	x.xx	x,xxx	£x,xxx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	£x,xxx
Service 2	x.xx	x,xxx	£x,xxx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	£x,xxx
etc	x.xx	x,xxx	£x,xxx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	£x,xxx
Total			(A)£x,xxx												(B)£x,xxx
Percentage change			X.XX% (B/A)												

Single change – service X

	Period 1	Period 2	Period 3
CPI	X.XX%	X.XX%	X.XX%
X	X.XX%	X.XX%	X.XX%
Controlling percentage (CPI-X)	X.XX%	X.XX%	X.XX%
Price ceiling	X.XX	X.XX	X.XX
Prices charged during period:			
- start of period	X.XX	X.XX	X.XX
- price change 1 (date)	X.XX	X.XX	X.XX
- price change 2 (date)	X.XX	X.XX	X.XX
- etc	X.XX	X.XX	X.XX

Note 1:

Note 2:

Etc: