

Annex 7

Notification proposing to modify General Conditions and the National Telephone Numbering Plan

Notification of proposed modifications under sections 48(2) and 60 (3) of the Communications Act 2003, as appropriate

Proposal for modifications to General Conditions and the National Telephone Numbering Plan

1. Ofcom in accordance with sections 48(2) and 60 (3) of the Act hereby makes the following proposals for a modification of: General Conditions, as set by the General Condition Notification; and, the National Telephone Numbering Plan (both as amended from time to time);
2. The draft modifications are set out in the Schedule to this Notification;
3. The effect of, and Ofcom's reasons for making, the proposals referred to in paragraph 1 above is set out in the accompanying explanatory statement;
4. Ofcom considers that the modification referred to in paragraph 1 above complies with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to each of the proposed modifications;
5. In making the proposals set out in this Notification, Ofcom has considered and acted in accordance with their general duties in section 3 and of the Act and the six Community requirements in section 4 of the Act;
6. Representations may be made to Ofcom about the proposals set out in this Notification by **5pm on 7 April 2011**;
7. The modification shall enter into force on the date of publication of the final Notification;
8. Copies of this Notification and the accompanying statement have been sent to the Secretary of State in accordance with section 50(1)(a) of the Act and to the European Commission in accordance with section 50(6)(a) of the Act;
9. In this Notification:
 - a) "**the Act**" means the Communications Act 2003;
 - b) "**General Conditions**" means the general conditions set by the General Condition Notification, as amended.
 - c) "**General Condition Notification**" means the notification setting General Conditions under section 45 of the Act, issued by the Director General of Telecommunications on 22 July 2003, as subsequently amended;
 - d) "**Ofcom**" means the Office of Communications.

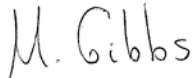
10. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expressions shall have the same meaning it has in the General Condition Notification and otherwise any word or expression shall have the same meaning as it has in the Act.

11. For the purpose of interpreting this Notification:

- a) headings and titles shall be disregarded; and
- b) the Interpretation Act 1978 shall apply as if this Act were an Act of Parliament.

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

Marina Gibbs

A handwritten signature in black ink that reads "M. Gibbs". The letters are cursive and slightly slanted to the right.

Competition Policy Director

24 February 2011

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

Schedule

Definition and interpretations

1. The following definitions will be deleted and, in line with the rule of interpretation set out in the definitions and interpretations section of the General Condition Notification, will, except in so far as the context requires, have the same meaning as it has in the Communications Act 2003:

- a) Apparatus;
- b) Associated Facility;
- c) Consumer Panel;
- d) Content Service;
- e) Electronic Communications Network;
- f) Electronic Communications Service;
- g) End-User;
- h) Framework Directive;
- i) Interconnection;
- j) National Telephone Numbering Plan;
- k) Public Electronic Communications Network;
- l) Public Electronic Communications Service;
- m) Signal; and
- n) Wireless Telegraphy.

2. The definition of "Public Telephone Network" will be deleted and replaced (in the definitions and interpretation section of the General Condition Notification and throughout the General Conditions) with the term "Public Electronic Communications Network" which will, except in so far as the context requires, have the same meaning as it has in the Communications Act 2003.

Consequently, the term "Public Telephone Network" will be replaced by the term "Public Electronic Communications Network" in the definition of Directory Enquiry Facility.

3. The definition of "Director" will be deleted and replaced (in the definitions and interpretation section of the General Condition Notification and throughout the General Conditions) with the term "Ofcom" defined as follows:

"Ofcom" means the Office of Communications as established under section 1 of the Office of Communications Act 2002

Consequently, the word "Director" will be replaced by the word "Ofcom" in the definitions of Allocation and Emergency Organisation.

4. The definition of "Publicly Available Telephone Service" in the definitions and interpretation section of the General Condition Notification and throughout the General Conditions will be amended to read as follows:

"Publicly Available Telephone Service" means a service made available to the public for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan

5. The definition of Telephone Number in the definitions and interpretation section of the General Condition Notification and throughout the General Conditions will be amended to read as follows:

“Telephone Number” means, subject to any order of the Secretary of State pursuant to section 56(7) of the Act, any number, including data of any description, that is used (whether or not in connection with telephony) for any one or more of the purposes listed in section 56(5) of the Act.

National Telephone Numbering Plan

1. The definitions of “Apparatus” and “Wireless Telegraphy” will be deleted and, in line with the rule of interpretation set out in the definitions and interpretations section of the National Telephone Numbering Plan, will, except in so far as the context requires, have the same meaning as it has in the Communications Act 2003.
2. The definition of “Public Telephone Network” will be deleted replaced (in the definitions and interpretation section and throughout the National Telephone Numbering Plan) with the term “Public Electronic Communications Network” which will be defined as follows:

“Public Electronic Communications Network” shall have the meaning ascribed to it by section 151(1) of the Act. For the purposes of this document the term ‘Public Electronic Communications Network’ shall include Integrated Services Digital Networks

For the avoidance of doubt, this definitional change will have a consequential impact on the titles to tables in Part A1 of the National Telephone Numbering Plan and on the following definitions in the National Telephone Numbering Plan:

- a) Access Code;
 - b) Directory Enquiry Facility;
 - c) Indirect Access;
 - d) Integrated Services Digital Network;
 - e) Non-geographic Number;
 - f) Number Portability;
 - g) Parallel Running;
 - h) Pre-selected Provider;
 - i) Public Telephone Network Number; and
 - j) Signalling Point Code.
3. The definition of “Publicly Available Telephone Service” in the definitions and interpretation section of the National Telephone Numbering Plan will be amended to read as follows:

“Publicly Available Telephone Service” means a service made available to the public for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan

General Condition 1

The definition of "Network Access" will be deleted and, in line with the rule of interpretation set out in the definitions and interpretations section of the General Condition Notification, will, except in so far as the context requires, have the same meaning as it has in the Communications Act 2003.

As a consequence of changes in the definitions and interpretation section, the word "Director" will be replaced by the word "Ofcom" in GC1.3.

General Condition 2

GC2.2 will be modified to read as follows. Deleted text has been struck through and additional text highlighted for ease of reference:

In the absence of such standards and/or specifications referred to in paragraph 2.1 above, the Communications Provider shall take full account of international standards or recommendations adopted by the International Telecommunication Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT), the International Organisation for Standardisation (ISO) ~~or~~ and the International Electrotechnical Committee (IEC).

As a consequence of changes in the definitions and interpretation section, the word "Director" will be replaced by the word "Ofcom" in GC2.3 and GC2.4.

General Condition 3

GC3 will be modified to read as follows. Deleted text has been struck through and additional text highlighted for ease of reference:

- 3.1 *The Communications Provider shall take all ~~reasonably practicable steps~~ necessary measures to maintain, to the greatest extent possible:*
- (a) the proper and effective functioning of the Public Telephone ~~Network~~ Electronic Communications Network provided by it ~~at fixed locations~~ at all times, and*
 - (b) in the event of catastrophic network breakdown or in cases of force majeure the fullest possible availability of the Public Telephone ~~Network~~ Electronic Communications Network and Publicly Available Telephone Services provided by it ~~at fixed locations~~, and*
 - (c) uninterrupted access to Emergency Organisations as part of any Publicly Available Telephone Services offered ~~at fixed locations~~.*
- 3.2 *The Communications Provider shall ensure that any restrictions imposed by it on access to and use of a Public Telephone ~~Network~~ Electronic Communications Network provided by it ~~at a fixed location~~ on the grounds of ensuring compliance with paragraph 3.1 above are proportionate, non-discriminatory and based on objective criteria identified in advance.*
- 3.3 *For the purposes of this Condition, "Communications Provider" means a person who provides a Public Telephone ~~Network~~ Electronic Communications Network ~~at a fixed location~~ and/or provides Publicly Available Telephone Services ~~at a fixed location~~.*

General Condition 4

As a consequence of changes in the definitions and interpretation section, the term "Public Telephone Network" will be replaced by the word "Public Electronic Communications Network" in GC4.4.

GC4 will be modified to read as follows. Deleted text has been struck through and additional text has been highlighted for ease of reference:

- 4.2 *The Communications Provider shall, to the extent technically feasible, make accurate and reliable Caller Location Information available for all calls to the emergency call numbers "112" and "999", available at no charge to the Emergency Organisations handling those calls, at the time the call is answered by those organisations.*
- 4.3 *Where a Communications Provider provides an Electronic Communications Service:*
- (a) *at a fixed location, the Caller Location Information must, at least, accurately reflect the fixed location of the caller's terminal equipment including the full postal address; and,*
 - (b) *using a Mobile Network, the Caller Location Information must include, at least, the Call Identification of the cell from which the call is being made, or in exceptional circumstances the Zone Code.*

Current paragraph 4.3 shall be renumbered 4.4.

The following definitions to be inserted in the (new) paragraph 4.4 in alphabetical order, with the sub-paragraph numbering amended accordingly:

"Cell Identification" means the geographic coordinates of the mobile basestation which is hosting the call, and where available, an indication of the radius of coverage of the cell;

"Mobile Network" means either the GSM (Global System for Mobile communications as defined by the European Telecommunications Standards Institute) or UMTS (Universal Mobile Telecommunications System as defined by the European Telecommunications Standards Institute) networks.

"Zone Code" means a code which identifies the geographic region in which the call was originated.

The definition of Communications Provider to be deleted and replaced by the following:

"Communications Provider" means a person who provides End-Users with an Electronic Communications Service, or provides access to such a service by means of a Pay Telephone, for originating calls to a number or numbers in

the National Telephone Numbering Plan but shall exclude any Click to Call Service;

The definition of “Service” to be deleted.

General Condition 5

As a consequence of changes in the definitions and interpretation section, the word “Director” will be replaced by the word “Ofcom” in GC5.1.

As a consequence of changes in the definitions and interpretation section, the term “Public Telephone Network” will be replaced by the word “Public Electronic Communications Network” in GC5.4.

General Condition 6

As a consequence of changes in the definitions and interpretation section, the word “Director” will be replaced by the word “Ofcom” in GC6.3.

General Condition 7

As a consequence of changes in the definitions and interpretation section, the word “Director” will be replaced by the word “Ofcom” in GC7.1.

General Condition 8

As a consequence of changes in the definitions and interpretation section, the word “Director” will be replaced by the word “Ofcom” in GC8.3.

General Condition 9¹

GC9, will be modified to read as follows, added text only highlighted:

9.1 *Communications Providers shall, in offering to provide, or providing, connection to a Public Electronic Communications Network and/or Public Electronic Communications Services to a Consumer, and other End-Users on request, offer to enter into a contract or vary an existing contract with that Consumer, or other End-User, which complies with the following paragraphs.*

9.2 *Any contract between the Communications Provider and a Consumer, and other End-Users on request, shall specify at least the following minimum requirements in a clear, comprehensive and easily accessible form:*

(a) *the identity and address of the Communications Provider;*

¹ See footnote 34 of the accompanying explanatory statement to this Notification - *Changes to General Conditions and Universal Service Conditions- Implementing the revised EU Framework*, 24 February 2011

- (b) *the services provided, including in particular whether or not access to Emergency Services and Caller Location Information is being provided, and any limitations on the provision of Emergency Services;*
- (c) *information on any other conditions limiting access to and/or use of services and applications (where such conditions are permitted under national law);*
- (d) *details of the minimum service quality levels offered, namely the time for initial connection and any other quality of service parameters as directed by OFCOM;*
- (e) *information on any procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link, and information on how those procedures could impact on service quality;*
- (f) *the types of maintenance services and customer support services offered, as well as the means of contacting these services;*
- (g) *any restrictions imposed by the provider on the use of terminal equipment supplied;*
- (h) *the Subscribers options as to whether or not to include his or her personal data in a directory, and the data concerned;*
- (i) *details of prices and tariffs, the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained, payment methods offered and any difference in costs due to payment method;*
- (j) *the duration of the contract, and the conditions for renewal and termination of services and of the contract, including:*
 - (i) *any minimum usage or duration required to benefit from promotional terms,*
 - (ii) *any charges related to portability of numbers and other identifiers, and*
 - (iii) *any charges due on termination of the contract, including any cost recovery with respect to terminal equipment;*
- (k) *any applicable compensation and/or refund arrangements which will apply if contracted quality service levels are not met;*
- (l) *the means of initiating procedures for the settlement of disputes in respect of the contract; and,*
- (m) *the type of action that might be taken by the Communications Provider in reaction to security or integrity incidents or threats and vulnerabilities.*

9.3 *Without prejudice to any minimum contractual period, Communications Providers shall ensure that conditions or procedures for contract termination*

do not act as disincentives for End-Users against changing their Communications Provider.

9.4 Communications Providers when providing Electronic Communications Services shall ensure that its initial contract concluded with Consumers shall not be for a duration of more than 24 months.

9.5 Communications Providers shall ensure that Users are able to subscribe to a contract with a maximum duration of 12 months.

9.6 Communications Providers shall:

(a) give its Subscribers adequate notice not shorter than one month of any modifications likely to be of material detriment to that Subscriber;

(b) allow its Subscribers to withdraw from their contract without penalty upon such notice; and shall,

(c) at the same time as giving the notice in condition 9.6 (a) above, inform the Subscriber of their ability to terminate the contract without penalty if the proposed modification is not acceptable to the Subscriber.

9.7 For the purposes of this Condition,

(a) "Communications Provider" means a person who provides Public Electronic Communications Networks and/or Services;

(b) "Consumer" means any natural person who uses or requests a Public Electronic Communications Service for purposes which are outside his or her trade, business or profession; and

(c) "User" means a legal entity or natural person using or requesting a Public Electronic Communications Service.

General Condition 10

As a consequence of changes in the definitions and interpretation section, the word "Director" will be replaced by the word "Ofcom" in GC10.4.

General Condition 11

As a consequence of changes in the definitions and interpretation section, the word "Director" will be replaced by the term "Director General of Telecommunications" in GC11.7.

General Condition 12

As a consequence of changes in the definitions and interpretation section, the term "Public Telephone Network" will be replaced by the word "Public Electronic Communications Network" in GC12.1.

As a consequence of changes in the definitions and interpretation section, the word “Director” will be replaced by the word “Ofcom” in GC12.2.

General Condition 13

No changes.

General Condition 14

As a consequence of changes in the definitions and interpretation section, the word “Director” will be replaced by the word “Ofcom” in GC14.7.

The definition of “Public Telephone Network” will be deleted in GC14.7.

As a consequence of changes in the definitions and interpretation section, the term “Public Telephone Network” will be replaced by the word “Public Electronic Communications Network” in Annex 3 to GC14.

General Condition 15

GC15 will be modified to read as follows. Additional text has been highlighted for ease of reference:

Paragraph 15.9 to be deleted.

A new paragraph to be inserted at paragraph 15.7, and later paragraphs to be renumbered accordingly, which states that:

15.7 *Communications Providers shall provide End-Users with Mobile SMS Access to Emergency Organisations by using the emergency call numbers “112” and “999” at no charge.*

Paragraph 15.9 to be deleted.

The reference to “15.7” in the (renumbered) GC15.9 to be deleted and replaced with “15.8”

As a consequence of changes in the definitions and interpretation section, the word “Director” will be replaced by the word “Ofcom” in GC15.10.

The following definitions to be inserted into GC 15.10, in alphabetical order:

“Mobile SMS Access” means the ability to send and receive Short Messages using an SMS defined by the European Telecommunications Standards Institute in the GSM (Global System for Mobile communications) or UMTS (Universal Mobile Telecommunications System) standards, or any other standard for mobile communications that is, or may be, adopted in the UK;

“Short Message” means information that may be conveyed by means of the Short Message Service;

“SMS” means Short Message Service, which is a text message delivered to a Subscriber’s handset or, if SMS is superseded or withdrawn, an equivalent text communication sent directly to the Subscriber’s handset;

General Condition 16

As a consequence of changes in the definitions and interpretation section, the word “Director” will be replaced by the word “Ofcom” in GC16.2.

As a consequence of changes in the definitions and interpretation section, the term “Public Telephone Network” will be replaced by the word “Public Electronic Communications Network” in GC16.3.

General Condition 17

GC17 will be modified as follows. Additional text has been highlighted for ease of reference:

As a consequence of changes in the definitions and interpretation section, the word “Director” will be replaced by the word “Ofcom” in current conditions: GC17.4, GC17.5, GC17.9, GC17.10 and GC17.11. The references to “he” and “him” in current conditions GC17.9 and GC17.10 respectively will each be changed to “it” as a consequence of the same change.

As a consequence of changes in the definitions and interpretation section, the term “Public Telephone Network” will be replaced by the word “Public Electronic Communications Network” in the Annex to GC17.

The following text will be inserted as new GC17.9 and GC17.12, 17.13 (with consequential renumbering of other subsections: current GC17.9 will be renumbered GC 17.10; current GC 17.10 will be renumbered GC 17.11; current 17.11 will be renumbered 17.14; current CG17.12 will be renumbered 17.15 and current GC 17.12 will be renumbered 17.16).

“Requirements in Connection with the transfer of use of Allocated Telephone Numbers

17.9 The Communications Provider shall not transfer use of Telephone Numbers from the National Telephone Numbering Plan unless:

- (a) the Telephone Numbers have been Allocated to the Communications Provider; or, the Communications Provider has been authorised (either directly or indirectly) to Adopt those Telephone Numbers by the person Allocated those Telephone Numbers;***
- (b) the telephone numbers are used in accordance with the National Telephone Numbering Plan; and***
- (c) the Telephone Numbers are Adopted or otherwise used effectively and efficiently.”***

and

“Allocation of Telephone Numbers for a limited period

GC 17.12 Ofcom may Allocate Telephone Numbers to the Communications Provider for a limited period only if the duration is appropriate for the service concerned in view of the objective pursued and taking due account of the need to allow for an appropriate period for investment amortisation.

GC 17.13 Where Telephone Numbers are Allocated to the Communications Provider by Ofcom for a limited period of time, Ofcom may withdraw any such Allocated numbers at the end of the set period”

General Condition 18

Note that the proposed changes below are to GC18 as modified by the “Changes to the Mobile Number Portability Process” statement, dated 8 July 2010; modifications which come in to effect on 11 April 2011.

GC18.1 will be modified to read as follows. Deleted text has been struck through and additional text highlighted for ease of reference:

18.1 *The Communications Provider shall provide Number Portability ~~as seen as is reasonably practicable~~ within the shortest possible time, including subsequent activation, on reasonable terms and conditions, including charges, to any of its Subscribers who so requests.*

GC18.3 will be amended to read as follows. Deleted text has been struck through and additional text highlighted for ease of reference:

18.3 *Notwithstanding paragraph 18.1 above:*

(a) in the case of Mobile Number Portability, ~~where the request is for porting a total of fewer than 25 Mobile Numbers~~ porting of these numbers and their subsequent activation shall be completed within one business day from the receipt by the Recipient Provider of the Subscriber Request to Port from its new Subscriber.

(b) In all other cases, porting of these numbers and their subsequent activation shall be completed within one business day once all necessary validation processes have been completed, the network connection is ready for use by the Subscriber, and the Donor Provider has received a request to activate the porting of these numbers from the Recipient Provider.

GC18.5 will be amended to add the following subsection (e):

any direct charges to Subscribers for providing Number Portability do not act as a disincentive to Subscribers against changing their Communications Provider.

In GCs 18.5 and 18.6, the words “(other than Paging Portability)” are deleted.

The following will be inserted as new GC18.8 (with consequential amendments to subsection numbering):

18.8 The Communications Provider shall inform the Subscriber of the date when Number Portability will be provided to that Subscriber.

The following will be inserted as new GC18.9 (with consequential amendments to subsection numbering):

18.9 *Where Communications Providers delay the porting of a Telephone Number for more than one-working day or where there is an abuse of porting by them or on their behalf, they shall provide reasonable compensation as soon as is reasonably practicable to the Subscriber for such delay and/or abuse.*

The following will be inserted as new GC18.10 (with consequential amendments to subsection numbering):

18.10 *The Communications Provider shall set out in a clear, comprehensive and easily accessible form for each Subscriber how Subscribers' can access the compensation provided for in paragraph 18.9 above, and how any compensation will be paid to the Subscriber.*

As a consequence of changes in the definitions and interpretation section, the term "Public Telephone Network" will be replaced by the word "Public Electronic Communications Network" in GC18.10.

The following definitions shall be deleted: "Paging Portability" and "Radiopaging Service".

General Condition 19

As a consequence of changes in the definitions and interpretation section, the word "Director" will be replaced by the word "Ofcom" in GC19.3.

General Condition 20

GC20 will be modified to read as follows. Deleted text has been struck through and additional text has been highlighted for ease of reference:

GC20 will be re-titled "ACCESS TO NUMBERS AND SERVICES".

GC20.1 will be amended to read as follows. Deleted text has been struck through and additional text highlighted for ease of reference:

20.1 ~~Where t~~ *The Communications Provider Adopts Non-geographic Numbers, it shall ensure, where technically and economically feasible, that End-Users in any part of the European Community outside of the United Kingdom are able to access those Non-geographic Numbers.;*

- (a) *access and use those Non-geographic Numbers which the Communications Provider Adopts;*
- (b) *access all Telephone Numbers provided in the European Community, regardless of the technological devices used by the operator, including those in the National Telephone Numbering Plan, those from the European Telephone Numbering Space (ETNS) and Universal International Freephone Numbers (UIFN).*

20.2 *The Communications Provider shall limit access for calling End-Users located in specific geographical areas to Non-geographic Telephone Numbers*

assigned to a Subscriber where that Subscriber has chosen for commercial reasons to limit such access.

The following will be inserted as new GC20.3, GC20.4 and GC20.5 (with consequential amendments to subsection numbering):

- 20.3 *The Communications Provider shall, where requested by or on behalf of Ofcom on the basis of fraud or misuse, block access to Telephone Numbers and/or Public Electronic Communications Services and in such cases withhold revenue associated with such Telephone Numbers and/or Public Electronic Communications Services.*
- 20.4 *The Communications Provider providing Publicly Available Telephone Services allowing international calls, shall handle all calls to and from the ETNS at rates similar to those applied for calls to and from parts of the European Community other than the United Kingdom.*
- 20.5 *The Communications Provider shall ensure that any End-User can access a hotline for missing children by using the number "116000".*

General Condition 21

As a consequence of changes in the definitions and interpretation section, the word "Director" will be replaced by the word "Ofcom" in GC21.1, GC21.2 and GC21.3.

General Condition 22

No changes.

General Condition 23

No changes.

General Condition 24

As a consequence of changes in the definitions and interpretation section, the term "Public Telephone Network" will be replaced by the word "Public Electronic Communications Network" in GC24.19.

Modified General Conditions 4, 9 and 18 – as proposed

Separate from the Notification above, for ease of reference, the following sets out the proposed text for General Conditions 4, 9 and 18 with the proposed text in situ. This is not part of the Notification but is prepared to aid its understanding. While every reasonable effort is made to ensure that the information provided below is accurate, no guarantees for the currency or accuracy of the information are made.

4. EMERGENCY CALL NUMBERS

- 4.1 The Communications Provider shall ensure that any End-User can access Emergency Organisations by using the emergency call numbers “112” and “999” at no charge and, in the case of a Pay Telephone, without having to use coins or cards.
- 4.2 The Communications Provider shall, to the extent technically feasible, make accurate and reliable Caller Location Information available for all calls to the emergency call numbers “112” and “999” at no charge to the Emergency Organisations handling those calls at the time the call is answered by those organisations.
- 4.3 Without prejudice to paragraph 4.2 above, where a Communications Provider provides an Electronic Communications Service:
 - (a) at a fixed location, the Caller Location Information must, at least, accurately reflect the fixed location of the caller’s terminal equipment including the full postal address; and,
 - (b) using a Mobile Network, the Caller Location Information must include at least, the identification of the cell from which the call is being made, or in exceptional circumstances, the Zone Code.
- 4.4 For the purposes of this Condition,
 - (a) “Caller Location Information” means any data or information processed in an Electronic Communications Network indicating the geographic position of the terminal equipment of a person initiating a call;
 - (b) “Cell Identification” means the geographic coordinates of the mobile basestation which is hosting the call, and where available, an indication of the radius of coverage of the cell;
 - (c) “Communications Provider” means a person who provides End-Users with an Electronic Communications Service, or provides access to such a service by means of a Pay Telephone, for originating calls to a number or numbers in the National Telephone Numbering Plan but shall exclude any Click to Call Service;
 - (d) “Mobile Network” means either the GSM (Global System for Mobile communications as defined by the European Telecommunications Standards Institute) or UMTS (Universal Mobile Telecommunications System as defined by the European Telecommunications Standards Institute) networks;

- (e) “Pay Telephone” means a telephone for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes. For the avoidance of any doubt, references to a Pay Telephone include references to a Public Pay Telephone²;
- (f) “Click to Call Service” means a service which may be selected on a web-site or other application by an End-User and which connects the End-User only to a number or a limited set of numbers pre-selected by the Communications Provider or an End-User”; and,
- (g) “Zone Code” means a code which identifies the geographic region in which the call was originated.

² Regulation of VoIP Services: Access to the Emergency Services - Statement and publication of a statutory notification under section 48(1) of the Communications Act 2003 modifying General Condition 4 (5 December 2007) – added in (d) and (e) with effect from 8 September 2008.

9. REQUIREMENT TO OFFER CONTRACTS WITH MINIMUM TERMS

- 9.1 Communications Providers shall, in offering to provide, or providing, connection to a Public Electronic Communications Network and/or Public Electronic Communications Services to a Consumer, and other End-Users on request, offer to enter into a contract or vary an existing contract with that Consumer, or other End-User, which complies with the following paragraphs.
- 9.2 Any contract between the Communications Provider and a Consumer, and other End-Users on request, shall specify at least the following minimum requirements in a clear, comprehensive and easily accessible form:
- (a) the identity and address of the Communications Provider;
 - (f) the services provided, including in particular whether or not access to Emergency Services and Caller Location Information is being provided, and any limitations on the provision of Emergency Services;
 - (g) information on any other conditions limiting access to and/or use of services and applications (where such conditions are permitted under national law);
 - (h) details of the minimum service quality levels offered, namely the time for initial connection and any other quality of service parameters as directed by OFCOM;
 - (i) information on any procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link, and information on how those procedures could impact on service quality;
 - (i) the types of maintenance services and customer support services offered, as well as the means of contacting these services;
 - (j) any restrictions imposed by the provider on the use of terminal equipment supplied;
 - (k) the Subscribers options as to whether or not to include his or her personal data in a directory, and the data concerned;
 - (i) details of prices and tariffs, the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained, payment methods offered and any difference in costs due to payment method;
 - (k) the duration of the contract, and the conditions for renewal and termination of services and of the contract, including:
 - (i) any minimum usage or duration required to benefit from promotional terms,
 - (ii) any charges related to portability of numbers and other identifiers, and

- (iii) any charges due on termination of the contract, including any cost recovery with respect to terminal equipment;
 - (k) any applicable compensation and/or refund arrangements which will apply if contracted quality service levels are not met;
 - (n) the means of initiating procedures for the settlement of disputes in respect of the contract; and
 - (o) the type of action that might be taken by the Communications Provider in reaction to security or integrity incidents or threats and vulnerabilities.
- 9.3 Without prejudice to any minimum contractual period, Communications Providers shall ensure that conditions or procedures for contract termination do not act as disincentives for End-Users against changing their Communications Provider.
- 9.4 Communications Providers when providing Electronic Communications Services shall ensure that its initial contract concluded with Consumers shall not be for a duration of more than 24 months.
- 9.5 Communications Providers shall ensure that Users are able to subscribe to a contract with a maximum duration of 12 months.
- 9.6 Communications Providers shall:
- (a) give its Subscribers adequate notice not shorter than one month of any modifications likely to be of material detriment to that Subscriber;
 - (b) allow its Subscribers to withdraw from their contract without penalty upon such notice and shall:
 - (c) at the same time as giving the notice in condition 9.6 (a) above, inform the Subscriber of their ability to terminate the contract without penalty if the proposed modification is not acceptable to the Subscriber.
- 9.7 Communications Providers shall comply with any direction made by OFCOM from time to time under this condition.
- 9.8 For the purposes of this Condition,
- (a) “Communications Provider” means a person who provides Public Electronic Communications Networks and/or Services;
 - (b) “Consumer” means any natural person who uses or requests a Public Electronic Communications Service for purposes which are outside his or her trade, business or profession; and,
 - (c) “User” means a legal entity or natural person using or requesting a Public Electronic Communications Service.

18. NUMBER PORTABILITY³

- 18.1 The Communications Provider shall provide Number Portability within the shortest possible time, including subsequent activation, on reasonable terms and conditions, including charges, to any of its Subscribers who so requests.
- 18.2⁴ In the case of Mobile Number Portability, where the request is for porting a total of fewer than 25 Mobile Numbers, the Donor Provider shall:
- (a) allow Subscribers to request a PAC over the phone; and
 - (b) where a Subscriber contacts the Donor Provider by phone, provide the PAC immediately over the phone where possible or by SMS within two hours of the request or by another reasonable mechanism if requested by the Subscriber and consented to by the Donor Provider.
- 18.3 Notwithstanding paragraph 18.1 above:
- (a) in the case of Mobile Number Portability, porting of these numbers and their subsequent activation shall be completed within one business day from the receipt by the Recipient Provider of the Subscriber Request to Port from its new Subscriber.
 - (b) in all other cases, porting of these numbers and their subsequent activation shall be completed within one business day once all necessary validation processes have been completed, the network connection is ready for use by the Subscriber, and the Donor Provider has received a request to activate the porting of these numbers from the Recipient Provider.
- 18.4 Subject to paragraph 18.2, the Recipient Provider shall request porting from the Donor Provider as soon as it is reasonably practicable after receiving the Subscriber Request to Port from its new Subscriber.
- 18.5 The Communications Provider shall, pursuant to a request from another Communications Provider, provide Portability as soon as is reasonably practicable in relation to that request on reasonable terms⁵. Any charges for

³ On 22 July 2003, Ofcom published a document, "Changes to the number portability functional specification to meet the new regime published by Ofcom on 22 July 2003", http://www.ofcom.org.uk/static/archive/ofcom/publications/numbering/2003/fun_final0703.pdf. This statement set out the number portability functional specification Issue No. 5 at Annex B (also known as the "Functional Specification" for the purposes of General Condition 18).

⁴ 'Changes to the Mobile Number Porting Process', Statement, dated 8 July 2010, with effect from 11 April 2011, inserted Conditions 18.2, 18.3 and 18.4, and renumbered the following Conditions. See also the first footnote to Condition 18.5 below.

⁵ Number Portability and technology neutrality, Statement, 30 March 2006, removed wording "and in accordance with the Functional Specification".

"Arrangements for porting phone numbers when customers switch supplier, a review of General Condition 18", Statement and Further Consultation, 17 July 2007, inserted into Condition 18.5 after "reasonable terms" the following wording: "In the case of Mobile Portability, where the request is for porting a total of less than 25 Telephone Numbers, the total period for providing Portability in respect of those Telephone Numbers shall not exceed two business days" with effect from 31 March 2008.

"Telephone number portability for consumers switching suppliers", Statement, 29 November 2007 replaced "two business days" with "two hours" with effect from 1 September 2009. As a

the provision of such Portability shall be made in accordance with the following principles:

- (a) subject always to the requirement of reasonableness, charges shall be cost oriented and based on the incremental costs of providing Portability unless:
 - (i) the Donor Provider and the Recipient Provider have agreed another basis for the charges, or
 - (ii) the Office of Communications⁶ has directed that another basis for charges should be used;
- (b) the Donor Provider shall make no charge in relation to System Set-Up Costs or Additional Conveyance Costs;
- (c) in respect of Mobile Portability, the Donor Provider shall make no charge or annual fee for ongoing costs relating to registration of a ported Telephone Number or a Subscriber;
- (d) charges levied by the Donor Provider shall be based on the reasonable costs incurred by it in providing Portability with respect to each Telephone Number; and,
- (e) any direct charges to Subscribers for providing Number Portability do not act as a disincentive to Subscribers against changing their Communications Provider.

18.6 Where the Communications Provider provides Portability in accordance with paragraph 18.5:

- (a) the Recipient Provider; and
- (b) the Transit Provider,

shall, as appropriate, provide Portability on reasonable terms⁷.

18.7⁸ The Communications Provider shall, on the written request of the Office of Communications, provide the Office of Communications with a record of each Telephone Number in relation to which it is providing Portability, specifying the relevant Recipient Provider in each case.

result of the Competition Appeal Tribunal's judgment in *Vodafone v Ofcom*, of 18 September 2008, the modifications made to General Condition 18 of Part 2 of the General Conditions of Entitlement by Ofcom's concluding statement entitled "Telephone number portability for consumers switching suppliers" dated 29 November 2007 have been set aside (see <http://www.ofcom.org.uk/consult/condocs/gc18review/updateoct08/>).

⁵ 'Changes to the Mobile Number Porting Process', Statement, dated 8 July 2010, with effect from 11 April 2011, replaced the modifications made on 17 July 2007 with Condition 18.3 above.]

⁶ 'Changes to the Mobile Number Porting Process', Statement, dated 8 July 2010, with effect from 11 April 2011, replaced references to "the Director" with "the Office of Communications" in Conditions 18.5 and 18.7.

⁷ Number Portability and technology neutrality, Statement, 30 March 2006, removed wording "and in accordance with the Functional Specification".

- 18.8 The Communications Provider shall inform the Subscriber of the date when Number Portability will be provided to that Subscriber.
- 18.9 Where Communications Providers delay the porting of a Telephone Number for more than one-working day or where there is an abuse of porting by them or on their behalf, they shall provide reasonable compensation as soon as is reasonably practicable to the Subscriber for such delay and/or abuse.
- 18.10 The Communications Provider shall set out in a clear, comprehensive and easily accessible form for each Subscriber how Subscribers' can access the compensation provided for in paragraph 18.9 above, and how any compensation will be paid to the Subscriber .
- 18.11 For the purposes of this Condition:
- (a) "Additional Conveyance Costs" mean any costs incurred by the Donor Provider associated with resources used in:
 - (i) effecting the switch-processing required to set up each ported call; and
 - (ii) providing the switch and transmission capacity for any part of the duration of each ported call,additional to the costs of conveyance of non-porting calls from the Donor Provider's network to the Recipient Provider's network;
 - (b) "Communications Provider" means a person who provides an Electronic Communications Network or an Electronic Communications Service;
 - (c) "Donor Provider" means a Communications Provider whose Subscriber Numbers are in the process of being, or have been passed or ported to a Recipient Provider⁹;
 - (d) "Mobile Communications Service" means any Public Electronic Communications Service consisting in the conveyance of Signals by means of a Public Electronic Communications Network where every Signal that has been conveyed thereby has been, or is to be, conveyed through the agency of Wireless Telegraphy to or from a Public Electronic Communications Network which is designed or adapted to be capable of being used in motion;
 - (e)¹⁰ "Mobile Number" means a Telephone Number, from a range of numbers in the National Telephone Numbering Plan, that is Adopted or otherwise used to identify Apparatus designed or adapted to be capable of being used while in motion;

⁹ Number Portability and technology neutrality, Statement, 30 March 2006, removed definition "Functional Specification".

¹⁰ 'Changes to the Mobile Number Porting Process', Statement, dated 8 July 2010, with effect from 11 April 2011, inserted the definition of "Mobile Number" and renumbered the following definitions.

- (f)¹¹ “Mobile Number Portability” means Number Portability relating to Mobile Numbers;
- (g) “Mobile Portability” means Portability relating to Telephone Numbers Allocated for use with Mobile Communications Services;¹²
- (h) “Number Portability” means a facility whereby Subscribers who so request can retain their Telephone Number on a Public Electronic Communications Network, independently of the person providing the service at the Network Termination Point of a Subscriber¹³ provided that such retention of a Telephone Number is in accordance with the National Telephone Numbering Plan;
- (i)¹⁴ “PAC” means Porting Authorisation Code, which is a unique code used to signify the Donor Provider’s consent to the Subscriber being entitled to request and have their Mobile Number ported to another Communications Provider;
- (j) “Point of Connection” means a point at which one Public Electronic Communications Network is connected to another;
- (k) “Portability” means any facility which may be provided by a Communications Provider to another Communications Provider¹⁵ enabling any Subscriber who requests Number Portability to continue to be provided with any Public Electronic Communications Service by reference to the same Telephone Number irrespective of the identity of the person providing such a service;
- (l) “Recipient Provider” means a Communications Provider to whom Subscriber Number(s) are in the process of being, or have been passed or ported from a Donor Provider;
- (m)¹⁶ “SMS” means Short Message Service, which is a text message delivered to a Subscriber’s handset or, if SMS is superseded or withdrawn, an equivalent text communication sent directly to the Subscriber’s handset;
- (n) “Subscriber” means any person with a number or numbers from the national Telephone Numbering Plan who is party to a contract with the provider of Public Electronic Communications Services for the supply of such services in the United Kingdom;

¹¹ ‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted the definition of “Mobile Number Portability”.

¹² Number Portability and technology neutrality, Statement, 30 March 2006, removed definition “Non-geographic Number”.

¹³ Number Portability and technology neutrality, Statement, 30 March 2006, removed wording “in the case of Geographic Numbers, at a specific location” and “in the case of Non-geographic Numbers, at any location”.

¹⁴ ‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted the definition of “PAC”.

¹⁵ ‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted “Communications Provider” after the words “to another”.

¹⁶ ‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted the definition of “SMS”.

- (o) “Subscriber Number” means the Telephone Number (or Telephone Numbers) which any Communications Provider’s Public Electronic Communications Network recognises as relating to a particular Subscriber of that Communications Provider;
- (p)¹⁷ “Subscriber Request to Port” means the request by a Subscriber to transfer their Mobile Number which occurs when the Subscriber submits their PAC to the Recipient Provider;
- (q) “System Set-Up Costs” mean costs of the Donor Provider incurred—
 - (i) in the course of making network and system modifications, configuration and reconfiguration, including adapting or replacing software;
 - (ii) in the course of testing functionality within that provider’s network and in conjunction with any Recipient Provider’s network,
 - (iii) thereby establishing the technical and administrative capability to provide Portability;
- (r) “Transit Provider” means a Communications Provider providing, by agreement, Interconnection between a Donor Provider and Recipient Provider via Points of Connection with both Communications Providers.

¹⁷ ‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted the definition of “Subscriber Request to Port”.