



Review of the Ofcom Metering and Billing Approval Scheme

Consultation

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Publication date: 24 November 2005

Closing Date for Responses: 3 February 2006

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Section 1

Summary

Executive Summary

- 1.1 This document reviews the Ofcom Metering and Billing Approval Scheme and consults on proposed changes to it that are intended to bring the scheme up to date and addresses issues that have emerged since the scheme's origins in 2001. The guiding principle is to ensure that customers continue to benefit from the level of protection that the scheme guarantees with regard to the accuracy of their bills. At the same time, the review focuses on areas where there are opportunities to simplify and update the scheme so that it will be able to keep pace with the dynamism of a rapidly changing communications market.
- 1.2 Section 2 looks at the background to the existing scheme. Section 3 reviews the customer experience of billing accuracy by reporting on consumer research and sets out Ofcom's policy objectives. Section 4 sets out Ofcom's policy proposals intended to make improvements to the scheme.
- 1.3 The core instrument of the scheme is the Ofcom Metering and Billing Direction, a standard setting out requirements with which communications providers must comply in order to gain approval for their metering and billing systems. We propose that industry should assume a more active role in the process of updating and maintaining the standard so that it becomes flexible enough to accommodate new services and products while continuing to ensure that compliant systems achieve high standards of metering and billing accuracy.
- 1.4 The review also considers a number of options for revising the existing scope of the scheme and assesses the merits of :
 - extending the scheme to apply to selected data services;
 - modifying the threshold at which providers of voice telephony services must seek approval for their metering and billing systems, currently set at £40 million of annual turnover;
 - restricting the scheme to residential and SME customers.

The review concludes that the existing arrangements should be maintained but that there may be scope for some modifications.

- 1.5 The review raises a question as to whether it would be appropriate to offer a self-declaration option to demonstrate compliance with the requirements of the Direction as an alternative to third-party audit, and if this option were to be pursued, what safeguards should accompany it.
- 1.6 Ofcom believes that, taken as a package, the proposals made in this document will deliver a more workable scheme that will be better adapted to the pace of future market developments. It also creates a space in which providers have the opportunity for a greater involvement in the scheme and to take more responsibility for its outcomes. The challenge for the industry is to develop a coherent set of responses to the issues addressed by this document and to carry them forward. The vision is for a flexible and forward-looking scheme that will add value to the supply chain and will

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ensure that customers continue to have a justified confidence in the accuracy of their bills.

Section 2

Introduction

The existing scheme

- 2.1 The existing scheme entered into force as part of the new regulatory framework on 25 July 2003. Its requirements are set out in Condition 11 (Metering and Billing) of the General Conditions of Entitlement (http://www.ofcom.org.uk/telecoms/ioi/g_a_regime/gce/gcoe/#content). The condition comprises two separate sets of requirements.
- 2.2 The first requirement applies to all Communications Providers providing Public Electronic Communication Services (PECS). It is that such providers shall not issue any bill in respect of the provision of services unless every amount in the bill represents and does not exceed the true extent of services actually provided. Additionally, providers are required to retain records so that they can demonstrate their compliance with the requirement. Ofcom may direct the length of time that such records are kept, up to a maximum of 15 months, but has not as yet exercised this power.
- 2.3 The second requirement is restricted to Communications Providers who provide Publicly Available Telephone Services (PATS) and whose turnover from the provision of such services exceeds £40 million in the most recent complete financial year. PATS providers must apply for approval of their Total Metering and Billing System (TMBS) from a recognised Approval Body and obtain such approval as soon as is practicable. A TMBS will be approved when it is compliant with the Ofcom Metering and Billing Direction (linked from <http://www.ofcom.org.uk/telecoms/groups/mandb/docs/?a=87101>) which is a technical standard applying numerical and quality objectives. Currently, three Approval Bodies: the British Approvals Board of Telecommunications (BABT), the British Standards Institution (BSI) and National Quality Assurance (NQA) are recognised by being referenced in the General Condition.
- 2.4 The second set of requirements constitutes the Ofcom Metering and Billing Approval Scheme. As at 15 November 2005 there were 32 companies participating in the scheme of whom 17 had achieved approval and 15 were working towards it. The 32 companies represent a mix of providers and billing bureaux (who supply outsourced metering and billing services to providers). The full lists of approval holders and approval seekers are published at http://www.ofcom.org.uk/telecoms/groups/mandb/apprv_holders/?a=87101 and http://www.ofcom.org.uk/telecoms/groups/mandb/apprv_seekers/?a=87101.

Background to the existing scheme

- 2.5 The existing scheme arose from an Oftel initiative of February 2000 which proposed changes to the legacy approval arrangements based on the Oftel Standard for Telecommunications Metering Systems (OTR 003:1993). The only companies to which the 1993 standard applied were BT, Cable and Wireless, Kingston Communications, O2 (then BT Cellnet) and Vodafone. A revised standard, OTR 003:2001 (the Oftel Standard for Metering Systems and Billing Systems), was developed with industry participation; the larger operators, by a series of Determinations, were required to seek approval against it. Three approval bodies were appointed by the Department of Trade & Industry (DTI) to issue approvals against the new standard.

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- 2.6 These arrangements were carried forward, largely unchanged, into the new regulatory framework brought about by the Communications Act 2003. OTR 003:2001 became the Oftel (and subsequently, Ofcom) Metering and Billing Direction, a new General Condition reappointed the three approval bodies and set the £40 million threshold for PATS providers required to seek approval.

Review of the scheme

- 2.7 In 2002 Oftel made a commitment to review the scope of the scheme once it had become established. Even without that commitment it makes sense to review a scheme whose essential features have now been in place since 2001, given the pace of change in the telecommunications market. Developments such as the primacy of data over voice, capacity-based charging, unmetered voice calls, 'all you can eat' tariffs derived from ISP models and converged products and services (eg Instant Messaging and broadcasting over 3G networks) have already achieved a presence in the market.
- 2.8 Notwithstanding the directions in which the market is moving, this review's focus is on the current scheme with a view to identifying incremental improvements that will make the scheme sustainable over a medium term period. The review does not preclude the more extensive study of how consumers of all electronic communications services are charged that will become necessary in the longer term. However, we believe that the dynamics of the market make such a root-and-branch review premature at present. In particular, the development of next generation networks and the continuing movement towards convergence will have far-reaching consequences that make long-term projections unstable at present.

Section 3

Objectives of the review

Ofcom's policy objectives

- 3.1 There is a general case for ensuring that customers are correctly charged for their consumption of telephony services. It rests on the presumption that wherever the cost charged for products and services is determined by the amount consumed, there should be controls to protect consumers from over-charging. In this sense the controls over the charging for telephony services are comparable to the raft of general consumer protection legislation that regulates the accuracy of measuring devices such as supermarket scales, petrol pumps, and domestic electricity, gas and water meters.
- 3.2 The general argument is strengthened in the particular case of telephony because of the unavoidable lack of visibility that attaches to the billing process. Customers are not able to oversee the metering process in action in the way that they can look at their utility meters and assess current consumption on a regular basis. For this reason, telephone bill payers have had to take their bills on trust and have confidence that their consumption has been accurately recorded and charged for.
- 3.3 The availability of itemised billing, made mandatory under General Condition of Entitlement 12, is intended to enable subscribers to “verify and control the charges incurred ... and adequately monitor the Subscriber’s usage and expenditure”. Itemised billing has undoubtedly improved the quality and range of information available to customers wishing to verify their bills. However, it is not sufficient as a stand-alone measure to maintain customers’ trust. Few residential subscribers are able to maintain detailed call logs of the kind that large business users can draw on so to some extent the billing information supplied still has to be taken on trust. Moreover, mobile prepay customers are only able to verify their expenditure by finding out the extent of their remaining credit.
- 3.4 It follows from the case made above that in pursuit of its consumer protection mission Ofcom has two associated objectives:
- to ensure that customers are not overcharged;
 - to maintain the confidence that customers have in the accuracy of their bills.

In accordance with Ofcom’s regulatory principles, the review will seek the least intrusive regulatory mechanisms to achieve these policy objectives.

What problems need to be redressed

- 3.5 The nature of metering and billing regulation has changed over the years. The original 1993 standard was very much focussed on the accuracy of the meter itself, to the extent that it was primarily a matter of equipment approval. By contrast, voice telephony services were largely undifferentiated with little in the way of consumer segmentation. The cost of a telephone call depended on the interaction of three factors: its destination, its duration and the time it was made.
- 3.6 With the transition to digital networks, the growth in the number of providers and the proliferation of services, the nature of the problems that metering and billing systems need to solve have changed. Digital exchanges provide raw metering data that is far

more accurate and information-rich than their electro-mechanical predecessors. Notwithstanding the risks of programming errors or software glitches they are capable of approaching scientific levels of accuracy. While metering itself has become more refined the range of services and packages to which the metering data needs to be applied in order to produce an accurate bill have grown in complexity.

- 3.7 The art of accurate billing involves translating metering data to the numerous price packages and bundles that are available so as to match the profile of the individual customer. Common problems that are likely to arise have less to do with calculating the cost of an individual call than reconciling it with a customer's inclusive minutes or chosen options. A further area where error can arise is caused by the urgency, in a competitive market, to make new services available. There is a risk that in the 'rush to market' tariffing and billing issues are not fully resolved before a service is launched.
- 3.8 An indication of the types of billing problems that customers encounter is offered by an analysis of consumer complaints made to Ofcom's Contact Centre made in the nine month period between December 2004 and August 2005.

Table 1: 'Disputing the Bill' complaints 12/04 – 08/5

Nature of complaint	Number	Percentage
Charge for cancelled service	2718	28.6
Premium Rate Service (PRS) calls	1720	18.1
Disputed calls	1169	12.3
Incoming SMS	1062	11.2
Internet dial-up	669	7.0
Non-call issues (eg line rental, fixed charges)	649	6.8
Billed mistakenly described as outstanding	457	4.8
International PRS	328	3.5
International calls	194	2.0
Duplicate charge	190	2.0
Free calls entitlement	153	1.6
Unauthorised usage	85	0.9
Leakage (eg indirect access call billed for by primary provider)	60	0.6
Reverse charges	36	0.4
Charges for short duration or unconnected calls	20	0.2
Totals	9510	100

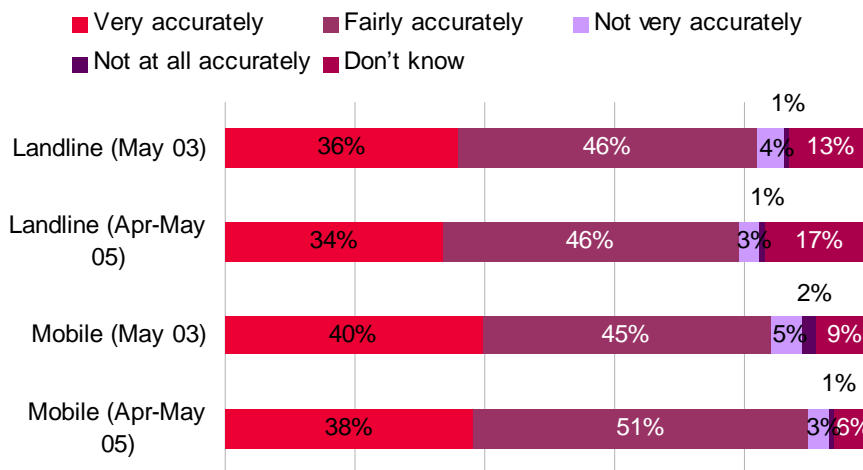
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- 3.9 A cautionary note in drawing conclusions from these figures: the fact that a complaint has been made does not necessarily indicate the presence of a metering or billing error. A customer who complains about being charged after requesting cessation of service (the largest single category recorded) may not have appreciated that terms and conditions may stipulate a minimum contractual period. Similarly, a disputed call may have been accurately billed notwithstanding the complaint. For this reason any requirement setting an upper limit on disputed bills is likely to be ineffective. The volume of complaints made may have multiple significances of which billing accuracy is only one, albeit the most important. It may equally indicate the ease of making a complaint or even how prominently the number of a complaints hotline is displayed on the bill itself.
- 3.10 Many of the issues that customers have raised with the Ofcom Contact Centre go beyond traditional metering and billing concerns. Some of them are variants of telephone mischief where Ofcom has already taken action to protect consumers from the potential abuse of revenue-sharing numbers or rogue internet diallers. Others, such as charges for cancelled service – the largest single category of complaint – are not strictly categorisable as billing errors but represent a more general shortcoming in the service offered to the customer.
- 3.11 However some of the complaints support the case for continuing metering and billing regulation – getting on for one in eight complaints is about disputed calls and there are other issues – duplicate charges, free calls entitlement, charges for short duration or unconnected calls – which the Approval Scheme is intended to redress.

What consumers think

- 3.12 To obtain evidence on which to base this review, Ofcom commissioned research (as part of its continuous tracking studies) with 1350 adults and 663 SMEs during April and May 2005. The full research report is published at Annex 7.
- 3.13 A key question was customers' perception of the accuracy of their landline and mobile bills which is as much an index of customers' confidence in the accuracy of their bills as it is of general billing accuracy. Responses are shown in the chart below which also includes May 2003 responses to a similar question.

Figure 1: Perceptions of accuracy of landline and mobile bills¹

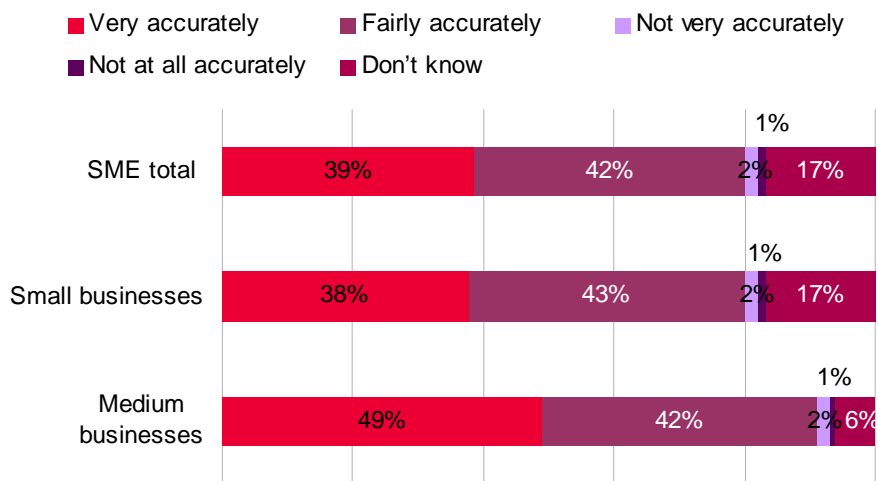


3.14 There has been little change in consumer perceptions of the accuracy of their landline or mobile bills as recorded in Figure one (the increase from 85% to 89% amongst mobile customers is not statistically significant). In general consumers were more likely to say they did not know how accurate their bills were than to say they were inaccurate. Although these figures show a broad level of consumer confidence in billing accuracy they do not offer any grounds for complacency. As part of the survey, landline and mobile customers were asked whether they had noticed any errors on their bills. Most customers in both markets said that they had not; however, around one in ten customers in each market said they had noticed at least one error on their bill in the last six months (8% of landline customers and 9% of mobile contract customers). While these proportions appear relatively small they equate to approximately 1.8 million landline customers and 1 million contract mobile customers.

3.15 .The responses for small and medium enterprise (SME) landline customers are broadly similar.

¹ Base: 1350 UK adults aged 15+ with landline at home, 323 UK adults aged 15+ personally use either contract or all in one mobile, Apr-May 05, Ofcom tracking study conducted by MORI (2003 data sourced from Ofcom tracking study conducted by MORI in May 03 – 1939 UK adults aged 15+ with landline at home, 460 UK adults aged 15+ personally use either contract or all in one mobile)

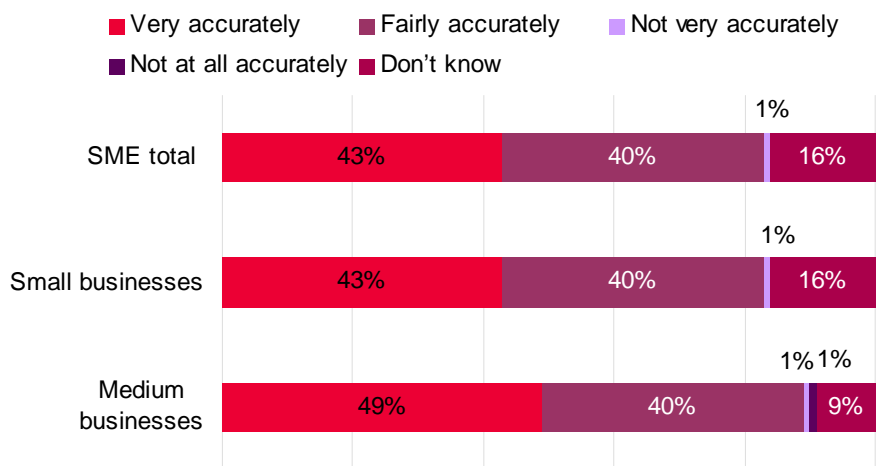
Figure 2: Perceptions of accuracy of landline bills²



3.16 Previous research indicated that two-thirds of SMEs conduct checks on their landline bills and that higher spending medium businesses were more likely to do so. This may explain why medium businesses have a higher perception of billing accuracy than small businesses. The responses show little change from a similar survey carried out in May 2003 in which 79 per cent believed their bills were accurate, and medium businesses expressed a higher degree of confidence in their bills (85 per cent) than small businesses (78 per cent).

3.17 In the recent survey SMEs were also asked about their perception of mobile billing accuracy.

Figure 3: Perceptions of accuracy of mobile bills³



3.18 Perceptions of accuracy of mobile bills amongst SMEs with contract mobiles are significantly higher than those for landline bills. 83 per cent consider they are calculated accurately, as illustrated in Figure three and again perceptions of

² 663 UK SMEs, Ofcom tracking study, Apr-May 04, Continental Research

³ 266 UK SMEs with contract mobile phones, Ofcom tracker, Apr-May 04, Continental Research

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inaccuracy are outweighed by the proportions who are simply unaware. However, there are no significant differences in perceptions according to the size of the business.

- 3.19 Similarly to residential customers the majority of SMEs had not noticed any errors on either their fixed or mobile bills during the last six months. However, just over one in ten had in each market. Medium businesses were more likely to have noticed errors than small businesses consistent with their increased likelihood to check their bills. As with residential customers, SME responses indicate reasonably high levels of confidence but with a numerically significant group of customers who claim to have been subject to a billing error.
- 3.20 Taking account of all the consumer evidence presented here, it is reasonable to conclude that although most providers are getting it right most of the time there is still a problem with levels of metering and billing accuracy that justifies some degree of regulatory intervention.

Q1 Do you agree that it is right for Ofcom to continue to regulate the accuracy of metering and billing systems used by providers of publicly available telephone services?

Section 4

Proposals for improving the scheme

Policy alternatives to be considered

- 4.1 The consumer experience of billing reported on in Section 3 indicates a reasonable degree of satisfaction and showed that a majority of customers have confidence in the accuracy of their bills. It is difficult to assess to what degree the levels of satisfaction are themselves one of the outcomes of the application of the scheme given that few significant shifts in opinion are recorded by comparison with the May 2003 survey, when the scheme was only just getting off the ground. Nonetheless the surveys do not offer grounds for complacency - there is a significant level of customer concern which emerges from the survey and from complaints made by customers to Ofcom.
- 4.2 A reasonable premise to draw from this evidence is that although the scheme is largely serving its purpose there is scope for improvement. During the course of extensive pre-consultation discussions with stakeholders a number of proposals for modifying the scheme emerged, several from more than one source. The remainder of this section sets out a series of policy alternatives for the future development of the scheme. The intention is to maintain the current rigour of the scheme while aligning it more closely with the developing nature of the markets in which it operates. The main areas of the scheme which give rise to questions are:
- the Direction and its ownership;
 - the scope of the scheme – should it be extended to data services;
 - the £40m threshold;
 - the compliance process.

The Direction and its ownership

- 4.3 The existing Direction was originally adopted as OTR 003: 2001, itself a revision of the original OTR 003:1993 standard. There is a case for updating the standard embodied in the Direction which has been essentially unchanged for the last five years and has its roots in a standard elaborated in the early nineties. One example of where the Direction is not geared to contemporary models of service provision arises from its requirements being predicated on the assumption of a direct relationship between a residential or small business customer making multiple low-value transactions and a single provider who is responsible for receiving and resolving billing complaints. Although this traditional model still holds true for many customers there are other forms of service provision which do not meet these assumptions. One instance is the managed services sector where a systems integrator brings together an interlocking set of providers, and where voice telephony provision represents only one element. There are features of the Direction dealing with, say, billing complaints and reliability performance requirements that struggle to get a purchase on metering and billing accuracy in this sector.
- 4.4 We believe that the Direction needs to be revisited with a view to accommodating multiple business and tariffing models within it. One way forward would be for Ofcom to convene and chair a working group comprising stakeholders to propose revisions to the Direction. This was how Oftel assembled OTR 003: 2001, through a process

that eventually delivered results but was not very streamlined. But we believe there is an alternative way, which is to call upon the industry to become more involved with the ownership of the standard and assume the responsibility for revising it and subsequently maintaining it. The arguments that favour this approach are that Ofcom, as a regulatory authority, is not a natural standards-making body. Ofcom's role should be to define outcomes without necessarily being involved in the detailed prescription of how those outcomes should be achieved. Moreover, an industry body would be able to bring its detailed knowledge of how the market is evolving and what emerging metering and billing problems require to be addressed.

- 4.5 There are a number of possible institutional routes to enhance industry's involvement with the standardisation process – amongst those that have been suggested by one or more stakeholders are a dedicated sub-group of the Network Interoperability Consultative Committee (NICC), TopComm, the body responsible for drawing up Quality of Service parameters in accordance with General Condition of Entitlement 21 on Quality of Service, a spin-off group from the Revenue Assurance Group or a completely new body. A decision does not have to be taken on the institutional arrangements at this time. The important issue for decision now is whether this general approach should be pursued. Evidently, Ofcom would still retain overall control over the process as any revised standard would be subject to an Ofcom Direction under section 49 of the Communications Act 2003 to have any regulatory force.

Q2 Do you agree that Ofcom should pursue the approach of seeking greater industry involvement in the revision and ownership of the Metering and Billing Direction?

Q3 If so, which do you think would be the most appropriate industry body to carry out this task?

- 4.6 Any group working on the Direction will need some preliminary advice from Ofcom identifying questions to be considered as part of the revision process. On the basis of the pre-consultation inputs we believe that the following areas are worth consideration and discussion.

4.6.1 In what circumstances might the 1:50000 tolerance levels and the £500 limit be inappropriate?

4.6.2 Should undercharging be subject to the same accuracy targets as overcharging?

4.6.3 In what circumstances are the individual bill accuracy requirements as they apply to complaint handling appropriate?

4.6.4 What balance should the standard strike between a Quality Assurance model reliant on the documentation of procedures and a more metrically orientated model?

4.6.5 Where relevant metrics have been audited for an alternative regulatory requirement such as an annual financial audit or the disclosure requirements of the Sarbanes Oxley Act, in what circumstances may they be accepted without further audit for the purposes of the Direction?

- 4.7 The thrust of these questions is intended to simplify the Direction where possible and align it more closely with the intended consumer protection policy objective of

ensuring the accuracy of customers' bills. This objective appears to be best served by the standard adopting a predominantly statistical and quantitative approach. There is clearly scope for Quality Assurance procedures but these should be applied in a way that promotes the overriding objectives rather than becoming ends in themselves.

Q4 Do you agree with the suggested approach to the Direction that has been proposed here?

Q5 Ofcom welcomes your views on how you think the Direction can be improved?

The scope of the scheme

Inclusion or exclusion of data services

- 4.8 The current scheme is restricted to voice telephony services. There is a view advanced by some stakeholders that as data services represent an increasing sector of the overall communications market it is inconsistent for them to be excluded from the scope of the scheme.
- 4.9 The arguments for and against such an extension are finely balanced. In favour of such a proposal is that data services represent a growing proportion of the overall customer spend. To take two examples, O2's trading figures for the year ending March 2005 showed that data services contributed 24.2 per cent of the provider's overall UK service revenue, a growth of 3.8 per cent over the preceding year. Non-voice services for Vodafone represented 18.9 per cent of its UK revenue for the quarter ending June 2005. Moreover data services represent one of the most likely areas for growth within the mobile market and are likely to contribute increasingly to revenue, especially with the greater potential for dataflows enabled by 3G services.
- 4.10 Likewise in the fixed world, BT's 'new wave' services, of which broadband services are a major component, contributed revenue of £1,385m out of a total revenue of £4,783m (equivalent to 28.96 per cent) for the quarter ending June 2005. Is there not a seeming inconsistency in protecting consumers when they use voice services but not when they use data services?
- 4.11 The case for excluding data services from the scheme rests on two general propositions. Firstly, including data would represent a very significant extension in regulation. Ofcom believes that the case for increasing regulation needs to be supported by clear evidence that there is a demonstrable level of consumer detriment for which regulation is the only solution. It is not clear that we have reached this point in respect of data services.
- 4.12 At present, the data services most commonly used by residential customers are SMS and broadband, the one generally billed on a per-event basis and the other as a flat-rate monthly charge. In both cases there is a greater transparency about the billing than there is with conventional voice telephony services where accurate billing requires the bringing together of a number of separate factors. This is not to say that billing for SMS or broadband services is entirely straightforward – providers need to reconcile SMS bundles and broadband usage caps in their billing.
- 4.13 The second case for excluding data services is that in seeking to avoid the inconsistency of excluding data services from the scheme there is a risk of falling into the greater inconsistency of arbitrarily including some data services but excluding others.

- 4.14 In a converged world there is no clear boundary separating those services that should be subject to the scheme and those that should fall outside it. For example a 'triple play' provider may include voice telephony, broadband and television services on a single bill. Moving away from the certainty of regulating voice telephony services opens up the quandary of which additional elements of the bill should be included in the scheme. Given that television services may include chargeable 'pay-per-view' events should they be included in the scheme? And if the answer is yes why not also include bills issued by broadcasting providers who do not provide telephony services? As the boundaries between contents provided over different platforms merge we may expect to see a concert or a sporting contest delivered as a 'pay-per-view' event to a digital TV receiver, to a broadband-connected PC or streamed to a mobile 3G handset. There is a serious risk that in a search for apparent consistency the boundaries of regulation would become unstable and create uncertainty for providers and customers.
- 4.15 Ofcom believes that the existing compromise represents a reasonable and proportionate response to question of regulating data services. Firstly, data service providers are subject to the same obligation as other communications providers not to issue bills other than for services which have been actually provided. Secondly, although these services are not a mandatory part of the scheme, Ofcom has encouraged providers to submit them for approval on a voluntary basis. Those mobile providers which have achieved approval (see http://www.ofcom.org.uk/telecoms/groups/mandb/apprv_holders/?a=87101) have included services such as SMS and MMS, WAP data services and packet-switched data services charged per event and volume.
- 4.16 Ofcom will continue strongly to encourage providers to include such data services in the scope of their approval. We believe that this degree of flexibility offers the most sensible way of creating the conditions in which new data services will, in reality, be incorporated in the scheme as they come on stream. We also believe that the changes proposed elsewhere in this document to the Direction and the approval process will make this option an attractive proposition for providers.

Q6 Do you agree that encouraging, but not mandating, the inclusion of selected data services in the Scheme represents the best way of protecting the users of those services from inaccurate billing?

Exclusion of corporate customers

- 4.17 Some stakeholders have argued that the protection afforded by the scheme should be restricted to residential and SME customers. The case for excluding corporate customers is that although they are equally entitled to accurate bills they have the capacity of deploying systems that can secure this objective without any need for regulatory intervention. There is a precedent for restricting consumer protection to domestic and small business customers – under General Condition of Entitlement 14 communications providers are not required to maintain a basic code of practice or implement a dispute resolution scheme for customers who are undertakings employing more than ten individuals.
- 4.18 Ofcom believes that although there is some merit in the case for the exclusion of larger undertakings, we do not believe that, on balance, such an exclusion would be justified. In the first instance, any segmentation of metering and billing processes on the basis of the type of customer they serve would add to the complexity of the scheme by multi-layering it. Secondly, it is far from clear where the line excluding

larger customers should be drawn. The customer research published at Annex 7 of this document includes findings based on interviews with SMEs with up to 250 employees. Even with the involvement of such relatively large SMEs, the research indicates that residential and SME customers have a broadly similar customer experience and share many attitudes in common. This suggests that the ready-made definition of small business customer derived from General Condition 14 sets the bar too low for metering and billing purposes and the regulatory creation of a new category of customer would be required.

- 4.19 More compellingly, there is the argument that even where customers vary in size, providers are using similar metering and billing processes to produce their bills. The presumption is that having to produce accurate bills for larger customers will not add to the regulatory overhead incurred by the obligation to bill residential and SME customers accurately. However, Ofcom recognises that where there are significant differences in the strategies adopted to bill smaller and larger customers, the approval process should take account of them.

Q7 Do you agree that the scope of the scheme should not be restricted to residential and SME customers, however these latter are defined?

Changes to the existing threshold

- 4.20 The threshold at which providers of Publicly Available Telephone Services are required to submit their metering and billing systems for approval is £40 million of relevant (i.e. voice telephony) turnover. Some stakeholders have proposed either a raising or lowering of the threshold which was set in 2003.
- 4.21 On the basis of confidential figures collected by Ofcom for the purpose of administrative charging under section 38 of the Communications Act 2003 it appears that the gearing between annual turnover figures and inclusion in the scheme is surprisingly low – even large shifts to the level of the threshold only have a small impact on the number of providers involved. Our calculations are that doubling the threshold to £80 million would only exclude three providers; halving it to £20 million would bring in no more than three or four providers. These figures are approximate as it is not necessary to calculate voice telephony turnover separately for the purposes of administrative charging. Moreover there are companies falling below the threshold which have voluntarily entered the scheme so the impact of a threshold reduction would be even less than the calculations suggest. Our figures indicate that the providers involved in the scheme represented 88 per cent of the electronic communications market by turnover. On this basis we do not believe that the existing threshold should be changed at present although it will be kept under review.

Q8 Do you agree that the existing threshold should be retained?

Demonstrating compliance with the Direction

- 4.22 At present, the only route providers have to demonstrate compliance with the Ofcom Direction is to have their metering and billing systems approved by one of three approval bodies. Understandably, this is the most contentious element of the present scheme and has been viewed by some provider stakeholders as “intrusive”. The argument has less to do with the direct fees levied than with the overall resource implications of submitting internal procedures to third-party auditing.

- 4.23 To some extent these arguments could be construed as a form of special pleading. Few organisations positively welcome external scrutiny if offered the choice. There is a strong case to be made for the objectivity and experience that approval bodies bring to their task and quite often the auditing process has brought a fresh approach and coherence to metering and billing systems that may have grown by accretion. The application of a Total Metering and Billing System (TMBS) strategy has informed carrier pre-selection (CPS) and wholesale line rental (WLR) products.
- 4.24 However, Ofcom believes that it is desirable to consult on an alternative route to compliance – one where, subject to stringent safeguards, providers would be able to self-declare the compliance of their metering and billing systems with the direction. The case for considering the possibility of this option is that it accords with Ofcom's Regulatory Principles to seek the least intrusive regulatory mechanisms to achieve its policy objectives. The question that arises is whether, in reality, self-declaration is capable of meeting the policy objectives set out in this document.
- 4.25 We believe that a self-declaration route, if adopted, would have two beneficial effects. It would deepen and to some degree internalise providers' involvement with the metering and billing approval process and so require them to take more direct responsibility for the accuracy of their billing. It would also provide an incentive for the Approval Bodies to review their approach – certainly not to become less exacting but to provide their services in a customer-focussed way.
- 4.26 For a self-declaration route to meet Ofcom's policy objectives and to retain consumer confidence it is imperative that it is not perceived as a soft or second-rate option. This would involve the imposition of a number of safeguards on which Ofcom invites stakeholder opinions. The range of possible safeguards includes the following:
- a provider wishing to exercise the self-declaration option would need Ofcom's consent conditional on having demonstrated that an independent internal auditing regime is in place;
 - the self-declaration option should be restricted to those providers which have already gained approval;
 - the declaration of compliance is made by a board member;
 - the declaration of compliance is supported by evidence of how it is validated;
 - the declaration of compliance will be subject to the same consultation procedures (s.49 of the Communications Act 2003) as a third-party approval;
 - Ofcom may revoke its consent for self-declaration where it has reasonable grounds for believing that the provider's metering and billing systems do not comply with the direction and may subject those systems to a third-party audit at the provider's expense.

Q9 Ofcom invites views on the feasibility of a self-declaration route to compliance with the Ofcom Direction

Q10 Ofcom invites views on the effectiveness of the proposed safeguard measures

Clarity and transparency of billing information

- 4.27 The existing regulation of metering and billing does not require bills to be presented to customers in a transparent and readily comprehensible format.

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- 4.28 Ofcom's consumer survey asked 2007 UK adults during Q2 2005 to assess the degree of their satisfaction with the ease of understanding their bills. Given the varying tariff structures available to consumers, particularly in the mobile market, it would not be unreasonable to expect consumers to have difficulty understanding their bills. However, 87 per cent of landline customers were satisfied with the ease of understanding their phone bill, 6 per cent said they were dissatisfied while the remaining 7 per cent were indifferent. Results were broadly similar amongst mobile customers with 88 per cent of contract customers satisfied, 6 per cent dissatisfied and 6 per cent either indifferent or unsure. Perhaps contrary to expectation, the results of this survey indicate that most customers believe their bills are easy to understand.
- 4.29 Although Ofcom participated in the discussions leading to the preparation of the voluntary BSI Standard "Specification for Customer Billing Practice" (BS 8463:2005) we do not believe it would be appropriate to require providers to model their bills on its proposed template. Bills for utility services, such as electricity, gas or water, are inherently simpler as they generally bill for a single, unvariegated product, by contrast with the multiple products and services billed for by communications providers.
- 4.30 However the standard makes many thoughtful suggestions which if taken up would make some providers' bills easier to understand. We encourage providers to make themselves aware of the advice it offers, especially on the format of the billing document and the fundamental information to be provided on the principal page of the bill.

Annex 1

Responding to this consultation

How to respond

Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on 3 February 2006**

Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 2), among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.

Please can you send your response to first frank.phillips@ofcom.org.uk.

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Frank Phillips

Floor 6
Strategy and Market Developments
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax: 020 7981 3406

Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 3. It would also help if you can explain why you hold your views, and how Ofcom's proposals would impact on you.

Further information

If you have any want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Frank Phillips on 020 7981 3856.

Confidentiality

Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt (when respondents confirm on their response cover sheer that this is acceptable).

All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

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Ofcom reserves its power to disclose any information it receives where this is required to carry out its legal requirements. Ofcom will exercise due regard to the confidentiality of information supplied.

Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use, to meet its legal requirements. Ofcom's approach on intellectual property rights is explained further on its website, at www.ofcom.org.uk/about_ofcom/gov_accountability/disclaimer.

Next steps

Following the end of the consultation period, Ofcom intends to publish a further consultation on any proposed amendments to General Condition of Entitlement 11 towards the end of March, followed by a final Statement in May.

Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 2) which it seeks to follow, including on the length of consultations.

If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Vicki Nash, Director, Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom (Scotland)
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW
Tel: 0141 229 7401
Fax: 0141 229 7433
Email: vicki.nash@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. 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

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 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 to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will normally allow ten weeks for responses to consultations on issues of general interest.

A2.6 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

A2.8 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, without disclosing the specific information that you wish to remain confidential.
- A3.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their cover sheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.
- A3.5 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Review of the Ofcom Metering and Billing Approval Scheme

To (Ofcom contact): Frank Phillips

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

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 to be confidential, 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. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. 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 4

Consultation questions

Question 1 Do you agree that it is right for Ofcom to continue to regulate the accuracy of metering and billing systems used by providers of publicly available telephone services?

Question 2 Do you agree that Ofcom should pursue the approach of seeking greater industry involvement in the revision and ownership of the Metering and Billing Direction?

Question 3 If so, which do you think would be the most appropriate industry body to carry out this task?

Question 4 Do you agree with the suggested approach to the Direction that has been proposed here?

Question 5 Ofcom welcomes your views on how you think the Direction can be improved?

Question 6 Do you agree that encouraging, but not mandating, the inclusion of selected data services in the Scheme represents the best way of protecting the users of those services from inaccurate billing?

Question 7 Do you agree that the scope of the scheme should not be restricted to residential and SME customers, however these latter are defined?

Question 8 Do you agree that the existing threshold should be retained?

Question 9 Ofcom invites views on the feasibility of a self-declaration route to compliance with the Ofcom Direction.

Question 10 Ofcom invites views on the effectiveness of the proposed safeguard measures.

Question 11 Ofcom invites providers to quantify the initial and ongoing costs associated with gaining approval under the Metering and Billing Direction. What is the likely impact of this cost on average consumer bills? Please note that responses to this question will be treated as confidential.

Annex 5

Impact assessment

What is the issue and why is Ofcom involved

- A5.1 A key feature of telecommunication services is that consumers are not readily able to quantify their consumption or verify their bills with any degree of confidence or accuracy. Unlike in gas and electricity usage, for example, there is no domestic meter to enable consumers to monitor their volume of usage. Although some services such as mobile SMS or flat-rate broadband enjoy a greater degree of transparency than others, say voice telephony, the sheer volume of services consumed and the complexity of billing due to the nature of the bundled package purchased by a consumer make it impossible for a consumer to check that their bill is correct.
- A5.2 As a result, although customers may be able to spot gross errors, to a large extent they have to take the bills they receive on trust. Given this it is important for Ofcom to ensure that such trust is justified, particularly as it seems likely that competition will not deliver consumer protection in this area.
- A5.3 Impact Assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. The Impact Assessment, outlined in this Annex, considers the different options presented in this consultation document, namely whether the existing level of regulation is justified or whether it should be extended or reduced. In addition the underlying principle of maintaining metering and billing regulation is considered under the option of removing regulation.
- A5.4 The Annex first outlines Ofcom's policy objectives, along with the options for maintaining or removing regulation under consideration. Subsequent sections consider the likely costs and benefits to the key stakeholders from each option, in order to identify appropriate changes to the policy.

Ofcom's policy objectives

- A5.5 There is a general case for ensuring that customers are correctly charged for their consumption of communications services. In 2004 the weekly household spend on fixed and mobile telephony was £12.26 – equivalent to 2.5 per cent of total household expenditure. Although the price of electronic communication services continues to fall it still represents a significant proportion of customers' outgoings
- A5.6 As has been argued above, this case is justified by the lack of transparency associated with the billing process. Customers are not able to oversee the metering process in action in the way that they can look at their utility meters and assess current consumption on a regular basis. For this reason, bill payers have had to take their bills on trust and have confidence that their consumption has been accurately recorded and charged for.
- A5.7 Even though itemised billing has improved the quality and range of information available to customers wishing to verify their bills, it is not sufficient as a stand-alone measure. Few residential subscribers are able to maintain detailed call logs in the same way that corporate users do. There are also some services – the obvious example is mobile prepay – which are not billed for at all. In addition the taking into

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account call discounts and the effect of free minutes, associated with some telephony packages, makes verification almost impossible.

A5.8 As a result Ofcom has two objectives associated with the metering and billing approval scheme:

- to ensure that customers are not overcharged; and
- to maintain customer confidence in the accuracy of their bills.

In accordance with Ofcom's regulatory principles, the review has sought the least intrusive regulatory mechanisms to achieve these objectives.

Policy options

A5.9 The underlying principle of metering and billing regulation is considered under the option to withdraw from regulation. In addition the key costs and benefits of the current scheme (i.e. the status quo) and variations on the current scheme are addressed. The four broad policy options considered are:

- withdraw existing regulatory from this area;
- do nothing – maintain the existing level of intervention;
- increase the level of intervention;
- decrease the level of intervention.

Option 1 – Ofcom withdraws from regulation in this area.

A5.10 Under this option Ofcom could bring the Approval Scheme to a close by withdrawing the obligation on providers of publicly available telephone services with a relevant turnover in excess of £40m to seek approval for their metering and billing systems;

Option 2 – maintaining existing level of regulation

A5.11 This option would result in the retention of Ofcom's existing Metering and Billing Approval Scheme in its present form without change.

Option 3 – increasing the level of intervention

A5.12 This option offers the possibility of building on the existing scheme by extending it either vertically or horizontally, or both. Vertical extension would involve bringing more providers into the scheme by lowering the threshold from the present £40m. Horizontal extension would involve expanding the range of services to which the scheme applies by including selected data services.

Option 4 – decreasing the level of intervention

A5.13 This option is based on the existing scheme but seeks to make it less intrusive by restricting the scope of intervention. A number of sub-options fall within this category, such as:

- increasing the £40m. threshold; and
- restricting the scope of the scheme to residential and SME customers;

- a review of the standard making approval easier to obtain by simplifying the standard;
- replacing third-party auditing by a self-declaration process.

Impact on stakeholders

Option 1: Remove existing metering and billing regulation

Costs

A5.14 There are a number of ways that retail consumers can lose out as a result of errors in metering and billing systems. These may be expected to increase if metering and billing regulation were removed. For example consumers may be overcharged as a result of paying more than once for the same call, paying for a longer duration of call than was actually made, being charged an incorrect rate or not receiving the correct discounts for particular calls made. Obviously these will have an adverse impact on consumer welfare, although it is worth noting that errors may also lead to consumers being undercharged for calls made.

A5.15 In theory if perfectly competitive markets existed there would be little need for consumer protection. Competition would ensure that market power was not abused and consumers would have complete information about quality, including the accuracy of metering and billing systems, ensuring that they were not misled. This would enable consumers to purchase services with a given quality on terms and prices that they were willing to pay. However consumers often do not have complete information, particularly about the quality of services they are purchasing. Economic theory suggests that imperfect information for consumers (e.g. incomplete, incomparable, dated, etc) will result in less than optimal trade and welfare losses.

A5.16 Moreover in the absence of regulation consumers' imperfect information about billing accuracy may create incentives for opportunistic behaviour by providers. Providers may have an incentive to correct any errors which lead to undercharging whilst avoiding the correction of errors which result in overcharging. As a result regulation may be necessary to minimise the risk of overcharging, particularly since consumers are unable to gauge the accuracy of their bills themselves.

A5.17 Although some large business users may be aware of the possible errors on their telephone bills and have the capacity to verify the accuracy of their bills, it seems likely that a substantial number of other consumers are not aware of the potential for error. Moreover it would not be possible for consumers to identify all metering and billing errors anyway. In addition even if errors are visible to consumers but are small relative to the individual bill it is likely that consumers will not pick up on the error. However if the error is repeated over all calls it could represent a substantial cost to consumers as a whole.

A5.18 As a result it seems likely that consumer pressure on providers will be limited, unless competition drives provider participation and marketing in order to attract consumers from other providers. It is also worth noting that if there is an increasing move towards unmetered billing e.g. in internet access the need for an Ofcom-driven metering and billing scheme will decline as it would be possible for consumers to check their own unmetered bill directly. However there may still be a role for intervention in order to prevent fraud and given the unobservable nature of errors.

A5.19 To summarise, although commercial pressures and the need to develop a reputation for good quality may encourage providers to ensure that their metering and billing

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activities are accurate, and to provide consumers with guarantees to this effect, there are a number of reasons why regulation may be justified. These include:

- the inability of consumers to identify metering and billing errors and so to avoid over-billing by exercising choice;
- the inadequacy of alternative information sources, such as complaints data, as a proxy for quality of service and performance;
- even if adequate alternative information sources existed, there is an incentive for producers of low quality services (including inferior metering and billing systems) to mimic quality signals published by producers of high quality services. These could easily be confusing/misleading to consumers; and
- the incentive for providers to reduce quality without being observed by consumers.

A5.20 As a result the withdrawal of the scheme altogether could have a major impact on all stakeholders. Also even if Ofcom were to withdraw from regulation in this area it would not mean that our involvement would cease. Customers would continue to look towards Ofcom for protection and we would unavoidably be drawn into billing disputes, despite the role of the alternative dispute resolution procedures.

Benefits

A5.21 Since there is a commercial incentive for operators to ensure metering and billing accuracy, in order to minimise revenue loss and customer complaints and to improve efficiency, it is likely that providers would undertake some activity to ensure metering and billing accuracy even in the absence of the scheme. It may therefore be that Ofcom is displacing private sector activity. This problem of displacing private sector activity would be removed if regulation were removed.

A5.22 As a result providers may save the costs they currently face associated with approval costs by an approval body. These costs might include testing, auditing, implementation and so on. Moreover, consumers could gain in terms of a reduction in their bill, assuming these costs are currently passed on to consumers and that the savings would also be passed on to consumers. Although Ofcom does not have information about the size of these approval costs, Oftel's 1998 consultation document⁴ estimated that the cost of the certification scheme amounted to a few extra pence per person per year. As a result the consumer savings are likely to be fairly low. Moreover although the costs of compliance would be reduced, if the result were more inaccurate bills and diminished consumer protection as outlined above, this would probably generate a higher volume of customer complaints, imposing costs on Ofcom and providers. Consequently the net benefit to providers from removing regulation, if any, is likely to be negligible.

Q11. Ofcom invites providers to quantify the initial and ongoing costs associated with gaining approval under the Metering and Billing Direction. What is the likely impact of this cost on average consumer bills?

Option 2: Do nothing – maintain existing level of regulation

Costs

⁴ Meeting customer needs for accurate telephone bills, Oftel 1998

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A5.23 Providers continue to incur the cost of regulation, which may have an impact on consumer bills, although this is likely to be low on a per bill basis.

A5.24 An unchanged standard will increasingly fall out of alignment with developing services and new modes of service provision. Customers may find, over time, that a shrinking proportion of the range of services they use and are billed for are subject to the scheme's protection.

Benefits

A5.25 The maintenance of the existing scheme would, ostensibly, have the least impact on stakeholders. The option appears to offer regulatory continuity, does not impose additional burdens on providers and secures the current level of consumer protection and confidence.

Option 3: Increasing the level of intervention

A5.26 The impact on stakeholders of option three depends on which vertical or horizontal options are selected. As the consultation itself makes clear, halving or doubling the existing £40m. threshold would have a surprisingly small impact on providers, increasing or reducing participation in the scheme by two or three providers either way.

A5.27 However horizontal extension, to encompass a wider range of data services, could have a potentially enormous impact on providers, depending on where the line is drawn. A modest extension to data services already provided by voice telephony providers, such as SMS, MMS or GPRS would have the least impact as providers are voluntarily including such services in their approval processes. However including a wider range of data service providers in the scheme would expose broadcasting and Internet providers to regulation not previously experienced.

Costs

A5.28 Depending on how the scheme were extended either more providers would face the costs of compliance with approval bodies or providers would face increased compliance costs, if the scheme were extended to include more services, which could be passed on to consumers.

A5.29 Although we might not expect the overall impact on consumer bills to be significant, where providers are already in the scheme, extension of the scheme beyond basic voice services could impose significant costs on a different set of broadcasting and Internet providers who have been largely exempt from this area of regulation. This could impact more substantially on consumer bills and could hinder the development of new services.

A5.30 There are likely to be substantial regulatory costs facing Ofcom given the increased range of providers and services covered by the extended scheme.

Benefits

A5.31 Consumers have limited ability to check the accuracy of their bills, regardless of whom their provider is and which services are being used, although the charges and billing for many of the services which would be covered by an extended scheme would be more transparent than basic voice services. Hence extending coverage of the scheme is likely to have some positive benefits in terms of consumer confidence and welfare, although these benefits might be expected to be lower than for basic

telephony services, since consumers should be more able to check the accuracy of their bills themselves.

Option 4: Decreasing the level of intervention

A5.32 Option four offers the most nuanced range of sub-options. 'Decreasing the level of intervention' may be a misleading title for a range of options that seek to introduce flexibility and simplicity into the existing scheme without diluting its ability to protect bill-payers.

A5.33 As noted increasing the £40m threshold would exclude no more than two or three providers. Although excluded providers would benefit from lower costs these are likely to be minimal on a per consumer basis and would be at the cost of potentially higher bills from increased inaccuracy.

A5.34 In addition the exclusion of services provided to business customers from the scheme has been considered. There are benefits from this because large corporate organisations are clearly well-placed to monitor and oversee the extent of their expenditure on communications services. However this would impose a cost on them (associated with verifying their bills) and it is not clear that their usage would easily translate into a verifiable bill; in other words businesses would still face the problem of checking that their free minutes and discounts and so on were accurately taken into account.

A5.35 There is likely to be a substantial regulatory cost from this option since it adds a further layer of complexity to an already complex scheme. In broad terms, the same billing engines and processes are applied in generating bills for small and large customers and it might seem perverse to use regulation to create an artificial divide between them. Moreover, additional complexity would be introduced to the system by establishing the cut-off point between SMEs (whose bills would be subject to the scheme) and corporate organisations which would be excluded. The demarcation point between them is likely to be arbitrary and unstable and adds an additional factor to be weighed in the approval process.

A5.36 Another option recommended by the consultation is a review of the standard (the Ofcom Metering and Billing Direction) to be undertaken by an industry group working with Ofcom advice. There may be additional short-term costs imposed on providers if this option were to be adopted as the process of updating the standard is likely to be time-consuming and laborious. However it is unlikely that providers would be willing to undertake this exercise if they did not believe that it would bring them long-term benefits in the shape of a more workable standard. Moreover it is likely to reduce the costs associated with Ofcom imposing an inappropriate standard. As a result there are likely to be net benefits of this if the review of the standard does not reduce the level of consumer protection.

A5.37 The last option considered is where third-part auditing is replaced with a self-declaration process. Under this option providers would save the costs associated with approval under the current approval body scheme. However it is expected that providers would continue to incur costs of ensuring metering and billing accuracy. So the savings are not likely to be significant. Assuming there would be no impact in terms of overall accuracy of bills, it is not clear that there would be any major benefits for consumers. However the option is consistent with Ofcom's objective of seeking the least intrusive regulatory mechanism in order to protect consumers.

Summary

A5.38 Although under the Metering and Billing Direction providers incur approval costs, it is likely that these additional costs are fairly low, particularly since billing complaints might be expected to increase in if the Direction were removed. Moreover there are a number of reasons why competition might not deliver consumer protection. As a result the costs of removing regulation are expected to outweigh the benefits.

A5.39 Although maintaining the current system means that developing services and new modes of service provision and hence an increasing proportion of consumers' services, will not be covered by the Direction, the option appears to offer regulatory continuity, does not impose additional burdens on providers and secures the current level of consumer protection and confidence. Increasing the range of services to be covered by the Direction is likely to lead to significant costs for new providers of data and broadcasting services. Moreover many of the new services are more transparently priced so the impact on consumers, of these not being covered by the Direction, is likely to be less than if basic telephony services were omitted.

A5.40 However there may be room for adapting the Direction to enable simplification of the standard or a self-declaration process, which would both lead to reduced approval costs, whilst ensuring an adequate level of consumer protection.

Section 3 and section 4 analysis

Option 1: Remove existing metering and billing regulation

A5.41 Ofcom has considered its duties under section 3 of the Act and all the Community requirements set out in section 4. Ofcom does not believe that this option would further the interests of citizens in relation to communications matters or further the interests of consumers in relevant markets because it would not ensure that customers are not overcharged and would not maintain the confidence that customers have in the accuracy of their bills. This option would also fail to promote the interests of all persons who are citizens of the European Union because it would not ensure the accuracy of metering and billing systems in an appropriate manner.

Option 2: Do nothing – maintain existing level of regulation

A5.42 Ofcom has considered its duties under section 3 of the Act and all the Community requirements set out in section 4. Option 2 represents the maintenance of the existing regulatory arrangements which were subject to a section 3 and section 4 analysis on the adoption of General Condition of Entitlement 11 on 25 July 2003.

Option 3: Increasing the level of intervention

A5.43 Ofcom has considered its duties under section 3 of the Act and all the Community requirements set out in section 4. Ofcom's policy objectives in relation to metering and billing regulation may be broadly characterised as furthering the interests of citizen consumers in relation to communications matters and of consumers in relevant markets. This option meets these objectives because it would ensure that customers are not overcharged and would maintain the confidence that customers have in the accuracy of their bills. The option would also promote the interests of all persons who are citizens of the European Union because it ensures the accuracy of metering and billing systems in an appropriate manner.

Option 4: Decreasing the level of intervention

A5.44 Ofcom has considered its duties under section 3 of the Act and all the Community requirements set out in section 4. Ofcom's policy objectives in relation to metering and billing regulation may be broadly characterised as furthering the interests of citizen consumers in relation to communications matters and of consumers in relevant markets. This option meets these objectives because it would ensure that customers are not overcharged and would maintain the confidence that customers have in the accuracy of their bills. The option would also promote the interests of all persons who are citizens of the European Union because it ensures the accuracy of metering and billing systems in an appropriate manner.

Section 47 analysis

A5.45 Under section 47 of the Act, Ofcom must not modify a general condition unless it is objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates, not such as to discriminate unduly against particular persons or against a particular description of persons, proportionate to what the modification is intended to achieve and in relation to what it is intended to achieve, transparent.

A5.46 Ofcom believes that the proposals to improve the existing approval scheme are objectively justifiable because they will secure adequate protection for citizen consumers against overcharging.

A5.47 The proposals do not discriminate unduly against particular persons because they apply to an objectively defined class of communications providers.

A5.48 The proposals are proportionate because they tend to a decrease of the existing burden on providers while ensuring that end-users' interests are taken into account.

A5.49 The proposals are transparent because the reasons behind them are publicised by means of this consultation, and if implemented, will be implemented through amendments to the General Conditions.

Annex 6

Metering and billing regulation in Europe

Responses from European regulators

A6.1 Ofcom circulated European regulators with two questions intended to establish the nature of metering and billing regulation, if any, in their countries. The questions were:

6.1.1 What measures do you have in place to ensure that bills issued by communications providers do not charge for electronic communications services that have not been supplied to subscribers (i.e. that the bills customers receive accurately reflect their use of the service)?

6.1.2 How do you regulate the accuracy of bills and what services are covered - voice telephony, data (SMS, GPRS information services), chargeable entertainment services (i.e. pay-per-view or subscription TV or internet services), other?

This annex sets out the responses received.

A6.2

Administration	Response to Q1	Response to Q2
Belgium	no specific provisions – operators have a commercial interest in not making billing mistakes	no regulation
Denmark	providers of public electronic communications networks and services to end-users are required to obtain certification against ISO 9001 or a similar recognised standard for their charging, billing and invoicing systems and for their internal procedures for dealing with billing complaints – requirements only apply to usage-dependent billing	applies to all electronic communications service providers providing non-flat rate services but excluding entertainment services which are considered to be content services

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Estonia	a mix of horizontal consumer protection and criminal legislation supported by sectoral measures to help consumers monitor and control their expenditure by specifying the information and level of detail that is shown on bills	sectoral measures apply to a range of services including SMS, GPRS and chargeable entertainment services
France	no specific provisions – customers with billing problems may contact the <i>Direction générale de la concurrence de la consommation et de la répression des fraudes</i> (DGCRF) which deals with consumer issues or refer disputes to a court	no specific provisions
Germany	a requirement for providers of publicly available telecommunications services to comply with a set of technical requirements for metering and billing systems and to demonstrate compliance by certification by an accredited quality assurance body or an officially appointed sworn expert	applies to time- and/or distance-based metered calls and connections
Hungary	no explicit rules but special provisions in case of billing disputes where the burden of proof that the network is protected from unauthorised access, that the billing system is closed and that the billing is accurate rests with the provider – compliance with an official recommendation on accuracy and ‘closedness’ of public voice telephony services is voluntary for providers but eases the burden of proof	applies to all subscriber services but generally invoked where time-based billing is used

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Lithuania	regulations oblige public telephone service providers not to charge calls which are shorter than the call duration measurement margin of error and have to demonstrate compliance of call duration measurement systems through certification by the state metrology service – providers are also required to provide itemised bills on request and to report QoS indicators including billing complaints to the regulator	regulations apply to voice telephony, SMS, GPRS and Internet services
Malta	requirement on designated universal service providers to provide itemised bills	voice telephony services at a fixed location
Netherlands	no specific provisions – complaints from end-users handled by an independent committee that arbitrates on disputes between end-users and providers	specific measures on the level of information provided on bills issued by the universal service provider
Norway	providers are required to provide itemised bills on request and to report QoS indicators including billing complaints to the regulator	applies to providers of all electronic communications services
Portugal	no specific provisions	no provisions
Sweden	no sectoral regulation – horizontal marketing legislation applies	no provisions
Switzerland	designated universal service provider is required to provide itemised billing on universal services - line rental and fixed network communications – and meet determined QoS criteria including a 2 per cent limit on disputed bills	voice telephony and line rental on landlines

A6.3 It follows from the responses that there are three general approaches that regulators have adopted with regard to promoting billing accuracy. There is the certification

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approach (Denmark, Germany, also Hong Kong) which has some resemblance to the UK model. Australia has a similar set of arrangements whereby the industry drew up a minimum set of billing requirements as the Billing Code which is recognised by the regulator.

- A6.4 There is a Quality of Service approach which includes the number of billing complaints as one of the indicators (Lithuania, Norway, Portugal, Switzerland, also Canada) and may impose an upper limit on unresolved cases. Billing complaints are included in Ofcom's Quality of Service exercise which will create incentives towards greater accuracy. However its primary purpose is to enable customers to make informed choices.
- A6.5 Finally there is the abstentionist approach where billing accuracy is subject to horizontal consumer protection legislation but no specifically sectoral regulation (Estonia, France, also USA).

Annex 7

Report on quantitative research into consumer attitudes⁵

Background and research objectives

A7.1 Ofcom's metering and billing scheme's objective is to enhance consumer confidence in the accuracy of telephone bills and to give wider consumer protection by an effective metering and billing systems approval scheme.

A7.2 This metering and billing certification scheme was revised and is now awarded to both fixed and mobile telephone suppliers that provide customers with bills that meet a defined standard of accuracy and a satisfactory level of billing complaint handling.

Research objectives

A7.3 Ofcom has undertaken research to assess the scope of the metering and billing approval scheme. To provide evidence for this, consumers were asked about their awareness of the certification scheme. Consumers were also asked about their perception of billing accuracy and satisfaction with the ease of understanding them.

Methodology

A7.4 Research was conducted via Ofcom's continuous tracking studies amongst both residential and SME customers in the UK.

7.4.1 Residential tracking study Fieldwork was conducted face to face in April and May 2005 amongst 1350 UK adults.

7.4.2 SME tracking study Fieldwork was conducted between April and May 2005 amongst 595 UK SMEs with between 1-250 employees.

⁵ Research studies carried out by Continental Research amongst SMEs and MORI amongst residential consumers

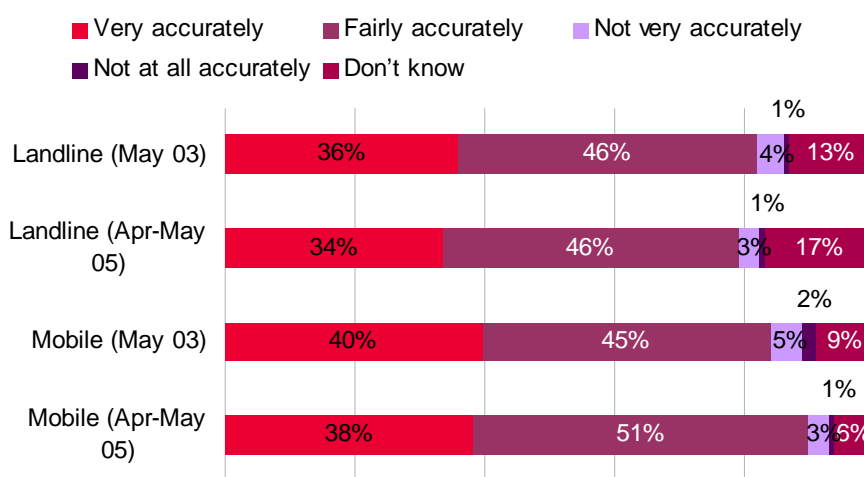
Residential Customers

Perceptions of billing accuracy

A7.5 Most landline and contract mobile customers that receive a bill consider the costs of their calls to be calculated accurately - 80% amongst landline customers and 89% amongst mobile customers that receive a bill (contract/all-in-one customers).

A7.6 There has been little change in consumer perceptions of the accuracy of their landline or mobile bills as illustrated in figure 1 (the increase from 85% to 89% amongst mobile customers is not statistically significant). In general consumers were more likely to say they did not know how accurate their bills were than to say they were inaccurate.

Figure 1: Perceptions of accuracy of landline and mobile bills⁶



A7.7 Consumers in these two markets were then read out a list of potential errors that may appear on their phone bill and asked whether they had noticed any of these. Most consumers regardless of the telecoms market said they had not noticed any errors on their bills. However, around one in ten consumers in each market said they had noticed at least one error on their bill in the last 6 months (8% of landline customers, and 9% of mobile contract customers).

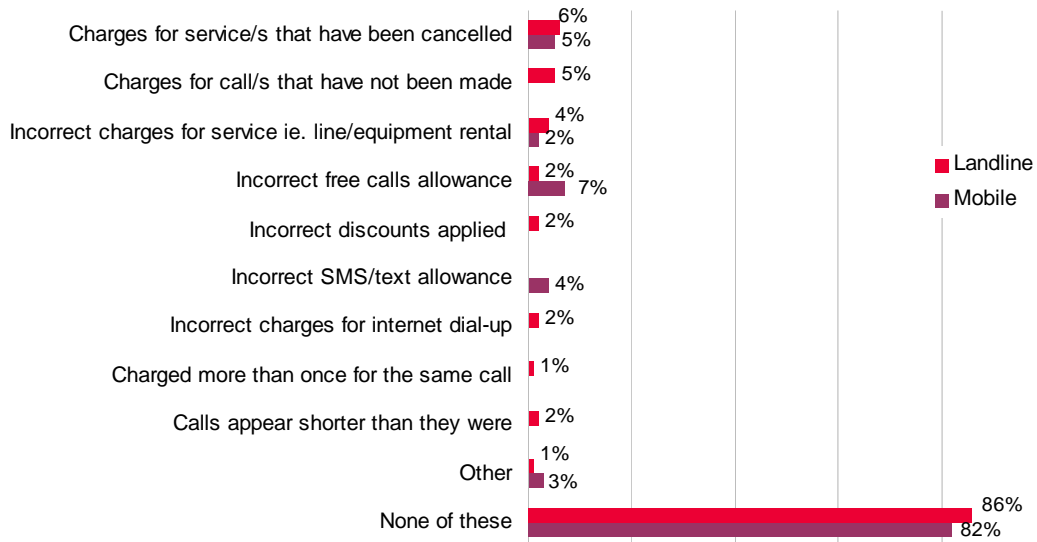
A7.8 While these proportions appear relatively small they equate to approximately 1.8 million landline customers and 1 million contract mobile customers that say they notice billing errors on a six monthly basis, these are summarised in figure 2.

Figure 2: Errors noticed on landline or mobile phone bills in last 6 months, multi-coded/prompted⁷

⁶ Base: 1350 UK adults aged 15+ with landline at home, 323 UK adults aged 15+ personally use either contract or all in one mobile, Apr-May 05, Ofcom tracking study conducted by MORI (2003 data sourced from Ofcom tracking study conducted by MORI in May 03 – 1939 UK adults aged 15+ with landline at home, 460 UK adults aged 15+ personally use either contract or all in one mobile)

⁷ Base: 1350 UK adults aged 15+ with landline at home, 323 UK adults aged 15+ personally use contract mobile, Apr-May 05, Ofcom tracking study conducted by MORI

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Satisfaction with ease of understanding bills⁸

A7.9 In order for consumers to assess the accuracy of their phone bills they would need to understand them. Given the quantity of varying tariff structures available to consumers, particularly in the mobile market, it would not be unreasonable to expect consumers to have difficulty understanding their bills.

A7.10 However, most (87%) landline customers were satisfied with the ease of understanding their phone bill. 6% said they were dissatisfied while the remaining 7% were indifferent. Results were broadly similar amongst mobile customers (88% of contract customers were satisfied with the ease of understanding their bills). Levels of dissatisfaction were the same as for landlines (6%) and 6% were indifferent or unsure.

A7.11 Internet customers were less satisfied (80%) but expressed similar levels of dissatisfaction to the other telecoms markets (6%).

Awareness of metering and billing approval schemes⁹

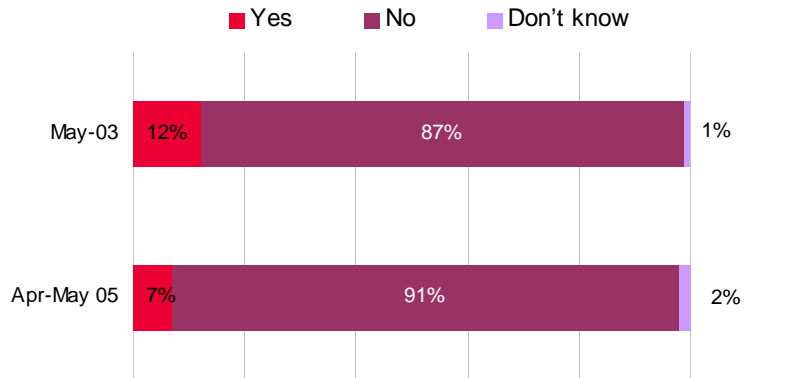
A7.12 BABT, BSI and NQA are Ofcom's metering and billing approval schemes which are awarded to fixed and mobile telephone suppliers that provide customers with accurate bills and a satisfactory level of billing complaint handling.

A7.13 Awareness of the scheme appears to have fallen slightly but significantly from 12% to 7% over the last two years and most (93%) had not heard of either of these schemes. Of the 7% that were aware of these schemes the main sources of information were their phone bill (22%), through work (20%), from friends/family/colleagues (15%), or through the media (14%). Others mentioned the internet in general (4%) or specific websites (i.e. supplier website - 2%, Ofcom's website - 3%). A fifth could not recall where they had heard about these schemes.

⁸ Base: 2010 UK adults aged 15+ with landline at home, 450 UK adults aged 15+ personally use contract mobile, and 1188 UK adults with internet, Q2 2005, Ofcom tracking study conducted by MORI, don't know have been excluded.

⁹ Base: 2010 UK adults aged 15+ with landline at home, 450 UK adults aged 15+ personally use contract mobile, and 1188 UK adults with internet, Q2 2005, Ofcom tracking study conducted by MORI, don't know have been excluded.

Figure 3: Awareness of Ofcom's metering and billing approval schemes, prompted¹⁰



¹⁰ Base: 1350 UK adults aged 15+ with landline at home, 323 UK adults aged 15+ personally use contract mobile, Apr-May 05, Ofcom tracking study conducted by MORI

SMEs

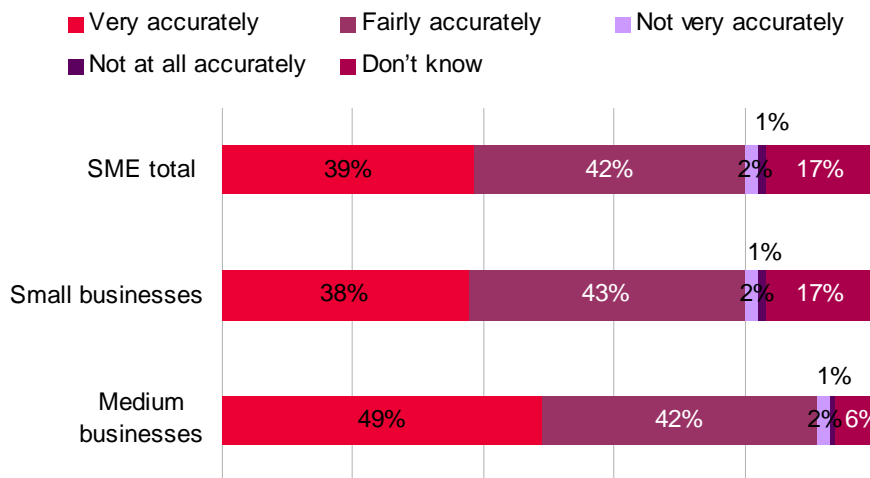
Perceptions of billing accuracy

A7.14 Research conducted in May 2003 reported that two-thirds (67%) of SMEs incur some cost to their business by spending time checking either some or all of their landline phone bills. Medium businesses (higher spenders) were more likely to do so.

A7.15 There has been no change in SME perceptions of the accuracy of their landline bills with 81% considering they are calculated accurately (compared to 79% in May 03). Medium businesses continue to be more likely to have perceptions of accuracy (91%) compared to small businesses (81%) – again similar results to May 03 (85% and 78% respectively). This may be because medium businesses are more likely to have somebody in their organisation that checks the accuracy of their phone bills – as mentioned above.

A7.16 Similarly to residential consumers perceptions of inaccurate bills (3%) are outweighed by the proportions who simply don't know how accurate their landline bills are (17%).

Figure 4: Perceptions of accuracy of landline bills¹¹

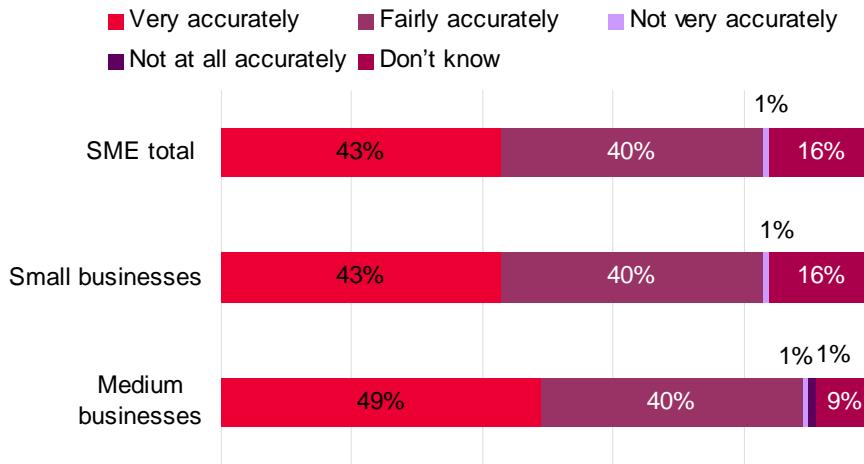


Perceptions of mobile billing accuracy

A7.17 Perceptions of mobile of accuracy of mobile bills amongst SME's with contract mobiles are significantly higher than those for landline bills. 83% consider they are calculated accurately, as illustrated in figure 5 and again perceptions of inaccuracy are outweighed by the proportions who simply are unaware. However, there are no significant differences in perceptions according to the size of the business.

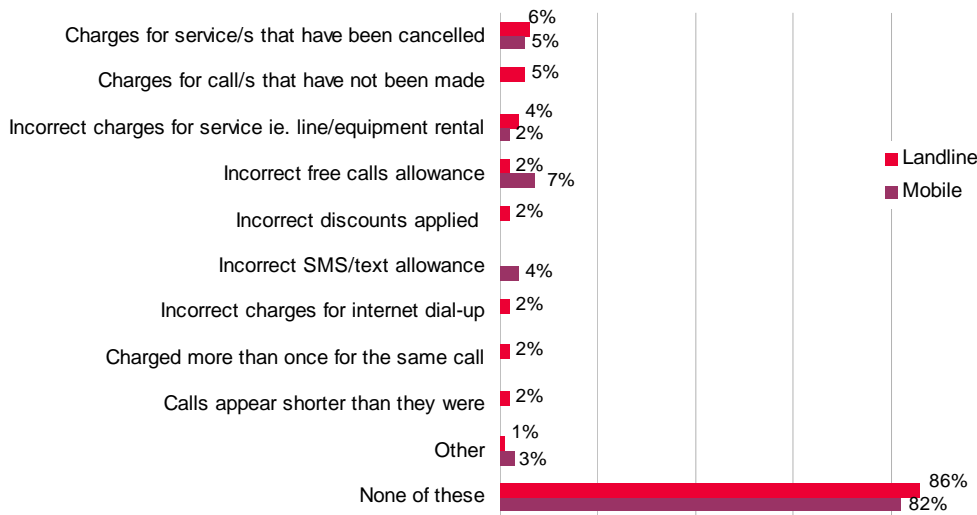
¹¹ 595 UK SMEs, Ofcom tracking study, Apr-May 05, Continental Research

Figure 5: Perceptions of accuracy of mobile bills¹²



A7.18 Similarly to residential customers the majority of SMEs had not noticed any of the errors they were asked about on either their fixed or mobile bills during the last six months, illustrated in figure 6. However, just over 1 in 10 had in each market. Medium businesses were more likely to have noticed errors than small businesses consistent with their increased likelihood to check their bills.

Figure 6: Errors noticed on landline or mobile phone bills in last 6 months, multi-coded/prompted¹³



Awareness of metering and billing approval schemes

A7.19 There has been no change in awareness of Ofcom’s metering and billing approval schemes with 7% of SMEs currently aware of one of these which compares to 8% in May 03. Nearly twice as many medium businesses were aware (13%) compared to

¹² 266 UK SMEs with contract mobile phones, Ofcom tracker, Apr-May 05, Continental Research

¹³ 595 UK SMEs and 266 UK SMEs with contract mobile phones, Ofcom tracker, Apr-May 05, Continental Research

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average and small businesses. The media (newspapers etc) (31%) and phone bills (15%) were the most popular sources of information for SME's. Some said they worked in the telecoms industry (9%) and a minority (3%) cited suppliers' websites.