

# A7. Guidance on the Contract Information and Contract Summary

## Guidance on Conditions C1.3-C1.7 – Contract Information and Summary

- A7.1 Conditions C1.3 to C1.7 set out requirements for providers in relation to the information they must provide to Consumers and other relevant customers<sup>1</sup> before they enter into a contract for Electronic Communication Services (ECS). These conditions apply to all providers of ECSs, except in so far as they provide Machine-to-Machine Transmission Services, as defined in the Conditions.
- A7.2 The provisions specifically provide for two sets of information to be provided to customers before they are bound by a contract: the specified Contract Information and a Contract Summary. Additional information requirements also apply to providers of certain types of services, such as Internet Access Services (as specified in the Annex to Condition C1).
- A7.3 This part of the guidance outlines Ofcom’s expectations as to how the Contract Information in the Annex to Condition C1 and the Contract Summary should be provided, as well as further specifics on the information that should be provided in compliance with those conditions. This guidance is not exhaustive, and the full list of information which needs to be provided before a customer is bound by a contract under these Conditions is set out in the Annex to Condition C1 and in the Contract Summary Implementing Regulation.<sup>2</sup>

## How the Contract Information and Contract Summary are provided

### Format and timing for the Contract Information document

- A7.4 Under Conditions C1.3-1.4, the **Contract Information** needs to be provided “*Before a Relevant Customer is bound by a contract*” in a “*clear and comprehensible manner*” and on a Durable Medium. A Durable Medium is defined in the Conditions as: “*paper or email, or any other medium that:*
- a) *allows information to be addressed personally to the recipient;*
  - b) *enables the recipient to store the information in a way accessible for future reference for a period that is long enough for the purposes of the information; and*
  - c) *allows the unchanged reproduction of the information to be stored.*”

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<sup>1</sup> These conditions apply to Consumers, Microenterprise or Small Enterprise Customers, and Not-for-Profit Customers. We refer to these customers throughout this guidance as ‘relevant customers’.

<sup>2</sup> [Commission Implementing Regulation \(EU\) 2019/2243 of 17 December 2019](#) (‘the Contract Summary Implementing Regulation’).

- A7.5 Where it is not feasible for a provider to supply the Contract Information on a Durable Medium, they also have an option to make it available “*in an easily downloadable document*”. If a provider uses this option, the document would not need to be personally addressed to the recipient but there is a requirement on providers (as indicated in Condition C1.4) to expressly draw the document to the customer’s attention with a message which makes clear the importance of downloading the document for the customer’s future records.
- A7.6 The broad definition of a Durable Medium, combined with the alternative option of providing a ‘downloadable document’, means there is a range of different formats available to providers for supplying the Contract Information to customers for different sales channels. In complying with this requirement, we expect providers to ensure in particular that:
- a) the format they are using allows the customer to store the information so that it can be reproduced in an unchanged format at a later point in time; and
  - b) where the information is not personally addressed to the recipient, it has been prominently drawn to the customer’s attention with a clear message advising them that they need to download the document for their future records.
- A7.7 In addition to the email and letter examples referred to in the definition of Durable Medium, other examples of formats which could satisfy the requirements of Condition C1.4 therefore include (but are not limited to): a print-out of the information (e.g. for customers purchasing services in-store) or a link to a downloadable document made available via email, a customer’s online account, or sent via SMS.
- A7.8 The Contract Information can be provided to customers at any point during the sales process, so long as it is before the point at which a customer agrees to enter into a contract (i.e. before the customer is ‘bound by’ that contract). In practice this means that providers can choose to provide the Contract Information before, or at the same time as, the Contract Summary.

### **Format and process for providing the Contract Summary document**

- A7.9 Under Condition C1.5 the Contract Summary needs to be provided before the customer enters into a contract. Under Condition C1.6, a customer’s contract can only become effective “*once the Relevant Customer has given their Express Consent to enter into the contract after receiving the **Contract Summary***”.
- A7.10 The Contract Summary Implementing Regulation<sup>3</sup> does not specify a particular medium in which the Contract Summary must be sent, but it does set out a number of requirements for the format of the document, including:

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<sup>3</sup> [Commission Implementing Regulation \(EU\) 2019/2243 of 17 December 2019](#). In particular the Annex to this regulation specifies the template that must be used (in Part A of the Annex), along with instructions for completing the template (in Part B of the Annex).

- a) the overall length should not exceed one single-sided A4 page, or three singled-sided A4 pages for bundled services, when printed. Providers may, however, extend this length, provided they have reasonable justification for doing so (for example where providing the document in an accessible format for disabled customers);
- b) the information in the document must be presented in portrait format, and in the order of the headings specified in the Implementing Regulation; and
- c) the information must be set out with a font size of at least 10 points. Again, providers may reduce this font size if they have reasonable justification for doing so (for example for pre-pay services where a smaller font may be needed to fit on packaging),<sup>4</sup> however, in such cases it should be possible for the customer to enlarge the text (e.g. where they are viewing an electronic version of the document) or the customer should be able to make a request to see the document with a font size of 10 points or more.

A7.11 When assessing compliance with the above requirements, and whether to take enforcement action, we expect to focus our assessment on whether the format used for the Contract Summary is clear and easily readable, and the extent to which it has therefore achieved the objective of these requirements (to support customers in making an informed decision about the services they are choosing to buy).

A7.12 Similarly, when considering the approach a provider has used to ensure the customer has received the Contract Summary before providing their Express Consent to enter into the contract, we would be more likely to be concerned if the processes put in place by providers failed to support customers in making informed choices. For example, during a sales phone call, a provider may choose to comply with this requirement by sending the Contract Summary by email during the call and advising the customer that they may review it before deciding whether to enter into the contract offered to them. Where a customer chooses to pause the sales process to review their Contract Summary, we expect providers to ensure that customers are clearly advised of any time-limit that might apply to the offer set out in the Contract Summary.

## Guidance on elements of the Contract Information

A7.13 The Annex to Condition C1 sets out the full list of Contract Information providers are required to set out before a customer is bound by their contract. Below we provide guidance on certain elements of that list.

### Core subscription prices

A7.14 In all cases, the Contract Information must include the Core Subscription Price.<sup>5</sup> In some contracts, that Core Subscription Price is structured so that it is £X for part of the contract period and £X + a measure determined by an inflation index (e.g. £X + the retail price index

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<sup>4</sup> Recital (6) of the Implementing Regulation.

<sup>5</sup> Core Subscription Price' is defined in the Conditions as: *"the sum (however expressed in the contract) that the Subscriber is bound to pay to a Communications Provider at regular intervals for services and/or facilities the Communications Provider is bound to provide in return for that sum. It does not include sums payable for additional services or facilities (or the additional use of services or facilities) that the Subscriber is only liable to pay for if the additional service or facility is used"*;

(‘RPI’) or £X + the consumer price index (‘CPI’) for a later part of that period. In accordance with the guidance on contract modifications,<sup>6</sup> specifying the price this way in their contracts, and at the point of sale, means that providers are not required to give customers a right to exit their contract without additional charge when the price uplift takes effect. The guidance in paragraphs A8.15-A8.18 below sets out how we expect providers to tell customers about these sorts of prices in the Contract Information for the purposes of Condition C1.3.

A7.15 Table A, clause 3(a)(i) in the Annex to Condition C1 requires providers to set out “*the Core Subscription Price*”. In complying with this requirement, where a provider is offering a package in which the Core Subscription Price is set out on the basis described in the paragraph above, an estimate of the price, including any increment for inflation, should be included, in an accessible way, such that the customer has an indication of how the relevant inflation index might affect the price they will pay.

A7.16 This means that stating that there will be an (unspecified) uplift to the Core Subscription Price in line with a particular inflation index is unlikely to be sufficient. For example, text which states “*In April 2020 your price will increase by an amount equal to the RPI rate published in March of that year*” does not make clear to the customer what the impact on their Core Subscription Price will be.

A7.17 Instead, we expect providers to provide an example to the customer of how such a price term is likely to affect the price they will pay. If the increase is by reference to an inflation index, then providers should use the most recent value of that index.

A7.18 As an example, this additional clarification could read:

*“For example, using last year’s RPI value of 2%, this would mean your monthly price of £40 would increase to £40.80 from April next year”.*

A7.19 In setting out the Core Subscription Price (however structured), as well as stating the price the customer will pay during any Commitment Period, we also expect providers to set out:

- a) the expected price (or a cross-reference to the relevant ‘list’ price) the customer would pay after the end of the Commitment Period (where there is a change); or
- b) that the customer will continue to pay the same Core Subscription Price after the Commitment Period has ended.

### **Arrangements for provisioning of the service**

A7.20 Table A, clause 4(b) in the Annex to Condition C1 requires providers to set out the arrangements for the provision of the service, including “*as accurately as possible, the likely date of provision of the service(s)*”. In complying with this requirement, we expect that, in most cases, providers should be able to give the customer an exact date for when

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<sup>6</sup> Paragraph A10.29 in Annex 10.

their service will start and, for customers that are switching, this should be the Migration Date.<sup>7</sup>

- A7.21 Where there are objective technical or practical reasons why it is not possible for providers to specify an exact date or Migration Date in the Contract Information, providers should instead set out, as accurately as possible, the latest date by which they undertake to deliver the customer's service. In these circumstances, providers should ensure they subsequently inform a customer, prior to the provision of their services, the exact date or Migration Date on which their service will be provided.

### **The price of individual elements of the bundle**

- A7.22 Table B, clause 3(a) in the Annex to Condition C1 requires providers to set out "*the price of the individual elements of the Bundle to the extent they are also marketed separately*".
- A7.23 In complying with this requirement, a provider should set out these prices where it makes individual elements of a particular Bundle (including any terminal equipment) available for separate, stand-alone, purchase. The provider need only set out these prices for those parts of the Bundle it sells separately. If the provider does not sell individual elements of the Bundle on a stand-alone basis, it does not need to set out the price of those particular elements.
- A7.24 For example, where a provider sells a bundled contract comprising a handset and airtime contract, but also makes handsets and/or airtime contracts (SIM-only) available for individual purchase, it must set out:
- a) the total price of the handset if it were to be purchased separately from that provider; and
  - b) the monthly price of the airtime contract if it were to be purchased separately from the handset as a SIM-only deal.
- A7.25 Providers should use a SIM-only deal which is as closely equivalent as possible to the airtime service included as part of the bundled mobile contract. In adopting a method for identifying this equivalent service, providers should ensure they take a reasonable, and objectively justifiable approach. In particular, providers could:
- a) where possible, use a package with at least the same allowance of minutes, text and data;
  - b) where an exact match is not possible, match to the closest available allowance. This could either mean increasing or decreasing one or more elements of the package to whatever is the nearest closest allowance available.

### **Contract duration and conditions for renewal / termination for bundles**

- A7.26 This requirement is particularly relevant for non-coterminous linked contracts i.e. linked contracts with Commitment Periods that do not align. Linked contracts refers to two or

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<sup>7</sup> Where setting out the Migration Date providers also need to comply with the requirements of Condition C7.3, including ensuring that this date is, where technically possible, one requested by the customer or, where not the date requested by the customer, it is as soon as possible.

more contracts which contain dependencies such that termination of one contract triggers an impact on the other. We refer to linked contracts because this is the most common form of non-coterminous Bundles. We would also, however, apply the same approach in this part of the guidance to Bundles of services and Terminal Equipment that are on the same contract but where the commitment periods do not align.

- A7.27 In complying with their obligations, we would expect providers of non-coterminous linked contracts to:
- a) make clear to customers that the linked contracts have Commitment Periods that will end on different dates (where there is a material difference between those end dates); and
  - b) set out what would happen to the different contracts if one contract expired or was cancelled or renewed by customers. Specifically, we would expect providers to explain whether cancelling one contract will affect the functionality, price or contract terms of a linked contract.
- A7.28 We would expect providers to provide the above information to customers:
- a) when they enter into non-coterminous linked contracts at the same point in time; and
  - b) when they enter a contract for the provision of an additional service or Terminal Equipment with a different end date to their existing contract with the same provider, such that they become bound by non-coterminous linked contracts.<sup>8</sup>

### **Information on conditions on Terminal Equipment**

- A7.29 Table B, clause 2(a) in Annex 1 to Condition C1 requires providers to give the customer information on “*any conditions, including fees, imposed by the Regulated Provider on the use of Terminal Equipment, such as any Handset Locking Restrictions*”. In complying with this requirement, if a provider sells or provides locked Terminal Equipment, such as a locked handset, where that equipment cannot be used on another network, then the provider would be required to tell the customer that their device is locked before they purchase it.<sup>9</sup> We would also expect the provider to clearly set out what this means, when the customer can unlock the device (or when it will be automatically unlocked), and any fees that would need to be paid to unlock it.

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<sup>8</sup> Condition C1.12 specifies that providers shall not extend the duration of a contract for the provision of a service where the customer subsequently purchases an additional service or terminal equipment from the same provider, unless that provider has obtained the customer’s Express Consent. In these circumstances, in order to comply with their obligation, providers will have to ensure that they have adequately informed the customer about the extension of the duration of the original contract and that the customer has agreed to it.

<sup>9</sup> With effect from December 2021, under Condition C1.9 the sale of locked mobile handsets will be prohibited for Consumers. This paragraph of the guidance will, however, continue to apply to all other sales of locked terminal equipment, including mobile handsets sold to microenterprise or small enterprise customers and not for profit customers.

## Guidance on information in the Contract Summary

- A7.30 The Contract Summary Implementing Regulation sets out detailed requirements on what information should be included. In complying with these requirements, we would expect providers to consider in particular:
- a) the extent to which the information required is relevant to their customers;
  - b) what elements of that information are key to a customer's understanding of the contract and their decision about whether to sign-up to the contract; and
  - c) how they can present those key elements in clear language that is understandable to a UK customer.
- A7.31 Our priority in assessing compliance, and considering whether to take enforcement action, will be the extent to which a provider has taken account of these factors, such that the information presented in the Contract Summary achieves the objective of helping the customer to make an informed decision about the services they are buying.
- A7.32 With respect to presenting prices in the Contract Summary:
- a) where the Implementing Regulation refers to "*recurring prices*" we expect providers to include the Core Subscription Price, as well as any other recurring prices (such as add-ons) which appear automatically on a customer's bill each month;
  - b) it is likely to be helpful to customers if they are presented with these prices in a consistent way across both the Contract Summary and Contract Information and therefore providers may want to set out the Core Subscription Price, and any other recurring or consumption-related prices, in a consistent way with the Contract Information (as set out in paragraphs A8.14 to A8.19 above);
  - c) providers only need to include taxes in these prices where the Contract Summary is being provided to customers who are Consumers (i.e. prices for business customers can be stated exclusive of VAT); and
  - d) providers may indicate that information about tariffs for additional services is available separately, for example by providing a link to where that information is published.
- A7.33 The Contract Summary also includes a heading entitled "*Other relevant information*". Providers may choose to include here any other relevant information which they consider will be important in helping a customer make an informed decision.