



BT's response to Ofcom's consultation document
*“General policy on information gathering under the
Communications Act 2003, Wireless Telegraphy
Act 2006 and Postal Services Act 2011”*

4 December 2015

NON-CONFIDENTIAL VERSION

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1. Executive Summary

- A good time for the review: BT supports the need for timely, accurate and comprehensive information in underpinning evidence-based policy development and dispute resolution. At the working level we recognise that many Ofcom teams generally seek to be pragmatic – but the process needs improving for all parties. BT therefore welcomes Ofcom’s review of its information gathering general policy.
- Industry must share appropriate critical information to help Ofcom to make the right decisions. However, Statutory Information Requests (SIRs) are becoming an increasingly costly administrative burden: the number and breadth of SIRs BT is receiving has increased the burden on this company dramatically; an over 150% increase in questions this year over last, which in itself was a record year for requests. This increase, the wide-ranging nature of the questions, and the variation in demand from month to month poses a number of non-trivial challenges for BT and, we presume, other stakeholders. In order to balance the burden on information providers versus Ofcom’s desire to obtain more detailed information, BT would encourage Ofcom to carefully consider, both generally and in respect of specific information requests whether it always acts proportionately.
- Ofcom’s proposals do not appear to meet its stated goals of robust evidence with regard to burden placed on stakeholders: BT does not agree with Ofcom’s proposal to adopt an ever more formal approach, particularly the presumption against the use of draft SIRs. BT believes that drafts should be shared in advance as they improve quality, timeliness and therefore efficiency for both parties. We provide examples of where an early draft has, on discussion with Ofcom, led to radical changes to the final information request, with a vastly improved understanding of requirements and better/faster outcomes. This dialogue is critical to the process and to reduce the burden.
- **BT makes a number of positive recommendations covering:**
 - Early engagement - benefits and examples
 - The use of the draft process – should be a presumption to use (except in disputes)
 - Proportionality – consideration of burden and timescale, being clear on the purpose of request
 - Standardisation – suggestions of standard reports, templates and data
 - Co-ordination and control - an Ofcom single point of contact, re-using existing information and better planning
 - Best Practice – examples including Ofgem’s policy approach
 - Independent Adjudicator - to review whether the process meets Ofcom’s stated aims and duties

Conclusion: BT shares Ofcom’s desire to improve the SIR process but has significant concerns with Ofcom’s proposals, especially in relation to the presumption of not using the draft process – and the increasing burden of SIRs. Having seen a draft of the UCKTA report, we note that other CPs have similar concerns. BT believes that the recommendations in Section 5, summarised above, would meet the stated aims of Ofcom’s Review. They would result in Ofcom obtaining good information that it can rely on, fewer but more specific and relevant requests and information being provided faster. Finally the burden and cost of running the process would be reduced for all parties.

2. Introduction

1. BT recognises that Ofcom needs timely and accurate access to information to be able to fulfil its duties effectively. We appreciate the importance of information requests and are committed to meeting our obligations in respect of the provision of information to Ofcom. At the working level we recognise that that many Ofcom teams generally seek to be pragmatic – but the process needs improving for all parties. BT therefore welcomes Ofcom’s review of its information gathering general policy.
2. Our comments in this response are aimed at making Ofcom’s information gathering processes as efficient and effective as possible, both for Ofcom itself and the stakeholders from which it gathers information.
3. Ofcom’s stated goals in conducting this review are:
 - i. to ensure that its regulatory regime remains robust and evidence-based, i.e. that the evidence base is robust, complete and non-biased; and
 - ii. having regard to the burden placed on stakeholders of locating and providing the information requested.
4. Ofcom’s information gathering powers which are most relevant to BT are those in the Communications Act 2003 (CA), specifically:
 - s.135 covering information gathering inter alia for the purposes of market analysis and ascertaining whether contraventions of conditions of entitlement have occurred;
 - s.136 covering information gathering in connection with comparative overviews of the quality and prices of electronic communications services and for statistical purposes; and
 - s.191 requiring the provision of information in connection with Ofcom’s dispute resolution powers.
5. This response focuses on Ofcom’s exercise of those specific powers. However, the principles underlying our comments apply equally to Ofcom’s other information gathering powers to which BT is subject, including those under the broadcasting licensing framework and BT’s Undertakings accepted by Ofcom in lieu of a reference under the Enterprise Act 2002. In this response we use ‘Statutory Information Request’ (SIR) as a generic term covering all these powers and ‘SIR process’ to refer to the processes which Ofcom uses to exercise the powers.

3. BT's experience of the Statutory Information Request process

6. As the most heavily regulated Communications Provider in the UK, we believe the SIR process has the biggest impact on BT. We receive the greatest number of, and the most complex, Ofcom SIRs. Most of these are associated with market reviews and charge controls, each of which runs on a three-year cycle as required by the European Common Regulatory Framework. Our experience of the process and how it has developed over recent years is set out below. BT recognises that it does not always meet Ofcom's timescales and believes the experience and recommendations below will help improve the process for all parties. This information and evidence helps inform our views on Ofcom's consultation on a potentially revised policy approach.

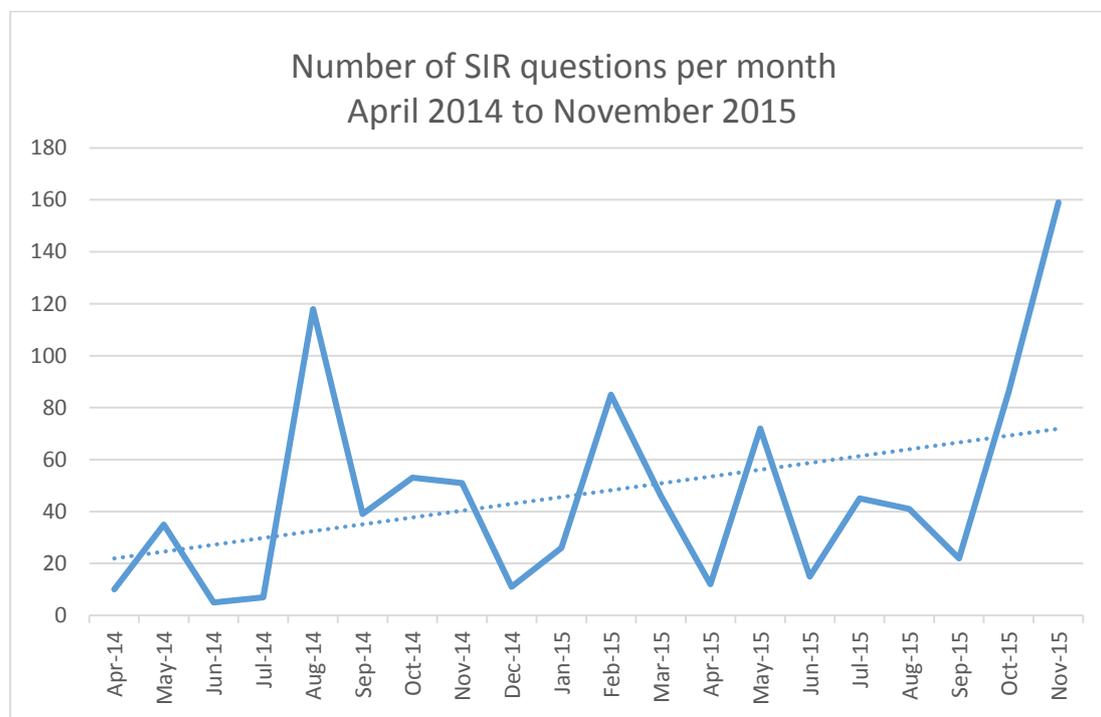
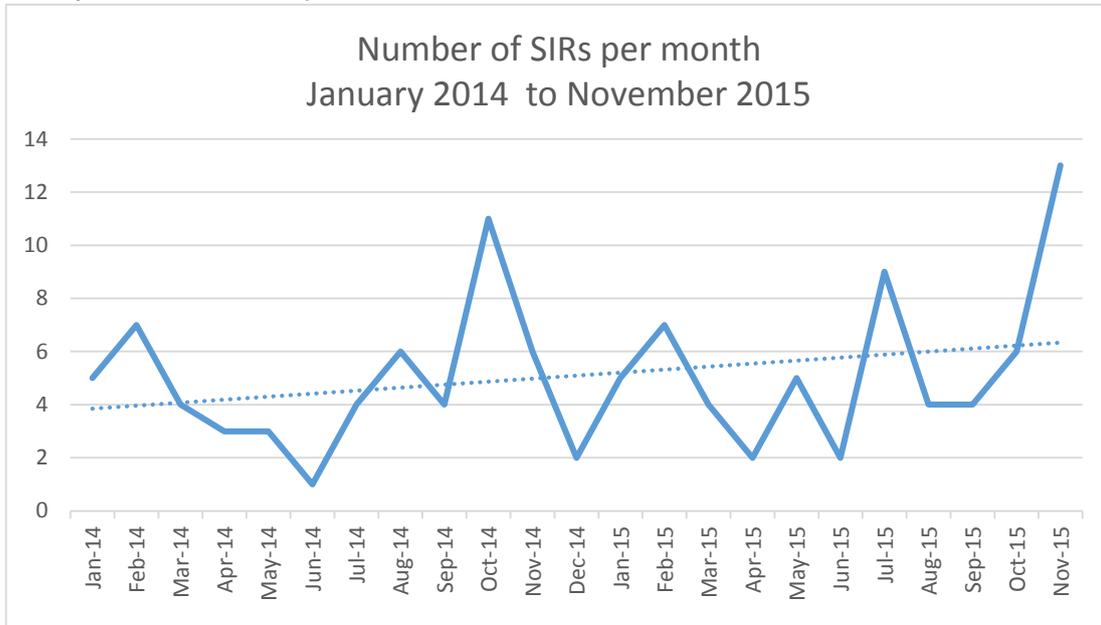
Increasing volume and complexity

7. In recent years, Ofcom's use of SIRs has ramped up dramatically. For example, our records show that during the 2013 Business Connectivity Market Review (BCMR) and Leased Lines Charge Control (LLCC), BT received six market review and six charge control SIRs – a total of 12. In contrast, during the 2016 BCMR and LLCC to end November 2015, BT has received 19 market review and 29 charge control SIRs so far – a total of 48, each with complex and multi-faceted questions.
8. Each three-yearly market review takes over a year to complete. In the last Fixed Access Market Review (FAMR), Ofcom issued 20 SIRs to BT between February 2013 and March 2014. These are listed in Annex 1, which set out an extract from Annex 32 'Sources of Evidence' to Ofcom's FAMR Statement' published on 26 June 2014. Other CPs only received one SIR compared to BT's 20.
9. The nature of the SIRs has also changed, with:
 - information being requested at a more granular level: such information is not generally available 'off the shelf', so that significant effort is required to collect, collate, process and present it; and
 - increased emphasis on the provision of internal documents to evidence how BT has taken commercial decisions in the markets concerned.

Resource challenges

10. The charts below show the number of SIRs and number of individual questions within SIRs received by BT since early 2014. The volume of questions has increased by over 150% during that period. This has caused a significant increase in the resource required to properly and effectively respond to SIRs.
11. In many cases SIRs can lead to BT people being diverted from business improvement activities to help answer requests for information. For example, the need to respond to SIRs relating to customer complaints can mean that the people helping to improve BT's complaints processes are diverted to providing information for inclusion in SIR responses.
12. Due to the increasing SIR workload on our Finance community we have outsourced some of the effort required to respond to SIRs in the 2016 Leased Lines Charge Control. To date, this outsourcing has cost BT approximately [£<]. We anticipate having to use extra finance resource on responding to SIRs in the 2017 LLU/WLR charge control at further significant cost.

13. In addition, as a result of Ofcom's greater use of its information gathering powers and more formal approach, BT has committed and continues to commit significant extra resource and senior management to review and authorise SIR responses prior to their submission. Lack of forward planning causes problems at peak times when key resource is busy e.g. BT results, year-end.
14. The charts below also show peaks and troughs in SIRs: this represents a significant variation in workload, which increases the burden by making management of the resource required to produce responses very challenging. The second chart shows that the number of questions has grown by over 150% in the period.



*These charts do not include requests which require the regular provision of information (generally under section 136), these too have been increasing in number and complexity over this period.

Lack of clarity

15. For Ofcom to receive the information it requires the questions in SIRs should be worded precisely and give the purpose of requesting the information. In many cases, however, the questions are unclear, ill-defined or ambiguous. For example, it is sometimes not clear which products, or which parts of BT are within the scope of Ofcom's SIR. The root cause is frequently that Ofcom fails to phrase questions in a way that correctly specifies the information requirement, often by using inconsistent terminology compared to previous information requests.

Proportionality

16. SIRs increasingly ask for data sets which appear to be far wider than could reasonably be required for the stated purpose, which would include large quantities of information that would not be relevant; and, which Ofcom would need to filter. For example, Ofcom has frequently asked for copies of 'any documents' about a particular subject over a number of years, which could cover all draft documents and emails which referred to the matter concerned, which is itself often quite broadly expressed. SIRs like this, with very wide scope, require a significant amount of work, often involving the review of a very large number of documents, most of which will ultimately be determined not to be relevant. In the last FAMR Ofcom issued 20 SIRs, listed in Annex 1, and has issued 48 SIRs up to end November 2015 in the 2016 BCMR and LLCC. We have a concern that this amount of information is not necessary for Ofcom's decision-making and that better scoping would decrease the burden for all parties.

Timescales

17. We understand that Ofcom has its own internal project milestones and deadlines. This is particularly true in the context of enforcement and dispute resolution. However, for requests not relating to disputes, deadlines often seem to be set irrespective of the burden, volume and complexity of the required information, the effort required to collect and process it and the urgency of the request. More realistic timescales where possible will allow BT to plan and manage their responses better and deliver them sooner.

Consistency

18. Regular reviews can ask different questions each time – and reviews ask similar questions in different ways. The same can apply within a review, with Ofcom issuing SIRs at different stages and with different scopes, as the list of SIRs in the last FAMR set out in Annex 1 shows. This reduces the ability for BT to prepare proactively for SIRs in regular reviews. It also means that both BT and Ofcom spend time and effort in reconciling datasets which cover the same ground but relate to different points in time and have slightly different specifications. Further, Ofcom's formal approach to SIRs means that significant effort is expended on reconciling even on relatively trivial differences between datasets with slightly different specifications or those with the same specifications but supplied at different times.

Benefits of engagement with Ofcom and use of draft SIRs

19. In our experience, the best way to avoid many of these issues is through dialogue with Ofcom to establish what information is really needed and agreed timescales for provision of the information. In our view, the issuing of draft SIRs for comment is an essential part of this engagement. Further details of our views on this important aspect of the SIR process are given in the following two sections of this response.

4. BT's views on Ofcom's proposals

20. Ofcom's Consultation has two key proposals for changing its policy and practice on SIRs:

"...we will, as a general rule, seek to obtain information using our statutory information gathering powers, and we will generally seek to confirm or verify information provided to us on a voluntary basis in order to ensure that our evidence base is robust, complete and non-biased. This reflects what has increasingly become our practice in light of our experience that information being provided on a voluntary basis was on occasion inaccurate or incomplete. Ofcom needs to be able to place weight on, for example, statements that information is not available in the context of regulatory decision-making. It is also important that stakeholders have confidence that Ofcom's evidence base is sound."

"...Ofcom will assess on a case-by-case basis whether it is appropriate first to send a statutory information request in draft form to the person holding the relevant information. This is a change from our current policy, which states that we will ordinarily issue in draft. Our starting presumption will be that we will not issue the request in draft form unless there is a clear benefit from doing so, as our experience has sometimes been that our current policy can lead to unnecessary delays to our work. We may issue sequenced information requests, first to help us identify the information we should ask for and then to ask for it. This approach should ensure that information requests are targeted at the most useful information and reduce the burden on stakeholders in terms of providing information."

Our views on these proposals are set out below.

Increased use of statutory powers

21. BT is concerned that this will increase the burden without significant benefit or improved quality. BT would propose that, where possible, informal processes are used and that where Ofcom needs to confirm the accuracy or completeness of the information provided, it issues a formal SIR at the end of an informal information gathering exercise. Taking a formal approach at the outset can add steps to the critical path and cause delays for both parties. The increasing information burden is creating an administrative burden – and it is not clear that this is helping the regulatory process be more efficient.

Presumption against the use of draft SIRs

22. BT has significant concerns about this proposal. We strongly believe that in nearly all cases the draft process leads to more accurate, relevant and useful information being requested and supplied in faster timescales. Case studies demonstrating this are set out in Annex 2. Even where an SIR is not complex, draft SIRs play an essential role of allowing BT to sense-check / clarify the information required internally, and consider the timescales for provision of the information. Ofcom's proposals would create inefficiency and additional difficulties for both Ofcom and information providers.

23. Ofcom states *"Our starting presumption will be that we will not issue the request in draft form unless there is a clear benefit from doing so, as our experience has sometimes been that our current policy can lead to unnecessary delays to our work."* It is BT's position that the vast majority of the time there is a clear benefit from issuing a draft. More often than not the draft process results in feedback and discussions between BT and Ofcom that lead to changes to the final notice – sometimes drastic changes – which ultimately save time and effort for both parties.

24. Even in the few cases where there are no changes between the draft and the final notice, and thus Ofcom might conclude there has been "no benefit", BT does not believe that this will have caused delays. Where possible, BT's practice is to start working on providing information that

Ofcom requires from the moment it becomes aware of Ofcom's need, whether this occurs due to informal discussions, a draft notice or a final notice. Therefore in the cases where the draft notice is clear and BT provides no feedback then BT will generally start working on providing the answers immediately, therefore there is no delay caused to the process. The deadlines BT accepts or proposes also factor in the time available to work on the response prior to the final notice being received. As an example, BT was recently able to submit tranche 1 of the response to the 29th LLCC s.135 just two working days after receiving the final notice from Ofcom. We had completed the majority of the work prior to receiving it, because we started working on it when we received the draft notice¹.

25. It is BT's position that issuing a draft request does not create any delay above and beyond delays that would be created if final notices were issued in the first instance. In some circumstances it speeds up the process.
26. Among the case studies in Annex 2 are recent examples from the 2016 BCMR where it is far from clear that under its proposed new approach Ofcom would have identified *in advance* a 'clear benefit' from issuing a draft SIR (without having done so or consulted with BT). Yet, in these cases and having issued such a draft, key questions have been subject to significant discussion and clarification which has ensured that they are well scoped and answerable in a reasonable timescale.
27. The detailed response which BT often has to provide to the draft notice and the time taken for Ofcom to then resolve any issues and issue the final notice provide evidence in themselves of the value of the draft process. Without this process, Ofcom would have issued the notice in final form, to which BT would then have been obliged to try to respond. This would have led to the same discussions occurring after the final notice was issued (distracting resource from actually responding to the question) and the notice being clarified or amended concurrently with the information being collected. It is therefore unlikely that this would lead to any timing benefits and would, in fact, create greater complexity and potential for delay overall.
28. Ofcom envisages a "staged" approach to SIR notices to try and avoid delays, but we are not convinced this will work in practice. Further, issuing and responding to a SIR notice is a formal process which requires the appropriate governance procedures both within Ofcom and within the organisation providing the information. Having more formal 'staged' notices will very likely significantly increase the time it takes Ofcom to obtain the information that it needs, whilst substantially increasing the burden on information providers, like BT, through having to run multiple information gathering exercises, with their associated governance processes.

¹ BT received the draft 29th LLCC Section 135 Notice on Tuesday 17 November 2015 and we responded to this draft on Wednesday 18 November 2015. Ofcom issued the final notice on Friday 20 November 2015 and BT responded to the first tranche of the request on Tuesday 24 November 2015.

5. BT's recommended way forward

These recommendations are made in the context of Ofcom's stated goals in conducting this review: (i) to ensure that their regulatory regime remains robust and evidence based; and (ii) having regard to the burden placed on stakeholders of locating and providing information requested.

Early engagement

29. Many of the problems outlined above have been avoided in cases where Ofcom has engaged with BT at an early stage in the information gathering exercise. Early engagement, potentially involving provision of information on an informal basis:
- a. allows Ofcom to discuss its information needs with BT, and BT to outline to Ofcom the information that is available, or could meet Ofcom's needs. Ofcom can then word its SIR precisely, with no ambiguity, and use it to obtain formal confirmation of what information is or is not available;
 - b. helps to ensure that the SIR is proportionate and does not inadvertently require the provision of information that is not relevant; and
 - c. enables BT to establish a realistic timescale for responding and to explain it to Ofcom. This allows unrealistic timescales to be avoided. In some cases, one result of this engagement can be the provision of certain information ahead of the date originally envisaged by Ofcom (e.g. Annex 2 Case Study 3 (C3)).

Use of draft SIRs

30. We strongly believe that incorporating a draft stage leads to more accurate and relevant information being supplied faster. Even where the request is not complex, drafts play the essential role of allowing BT to sense-check / clarify the information required and agree internally the timescales for provision of the information. Ofcom's proposals would create inefficiency and additional difficulties for both Ofcom and information providers.
31. We recommend that Ofcom uses the draft process as standard for all market reviews and charge controls and, where appropriate, for enforcement and dispute resolution SIRs, recognising the compressed timescales for the latter.

Proportionality / Timescales

32. Ofcom should consider the proportionality and burden/timescale of each request:
- Ofcom is not to require the provision of information under ss.135 and 136 CA except where the making of a demand for the information is '*proportionate to the use to which the information is to be put in the carrying out of Ofcom's functions*' (s.137(3)(b) CA).
 - A person required to provide information under these sections must do so in such a manner and '*within such reasonable period as may be specified by Ofcom*' (s.135(4) and 136(4) CA).
 - In performing its duties, Ofcom must also have regard in all cases to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted, as well as any other principles representing best regulatory practice (s.3(3) CA).
33. Ofcom should very clear at the outset on the precise purpose of the information being requested. This greatly increases the likelihood that the information supplied meets Ofcom's needs.
34. Any request for 'all documents' and for very broad ranging information not easily available from our systems, in short timescales, should be considered very carefully by Ofcom given the above

statutory restrictions on its information gathering powers and its general duties under s.3 CA to act in proportionate, consistent and targeted manner in carrying out its regulatory activities.

Standardisation of required information & reconciliation

35. We also believe that Ofcom, with input from BT, should standardise or 'template' the specifications for the base information required in its regular market reviews and charge controls. This will allow BT to plan the collection of data in advance, speed up responses and potentially build automated production of the required data. We should jointly review the regular information supplied to Ofcom (e.g. the AFIs or 'flat files') and consider how the effective use of this could be improved. We would welcome the opportunity to work with Ofcom to define the key data points on which they would make decisions - so that we can ensure our systems can generate it easily. Data not previously defined may take us longer to obtain for Ofcom. Ofcom should, in discussion with the information provider, also review the effort required on reconciling data sets and potentially agree a threshold of materiality.

Co-ordination and control

36. BT has a single standard process for dealing with SIRs. We believe Ofcom should also establish a single standard process, with a nominated overall single point of contact (SPOC) in Ofcom to liaise with stakeholders on all SIR process related matters. This would help to ensure consistency of process across SIRs, avoid overlapping requests, establish a channel for dialogue on process issues and potential improvements, and give Ofcom a holistic view across actual and planned SIRs so that those aimed at a single information provider can be phased and prioritised to avoid unmanageable 'clustering' (i.e. overloading team(s) involved in multiple SIR activities) and take into consideration holidays and other absences of key stakeholders. The SPOC in Ofcom and BT would consider the impact on BT and discuss impacts and timescales across BT and Ofcom, and ensure that BT focuses its resources on the requests that Ofcom prioritises when there are competing demands. BT would welcome the opportunity to work with a SPOC in Ofcom on all these aspects.

Best practice

37. Ofcom should also investigate the SIR processes used by other regulators and seek to identify and adopt best practice. We believe Ofgem's Information Request Process² (Annex 3) is an excellent model for Ofcom to follow. For example it:
- a. stresses the importance of internal liaison, 'pre-engagement', clear scoping and sharing of draft SIRs;
 - b. tries to ensure that SIRs do not coincide with holiday periods and that clustering of SIRs is managed to minimise resource pressures on businesses; and
 - c. seeks to allow as long as possible for responses, giving a clear explanation when the response time for an SIR is constrained and accommodating requests for extended response deadlines where practical.
38. Another example of potential best practice is the Office of Rail Regulation (ORR)³. Their process tries to reduce the burden by carrying out research independently and using existing data

² https://www.ofgem.gov.uk/sites/default/files/docs/2014/03/transparency_of_ofgem_data_-_a_statement_of_our_policy.pdf

³ http://orr.gov.uk/_data/assets/pdf_file/0007/2203/407.pdf

wherever possible. They manage each market study as an individual project within an overarching programme. This helps them to efficiently and effectively manage individual studies. Their programme and project management systems are informed by best practice and scaled to the task at hand.

39. An independent adjudicator should be established to review whether the process meets Ofcom's stated aims and duties: (i) to ensure that their regulatory regime remains robust and evidence based; and (ii) having regard to the burden placed on stakeholders of locating and providing information requested.

Conclusion

BT shares Ofcom's desire to improve the SIR process but has significant concerns with Ofcom's proposals, especially in relation to the presumption of not using the draft process – and the increasing burden of SIRs. Having seen a draft of the UCKTA report, we note that other CPs have similar concerns. BT believes that the recommendations in Section 5, summarised above, would meet the stated aims of Ofcom's Review. They would result in Ofcom obtaining good information that it can rely on, fewer but more specific and relevant requests and information being provided faster. Finally the burden and cost of running the process would be reduced for all parties.

6. BT's answers to Ofcom's questions

Question 1: Respondents are invited to comment on Ofcom's proposed general policy on the use of statutory information gathering powers.

BT's answer: we share Ofcom's desire to improve the SIR process but have significant concerns with Ofcom's proposals, especially in relation to the presumption of not using the draft process – and the increasing burden of SIRs. Having seen a draft of the UCKTA report, we note that other CPs have similar concerns. BT believes that the recommendations in Section 5, summarised above, would meet the stated aims of Ofcom's Review. They would result in:

- Ofcom obtaining better quality information to use in its analysis;
- the issuing of fewer and more specific and relevant requests;
- faster provision to Ofcom of the information it needs; and
- lower burden for Ofcom and the stakeholders providing information.

Question 2: Respondents are invited to comment on Ofcom's proposed use of the information that it will gather using its statutory powers.

BT's answer: we agree that the information provided by respondents should only be used for the purpose set out in the relevant SIR. The information should not be used for other purposes without the prior agreement of the respondent. BT's position, without prejudice, is that it will generally be prepared to agree to Ofcom's using the information provided in response to an SIR for other purposes.

Annex 1

Statutory Information Requests issued by Ofcom in its 2014 Fixed Access Market Review

This annex is an extract from Annex 32 'Sources of Evidence' to Ofcom's document 'Fixed Access Market Reviews: Statement' published on 26 June 2014, which is available on-line at:

<http://stakeholders.ofcom.org.uk/binaries/telecoms/ga/fixed-access-market-reviews-2014/statement-june-2014/annexes.pdf>

Information-gathering using statutory powers (S.135)

A32.18 During this market review, we have issued a series of notices under S.135 of the CA03 requiring various CPs to provide specified information as set out in the notice. These information requests are listed below.

LLU WLR Information Requests:

A32.19 Information request of 8 February 2013 regarding the provision of data necessary to inform our cost modelling and analysis of the efficiency of BT's copper access network business (First LLU WLR BT Information request). Request addressed to and response received from:

- BT – response received in four tranches and one supplement on 25 February, 1 March, 8 March, 11 March and 28 March 2013.

A32.20 Information request of 7 March 2013 regarding historic and forecast volume data (Second LLU WLR BT Information request). Request addressed to and response received from:

- BT – response received in two tranches on 21 and 25 March 2013;
- CWW/Vodafone – response received in one tranche on 21 March 2013;
- Daisy – response received in two tranches on 21 March and 22 March 2013;
- EE – response received in tranche on 20 March 2013;
- KCOM – response received in one tranche on 21 March 2013;
- O2 – response received in one tranche on 27 March 2013;
- Plusnet – response received in one tranche on 25 March 2013;
- Post Office – response received in one tranche on 21 March 2013;
- Sky – response received in one tranche on 22 March 2013 ;
- TalkTalk – response received in one tranche on 22 March 2013; and
- Virgin – response received in one tranche on 25 March 2013.

A32.21 Information request of 18 March 2013 regarding information to help inform our cost modelling and the structure of any future such controls (Third LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in four tranches and one supplement on 21 March, 22 March, 3 April, 5 April and 9 April 2013.

A32.22 Information request of 17 April 2013 regarding information to help inform our cost modelling and the structure of any future such controls and information on the costs incurred in connection with

the provision and repair of LLU and WLR lines and how these are accounted for by BT (Fourth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in five tranches on 24 April, 25 April, 1 May, 2 May and 8 May 2013.

A32.23 Information request of 23 April 2013 regarding information to help inform our cost modelling and the structure of any future such controls and information on the costs incurred in connection with the provision and repair of LLU and WLR lines and how these are accounted for by BT (Fifth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in three tranches on 7 May, 8 May and 13 May 2013.

A32.24 Information request of 8 May 2013 regarding information to help inform our cost modelling and the structure of any future such controls (Sixth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in one tranche on 15 May 2013.

A32.25 Information request of 15 May 2013 regarding historic and forecast information on the amount of installed Digital Access Carrier System equipment and its use and confirmation of the allocation of line testing equipment (Seventh LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in two tranches on 24 May and 29 May 2013.

A32.26 Information request of 29 May 2013 regarding clarification and explanation to better understand how previous information provided by BT in response to section 135 requests reconciles to the RFS and to gather further information on products within the existing charge control baskets (Eighth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in one tranche on 5 June 2013.

A32.27 Information request of 13 June 2013 regarding the provision of data necessary to improve our understanding of the basis of BT's efficiency estimates and how the derivation might relate to our charge control modelling (Ninth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in one tranche on 17 June 2013.

A32.28 Information request of 28 August 2013 regarding the provision of data necessary to understand how BT constructed the system run which produced the results it supplied, so we are clear about the basis on which it was compiled (Tenth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in one tranche on 30 September 2013.

A32.29 Information request of 4 October 2013 regarding the provision of information on matters for which we do not presently have data where we consider that this information is necessary for the purposes of our review; information to clarify or add to information previously provided by BT; and information to refresh and/or update that previously provided by BT (for example, to capture outturn data where we currently have forecasts) (Eleventh LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in three tranches on 18 October, 25 October and 8 November 2013.

A32.30 Information request of 11 October 2013 regarding the provision of information on matters for which we do not presently have data where we consider that this information is necessary for the purposes of our review (Twelfth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in two tranches on 30 October and 15 November 2013.

A32.31 Information request of 8 November 2013 regarding the provision of information on matters for which we do not presently have data where we consider that this information is necessary for the purposes of our review; and information to clarify or add to information previously provided by BT (Thirteenth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in three tranches and a supplement on 15 November, 18 November, 22 November and 2 December 2013.

A32.32 Information request of 16 December 2013 regarding the provision of information on matters for which we do not presently have data where we consider that this information is necessary for the purposes of our review; and information to clarify or add to information previously provided by BT (Fourteenth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in two tranches on 20 December 2013 and 13 January 2014.

A32.33 Information request of 24 January 2014 regarding the provision of information on matters for which we do not presently have data where we consider that this information is necessary for the purposes of our review; and information to clarify or add to information previously provided by BT (Fifteenth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in one tranche on 10 February 2014.

A32.34 Information request of 26 February 2014 regarding the provision of information on matters for which we do not presently have data where we consider that this information is necessary for the purposes of our review; and information to clarify or add to information previously provided by BT (Sixteenth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in four tranches on 5 March, 6 March, 12 March and 21 March 2014.

A32.35 Information request of 21 February 2014 regarding the provision of information on matters for which we do not presently have data where we consider that this information is necessary for the purposes of our review; and information to clarify or add to information previously provided by BT (Seventeenth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in three tranches on 28 February, 14 March and 27 March 2014.

A32.36 Information request of 3 March 2014 regarding the provision of information on matters for which we do not presently have data where we consider that this information is necessary for the purposes of our review; and information to clarify or add to information previously provided by BT (Eighteenth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in two tranches on 18 March and 31 March 2014.

A32.37 Information request of 17 March 2014 regarding the provision of information on matters for which we do not presently have data where we consider that this information is necessary for the purposes of our review; information that BT has previously provided informally; and information to clarify or add to information previously provided by BT (Nineteenth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in three tranches on 21 March, 26 March and 27 March 2014.

A32.38 Information request of 18 March 2014 regarding the provision of information from BT to ensure that we have the correct information to inform our consideration of any appropriate future LLU and WLR charge controls; and information that BT has previously provided informally (Twentieth LLU WLR BT Information Request). Request addressed to and response received from:

- BT – response received in one tranche on 21 March 2014.

Annex 2

Case studies demonstrating the benefits of issuing draft requests

Case Study 1

[X

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Case Study 2

[X

Case Study 3

[>

Case Study 4

[X

Annex 3

Best practice example: Ofgem's policy on information requests

This annex contains an extract from Ofgem's document 'Transparency of Ofgem data - Information Policy', dated 25 March 2014. This document is available on line at

https://www.ofgem.gov.uk/sites/default/files/docs/2014/03/transparency_of_ofgem_data_-_a_statement_of_our_policy.pdf

In our view this is an example of best practice in the collection of information using statutory powers which Ofcom should adopt in its own policy and practice.

Information Requests – our approach

4.6. Much of the information we use is collected through routine monitoring arising from licence conditions or in connection with the compliance requirements of environmental programmes. Sometimes we need to collect additional information or require information to be provided in specific ways. We have statutory powers to make Information Requests (IRs) and sometimes we will also ask regulated companies to provide information on a voluntary basis.

4.7. Information collection is a valuable regulatory tool. We want to make sure that our information gathering is effectively managed, to make the most efficient use possible of information while avoiding unnecessary burdens on regulated businesses. We also want to make sure that the way we use IRs is consistent with our overall approach to transparency.

4.8. In our Simplification Plan 2012-13 we committed to undertake a review of logging and sign-off arrangements for IRs. That review identified a number of good practice points and also areas where we could make our approach clearer and more consistent. The process set out below reflects findings from the review.

IR process

4.9. In this table we set out how we intend our IR process to operate. We will try to ensure that we follow this process for our IRs wherever possible. Sometimes, however, the pace of policy development or other factors may mean that we need to use different approaches. See also the section on Enforcement IRs below. We will continue to keep our use of IRs under review.

Process stage	Our approach
Information need identified	Internal liaison carried out to identify whether equivalent information already held or whether other IRs are planned which could be used to collect the required information. We will aim to avoid requesting information more than once without good reason
Scope of IR	Clear purpose and scope established to ensure that IR is properly defined and easy to explain
Pre-engagement and sharing draft IRs	Wherever possible we will engage in advance with those directly affected by a proposed IR. We will use this engagement to: <ul style="list-style-type: none">- establish clear and unambiguous questions

	<ul style="list-style-type: none"> - discuss whether the request should be formal (under statutory powers) or informal - understand the extent to which businesses might have information readily-available - assess costs and burdens to businesses, including whether costs might fall disproportionately on some businesses - discuss the format for response - share draft IRs where available
Timing of IRs	<p>Wherever possible we will try to make sure that:</p> <ul style="list-style-type: none"> - IRs do not coincide with holiday periods - clustering of IRs is managed to minimise resource pressures on businesses
Sign-off	<p>We will establish arrangements to ensure that IRs are signed-off at a consistent and appropriate level, by staff with an overview of requests issued in their business area</p>
Response format	<p>The way we require businesses to respond varies according to the purposes of the IR. Sometimes we may be able to provide a template for completion. For other requests we may require information such as datasets or samples of customer bills. We will aim to agree clear requirements for response format in advance of requests being issued</p>
Timescale for response	<p>We will offer as long as possible for response, bearing in mind project timescales and other factors, such as the impact of any external timing pressures on our work. If the time for response is very constrained we will give a clear explanation for this. Where businesses ask for deadlines to be extended we will try to accommodate this where practical</p>
Follow up and compliance	<p>If we need to ask follow up questions or clarify responses we will aim to do so as soon as possible and offer a reasonable timescale for further response. We will take seriously any failure to comply with an IR without good reason. Where a business foresees material difficulties with compliance these should be discussed with us as soon as possible</p>
Transparency and feedback	<p>As proposals develop we will highlight where and how information collected through IRs has been useful. We will feedback to businesses on impacts and benefits arising from information they have provided</p>