
Implementing the new European Electronic Communications Code

Changes to the General Conditions, Metering and Billing Direction and the National Telephone Numbering Plan

[Implementing the new European Electronic Communications Code](#) – Welsh overview

STATEMENT:

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1. Overview

Fairness for customers is a priority for Ofcom. We want people to shop around with confidence, make informed choices, switch easily and get a fair deal.

As part of this work, in October 2020 we confirmed a package of new rules that protect broadband, mobile, pay TV and landline customers, to help make sure they get a fair deal. This implemented changes to European rules. In addition, we consulted on a number of minor, consequential changes to our regulatory rules, as well as changes to reflect the end of the transition period under the EU Withdrawal Agreement.

What we have decided

Minor changes to align the terminology and definitions used in our regulatory rules, as well as the Metering and Billing Direction and National Telephone Numbering Plan. We have decided to make a number of revisions to our rules to make sure they are clear and consistent. The majority of these changes will come into effect in December 2021.

Minor changes to the regulatory rules and the National Telephone Numbering Plan to make sure that, when the transition period under the EU Withdrawal Agreement ends on 31 December 2020, the relevant rules continue to apply as they did before. We have decided to make these changes to ensure that the relevant requirements continue to apply in respect of UK-based providers and end-users and UK telephone numbers. They will come into effect on 31 December 2020.

In this document, we set out the responses we received and the changes we have decided to make. We have also published our final notification of the changes we are making to our regulatory rules to implement the customer protections in the European Electronic Communications Code.

In addition, we have published revised consolidated versions of our new rules.

Next steps

In the new year, we will consult on a process for residential customers switching voice and/or broadband services. We will also, separately, be providing an update on our work with the industry on the availability of a video relay service for British Sign Language users to enable effective communication with the emergency services.

2. Introduction and background

- 2.1 We want customers of communications services to get a fair deal. Ensuring that providers treat them fairly and put customers' interests at the heart of their businesses is a priority for us.
- 2.2 The European Electronic Communications Code (EECC)¹ is an EU Directive that includes new protections for customers (the 'end-user rights provisions'), which need to be reflected in our regulatory rules. Although the UK left the European Union (EU) on 31 January 2020, under the terms of the Withdrawal Agreement, the UK remains under an obligation to implement EU Directives into domestic law until after the EECC's transposition deadline of 21 December 2020. In its statement on implementing the EECC, the Government was clear that Ofcom should proceed to implement the end-user rights provisions in full.² Therefore, we need to revise our regulatory rules by 21 December 2020.
- 2.3 In October 2020, we published a statement setting out the main changes we had decided to make to our rules to implement the EECC. In addition, we consulted on proposals to make some minor consequential changes to other General Conditions ('GCs'), the Metering and Billing Direction and the National Telephone Numbering Plan (the 'Numbering Plan'), and to update some provisions in light of the end of the transition period under the EU Withdrawal Agreement.
- 2.4 In this document, we set out our decisions on these proposals. This follows our consideration of the responses we received to our consultation ('October Statement and Consultation').³
- 2.5 This section sets out the background to this document and the legal framework.

The European Electronic Communications Code includes new protections for customers

- 2.6 The EECC is an EU Directive that consolidates, updates and replaces the four Directives that made up the EU regulatory framework for electronic communications. It entered into force on 20 December 2018 and EU Member States have until 21 December 2020 to transpose it into national law. Under the terms of the Withdrawal Agreement, the UK remains under an obligation to implement EU Directives until the end of the transition and implementation period on 31 December 2020.
- 2.7 Our work has focused on the "End User Rights" chapter of the Directive set out at Title III of Part III of the EECC, which contains a package of measures to protect end-users. These build on the protections currently contained in the Universal Service Directive, and include a range of requirements, in areas such as the following:

¹ [Directive \(EU\) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code \(Recast\)](#)

² DCMS, July 2020, [Government response to the public consultation on implementing the European Electronic Communications Code](#)

³ Section 15, Ofcom, October 2020, [Statement and Consultation](#)

- a) provision of information in contracts;
- b) transparency, comparison tools and publication of information;
- c) quality of service;
- d) contract duration and termination;
- e) switching and porting; and
- f) bundled offers.

2.8 The end-user rights provisions apply to different categories of customer: some only apply to residential customers; some also apply to microenterprise, small enterprise and not for profit customers; while others apply to all end-users, including large businesses.

December 2019 and July 2020 consultations

2.9 In December 2019, we published a consultation on introducing the new end-user rights provisions in the EEC into the GCs, (the December Consultation).^{4,5} We proposed a package of measures to protect broadband, mobile, pay TV and landline phone customers.

2.10 We proposed to implement these requirements by modifying the GCs and setting new GCs using our existing powers under section 45 of the Communications Act 2003 (the Act). We also proposed to issue guidance on how providers should comply with certain GCs, including in relation to contract information, contract summary, contract termination, and switching and porting.

2.11 Our proposals to implement the end-user rights provisions in relation to independent comparison tools were set out in a separate consultation on [Digital Comparison Tools for telephone, broadband and pay TV: proposed changes to Ofcom's voluntary accreditation scheme](#) which was published at the same time.

2.12 In July 2020, we published a further consultation on revised proposals in two areas (the July Consultation):⁶

- a) revising the scope of our annual best tariff requirements.⁷ In particular we proposed that annual best tariff information only needs to be sent where the customer was initially tied into a fixed commitment period which has since expired; and
- b) revising the definitions of microenterprise, small enterprise and not for profit customers.

⁴ Ofcom, December 2019. [Fair treatment and easier switching for broadband and mobile customers: proposals to implement the new European Electronic Communications Code.](#)

⁵ We published a statement in May 2019 confirming the early implementation of the provisions in Article 105(3) requiring providers to send end-of-contract notifications and annual best tariff information. These rules came into effect from February 2020. Ofcom, May 2019. [Helping consumers get better deals: Statement on end-of-contract notifications and annual best tariff information.](#)

⁶ Ofcom, July 2020. [Implementing the new European Electronic Communications Code Revised proposals for annual best tariff information and business customer definitions.](#)

⁷ See footnote 5.

Government's decision on implementing the EECC

- 2.13 In July 2019, the Government published a consultation setting out its approach to implementing the EECC in the UK.⁸ This identified a small number of end-user rights provisions that required legislative or other changes, to ensure that they could be implemented in full.
- 2.14 The Government published the response to its consultation on 22 July 2020.⁹ It confirmed that it was proceeding to implement the EECC by the deadline of 21 December 2020, and that Ofcom should proceed to implement the end-user rights provisions in full, as planned.
- 2.15 On 2 December 2020, the Government made the Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020.¹⁰ These make amendments to the Act, with effect from 21 December 2020, in order to transpose the EECC into UK law.¹¹ These include certain changes to implement the end-user rights provisions, such as introducing a new express power for Ofcom to impose general conditions relating to 'bundled contracts.'

October 2020 statement and consultation

- 2.16 In October 2020, we published a statement setting out our decisions on implementation of the proposals put forward in our December 2019 Consultation and those in our July 2020 Consultation.¹² This included our decisions to adopt new rules to make broadband switching easier and more reliable, to stop mobile providers from selling 'locked' devices, to ensure that customers are provided with better contract information and stronger rights to exit and so that disabled customers have equivalent access to information about their communications services.
- 2.17 These decisions followed our consideration of all the comments we had received on the proposals we set out in both our December 2019 and July 2020 consultations. We set out that, for most of the new rules, providers will have until December 2021 to implement the changes.¹³ However, in the case of the contract information and right to exit rules, providers will have until June 2022. For the new switching and porting rules, providers will have until December 2022.
- 2.18 In addition, we consulted on some further minor changes that we proposed to make. These were:

⁸ DCMS, July 2019. [Implementing the European Electronic Communications Code: consultation](#).

⁹ DCMS, July 2020. [Government response to the public consultation on implementing the European Electronic Communications Code](#).

¹⁰ See the [Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 SI 2020/1419](#)

¹¹ It also introduces a number of amendments to the Act in light of the end of the transition period, which take effect at 11pm on 31 December 2020

¹² We set out our decisions on independent comparison tools separately: Ofcom, October 2020, <https://www.ofcom.org.uk/consultations-and-statements/category-1/proposed-changes-voluntary-accreditation-scheme>

¹³ As part of this statement, and further to our July 2020 consultation, we also decided to revise the scope of the existing annual best tariff information rules, and those changes came into effect from the date of the October Statement and Consultation.

- a) minor consequential changes to the remaining GCs, Metering and Billing Direction and Numbering Plan to ensure clarity and consistency in terminology and definitions used (discussed in Section 3 of this statement);
- b) a small number of further minor amendments to the GCs and the Numbering Plan to ensure that, when the transition period under the EU Withdrawal Agreement ends at 11.00 pm on 31 December 2020, in so far as possible, they continue to have the same scope and effect immediately after this date as they did before (discussed in Section 4 of this statement).

2.19 The consultation closed on 30 November 2020. We received two responses from communications providers and one from an industry body. Non-confidential consultation responses are available on our website.¹⁴ A summary of the responses received, and our decisions, are outlined in sections 3 and 4 of this statement.

UK Legal Framework

2.20 In this section, we outline our domestic powers and duties that are relevant to the decisions set out in this Statement.

Our general duties

2.21 The Act places a number of duties on us that we must fulfil when exercising the regulatory powers and functions we have been given. Section 3(1) of the Act states that it shall be our principal duty, in carrying out our functions:

- a) to further the interests of citizens in relation to communication matters; and
- b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.¹⁵

2.22 In performing our duties under section 3(1) of the Act, we are required to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, as well as any other principles appearing to us to represent best regulatory practice (section 3(3) of the Act).¹⁶

2.23 Section 3(4) provides that we must have regard, in performing our duties, to a number of matters, as they appear to us to be relevant in the circumstances, including the desirability of promoting competition in relevant markets; the desirability of encouraging investment and innovation in relevant markets; the needs of persons with disabilities, of the elderly and of those on low incomes; the opinions of consumers in relevant markets and of members of the public generally; and the extent to which, in the circumstances of the case, the furthering or securing of the matters mentioned in section 3(1) is reasonably practicable.

¹⁴ Non-confidential responses to our October Statement and Consultation are published [here](#).

¹⁵ Consumer is defined in section 405(5) of the Act and includes people acting in their personal capacity or for the purposes of, or in connection with, a business.

¹⁶ Our regulatory principles can be found at [What is Ofcom](#).

- 2.24 In addition, section 3(5) of the Act requires that, when performing our duty to further the interests of consumers, we must have regard, in particular, to the interests of those consumers in respect of choice, price, quality of service and value for money.

Duties for the purpose of fulfilling EU obligations

- 2.25 As set out in section 4(2) of the Act, when exercising certain functions,¹⁷ we must act in accordance with the six European Community requirements described there which continue to apply during the transition period under the Withdrawal Agreement and domestic EU exit legislation. These include requirements:
- a) to promote competition in the provision of electronic communications services;
 - b) to secure that our activities contribute to the development of the European internal market; and
 - c) to promote the interests of all persons who are citizens of the European Union.¹⁸

Powers and duties in relation to general conditions

- 2.26 Section 45 of the Act says that we may set general conditions which contain provisions authorised or required by one or more of sections 51, 52, 57, 58 or 64. Under section 51(1)(a), we may set general conditions making such provisions as we consider appropriate for the purpose of protecting the interests of end-users of public electronic communications services.
- 2.27 Section 51(2) sets out a non-exhaustive list of the specific types of general conditions that we may set in pursuance of this purpose. This includes:
- a) section 51(2)(a) which gives Ofcom the power to set conditions relating to the supply, provision or making available of goods, services or facilities in association with the provision of public electronic communications services;
 - b) section 51(2)(b), which gives Ofcom the power to set conditions to give effect to EU obligations to provide protection for end-users of electronic communications services; and
 - c) section 51(2)(c), which gives Ofcom the power to impose GCs specifying requirements in relation to the provision of services to disabled people and accordingly, it may set requirements in relation to equivalence.
- 2.28 Section 47(2) of the Act governs the circumstances in which we can set or modify a general condition. It states that a condition can be modified where it is objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates,¹⁹ not such as to discriminate unduly against particular persons or against a particular description of persons, proportionate to what the condition or modification is intended to

¹⁷ Including those we have chosen to exercise in this document.

¹⁸ We have also had regard to the objectives in Article 3(2) of the EECC.

¹⁹ Section 47(3) states that the setting of a general condition is not subject to the test of being objectively justifiable, although we are likely to consider this in any event when assessing whether the condition is proportionate.

achieve, and transparent in relation to what it is intended to achieve. Section 49(2) of the Act provides that an equivalent test must be met when modifying directions.

- 2.29 Ofcom's general duty under section 63(1) of the Act in carrying out its numbering functions is:
- a) to secure what appears to them to be the best use is made of the numbers that are appropriate to use as telephone numbers; and
 - b) to encourage efficiency and innovation for that purpose.
- 2.30 In accordance with section 56 of the Act, Ofcom has a duty to publish the Numbering Plan. Section 60 of the Act provides for the modification of the Numbering Plan. Section 60(2) of the Act provides that Ofcom must not revise or otherwise modify the relevant provisions unless they are satisfied that the revision is objectively justifiable in relation to the matter 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 transparent in relation to what it is intended to achieve.

Impact assessment and equality impact assessment

- 2.31 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policymaking. This is reflected in section 7 of the Act, which requires Ofcom to carry out impact assessments where its proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. As a matter of policy, Ofcom is committed to carrying out impact assessments in relation to the great majority of its policy decisions. The form of our impact assessments will depend on the nature of the proposals under consideration and the legal framework in which we are operating. In section 15 of our October Statement and Consultation, we gave consideration to the expected impact of the proposals that we are deciding on in this statement, as appropriate.
- 2.32 We also considered whether the decisions contained in this document will have a particular impact on persons sharing protected characteristics (race, age, disability, sex, sexual orientation, gender reassignment, pregnancy and maternity, marriage and civil partnership and religion or belief), and in particular whether they may discriminate against such persons or impact on equality of opportunity or good relations. This assessment helps us comply with our duties under the Equality Act 2010 and the Northern Ireland Act 1998. We do not envisage that our decisions would have a detrimental impact on any particular group of people.

This document

- 2.33 This document summarises and assesses the responses we received to our October Statement and Consultation and confirms the changes we have decided to make to our GCs, the Metering and Billing Direction and the Numbering Plan as a result. In addition, we are publishing our final notification making the changes to the GCs to implement the EECC,

as set out in the October Statement and Consultation and in this document, as well as consolidated versions of the new rules.

- 2.34 In the new year, we will consult on a process for residential customers switching voice and/or broadband services. We will also, separately, be providing an update on our work with the industry on the availability of a video relay service for British Sign Language users to enable effective communication with the emergency services.
- 2.35 The rest of this document is set out as follows:
- Section 3 sets out the minor changes to the GCs, Metering and Billing Direction and the Numbering Plan to align definitions and terminology.
 - Section 4 sets out the minor changes to the GCs and the Numbering Plan to reflect the end of the transition period under the EU Withdrawal Agreement.
- 2.36 The Annexes are set out as follows:
- Annex 1: Notification of new general conditions and modifications to the General Conditions under section 48(1) of the Act
 - Annex 2: Revised General Conditions (unofficial consolidated version) 31 December 2020
 - Annex 3: Revised General Conditions (unofficial consolidated version) 17 December 2021
 - Annex 4: Revised General Conditions (unofficial consolidated version) 17 June 2022
 - Annex 5: Revised General Conditions (unofficial consolidated version) 19 December 2022
 - Annex 6: Notification of Ofcom's decision to modify the Metering and Billing Direction under section 49A of the Act
 - Annex 7: Metering and Billing Direction (unofficial consolidated version) 17 December 2021
 - Annex 8: Notification of Ofcom's decision to modify the National Telephone Numbering Plan under section 60(2) of the Act
 - Annex 9: The Numbering Plan (unofficial consolidated version) 31 December 2020
 - Annex 10: Revised guidance on GC C1 contract requirements December 2021
 - Annex 11: Revised guidance on GC C1 contract requirements June 2022

3. Minor changes to the General Conditions, Metering and Billing Direction and the Numbering Plan

3.1 In addition to setting out our decisions on the changes we need to make to our GCs to implement the end-user right provisions of the EECC, our October Statement and Consultation proposed a number of minor, consequential changes to the remaining GCs, the Metering and Billing Direction and the Numbering Plan, to ensure clarity and consistency in the terminology and definitions used. As set out below, we have decided to make the changes we proposed, and have clarified when the new 'Porting Process' definition will come into effect.

Our October proposals

Replace references to 'Publicly Available Telephone Service' with 'Voice Communications Service' or 'Number-Based Interpersonal Communications Service' in the GCs

3.2 The EECC introduced a new 'Voice Communications Service' definition, which is synonymous with the 'Publicly Available Telephone Service' definition used in previous EU Directives.

3.3 In light of this, we proposed to replace references to 'Publicly Available Telephone Service' with 'Voice Communications Service' in a number of places in the GCs, for clarity and consistency.²⁰ Specifically, we proposed to make this change in the following GCs:

- GC A4.1 Emergency Planning- Scope;
- GC C3.1(b), (c) and (d) – these set the scope of a number of billing requirements;
- GC C3.5(a) Total metering and billing systems;
- GC C3.11 Debt collection and disconnection; and
- GC C5.8 Relay service.

3.4 We said that this would also affect the following definitions:

- 'Carrier Pre- Selection' or 'CPS';
- 'Relay Service', paragraph (a); and
- 'Relevant Turnover.

3.5 There were also a number of instances where we proposed to replace the term 'Publicly Available Telephone Service' with the new 'Number-Based Interpersonal Communications

²⁰ We plan to update GC A3 Guidance and GC C6 Calling Line Identification (CLI) Guidelines to reflect any relevant changes made in December 2021. CLI refers to the data that is provided with a telephone call about the caller. It consists of the caller's line identity along with a privacy marking, which indicates whether the number can be shared with the recipient of the call.

Service' definition in the GCs.²¹ We considered that this term more closely matched the type of service intended to be in scope of these requirements. We said that this proposed change would also affect the following GCs:

- GC B2.1 Directory Information- Scope²²;
- GC C5.7 Access to directory information²³; and
- GC C6.1 Calling line identification facilities²⁴.

3.6 It would also affect the following two definitions:

- 'Directory'; and
- 'Directory Information'.

3.7 Consequent to the changes above, we proposed to remove the definition of 'Publicly Available Telephone Service' from the GCs.

3.8 As the definition of 'Voice Communications Service' that we included in the GCs, and which is taken from Article 2(32) of the EECC, is substantively identical to the 'Publicly Available Telephone Service' definition, we did not consider that these changes involved any change in the scope of the relevant conditions, Metering and Billing Direction or Numbering Plan.

Replace references to 'Publicly Available Internet Access Services' with 'Internet Access Service'

3.9 We explained that the new 'Internet Access Service' definition is consistent with the scope of the term 'Publicly Available Internet Access Service' which was used as a defined term in various conditions in the GCs. We proposed replacing 'Publicly Available Internet Access Service' with 'Internet Access Service' in the GCs for clarity and consistency. We did not consider that this would alter the scope of the relevant conditions/provisions.

3.10 We noted that these proposed changes would affect the following GCs:

- GC C3.1(b), (c), (d) and (e) Billing requirements – Scope;
- GC C3.5(a) Total metering and billing systems; and
- GC C3.11 Debt collection and disconnection.
- We also noted that they would affect the definition of 'Relevant Turnover'.

3.11 We consequently proposed to remove the 'Publicly Available Internet Access Service' definition from the GCs.

²¹ We have defined 'Number-Based Interpersonal Communications Service' as "an Interpersonal Communications Service which: (a) connects with publicly assigned numbering resources, namely, a number or numbers in a national or international numbering plan; or (b) which enables communication with a number or numbers in a national or international numbering plan". It will capture, for example, fixed and mobile telephone services, as well as VOIP outbound call services.

²² We noted that the use of the 'Number-based Interpersonal Communications Service' definition is consistent with the scope of Article 112(1) of the EECC, which GC B2 implements.

²³ GC C5.7 relates to the provision of Directory Information and Directory Enquiry Facilities to end-users with disabilities. Using the 'Number-based Interpersonal Communications Services' definition would therefore be consistent with B2, which is also about the provision of Directory Information.

²⁴ We noted that the use of the 'Number-based Interpersonal Communications Services' definition is consistent with the scope of Article 115 and Annex VI Part B(a) of the EECC regarding the provision of Calling Line Identification.

Amend references to ‘Small Business Customer’ and ‘Domestic or Small Business Customer’ for consistency with the new definitions

- 3.12 In our October Statement and Consultation, we explained that, following our July Consultation, we had decided to adopt new defined terms of ‘Microenterprise or Small Enterprise Customer’ and ‘Not-For-Profit Customer.’
- 3.13 We considered that the ‘Microenterprise or Small Enterprise Customer’ and ‘Not-For-Profit Customer’ definitions would cover the same category of customer as the ‘Small Business Customer’ definition (both of these new definitions apply to organisations which have a headcount threshold of up to 10 workers²⁵ and exclude customers who are themselves communications providers).
- 3.14 We also considered that the defined terms of ‘Consumer’, ‘Microenterprise or Small Enterprise Customer’ and ‘Not-For-Profit Customer’, taken together, would cover the same category of customer as the existing ‘Domestic and Small Business Customer’ definition in the GCs.
- 3.15 Therefore, for the purposes of clarity and consistency, we proposed to:
- i) replace the references to the term ‘Small Business Customers’ in GC C2.10 with the new ‘Microenterprise or Small Enterprise Customer’ definition; and
 - ii) replace references to ‘Domestic and Small Business Customer’ in the GCs with the terms ‘Consumers’, ‘Microenterprise or Small Enterprise Customers’ and ‘Not-For-Profit Customers’ and make some minor consequential drafting changes as a result.
- 3.16 We noted that these changes would affect the following GCs:
- A3.1(b) Availability of services scope;
 - A3.3 Availability of services;
 - A3.6(c) Availability of services;
 - C1.1(b)(iii) Scope;
 - C2.11 Premium rate service;
 - C4.1 Complaints handling and dispute resolution; and
 - C8.1 Sales and Marketing.
- 3.17 In addition, we proposed to update existing GC C1.7,²⁶ which referred to ‘Small Business Customer’, to refer instead to ‘Microenterprise or Small Enterprise Customer’ and ‘Not-For-Profit Customer’ with effect from December 2021 (when other changes to C1 and definitions will come into effect), until it is revoked with effect from June 2022, when the changes to the requirements relating to right to exit come into effect.
- 3.18 We said that the changes above would also affect the following definitions:
- ‘Alternative Dispute Resolution (ADR) Scheme’;
 - ‘Complainant’;
 - ‘Complaint’;

²⁵ Following our July Consultation, we decided to exclude volunteers or voluntary workers from the definition of a not-for-profit customer.

²⁶ This will be renumbered as C1.15 with effect from December 2021.

- ‘Customer Complaints Code’; and
- ‘Mobile Service Retailer’.

3.19 We also proposed to reflect this change in relevant guidance, specifically, in relation to guidance on GC C1.²⁷

Replace the definition of ‘Porting Process’ to encompass mobile and fixed services

3.20 We noted that the current GCs include the following definition of a ‘Porting Process’:

“the process set out in Condition C7.21 to C7.44 enabling a Subscriber to switch from one Communications Provider which provides Mobile Communications Services to another such Communications Provider, and to retain their Mobile Number(s). This process includes activation by the Communications Provider to whom the Subscriber has switched, of the Mobile Number(s) that has(have) been ported.”

3.21 We identified that this definition related to the porting of mobile telephone numbers only. In our December Consultation we proposed removing this definition in light of the changes we were proposing to GC C7 to implement the porting provisions set out in Article 106 of the EECC, which apply to both mobile and fixed services.

3.22 However, GC C7.7(c) and the definition of ‘Communications Provider Migration’ inadvertently retained references to the ‘Porting Process’ as a defined term. To correct this error and to provide clarity and certainty about what this concept entails, we proposed a new definition of ‘Porting Process’ as follows:

“a process by which Number Portability is carried out pursuant to Condition C7, including activation by the Communications Provider to whom the Switching Customer has switched, of the Telephone Number(s) and/or Mobile Number(s) that has(have) been ported.”

3.23 We noted that this change would affect the following GCs:

- GC C7.7(c); and
- GC C7.61(c).

3.24 We noted that it would also affect the following definition:

- ‘Communications Provider Migration’.

3.25 The proposed definition was also referred to in our new guidance on compensation related to switching and porting.

Update references to legal instruments and legislation: GC A2.2

3.26 GCs A2.1 and A2.2 require providers to comply with those technical standards that the European Commission has made compulsory and to take full account of other non-compulsory international standards or specifications adopted by the European Committee

²⁷ As marked up at Annex 6 of the October Statement and Consultation. We also plan to update GC A3 Guidance and GC C8 Sales and marketing guidelines to reflect any relevant changes made, in December 2021.

for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC) and the European Telecommunications Standards Institute (ETSI).

- 3.27 GC A2.3 requires that, in the absence of such standards and/or specifications referred to in A2.1 and A2.2, providers must take full account of international standards or recommendations adopted by other international standards settings agencies. These conditions implement Article 39 of the EECC, which replaces Article 17 of the Framework Directive, but does not introduce any new substantive requirements.
- 3.28 We proposed to make a minor amendment to the wording of GC A2.2 so that in addition to standards published in the Official Journal of the European Union (OJEU) pursuant to Article 17 of the Framework Directive, the requirements under GC A2.2 would also apply in respect of standards published in the OJEU pursuant to Article 39 of the EECC.²⁸ This would clarify that, to the extent that any such relevant standards are published pursuant to Article 39 of the EECC (which we are also proposing to define in the GCs), the obligation under A2.2 would apply in respect of such future published standards. We also proposed to add a definition of “EECC Directive” for these purposes.
- 3.29 We did not consider that our proposed changes would have any impact on communications providers as they would not result in any substantive change in the obligations which apply currently under GC A2.2, they simply clarify how this obligation would apply in light of the changes being introduced by the EECC.

Update references to legal instruments and legislation: ‘Relevant Data Protection Legislation’

- 3.30 The definition ‘Relevant Data Protection Legislation’ in the GCs referred to the Data Protection Act 1998. While not strictly a change relating to EECC implementation, we proposed to update this reference to refer to the current Data Protection Act 2018 and to the General Data Protection Regulation (EU) 2016/679²⁹ to ensure it references the current relevant data protection legislation which is applicable in the UK.

Replace ‘Subscriber’ with ‘End-User’ in the definition of ‘Network Termination Point’ and other relevant definitions that refer to it

- 3.31 Our October Statement and Consultation noted that the definition of ‘Network Termination Point’ currently included in the GCs is:

“the physical point at which a Subscriber is provided with access to a Public Electronic Communications Network and, where it concerns Electronic Communications Networks involving switching or routing, that physical point is identified by means of a specific network address, which may be linked to the Telephone Number or name of a Subscriber. A

²⁸ We said we considered that it remains appropriate to retain the reference to standards published pursuant to Article 17 of the Framework Directive as the intention is that such previously published standards should still remain in scope of the obligation.

²⁹ [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/45/EC \(General Data Protection Regulation\)](#)

Network Termination Point provided at a fixed position on Served Premises shall be within an item of Network Termination and Testing Apparatus.”

- 3.32 We proposed to replace the references to ‘Subscribers’ with references to ‘End-Users’. This was to reflect the definition of ‘Network Termination Point’ included in Article 2(9) of the EEC which now refers to ‘End-Users.’ In addition, taking into account the instances where the ‘Network Termination Point’ definition is currently used in the GCs,³⁰ we considered ‘End-Users’ to be a more appropriate term because it applies more broadly than to just those who have a contractual relationship with the provider.³¹

Proposed changes to the Metering and Billing Direction for consistency with the GCs

- 3.33 We also proposed to update the Metering and Billing Direction³² to ensure consistency with the proposed amendments set out above to GC C3, and to the definition of ‘Relevant Turnover’. Specifically:
- a) We proposed replacing references to ‘Publicly Available Telephone Services’ with ‘Voice Communications Services,’ which we said would affect:
 - Transfer of Approval, section 3.3.1, second paragraph; and
 - Annex 1 (Definitions and Interpretations).
 - b) We proposed to replace references to ‘Publicly Available Internet Access Service’ with ‘Internet Access Service’ and said that this would affect:
 - Transfer of Approval, section 3.3.1, footnote in second row of table;
 - Transfer of Approval, section 3.3.1, second paragraph; and
 - Annex 1 (Definitions and Interpretations).

Proposed changes to the Numbering Plan for consistency with GC definitions

- 3.34 To ensure consistency with the use of new ‘Voice Communications Service’ definition in the GCs, we also proposed to replace references to ‘Publicly Available Telephone Service’ with ‘Voice Communications Service’ in relevant definitions in the Numbering Plan. We said this would affect the following definitions in the Numbering Plan:³³
- ‘Carrier Pre-Selection’ or ‘CPS’;
 - ‘Indirect Access’; and
 - ‘Pre-selected Provider’.
- 3.35 We also proposed a minor amendment to the definition of ‘Consumer’ in the Numbering Plan for consistency with the changes we were making to the definition of ‘Consumer’ in

³⁰ These are the definitions of ‘Access Network’, ‘Fibre-To-The-Premises’ and ‘Number Portability’ which are relevant to the porting and switching processes.

³¹ We plan to update GC C6 CLI Guidelines to reflect any relevant changes made, in December 2021.

³² The current version of the Metering and Billing Direction is published [here](#). The Notification in respect of these changes and marked up text of the revised direction showing the changes was set out in Annex 13 of the October Statement and Consultation.

³³ The Notification in respect of these changes and the proposal for the definition of ‘Consumer’ was set out in Annex 14 of the October Statement and Consultation.

the GCs (proposed change underlined): “‘Consumer’ means any natural person who uses or requests a Public Electronic Communications Service for purposes which are outside of his or her trade, business, craft or profession.”

Consultation responses and Ofcom’s assessment

- 3.36 BT and FCS supported Ofcom’s proposals to make minor changes to GCs, the Metering and Billing Direction and Numbering Plan to help to ensure clarity and consistency in terminology and definitions. In addition, BT raised queries about our proposal to amend the definition of a ‘porting process,’ which we set out and address below.
- 3.37 Respondents also raised the following points about issues that were not part of this consultation:
- a) FCS repeated concerns it had expressed previously that use of the term ‘VoIP Outbound Call Service’ in GC A3.3 could remove services which allow the customer to make and receive calls from the scope of the requirement to provide customers with information about access to emergency services. We did not consider it necessary in the October Statement and Consultation to make any amendment here, because VoIP services that enable users to both make and receive calls would fall within the definition of ‘Voice Communication Services’ and are therefore subject to the requirements of GC A3.2.³⁴ Our approach to implementation and the decisions we made were set out at paragraphs 13.29-13.52 of our October Statement and Consultation.
 - b) Openreach offered a number of comments about fixed switching processes. We have noted the comments made and will be publishing a consultation on establishing a new process for residential customers to switch voice and/or broadband services in 2021.
 - c) BT asked Ofcom for its interpretation of the following wording in the definition of ‘Internet Access Service’: ‘and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used’. As we explained in our October Statement and Consultation, the definition of ‘Internet Access Service’ which we are inserting into the GCs reflects the new statutory definition in the Act ³⁵, which in turn reflects the definition in the Open Internet Regulation.³⁶ We note that the Body of European Regulators for Electronic Communications has published guidelines regarding the implementation of the Open Internet Regulation, which include a discussion of the definition of ‘Internet Access Service’ for the purposes of that regulation.³⁷

³⁴ In contrast, VoIP outbound call services would not meet the definition of ‘Voice Communications Services’ used in GC A3.2, because such services only allow you to make calls and not receive them. Therefore, a separate, specific requirement is applied to these services via GC A3.3.

³⁵ Section 32(2B) of the Act, as inserted by the [Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020](#) with effect from 21 December 2020

³⁶ See Article 2(2) of [Regulation \(EU\) 2015/2120 \(the Open Internet Regulation\)](#). The EECC defines an ‘internet access service’ by reference to this definition – see Article 2(4)(a).

³⁷ See paragraphs 13 – 18 of [BEREC Guidelines on the Implementation of the Open Internet Regulations](#).

d) BT also commented that, as we were updating the GCs to implement the end-user rights provisions of the EECC, we should take this opportunity to “tidy up” other areas of the GCs at the same time. BT specifically mentioned GC B1.12 to B1.17 covering charging for specified geographic numbers, which it considered both disproportionate and unnecessary. However, the proposed modifications we were consulting on in the October Statement and Consultation were limited to minor changes to align the terminology and definitions used throughout our regulatory rules, as well as in the Metering and Billing Direction and Numbering Plan, in light of our implementation of the EECC. Therefore, we have noted BT’s comments on GC B1.12 to B1.17 and these will be considered as part of Ofcom’s review of the future of telephone numbers.³⁸

Proposal to amend the definition of ‘Porting Process’

3.38 BT raised two points in relation to this definition. First, while BT agreed that ‘Porting Process’ should apply to both fixed and mobile services, it considered that Ofcom should also revise its definition of ‘Number Portability’ as referred to in the proposed ‘Porting Process’ definition. It argued that the definition of ‘Number Portability’ refers to ‘Telephone Numbers’ and Ofcom had, in other definitions, previously distinguished between mobile numbers and fixed telephone numbers. As a result, it considered that Ofcom should revise the ‘Number Portability’ definition to make it clear that both mobile and fixed numbers are in scope.

3.39 We have considered the points made by BT. We consider that the definition of ‘Number Portability’ already encompasses both mobile and fixed numbers, because ‘Telephone Numbers’ as defined in the GCs includes both fixed and mobile numbers.³⁹ This is further made clear by the definition of ‘Mobile Numbers’ which sets out that these are a subset of ‘Telephone Numbers’.⁴⁰ Therefore we consider that it is unnecessary to revise the scope of the ‘Number Portability’ to explicitly refer to both ‘Telephone Numbers’ and ‘Mobile Numbers.’

3.40 BT’s second point was that, as the ‘Porting Process’ definition is connected to the changes Ofcom is making to GC C7, Ofcom should address how the interpretation of this definition aligns with the implementation deadline of December 2022 for the new and amended switching and porting rules.

3.41 We acknowledge that the timing for implementation of the proposed definition of ‘Porting Process’ could have been made clearer in the October Statement and Consultation. We have taken BT’s response into account and we confirm that the new definition of ‘Porting Process’ will come into effect in December 2022 at the same time as the other changes to our switching and porting rules and accompanying guidance.

³⁸ We are conducting a review of telephone numbering to ensure that the Numbering Plan promotes confidence in telephone services. See Ofcom, April 2019, [Future of telephone numbers](#), First Consultation. A further consultation is planned for publication in early 2021.

³⁹ ‘Telephone Number’ means, subject to any order of the Secretary of State pursuant to section 56(7) of the Act, any number, including data of any description, that is used (whether or not in connection with telephony) for any one or more of the purposes listed in section 56(5) of the Act.

⁴⁰ ‘Mobile Number’ means a Telephone Number, from a range of numbers in the National Telephone Numbering Plan, that is Adopted or otherwise used to identify Apparatus designed or adapted to be capable of being used while in motion.

Our decision

- 3.42 We have decided to implement the changes outlined above as proposed in our October Statement and Consultation to:
- a) Replace references to ‘Publicly Available Telephone Service’ with ‘Voice Communications Service’ or ‘Number-Based Interpersonal Communications Service’ in the GCs and replace references to ‘Publicly Available Telephone Service’ with ‘Voice Communications Service’ in the Metering and Billing Direction and the Numbering Plan.
 - b) Replace references to ‘Publicly Available Internet Access Service’ with ‘Internet Access Service’ in the GCs and to amend references to such in the Metering and Billing Direction in the same way.
 - c) Amend references to ‘Small Business Customer’ and ‘Domestic or Small Business Customer’ in the GCs and GC1 Guidance for consistency with the new definitions in the GCs.⁴¹
 - d) Add a definition of ‘Porting Process’ to encompass mobile and fixed services in the GCs.
 - e) Update references to legal instruments and legislation in the GCs; and
 - f) Replace ‘Subscriber’ with ‘End-User’ in the definition of ‘Network Termination Point’ and other relevant definitions that refer to it in the GCs.
- 3.43 Our amendments to the GCs are set out in the Notification at Annex 1, our amendments to the Metering and Billing Direction are set out in the Notification at Annex 6 and our amendments to the Numbering Plan are set out in the Notification at Annex 8.
- 3.44 As indicated at paragraph 2.17 above (and as explained in more detail in paragraphs 3.22-3.26 of our October Statement and Consultation), most of the new rules come into effect in December 2021, with contract information and right to exit rules coming into effect in June 2022 and new switching and porting rules in December 2022. For clarity and transparency, alongside this statement we have published revised unofficial consolidated versions of the GCs as they will apply with effect from 17 December 2021, 17 June 2022 and 19 December 2022 (see Annexes 3, 4 and 5).
- 3.45 The revised guidance on GC C1 that will come into effect in December 2021 is set out at Annex 10, and the revised guidance on GC C1 that will come into effect in June 2022 is set out at Annex 11.⁴²

Legal tests

- 3.46 We consider that the changes we have decided to make, as outlined in this section, meet the test for setting or modifying conditions in section 47(2) of the Act, the test for

⁴¹ However, we have retained the definition of ‘Domestic or Small Business Customer’ temporarily for use in GC C7. We will consider aligning this wording in GC C7 with that used elsewhere in the GCs in our upcoming switching process consultation.

⁴² The guidance that comes into effect in June 2022 incorporates the revised rules on right to exit, as set out in the October Statement and Consultation.

modifying directions under section 49(2) of the Act and the test for modifying the Numbering Plan set out in section 60(2) of the Act, respectively. The changes are:

- **objectively justifiable and proportionate** for the reasons set out above, in particular, the changes are required to ensure consistency and clarity of the terminology and definitions used throughout the GCs, Metering and Billing Direction and Numbering Plan, as a direct consequence of implementing the relevant requirements of the EECC in order to achieve the consumer benefits pursued by it. In addition, we consider the changes will for the most part not lead to any substantive change in the scope or underlying requirements that already apply to relevant providers, and where they do involve a potential substantive change in scope (e.g. in relation to the changes to GC A2.2) are limited to no more than is necessary to ensure compliance with the requirements in the EECC;
- **not unduly discriminatory** since the changes to these terminology/definitions would apply in respect of all providers of relevant electronic communications services, to which the relevant conditions, Metering and Billing Direction and Numbering Plan apply; and
- **transparent** as the reasons for the changes were clearly explained in our October Statement and Consultation and in this section, and the effects of the changes will be clear to communication providers.

3.47 In deciding to make these changes, we have also considered and acted in accordance with our general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act. Our duties under section 3(3) of the Act say that we need to have regard the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed. We consider that by ensuring clarity and consistency of terminology throughout the GCs, these changes will further the interests of citizens in relevant markets because they will help ensure the GCs are transparent and consistent, thus reducing unnecessary burdens on stakeholders. They are also proportionate for the reasons set out above.

4. Minor changes to reflect the end of the transition period under the EU Withdrawal Agreement

- 4.1 In our October 2020 Statement and Consultation, we consulted on a number of minor amendments to the GCs and the Numbering Plan, which were intended to ensure that when the transition period under the EU Withdrawal Agreement ends, the relevant GCs and the Numbering Plan continue to have the same scope and effect immediately after this date as they did before. These were the same changes that we had proposed in February 2019, in the event of the UK leaving the EU on 29 March 2019 without a withdrawal agreement being in place.
- 4.2 For the reasons set out below, we have decided to make the changes as proposed.

Our February 2019 proposals

- 4.3 On 12 February 2019 we published a consultation ('February 2019 Consultation') on changes we proposed to make to the GCs and the 'Numbering Plan' in the event of the United Kingdom leaving the European Union on 29 March 2019 without a withdrawal agreement being in place.⁴³ Our aim was to ensure that, in so far as possible, the GCs and Numbering Plan continued to have the same scope and effect immediately after the UK left the EU as they did immediately before, by making the minimum changes necessary to the text of the regulations.
- 4.4 It was not necessary for Ofcom to make these changes in advance of the UK leaving the EU on 31 January 2020 as a result of the Withdrawal Agreement being reached between the UK and EU, and the passing of the European Union (Withdrawal Agreement) Act 2020. However, in light of the end of the transition period on 31 December 2020, we revisited whether we needed to make these changes as discussed in our October Statement and Consultation.

Modifications to GC A1 – General network access and interconnection

- 4.5 General Condition A1.2 requires regulated providers to negotiate interconnection with public electronic communications providers located in any part of the European Union.⁴⁴ We proposed to amend this condition so that it refers to public electronic communications providers located in any part of the United Kingdom or European Union.
- 4.6 We explained in our February 2019 Consultation that if we did not amend this condition, it would no longer apply in relation to communications providers located in the United Kingdom when the United Kingdom leaves the EU. We considered whether to amend this condition so that it would apply only in relation to the United Kingdom. However, we noted

⁴³ Ofcom, February 2019, [Proposed Changes to the General Conditions and Numbering Plan](#).

⁴⁴ This condition implements Article 4(1) of the Access Directive (Directive 2002/19/EC); now Article 60(1) of the EECC.

that this would amount to a narrowing in the scope of application of the condition, and we considered it would be preferable to maintain the existing scope of the condition at this time.

Modifications to GC B4 – Access to numbers and services

- 4.7 General Condition B4.2 requires regulated providers to ensure that end-users in any part of the European Union can access all telephone numbers provided in the European Union.⁴⁵ We proposed to amend this condition so that it applies in respect of end-users in any part of the United Kingdom or European Union and all telephone numbers in the United Kingdom or European Union.
- 4.8 We explained in our February 2019 Consultation that if we did not amend this condition, it would no longer apply in relation to end-users or telephone numbers in the United Kingdom when the United Kingdom leaves the EU. We considered whether to amend this condition so that it would apply only in relation to the United Kingdom. However, we noted that this would amount to a narrowing in the scope of application of the condition, and we considered it would be preferable to maintain the existing scope of the condition at this time.

Modification to the Numbering Plan

- 4.9 In the February 2019 Consultation, we explained that we proposed to modify the definition in the Numbering Plan of “harmonised numbers for harmonised services of social value (116XXX numbers)”, which refers to the use of numbers “throughout the European Union Member States” by adding the words “and the United Kingdom” to the end of it.

Our October proposals

- 4.10 Although the UK left the EU on 31 January 2020, it was not necessary for Ofcom to proceed to make these changes as a result of the Withdrawal Agreement being reached between the UK and EU, and the passing of the European Union (Withdrawal Agreement) Act 2020.⁴⁶ This meant the UK continued to be treated as if it were an EU member state during the transition period.
- 4.11 However, the transition period is due to end at 11pm on 31 December 2020 (known as “IP completion day”) and from that point in time, the UK will no longer be treated as if it were an EU member state. Therefore, in the October Statement and Consultation, we considered whether it remained appropriate for Ofcom to proceed to make the above changes in light of the end of the transition period.
- 4.12 We remained of the view that it was appropriate to proceed and that these were the minimum changes necessary to ensure that, so far as possible, the GCs outlined above and relevant provisions of the Numbering Plan continue to have the same scope and effect

⁴⁵ This condition implements Article 28(1) of the Universal Service Directive (Directive 2002/22/EC); now Article 97(1) of the EECC.

⁴⁶ This amended the European Union (Withdrawal) Act 2018.

immediately after IP completion day as they did immediately before. We proposed to implement these changes as proposed with effect from 11pm on 31 December 2020.

- 4.13 In reaching this view, we explained we had taken account of the responses we received to our February 2019 Consultation. We received two responses. One from Campaign to Retain Payphones (CARP) arguing for a radical overhaul of the existing universal service obligation and the other from Transatel raising the issue of exclusivity clauses being imposed by mobile network operators (MNOs) in their contracts with mobile virtual network operators (MVNOs).
- 4.14 Neither respondent commented on the specific amendments to the GCs or Numbering Plan proposed in the consultation. We considered that the comments made by both respondents went beyond essential changes to Ofcom regulations that would be needed on the day the transition period ends and that they would amount to changes in policy, which we did not consider appropriate at this point in time, pending further clarity on what arrangements will apply between the EU and UK following the end of the transition period.
- 4.15 For the reasons set out above, we proposed to make the changes proposed in the February 2019 Consultation.

Consultation responses and Ofcom's decision

- 4.16 Two respondents⁴⁷ supported Ofcom's proposals to make minor amendments to the regulatory rules and the Numbering Plan to ensure that, when the transition period under the EU Withdrawal Agreement ends on 31 December, the relevant rules continue to apply as they did before.
- 4.17 Having taken account of the responses we received to the October Statement and Consultation, as well as to the February 2019 Consultation, we have decided to make the proposed modifications to GC A1, GC B4 and the Numbering Plan, so that we maintain their existing scope and effect after IP completion day.
- 4.18 The modifications will come into force at 11:00pm on 31 December 2020. The changes to the GCs are set out in the Notification at Annex 1. In addition, for clarity and transparency, alongside this statement we have also published at Annex 2 an unofficial revised consolidated version of the GCs as they will apply with effect from 11:00pm on 31 December 2020.
- 4.19 The changes to the Numbering Plan are set out in the Notification at Annex 8 and a revised consolidated version of the Numbering Plan as it will apply with effect from 11:00pm on 31 December 2020 is at Annex 9.

Legal tests

- 4.20 We consider that the changes we have decided to make to GC A1 and GC B4 meet the test for modifying conditions set out in section 47(2) of the Act, in that they are:

⁴⁷ FCS, BT.

- **objectively justifiable and proportionate**, as they ensure that the conditions continue to apply in respect of UK-based providers and end-users and UK telephone numbers post-IP completion day, and are the minimum required to ensure that the conditions continue to apply after IP completion day in the same way as they applied before IP completion day;
- **not unduly discriminatory**, as the conditions apply equally to all operators falling within the relevant definition of regulated providers for each condition; and
- **transparent**, as the scope of each of the amended conditions is clear on its face.

4.21 We consider that the change we have decided to make to the Numbering Plan meets the test for modifying the Numbering Plan set out in section 60(2) of the Act, in that it is:

- **objectively justifiable and proportionate**, as this amendment is the minimum necessary to make clear that harmonised social value (116xxx) numbers continue to operate in the UK post-IP completion day in the same way as they did immediately prior to IP completion day;
- **not unduly discriminatory**, as it applies equally to all operators subject to the Numbering Plan; and
- **transparent**, as the scope of the amended definition is clear on its face.