



# Metering and Billing Approval Logo

Statement

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## About this document

Providers of Publicly Available Telephone Services ('PATS' - fixed and mobile voice services) with an annual turnover in those services of over £40 million are required to obtain approval of their Total Metering and Billing Systems by Approval Bodies.

In order to obtain approval, the providers' metering and billing systems must comply with the Metering and Billing Direction ('the Direction'). The Direction is a technical standard intended to ensure that communications providers' systems deliver accurate bills to customers.

This document sets out the conclusions of our consultation on our proposal to introduce a voluntary 'Approval Logo' available for use by those communications providers that have had their metering and billing systems approved. The proposal for an Approval Logo was intended to provide a means to indicate to customers that their providers' billing systems have been independently audited and approved by Ofcom-appointed third-party assessors, known as 'Approval Bodies'. This document explains why we have decided not to proceed with our proposal.

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## Section 1

# Summary

- 1.1 To ensure that consumers are not overcharged for services and to maintain consumer confidence in the accuracy of bills, Ofcom requires all providers of public electronic communications services to provide accurate bills under General Condition 11 ('GC11'). In addition, GC11.3 – GC 11.5 set out the requirements for providers of Publicly Available Telephone Services ('PATS') - fixed and mobile voice services - with a turnover in those services of over £40 million per year. PATS providers that fall into this category must obtain approval of their Total Metering and Billing Systems ('TMBS') from third-party assessors against the requirements of a Metering and Billing Direction set by Ofcom ('the Direction'). The third party assessors – called Approval Bodies ('ABs') – are appointed by Ofcom. There are currently three ABs.
- 1.2 The Direction is essentially a technical standard intended to ensure that communications providers' ('CPs') billing systems deliver accurate bills. Ofcom conducted a review during 2013 and 2014 to ensure that the scope and requirements of GC11 and of the Direction remained appropriate and proportionate given changes in the market. This review resulted in Ofcom making the current version of the Direction in July 2014 and amending GC 11 in September 2014.
- 1.3 In July 2015 we consulted on a proposal for the use of a logo to indicate an approved TMBS, for use by CPs on their literature and websites on a voluntary basis (an 'Approval Logo').
- 1.4 We received ten non-confidential responses to the consultation, six of which were broadly supportive of the proposal to introduce an Approval Logo. These respondents agreed that a logo could provide reassurance to consumers about a CP's billing system and may encourage CPs to have their billing systems assessed and approved.
- 1.5 Four respondents either opposed the proposal or raised significant concerns. The concerns raised included that an Approval Logo may be unfair to those CPs with relevant turnover of less than £40 million per year. The concern here was that if the proposal was implemented, consumers may be reluctant to take service from such a CP who does not display the Approval Logo, even though it is not a requirement for such a CP to obtain approval under the Direction.
- 1.6 Having carefully considered stakeholders' responses, Ofcom has decided not to proceed with the introduction of an Approval Logo at this time. We recognise that the majority of the consultation responses were broadly supportive of the Approval Logo. We also note that policy decisions may affect different stakeholders in different ways. Even so, we consider that the concerns raised by a number of respondents about the potential impact of an Approval Logo on CPs falling below the £40m threshold are important.
- 1.7 We take particular account of the contentions that, if the proposed Approval Logo had the intended effect of providing reassurance to consumers about the accuracy of an approved CP's billing system, it may also potentially deter consumers from using CPs not displaying the logo. This is a matter that would require further detailed consideration. We previously decided that CPs with a relevant annual turnover under £40 million do not need to obtain approval under the Direction and

we currently do not plan to review that threshold. That threshold and the requirements imposed on CPs whose turnover exceeds it, together with the requirements of GC11 that apply to all CPs, provide safeguards for consumers. The proposed Approval Logo would have been supplementary to that. Given those points and taking account of administrative priorities, we have decided not to take further for now our proposal with regard to the logo.

## Section 2

# Introduction

## Background

### Ofcom's primary duty under the Communications Act 2003

- 2.1 Ofcom is the regulator for the communications sector. Under section 3(1) of the Communications Act 2003 ('the Act'), Ofcom's principal duty is to further the interests of citizens in relation to communications matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 2.2 Section 3(3) of the Act sets out that, in performing their duties under section 3(1), Ofcom must have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and to any other principles appearing to us to represent the best regulatory practice. We must also, where relevant, have regard in performing those duties to matters including the desirability of promoting competition in relevant markets (section 3(4)(b)).
- 2.3 Section 3(5) of the Act meanwhile says that, in performing our duty of furthering the interests of consumers, Ofcom must have regard in particular to the interests of those consumers in respect of choice, price, quality of service and value for money.

### General Conditions

- 2.4 Ofcom has the power under section 45 of the Act to impose various types of conditions on Communications Providers ('CPs'). These include General Conditions ('GCs') which apply to all providers, although not every GC is relevant to every provider or to every type of consumer or service provided. A GC is a condition authorised or required by one or more of sections 51, 52, 57, 58 or 64 of the Act. In particular, under section 51(1)(a) Ofcom may set conditions making such provisions as Ofcom considers appropriate for protecting the interests of the end-users of public electronic communications services.
- 2.5 In order to create or modify a GC, Ofcom must, by virtue of section 47 of the Act, be satisfied that such a condition or modification is:
  - objectively justified;
  - not unduly discriminatory;
  - proportionate; and
  - transparent in relation to what it is intended to achieve

### The need for Metering and Billing provisions

- 2.6 Ofcom made GC11 in order to regulate the accuracy of bills for electronic communications services ('ECS'). It was considered necessary because a feature of ECS is that consumers are not generally readily able to quantify their service

usage or to verify their bills. Unlike in gas and electricity, for example, there is no domestic meter to enable consumers to monitor their volume of usage. In addition, the number of services used and the complexity of billing can make it extremely difficult for a consumer to check that their bill is correct.

2.7 Therefore, although consumers may be able to identify major errors, to a large extent many have to take the bills they receive on trust. Ofcom has taken the view that it is important to ensure that such trust is justified, that consumers are not overcharged and that consumer confidence in the accuracy of bills is maintained.

2.8 GC11 imposes a requirement for billing accuracy on all providers of public electronic communications services. GC11.1 states:

“The Communications Provider shall not render any Bill to an End-User in respect of the provision of any Public Electronic Communications Services unless every amount stated in that Bill represents and does not exceed the true extent of any such service actually provided to the End-User in question”.

2.9 GC11.3 imposes additional requirements on any provider of Publicly Available Telephone Services ('PATS') - essentially fixed and mobile voice services - with a Relevant Turnover in its most recent complete financial year exceeding £40 million. Under GC11.4, any such CP is required to obtain approval of its TMBS for PATS services, in accordance with the requirements of a Direction made by Ofcom (see below), from an AB, and to comply with any direction made by the AB in respect of such approval.

2.10 ABs are appointed by Ofcom. Currently there are three ABs appointed - the British Approval Board for Telecommunications (BABT), the British Standards Institution (BSI) and Enigma QPM. The ABs charge the CPs for initial approval and the on-going monitoring that they carry out.

### **Ofcom Metering and Billing Direction**

2.11 Ofcom has power under section 49 of the Act to give directions that affect the operation of GCs. Section 49 says that, where a condition set under section 45 (e.g. a General Condition) has effect by reference to a direction from Ofcom, Ofcom may only give, modify or withdraw the direction where we are satisfied that similar tests to those applicable under section 47 (see above) are met.

2.12 Ofcom made the latest version of the Direction referred to in GC11.4 on 31 July 2014 (the 'Metering and Billing Direction' or the 'Direction'). The Direction is in essence a technical standard intended to ensure that compliant systems will deliver accurate bills. Each CP's TMBS must meet the requirements of the Direction in order to secure approval for that system from an AB.

2.13 The Direction is principally comprised of process-based requirements. Amongst other things these require the CP to:

- produce, and agree with the AB, a High Level Description of its TMBS, including all business and technical processes that can impact upon the system and those of related third parties or sub-contractors;
- assess risks to the TMBS's accuracy and document mitigation actions;

- produce and agree with the AB a Measurement Strategy setting out how risks are to be monitored; and
- have processes in place for receiving, identifying, investigating and dealing with incorrect charges on consumers' bills.

2.14 In addition, the Direction sets out:

- the procedure to be followed by CPs in the event of failures in the performance of their TMBS; and
- the assessment process for initial and on-going approval.

2.15 These provisions of the Direction apply to relevant PATS (i.e. fixed and mobile voice services) on a mandatory basis. The Direction also contains voluntary provisions on data services and VoIP services.

### **The audit by the Approval Body**

2.16 The AB's audit of a CP's TMBS assesses the processes, measures and controls that a CP has in place to meet the standards set out in the Direction.

2.17 The AB assesses a CP's TMBS for products and services that meet the materiality rules described in the Direction and such other services as may be agreed between the CP and the AB. ABs will approve TMBS that are compliant with the Direction and issue a refusal to approve non-compliant TMBS.

2.18 Sections 49 and 49A of the Act place an obligation on ABs to issue a formal notification and engage in a one month consultation period when they are proposing to give, modify or withdraw an approval of a CP's TMBS.

2.19 Details of Notification by an AB of its 'proposal to Approve' and 'grant Approval' of a CP's TMBS can be found on the Ofcom website<sup>1</sup>.

### **The Review of the Metering and Billing Scheme 2013-14**

2.20 Ofcom conducted a review during 2013 and 2014 to ensure that the scope and requirements of GC11 and of the Direction remained appropriate and proportionate given changes in the market and in the light of CP's and AB's experiences in operating the Direction. This review resulted in Ofcom making the current version of the Direction in July 2014<sup>2</sup> and amending GC 11 in September 2014<sup>3</sup>.

### **The Approval Logo**

2.21 During the review of the Direction, some stakeholders argued that low consumer awareness of the Direction reduced the commercial benefits of approval by the ABs and the incentives on CPs not covered by the mandatory aspects of the Direction to seek approval to comply voluntarily.

<sup>1</sup> <http://stakeholders.ofcom.org.uk/telecoms/policy/metering-billing/>

<sup>2</sup> [http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/mou-oct2014/The\\_2014\\_Direction.pdf](http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/mou-oct2014/The_2014_Direction.pdf)

<sup>3</sup> [http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/metering-billing/documentation/Statement\\_modification\\_GC11\\_Sept\\_2014.pdf](http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/metering-billing/documentation/Statement_modification_GC11_Sept_2014.pdf)

- 2.22 As part of the proposals in the consultation in February 2014<sup>4</sup>, we sought stakeholders' views on initiatives to promote awareness of the Direction. These proposed initiatives included providing more information about the Metering and Billing Scheme on Ofcom's and the ABs' websites and the introduction of an Approval Logo for CPs to use – if they chose - to indicate that their TMBS had been approved by the AB.
- 2.23 In responses to the consultation there was general support from stakeholders for introducing an Approval Logo as a way of promoting awareness of the Metering and Billing Scheme.
- 2.24 In the Statement published in July 2014 that concluded the review<sup>5</sup>, we explained that we would continue working with the ABs and industry to develop proposals for an Approval Logo and to consider whether and what changes to the Direction might be necessary to accommodate this proposal.

## This statement

- 2.25 In a consultation published on 15 July 2015<sup>6</sup> ('the July Consultation'), we set out our proposal to introduce a voluntary Approval Logo. We also included the modification we proposed to make to the Direction to implement the Approval Logo.
- 2.26 Having carefully considered the responses to the July Consultation, this document sets out our decision not to introduce an Approval Logo at this time. Section 3 below recaps the Approval Logo proposal in our July Consultation, summarises the responses from stakeholders and sets out Ofcom's response and decisions in light of those comments.

## Impact Assessment

- 2.27 In the July Consultation we stated that Ofcom did not consider that an impact assessment was required under section 7 of the Act for the reasons detailed in that document. As we have decided not to introduce an Approval Logo at this time, we have not conducted any further analysis of the potential impacts of that proposal.

## Equality Impact Assessment

- 2.28 Ofcom is required to assess the potential impact of all our functions, policies, projects and practices on the equality of individuals to whom those policies will apply. Equality impact assessments ('EIAs') assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- 2.29 We have given careful consideration to whether or not our decision not to introduce an Approval Logo at this time would have a particular impact on race, age, disability, gender, pregnancy and maternity, religion or sex equality. We do not envisage that our decision contained in this Statement will have a detrimental impact on any particular group of people.

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<sup>4</sup> [http://stakeholders.ofcom.org.uk/binaries/consultations/metering-billing-2014/summary/Metering\\_and\\_Billing.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/metering-billing-2014/summary/Metering_and_Billing.pdf)

<sup>5</sup> <http://stakeholders.ofcom.org.uk/binaries/consultations/metering-billing-2014/statement/statement.pdf>

<sup>6</sup> <http://stakeholders.ofcom.org.uk/consultations/metering-billing-logo/>

## Section 3

# Assessing the case for an Approval Logo

3.1 In this section we summarise the proposals we made in the July consultation and the responses received<sup>7</sup>. We then consider the responses and set out our decision.

## The July consultation

3.2 In the July consultation, we explained that the primary source of information for consumers regarding which CPs' billing systems have been approved under the Direction is on Ofcom's and the ABs' websites. The Ofcom website for instance shows the name of the CP approved, the services covered by the approval and a reference number for the approval given by the relevant AB.<sup>8</sup>

3.3 Because of the complexity of billing, it can be difficult for consumers to check that the bill they receive for their usage is correct and, although consumers may be able to identify major errors, to a large extent many have to take the bills they receive on trust. We proposed to introduce an Approval Logo which could provide an additional, straight-forward means to give consumers a level of confidence and assurance on the robustness of the billing systems that are used by Approved CPs to calculate their bills.

3.4 We also explained that the use of an Approval Logo had the potential to encourage providers to seek approval for their metering and billing systems in areas where that approval is voluntary, rather than mandatory. It could make such approval attractive for commercial reasons, where consumers value the billing accuracy vouched for by the logo. In those circumstances, consumers would gain the benefit of services the metering and billing of which has been assessed as accurate.

3.5 We proposed four variations of the Approval Logo, reflecting the different services covered by the Direction. The four variations were:

- voice services;
- voice and data services;
- wholesale voice and data services; and
- wholesale voice services.

The designs we proposed are set out in Annex 1.

3.6 We proposed that:

- once a CP's TMBS has been approved (whether under the mandatory or voluntary provisions of the Direction), the AB would then tell the CP which Approval Logo it was permitted to use;

<sup>7</sup> The non-confidential responses received are published on our website:

<sup>8</sup> [http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/metering-billing/List\\_of\\_Approval\\_Holders.pdf](http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/metering-billing/List_of_Approval_Holders.pdf)

- the use of the Approval Logo would be voluntary and that it would be up to each CP to decide whether or not to make use of it; and
- where a CP's approval under the Direction was withdrawn, the relevant AB inform the CP that it was no longer permitted to use the Approval Logo.

We proposed to make modifications to the Direction to give effect to each of these.

## Stakeholders' responses

- 3.7 The Consumer Panel and ACOD supported the proposed introduction of an Approval Logo to increase consumers' awareness of the Metering and Billing scheme. They thought that currently the onus is on the consumer to find out if their CP is compliant with the scheme and that this relies on the consumer having a level of understanding of the processes involved. They believed that an Approval Logo would provide a straight-forward means of providing this information to the consumer.
- 3.8 BT also supported the proposals, arguing that the Approval Logo would give consumers greater transparency, help raise awareness and provide confidence that a CP meets and maintains regulatory billing standards. BT asked for further guidance on the use of the Approval Logo and on how its use would be monitored. In addition, BT urged Ofcom to consider removing the £40m threshold from General Condition 11 arguing that consumers, regardless of the size of their CP, deserve to know their bills are accurate.
- 3.9 KCOM agreed with the proposal to introduce a voluntary Approval Logo as a means to promote awareness amongst consumers. Gamma also supported the proposed introduction of the Approval Logo.
- 3.10 Nine Group and Union Street Technologies both considered the logo would encourage CPs and others providing billing services to the industry to have their systems assessed and approved but commented that many end customers purchase services from resellers who use their wholesaler's billing systems to produce their bills or from CPs who outsource the billing function to a third party bureau service. They suggested Ofcom consider under what circumstances such resellers and CPs might be permitted to use the Approval Logo.
- 3.11 Verizon said that they were generally supportive of Ofcom's proposal. However, they expressed concerns that the proposal could have unintended consequences on smaller providers (those under the turnover threshold) and result in less choice for consumers. They said that smaller CPs may be forced by consumer and/or competitor pressure either to seek accreditation or potentially lose prospective customers. Under such circumstances, Verizon felt that it is likely that some smaller CPs will be forced to exit the market as their business could not sustain the costs involved in seeking and maintaining approval.
- 3.12 Vodafone recognised that the introduction of an Approval Logo could assist customers for whom the accuracy of billing is an important criterion when comparing CPs or seeking information about their CP's billing systems. They also thought the availability of the logo could encourage CPs to seek approval of the accuracy of their Metering and Billing systems. However, Vodafone supported the adoption of an Approval Logo provided it is introduced in a way which allows all applicants to apply and ensures a level playing field for all operators. They said that

Ofcom needed to ensure that, when the Approval Logo is introduced, every CP would be able to benefit from the competitive advantages which the Logo brings.

- 3.13 One respondent (name withheld) argued that approval logos are normally introduced where there is freedom in the market to set up voluntary schemes and where there is a risk of poor quality in that market. As the metering and billing scheme has been approved by Ofcom and monitored by the ABs, they believed that there is an expectation that it will be of a sufficiently high standard. They therefore argued that there would be no benefit of having an approval logo when there is only one scheme in the market. The respondent also argued that those organisations without approval because they do not generate £40 million will be at a competitive disadvantage in the market.
- 3.14 Three did not believe that awareness of the Metering and Billing scheme was an issue for consumers, nor that it was difficult for them to find information about which CPs are approved. They argued that Ofcom's consultation document did not include any evidence that demonstrated that an Approval Logo was required.
- 3.15 Four stakeholders made comments about the design of the Approval Logo:
- BT sought clarification on whether there would be any restrictions on the overall logo size and colour/ font or location on bills/web pages will be required.
  - The Consumer Panel & ACOD recommended the logo when used on a CP's website should link back to the relevant accreditation page on the Ofcom website and also that the logo should contain the year to which approval relates, to encourage CPs to maintain accreditation.
  - Vodafone asked for Ofcom to clarify how the logo applies if the approval by the AB applied to just to part of a CP's product offering.
  - KCOM observed the proposed logo designs covered various service combinations; voice, data and wholesale and that in some circumstances, where a number of services are billed together, multiple logos might need to be used which could create consumer confusion. They suggested a possible solution would be to have one generic logo with the option for CPs to append a list of the approved services next to the logo.

## Ofcom response and decision

- 3.16 Having considered the responses carefully, Ofcom has decided not to proceed with the introduction of an Approval Logo at this time. We recognise that the majority of the consultation responses were broadly supportive of the Approval Logo. We also note that policy proposals and decisions may affect different stakeholders in different ways. Even so, the concerns raised by a number of respondents about the potential impact of an Approval Logo on CPs falling below the £40m threshold are important.
- 3.17 Ofcom takes particular account of the contentions that, if the proposed Approval Logo had the intended effect of providing reassurance to consumers about the accuracy of an approved CP's billing system, it may also potentially deter consumers from using CPs not displaying the logo. This is a matter that would require further detailed consideration. Ofcom previously decided that CPs with a relevant annual turnover under £40 million do not need to obtain approval for their TMBS under the Direction and we currently do not plan to review that threshold (for

the reasons set out in our recent review of the Direction<sup>9</sup>). That threshold and the requirements imposed on CPs whose turnover exceeds it, together with the requirements of GC11.1 that apply to all CPs, provide safeguards for consumers. The proposed voluntary approval logo would have been supplementary to that. Given those points, Ofcom has decided, taking account of administrative priorities, not to take further for now our proposal with regard to the logo. We may return to that in future.

- 3.18 As Ofcom has decided not to go ahead with the proposed Approval Logo, we do not consider it necessary to set out a detailed consideration of our views on the other concerns raised by stakeholders about the proposals in this document.
- 3.19 GC 11.1 will continue to require all CPs to provide accurate bills and Ofcom and the ABs will continue to provide information for consumers about the Metering and Billing Scheme and approvals on our websites. We will also consider other initiatives to promote consumers' awareness of the scheme. CPs who have been approved under the Direction may, as now, refer to the approval on their websites and in literature and may also be eligible to use the kitemark/logo of their AB, subject to their AB's approval.
- 3.20 As a consequence of this decision we will not be making the changes to the Direction proposed in the July consultation.
- 3.21 We would consider reviewing this decision if we made proposals to lower the £40 million turnover threshold in the future or if there was widespread voluntary adoption of the Direction by those below this threshold (to date four such voluntary approvals have been granted). Any future consideration in this regard would take into account all the comments made as part of this consultation and any proposals would be subject to further consultation.

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<sup>9</sup> Para 2.23 <http://stakeholders.ofcom.org.uk/binaries/consultations/metering-billing-2013/summary/metering-billing-13.pdf>

Annex 1

# Proposed designs for the Approval Logo

