



# Modifications to the Ofcom Metering and Billing Direction 2008

Consultation on modifications to the Ofcom Metering  
and Billing Direction 2008 and modifications to General  
Condition 11

Consultation

Publication date: 17 September 2010

Closing Date for Responses: 18 October 2010

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## Section 1

# Summary

## Introduction

- 1.1 General Condition 11 (GC11) of the General Conditions of Entitlement<sup>1</sup> requires providers of Publicly Available Telephone Services (PATS) with a relevant annual turnover in excess of £40m, to seek and obtain approval of their Total Metering and Billing System (TMBS)<sup>2</sup> from an Approval Body (AB).
- 1.2 The TMBS is currently approved when it complies with either the requirements of the Oftel Metering and Billing Direction 2003<sup>3</sup> (Oftel Direction) or the Ofcom Metering and Billing Direction 2008<sup>4</sup> (Ofcom Direction). From 1 January 2011, the Ofcom Direction will be the only applicable Direction. This means that Communications Providers (CPs) approved under the Oftel Direction are currently working towards meeting the requirements of the Ofcom Direction by the end of 2010.
- 1.3 The Ofcom Direction includes billing accuracy standards that apply to interworking arrangements between providers, ie where wholesale contracts exist between two or more CPs. Under the Direction, in these circumstances overall responsibility rests with the CP that holds the contract with the end-user to ensure that the overall service meets the accuracy standards for the TMBS<sup>5</sup>.
- 1.4 Since 2008 ABs and CPs have been working to meet the requirements of the Ofcom Direction by the end of 2010. In doing this they have found practical difficulties in applying the rules on interworking. In particular, they have found that one party in the TMBS may use up most or all of the permitted errors ('the tolerance level') under the Ofcom Direction, which has the effect of not allowing any scope for error by the other parties in the TMBS. In addition, for commercial reasons, some wholesale providers will not release information on their tolerance level to the retail provider, making it impossible for the retail provider to assess the overall tolerance level. Also, where a wholesale provider supplies more than one CP, the wholesale provider will often be unable practically to provide accurate error rate information on calls passed to a particular CP.
- 1.5 Members of the industry, including the ABs, have put forward a proposal that the existing tolerances within the Ofcom Direction should relate individually to each CP and their sub-contractors involved in the TMBS.
- 1.6 We have considered this proposal, and agree that the interworking arrangements in the Ofcom Direction cannot be practically applied (for the reasons summarised in paragraph 1.4). We therefore propose to modify the Ofcom Direction so that, in the case of interworking, the tolerance level applies separately to all CPs within the TMBS rather than just to the CP with the end user contract. We do not believe that

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/telecoms/ga-scheme/>

<sup>2</sup> A TMBS incorporates all processing steps from the original recording of a chargeable event to its readiness for presentation on a Bill to the End-User, whether performed by one or more service providers.

<sup>3</sup> [http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/mb\\_direction030722meter0703.pdf](http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/mb_direction030722meter0703.pdf)

<sup>4</sup> <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/ofcommb.pdf>

<sup>5</sup> See section A3.4.5 of the Ofcom Direction – 'Interworking between Communications Providers'

this will materially change the level of protection for consumers that the Ofcom Direction provides.

- 1.7 Due to the proposed modification to the interworking section of the Ofcom Direction, we are proposing that approvals made under the Oftel Direction, in relation to this issue only, will remain valid for a further 6 months until 30 June 2011.

### **Proposed modification to the Ofcom Direction**

- 1.8 Paragraph A3.4.5 is the only part of the Ofcom Direction which relates to interworking, so we are proposing to modify this paragraph only to reflect the proposal summarised in paragraph 1.6. It is intended that the proposed modification will be adopted on the same date as the post-consultation Statement is published, subject to consultation. The Notification of the proposed modification to the Ofcom Direction is at Annex 5 of this consultation.

### **Proposed modification of GC11**

- 1.9 GC11.6 and GC11.7(a) currently specify that approvals under the Oftel Direction remain valid until 31 December 2010. As such, we are proposing to amend GC11.6 and GC11.7(a) to reflect the extended validity of approvals made under the Oftel Direction in relation to interworking until 30 June 2011. It is intended that the proposed modified condition will be adopted on the same date as the post-consultation Statement is published, subject to consultation. The Notification of the proposed modifications to GC11 is at Annex 6 of this consultation.
- 1.10 We are inviting views on the proposal by **18 October 2010**.

## Section 2

# Introduction and background

## Ofcom requirements in respect of metering and billing

- 2.1 A key feature of electronic communications services is that customers are not readily able to quantify their usage of those services or to verify their bills with any degree of confidence or accuracy. Unlike in gas and electricity usage, for example, there is no domestic meter to enable customers to monitor their volume of usage. In practice, the sheer volume of services used and the complexity of billing due to the nature of the bundled packages purchased by a consumer can make it extremely difficult for a consumer to check that their bill is correct.
- 2.2 Although customers may be able to identify major errors, to a large extent many take the bills they receive on trust. It is therefore important for Ofcom to ensure where it can that such trust is justified, that customers are not overcharged and that consumer confidence in the accuracy of bills is maintained.
- 2.3 Ofcom requires CPs to provide consumers with a basic level of itemised billing to allow the subscriber to verify and control the charges incurred and adequately monitor usage and expenditure.<sup>6</sup> However, due to the very large sums involved, Ofcom considers that CPs with a relevant turnover<sup>7</sup> in excess of £40m should have robust billing systems in place to ensure consumers can have confidence in the accuracy of the bills they receive.

## The regulatory framework

- 2.4 Ofcom regulates the accuracy of bills issued by providers of electronic communications services. It does this through GC11.1 which imposes an obligation on all CPs for billing accuracy.
- 2.5 GC11 also requires providers of PATS with a relevant annual turnover in excess of £40m, to seek and obtain approval of their TMBS from third-party assessors against a prescribed standard.<sup>8</sup> This complex of approval arrangements represents the Ofcom Metering and Billing Approval Scheme.
- 2.6 ABs – the third-party assessors that providers of PATS seek and obtain approval from - are appointed by Ofcom and are identified within GC11.7(b).
- 2.7 A CP's TMBS is approved when it complies with either the requirements of the Oftel Direction<sup>9</sup> or the Ofcom Direction<sup>10</sup> whichever is relevant. The Oftel/Ofcom Directions are in essence a technical standard intended to ensure that compliant systems will deliver accurate bills, in turn maintaining end-user confidence in the bills that they receive.
- 2.8 Approvals made under the Oftel Direction will only remain valid until 31 December 2010. From 1 January 2011, the Ofcom Direction will be the only applicable

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<sup>6</sup> As required under GC12.1

<sup>7</sup> "Relevant Turnover" means annual turnover attributable to the provision of PATS after the deduction of sales rebates, value added tax and other taxes directly related to turnover

<sup>8</sup> As required under GC11.3 to 11.7

<sup>9</sup> [http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/mb\\_direction030722meter0703.pdf](http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/mb_direction030722meter0703.pdf)

<sup>10</sup> <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/ofcommmb.pdf>

Direction. Therefore, CPs and ABs have been working towards approval to the Ofcom Direction.

## The purpose of this consultation

- 2.9 Section A3.4.5 of the Ofcom Direction relates to interworking between CPs. It states that where wholesale contracts exist between two or more CPs, primary responsibility shall rest with the CP that holds the contract with the end-user (deemed to be the overall TMBS owner) to ensure that the overall service meets the accuracy standards set out within the Ofcom Direction.
- 2.10 CPs that are currently approved under the Oftel Direction are in the process of working towards meeting the requirements of the Ofcom Direction by 2010. They have raised concerns with their ABs that the tolerance levels – essentially the maximum billing error levels permitted - set out in the Ofcom Direction cannot be applied practically where more than one CP is involved in the conveyance of a call.

## Consideration of interworking measurement accuracy

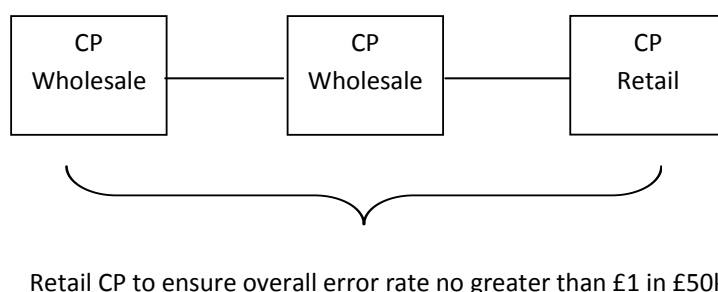
- 2.11 The Ofcom Experts Working Group (OEWG) was originally convened in 2006 to propose improvements to the Oftel Direction and they contributed significantly to the existing Ofcom Direction. Members of the OEWG were invited to join based on their general expertise about billing issues and their knowledge of particular segments of the electronic communications market. The OEWG original terms of reference are available on Ofcom's website at <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/tor.pdf>.
- 2.12 On 26 February 2010, when the potential problems described above surrounding interworking in the Ofcom Direction were identified and raised at the Metering and Billing Approval Bodies Forum, Ofcom decided to reconvene the OEWG to consider the interworking issue and propose an appropriate modification which reflects the current market.
- 2.13 The OEWG met several times between March and June 2010. Members consisted of representatives from ABIS, BT, Lifecycle, Sky, TalkTalk, Three, Virgin Media, Vodafone and the ABs – BABT and BSi.
- 2.14 The proposal put forward by the OEWG, and our consideration of this, is set out in Section 3.
- 2.15 Proposed modifications to the Ofcom Direction are set out in Annex 5 and proposed modifications to GC11 are set out in Annex 6.
- 2.16 We are inviting views on the proposed modifications by **18 October 2010**. Having considered responses to this consultation, our intention is to publish a statement setting out our conclusions in November 2010.

## Section 3

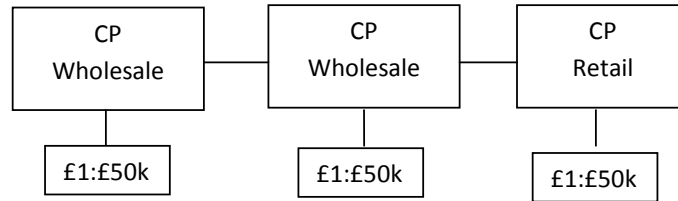
# Consideration of the OEWG proposal

## OEWG proposal

- 3.1 The OEWG advised Ofcom that the interworking provisions in section A3.4.5 of the Ofcom Direction have been found to be unworkable.
- 3.2 Currently under the Ofcom Direction product specific tolerances set the maximum inaccuracy limit permitted. For example, the inaccuracy limit for fixed PATS is £1:£50k. So in this case where there are CPs in addition to the retail CP involved in the supply chain, the retail CP is responsible for ensuring that the error rate for the whole chain does not exceed £1:£50k overall:



- 3.3 The OEWG advised this presents a number of potential difficulties, which are set out below:
- In circumstances where there are multiple wholesale CPs within the TMBS, full disclosure of billing errors is necessary to ensure the permitted tolerance levels are not exceeded. Such information could be considered commercially confidential and therefore CPs are reluctant to share this information, especially where they are involved in multiple TMBS'.
  - Wholesale providers are able to measure tolerances against the total amount of traffic generated. Apportioning that traffic to individual providers and then applying the appropriate tolerance levels is likely to require a disproportionate amount of resources, especially for providers who belong to numerous TMBSs.
  - It could be the case that one party within the TMBS chain uses up most or all of the permitted tolerance levels, therefore not allowing any scope for error to the other parties within the TMBS chain. Ofcom accepts that within a TMBS it is not reasonable to expect any individual party to operate their element of the TMBS without an error margin.
- 3.4 To address this problem the OEWG suggested amending the Ofcom Direction to require each CP in the TMBS to meet the permitted tolerance levels set out in the Direction. Under the proposal put forward by OEWG, each CP will only have responsibility for its part of the TMBS. For example, for fixed PATS the inaccuracy limit for usage events would apply for each part of the TMBS:



Each CP to ensure they each have an error rate no greater than £1 in £50k

- 3.5 OEWG told us that this would effectively maintain the interworking provisions that currently apply in the Ofel Direction.

### Ofcom's consideration of the OEWG proposal

- 3.6 Ofcom considers the existing interworking tolerance levels are unworkable as they cannot be practically applied or enforced in today's market of multi-party TMBSs for the reasons set out in paragraph 3.3.
- 3.7 In addition to making sure that any amendment is fit for today's market of multi-party TMBS's, we also need to ensure that the proposal put forward by the OEWG does not reduce the level of protection afforded to consumers.
- 3.8 Although the proposal could increase the overall tolerance level because the overall effect on end users could be the accumulation of a set of tolerance levels rather than one total tolerance level, the requirements would remain sufficiently tight for the reasons below that we do not feel that any resulting increase would be material in practice. For these reasons as well we do not believe that it is necessary to consider a change to the tolerance levels.
- 3.9 In the case of fixed PATS, the inaccuracy limit for usage events is £1:£50k (0.002%) and this tolerance level is currently shared by all entities making up a TMBS. Under the proposed modification, the tolerance level will apply to each party within the TMBS. So, if there are five parties in the TMBS chain and a £1:£50k (0.002%) overcharge error is caused by each, the resultant error will be £1:£10k (0.01%).
- 3.10 Based on 2009 Ofcom figures<sup>11</sup>, the average household spend on fixed voice telecommunications services was £21.53 per month. Using this information, and the figures set out in the paragraph above:
- If an end user generated a bill for £21.53 and was subject to an overcharge error of £1:£50k (0.002%), the bill would be increased to £21.53043. The bill would be rounded to the original figure of £21.53.
  - If the same end user generated a bill for £21.53 but was subject to an overcharge error of £1:£10k (0.01%), the bill would be increased to £21.532153. Again, the bill would be rounded to the original figure of £21.53.

<sup>11</sup> <http://stakeholders.ofcom.org.uk/binaries/research/cmr/753567/UK-context.pdf>



- 3.11 Looking at a considerably higher monthly bill of £107.65 – five times the average household spend:
- If an end user generated a bill for £107.65 and was subject to an overcharge error of £1:£50k (0.002%), the bill would be increased to £107.652153. The bill would be rounded to the original figure of £107.65.
  - If the same end user generated a bill for £107.65 but was subject to an overcharge error of £1:£10k (0.01%), the bill would be increased to £107.660765. In this case the bill would be rounded to £107.66.
- 3.12 In this latter example the rounding would result in a difference of £0.01 which, given the size of bill, suggests that the proposed change would not significantly affect customers' bills.
- 3.13 Moreover, these examples are based on an extreme case TMBS in which there are five parties within the chain. Most TMBS chains comprise fewer than five parties, resulting in a lower maximum error margin. However, we consider it would be unlikely that, even in this situation, the consumer would be subjected to the overcharge error rate of £1:£10k (0.01%). This is because it is likely that some errors caused within the chain would be identified by the subsequent party in the chain or the relevant AB for that portion of the TMBS.
- 3.14 In addition to being fit for purpose in today's market, we consider that the proposed modification does not produce a significant material change to the protection of consumers.
- 3.15 The Oftel Direction, under which the majority of CPs currently have received approval of their TMBS, provides that each CP is responsible for its own billing accuracy. Accordingly, the proposed modification to the Ofcom Direction would reflect the level of protection currently in place.
- 3.16 The Ofcom Direction is written on the basis of an average performance across all bills, so there remains the possibility that all of the errors could be added to a single bill. This would result in a significant error and result in a large bill for the end user.
- 3.17 However, the Ofcom Direction introduced an additional consumer protection measure to protect against a significant number of errors all appearing on one bill. Paragraph A3.4.8.3 of the Ofcom Direction requires each CP to be able to satisfy their AB that they have appropriate mechanisms in place to prevent bills containing significant errors reaching end users. Although the precise nature of this mechanism will vary from one TMBS to another, Ofcom has specified the types of issues that should be included. One example is the need to detect any bill which differs by a settable percentage from historical bills for that particular End-User.
- 3.18 The Ofcom Direction also states that all business and technical processes that can impact the TMBS are to be included within the scope of a process management system for approval purposes, including those of related third parties or sub-contractors<sup>12</sup>.
- 3.19 There are also provisions within the Ofcom Direction that ensure CPs deal with billing complaints from end users and make timely bill adjustments. The CP must employ

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<sup>12</sup> <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/ofcommb.pdf> (section A3.4.3 Process Management )

processes for receiving, identifying, investigating and dealing with incorrect charges, including processes whereby end users can readily question the accuracy of charges.<sup>13</sup>

- 3.20 The ABs have advised us that they will work with each CP in the end-to-end TMBS to ensure the removal of systematic sources of error, which will reduce the potential impact on end users. They will also ensure that the data sent and received over the interfaces of the supply chain are accurate and measured.
- 3.21 We expect that the proposal will be straightforward for CPs and ABs to implement as it effectively continues the interworking arrangements that apply under the Oftel Direction.

## Conclusions

- 3.22 It is clear that the current interpretation of the interworking section within the Ofcom Direction cannot be practically applied by the ABs or Ofcom. This means that it cannot in practice be implemented by CPs and enforced by the ABs and Ofcom.
- 3.23 Ofcom considers the proposal put forward by the OEWG is a workable solution. For the reasons set out above, we do not feel that the proposal will significantly lower the level of protection.
- 3.24 We consider that, subject to consultation, the proposed modification to the interworking section of the Ofcom Direction should be adopted. We are therefore seeking views on the proposed modification to the Ofcom Direction.

## Implementation – extension of interworking section of the Oftel Direction

- 3.25 Currently, approvals made under the Oftel Direction will expire on 31 December 2010. Due to our proposed change to paragraph A3.4.5 of the Ofcom Direction, we are also proposing to extend the validity of approvals made under the Oftel Direction, in relation to this modification only, to ensure continuing protection for consumers.
- 3.26 Requirements for approval under the Ofcom Direction state that a rolling 12 months of accurate data must be presented. However, an AB may recommend approval prior to all of the initial 12 months data being collected, but subject to a minimum of six months data in the case of a first approval. CPs have been working towards approval under the Ofcom Direction for some time and so should already have several months worth of accurate data.
- 3.27 We are proposing that approvals made under the Oftel Direction will remain valid, only in relation to interworking, for a further 6 months until 30 June 2011. All other elements of an approval made under the Oftel Direction will cease to be valid after 31 December 2010.
- 3.28 GC11.6 and GC11.7(a) currently specify that approvals under the Oftel Direction remain valid until 31 December 2010. As such, we are proposing to amend CG11.6 and GC11.7(a) to reflect the extended validity of approvals made under the Oftel Direction in relation to interworking until 30 June 2011. We would need to modify

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<sup>13</sup> <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/ofcommmb.pdf> (section A3.4.8 Individual Bill Accuracy)

GC11.6 and GC11.7(a) and the Ofcom Direction pursuant to our powers under sections 45 and 48 of the Communications Act 2003 (the Act) and in accordance with the legal tests set out in sections 47 and 49 of the Act.

### **Application of section 49 tests**

- 3.29 Under section 49(2) of the Act, a person may not modify a Direction unless satisfied that the modifications are:
- objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
  - not such as to discriminate unduly against particular persons or against a particular description of persons;
  - proportionate to what it is intended to achieve; and
  - transparent in relation to what it is intended to achieve.
- 3.30 Subject to consultation, Ofcom is satisfied that these tests have been met. The proposed modification to the Ofcom Direction is objectively justifiable as feedback from the industry and ABs has been that the section on interworking is no longer practical or enforceable in today's market of multi-party TMBS's.
- 3.31 The proposed modification to the Ofcom Direction does not discriminate against particular persons or against a particular description of persons. The proposed modification will apply equally to those CPs to whom GC11 applies.
- 3.32 The proposed modification to the Ofcom Direction is proportionate to what it is intended to achieve, being a solution to the problem identified which can be easily implemented by CPs and ABs and has little or no impact on levels of consumer protection. The proposal has been carefully considered by a representative group of industry experts, is fit for purpose in today's market whilst continuing to protect the interest of consumers.
- 3.33 Finally, the proposed modification to the Ofcom Direction is transparent as we are consulting with stakeholders and the draft modifications are set out in Annex 5. If the proposed modification is adopted, this will be clearly set out in a concluding Statement.

### **Application of section 47 tests**

- 3.34 In accordance with section 47(2) of the Act, any proposed modification to GC11 must be:
- objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
  - not such as to discriminate unduly against particular persons or against a particular description of persons;
  - proportionate to what it is intended to achieve; and
  - transparent in relation to what it is intended to achieve.

- 3.35 Subject to consultation, Ofcom is satisfied that these tests have been met. The proposed modifications to GC11.6 and GC11.7(a) are objectively justifiable as due to the proposed modification to the interworking section of the Ofcom Direction, CPs may require a longer period to meet the new proposed requirements. The extension will allow the collection of over six months' data for approval purposes.
- 3.36 The proposed modifications to GC11.6 and GC11.7(a) do not discriminate. The proposed modifications will apply equally to those CPs to whom GC11 applies.
- 3.37 The proposed modifications to GC11.6 and GC11.7(a) are proportionate as the extended deadline will ensure the continuation of protection for consumers and will provide sufficient time for the CPs and ABs to implement the change.
- 3.38 Finally, the proposed modifications to GC11.6 and GC11.7(a) are transparent as we are consulting stakeholders and the draft modifications are set out in Annex 6. If the proposed modifications are adopted, these will be clearly set out in a concluding Statement.

## Impact Assessment and Equality Impact Assessment

- 3.39 The analysis presented in the statement as a whole represents an impact assessment, as defined in section 7 of the Act.<sup>14</sup>
- 3.40 We have considered whether we are required to undertake a full equality impact assessment (EIA). On the basis of our initial EIA screening, we consider that this is not required. The proposed modification to the interworking section of the Ofcom Direction does not raise specific equality issues; it will affect consumers equally, regardless of race, disability, gender or any other relevant equality strand.

## Consultation questions

*Q1. Do you agree with our proposed modification to the interworking section of the Ofcom Direction? If not, please provide your reasons.*

*Q2. Do you agree with our proposal to extend the validity of approvals made under the Oftel Direction, in relation to interworking, until 30 June 2011? If not, please provide your reasons.*

<sup>14</sup> [www.opsi.gov.uk/acts/acts2003/pdf/ukpga\\_20030021\\_en.pdf](http://www.opsi.gov.uk/acts/acts2003/pdf/ukpga_20030021_en.pdf).

## Annex 1

# Responding to this consultation

## How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 18 October 2010**. We have allowed a month for responses in this case as the consultation relates to detailed technical issues.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <https://stakeholders.ofcom.org.uk/consultations/metering-billing-direction/howtorespond/form> as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email [meteringandbilling@ofcom.org.uk](mailto:meteringandbilling@ofcom.org.uk) attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Alastair Hogg  
6<sup>th</sup> Floor  
Consumer Affairs Team  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- Fax: 020 7981 3406
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

## Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Alastair Hogg on 020 7783 4483.

## Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.
- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

## Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement during November 2010.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: [http://www.ofcom.org.uk/static/subscribe/select\\_list.htm](http://www.ofcom.org.uk/static/subscribe/select_list.htm)

## Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk) . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's consultation champion:

Vicki Nash  
Ofcom  
Sutherland House  
149 St. Vincent Street  
Glasgow G2 5NW

Tel: 0141 229 7401  
Fax: 0141 229 7433

Email [vicki.nash@ofcom.org.uk](mailto:vicki.nash@ofcom.org.uk)

## Annex 2

# Ofcom's consultation principles

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

### Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

### During the consultation

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

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals. (We have allowed a month for responses in this case as the consultation relates to detailed technical issues.)

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

### After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.



## Annex 3

# Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk).
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at [www.ofcom.org.uk/consult/](http://www.ofcom.org.uk/consult/).
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.



## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## Annex 4

# Consultation questions

*Q1. Do you agree with our proposed modification to the interworking section of the Ofcom Direction? If not, please provide your reasons.*

*Q2. Do you agree with our proposal to extend the validity of approvals made under the Oftel Direction, in relation to interworking, until 30 June 2011? If not, please provide your reasons.*

## Annex 5

# Notification on modification to the Ofcom Metering and Billing Direction 2008

## Notification of a proposed modification under section 49(4) of the Communications Act 2003

### The Ofcom Metering and Billing Direction 2008

- A5.1 Ofcom in accordance with section 49(4) of the Act hereby makes the following proposals for a modification of the Ofcom Metering and Billing Direction 2008 published on 15 July 2008;
- A5.2 The draft modification to the Direction is set out in the Schedule to this Notification;
- A5.3 The effect of, and Ofcom's reasons for making, the proposals referred to in paragraph 1 above is set out in the accompanying explanatory statement;
- A5.4 Ofcom considers that the proposal referred to in paragraph 1 above complies with the requirements of sections 45 to 50 of the Act, as appropriate and relevant;
- A5.5 In making this Notification, Ofcom has considered and acted in accordance with their general duties in section 3 of the Act and the six community requirements in section 4 of the Act;
- A5.6 Representations may be made to Ofcom about the proposal set out in this Notification by **5pm on 18 October 2010**;
- A5.7 The proposed modified Direction shall enter into force on the date of publication of the final Notification;
- A5.8 Copies of this Notification and the accompanying statement have been sent to the Secretary of State in accordance with section 50(1)(a) of the Act;
- A5.8 In this Notification:
- a. "**the Act**" means the Communications Act 2003;
  - b. "**Ofcom**" means the Office of Communications;
- A5.9 Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
- A5.10 For the purpose of interpreting this Notification:
- a. headings and titles shall be disregarded; and
  - b. the Interpretation Act 1978 shall apply as if this Act were an Act of Parliament.
- A5.11 The Schedule to this Notification shall form part of this Notification.

**Claudio Pollack**  
**Director of Consumer Affairs**

A person authorised by OFCOM under paragraph 18 of the Schedule to the Office of Communications Act 2002

**17 September 2010**

## The Schedule

Section A3.4.5 of the Ofcom Metering and Billing Direction 2008 is modified as set out below:

For ease of reference any deleted text has been struck through and new additional text has been underlined and highlighted in yellow:

### **A3.4.5 Interworking between Communications Providers**

Where wholesale service contracts exist between two or more Communications Providers, it shall be for each Communications Provider to satisfy themselves that the services they offer or receive meet the requirements of this Direction and comply with the accuracy standards. ~~Primary responsibility shall rest with the Communications Provider that holds the contract with the End-User (deemed to be the overall Total Metering and Billing System owner) to ensure that the overall service meets the accuracy standards within this Direction. Evidence of an agreed Measurement Strategy shall be a key feature and shall be regarded as a minimum requirement.~~

Such contractual agreements shall not expect any individual party to operate their Total Metering and Billing System free from error nor allow an accumulation of errors to exceed the required overall performance standard laid down in this Direction.

Approval Bodies will work with each Communications Provider in the end-to-end Total Metering and Billing System to ensure the removal of systematic sources of error, and that data sent and received over the interfaces of the supply chain is accurate and measured.

Where issues arise that cannot be resolved between Communications Providers in a reasonable timeframe, escalation shall be first to the appropriate Approval Body (or Bodies) concerned, who shall seek to resolve differences, and then to Ofcom if a resolution cannot be achieved.

~~Figures 1, 2 and 3 in this section highlight the Total Metering and Billing System variations that can exist. The figures indicate how the Direction should be applied in each set of circumstances.~~

Where a Communications Provider owns part (or all) of the overall Total Metering and Billing System and receives a service from a non-Approved source, either from another Communications Provider or via a sub-contractor, they shall ensure the quality of that service either by direct reference to compliance with the Direction or by including explicit requirements that would result in such compliance.

## Annex 6

# Notification on General Condition 11 on Metering and Billing

## Notification of a proposed modification under section 48(2) of the Communications Act 2003

### Proposal for a modification to General Condition 11 on Metering and Billing

1. Ofcom in accordance with section 48(2) of the Act hereby makes the following proposals for a modification of General Condition 11 on Metering and Billing, as set by the General Condition Notification;
2. The draft modification is set out in the Schedule to this Notification;
3. The effect of, and Ofcom's reasons for making, the proposals referred to in paragraph 1 above is set out in the accompanying explanatory statement;
4. Ofcom considers that the modification referred to in paragraph 1 above complies with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to each of the proposed modifications;
5. In making the proposals set out in this Notification, Ofcom has considered and acted in accordance with their general duties in section 3 and of the Act and the six Community requirements in section 4 of the Act;
6. Representations may be made to Ofcom about the proposals set out in this Notification by **5pm on 18 October 2010**;
7. The modification shall enter into force on the date of publication of the final Notification;
8. Copies of this Notification and the accompanying statement have been sent to the Secretary of State in accordance with section 50(1)(a) of the Act;
9. In this Notification:
  - a) "**the Act**" means the Communications Act 2003;
  - b) "**General Condition Notification**" means the notification setting General Conditions under section 45 of the Act, issued by the Director General of Telecommunications on 22 July 2003, as subsequently amended;
  - c) "**Ofcom**" means the Office of Communications;
10. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
11. For the purpose of interpreting this Notification:

- d) headings and titles shall be disregarded; and
- e) the Interpretation Act 1978 shall apply as if this Act were an Act of Parliament.

12. The Schedule to this Notification shall form part of this Notification.

**Claudio Pollack**  
**Director of Consumer Affairs**

A person authorised by OFCOM under paragraph 18 of the Schedule to the Office of Communications Act 2002

**17 September 2010**

## Schedule

General Condition 11.6 and 11.7(a) shall be modified as set out below. For ease of reference any deleted text has been struck through and new additional text has been underlined and highlighted in yellow:

### 11.6

Where the Communications Provider holds an approval under the Oftel Metering and Billing Direction or has made an Oftel Approval Application, such approval or application shall be deemed to be an Approval or application for Approval of the Communications Provider's Total Metering and Billing System until 31 December 2010 except in the case of the provisions contained in section A3.4.5 of the Ofcom Metering and Billing Direction where the approval or application shall be deemed to be an Approval or application for Approval of the Communications Provider's Total Metering and Billing System until 30 June 2011.

### 11.7(a)

“Approval” means an approval granted by an Approval Body where a Communications Provider's Total Metering and Billing System is compliant with the Ofcom Metering and Billing Direction, or until 31 December 2010, the Oftel Metering and Billing Direction except in the case of the provisions contained in section A3.4.5 of the Ofcom Metering and Billing Direction Approval under the Oftel Metering and Billing Direction remains valid until 30 June 2011.



## Annex 7

# Glossary

AB	Approval Body
BABT	British Approvals Board of Telecommunications
BSi	British Standards Institution
CP	Communications Provider
GC	General Condition
GC11	General Condition 11 on Metering and Billing
OEWG	Ofcom Experts Working Group
Ofcom	Office of Communications
Oftel	Office of Telecommunications
PATS	Publicly Available Telephone Service
PECS	Public Electronic Communications Service
TMBS	Total Metering and Billing System