



BT's response to Ofcom's consultation document
*"Regulatory Financial Reporting: Consultation on
proposed directions to BT arising from the Wholesale
Local Access and Wholesale Broadband Access market
reviews"*
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NON-CONFIDENTIAL VERSION

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2. Executive Summary

- 2.1 Ofcom's consultation document on Regulatory Financial Reporting makes a number of detailed proposals arising from the Significant Market Power (SMP) remedies proposed in the concurrent Wholesale Local Access (WLA) and Wholesale Broadband Access (WBA) market reviews. Most significantly it proposes the introduction of five new pairs of components (i.e. spine duct, lead-in duct, poles, manholes and junction boxes) for reporting cost and asset values.
- 2.2 Such a change represents a fundamental shift in the way in which Openreach records, discloses and allocates infrastructure costs to its services. While we agree with many of the intentions and principles underlying these proposals, Ofcom should not underestimate the complexity and wide ranging implications.
- 2.3 In particular, Ofcom must take account of the five points below.

Ofcom must ensure its detailed requirements are practical and proportionate

- 2.4 The recording of cost and assets in the form proposed would require considerable effort and resource given the scale, complexity and age of our network. Our inventory records have not been specified or kept for the purpose of recording information in the way proposed and it may not be possible to precisely reconstruct all historic information in the form proposed. Ofcom must ensure that its detailed specifications for information, in particular the reconciliation between inventory and financial records, and the time permitted to introduce these changes, allows us the flexibility to work with Ofcom to develop processes that meet its requirements, while remaining practical and proportionate.

Commercially sensitive information must be redacted from published documents

- 2.5 Openreach faces increasing competition from other infrastructure providers, particularly for fibre based services. Releasing our underlying costs of network build in the format proposed by Ofcom would put Openreach at a disadvantage to its competitors, of which costs are unpublished in this form. The provision of the unit cost information for network infrastructure elements must only be provided to Ofcom privately, not published, in order to maintain a fair and effectively competitive environment for infrastructure providers. Publication would be a significant extension to the public disclosure of Openreach's commercial information and would cause harm to its legitimate business interests.

Transition arrangements must be in place for the changes in cost allocation, ideally by aligning Wholesale Local Access (WLA) and Business Connectivity review periods

- 2.6 The separation of infrastructure cost elements from those for cables and active services would require revision to the allocation methodologies used in the Regulatory Financial Statements (RFS) and is likely to result in a different allocation of costs to markets and services to that used today. As Ofcom uses this information in its charge control models,

these changes may result in a different way in which shared infrastructure costs are recovered, in particular between WLA and Business Connectivity markets.

- 2.7 Ofcom must ensure that such changes do not unfairly disadvantage Openreach, or advantage other stakeholders, by putting appropriate transition arrangements in place. The easiest way to ensure our costs are not under, or over recovered, as a result of a transition, would be to align the market review periods, bringing the Business Connectivity review period in line with that of the Narrowband and WLA.

Ofcom should review the complete network component set in the RFS

- 2.8 The removal of infrastructure elements from the remaining network components will make many of the latter different in value and nature. Ofcom should take the opportunity to review the full network component set to ensure that it remains appropriate and that any inconsistencies in approach between markets, in particular between local access copper, local access fibre and Ethernet services are reviewed and, if necessary, amended. Any changes to the component set should be made at the same time as the introduction of the new components. Ofcom should develop proposals for a new component structure and re-consult on this at a later date. We would welcome the opportunity to work with Ofcom in developing those proposals.

Ofcom should be clear on the justification for each of its reporting requirements and clearly link those to other remedies

- 2.9 The level of information reported (publically or privately) must be proportionate to the size of the market and the nature of the pricing (and other) remedies imposed, which the regulatory reporting aims to support. In particular:
- Reconciling items between the RFS and Annual Report and Accounts should be minimised by avoiding specifying different capitalisation policies for each;
 - The level of information required for WBA Market A is no longer appropriate given the proposed removal of CPI-X price caps and reduction in the geographic area covered by the market; and
 - Ofcom must withdraw reporting requirements for DSAC and DLRIC cost information unless it can be clear for what purpose is required.

3. Introduction

3.1 We agree with Ofcom that the purpose of regulatory financial reporting is to provide it with the information necessary to:

- make informed regulatory decisions;
- monitor compliance with SMP conditions;
- ensure that those SMP conditions continue to address the underlying competition issues; and
- investigate potential breaches of SMP conditions and anti-competitive practices.¹

3.2 We also agree that the attributes of good regulatory reporting are:

- **Relevance.** The information needs to answer the right questions, in the right way and at the right time.
- **Reliability.** The underlying data must be reliable, suitable rules for treatment of those data must be chosen and those rules need to be followed.
- **Transparency.** The basis of preparation should be understood by the users of the reports and the presentation of the data should be clear.
- **Proportionality.** The reporting requirements should be proportionate to the benefits.²

3.3 Unlike Ofcom's Regulatory Accounting Principles, we believe the attributes of good reporting should not be applied in a specific order and, should all be given equal weight.

3.4 Ofcom should consider a framework for regulatory reporting. Such a framework should be relevant in the context of all market reviews, providing a clear association between pricing (and other) remedies and reporting remedies, giving stakeholders clarity and certainty over the information required to be disclosed. In addition to ensuring that stakeholder needs are consistently met, such a framework should lead to a reduction in the complexity and volume of regulatory financial reporting. Specifically, removing the obligation to provide stakeholders with information which adds no or little value, or relates to items which are not material, will improve transparency for stakeholders and reduce the cost of compliance, to the benefit of all stakeholders.

¹ See paragraph 2.1 of the Regulatory Financial Reporting Consultation.

² See paragraph 2.3 of the Regulatory Financial Reporting Consultation.

3.5 In the table below we set out our proposal for such a framework for regulatory reporting, which makes a clear link between any pricing remedy imposed and information we are required to publish.³

Pricing remedy	Reporting obligation			
	Performance summary by market	Adjusted performance schedule	Market summary	FAC by service and component
No remedy	None	None	None	None
Fair and reasonable	Published	As appropriate	None	None
Bottom up charge control	None	None	None (revenues and volumes in a compliance statement)	None
Safeguard cap	None	As appropriate	None (revenues and volumes in a compliance statement)	None
CPI-X charge control	Published	As appropriate	Published	Published
Cost orientation/basis of charges	Published	As appropriate	Published	Depends upon specific nature of cost orientation requirement

3.6 In particular, it is not clear as to Ofcom’s purpose for requiring us to provide DSAC and DLRIC cost information. There was no explanation or statement for the requirement, neither in the context of the WLA charge control modelling proposed in the WLA consultation, nor in the context of the fair and reasonable obligation proposed in the WBA consultation. Ofcom must withdraw reporting requirements for DSAC and DLRIC cost information unless it can be clear for what purpose is required.

³ See page 27 (paragraph 101) of Openreach’s response to Ofcom’s NBMR Consultation 24 March 2017.

Future of regulatory reporting

- 3.7 We welcome this consultation on Regulatory Financial Reporting by Ofcom. We are currently working on a number of proposals to strengthen the relevance, reliability, transparency and proportionality of our regulatory reporting processes. We would like the opportunity to table these with Ofcom and have Ofcom consult on these as it views necessary.
- 3.8 Therefore, we would like Ofcom to consider providing us with less prescriptive directives, to allow us to make the necessary improvements under the proposed directions. For example, as mentioned in the executive summary of this document, we would like Ofcom to review the full network component set to ensure that it remains appropriate and that any inconsistencies in approach between markets, in particular between local access copper, local access fibre and Ethernet services, are reviewed and, if necessary, amended.

4. Regulatory financial reporting for Duct and Pole Access

- 4.1. In this section we set out our comments on Ofcom's proposed reporting requirements, as set out in Section 3 of the consultation, and our response to Question 3.1.

Question 3.1: Do you agree with our proposals for Regulatory Financial Reporting in relation to the reporting of duct and pole costs? Please provide reasons and evidence in support of your views.

Summary of Ofcom's proposals

4.2 Ofcom proposes to specify ten new network components for us to capture the capital and maintenance costs of our duct and pole assets in significantly greater granularity than is currently the case and to require us to reconcile our fixed asset register to our physical inventory.⁴ We broadly agree with the principle of requiring more granular cost analysis, however:

- While Ofcom acknowledges these proposals would require significant changes to our regulatory accounting systems, substantial change to how we record financial data and that in certain circumstances the financial data does not exist,⁵ Ofcom has underestimated the impact of these proposals on our other financial and non-financial systems and the potential resources, cost and time involved in implementing these changes.
- We welcome Ofcom's acknowledgement that its proposals would take time to implement and its proposal to extend the implementation timetable. However, we are concerned with Ofcom's current proposal that these changes need to be implemented no later than 1 April 2020.⁶
- We believe Ofcom has considerably underestimated the time it would take to implement its proposals. Although we would undertake a feasibility study before we could accurately estimate the required time and complexity, Ofcom's proposals do not reflect experience elsewhere:
 - [✕]
 - [✕]
 - Ofcom should explore comparable examples of its proposals in the industry. We suspect all the examples will highlight it took longer than Ofcom's proposed timeframe and considerable challenges will have needed to be addressed.

⁴ See paragraph 3.6 of the Regulatory Financial Reporting Consultation.

⁵ See paragraph 3.49 of the Regulatory Financial Reporting Consultation.

⁶ See paragraph 3.6 and 3.49 of the Regulatory Financial Reporting Consultation.

- 4.3 We propose to continue to work with Ofcom to reach a suitable solution for our concerns above.

Proposed directions to implement regulatory accounting requirements in respect of duct and pole costs

- 4.4 Ofcom believes our reporting of duct and pole costs does not provide the information it needs or possesses the basic attributes of good reporting⁷ to monitor our compliance with the non-discrimination condition proposed in the April 2017 DPA Consultation.⁸ Therefore, Ofcom proposes an amendment to the consistency with regulatory decisions direction proposed in the March 2017 WLA Consultation. The proposed amendment will require us to reconcile our physical asset inventory with its duct and poles financial records within the RFS.⁹
- 4.5 We do not agree with Ofcom's view that our current reporting of duct and pole costs does not meet the basic attributes of good reporting. Our current level of granularity and reporting is compliant with existing reporting requirements imposed on us by Ofcom.
- 4.6 We agree with Ofcom that the current network component structure does not provide the additional level of granularity of financial information on duct and pole costs, neither does it facilitate monitoring compliance with the proposed non-discrimination remedy for PIA services.¹⁰
- 4.7 Ofcom proposes that we create ten new network components: Duct Spine capital; Duct Spine maintenance; Junction Boxes Capital; Junction boxes maintenance; Manhole Capital costs; Manhole maintenance costs; Pole capital costs; Pole maintenance costs; Lead in duct capital costs; and Lead in maintenance costs.¹¹ The creation of these five new network component pairs, involves a disproportionate level of resource and additional complexity to our reporting systems relative to the benefit they would bring to Ofcom and other stakeholders.
- 4.8 Moreover, the publication of our detailed infrastructure costs as per Ofcom's new network components proposal, would result in publishing our commercially sensitive information, and put Openreach at a disadvantage to its competitors (Virgin Media, CityFibre, Vodafone, Hyperoptic and Gigaclear), of which costs are unpublished in this form. This would undermine effective competition in the market. The publication of infrastructure cost information at the level of granularity proposed by Ofcom would, either individually or on a cumulative basis and in combination with other information (e.g. network inventory discovery information), cause harm to Openreach's legitimate business interests. Regulatory reporting to Ofcom does not warrant the disclosure of commercially sensitive information to competitors.

⁷ See paragraph 3.30 of the Regulatory Financial Reporting Consultation.

⁸ See paragraph 3.15 of the Regulatory Financial Reporting Consultation.

⁹ See paragraph 3.30 of the Regulatory Financial Reporting Consultation.

¹⁰ See paragraph 3.34 of the Regulatory Financial Reporting Consultation.

¹¹ See paragraph 3.37 of the Regulatory Financial Reporting Consultation.

4.9 As previously mentioned, Ofcom has under-estimated the complexity of its proposals. In the table below, we highlight a few of the areas that contribute to the complexity of the proposed reconciliation exercise:

[✕]

4.10 [✕]

4.11 We propose to continue to work with Ofcom to reach a suitable solution to its proposals.

5. Recovering the costs of investment in network expansion

- 5.1 In this section we set out our comments on Ofcom’s proposed reporting requirements, as set out in Section 4 of the consultation, and our response to Question 4.1.

Question 4.1: Do you agree with our proposals for Regulatory Financial Reporting in relation to the reporting of Network Expansion costs? Please provide reasons and evidence in support of your views.

- 5.2 On 20 December 2017 the UK Government announced that it had rejected a voluntary proposal from BT to deliver universal broadband through a voluntary agreement in favor of a universal service obligation (USO) that will require coverage of at least 10 Mbps to the whole of the UK by 2020.¹²
- 5.3 We understand from email correspondence with Ofcom on 3 January 2018 (✂), that as a result of the UK Government’s announcement certain sections (including legal instruments) of the consultation are no longer applicable and to which we are not required to respond to. We have set out in Annex 1 of this document the main sections (including legal instruments) that are no longer applicable.

¹² Refer to <https://www.gov.uk/government/news/high-speed-broadband-to-become-a-legal-right>

6. Regulatory financial reporting for WLA Ancillary services

- 6.1 In this section we set out our comments on Ofcom’s proposed reporting requirements, as set out in Section 5 of the consultation, and our response to Question 5.1

Question 5.1. Do you agree with our proposals for Regulatory Financial reporting in relation to the reporting WLA ancillary services? Please provide reasons and evidence in support of your views.

Proposed consistency with regulatory decisions direction – amendment to the basis of preparation

- 6.2 Ofcom proposed adjustments and treatment of WLA Ancillary services in the RFS are set out in the table below:¹³

Proposed adjustment	Proposed treatment in the RFS
a) GEA Cablelink	GEA Cablelink (Connection) - 1 Gbit/s and GEA Cablelink (Connection) – 10 Gbit/s – Ofcom proposes that BT must not capitalise any labour installation or equipment costs required to provide GEA Cablelink services and must remove the costs of historical assets already recovered via GEA Cablelink one-off charges from NRCs and GRCs.
b) Tie cables	Ofcom proposes that BT removes all the historical labour installation assets from GRCs and NRCs and, going forward, treats any labour costs that would previously have been capitalised as operating costs.
c) Co-mingling	
i) Set up costs (CL131)	Ofcom proposes that BT removes all the historical assets already recovered via one-off or connection fees from GRCs and NRCs and treats any labour costs that would previously have been capitalised as operating costs.
ii) Co-mingling Rentals (CL132)	Ofcom proposes that BT moves the NRCs and GRCs of the ACPA assets which provide power to the GEA DSLAMs to the Class of Work LFME. It proposes that BT removes all the historical assets already recovered via one-off or connection fees from GRCs and NRCs and treats any labour costs that would previously have been capitalised as operating costs. In respect of the remaining ACPA assets used to provide power to co-mingling equipment, Ofcom proposes that BT removes all the historical assets already recovered via one-off or connection fees from GRCs and NRCs and treats any labour costs that would previously have been capitalised as operating costs. The costs are then attributed to PG132B LLU Co-mingling Recurring Costs.

¹³ See paragraph 5.47 table 5.3 Proposed adjustments and proposed treatment in the RFS of the Regulatory Financial Reporting Consultation.

6.3 We disagree¹⁴ with Ofcom's proposal to treat capitalised installation, planning and relevant equipment costs for GEA Cablelink, Co-mingling (including ACPA assets transferred to LFME), and Tie-cable services as operating expenses within the RFS, for the reasons set out below.

6.3.1 Our current financial accounting policy to capitalising these costs is appropriate due to:

- Planning, labour and other installation costs incurred to connect customers to the copper and fibre access networks are not differentiated from the overall network cost build, as these are directly attributable in bringing the network to the location and condition necessary for it to be capable of operating in the manner intended by management.
- In addition, these costs are necessary to support other services being offered for which income is being earned, for example rentals from FTTP and FTTC services, thereby associating the cost items with future benefits which will flow to the entity.
- Therefore these costs should be treated as capital expenditure rather than as operational expenditure.

6.4 [✕]

6.5 Going forwards, the timing of recognising the connection fees may be deferred under IFRS 15 – *Revenue from Contracts with Customers*, which comes into effect on 1 April 2018. Further analysis needs to be conducted to determine the impact of IFRS 15 – *Revenue from Contracts with Customers* on connection revenues from the above services before any methodology changes should be proposed.

6.6 Expensing these costs in the year incurred will cause misalignment between the RFS and the statutory accounts which will reduce transparency, reliability and comparability for the users of the RFS. We disagree that an adjustment within the reconciliation statement will resolve this, as every additional reconciling item between the RFS and the Annual Report, particularly for low materiality items, increases the complexity and reduces the transparency of the RFS.

6.7 We agree with Ofcom's proposal that assets used to provide GEA services which are currently recorded within the ACPA CoW, would be separately identified and moved to the LFME CoW.

6.8 In respect of Abortive Vists Charges (AVCs), Ofcom sets out its view in the September 2017 WLA Consultation, that the costs in the RFS are unreliable. It is therefore proposing

¹⁴ See paragraph 169 -171 of Openreach's response to Ofcom's Further consultation on proposed charge control for wholesale standard and superfast broadband, dated 31 October 2017.

modifications to the consistency with regulatory decisions direction which would require us to:

- remove/write-off the potentially double recovered historical assets from GRCs and NRCs and the associated historical depreciation from operating costs;
- treat the corresponding expenditure that had been previously treated as in year capex as operating costs; and
- ensure that these services do not receive attributions of historical assets from the identified classes of work or asset types.¹⁵

6.9 We review our accounting policies and treatments of all items on a regular basis and believe our current accounting treatments are correct. If we identify any potential changes based on our review process we will inform Ofcom.

Proposed network components direction – amendment

6.10 We welcome Ofcom’s agreement with our previous responses that in terms of providing information to monitor compliance with any future regulatory decisions on the capitalisation of costs within certain WLA ancillary services, there is an element of duplication in its previous proposal. Ofcom therefore proposes to proceed only with a network component proposal as this has the added advantage of providing comfort to stakeholders on our compliance, which private reporting does not.¹⁶

6.11 Ofcom proposes to amend its proposed direction, by requiring us to create five new network cost components: GEA Cablelink Expenditure; Co-mingling Rentals Expenditure; Co-mingling Connections Expenditure; AVC Expenditure; and Other WLA Ancillary Expenditure.¹⁷

6.12 We maintain our proposal to work with Ofcom on an alternative solution, which would be more effective, efficient and value-adding to our stakeholders. We therefore, propose that Ofcom does not prescribe the additional components in the context of this consultation, but rather defers it to a later stage, following further information gathering and consultation with us and other stakeholders. This should be reflected in the final legal instruments.

¹⁵ See paragraph 5.48 of the Regulatory Financial Reporting Consultation.

¹⁶ See paragraph 5.31 to 5.33 of the Regulatory Financial Reporting Consultation.

¹⁷ See paragraph 5.50 of the Regulatory Financial Reporting Consultation.

Proposed form and content direction – amendment

6.13 Ofcom proposes that we should publish revenue, volume, average price and FAC information for the following services where revenues are greater than £5m for the following services: GEA 40/10 Bandwidth Change; VLAN moves applied to GEA Cablelink Modify transactions; AVCs; MPF Cancellations; MPF Amend; MPF Standard line test; GEA CRD; and GEA Regrading.¹⁸

6.14 We agree with Ofcom’s proposal to publish revenue, volume, average price and FAC information for services listed above, that will be charged controlled under the WLA Market review that is expected to come into effect from April 2018. However, we disagree with Ofcom that we should publish revenue, volume, average price and FAC information for (i) AVCs services, as these services are under a fair and reasonable obligation; and (ii) LLU ancillary, as we only publish basket revenue in the non-confidential version of the compliance statement. Therefore, individual product information is not currently available to stakeholders, and to provide this information would be disproportionate to the benefit it might provide.

6.15 We disagree with Ofcom that the new reporting requirements for the WLA ancillary services should be reflected in the 2018/19 RFS.¹⁹ Ofcom’s proposals relating to basis of preparation and new network components within this consultation requires significant amount of data analysis and potential system changes that are time consuming and complex. Therefore:

- We propose that we would work with Ofcom on suitable solutions for any new reporting requirements and reflect those in the 2019/20 RFS.
- We agree that Ofcom’s proposal to publish revenue, volume, average price and FAC information for charge control services where revenues are greater than £5m, in the 2018/19 RFS.

¹⁸ See paragraph 5.56 of the Regulatory Financial Reporting Consultation.

¹⁹ See paragraph 5.66 of the Regulatory Financial Reporting Consultation.

7. Other regulatory financial reporting proposals in relation to the WLA market

- 7.1 In this section we set out our comments on Ofcom's proposed reporting requirements, as set out in Section 6 of the consultation, and our response to Question 6.1, 6.2 and 6.3.

EOI Reporting

Question 6.1: Do you agree with our proposals for BT's Regulatory Financial Reporting, modifying requirements relating to the form and content of the RFS in respect of EOI reporting? If not, what alternative would you propose and why?

- 7.2 Whilst we agree in principle with Ofcom's proposal to publish information that would enable it to monitor compliance with our EOI obligation,²⁰ we disagree with the proposed level of detail set out in the relevant legal instrument annexed to the consultation document to be published within the WBA market disclosures within the RFS.²¹ We consider that the proposed level of detail is unnecessary and disproportionate to the proposed fair and reasonable pricing remedy, and the size of the WBA Market A, in the 22 June 2017 Wholesale Broadband Access Market review consultation.
- 7.3 Ofcom proposed a WLA regulatory financial reporting direction that requires us to report the name of the EOI inputs (i.e. the WLA service or part service inputs which are subject to an EOI obligation under regulation in the WLA market), their usage factors and their unit prices for key WBA services.²² Ofcom proposed that the total FAC (but not the individual non EOI network component costs) for these regulated services is also published. Ofcom considers this information is required to show stakeholders which EOI inputs are provided from the WLA market and their relative importance within the WBA services they purchase, as well as to provide stakeholders with a sufficient level of confidence that BT complies with its obligation to provide certain WLA inputs on an EOI basis.²³ The proposed direction is set out in Annex 6 of the consultation document.²⁴

²⁰ See paragraph 6.3 2nd bullet of the Regulatory Financial Reporting Consultation.

²¹ See paragraph 6 of 'Schedule 3 – The proposed Direction under section 49 of the Communications Act 2003 and proposed Condition 12.4 setting the requirements in relation to preparation, delivery, publication, form and content of the Regulatory Financial Statements at annex 23 of the March 2017 WLA Consultation (as amended pursuant to annex 6 of the August 2017 DPA Pricing Consultation) is amended as follows' of A6. Draft Legal Instruments – WLA of the Regulatory Financial Reporting Consultation.

²² See paragraph 6.33 of the Regulatory Financial Reporting Consultation.

²³ See paragraph 6.34 of the Regulatory Financial Reporting Consultation.

²⁴ See paragraph 6.35 of the Regulatory Financial Reporting Consultation.

- 7.4 Under Ofcom’s current proposed level of detail to be published for EOI, the schedule would not produce useful information as the majority of the lines published will be zero due to the size of WBA Market A services. Therefore, we recommend that publishing EOI summary by market would better demonstrate our compliance with the EOI obligation. This would need to be reflected in the legal instruments.²⁵

The reconciliation report

Question 6.2: Do you agree with our proposals for BT’s Regulatory Financial Reporting, including the proposed Direction modifying requirements relating to the provision of information contained in the reconciliation report annexes and the Consolidation of the information within the published RFS? In respect of information currently contained within the reconciliation report annexes, if you believe important information is being lost, please could you explain why it is important and what you feel you will lose from its removal?

- 7.5 We agree with Ofcom’s proposals that we should no longer be required to produce two annexes to the Reconciliation Report, and that the remainder of the current report is consolidated within the RFS to reduce duplication.²⁶ The production of these annexes involves a disproportionate level of resource relative to the benefit they bring to Ofcom and other stakeholders.
- 7.6 In line with Ofcom’s view that the information contained in the main reconciliation report is likely to be sufficient,²⁷ we believe that the annexes are of no use to other stakeholders due to how the annexes show a combined impact of many Ofcom and BT-driven changes. For example, if CPs attempt to use the data to isolate a specific change’s service impact, then this data would not be a reliable source as individual changes cannot be disaggregated using these annexes. If specific information relating to an individual change was justifiably required, this could be requested by Ofcom using its information gathering powers, e.g. under s.135 of the Communications Act 2003.
- 7.7 Furthermore, there are no reasons to defer removal of the Reconciliation Report annexes, so the removal should take place immediately, to prevent production of unnecessary data. This would mean that no annexes are produced for the 2018 Reconciliation Report, to be published in July 2018 (rather than 2019 Reconciliation Report, as per Ofcom’s current proposal).

²⁵ See ‘Schedule 3 – The proposed Direction under section 49 of the Communications Act 2003 and proposed Condition 12.4 setting the requirements in relation to preparation, delivery, publication, form and content of the Regulatory Financial Statements at annex 23 of the March 2017 WLA Consultation (as amended pursuant to annex 6 of the August 2017 DPA Pricing Consultation) is amended as follows’ of A6. Draft Legal Instruments – WLA. of the Regulatory Financial Reporting Consultation.

²⁶ See paragraph 6.3 4th bullet of the Regulatory Financial Reporting Consultation.

²⁷ See paragraph 6.3 4th bullet of the Regulatory Financial Reporting Consultation.

Network components

Question 6.3: Do you agree with our proposals for BT's Regulatory Financial Reporting, including modifying requirement specifying the list of network cost components? If not, what alternative would you propose and why?

7.8 Ofcom proposes to amend the requirements in relation to network components, to ensure the list reflects the network components that are reported in the RFS. Ofcom proposes to implement this by way of an amendment to the March 2017 proposal for a direction specifying network components, as amended by other proposals made in this consultation.²⁸

7.9 The full list of network components is set out in the legal instruments in:

- *'Schedule 2 The proposed Direction under section 49 of the Communications Act 2003 and proposed Condition 12.4 specifying network components at annex 23 of the March 2017 WLA Consultation is amended as follows'* of A6. Draft Legal Instruments – WLA;
- Annex A and B of *'Schedule 1 The proposed Direction under section 49 of the Communications Act 2003 and proposed Condition 8 specifying network components'* of A7. Draft Legal Instrument – WBA.

7.10 We agree with Ofcom's proposal that the list of network components should be amended to reflect the network components reported in the RFS. However, we disagree with Ofcom's proposal to restrict us to a prescribed list of network components via a direction proposed in the legal instruments of this consultation. Ofcom should take the opportunity to review the full network component set to ensure that it remains appropriate and that any inconsistencies in approach between markets are reviewed and, if necessary amended. Ofcom should defer any direction until after such review.

7.11 We are in the process of undertaking a review of all our components to determine their relevance and therefore, any proposed direction as part of this consultation, should provide flexibility to change the list of network component to enable relevance, transparency and adaptability in our reporting as we operate in an ever evolving environment. Accordingly, we propose that:

- Ofcom only directs us to use a consistent list of network components across all market;
- The detailed lists of network components in the legal instruments of this consultation be removed; and
- Ofcom works with us to determine the most appropriate list of network components and re-consult on this at a later date.

²⁸ See paragraph 6.3 4th bullet and paragraph 6.30 of the Regulatory Financial Reporting Consultation.

8. Amending the consistency with regulatory decisions from 2014 Fixed Access Market Review in relation to cumulo rates

8.1 In this section we set out our comments on Ofcom's proposed reporting requirements, as set out in Section 7 of the consultation, and our response to Question 7.1.

Question 7.1: Do you agree with our proposals for BT's Regulatory Financial Reporting, modifying requirements relating to the attribution of BT's Cumulo rates costs in 2017/18? If not, what alternative would you propose and why?

8.2 Ofcom proposes to attribute our cumulo costs from 2017/18 onwards by continuing to use the existing three stage approach. Ofcom proposes to overcome the issue with our valuation no longer being able to identify the rates that it pays on VULA services on the basis that each GEA rental connection contributed £18 to our total RV116. This assumption was consistent with the VOA's 2010 guidance.²⁹

8.3 The draft legal instrument proposing the necessary amendment to the direction is set out in Annex 8.³⁰

8.4 We agree with Ofcom's proposal to continue to use the existing three stage approach. However, the proposed amendments in Annex 8 are not sufficiently clear for us to be able to follow and demonstrate our compliance. Further, the proposed amendments should be written so as to be able to accommodate any changes that may be agreed between BT and the Valuation Office Agency (VOA) on the approach to calculating the Material Change of Circumstances in 2017/18.

8.5 Specifically, we propose that the amendments in Annex 8 should clearly indicate that:

8.5.1 The Cumulo costs should be allocated between NGA and Non-NGA elements, and that the percentage to the NGA element should be calculated by dividing the Rateable Value for NGA lines by BT's total Rateable Value;

8.5.2 The Rateable Value (RV) for NGA lines should be based on the addition of:

- RV for FTTC lines, with reference to a rateable value of £18 per connected line per annum (or other amount that may be agreed between BT and the VOA); and
- RV for Other GEA lines, with reference to a rateable value of £20 per connected line per annum (or other amount that may be agreed between BT and the VOA).

²⁹ See paragraph 7.16 of the Regulatory Financial Reporting Consultation.

³⁰ See paragraph 7.3 of the Regulatory Financial Reporting Consultation.

- 8.5.3 The BT Total Rateable Value should be based on the base valuation as agreed between BT and the VOA, adjusted by any material changes of circumstance agreed between BT and the VOA; and
- 8.5.4 The cumulo costs allocated to the NGA element should be allocated to FTTC lines and Other GEA lines based on the same RVs as used in calculating the RV for NGA lines.

9. Regulatory financial reporting proposals in relation to the 2017 WBA Consultation

9.1 In this section we set out our comments on Ofcom's proposed reporting requirements, as set out in Section 8 of the consultation, and our response to Question 8.1.

Question 8.1: Do you agree with our proposals for BT's Regulatory Financial Reporting, modifying requirements relating to the WBA market? If not, what alternative would you propose and why?

9.2 Ofcom proposes to give directions relating to requirements to:

- Specify the network components used by us to prepare the RFS in WBA Market A. Ofcom proposes to implement this by way of a direction specifying network components.
- Require us to produce and publish the reconciliation report setting out the impact of all material changes and errors in the WBA market with an accompanying assurance report from its regulatory auditors. Ofcom proposes to implement this by way of direction setting the requirements for the reconciliation report.³¹

9.3 Ofcom's proposed directions are set out in Annex 7 (see Schedules 1 and 2 to the Notification respectively). These proposed directions are in addition to the proposed directions set out at Annex 5 of the 2017 WBA Consultation.³²

Network components

9.4 Ofcom states that it needs a direction to specify all the network components used by us to prepare the RFS in order to preserve the integrity and consistency of our Regulatory Financial Reporting, as it is important that there is a single list of network components used to attribute costs to services in regulated markets.³³ Ofcom has now developed its proposals on amendments to network components. It considers that it is appropriate to implement these requirements for WBA Market A and is therefore proposing to give a direction specifying network components in respect of WBA Market A which reflects the proposals set out in Sections 3 to 6 of the consultation.³⁴

9.5 As previously mentioned in section 7 under the Network components sub-section of this document:

9.5.1 We agree with Ofcom's proposal that the list of network components should be amended to reflect the network components that are being reporting in the RFS. However, we disagree with Ofcom's proposal to restrict us to a prescribed list of network components via a direction within the legal instruments of this consultation.

³¹ See paragraph 8.5 of the Regulatory Financial Reporting Consultation.

³² See paragraph 8.6 of the Regulatory Financial Reporting Consultation.

³³ See paragraph 8.15 of the Regulatory Financial Reporting Consultation.

³⁴ See paragraph 8.17 of the Regulatory Financial Reporting Consultation.

Ofcom should take the opportunity to review the full network component set to ensure that it remains appropriate and that any inconsistencies in approach between markets are reviewed and, if necessary amended.

9.5.2 We are in the process of undertaking a review of all our components to determine their relevance. Therefore, we would require flexibility to change the list of network component to enable relevance, transparency and adaptability in our reporting as we operate in an ever evolving environment. We propose that:

- As part of this consultation, Ofcom directs us to use a consistent list of network components across all market;
- The detailed lists of network components in the legal instruments of this consultation be removed; and
- Ofcom would work with us to determine the most appropriate list of network components and re-consult on this at a later date.

The the reconciliation report

9.6 In Section 6 of the consultation, Ofcom proposes certain amendments to the requirements relating to the preparation and publication of the reconciliation report, in particular to remove the requirement to provide most of the information contained within annexes to the reconciliation report and include the remainder of the information in the reconciliation report within the published RFS. Ofcom considers it is appropriate to implement these requirements for WBA Market A and is therefore proposing to give a direction setting out the requirements in relation to the reconciliation report as set out in Section 6.³⁵

9.7 As previously mentioned in section 7 under the Reconciliation report sub-section of this document:

9.7.1 We agree with Ofcom's proposals that we should no longer be required to produce two annexes to the Reconciliation Report, and that the remainder of the current report is consolidated within the RFS to reduce duplication.³⁶ The production of these annexes involves a disproportionate level of resource relative to the benefit they bring to Ofcom and other stakeholders.

9.7.2 We agree with Ofcom that the information contained in the main reconciliation report is likely to be sufficient,³⁷ and that the annexes are of no use to other stakeholders due to how they show a combined impact of many Ofcom and BT-driven changes. For example, if CPs attempted to use the data to isolate a specific change's service impact, then this data would not be a reliable source as individual changes cannot be disaggregated using these annexes. If specific information relating to an individual

³⁵ See paragraph 8.22 of the Regulatory Financial Reporting Consultation.

³⁶ See paragraph 6.3 4th bullet of the Regulatory Financial Reporting Consultation.

³⁷ See paragraph 6.3 4th bullet of the Regulatory Financial Reporting Consultation.

change was justifiably required, this could be requested by Ofcom using its information gathering powers, e.g. under s.135 of the Communications Act 2003.

- 9.7.3 Furthermore, there are no reasons to defer removal of the Reconciliation Report annexes, so the removal should take place immediately to prevent production of unnecessary data. This would mean that no annexes are produced for the 2018 Reconciliation Report, to be published in July 2018 (rather than 2019 Reconciliation Report, as per Ofcom's current proposal).

Annex 1: Listing of sections no longer applicable

1. We have listed below the the main sections of the consultation are no longer applicable as a result of the UK Government announcement³⁸ that it rejected our voluntary proposal and we will not to respond to.
 - a. Section 4 – *Recovering the costs of investment in network expansion* on page 23;
 - b. A6. Draft Legal Instruments – WLA – *Proposals for directions relating to regulatory financial reporting requirements* paragraph 10 on page 89;
 - c. A6. Draft Legal Instruments – WLA – *Proposals for directions relating to regulatory financial reporting requirements* WLA Network Expansion Consultation in paragraph 16 on page 90;
 - d. A6. Draft Legal Instruments – WLA – *Proposals for directions relating to regulatory financial reporting requirements* WLA Network Expansion Consultation in paragraph 21 on page 91;
 - e. A6. Draft Legal Instruments – WLA – *Schedule 1: The proposed Direction under section 49 of the Communications Act 2003 and proposed Condition 12.4 specifying the requirements in relation to consistency with regulatory decisions and regulatory asset value at annex 23 of the March 2017 WLA Consultation (as amended pursuant to annex 6 of the August 2017 DPA Pricing Consultation) is amended as follows:* paragraph 1(c) on page 93;
 - f. A6. Draft Legal Instruments – WLA – *Schedule 1: The proposed Direction under section 49 of the Communications Act 2003 and proposed Condition 12.4 specifying the requirements in relation to consistency with regulatory decisions and regulatory asset value at annex 23 of the March 2017 WLA Consultation (as amended pursuant to annex 6 of the August 2017 DPA Pricing Consultation) is amended as follows:* paragraph 12(b - c) on page 96;
 - g. A6. Draft Legal Instruments – WLA – *Schedule 3: The proposed Direction under section 49 of the Communications Act 2003 and proposed Condition 12.4 setting the requirements in relation to preparation, delivery, publication, form and content of the Regulatory Financial Statements at annex 23 of the March 2017 WLA Consultation (as amended pursuant to annex 6 of the August 2017 DPA Pricing Consultation) is amended as follows:* paragraph 1 on page 108;
 - h. A6. Draft Legal Instruments – WLA – *Schedule 3: The proposed Direction under section 49 of the Communications Act 2003 and proposed Condition 12.4 setting the requirements in relation to preparation, delivery, publication, form and content of the Regulatory Financial Statements at annex 23 of the March 2017 WLA Consultation (as amended pursuant to annex 6 of the August 2017 DPA Pricing Consultation) is amended as follows:* paragraph 3 on page 109; and

³⁸ <https://www.gov.uk/government/news/high-speed-broadband-to-become-a-legal-right>

i. A10. Network expansion cost AFI on page 141.