
Statement on changes to the General Conditions of Entitlement

Changes to General Condition C6, other minor drafting changes and changes to the guidance on the Calling Line Identification facilities

STATEMENT

Publication Date: 30 July 2018

About this document

This statement sets out Ofcom's decisions to:

- a) amend general condition C6, which relates to the provision of calling line identification facilities, in order to ensure that calls to the emergency services are never blocked;
- b) amend the calling line identification guidance in order to reflect the change to general condition C6;
- c) amend the drafting of a number of the other general conditions for clarity; and
- d) amend the telephone numbering condition binding non-providers to ensure that it includes references to the new general conditions.

These changes will take effect from **1 October 2018**, the same day the revised general conditions come into force.

Contents

Section

1. Summary	1
2. Change to General Condition C6	5
3. Changes to the CLI Guidance	8
4. Drafting changes	12
5. Changes to the non-provider numbering condition	15

Annex

A1. Notification of modifications to the revised General Conditions under section 48(1) of the Act	17
A2. Revised CLI Guidance	24
A3. Notification of modifications to the telephone numbering condition binding non-providers under section 48(1) of the Act	25

1. Summary

The review of the general conditions

- 1.1 The general conditions of entitlement (the ‘**general conditions**’ or ‘**GCs**’) are the regulatory rules that all communications providers (‘**CPS**’) must comply with to operate in the UK. In 2015, we began a comprehensive review of these conditions with the aim of producing a revised set of up to date conditions which reflect Ofcom’s current priorities and concerns, and are simpler and clearer for industry to comply with.
- 1.2 We consulted on our proposed revised conditions in August 2016 and December 2016. We published our main decisions in September 2017 together with a consultation on a few further changes. Our decision on that consultation was published in March 2018.¹
- 1.3 All the changes that we have decided to make will take effect from **1 October 2018**.

This statement

- 1.4 On 26 April 2018, we published a consultation on our proposals to make a number of further changes to the new general conditions and related rules and guidance (the ‘**April 2018 Consultation**’)². In the April 2018 Consultation we proposed to:
 - a) amend general condition C6, which relates to the provision of calling line identification (‘**CLI**’) facilities, in order to ensure that calls to the emergency services are never blocked;
 - b) amend the CLI guidance in order to reflect the change to general condition C6;
 - c) make various drafting changes to a number of the other general conditions for clarity; and
 - d) amend the telephone numbering condition binding non-providers to ensure that it includes references to the new general conditions.
- 1.5 We invited stakeholders to respond to our consultation by 28 May 2018.
- 1.6 We received responses from BT, Verizon, SSE and NICC Standards. All non-confidential responses are available on our website.³
- 1.7 The remainder of this document is structured as follows:
 - a) in paragraphs 1.9 – 1.15, we set out the relevant legal framework and our duties;

¹ For consultations and statements relating to the review of the general conditions, please see:

<https://www.ofcom.org.uk/consultations-and-statements/category-1/review-general-conditions>

² <https://www.ofcom.org.uk/consultations-and-statements/category-3/consultation-changes-general-conditions-of-entitlement>

³ <https://www.ofcom.org.uk/consultations-and-statements/category-3/consultation-changes-general-conditions-of-entitlement>

- b) in Sections 2 - 5, we summarise stakeholders' responses and we set out the decisions that we have decided to make in light of these responses;
 - c) Annex A1 is a notification under section 48(1) of the Communications Act 2003 (the "Act") setting out our decision to amend conditions A4, B1, C1, C4, C6, C8 and the Definitions sections of the General Conditions for the reasons set out in this document and the April 2018 Consultation;
 - d) Annex A2 sets out the revised CLI guidance; and
 - e) Annex A3 is a notification under section 48(1) of the Act setting out our decision to amend the telephone numbering condition binding non-providers.
- 1.8 An unofficial consolidated version of the revised general conditions, showing all of the changes that have been made to them since they were set in September 2017 is available at: https://www.ofcom.org.uk/data/assets/pdf_file/0021/112692/Consolidated-General-Conditions.pdf

The legal framework and our duties

Section 3 – Ofcom's general duties

- 1.9 When considering the appropriateness of our decisions, we have had regard to our duties under the Act.
- 1.10 In particular, section 3(1) of the Act sets out our principal duty in carrying out our functions under the Act, which is:
- a) to further the interests of citizens in relation to communications matters; and
 - b) to further the interests of consumers in the relevant markets, where appropriate by promoting competition.
- 1.11 We have also considered the requirements in section 3(2) of the Act to secure the availability throughout the UK of a wide range of electronic communications services and we have had regard to the matters mentioned in section 3(4) of the Act that appeared to us to be relevant to the matters discussed in this statement.
- 1.12 In line with section 3(3) of the Act, we have had regard to the principles under which our regulatory activity should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, together with our regulatory principles. These principles include, in particular, a bias against intervention and a commitment to seek the least intrusive regulatory mechanisms to achieve our policy objectives.

Section 4 – Ofcom's duties for the purpose of fulfilling EU obligations

- 1.13 Section 4 of the Act requires us to act in accordance with the six EU requirements for regulation. These should be read in light of the policy objectives and regulatory principles

as set out in Article 8 of the Framework Directive.⁴ Those relevant to this statement include:

- a) ensuring that users, including disabled users, elderly users, and users with special social needs, derive maximum benefit in terms of choice, price and quality (Art.8(2)(a));
- b) ensuring a high level of protection for consumers in their dealings with suppliers (Art.8(4)(b));
- c) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using public electronic communications services (Art.8(4)(d));
- d) encouraging efficient use and ensuring the effective management of numbering resources (Art.8(2)(d)); and
- e) ensuring that the integrity and security of public communications networks are maintained (Art.8(4)(f)).

Section 47 – test for setting or modifying conditions

- 1.14 Our powers to make general conditions are set out in sections 45 to 64 of the Act. Section 45 of the Act allows us to set various different types of conditions, namely general conditions, universal service conditions, access-related conditions, privileged supplier conditions and significant market power conditions. The general conditions are conditions which are of general application. We can impose them on all CPs or on all providers of networks or services of a particular description. The matters that we can regulate through the general conditions are set out in sections 51, 52, 57, 58 and 64 of the Act (section 45(3) of the Act). Our power to set conditions that apply to persons other than communications providers (such as the Non-Provider Numbering Condition) is set out in section 59 of the Act.
- 1.15 Under section 47 of the Act, we can set or modify a GC only where we are satisfied that the condition or modification is:
- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories which we regulate;
 - b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what the condition or modification is intended to achieve; and
 - d) in relation to what it is intended to achieve, transparent.
- 1.16 In the following sections, we have set out why we consider that the decisions set out in this statement meet these tests.

⁴ Directive 2002/21/EC.

Impact assessment

- 1.17 The analysis presented in the April 2018 Consultation constituted an impact assessment as defined in section 7 of the Act. Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making.

2. Change to General Condition C6

Introduction

- 2.1 Calling Line Identification ('CLI') facilities enable the telephone number of a person making a call to be displayed to the recipient of the call. This gives the recipient of the call the ability to identify the person or organisation calling them, and to make informed decisions about how to handle incoming calls. It also assists regulators and enforcement bodies with the identification, tracing and prevention of unwanted nuisance calls, which can cause significant annoyance and, in some cases, distress for consumers.
- 2.2 General condition C6 of the new general conditions sets out the requirements for the provision of CLI facilities, including that CPs must, so far as technically feasible, ensure that any CLI data provided with or associated with a call includes a valid, diallable telephone number that uniquely identifies the caller.
- 2.3 One of the new requirements of GC C6 is that, where technically feasible, CPs must take all reasonable steps to identify calls with which invalid or non-diallable CLI data is provided, and prevent them from reaching the end user. The purpose of this requirement is to ensure that, wherever possible, calls which are identifiable as nuisance calls do not reach consumers.

Consultation Proposal

- 2.4 We consider it is very important that that calls to the emergency services are never blocked, regardless of the validity of the CLI data provided with the call. Further, GC A3.2 requires regulated providers to take all necessary measures to ensure uninterrupted access to emergency organisations. Therefore, given the importance of this requirement and to avoid any conflict between the conditions, we proposed to amend GC C6 by adding the text shown in red and highlighted below:

Where technically feasible, **Regulated Providers** must:

- (a) take all reasonable steps to identify calls, **other than calls to Emergency Organisations**, in relation to which invalid or non-diallable **CLI Data** is provided; and
- (b) prevent those calls from being connected to the called party, where such calls are identified.

Stakeholders' responses

- 2.5 BT, Verizon, SSE and NICC Standards commented on our proposals. In general, they supported our proposed amendment to GC C6.6.
- 2.6 BT suggested that the condition should also cross-reference the UK emergency call numbers 112 and 999. BT noted that "a regulated provider might allow potentially

malicious calls with invalid CLIs to be connected to any emergency authority premises regardless of the telephone number dialled (i.e., individual police, ambulance, fire and coastguard local offices), or block calls to the emergency call handling agent because this is not caught by the definition of an 'Emergency Organisation'."

- 2.7 We do not think it is necessary to reference the emergency call numbers 112 and 999 in the condition. We consider the condition itself, when read in conjunction with the definition of "Emergency Organisation", makes it clear that all calls to the emergency services should be connected, and this includes calls to any of 999, 112 and 18000. If the call is to any of these numbers, but needs to go via a call handling agent, the call is still captured by the wording of the condition.
- 2.8 Verizon agreed with the principle that calls to the emergency services should never be blocked. However, it is concerned that smaller providers may not be technically able to comply with the requirements of the new GC C6. It acknowledged that the requirements are subject to "technical feasibility", however, it noted that our statement on the revised CLI Guidance said that we expect providers to have clear implementation plans.
- 2.9 We have a preference that CPs have a clear implementation plan for the changes that are required to meet the requirements of the new GC C6, as this would provide some assurance of when these changes would be introduced. If a CP were to assert that it is unable to make these changes in its network because it is not technically feasible, we would seek to understand why it was not feasible to introduce these changes as part of any potential enforcement action. We would also expect these CPs to keep the situation under review, so that if the changes became feasible in the future they could be introduced without undue delay.
- 2.10 NICC Standards expressed a more general concern about the revised GC C6. It said that "GC C6.4 as currently framed is open to interpretation that it applies to CLI Data *individually* (i.e. both the Network Number and Presentation Number - where present - must each meet the requirement), whereas I believe that Ofcom's intent was that it would apply to the CLI Data *collectively* (i.e. if there is both a Network and Presentation Number present, then between them they should meet the characteristics set out in GC C6.4a)". It noted that the recital to GC C6 "serves to reinforce the "individual" interpretation as it points that *"providers should ensure that any telephone number associated with a call at the network level and/or presented to a call recipient is a valid, diallable number"*".
- 2.11 NICC Standards suggested that at the least, the recital should be amended, but "ideally GC C6.4a itself should be revised to separate out the requirements of the Network Number vs those intended for display".
- 2.12 We agree with the NICC Standards that the requirements of GC C6.4(a) should apply to CLI Data associated with a call collectively, and, to clarify this, we have decided to amend the recital to GC C6 as follows:

This condition requires communications providers to provide calling line identification facilities by default wherever technically feasible and economically viable, so that call recipients can identify the person calling them and choose whether or not to accept the call.

To assist with the identification of callers and reduce the incidence of nuisance calls, all communications providers should ensure that ~~any telephone number~~ the CLI data associated with a call at the network level and/or presented to a call recipient ~~is~~ includes a valid, diallable number which enables the calling party to be identified, so that the call recipient can make a return call to that person.

- 2.13 While we note that the recitals to the GCs are not legally binding, we consider that this change will clarify that it is only the number presented to the call recipient that needs to be diallable. As explained in more detail in paragraphs 3.8 - 3.11 below, the requirements for valid, diallable CLI which uniquely identifies the caller can be met jointly by the Presentation Number and the Network Number, where both numbers are provided with a call. As explained in section 3 below, we have also decided to clarify in the CLI Guidelines that where a Presentation Number is provided with a call, the Network Number does not need to be a diallable number.

Ofcom's decision

- 2.14 We have decided to implement the changes we proposed to GC C6.6, as well as the additional change to the recital to GC C6 set out in paragraph 2.12 above. All of the changes we have decided to make to the revised general conditions are set out in the schedule to the notification in Annex A1.

Legal tests

- 2.15 We consider that the changes we have decided to make to general condition C6 meet the test for setting or modifying conditions set out in section 47(2) of the Communications Act 2003. They are:
- a) **objectively justifiable**, in that they will ensure that calls to the emergency services are never prevented from being connected, which is necessary to ensure that all consumers can always make calls to the emergency services;
 - b) **not unduly discriminatory**, because they will apply equally to all CPs who provide networks or voice call services and will benefit all consumers equally;
 - c) **proportionate**, in that they go no further than is necessary to achieve the objectives of ensuring that calls to the emergency services are never blocked; and
 - d) **transparent**, as the reasons for the changes that we have decided to make are explained above and the effects of these changes will be clear to CPs on the face of the revised condition itself.

3. Changes to the CLI Guidance

Introduction

- 3.1 The CLI guidance sets out Ofcom's recommendations on how CPs should meet their responsibilities around the provision of CLI facilities. The guidance is not legally binding, but it sets out our expectations and interpretation of GC C6, which is enforceable.
- 3.2 As a result of the proposed change to GC C6.6, in the April 2018 Consultation we also proposed some changes to the guidance to reflect how CPs should manage calls to the emergency services that are provided without any CLI Data or with invalid CLI data. In addition, following stakeholder feedback, we also proposed to add an annex to the guidance, setting out recommendations for CPs to provide a way for a caller or third party to challenge a CP where they think calls have been blocked in error.

Consultation proposal

- 3.3 In line with the changes to GC C6, we proposed to make the changes highlighted below:

4.3 GC C6 also specifies that when providing CLI facilities, the Regulated Provider must ensure, so far as technically feasible, that any CLI Data provided with and/or associated with a call includes a valid, diallable telephone number which uniquely identifies the caller. It also requires the Regulated Provider to respect the privacy choices of end users. **GC C6.6 also requires that, other than in relation to calls to the emergency services, where** ~~Where~~ technically feasible, the Regulated Provider must take all reasonable steps to identify calls which have invalid or non-diallable CLI Data and prevent those calls from being connected to the called party. **For the avoidance of doubt, calls to the emergency services should always be connected, regardless of the validity of associated CLI data.**

6.3 In cases where a Regulated Provider receives an emergency call which has an invalid or non-diallable CLI that Regulated Provider should connect the call (as opposed to blocking or filtering the call as it would were it a non-emergency call). That Regulated Provider should then work with the Regulated Provider or customer who had initiated the call to ensure that future Emergency calls include the necessary CLI. This should apply to all Emergency calls: both those from the end-user to the CHA and those from the CHA to the emergency authority control room.

- 3.4 We also proposed to add an annex to the guidance document, setting out recommendations for CPs to provide a way for a caller or a third party to challenge a CP where they think calls have been blocked in error. This annex recommended that CPs who are blocking or stopping calls should have in place a dispute resolution process to manage any disputes about blocked calls and that this process should be published on the CP's

website so that it is easily discoverable. The process should also be widely communicated with the parts of the organisation where queries about blocked calls will be received, such as the customer contact teams.

Stakeholders' responses

- 3.5 SSE and BT supported our proposed changes. Verizon agreed in principle that calls to the emergency services should never be blocked, but noted its concern about the ability for smaller providers to comply with the amended CLI guidance.
- 3.6 NICC Standards used this opportunity to make some further comments on the CLI guidance. They asked for further clarification of the requirements of Network Numbers and Presentation Numbers. They noted that both paragraphs 4.3 and 4.10 of the CLI guidance, as drafted, would require calls containing non-diallable CLIs to be blocked, whereas they thought this should only apply for CLIs intended for display, as some valid Network Numbers may not necessarily be diallable. They added that a consequence of the current text would also mean that calls with an injected 08979 CLI will also be blocked as these numbers are not intended to be dialled by end users.
- 3.7 They suggested that further restructuring of the guidance would be beneficial, recommending that the Network Number should be a valid number which uniquely identifies the caller and that a requirement for Display CLIs to be introduced. They suggested that the Display CLI can be clarified as being a Presentation Number if present, but otherwise the Network Number, and that this number should be a valid and diallable number. They also noted that transit and terminating networks cannot validate the CLI provided with a call meets the criteria "is in service and can be used to make a return call", without pinging every CLI on receiving a call to test if it connects to a live number.

Ofcom's decision

- 3.8 As we received overall support for our proposed changes to the CLI guidance, we have decided to implement these changes.
- 3.9 In light of the additional comments from NICC Standards, we have also decided to make some further changes to the guidance. As noted in paragraph 2.12, the requirements for valid and diallable CLI that uniquely identifies the caller can be met jointly by the Presentation Number and the Network Number, where both numbers are provided with a call. However, to further clarify these requirements we have decided to make a number of additions to the CLI guidance.
- 3.10 We have decided to clarify that if a Presentation Number is provided with a call, then the Network Number does not need to be a diallable number, as the diallable number requirement will be met by the Presentation Number. We have decided to add this clarification to paragraph 4.12, 5.3 and 5.4 of the CLI guidance, as highlighted below:

4.12 It is the responsibility of the originating CP to ensure that the correct CLI Data is generated at call origination. This applies in respect of both the Network Number and the Presentation Number. The Network Number must be one that has been allocated to the originating CP or a number that has been imported into their network. This number identifies the point of ingress for that call. **Where a diallable Presentation Number is also provided, the Network Number does not need to be a diallable number.**

5.3 The authenticity of a Network Number is guaranteed as the number must be one which has been provided by the originating network and it is a number that has been allocated to the originating network provider, or has been ported to the originating provider. This number should not be changed by other CPs in the call path. **Where a diallable Presentation Number is also provided, the Network Number does not need to be a diallable number.**

5.4 The Presentation Number is a number nominated or provided by the caller that can identify that caller and be used to make a return or subsequent call, **and therefore should be a diallable number.** In the UK, the industry has recognised a number of scenarios where Presentation Numbers may be provided, as a commercial service, to meet differing customer calling requirements. Where the party who has been allocated that number gives permission for multiple callers to use that number, we would expect the party allocated the number to keep records of who they have given permission to use the number, to aid in call tracing requests.

- 3.11 However, we disagree with NICC Standards' suggestion that the Presentation Number does not need to be a number that uniquely identifies the caller, giving the example of where an enterprise might have multiple third party call-centres acting on its behalf, where each of these use the enterprise's "display CLI". In such a situation, our view is that the caller is the enterprise that has asked the third party to make calls on their behalf, therefore the number displayed should identify the company on whose behalf the calls are being made. Therefore, it already accommodates the situation where multiple parties may use the same number on behalf of another business.
- 3.12 We have also decided to amend paragraph 3.3 of the CLI guidance, in relation to charges for the provision of Anonymous Call Reject ('ACR'), as follows, in order to bring it into line with The Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended):

The rights of the called party are that:

- (a) They must be able, using a simple means and free of charge for reasonable use, to prevent the display of CLI Data relating to incoming calls (so that help-lines are able to offer an assurance of anonymity to people who call them).
- (b) Where CLI Data is displayed before a call is established, they must be able, using a simple means **and free of charge**, to reject calls where the caller has (i) been given the option of preventing the display of their CLI Data and (ii) deliberately chosen to exercise this option. The service is commonly known as Anonymous Call Reject (ACR).
- (c) Where connected line identification (COL) is in use they must be able, using a simple means and free of charge, to prevent the display to the caller of the actual number to which an incoming call has been connected.

3.13 We note that we would expect any charges for the provision of ACR to be reasonable. ⁵

⁵ As set out in paragraph 3.6 of the CLI guidance, the notification to the calling end user about why their call was rejected should be provided free of charge.

4. Drafting changes

Introduction

- 4.1 After we published the new general conditions in September 2017 we identified a few minor drafting errors. We proposed to correct these in advance of the new general conditions taking effect on 1 October 2018.

Consultation proposal

- 4.2 The errors we proposed to correct are set out below.

Condition A4

- 4.3 We proposed to add a website link to the Emergency Planning Direction in a footnote to condition A4.2, for ease of reference.

Condition B1

Condition B1.18(e)

- 4.4 For clarity, we proposed to add the text shown in red below to condition B1.18(e):

B1.18 Ofcom may withdraw an **Allocation of Telephone Numbers** from a **Communications Provider** where:

[(a)- (d)]

(e) **Ofcom** has advised the **Communications Provider** in writing that a significant proportion of those **Telephone Numbers** **has been used**, or that such **Allocation** has been used to a significant extent, to cause harm or a nuisance, and the **Communications Provider** has failed to take adequate steps to prevent such harm or nuisance.

Annex to condition B1

- 4.5 We proposed to correct the typographical error shown in red below in this Annex:

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Condition C1

- 4.6 We proposed to include a link to the new guidance on condition C1⁶ in the condition itself, for ease of reference.

⁶ https://www.ofcom.org.uk/data/assets/pdf_file/0016/112282/Guidance-under-General-Condition-C1-contract-requirements.pdf

- 4.7 We also proposed to correct a drafting error in GC C1.2 by changing a reference to “End-Users” (plural) to “End-User” (singular).

Condition C4

- 4.8 Paragraph 13(c) of the Annex to GC C4 includes a reference to a “Relevant Complaint”. We proposed to change this to “relevant Complaint”, as “Relevant Complaint” is not a defined term.

Definitions

- 4.9 Below, we set out the changes that we proposed to make to the definitions set out in the “Definitions” section at the end of the new general conditions.

‘DSL Broadband Service’

- 4.10 We proposed to clarify that the following definition of “Broadband Service” should be in the new conditions:

‘**Broadband Service**’ means any service which is capable of supporting an always-on connection at a fixed location that provides data at speeds greater than a dial-up connection, including all DSL (including FTTC) services, **FTTP** services and services provided over a **Cable Network**, but excluding any **Leased Lines Service**.

‘Loss of Service’

- 4.11 In the definition of “Loss of Service”, we propose to replace the word “customer” with “Customer”, since this is a defined term.

Target Line

- 4.12 We proposed to correct a drafting error in the definition of “Target Line” by replacing the words “**Switching Customer** request for a **Migration**” with “**Switching Customer**^s request for a **Migration**”.

Stakeholders’ responses

- 4.13 SSE and BT agreed with all our proposed drafting changes.
- 4.14 SSE suggested that any separate documents and guidance that are relevant to the GCs should be referenced in the GCs as footnotes.
- 4.15 SSE also noted the following further drafting changes it thought we should make:
- Paragraphs 12 and 15(b)(ii) of Annex to GC C4: ‘Relevant Provider’ should perhaps be ‘Regulated Provider’;
 - Paragraph 20(c) of Annex to GC C4 refers to ‘Complaint’ where ‘Complainant’ would seem better; and

- c) Paragraph C8.4 refers to 'Relevant Services' where it may be that 'Relevant Mobile Services' is intended.
- 4.16 We agree with SSE that where separate documents are relevant to a particular GC, there should be a link to those documents in the GCs themselves. We consider that we have identified all such cases, and included them in the April 2018 Consultation.
- 4.17 We also agree with all of SSE's other drafting suggestions and have decided to make these changes as suggested.

Ofcom's decision

- 4.18 We have decided to make all the changes we proposed, as they were supported by all respondents, as well as to make the further drafting changes suggested by SSE. All of the changes we have decided to make to the revised general conditions are set out in the schedule to the notification in Annex A1.

Legal tests

- 4.19 We consider that the changes we have decided to make to the new general conditions meet the test for setting or modifying conditions set out in section 47(2) of the Communications Act 2003. They are:
 - a) **objectively justifiable**, in that they are necessary to ensure the drafting of the general conditions is clear;
 - b) **not unduly discriminatory**, because they will apply equally to all CPs to which the GCs apply and will benefit all consumers equally;
 - c) **proportionate**, in that they go no further than is necessary to achieve the objectives of ensuring that the general conditions are clear and easy to understand; and
 - d) **transparent**, as the reasons for the changes that we have decided to make are explained above and the effects of these changes will be clear to CPs on the face of the revised conditions.

5. Changes to the non-provider numbering condition

Introduction

- 5.1 Ofcom set the telephone numbering condition binding non-providers (the ‘**non-provider numbering condition**’) in December 2013.⁷ The non-provider numbering condition applies to non-providers (i.e. persons other than CPs) that have been allocated unbundled tariff numbers. It requires a “Service Provider” making use of an “Unbundled Tariff Number” for the provision of a service to include in any advertising or promotion of that number the applicable Service Charge for the number in question.
- 5.2 The non-provider numbering condition includes references to the general conditions which need to be updated in light of the review of the general conditions which revoked the old conditions and set new conditions.

Consultation proposal

- 5.3 We proposed to amend the following definitions set out in Part 1 of the non-provider numbering condition as highlighted below. The new text we proposed to include is shown in red text, and the text we proposed to delete are shown in strikethrough.

“**General Conditions of Entitlement**” means ~~those the general~~ conditions set ~~by the~~ Director General of Telecommunications on 22 July 2003 ~~under section 45 of the Act by Ofcom on 19 September 2017~~ by way of a Notification published pursuant to section 48(1) of the Act, and modified by Ofcom from time to time;

“**Service Charge**” means the rate set by a Communications Provider in accordance with General Condition ~~17B1~~ of the General Conditions of Entitlement in respect of the conveyance of a call to an Unbundled Tariff Number to the point of termination and the enabling of a Consumer to use an Unbundled Tariff Number to access a Relevant Service provided by means of that number;

Stakeholders’ responses and Ofcom’s decision

- 5.4 SSE and BT agreed with our proposed changes to the non-provider numbering condition, and we have therefore decided to implement our changes as proposed in the April 2018 Consultation.

⁷ See Ofcom’s statement “Simplifying non-geographic numbers”: https://www.ofcom.org.uk/data/assets/pdf_file/0017/72116/final-statement.pdf and annexes https://www.ofcom.org.uk/data/assets/pdf_file/0027/57753/annexes.pdf

Legal tests

5.5 We consider that the changes we have decided to make to the non-provider numbering condition meet the test for setting or modifying conditions set out in section 47(2) of the Communications Act 2003. They are:

- a) **objectively justifiable**, in that they are necessary to ensure the drafting of the non-provider numbering condition is clear;
- b) **not unduly discriminatory**, because they will apply equally to all non-providers to which the non-provider numbering condition applies and will benefit all consumers equally;
- c) **proportionate**, in that they go no further than is necessary to achieve the objectives of ensuring that the non-provider numbering condition is up-to-date and easy to understand; and
- d) **transparent**, as the reasons for the changes that we have decided to make are explained above and the effects of these changes will be clear to CPs and non-providers on the face of the revised condition.

A1. Notification of modifications to the revised General Conditions under section 48(1) of the Act

Background

- A1.1 On 26 April 2018, Ofcom issued a notification (the “**April 2018 Notification**”)⁸ pursuant to section 48A(3) of the Act setting out its proposals to modify the following conditions of the Revised General Conditions with effect from 1 October 2018:
- a) General Condition A4;
 - b) General Condition B1;
 - c) the annex to General Condition B1;
 - d) General Condition C1;
 - e) the annex to General Condition C4;
 - f) General Condition C6; and
 - g) the definitions set out in the Annex to the Revised General Conditions.
- A1.2 The proposed changes were set out in draft form in the Schedule to the April 2018 Notification.
- A1.3 A copy of the April 2018 Notification was sent to the Secretary of State in accordance with section 48C(1) of the Act.
- A1.4 Ofcom invited representations about any of the proposals set out in the April 2018 Notification and accompanying consultation document by 28 May 2018.
- A1.5 By virtue of section 48A(6) and (7) of the Act, Ofcom may give effect to the proposals with respect to which it has published a notification, with or without modifications, where Ofcom has:
- a) considered every representation about the proposals made to Ofcom within the period specified in the notification; and
 - b) had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State.
- A1.6 Ofcom received four responses to the April 2018 Notification and has considered every such representation made to it in respect of the proposals set out in the April 2018 Notification and the accompanying explanatory statement; and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose.

⁸ Annex A5 to the April 2018 Consultation.

Decision

- A1.7 Ofcom, in accordance with sections 45 and 48(1) of the Act, has now decided to modify the following conditions of the Revised General Conditions of Entitlement:
- a) General Condition A4;
 - b) General Condition B1;
 - c) the annex to General Condition B1;
 - d) General Condition C1;
 - e) the annex to General Condition C4;
 - f) General Condition C6;
 - g) General Condition C8; and
 - h) the definitions set out in the Annex to the General Conditions.
- A1.8 The modifications that Ofcom has decided to make to the conditions listed above are set out in the Schedule to this Notification.
- A1.9 Ofcom's reasons for making these decisions, and the effect of these decisions, are set out in Sections 2 and 4 of this document.
- A1.10 Ofcom considers that these decisions comply with the requirements of sections 45 to 48C and 51 of the Act, insofar as they are applicable.
- A1.11 Ofcom considers that these decisions are not of EU significance pursuant to section 150A(2) of the Act.
- A1.12 In making these decisions, Ofcom has considered and acted in accordance with its general duties under section 3 of the Act, the six Community requirements set out in section 4 of the Act and its general duty as to telephone numbering functions under section 63 of the Act.
- A1.13 The modifications to the Revised General Conditions that Ofcom has decided to make shall enter into force on 1 October 2018.
- A1.14 Copies of this Notification and the accompanying statement have been sent to the Secretary of State in accordance with section 48C(1) of the Act.
- A1.15 In this Notification:
- a) "**Act**" means the Communications Act 2003;
 - b) "**General Conditions of Entitlement**" or "**General Conditions**" means the general conditions set under section 45 of the Act by the Director General of Telecommunications on 22 July 2003, as amended from time to time;
 - c) "**Ofcom**" means the Office of Communications;

Statement on changes to the General Conditions of Entitlement

d) “**Revised General Conditions of Entitlement**” or “**Revised General Conditions**” means the general conditions set under section 45 of the Act by Ofcom on 19 September 2017, which will enter into force on 1 October 2018.

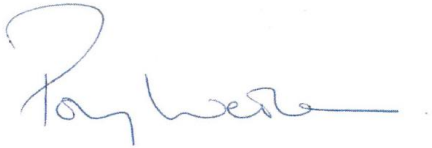
A1.16 Words or expressions shall have the meaning assigned to them in this Notification, and otherwise any word or expression shall have the same meaning as it has in the Act.

A1.17 For the purposes of interpreting this Notification:

a) headings and titles shall be disregarded; and

b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

A1.18 The Schedule to this Notification shall form part of this Notification.

A handwritten signature in blue ink, appearing to read 'Polly Weitzman', with a horizontal line extending to the right.

Polly Weitzman

A person authorized by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

30 July 2018

SCHEDULE

Modifications to the Revised General Conditions

The modifications that Ofcom has decided to make to General Conditions A4, B1, C1, C4, C6, C8 and the Definitions sections of the Revised General Conditions are set out below. The words marked in red text and highlighted indicate the insertions and the words marked in strike-through and highlighted indicate the deletions.

General Condition A4

A4.2 Subject to **Condition A4.4, Regulated Providers** shall, on the request of and in consultation with:

(a) the authorities responsible for **Emergency Organisations**; and

(b) such departments of central and local government as **Ofcom** may from time to time direct for the purposes of this **Condition**⁹,

make arrangements for the provision or rapid restoration of such communications services as are practicable and may reasonably be required in disasters (including in any major incident having a significant effect on the general public and in any incident of contamination involving radioactive substances or other toxic materials).

General Condition B1

B1.18 **Ofcom** may withdraw an **Allocation of Telephone Numbers** from a **Communications Provider** where:

[(a)- (d)]

(e) **Ofcom** has advised the **Communications Provider** in writing that a significant proportion of those **Telephone Numbers** **has been used**, or that such **Allocation** has been used to a significant extent, to cause harm or a nuisance, and the **Communications Provider** has failed to take adequate steps to prevent such harm or nuisance.

Annex to Condition B1

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⁹ See Ofcom's emergency planning direction, which is available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0021/116364/Emergency-Planning-Direction.pdf

General Condition C1

Contract requirements¹⁰

C1.2 **Regulated Providers**, when offering to provide, or providing, connection to a **Public Electronic Communications Network** and/or **Public Electronic Communications Services** to a **Consumer** or other ~~End-Users~~ **End-User** on request, must offer to enter into a contract or vary an existing contract with that **Consumer**, or other **End-User**, which specifies at least the following minimum requirements in a clear, comprehensive and easily accessible form:

General Condition C4

Annex to Condition C4

- 13(b) it must provide information solely about the ~~Relevant~~ **relevant Complaint**;
- 12 The **Regulated Provider** must immediately issue an **ADR Letter** to the **Complainant** if the **Complaint** remains unresolved after 8 weeks have passed since the date on which the **Complaint** was first received, unless the ~~Relevant~~ **Regulated Provider** has already sent an **ADR Letter** in accordance with paragraph 11 above.
- 15(b)(ii) the **Complainant** has not come back to the ~~Relevant~~ **Regulated Provider** within 28 days to say that they consider the **Complaint** remains unresolved (see paragraph 9(a)).

General Condition C6

Recital This condition requires communications providers to provide calling line identification facilities by default wherever technically feasible and economically viable, so that call recipients can identify the person calling them and choose whether or not to accept the call.

To assist with the identification of callers and reduce the incidence of nuisance calls, all communications providers should ensure that ~~any telephone number~~ **the CLI data** associated with a call at the network level and/or presented to a call recipient **is includes** a valid, diallable number which enables the calling party to be identified, so that the call recipient can make a return call to that person.

- C6.6 Where technically feasible, **Regulated Providers** must:
- (a) take all reasonable steps to identify calls, **other than calls to Emergency Organisations**, in relation to which invalid or non-diallable **CLI Data** is provided; and
 - (b) prevent those calls from being connected to the called party, where such calls are identified.

¹⁰ See also Ofcom's guidance, which is available at: https://www.ofcom.org.uk/data/assets/pdf_file/0016/112282/Guidance-under-General-Condition-C1-contract-requirements.pdf

General Condition C8

C8.4 Where the **Regulated Provider** contracts with or appoints a **Mobile Service Retailer** directly in order to sell or market the **Regulated Provider's Relevant Mobile Services** it must ensure, and where a third party acting on behalf of the **Regulated Provider** contracts with or appoints a **Mobile Service Retailer** in order to sell or market the **Regulated Provider's Relevant Mobile Services**, the **Regulated Provider** must use reasonable endeavours to ensure, that:

[GC C8.4(a) – (d) are not reproduced for the purposes of this Notification.]

Definitions

Broadband Service¹¹

~~'Broadband Service' means all DSL (including FTTC) services which are capable of supporting always-on services that provide data at speeds greater than a dial-up connection, excluding services provided over a Cable Network.~~

'Broadband Service' means any service which is capable of supporting an always-on connection at a fixed location that provides data at speeds greater than a dial-up connection, including all DSL (including FTTC) services, FTTP services and services provided over a Cable Network, but excluding any Leased Lines Service;

Loss of Service

'Loss of Service' means:

- (a) in relation to a **Fixed Voice** or **Other Fixed-Line Service**, where:
 - (i) the **Customer** is unable to make an outgoing call or to receive an incoming call; or
 - (ii) where the service only allows for one-way transmission;
- (b) in relation to a **Broadband Service**, where the **Customer** is unable to access the public internet,

in each case as a result of a planned or unplanned change in the operation of the **Electronic Communications Network(s)** (and/or elements of that network or networks) provided by the ~~customer's~~ **Customer's** **Communications Provider** or used by it to provide its services, including any failure of equipment;

¹¹ The effect of this change is that the General Conditions will contain the single definition of Broadband Service shown, alongside the definition of DSL Broadband Service and the references to DSL Broadband Service inserted in November 2017 and as explained in paragraphs 5.14 – 5.16 of the accompanying statement.

Target Line

'Target Line' means the working WLR, MPF or SMPF line to which a Switching Customer's request for a Migration, or a Home-Move Request, refers;

A2. Revised CLI Guidance

The revised CLI Guidance is published as a separate document, available here:

https://www.ofcom.org.uk/_data/assets/pdf_file/0021/116670/cli-guidance.pdf

A3. Notification of modifications to the telephone numbering condition binding non-providers under section 48(1) of the Act

Background

- A3.1 On 12 December 2013, Ofcom published a notification under section 48(1) of the Act (the “**December 2013 Notification**”) setting a telephone numbering condition binding non-providers (the “**Numbering Condition**”). Paragraph 15 of the December 2013 Notification stated that the Numbering Condition set out in the Schedule to that notification shall enter into force on 26 June 2015.
- A3.2 On 26 April 2018, Ofcom published a notification (the “**April 2018 Notification**”) setting out its proposals for modifying the Numbering Condition.
- A3.3 Ofcom stated in the April 2018 Notification that they considered the proposals were not of EU significance pursuant to section 150A(2) of the Act.
- A3.4 A copy of the April 2018 Notification was sent to the Secretary of State in accordance with the requirements of section 48C(1) of the Act.
- A3.5 In the April 2018 Notification and the accompanying consultation, Ofcom invited representations about the proposals set out therein by 5pm on 20 February 2015.
- A3.6 By virtue of section 48A(6) and (7) of the Act, Ofcom may give effect to the proposal set out in the April 2018 Notification, with or without modification, only if –
- a) it has considered every representation about the proposal that is made to them within the period specified in the First Notification; and
 - b) it has had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State.
- A3.7 Ofcom received four responses to the April 2018 Notification and has considered every representation made to them in respect of the proposed modifications.
- A3.8 The Secretary of State did not notify to Ofcom any international obligation of the United Kingdom for the purpose of section 48A(6) of the Act.

Decision

- A3.9 In accordance with sections 48(1), 48A(7) and 59 of the Act, Ofcom have decided to modify the Numbering Condition as set out in this Notification.
- A3.10 Ofcom's reasons for making these modifications, and the effect of the modifications, are set out in the Section 5 of this document.
- A3.11 Ofcom considers that the modifications comply with the requirements of section 47 to 49 and 59 of the Act, insofar as they are applicable.
- A3.12 In making these modifications, Ofcom has considered and acted in accordance with its general duty as to telephone numbering functions under section 63 of the Act, its general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act.
- A3.13 Ofcom hereby makes the following amendments to the following definitions set out in Part 1 of the Numbering Condition as highlighted below. The new text we have decided to include is shown in red text, and the text we have decided to delete is shown in strikethrough.

“General Conditions of Entitlement” means ~~those the general~~ conditions set ~~by the~~ **Director General of Telecommunications on 22 July 2003 under section 45 of the Act by Ofcom on 19 September 2017** by way of a Notification published pursuant to section 48(1) of the Act, and modified by Ofcom from time to time;

“Service Charge” means the rate set by a Communications Provider in accordance with General Condition ~~17B1~~ of the General Conditions of Entitlement in respect of the conveyance of a call to an Unbundled Tariff Number to the point of termination and the enabling of a Consumer to use an Unbundled Tariff Number to access a Relevant Service provided by means of that number;

- A3.14 Ofcom has not modified the substance of the Numbering Condition set out in the Schedule to the December 2013 Notification.
- A3.15 The modifications shall enter into force on **1 October 2018**.
- A3.16 A copy of this Notification and the accompanying explanatory statement are being sent to the Secretary of State in accordance with section 48C(1) of the Act.
- A3.17 In this Notification:
- the **“Act”** means the Communications Act 2003 (c.21);
 - “December 2013 Notification”** has the meaning ascribed to it in paragraph A3.1 above;
 - “April 2018 Notification”** has the meaning ascribed to it in paragraph A3.2 above;
 - “Numbering Condition”** has the meaning ascribed to it in paragraph A3.1 above; and
 - “Ofcom”** means the Office of Communications.

Statement on changes to the General Conditions of Entitlement

A3.18 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.

A3.19 For the purposes of interpreting this Notification: (a) headings and titles shall be disregarded; and (b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

A handwritten signature in black ink, appearing to read 'Brian Potterill', with a long horizontal flourish extending to the right.

Brian Potterill

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

30 July 2018