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Review of mobile donor conveyance charges for the period 2018 to 2021

Consultation

Publication date: 19 July 2017

Closing Date for Responses: 30 August 2017

About this document

Number portability enables consumers to keep their telephone numbers when switching between communications providers. This document concerns the level of wholesale porting charges that mobile communications providers charge each other in order to recover certain costs associated with the provision of mobile number portability.

General Condition 18 (GC18) places obligations on communications providers to provide number portability. These include, among other things, the requirement that wholesale porting charges are cost-oriented and based on the incremental costs of providing portability.

In September 2014 we published guidance on how communications providers should set charges to meet these obligations, and in March 2015 published a Statement setting out the maximum level of charges for the period 1 May 2015 to 31 March 2018. This document sets out our proposals for consultation based on updated analysis of the maximum level of charges for the period April 2018 to March 2021.

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Section 1

Summary

- 1.1 Mobile number portability (“MNP”) enables mobile subscribers, if they so wish, to retain their mobile number when they switch from one mobile provider to another. When the subscriber that has “ported” their number subsequently receives an incoming call, it is first routed to the network that originally held the number being called (the donor network operator). The call is then identified as a call to a ported number and “onward routed” to the mobile provider to whom the number has been ported (the recipient network operator).
- 1.2 The donor conveyance charge (“DCC”) is a wholesale charge levied by the donor network operator for the onward-routing of the call. General Condition 18 (“GC18”)¹ sets out the principles that mobile providers must comply with in setting porting charges (including when setting a DCC).
- 1.3 DCCs make up an extremely small proportion of overall mobile industry revenue. In 2016/17 the total revenues from DCCs in the UK were around £3.4m². Considering that the total UK retail mobile revenues amounted to £15.3 billion in 2016³, DCCs account for around 0.02% of UK retail mobile revenues.
- 1.4 On 17 March 2015, we published a review of DCCs for the period 2015 to 2018 (the “2015 DCC Review”). In this we set the maximum DCCs from 1 May 2015 until 31 March 2018, incorporating several changes to our previous calculation methodology, including the use of the most up-to-date information on mobile network costs and forecast CPI inflation from the 2015 MCT model to set DCCs in nominal terms.
- 1.5 On 27 June 2017, we published our mobile call termination market review 2018-21 (“2017 MCT Review”), where we proposed to use the 2017 MCT model to calculate the proposed efficient level of costs for MCT. The 2017 MCT model is based on the 2015 MCT model, in that it retains the key inputs and has minimal updates.
- 1.6 In this consultation, we propose to update the 2015 DCC model in a similar way to the way we proposed to update the MCT model in the 2017 MCT Review. Our approach to updating the 2015 DCC model consists of using inputs from the recently published 2017 MCT model.
- 1.7 We have tested the donor conveyance volumes forecast in the 2015 DCC model against information formally gathered from the four largest mobile providers, and we have found the impact of updating the volumes in the 2015 DCC model is not material. As a result of these tests, our provisional view is that the 2015 DCC model continues to be an appropriate basis for estimating the LRIC of donor conveyance for the period from April 2018 to March 2021.
- 1.8 We propose that a 2017 DCC model, which is updated from the 2015 DCC model only to the extent that it draws inputs from the 2017 MCT model and uses revised

¹ Ofcom, *Consolidated version of General Conditions as at 28 May 2015 (including annotations)*, <https://www.ofcom.org.uk/advice-for-businesses/knowning-your-rights/gen-conditions>.

² On the basis of 2016/17 donor conveyance volumes of 14.76bn minutes and a DCC of 0.023 ppm total industry DCC revenues were a little under £3.4m.

³ For retail revenues for 2016 see Ofcom, *Telecommunications market data tables Q4 2016*, 27 April 2017, page 15, https://www.ofcom.org.uk/data/assets/pdf_file/0014/101408/telecoms-data-update-q4-2016.pdf

inflation forecasts, be used to set the maximum DCCs from April 2018 to March 2021, as set out in Table 1. We also propose to withdraw the 2015 DCC Direction.

Table 1: Current and proposed DCCs (pence per minute, nominal prices)

| | 2017/18 | 2018/19 | 2019/20 | 2020/21 |
|--------------|---------|---------|---------|---------|
| Current DCC | 0.022 | | | |
| Proposed DCC | | 0.022 | 0.021 | 0.021 |

Source: 2017 DCC model.

Section 2

Background and legal framework

Introduction

- 2.1 Mobile number portability (“MNP”) is a facility that enables mobile subscribers, if they so wish, to retain their mobile numbers when they change from one mobile provider to another. When the subscriber that has ported their mobile number subsequently receives an incoming call from an originating network, it is usually routed first to the network that originally held the number being called (the “donor provider” or “DP”). The call is then identified as a call to a ported number and “onward routed” to the network to which the number has been ported (the “recipient provider” or “RP”). The donor conveyance charge (“DCC”) is levied by the DP for the onward-routing of the call to the RP.

Implementation of Portability

- 2.2 DCCs are based on the costs incurred in the onward routing of off-net calls to ported mobile numbers. Off-net traffic refers to calls to ported numbers that do not originate on the DP’s own network. Calls to ported numbers that do originate on the DP’s own network are known as on-net traffic. However, industry practice is to levy the DCC on all traffic to (on- and off-net) ported-out mobile numbers. As a result, the DCC is adjusted so as to be lower than if it were levied on just off-net traffic to ported mobile numbers.
- 2.3 Calls to ported numbers that originate with a RP can be connected without routing via the DP where the RP has installed a Call Trap facility. All the four largest mobile providers⁴ have now implemented Call Trap. Call Trap facilities allow the RP to ‘trap’ calls that it originates to numbers that have been ported into its network. Call Trap removes the previous requirement for a call to be routed (sometimes described as ‘tromboned’) to the DP and then back to the RP in circumstances where the call originates on the RP’s network. Calls that are effectively trapped do not incur a DCC (since routing via the DP is avoided).

Porting Charges Guidance

- 2.4 On 29 September 2014, we published a statement providing guidance to telecoms providers on the setting of wholesale porting charges in compliance with GC18 (“September 2014 Porting Charges Guidance”).⁵ In the light of our guidance, which moved to a Long Run Incremental Cost (“LRIC”) standard and ‘recipient provider pays’ charging model, we also consulted on the model used to estimate the incremental costs of donor conveyance.
- 2.5 The September 2014 document included a consultation on withdrawing the 2014 DCC Direction and replacing it with a new direction which would take account of the guidance and include the most up-to-date information on mobile network costs from

⁴ EE, H3G, Telefónica and Vodafone.

⁵ Ofcom, September 2014. *Porting charges under General Condition 18: Guidance on the setting of porting charges in compliance with GC18 and consultation on a new mobile donor conveyance charges Direction*, <http://stakeholders.ofcom.org.uk/consultations/gc18-sep14/>.

the 2014 MCT model to estimate the LRIC of donor conveyance.⁶ Similar to our approach in the 2014 DCC Direction, we proposed a forward-looking DCC, setting DCCs in nominal terms for each financial year (using forecasts of CPI inflation rates).

2015 DCC Review

- 2.6 On 17 March 2015, we published our review of mobile donor conveyance charges for the period 2015 to 2018⁷ (“2015 DCC Review”), where we adopted the proposed changes. In this we withdrew the 2014 DCC Direction, gave a new direction (the “2015 DCC Direction”) on setting the maximum DCCs from 1 May 2015 until 31 March 2018, using the figures from the 2015 MCT model.
- 2.7 Further, we decided to link the timing of future reviews of DCCs to that of our periodic reviews of the market for mobile call termination (“MCT”) and therefore to review the maximum DCC every three years in line with the current framework.

2017 MCT Review

- 2.8 On 27 June 2017, we published our mobile call termination market review 2018-21 (“2017 MCT Review”), where we proposed using the 2017 MCT model to calculate the efficient level of costs for MCT.
- 2.9 We are consulting on maintaining the approach taken with the 2015 MCT model. We consider that the 2015 MCT model continues to provide a reasonable approximation of reality that is the basis for estimating the unit costs of MCT for the next market review period. As updating the key input data and assumptions would not materially affect the 2015 MCT model outputs, we proposed to use the model to calculate the MTR cap for the 2018-21 review period. As a result, the 2017 MCT model is based on the 2015 MCT model, retaining the key inputs and having minimal updates.
- 2.10 We propose to take a similar approach to updating the 2015 DCC model to determine the maximum DCC for the new review period, as explained in Section 3 below.

Scope of consultation

- 2.11 This consultation sets out our proposals for giving a direction which would set a new maximum DCC across the mobile industry on a forward-looking basis for the period from April 2018 to March 2021. We seek to determine the continued appropriateness of using the 2015 DCC model to calculate the maximum DCC for the new review period and ascertain if the 2015 DCC model requires any alterations.

⁶ The MCT model is a cost model developed by Ofcom in order to estimate the costs incurred by an efficient mobile provider in providing MCT. The 2014 MCT model was published as part of our consultation on the 2015 MCT Review on 4 June 2014 and is available at <http://stakeholders.ofcom.org.uk/consultations/mobile-call-termination-14/>.

⁷ Ofcom, March 2015. Review of mobile donor conveyance charges for the period 2015 to 2018, https://www.ofcom.org.uk/__data/assets/pdf_file/0028/62965/dcc_direction_statement.pdf

Legal Framework

- 2.12 Article 30(2) of the Universal Service Directive of the EC (“USD”)⁸ imposes a duty on Ofcom to ensure that pricing between telecoms providers and/or service providers related to the provision of number portability is cost-oriented.
- 2.13 In 2006 the European Court of Justice (“ECJ”) held that, subject to the requirement for cost-orientation, Article 30(2) of the USD confers a discretion on national regulatory authorities (“NRAs”) to define the methodology which appears to them to be the most suitable to make portability fully effective, in a manner which ensures that consumers are not dissuaded from making use of that facility. In principle, therefore, NRAs may adopt a national measure that lays down the specific method to be used in calculating costs under Article 30(2) of the USD and which fixes maximum *ex ante* prices in respect of all mobile providers on the basis of an abstract model of costs.⁹
- 2.14 General Condition 18.5 (“GC 18.5”) implements Article 30(2) of the USD. It provides that any charges for the provision of portability shall be reasonable and cost-oriented, and that charges must be based on the incremental costs of providing portability – unless either the donor provider and recipient provider have agreed another basis for the charges or Ofcom has made a direction under GC 18.5(a)(ii) that another basis for charges should be used.
- 2.15 Any decision by Ofcom to direct that another basis for charges should be used under GC 18.5(a)(ii) is subject to the statutory safeguards set out in sections 49 to 49C of the Act. In particular, these sections impose a requirement for consultation where the proposal would have a significant impact on the market and requirements that the giving or withdrawal of the Direction is proportionate, not unduly discriminatory and transparent in relation to what it is intended to achieve. We also consider whether any direction would be objectively justified.

Impact assessment

- 2.16 The analysis presented in this consultation represents an impact assessment, as defined in section 7 of the Communications Act 2003.

Equality Impact Assessment

- 2.17 Annex 4 of the 2017 MCT Review¹⁰ sets out our Equality Impact Assessment (“EIA”) for that review. In our assessment, similar considerations also apply in this review.
- 2.18 We are also required by the Act to assess the impact of our functions, policies, projects and practices on particular groups such as those identified by age, race, religion, disability, maternity, gender and sexual orientation. EIAs also assist us in

⁸ Directive 2002/22/EC as amended by Directive 2009/136/EC.

⁹ Case C438/04 *Mobistar v IBPT* (Mobistar case), paragraphs 32 to 37. Although the case specifically concerned set-up costs incurred by mobile operators in implementing requests for number portability, we consider that the ECJ’s comments apply equally to any costs recovered through wholesale charges for number portability.

¹⁰ Ofcom, June 2017. *Mobile call termination market review 2018-21*, <https://www.ofcom.org.uk/consultations-and-statements/category-1/mobile-call-termination-market-review>.

making sure that we are meeting our principal duty of furthering the interests of citizens and consumers.

- 2.19 For the same reasons set out in Annex 4 of the MCT Market Review 2018-21, we do not consider that the impact of our proposal to withdraw the 2015 DCC Direction and replace it with the new direction set out at Annex 5 would be to the detriment of any such group within society. In particular, we do not consider that our proposal would have a differential impact on consumers in different parts of the UK or consumers with low incomes. This is because our proposal will primarily affect wholesale payments between telecoms providers. Therefore, we do not consider it necessary to carry out a full Equality Impact Assessment.

Consultation period and next steps

- 2.20 We seek responses from industry stakeholders and other interested parties by 30 August 2017. Further details on responding to this consultation can be found in Annexes 1 to 4.
- 2.21 We intend to publish a final statement on the proposed maximum DCCs set out in this consultation in early 2018, either simultaneously or shortly after the 2018 MCT Statement, and anticipate that the new direction would come into effect on 1 April 2018.

Section 3

Analysis of the maximum level of the DCC

- 3.1 In this section we set out our provisional analysis of the maximum level of the DCC for the period April 2018 to March 2021. In order to calculate the proposed efficient level of costs for the provision of donor conveyance we have used a cost model (the “2017 DCC model”) which is published alongside this consultation document. The 2017 DCC model is based on the 2015 DCC model, but has been updated so as to use inputs from the recently published 2017 MCT model.¹¹
- 3.2 We first explain the approach we propose to take to modelling, which is similar to the approach we have proposed to take in the 2017 MCT Review, and then set out the provisional results of our analysis.

Approach to modelling

The 2015 DCC model

- 3.3 Our previous analysis of DCCs was informed by the 2015 DCC model, which implemented the decisions made in the September 2014 Porting Charges Guidance. This meant that, among other things, it:
- 3.3.1 calculated the costs of donor conveyance on the basis of a LRIC cost standard (as opposed to the LRIC+ cost standard used in the 2014 DCC Direction); and
 - 3.3.2 used a recipient provider pays charging rule, so 100% of the calculated conveyance costs were included in the DCC (as opposed to the 50:50 split of costs between donor and recipient that had previously prevailed).
- 3.4 The 2015 DCC model drew on cost information and other inputs from the then recently published 2015 MCT model, and took the form of an additional module appended to the 2015 MCT model.¹² The modelling required some modifications to the 2015 MCT model, for example to allow the relevant increment of output to be flexed from mobile call termination to donor conveyance. It also required us to gather information under our formal powers on the volume of donor conveyance traffic and make some assumptions in relation to inputs specific to donor conveyance traffic.
- 3.5 We consider the 2015 DCC model to be an appropriate starting point for our analysis of the maximum level of DCCs for the period April 2018 to March 2021, and explain how we propose to update the model below.

Approach to updating the 2015 DCC model

- 3.6 Our approach to updating the 2015 DCC takes a similar form to the way we have updated our MCT modelling in the 2017 MCT model.¹³ Having found the 2015 DCC model an appropriate basis for estimating the LRIC of donor conveyance and setting DCCs for the 1 May 2015 to 31 March 2018 period, we have considered whether it continues to provide a reasonable approximation of reality that is appropriate as a

¹¹ See the MCT Market Review 2018-21, Annex 9.

¹² See the 2015 DCC Review.

¹³ As summarised in Section 5 and set out in further detail in Annex 9 of the 2017 MCT Consultation.

basis for estimating the LRIC of donor conveyance for the April 2018 to March 2021 period.

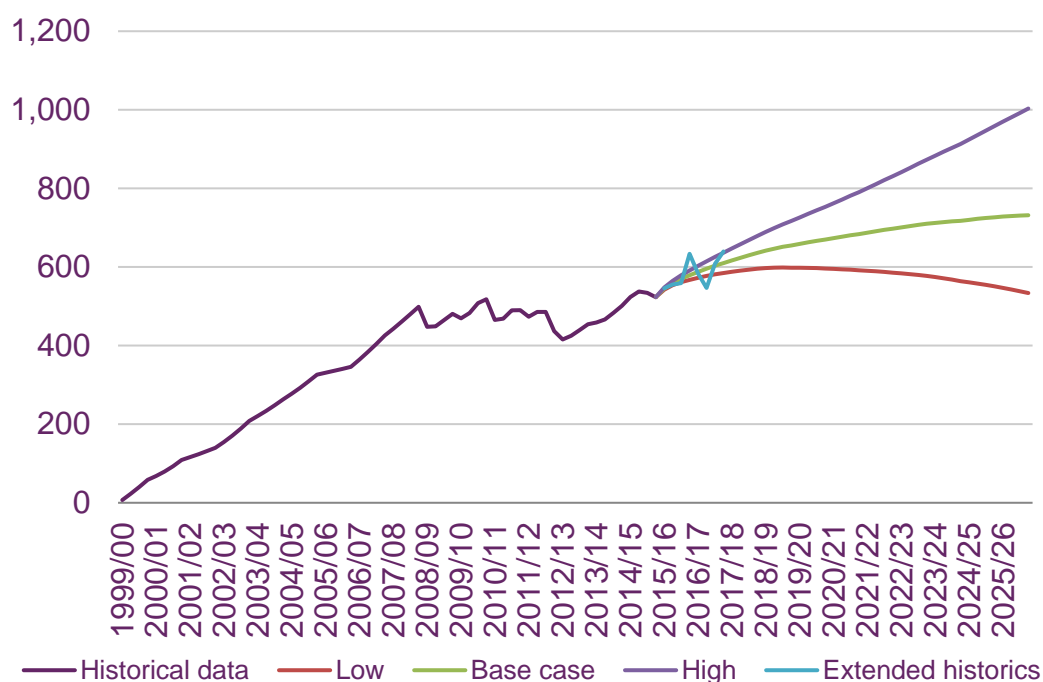
3.7 The key inputs to the 2015 DCC model comprised network parameters sourced from the 2015 MCT model and information on traffic volumes gathered under our formal powers. Our approach to updating the 2015 DCC model therefore has two key aspects:

3.7.1 First, we have drawn inputs from the recently published 2017 MCT model, which represents our most up-to-date view of the costs of mobile networks, rather than those from the 2015 MCT model.

3.7.2 Second, we have tested the donor conveyance volumes forecast in the 2015 DCC model against updated information gathered from the mobile providers under formal powers, in a manner similar to the way we tested the inputs to the 2015 MCT model in considering whether to make updates to the 2018 MCT model.¹⁴

3.8 Figure 1 below compares the historic and forecast donor conveyance volumes from the 2015 DCC model against an updated set of actual data. The outturn data show variation over the past two years, and have both exceeded the 2015 DCC high case, and dipped below the 2015 DCC low case.

Figure 1: Donor conveyance volumes for the modelled operator (million minutes per quarter)



Source: Ofcom analysis based on 2015 DCC model and s135 data.

3.9 We have investigated this variation in the outturn volumes and found that it does not appear to be anomalous. The focus of our information request was donor conveyance volumes sent by each of the four main mobile providers to each of the other four mobile providers. Although there are some notable jumps in the volumes

¹⁴ See the 2017 MCT Consultation for further details, paragraphs 5.5 to 5.26 and Annex 9.

sent for some of these bilateral relationships, the structure of our s135 request allows us to cross-check against donor conveyance volumes received by the counterparties in each case. This check shows precisely corresponding changes, and we also note that the historical data show considerable variation from one quarter to the next. As a result we do not consider the evolution of the donor conveyance volume data to be anomalous, and our 2015 base case forecast of continued gentle growth appears reasonable.

- 3.10 We have tested the impact of updating the volumes in the 2015 DCC model to replace them with the updated outturn figures shown in Figure 1 above for the period Q1 2015/16 to Q4 2016/17 and return to the 2015 base case forecasts from Q1 2017/18 onwards. The impact of this on the results is very limited, with an impact in 2020/21 of increasing the proposed DCC by less than 0.00003 pence per minute, a change of 0.1%.
- 3.11 Our provisional view is therefore that the 2015 DCC model provides an appropriate starting point for our analysis, and that updating the donor conveyance traffic volumes would not have a material impact on the results of the model. Consequently, we propose a 2017 DCC model which is updated from the 2015 DCC model only to the extent that it draws inputs from the 2017 MCT model and is updated to reflect outturn inflation and updated inflation forecasts to present the results in nominal terms.¹⁵ We propose to use this as the basis for setting DCCs for 2018–21.

Results

- 3.12 The results of our analysis are presented in Table 2 below. The 2015 DCC model produces an estimate of the LRIC of donor conveyance and we then apply the ‘on-net adjustment’ to this to derive the maximum DCC. As noted in Section 2, the on-net adjustment accounts for the fact that although DCCs are only applicable to off-net originated traffic, in practice mobile providers do not distinguish between on-net and off-net originated donor conveyance traffic, and hence apply it to total donor conveyance traffic.¹⁶
- 3.13 As in the 2015 DCC Statement our results for maximum DCCs are presented in nominal terms. The inflation forecasts we have used are taken from the Office for Budget Responsibility and match those used in the 2017 MCT model.¹⁷

Table 2: Blended LRIC of donor conveyance (nominal ppm)

| | 2018/19 | 2019/20 | 2020/21 |
|------------------------|---------|---------|---------|
| LRIC | 0.032 | 0.032 | 0.031 |
| With on-net adjustment | 0.022 | 0.021 | 0.021 |

Source: Ofcom 2017 LRIC of DC model.

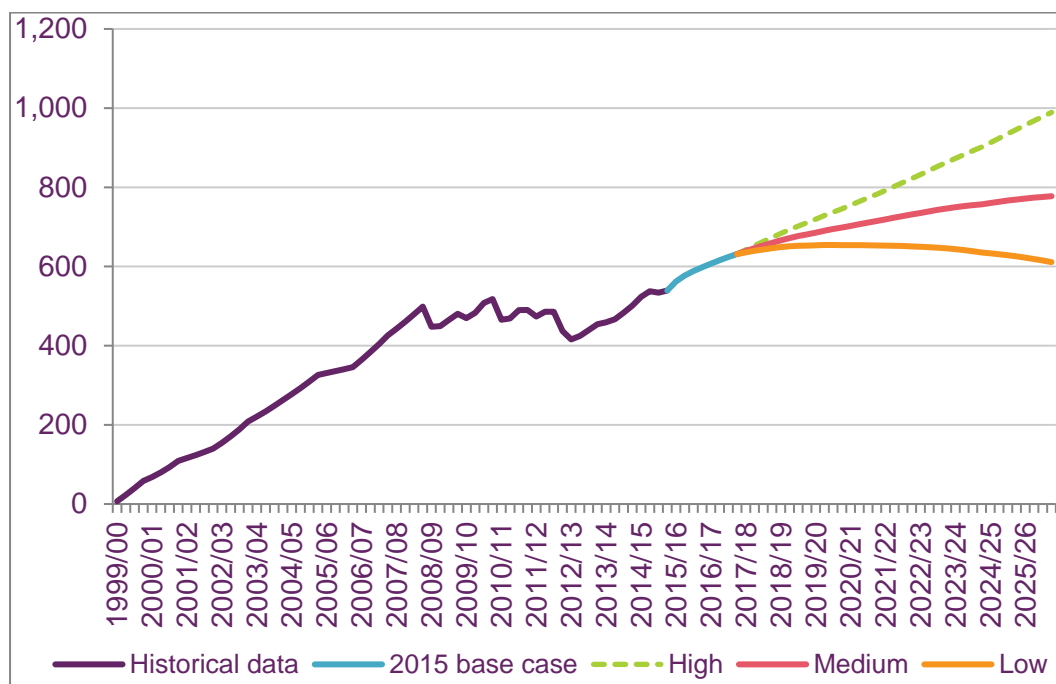
¹⁵ This means that we also propose not to update other technical aspects of the model discussed in the 2015 DCC Statement, including routing factors, ‘MSC processor load’ and ‘HLR look-up’ costs.

¹⁶ This issue was discussed in both the September 2014 Porting Charges Guidance and the 2015 DCC Statement. Having cross-checked against the latest market level data in Ofcom’s Telecoms Data Tables we propose that the level of the adjustment, at 33%, remains unchanged.

¹⁷ See OBR Economic and fiscal outlook, March 2017, available at <http://budgetresponsibility.org.uk/efo/economic-fiscal-outlook-march-2017/>. We would anticipate updating for outturn inflation and any changes in inflation forecasts prior to publication of the DCC Statement.

3.14 In order to test the sensitivity of our results to the volume assumptions used we have updated the approach taken in the 2015 DCC model to produce low and high volume scenarios, as shown in Figure 2 below.

Figure 2: Updated forecast of donor conveyance volumes for the modelled operator (million minutes per quarter)



Source: Ofcom analysis based on 2015 DCC model and s135 data.

3.15 The impacts on the blended DCC results of using the high and low forecasts compared to the base case figures are presented in Table 3 below. As we might expect, higher traffic volumes lead to lower unit costs and lower DCCs, and vice versa, but in common with other LRIC models (such as our MCT models) the impact is limited.

Table 3: Blended DCC volumes sensitivity analysis (nominal ppm)

| | 2018/19 | 2019/20 | 2020/21 |
|--------------------|---------|---------|---------|
| High | 0.020 | 0.020 | 0.020 |
| Medium (Base case) | 0.022 | 0.021 | 0.021 |
| Low | 0.023 | 0.023 | 0.022 |

Source: 2017 DCC model.

Question 1: Do you agree with how we are proposing to derive the level of the maximum DCCs? If not, please explain why.

Legal tests

3.16 As set out in Section 2, we have a duty under Article 30(2) USD to ensure that pricing between operators/service providers related to the provision of number portability is cost-oriented. We may also set a maximum DCC on an ex ante, industry-wide basis

and our provisional view is that a direction under GC18.5(a)(ii) is an appropriate means of doing so.

- 3.17 We are minded to regard the making of the new direction and the withdrawal of the 2015 DCC Direction as satisfying section 49(2) of the Act as it would be:
- 3.17.1 Objectively justifiable, in that it would provide that pricing between mobile providers related to the provision of number portability is cost-oriented as required under the legal framework for number portability;
 - 3.17.2 Not unduly discriminatory, in that it would apply to all mobile providers that levy a charge for the onward conveyance of a call to a ported mobile number;
 - 3.17.3 Proportionate to what it is intended to achieve, in that the direction would ensure that charges for mobile portability remain cost-oriented in line with our policy decisions as set out in the September 2014 Porting Charges Guidance on how mobile providers should set reasonable and cost oriented charges for the provision of portability pursuant to GC18. Moreover, prior to our decision to give the 2014 DCC Direction, we refrained from regulatory intervention for a period of time in order to allow mobile providers to enter into bilateral commercial negotiations with regard to revised DCC(s). But, as has been the case previously, we were subsequently called upon to resolve disputes between certain mobile providers over the level of the DCC. The making of the proposed direction would do no more than is necessary to ensure that charges for mobile portability remain cost-oriented without such disputes; and
 - 3.17.4 Transparent in what it is intended to achieve, in that the direction is explained in this document and set out in full at Annex 5.
- 3.18 We also provisionally consider that the direction (and the withdrawal of the 2015 DCC Direction) would be consistent with our principal duty under section 3 of the Act, and the Community requirements set out in section 4 of the Act. Ensuring that DCCs are capped at a cost-oriented level serves to promote effective competition, and through this furthers the interests of consumers. We have also had regard, as required by section 3(3) of the Act, to the principle that regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and to other principles of best regulatory practice. We have sought to ensure a modelling approach that would yield DCCs consistent with the September 2014 Porting Charges Guidance. Where modelling assumptions from previous reviews have remained appropriate we have retained these, and our modelling approach reflects stakeholder responses to our September 2014 consultation and information received since then.

Provisional Conclusions

- 3.19 This consultation sets out our proposals for giving a direction which would set a new maximum DCC across the mobile industry on a forward-looking basis and withdrawing the 2015 DCC Direction. For the reasons set out above, we have set out our proposals that the maximum DCCs that may be levied by donor providers on recipient providers to recover the conveyance costs associated with calls to ported numbers should be at the levels shown in Table 4 below.

Table 4: Proposed maximum DCCs applicable for all donor conveyance calls (ppm, nominal prices)

| | 2018/19 | 2019/20 | 2020/21 |
|-------------|---------|---------|---------|
| Maximum DCC | 0.022 | 0.021 | 0.021 |

Source: Ofcom 2017 LRIC of DC model.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, **by 5pm on 30 August 2017**.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-2/review-of-mobile-donor-conveyance-charges-for-the-period-2018-to-2021/>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to shaun.tey@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>).
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- Shaun Tey
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 If you would like to submit your response in an alternative format (e.g. a video or audio file), please contact Shaun Tey on 020 7981 3000, or email shaun.tey@ofcom.org.uk.
- A1.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.8 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A1.9 If you want to discuss the issues and questions raised in this consultation, please contact Shaun Tey on 020 7981 3000, or by email to shaun.tey@ofcom.org.uk.

Confidentiality

- A1.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other

respondents' views, we usually publish all responses on our website, www.ofcom.org.uk, as soon as we receive them.

- A1.11 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>

Next steps

- A1.14 Following this consultation period, Ofcom plans to publish a statement by March 2018.
- A1.15 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details, please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

Ofcom's consultation processes

- A1.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.17 If you have any comments or suggestions on how we manage our consultations, please call our consultation helpdesk on 020 7981 3003 or email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Email corporation.secretary@ofcom.org.uk

Annex 2

Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

Annex 3

Consultation response cover sheet

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

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

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

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

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

DECLARATION

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

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

Name

Signed (if hard copy)

Annex 4

Consultation questions

Question 1: Do you agree with how we are proposing to derive the level of the maximum DCCs? If not, please explain why.

Annex 5

Notification under section 49A(3) of the Communications Act 2003

Proposal for the withdrawal of and the giving of Directions under paragraph 18.5(a)(ii) of General Condition 18 in relation to charges for Mobile Portability

1. Ofcom, in accordance with section 49A(3) of the Act, hereby make the following proposals:
 - the withdrawal of the 2015 DCC Direction; and
 - the giving of the proposed Direction under paragraph 18.5(a)(ii) of General Condition 18 set out in the Schedule to this Notification.
2. The effect of, and Ofcom's reasons for making, the proposals referred to in paragraph 1 are set out in the accompanying consultation document.
3. Ofcom consider that the proposals referred to in paragraph 1 are not of EU significance pursuant to section 150A(2) of the Act.
4. Ofcom are satisfied that the proposals referred to in paragraph 1 comply with the requirements of sections 49 to 49C of the Act, insofar as they are applicable.
5. In making the proposals, Ofcom have considered and acted in accordance with their general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act.
6. Representations may be made to Ofcom about the proposals set out in this Notification until **5pm on 30 August 2017**.
7. The 2015 DCC Direction shall be withdrawn, and the proposed Direction set out in the Schedule to this Notification shall enter into force on 1 April 2018.
8. A copy of this Notification and the accompanying consultation document is being sent to the Secretary of State in accordance with section 49C(1) of the Act.
9. In this Notification:
 - a. "the Act" means the Communications Act 2003;
 - b. "the 2015 DCC Direction" means the Direction under paragraph 18.5(a)(ii) of General Condition 18 in relation to charges for Mobile Portability given by Ofcom on 17 March 2015;
 - c. "General Condition 18" means the General Condition 18 of 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;

- d. "Mobile Portability" shall have the meaning ascribed to that term in General Condition 18;
- e. "Ofcom" means the Office of Communications.



Brian Potterill
Competition Policy Director

19 July 2017

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

[Draft] Direction under paragraph 18.5(a)(ii) of General Condition 18 relating to charges for Mobile Portability

WHEREAS:

- A. Paragraph 18.5(a) of General Condition 18 provides that, subject always to the requirement of reasonableness, any charges for the provision of Portability shall be cost-oriented and shall be based on the incremental costs of providing Portability unless the Donor Provider and the Recipient Provider have agreed another basis for the charges, or Ofcom has directed that another basis for charges should be used.
- B. The Donor Conveyance Charge is a charge for the provision of Portability.

THEREFORE, PURSUANT TO PARAGRAPH 18.5(a)(ii) of GENERAL CONDITION 18, OFCOM DIRECTS THAT:

- 1. The Donor Conveyance Charge shall not exceed:
 - a. for any Call made during the period beginning on 1 April 2018 and ending on 31 March 2019, [0.022] pence per minute;
 - b. for any Call made during the period beginning on 1 April 2019 and ending on 31 March 2020, [0.021] pence per minute
 - c. for any Call made during the period beginning on 1 April 2020 and ending on 31 March 2021, [0.021] pence per minute;
- 2. This Direction shall cease to have effect on 31 March 2021.
- 3. In this Direction:
 - a. "Act" means the Communications Act 2003;
 - b. "Call" means a voice call that originates on a public electronic communications network (whether fixed or mobile) other than the mobile network of the Donor Provider and is terminated to a Mobile Number that:
 - i. is within a number range that has been allocated to the Donor Provider; and
 - ii. has been ported to the Recipient Provider;
 - c. "Donor Conveyance Charge" means the amount charged by the Donor Provider to the Recipient Provider for the conveyance of a Call from the Donor Provider's network to the Recipient Provider's network;
 - d. "General Condition 18" means General Condition 18 of the general conditions of entitlement set under section 45 of the Act by the Director General of Telecommunications on 22 July 2003, as amended from time to time;
 - e. "Ofcom" means the Office of Communications;
 - f. "pence per minute" means the sum in pence charged for a minute of a Call.

4. Any word or expression not defined in paragraph 3 shall have the same meaning as it has:
 - a. in General Condition 18;
 - b. if it has no meaning ascribed as mentioned in paragraph 4a, in the Act.
5. The Interpretation Act 1978 shall apply as if this Direction were an Act of Parliament.

Annex 6

Glossary

‘2014 MCT Model’: The cost model Ofcom proposed to use in order to calculate the charge control for the period of the previous market review (2015-18), which was published as part of our consultation on the 2015 MCT Review.

‘2015 DCC model’: The cost model Ofcom used to calculate the maximum donor conveyance charge for the period of the previous DCC review (2015-18).

‘2015 MCT model’: The cost model Ofcom used to calculate the charge control for the period of the previous market review (2015-18).

‘2017 DCC model’: The cost model Ofcom is proposing to use to calculate the charge control for the period of the DCC review (2018-21).

‘2017 MCT model’: The cost model Ofcom is proposing to use to calculate the charge control for the period of the MCT market review (2018-21).

‘2017 MCT Review’: The Mobile call termination market review 2018-21 sets out Ofcom’s proposals for the regulation of the wholesale MCT market for the period 1 April 2018 – 31 March 2021.

Call Trap: A facility that allows the recipient provider to ‘trap’ calls that it originates to numbers that have been ported into its network. This removes the requirement for a call to be routed to the donor provider and then back to the recipient provider in circumstances where the call originates on the recipient’s network.

Communications Act or “the Act”: The Communications Act 2003.

Consumer Price Index (CPI): The official measure of inflation of consumer prices in the United Kingdom.

Donor Conveyance Charges (DCCs): Wholesale charges for the provision of ‘onward routing’ of calls to mobile numbers that have been ported (i.e. when a consumer has kept their mobile number but has switched mobile provider).

Donor provider (DP): When a mobile number has been ported from one network to another, the donor provider is the network that originally held the number. After a number has been ported, any calls made to the number are usually routed first to the donor provider and it then routes the call to the new network.

EBITDA: Earnings Before Interest, Taxation, Depreciation and Amortisation.

EC: The European Commission.

EU: The European Union.

F2M: Fixed-to-mobile, used to refer to a call or traffic originated from a fixed geographic number and seeking to call a mobile number.

Four largest mobile providers: The four largest mobile providers are EE, H3G, Telefónica and Vodafone. These mobile providers operate a fully-deployed national mobile network,

including both a radio access network and elements of core network; they have independent control of spectrum, and operate in both the wholesale and retail markets.

Long Run Incremental Costs (LRIC): LRIC is defined as the long run avoidable cost of an operator carrying a particular increment of traffic. The increment in question is treated as the final traffic increment on the network.

Long Run Incremental Costs Plus (LRIC+): The long run (average) incremental costs plus an equi-proportionate mark-up for the recovery of shared and common costs. LRIC+ should be taken to mean the same as LRAIC+ (a term used by some other NRAs).

Mobile Call Termination (MCT): The wholesale service provided by an MCP to allow an OCP (Originating Communications Provider) to connect a caller with the intended mobile call recipient on that MCP's network.

Mobile number portability (MNP): The facility that enables consumers to keep their mobile telephone number whilst switching provider. When a consumer that has "ported" their number subsequently receives an incoming call, it is first routed to the network that originally held the number being called, before being onward routed to their new mobile network.

Ported-in numbers: A mobile number that is not allocated to a particular mobile provider, used by an end-user who has since become a subscriber of that mobile provider (and where the subscriber has elected to use mobile number portability to retain their number).

Ported-out numbers: A mobile number that is allocated to a particular mobile provider, used by an end-user who has since become a subscriber of another mobile provider (and where the subscriber has elected to use mobile number portability to retain their number).

Recipient provider (RP): When a mobile number has been ported from one network to another, the recipient provider is the new network that now holds the number. After a number has been ported, any calls made to the number are usually routed to the donor provider first, before being onward routed to the recipient provider.