



Supplementary guidance on assessment of the VULA margin

Non-confidential version

Consultation

Publication date: 11 June 2015

Closing Date for Responses: 13 July 2015

About this document

This is a consultation on supplementary guidance on the minimum margin that British Telecommunications plc (BT) must maintain between its wholesale and retail superfast broadband prices.

On 19 March 2015, we published a statement setting out detailed requirements on the minimum margin and guidance on how we would assess compliance with those obligations. That guidance anticipates that there might be material changes in circumstances which would warrant a departure from that guidance.

BT will broadcast UEFA football from August 2015 and has recently announced changes to its BT Sport retail proposition. We consider that these changes would constitute a material change of circumstances and so we are consulting on supplementary guidance regarding how we would undertake our assessment of the minimum margin during the launch period of this new proposition.

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Section 1

Introduction

Background

- 1.1 On 19 March 2015 we published a statement setting out our approach to regulating the VULA¹ margin (the VULA Margin Statement).² In that statement we imposed a condition requiring BT to maintain a minimum VULA margin. We also published guidance on how we intend to undertake our assessment of compliance with that condition. That guidance anticipates that there might be material changes in circumstances which would warrant a departure from that guidance.
- 1.2 BT wrote to us on 2 April 2015 asking whether planned changes to its BT Sport retail proposition involving UEFA football would constitute a material change of circumstances and, if so, how we would undertake our assessment of compliance with the VULA margin condition following that change.
- 1.3 Having considered the information provided to us by BT, we decided that this change would constitute a material change of circumstances and that it would be appropriate to consult on supplementary guidance.
- 1.4 BT subsequently provided us with some further information regarding its planned changes in response to a statutory information request. On 9 June 2015, BT announced its plans.³
- 1.5 In light of these developments, we are now publishing a consultation on supplementary guidance regarding how we would undertake our assessment of the VULA margin condition during the launch period of this new proposition.

¹ Virtual Unbundled Local Access ('VULA') provides access to BT's Next Generation Access ('NGA') network. The VULA margin is the differential between the price of the wholesale VULA input offered by British Telecommunications plc's ('BT') access division (Openreach) and the price of those retail packages offered by BT's retail divisions that use VULA as an input.

² Ofcom, *Fixed Access Market Reviews: Approach to the VULA margin*, 19 March 2015, <http://stakeholders.ofcom.org.uk/consultations/VULA-margin/statement>

³ BT, *UEFA Champions League and UEFA Europa League to be free with BT TV*, 9 June 2015, <http://www.btplc.com/News/#!/pressreleases/uefa-champions-league-and-uefa-europa-league-to-be-free-with-bt-tv-1175981>

Section 2

Proposed approach

Our understanding of BT's plans

- 2.1 Our proposals in this consultation reflect the information that BT has provided to us about its plans⁴ together with any further information provided in its recent public announcement.⁵
- 2.2 We understand that BT intends to continue offering a 'free' sports channel (BT Sport 1) to its broadband subscribers.⁶ In addition, from August 2015 it will offer a suite of sports channels (the "*BT Sport Pack*", consisting of BT Sport 1, BT Sport 2, BT Sport Europe and ESPN).⁷ BT broadband subscribers will have to pay £5/month to receive the BT Sport Pack, although customers that re-contract both BT broadband and BT TV [X] would receive these channels for 'free'. Customers on Sky's pay TV platform that do not subscribe to BT broadband will have to pay [X] to receive the BT Sport Pack. [X].⁸ [X].⁹
- 2.3 BT will also broadcast some content, including UEFA football, on a new free to air channel (BT Sport Showcase).¹⁰ [X].

Our proposals

Proposed approach

- 2.4 In this consultation, 'the UEFA Channels' correspond to BT Sport 2, BT Sport Europe and ESPN. These are the additional channels in the BT Sport Pack over and above the 'free' sports content that BT broadband subscribers receive (namely BT Sport 1). In order to receive these channels, BT broadband customers (apart from those also taking BT TV) must pay an additional fee.
- 2.5 We consider that the launch of the UEFA Channels represents a material change in circumstances. This reflects the approach set out in the VULA Margin Statement: the launch of these channels (which BT broadband subscribers must pay for) potentially gives rise to the issue set out in paragraphs 6.23-6.24 of that statement and accordingly, in line with paragraph 6.25 of that statement, an alternative approach is appropriate.
- 2.6 We recognise that there may be a number of ways that the short run issues arising in relation to the UEFA Channels could reasonably be addressed as part of the VULA

⁴ BT response to questions 2-5 of the s.135 notice of 23 April 2015; and BT response to questions 3-6 of the s.135 notice of 12 May 2015.

⁵ See footnote 3.

⁶ This channel would focus on Aviva Premiership Rugby, Scottish Premier League football and FA Premier League football.

⁷ The content that will be shown on these additional channels is still being developed. It will include UEFA Champions League football, UEFA Europa League football, European Rugby Champions Cup, the FA Cup, Moto and UFC.

⁸ [X]. BT response to question 2 of the s.135 notice of 12 May 2015.

⁹ [X].

¹⁰ This will include at least 12 Champions League matches and 14 Europa League matches. Each participating British team will be shown at least once.

margin assessment. However, in order to provide BT and other stakeholders with certainty, we have (provisionally) identified a specific treatment of these costs and revenues. In doing so, we have exercised our regulatory judgement. However, while our position post-consultation will represent the approach we would expect to take, were the actual circumstances surrounding the UEFA Channels to develop in an exceptional way we may need to reassure ourselves that the application of our guidance remained appropriate.

2.7 Our approach identifies three distinct periods after the launch of the UEFA Channels: the Deferral Period, followed by the Recovery Period and then the Final Period. Our provisional view on how the VULA margin assessment should be carried out in each of these periods is set out in paragraphs 2.7.1-2.7.3. We discuss the length of the Deferral and Recovery Periods in paragraphs 2.13-2.22.

2.7.1 The Deferral Period: During the Deferral Period, compliance should be assessed using the approach set out in the VULA Margin Statement (including the existing guidance) subject to one difference – when carrying out this assessment the incremental costs and revenues associated with the UEFA Channels are excluded. These are the extra costs associated with supplying these channels (over and above the other BT Sport content that is supplied to BT broadband subscribers for ‘free’) and the extra revenues from supplying those channels.¹¹

2.7.2 The Recovery Period: At the end of the Deferral Period, we would calculate whether there has been a shortfall relative to the approach set out in the VULA Margin Statement and existing guidance. If so, the shortfall would need to be recovered during the subsequent Recovery Period. During the Recovery Period the VULA margin in each compliance period must be sufficient to recover BT’s costs, calculated in accordance with our existing guidance and including the costs and revenues of the UEFA Channels. In addition, over this period the VULA margin must be sufficient to recoup any shortfall that occurred during the Deferral Period. We provide further details on how this shortfall should be calculated in paragraph 2.12.

2.7.3 The Final Period: After the Recovery Period, the VULA margin in each compliance period must be sufficient to recover BT’s costs, calculated in the manner set out in our existing guidance and including the costs and revenues of the UEFA Channels. In other words, from this point the approach set out in our existing guidance in the VULA Margin Statement applies without any exceptions.

2.8 We consider that adopting a different approach in each of these three periods is reasonable. As explained in paragraph 6.23 of the VULA Margin Statement, the approach set out in the VULA Margin Statement and the existing guidance can lead to problems if mechanically applied during the special circumstances immediately following the UEFA Channels’ launch. This is a consequence of take-up of these

¹¹ Calculating the incremental revenues for the UEFA Channels from BT broadband subscribers is likely to be straightforward given that subscribers are charged for the BT Sport Pack while BT Sport 1 is ‘free’. In the case where the incremental revenues for the UEFA Channels cannot be easily distinguished, such as in the case of customers on Sky’s pay TV platform that do not subscribe to BT broadband (where only the BT Sport Pack is available), revenues could be attributed between BT Sport 1 and the rest of the BT Sport Pack in line with sports rights’ costs.

channels being atypically low in this period.¹² Our proposed approach addresses this issue by allowing BT greater flexibility over the timing of cost recovery during the period shortly after launch – essentially BT can defer some cost recovery.

- 2.9 However, during the Deferral Period the VULA margin must be sufficient once the incremental costs and revenues associated with the UEFA Channels are excluded. If the VULA margin were too low even once the UEFA Channels are set aside, then this risks distorting retail competition contrary to the objective of our VULA margin regulation.
- 2.10 Our general approach, as set out in the VULA Margin Statement, is that the VULA margin should be sufficient to recover BT's costs. The proposed approach set out in this consultation is consistent with our general approach since any shortfall in cost recovery during the Deferral Period must be recouped during the Recovery Period.
- 2.11 In the VULA Margin Statement we stated that allowing BT to defer some cost recovery into the future risks undermining the effectiveness of our VULA margin regulation.¹³ However, we consider that the proposed approach set out above strikes an appropriate balance between this risk and the problems associated with applying our existing guidance to the special circumstances after the launch of the UEFA Channels. The risk to the effectiveness of our VULA margin regulation can be reduced by setting a shorter Deferral Period (during which BT has the freedom to set a lower margin) and by immediately following it with a short Recovery Period (which is likely to discourage BT from accumulating a large shortfall during the Deferral Period).

Calculating the shortfall during the Deferral Period

- 2.12 We now set out in more detail how the shortfall that is recovered during the Recovery Period should be calculated at the end of the Deferral Period.¹⁴
- Step 1: To calculate the shortfall, for each compliance period during the Deferral Period we would calculate (in £m) the increase or decrease in the net cost of BT Sport allocated to superfast broadband subscribers that would result in BT being on the boundary between passing and failing the margin assessment under the approach set out in the VULA Margin Statement.
 - Step 2: The total shortfall (in £m) is the sum of the net present value ('NPV') of all the monthly figures calculated at Step 1. This effectively nets off months during the Deferral Period that 'over-recover' (under the approach set out in our existing guidance) against months that 'under-recover'.
 - Step 3: If there is a total shortfall (i.e. if any decreases in the net cost calculated at Step 1 outweigh any increases) then we would calculate what monthly £m amount has, over the Recovery Period, the same NPV as that total shortfall. For each compliance period during the Recovery Period, that monthly £m amount would be added to the £m net cost of BT Sport allocated to superfast broadband

¹² While costs may be atypically high during the launch period, as explained in paragraphs 6.305-6.306 and 6.385-6.388 of the VULA Margin Statement (<http://stakeholders.ofcom.org.uk/consultations/VULA-margin/statement>) we are likely to smooth these launch costs over a five year period.

¹³ Paragraphs 6.292A-6.295, VULA Margin Statement, <http://stakeholders.ofcom.org.uk/consultations/VULA-margin/statement>

¹⁴ The discount rate would be equal to the monthly pre-tax nominal WACC relevant to the BT Consumer business prevailing in the compliance period.

subscribers. This is similar to the methodology we adopted in relation to launch costs, ensures BT begins recouping the total shortfall and provides BT with certainty about the ‘extra’ amount it must recover each month.¹⁵

- Step 3 (continued): If there is no total shortfall then no adjustment is made during the Recovery Period. In these circumstances it is reasonable to return to the approach set out in our existing guidance in the VULA Margin Statement.

Length of the Deferral Period

2.13 The issue with the approach set out in the VULA Margin Statement and the existing guidance illustrated in paragraph 6.23 of the VULA Margin Statement is most acute when take-up of the UEFA Channels is growing sharply. In order to determine the length of the Deferral Period we have thus considered what is a reasonable period over which take-up is likely to be growing sharply. Below we set out evidence in relation to BT’s forecasts, the structure of the UEFA football competitions and the performance of other sports pay TV channels.

BT’s forecasts

2.14 BT provided us with a forecast of the number of subscribers to the BT Sport Pack for August 2015 – March 2018.¹⁶ This is shown in Figure 1.1. [X].

Figure 1.1: Forecast volumes for BT Sport Pack (‘000s)

[X]

Source: Ofcom chart produced using BT response to question 2 of the s.135 notice of 12 May 2015

2.15 BT forecasts that over the period to March 2018 volumes will peak in [X]. BT forecasts that during the first year of operation volumes will peak in [X]. Monthly volumes as a percentage of those peaks are set out in Table 1.1.¹⁷

Table 1.1: Forecast volumes for BT Sport Pack as percentage of peak volumes

	Aug 2015	Sept 2015	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016	April 2016	May 2016
% of overall peak	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
% of first year peak	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]

Source: Ofcom calculations using BT response to question 2 of the s.135 notice of 12 May 2015

2.16 BT forecast that the incremental “direct monetisation” of the BT Sport Pack (over and above [X]) will peak in [X] before falling until [X] – see Table 1.2.¹⁸

¹⁵ Paragraph 6.380, VULA Margin Statement, <http://stakeholders.ofcom.org.uk/consultations/VULA-margin/statement>.

¹⁶ [X]. BT response to question 2 of the s.135 notice of 12 May 2015.

¹⁷ [X].

¹⁸ Table 1.2 reflects the incremental revenues from the BT Sport Pack less certain costs associated with supplying commercial subscribers (pubs & clubs). Table 1.2 excludes [X]. [X].

Table 1.2: Forecast incremental BT Sport Pack direct monetisation (£m)

	Aug 2015	Sept 2015	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016	April 2016	May 2016	June 2015	July 2016
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]

Source: BT response to question 2 of the s.135 notice of 12 May 2015

The structure of the UEFA football competitions

2.17 The most attractive content on the UEFA Channels is likely to be UEFA Champions League and Europa League football matches (as shown by the large amount BT paid for the rights to this content).

- The Champions League has a group stage (96 matches) between 15 September and 9 December 2015. This stage will involve at least three and possibly four English clubs.¹⁹ There is then a pause in the contest. The final knockout phase (29 matches) is between 16 February and 28 May 2016. The number of English clubs involved in this stage and how far they progress depends on their performance.²⁰
- The Europa League has a group stage (144 matches) between 17 September and 10 December 2015.²¹ There is then a pause in the contest. The final knockout phase (61 matches), which includes clubs that failed to progress in the Champions League, is between 18 February and 18 May 2016.²²

Performance of other sports pay TV channels

2.18 We have considered data on the actual performance of other sports pay TV channels. Table 1.3 shows the number of paying subscribers to Setanta Sports, ESPN and BT Sport on Sky's pay TV platform as a percentage of the peak during those channels' first year of operation.²³ We have placed less weight on this data since these channels (i) adopted a different business model to the UEFA Channels; and (ii) broadcast live FA Premier League football matches, so the fixture list for the key sporting competition is structured differently to Champions League and the Europa League.

¹⁹ Prior to this group stage there is a qualifying stage. This involves one English club. In the last five seasons, four English clubs have been involved at the group stage.

²⁰ In the last five seasons, between two and four English clubs have progressed beyond the group stage. In two seasons (2012/13 and 2014/15) all English clubs were knocked out in the first round of the knockout phase. In two seasons (2010/11 and 2011/12) an English club progressed to the final.

²¹ Prior to this group stage there is a qualifying stage. In the last five seasons, up to four English clubs have been involved in the qualifying stage and one to three English clubs have been involved in the group stage.

²² In the last five seasons, between two and four English clubs been involved beyond the group stage. In one season (2012/13) an English club progressed to the final.

²³ The data for ESPN and Setanta was requested on a non-statutory basis for historic Ofcom projects. We do not have data from Setanta for June and July 2008.

Table 1.3: Paying subscribers on Sky's pay TV platform as percentage of the first year peak

	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July
Setanta (2007/08)	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
ESPN (2009/10)	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
BT Sport (2013/14)	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]

Source: Setanta response to question 3 of the information request of 27 June 2007; ESPN response to question 2 of the information request of 18 May 2011; BT response to question 1 of the s.135 notice of 21 October 2014

Provisional conclusion on the length of the Deferral Period

2.19 Determining the length of the Deferral Period involves the exercise of judgement. However, in light of the above evidence, we consider that a reasonable period for the Deferral Period is five months (i.e. August 2015 until December 2015, inclusive).

- The Deferral Period reflects the period when there is likely to be sharp growth.
- BT forecast that by December 2015 the BT Sport Pack will already have experienced [X]. In December 2015 BT's forecast volumes will be at [X] per cent of the peak in the UEFA Channels' first year of operation (see Table 1.1). Previous sports channels take-up on Sky's pay TV platform [X].
- December 2015 also marks the end of the first phase of the Champions League and Europa League contests. After mid-December these pause for two months and the extent of English clubs' involvement is less certain so further strong growth after this point cannot be relied upon.
- While [X], our focus here is on the short run issues associated with the launch of the UEFA Channels. We set out in the VULA Margin Statement general issues associated with adjusting the profile of cost recovery, including the risk that the effectiveness of our VULA margin regulation is undermined.²⁴

Length of the Recovery Period

2.20 Determining the length of the Recovery Period involves the exercise of judgement. The size of any shortfall that needs to be recovered in that period is currently unknown but influenced by the prices that BT sets. As explained in paragraph 2.11, the risk to the effectiveness of our VULA margin regulation can be diminished by setting a shorter Recovery Period (which likely discourages BT from accumulating a large shortfall during the Deferral Period).

2.21 As set out in Tables 1.1 and 1.2, forecast volumes and "direct monetisation" peak in [X]. [X]. In May 2016, the 2015/16 Champions League and Europa League

²⁴ Paragraphs 6.291-6.302 and (particularly) 6.292B-6.295, VULA Margin Statement, <http://stakeholders.ofcom.org.uk/consultations/VULA-margin/statement>

seasons finish. There is then a pause for several months until the 2016/17 seasons begin. Overall this evidence suggests that an appropriate Recovery Period is five months (i.e. January 2016 to May 2016, inclusive).

- 2.22 [§].²⁵ [§]. We do not consider these justify a longer Recovery Period. In particular, allowing BT to set a lower VULA margin in the short to medium term in anticipation of future price rises or the extra subscribers it expects to win as a result of that low margin risks enabling the behaviour that our VULA margin regulation is seeking to prevent.²⁶

Draft supplementary guidance

Draft supplementary guidance

During the August 2015 to December 2015 (inclusive) compliance periods ('the Deferral Period'), we would assess the VULA margin in accordance with the rest of our guidance except that the incremental costs and revenues associated with the UEFA Channels (BT Sport 2, BT Sport Europe and ESPN) are excluded.

During the January 2016 to May 2016 (inclusive) compliance periods ('the Recovery Period'), we would assess the VULA margin in accordance with the rest of our guidance except that an adjustment to reflect the Total Shortfall would be included.

The adjustment to reflect the Total Shortfall would be calculated as follows:

- For each compliance period during the Deferral Period, we would calculate (in £m) the increase or decrease in the net cost of BT Sport allocated to superfast broadband subscribers that would result in BT being on the boundary between passing and failing the margin assessment under the approach set out in the rest of our guidance;
- The Total Shortfall (in £m) is the sum of the NPV of all those monthly decreases less the sum of the NPV of all those monthly increases;
- If the monthly decreases outweigh the monthly increases then we would calculate what monthly £m amount has, over the Recovery Period, the same NPV as the Total Shortfall. For each compliance period during the Recovery Period, that monthly £m amount would be added to the £m net cost of BT Sport allocated to superfast broadband subscribers;
- If the monthly increases outweigh the monthly decreases then no adjustment is made during the Recovery Period;
- The discount rate used in this calculation would be equal to the monthly pre-tax nominal WACC relevant to the BT Consumer business prevailing in the compliance period.

Q1 *Do you agree with our provisional conclusions? Please provide reasons in support of your view.*

²⁵ [§]. BT response to question 10 of the s.135 notice of 12 May 2015.

²⁶ See paragraphs 6.293-6.294 of the VULA Margin Statement (<http://stakeholders.ofcom.org.uk/consultations/VULA-margin/statement>).

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 13 July 2015**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/vula-margin-uefa/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 Please email larger responses to vulamargin@ofcom.org.uk, together with a consultation response coversheet. If any part of your response is confidential, it would assist us if such information is highlighted.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- Mr David du Parc Braham
Floor 4
Competition Policy
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and provide evidence where you have it.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact David du Parc Braham on 020 7981 3856.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If your response contains confidential information then please provide two versions: a non-

confidential version suitable for publication that redacts the confidential information and a confidential version with confidential information highlighted.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/terms-of-use/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement in Summer 2015.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: <http://www.ofcom.org.uk/email-updates/>

Ofcom's consultation processes

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

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

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

Before the consultation

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

During the consultation

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

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

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

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

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

After the consultation

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

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at <http://stakeholders.ofcom.org.uk/consultations/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

Name/contact details/job title

Whole response

Organisation

Part of the response

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 question

1. *Do you agree with our provisional conclusions? Please provide reasons in support of your view*

Annex 5

Equality Impact Assessment

- A5.1 Annex 2 of the 2014 FAMR Statement²⁷ sets out our Equality Impact Assessment ('EIA') for the Fixed Access Market Reviews. We consider that assessment to apply equally to the proposals set out in this document (which themselves form part of our reviews of the fixed access markets). Ofcom is required by statute to assess the potential impact of all our functions, policies, projects and practices on race, disability and gender equality. EIAs also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- A5.2 It is not apparent to us that the outcome of our proposals is likely to have any particular impact on race, disability and gender equality. Specifically, we do not envisage the impact of any outcome to be to the detriment of any particular group of society. Nor are we envisaging any need to carry out separate EIAs in relation to race or gender equality or equality schemes under the Northern Ireland and Disability Equality Schemes.

²⁷ Ofcom, *Fixed access market reviews: wholesale local access, wholesale fixed analogue exchange lines, ISDN2 and ISDN30: Annexes*, 26 June 2014, <http://stakeholders.ofcom.org.uk/binaries/telecoms/ga/fixed-access-market-reviews-2014/statement-june-2014/annexes.pdf>