



Review of the General Conditions of Entitlement

Consultation on the general conditions relating to
network functioning, public payphones,
directory information and numbering

Consultation

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Closing Date for Responses: 11 October 2016

About this document

This is a consultation about certain changes that we are proposing to make to the General Conditions of Entitlement, which are the rules that all electronic communications providers have to meet in order to operate in the UK.

We announced this review of the General Conditions in the February 2016 statement setting out our initial conclusions from our Strategic Review of Digital Communications. We said that our focus on gauging the right level of regulation had led us to initiate this review, which will seek to make the rules clearer, reduce the cost of compliance, and remove any redundant rules.

The aim of this review is to ensure that the General Conditions reflect our current policy priorities, and that they are fit for purpose in today's market. Our objectives include making the General Conditions clearer and more practical, making it easier for businesses to set out processes for compliance, and to ensure compliance. We consider that this should also make it easier for us to enforce compliance in the interests of the general public and consumers.

Our review will look at all of the current general conditions. This first consultation covers about half of them, with the remainder to be addressed by a further consultation planned for later this year. This document sets out how we propose to revise the conditions that fall within the following categories: network functioning (conditions 1-5), public payphones (condition 6), directory information (conditions 8 and 19) and telephone numbering (conditions 17 and 20).

We invite stakeholders to respond to this consultation by **11 October 2016**. We are planning to consult on the remaining conditions, which mainly deal with consumer protection issues, later this year. We are aiming to publish a final statement and the revised conditions in the Spring of 2017.

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Section 1

Summary

- 1.1 We are carrying out a review of the ‘General Conditions of Entitlement’ (**‘GCs’** or **‘conditions’**), which are the regulatory conditions that all providers of electronic communications networks and services must comply with if they want to operate in the UK. We announced that we had started work on a comprehensive review of the GCs in our February 2016 statement setting out initial conclusions from our Strategic Review of Digital Communications (the **‘DCR Statement’**).¹ As we said in the DCR Statement, our focus on gauging the right level of regulation has led us to initiate a review of the general conditions, which will seek to make the rules clearer, reduce the cost of compliance, and remove any redundant rules.
- 1.2 The GCs cover a wide range of issues, and we have decided to split the consultation process into two parts so as to make it more manageable. This first consultation document sets out the changes that we are proposing to make to about half of the conditions and invites comments from stakeholders on those proposals. The conditions covered by this consultation fall into the following categories:
- a) network functioning (conditions 1 to 5);
 - b) public pay telephones (condition 6);
 - c) directory information (conditions 8 and 19); and
 - d) numbering conditions (conditions 17 and 20).
- 1.3 We will consult on the remaining conditions (conditions 7, 9 to 16, 18 and 21 to 23), which mainly deal with consumer protection issues, later this year. We are planning to publish our final statement and all of the revised conditions in the Spring of 2017.

Overview of our main proposals

- 1.4 In this review we are considering whether the specific policy objectives of particular conditions remain valid concerns, and whether there is scope to remove provisions where the policy objectives are being met. Our aim is to produce a coherent set of regulatory conditions which are clearer and more practical, easier to comply with and simpler to enforce. We have sought to simplify and consolidate regulation where possible and deregulate where it is appropriate to do so. In some areas, our review will propose strengthening existing regulation where we consider that this is appropriate in light of changes since the conditions were set, such as changes to technology or to consumer behaviour and expectations.
- 1.5 The main changes on which we are seeking stakeholders’ views in this first consultation are summarised below. In brief, these proposals are mainly aimed at removing and reducing regulatory burdens, where appropriate, and re-focusing regulation on today’s policy priorities. We set out our proposals to reduce

¹ Ofcom’s Statement of 25 February 2016 entitled “Making communications work for everyone: Initial conclusions from the Strategic Review of Digital Communications” (§§ 1.67 and 8.23-8.26): <http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/digital-comms-review/DCR-statement.pdf>

regulation, remove redundant provisions and unused direction-making powers and simplify and clarify those conditions that we propose to retain.

Simplifying and refocusing regulation

Reducing regulation

- 1.6 We are seeking views from stakeholders on a proposal to remove the requirement for communications providers ('CPs')² to ensure that any end-user can access operator assistance services (e.g. making reverse charges calls or requesting alarm calls), currently set out in GC 8.1(a). As a consequential amendment, we would also propose to remove the equivalent requirement on providers of public pay telephones in GC 6.1(a).
- 1.7 We are also considering significantly scaling back the other requirements on providers of public pay telephones, by reducing the amount of information which must be displayed on or around public pay telephones and removing requirements related to the design of new public call boxes and the removal of boxes from the GCs.

Simplifying and clarifying regulation

- 1.8 At present, various terms are defined in different places throughout the general conditions and some defined terms have different meanings in different conditions. We propose to rationalise the definitions used in the GCs by taking them out of the individual conditions and combining them all in one place, ensuring consistency of terminology throughout the GCs as a whole.
- 1.9 We also propose to consolidate conditions that address related issues. Specifically, we propose to deal with emergency services and emergency situations in a single condition that would combine the current GC 3 and GC 4. We also propose to deal with directory information in a single condition that would combine GC 8 and GC 19.
- 1.10 We propose to replace the current GC 19 with a single much simpler provision. For clarity, this simplified provision would be included in the single condition combining GC 8 and GC 19.
- 1.11 As a general approach, we are aiming to shorten the conditions and simplify their drafting to make them more user-friendly and more readily comprehensible.

Removing redundant provisions

- 1.12 Our review has identified a number of provisions in the GCs which we think can now be removed, either because they duplicate other provisions or regulatory requirements, or because they no longer have any effect, or because they are unnecessary for other reasons. These include:
 - a) GC 1.3, which, as a carve-out to a general prohibition on disclosure of certain confidential information, provides that CPs can share that information with Ofcom. We think this carve-out is unnecessary, because Ofcom can use its

² While we use the term 'CPs' as a shorthand for 'communications provider' throughout this document, we note that the applicability of particular GCs (to CPs) depends on the type of networks or services that are being provided (see paragraph 2.35).

statutory information gathering powers to require the provision of confidential information and CPs must comply with such requests for information;

- b) GC 3.1(a), which requires CPs to take all necessary measures to ensure the proper and effective functioning of their networks, because section 105A(4) of the Act, which was introduced in 2011, imposes an equivalent requirement;
- c) GC 3.2, which prohibits CPs from imposing unreasonable restrictions of network access, as we consider that any unreasonable restrictions to network access could be addressed by the exercise of Ofcom's powers to set access conditions, if necessary;
- d) certain requirements on VoIP providers about network availability and access to emergency calls, which are currently set out in Annex 3 to GC 14, on the grounds that they now go beyond what is necessary to achieve the original policy objectives underpinning these requirements;
- e) the rules in GC 6.1(b), GC 8.1(b) and GC 8.4 relating to directory enquiry services, primarily because of regulatory and market developments;
- f) GC 20.4, which concerns charges for calls to the European Telephone Numbering Space, which is no longer operative.

Removing unused direction-making powers

1.13 Our review has identified a number of direction-making powers in the GCs which Ofcom has either never used or has used only infrequently. In each case, we have considered whether it is necessary to retain the power or whether it can be removed. We propose to remove:

- a) the rules in GC 2.3 to 2.6, which concern Ofcom's power to make directions relating to technical standards and specifications; and
- b) GC 6.3(c), which gives Ofcom the power in certain circumstances to direct CPs to incorporate textphone facilities in the Public Call Boxes they provide. We have not exercised this power to date and technological developments since the introduction of the condition mean we are unlikely to need to do so in future.

1.14 In addition, we propose to simplify GC 17.9 by removing the direction making power to specify the form of application to be used by CPs for requesting a number allocation and instead requiring CPs to apply for numbers using our online system.

Strengthening regulation

1.15 As noted above, the main objective of this project is deregulating where appropriate. However, in a few instances, we are considering whether it would be appropriate to extend or strengthen regulation so as to further the interests of consumers. Specifically, in this consultation we are proposing to add a new provision to the numbering condition in GC 17 which will enable us to withdraw allocations of blocks of numbers that are not in use. The new provision we are proposing would apply to unassigned or dormant blocks of telephone numbers and would assist us in meeting our duties to secure the best use of numbers and encourage efficiency for that purpose.

Detailed changes

- 1.16 The revised text that we propose to put in place for these conditions (GCs 1 to 6, 8, 17 and 19 to 20) is set out as a separate annex (Annex 9). A version of the proposed revised conditions showing tracked changes from the current conditions is also included for reference (Annex 10).
- 1.17 Sections 2 and 3 set out our overall approach to the review and common issues which affect the conditions as a whole. In Sections 4 to 7 of this document, we set out the specific changes that we propose to make to each of these conditions, the effects of those changes, and the reasons for our proposals, including why we consider that our proposals meet the relevant legal tests. A table summarising the changes we are proposing for consultation is set out at Section 8 and certain consequential changes to other regulatory requirements are explained at Section 9.

Deadline for consultation responses

- 1.18 We invite stakeholders to respond to this consultation by **11 October 2016**.

Next steps

- 1.19 We plan to consult on the remaining conditions, which mainly relate to consumer protection issues, later this year and to publish a final statement together with the revised final conditions in Spring 2017, following consideration of stakeholders' responses.

Section 2

Introduction

The purpose of this consultation

- 2.1 In February 2016, we published a statement setting out our initial conclusions from our Strategic Review of Digital Communications (the ‘**DCR Statement**’),³ in which we announced that we had started work on a comprehensive review of the ‘General Conditions of Entitlement’ (‘**GCs**’ or ‘**conditions**’). As we said in the DCR Statement, our focus on gauging the right level of regulation has led us to initiate a review of the general conditions, which will seek to make the rules clearer, reduce the cost of compliance, and remove any redundant rules.

Our approach to this review

- 2.2 The GCs are the regulatory conditions that all providers of electronic communications networks and services must comply with if they want to operate in the UK. Broadly, the GCs fall into three main categories: network functioning conditions; numbering and/or technical conditions; and consumer protection conditions. We are consulting on our proposals in two parts. This first consultation focusses mainly on the first two categories, that is the network functioning and numbering and/or technical conditions.⁴ We will consult on the remaining conditions,⁵ which mainly deal with consumer protection issues,⁶ later this year.
- 2.3 We are planning to publish our final statement and the revised conditions in the Spring of 2017. Although we are consulting in two parts, our intention is for all of the revised conditions to come into effect at the same time at the end of that process.
- 2.4 The aim of this project is the review the general conditions to make them fit for purposes in today’s market, and to reflect our current policy priorities. Our objectives include making the general conditions clearer and more practical, to make it easier for businesses to set out processes for compliance, and to ensure compliance. We consider that this should also make it easier for us to enforce compliance in the interests of the general public and consumers.
- 2.5 For each condition, we have considered its policy purpose, whether that purpose is still relevant and whether the rationale for it is still valid. In particular, we have considered whether any changes in technology or consumer behaviour have taken place since the condition was first put in place which would justify a change in policy. We have also considered whether the requirements of the conditions are sufficiently clear or could be improved. As a cross-check, we have also looked at whether the condition is a mandatory requirement under the European common regulatory framework for electronic communications (‘**EU Framework**’); and, if so,

³ Ofcom’s DCR Statement (paragraphs 1.67 and 8.23-8.26):

<http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/digital-comms-review/DCR-statement.pdf>

⁴ Specifically, this document sets out the changes that we propose to make to conditions 1 to 6, 8, 17, 19 and 20.

⁵ Conditions 7, 9 to 16, 18 and 21 to 23.

⁶ In addition to the consumer protection conditions, our intention is for our second consultation to also consider GC 7 (Must-carry obligations) and GC 18 (Number portability).

whether the condition goes any further than is necessary to implement that requirement.

- 2.6 In this consultation we set out proposals to simplify and refocus the conditions, ranging from consolidation of conditions that are currently separate, to removing regulation entirely in certain specific areas. We have also, where think it appropriate in the interests of consumers, set out proposals to strengthen existing regulation in some areas.

The general authorisation regime

- 2.7 The GCs were first introduced in July 2003 in the exercise of our powers in sections 45 to 64 of the Communications Act 2003 (the ‘Act’). These conditions, the GCs, are currently the main regulatory regime for undertakings that provide electronic communications networks and services in the UK. The GCs apply to all communications providers (‘CPs’), or all CPs of a particular type. CPs must comply with the GCs, insofar as they apply to them, and Ofcom has statutory powers to take enforcement action in cases of breach under sections 96A to 100 of the Act, including the imposition of financial penalties of up to ten per cent of a CP’s annual turnover (plus daily penalties of up to £20,000 per day for continuing infringements).
- 2.8 Since their introduction, we have from time to time reviewed and amended specific GCs in order to ensure that they remained effective and fit for purpose. In addition, further regulatory conditions have been added over time and many of the conditions have been amended following specific policy projects, some on several occasions.
- 2.9 While an unofficial consolidated version of the GCs is available for reference on our website,⁷ the only authoritative legal version of the GCs is the original legal notification of 9 July 2003 followed by each and every subsequent notification of modifications. Rather than further amending the existing GCs, we intend in this review to replace the current conditions with a comprehensive, new set of conditions, which will effectively consolidate all amendments made to date as well as those we are proposing in this review. That said, we expect the GCs to continue to be a living document and the conditions will continue to evolve and be amended in line with changes in the market and the needs of stakeholders and consumers. We also note that the ongoing review of the EU Framework may result in some consequential changes to the GCs.

Reviewing the regulatory burdens deriving from the GCs

- 2.10 We are required under section 6 of the Act to keep the carrying out of our functions under review, with a view to securing that regulation by Ofcom does not involve the imposition or maintenance of unnecessary burdens. In light of that duty, we are carrying out this review of the current GCs with a view to deregulating and simplifying, wherever possible, whilst maintaining the appropriate level of protection for consumers.
- 2.11 We have reviewed both the general structure of the GCs overall (including the definitions used) and each of the individual conditions under consideration in this

⁷ The version available as at the date of this publication shows all changes up to the most recent amendments made on 28 May 2015:

http://stakeholders.ofcom.org.uk/binaries/telecoms/ga/CONSOLIDATED_VERSION_OF_GENERAL_CONDITIONS_AS_AT_28_MAY_2015.pdf

consultation. We have considered, in particular, whether those conditions are still necessary, fit for purpose or could be improved upon. In going through this exercise, we have considered the regulatory burden which individual conditions impose on CPs and the benefits to consumers which they are intended to deliver.

- 2.12 In our July 2015 consultation on the Strategic Review of Digital Communications (the '**DCR Consultation**'),⁸ we said we were interested in views on whether there is scope to simplify, remove or better target specific GCs in a manner which continues to provide appropriate protection for consumers and businesses. Stakeholders provided a number of comments on the GCs, which we have taken into account, where relevant, in formulating the proposals set out in this document. This consultation offers stakeholders an opportunity to tell us what they think of the specific changes that we are now proposing.

The legal framework and our duties

Section 3 – general duties of Ofcom

- 2.13 When considering the appropriateness of the proposals set out in this consultation document, we have had regard to our duties under the Act.
- 2.14 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.
- 2.15 We have also considered, among other things, 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 in relation to each specific GC.
- 2.16 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 – duties for the purpose of fulfilling EU obligations

- 2.17 Section 4 of the Act requires us to act in accordance with the six European Community 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. Those relevant to this review include promoting the interests of citizens by:

⁸ Ofcom's document of 16 July 2015 entitled "Strategic Review of Digital Communications. Discussion document" (§ 14.53):

http://stakeholders.ofcom.org.uk/binaries/consultations/dcr_discussion/summary/digital-comms-review.pdf

- a) ensuring all citizens have access to a universal service;
- b) ensuring a high level of protection for consumers in their dealings with suppliers;
- c) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using public electronic communications services; and
- d) addressing the needs of specific social groups, in particular disabled users, elderly users and users with special needs.

Section 47 – test for setting or modifying conditions

2.18 Our powers to make general conditions are set out in sections 45 to 64 of the Act. 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.

2.19 In the following sections, we have set out why we consider that the proposals set out in this consultation meet these tests.

2.20 Given the comprehensive nature of our overall review of the GCs, we consider that the clearest way to implement the changes that we are proposing to make is to revoke the current conditions and replace them by setting new conditions. We note that, pursuant to section 47(3) of the Act, the objective justification requirement in section 47(2)(a) applies only to the modification of existing conditions and not to the setting of new conditions. However, we acknowledge that, even though we are proposing to revoke and replace the current GCs, we are in effect proposing to consolidate all amendments made to the GCs to date and modifying them. Therefore, for completeness, we have explained in the following sections why we consider our proposals for each condition to be objectively justifiable.

Stakeholders' comments

2.21 A number of stakeholders have called for us to undertake a general review of the GCs and provided comments on specific conditions, including, for example, in their responses to our consultations on our draft Annual Plan 2015/16⁹, our DCR Consultation¹⁰ and, more recently, Ofcom's Proposed Annual Plan 2016/17.¹¹

⁹ <http://stakeholders.ofcom.org.uk/consultations/draft-ann-plan-15-16/>

¹⁰ <http://stakeholders.ofcom.org.uk/consultations/dcr-discussion/>

¹¹ http://stakeholders.ofcom.org.uk/consultations/annual_plan_2016-17/

- 2.22 Respondents to our Digital Communications Review consultation, including Three and Vodafone, called for a review of the GCs to remove unnecessary or duplicative provisions and facilitate compliance. Three cited GC 14 as an example.
- 2.23 EE proposed changes to GCs and indicated where it felt that they had been applied inappropriately. It observed that the GC framework has grown over time, with GCs being updated and changed based on changing EU Directives and Ofcom's own policy interventions. In its view the framework had become unwieldy, which makes compliance harder. EE further noted that transparency requirements are included in at least four GCs, there is duplication in a number of requirements, and some of the information is outdated.
- 2.24 BT called for greater clarity in the GCs, as did others including Virgin Media, ITSPA and Simwood (the latter two both seeking clarity on GC 18) and TalkTalk (which in particular sought clarity on GC 3 and GC 15). Facebook suggested that it may be possible to rely on general consumer protection law instead of GCs in some cases.
- 2.25 In response to Ofcom's Proposed Annual Plan 2016/17, BT commented that current GCs are overly complex, and too interrelated with each other and with the universal service conditions. It further commented that changing the existing GCs could reduce the regulatory burden on CPs and make compliance easier to implement and monitor.
- 2.26 In its response to Ofcom's Proposed Annual Plan 2016/17, Vodafone welcomed a review of the GCs and commented that incremental changes to the GCs have resulted in a lack of consistency and that stripping the conditions back to their original principles would assist CPs in their compliance efforts and interaction with the conditions.
- 2.27 We have also received a number of comments relating to specific conditions. We deal with the comments relating to the GCs discussed in this consultation in the following sections. We will deal with specific comments relating to the other GCs in our next consultation in this review of the GCs later this year.

Other related projects

- 2.28 In carrying out this review, we have been mindful that there are other processes under way that may result in further changes to the regulatory requirements on communications providers in the short, medium or long term.
- 2.29 We note, for example, that we are already planning, separately from this review, to consult on the outcome of the pilot scheme for charging for geographic numbers, which might result in changes to GC 17.13 to 17.18 and the corresponding definitions in GC 17.33. We are not proposing to make any further changes to those paragraphs or definitions in this review.
- 2.30 There are also a number of other ongoing projects which might result, in the medium or longer term, in further changes to the GCs. For instance, we committed in the DCR to consulting on the introduction of automatic compensation for consumer and small businesses and issued a call for inputs on 10 June 2016; and we published a consultation in March 2016 on making mobile switching quicker and easier. On 29 July 2016, Ofcom also published further consultation documents relating to consumer switching in relation to both mobile and triple-play products. While our second consultation in this review of the GCs will set out our proposals in

relation to all of the consumer protection GCs, the main substantive thinking on policy areas such as automatic compensation and switching will continue to take place within separate policy projects which will proceed in parallel to this overall general review.

Impact assessment

- 2.31 The analysis presented in this document constitutes 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.

Equality impact assessment

- 2.32 Annex 7 contains our Equality Impact Assessment (EIA) for the proposals set out in this consultation document. Ofcom is required by statute to assess the potential impact of all our functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. 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.
- 2.33 Where we have identified any particular impact of our proposals for amending certain GCs in relation to people with disabilities, we have explained why we consider that our proposed changes would not be detrimental to this equality group. We have not identified any particular impact of our proposals in relation to any other equality groups. Specifically, we do not envisage the impact of any outcome to be to the detriment of any particular group of society.
- 2.34 Nor have we seen the need to carry out separate EIAs in relation to the additional equality groups in Northern Ireland: religious belief, political opinion and dependants. This is because we anticipate that our proposals will not have a differential impact in Northern Ireland compared to consumers in general.

Terminology

- 2.35 The GCs apply in the main to the providers of electronic communications networks and/or electronic communications services ('**communications providers**' or '**CPs**'). There are currently 23 GCs, and the applicability of particular conditions varies depending on the type of network or service a CP is providing. While we use the term 'CPs' as a shorthand for 'communications providers' throughout this document, we note that the applicability of particular GCs (on CPs) depends on the type of networks or services that are being provided. CPs should therefore read carefully the proposed revised GCs that we set out in Annex 9. As explained in the following section, we are proposing to move away from defining CP differently for each GC and to use the term '**Regulated Provider**' instead.
- 2.36 Annex 8 contains a glossary of some of the terms used in this document, including acronyms.

The structure of this document

2.37 The remainder of this document is laid down as follows:

- **Section 3 (Common issues)** sets out certain thematic issues which concern the general conditions as a whole (e.g. definitions);
- **Section 4 (Network functioning)** sets out the changes that we propose to make to GC 1 (General access and interconnection obligations), GC 2 (Standardisation and specified interfaces), GC 3 (Proper and effective functioning of the network), GC 4 (Emergency call numbers) and GC 5 (Emergency planning);
- **Section 5 (Public pay telephones)** sets out the changes that we propose to make to GC 6 (Public pay telephones);
- **Section 6 (Directory information)** sets out the changes that we propose to make to GC 8 (Operator assistance, directories and directory enquiry facilities) and GC 19 (Provision of directory information);
- **Section 7 (Numbering conditions)** sets out the changes that we propose to make to GC 17 (Allocation, adoption and use of telephone numbers) and GC 20 (Access to numbers and services);
- **Section 8 (Summary table)** contains a summary table of the proposed changes;
- **Section 9 (Consequential changes)** sets out the changes that we propose to make to the National Telephone Numbering Plan and the Premium Rate Services Condition in light of the changes that we are proposing to make to the GCs and, in particular, to GC 17;
- **Annexes 1 to 4** set out how to respond to this consultation, Ofcom's consultation principles and the questions on which we are consulting;
- **Annex 5 (Notification proposing to revoke existing conditions and set new General Conditions)** sets out our notification under sections 48(1) and 48A(3) of the Act;
- **Annex 6 (Notification of proposed modification to the Premium Rate Services Condition)** sets out our notification under section 120A(3) of the Act;
- **Annex 7 (Equality impact assessment)**;
- **Annex 8 (Glossary)** provides a glossary of terminology used in this document; and
- **Annexes 9 and 10 (Draft revised conditions for consultation)**, which are available as standalone documents on our website, set out the draft revised general conditions on which we are consulting.

Section 3

Common issues

- 3.1 Before turning to the individual conditions on which we are seeking stakeholders' views, we first set out in this section some specific issues which apply across the general conditions as a whole. One of our aims in conducting this review is to produce a more coherent set of conditions which are easier to follow. In line with this objective, we have sought to rationalise the definitions used in the conditions, simplified the language used, and are proposing to add headings and explanatory recitals to aid overall comprehension.

Definitions

- 3.2 The GCs rely on a number of defined terms. At the moment, to understand any particular GC, a reader needs to refer to:
- a) any terms which are given a specific definition for the purpose of that particular condition;
 - b) any terms used in that condition which are defined for the purposes of all GCs in the upfront general definitions section of the GCs; and
 - c) any terms used in the condition which are defined in the Act (if they are not given a particular definition in that condition or in the upfront general definitions section of the GCs).
- 3.3 For example, GC 1 (General access and interconnection obligations) contains the following defined terms: 'Communications Provider', 'Interconnection', 'Network Access', 'Ofcom', 'Public Electronic Communications Network', 'Electronic Communications Network' and 'Electronic Communications Service'. 'Communications Provider' is defined in GC 1.4 (and it has a different meaning for the purposes of GC 1.1 and GC 1.2), 'Ofcom' is defined in the general definitions applying to all the GCs and all the other defined terms are set out in various sections of the Act.¹²
- 3.4 The need to refer to multiple sources for definitions is potentially confusing. We would like to remedy this problem, as far as possible, in this review.

Ofcom's proposals

- 3.5 In order to make the GCs easier to read and understand, we propose to move all the definitions to a separate Annex and to use a single definition across the GCs as a whole, wherever possible. Where certain terms are defined in the Act, we propose to refer to the specific provisions of the Act containing those definitions (e.g. 'Interconnection' would be defined as having the meaning set out in section 151(2) of the Act), except where the corresponding definition in the Act is purely a reference to other legislation (e.g. the definition of the terms 'Framework directive').

¹² 'Interconnection' is defined in section 151(2), 'Network Access' is defined in section 151(3), 'Public Electronic Communications Network' is defined in section 155(1), 'Electronic Communications Network' is defined in section 32(1) and 'Electronic Communications Service' is defined in section 32(2) of the Act.

- 3.6 The term ‘**Communications Provider**’ is currently defined in both:
- a) the opening Definitions section of the GCs; and
 - b) the definitions paragraph of each individual condition, where it is used to identify the scope of providers to whom each GC applies.
- 3.7 For consistency with sections 46(2)(a)¹³ and 405(1) of the Act, we propose to align the general definition of ‘Communications Provider’ with that in section 405(1) of the Act, so that it will be defined as follows:
- “Communications Provider’ means, unless the contrary intention appears, a person who (within the meaning of section 32(4) of the Act) provides an Electronic Communications Network or ~~provides~~ an Electronic Communications Service”.*
- 3.8 Then, rather than separately defining the term ‘Communications Provider’ for each individual condition, we propose to set the scope of each condition in the opening paragraph by describing the category of CPs to which the condition applies (e.g. providers of publicly available telephone services or providers of electronic communications networks) and defining them as ‘**Regulated Providers**’ for the purposes of that condition.
- 3.9 We think this approach to setting the scope of each condition is clearer than that currently used in the GCs, but we invite stakeholders to consider how this would work in practice by reference to the draft revised conditions annexed to this consultation and provide us with any comments they have on this approach.

Recitals, guidance and codes of practice

- 3.10 We consider that the GCs should, wherever possible, be capable of being understood on their face, without reference to additional information contained in consultation documents, guidance or explanatory statements. To address this aim, we have proposed to add a series of short recitals to the general conditions, setting out briefly what the purpose of each condition is and what it is seeking to achieve.
- 3.11 In some instances, it may be necessary to include further detail in guidance or other materials. In those cases, we will include a footnote in the consolidated general conditions indicating where stakeholders should refer to additional materials. So as to meet our objective for all relevant regulation to be available in one place, we will seek to keep reference to additional explanatory materials to a minimum in future.
- 3.12 Currently, the general conditions (in particular GC 14) require CPs to adopt and comply with various codes of practice. As part of our review, we will consider whether the regulatory requirements currently contained in codes of practice should be retained and, if so, whether they should be moved to the main body of the general conditions. Our initial view (subject to consultation) is that we should normally set out all binding regulatory obligations in the main body of the general conditions, unless there is a clear reason for mandating the adoption of a particular

¹³ Under section 46(2) of the Act, a general condition may be applied generally— (a) to every person providing an electronic communications network or electronic communications service; or (b) to every person providing such a network or service of a particular description specified in the condition.

code of practice. We may, for instance, continue to use codes of practice where this facilitates a self- or co-regulatory approach to a specific problem.

- 3.13 In this consultation, for instance, we are proposing to remove some requirements on providers of VoIP call services which are currently set out in a Code of Practice annexed to GC 14 (Annex 3) and move the requirements which we are proposing to retain to the main body of the general condition that would combine GC 3 and GC4.

Direction making powers

- 3.14 Some GCs impose a requirement on the persons to whom they apply to comply with such directions with respect to the matters to which the condition relates as may be given from time to time by Ofcom (or another person specified in the condition).¹⁴
- 3.15 The process for making directions and approvals for the purposes of regulatory conditions is set out at sections 49 to 49C of the Act and is similar to that for making new conditions or modifying existing ones. As a result, it is not clear that there is much practical benefit in maintaining direction-making powers which are not currently being used and which we do not envisage using in the near future.
- 3.16 In relation to each of the direction-making powers contained in the conditions we are currently reviewing, we have considered the extent to which Ofcom has used them, if at all, whether there are plans to use them in future and whether the policy concern underpinning the discretionary power to make directions is still valid. As a general approach to our review of the GCs, we propose to remove those direction-making powers that Ofcom has never used unless we consider that there is a compelling reason to retain them.

Other presentational aspects

- 3.17 We want the revised General Conditions to be a user-friendly regulatory tool. We have updated the formatting of the document, to bring it into line with other Ofcom publications. To make the conditions easier to read, we have added sub-headings where we consider it appropriate and identified defined terms in bold text. As noted above, all definitions are contained in one place in the annex to the revised conditions, and the terms have been put in bold text so that the reader knows to check the definitions section for defined terms.

Consultation questions

Question 1(a): Do you agree with our overall approach to this review of the general conditions as set out in Section 3 of this consultation? If you do not agree, please explain why, giving reasons for your views.

Question 1(b): In particular, do you have any alternative suggestions for how to approach the definitions used in the general conditions? If so, please explain why, giving reasons for your views.

¹⁴ These direction-making powers derive from section 45(10)(a) of the Act.

Section 4

Network functioning (GCs 1 to 5)

- 4.1 In this section, we present the changes that we propose to make to GC 1 (General access and interconnection obligations), GC 2 (Standardisation and specified interfaces), GC 3 (Proper and effective functioning of the network), GC 4 (Emergency call numbers) and GC 5 (Emergency planning), which together we refer to as the ‘network functioning’ conditions.

GC 1 (General access and interconnection obligations)

- 4.2 GC 1 concerns network access and interconnection at the wholesale level and the treatment of the information obtained before, during or after negotiations for network access and interconnection. Specifically:
- a) paragraph 1.1 requires CPs¹⁵ to negotiate interconnection arrangements with any UK or EU-based CP who requests it with a view to concluding an agreement (or an amendment to an existing agreement) within a reasonable period;
 - b) paragraph 1.2 requires CPs to treat any information obtained in confidence before, during or after negotiations for network access as confidential and to use such information solely for the purpose for which it was acquired;
 - c) by way of exception to paragraph 1.2, paragraph 1.3 expressly allows negotiating CPs to pass confidential information to Ofcom; and
 - d) paragraph 1.4 defines ‘Communications Provider’ (CP) for the purposes of this condition.
- 4.3 Paragraphs 1.1 and 1.2 of GC 1 implement the obligations contained in Art. 4(1) and (3) of the Access Directive.

Ofcom’s proposals

- 4.4 We do not propose to make any substantive change to GC 1.1 and 1.2, noting that network interconnection remains important in order to ensure that customers of one network can communicate with customers of another network. To simplify GC 1.2, we propose to remove the words “*in connection with and solely for the purpose of such negotiations or arrangements*”, so that this paragraph would read as follows (the words underlined are those that we propose to insert, the words struck through are those that we propose to delete):

“Where ~~the Communications~~ a Regulated Provider acquires information from another Communications Provider in confidence before, during or after the process of negotiating Network Access ~~and where such information is acquired in confidence, in connection with and solely for the purpose of such negotiations or arrangements~~, the ~~Communications~~ Regulated Provider shall use that information”

¹⁵ In this condition, ‘Communications Provider’ means a person who provides a public electronic communications network in GC 1.1 and a person who provides an electronic communications network or an electronic communications service in GC 1.2.

solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored. Such information shall not be passed on to any other party (in particular other departments, subsidiaries or partners) for whom such information could provide a competitive advantage.”

- 4.5 We propose to remove GC 1.3, which expressly allows CPs to pass confidential information to Ofcom as an exception to the general prohibition in GC 1.2 on sharing such information. GC 1.3 was introduced in 2003 as part of the implementation of Art. 4(3) of the Access Directive, but we do not think it is necessary to spell out this exception in the condition in order to properly transpose that EU provision into UK law. This is because we have powers under section 135 of the Act to require CPs to provide us with information as and where appropriate, and CPs have a statutory obligation to comply with our requests for information. As such, GC 1.3 could be considered a form of ‘gold plating’, which it is appropriate to remove through this review of the conditions. Consequently, we would expect CPs to continue to respond to Ofcom requests for information in exactly the same way whether or not GC 1.3 remains in force.
- 4.6 We also propose to delete the current definition of ‘Communications Provider’ from GC 1.4 and specify at the beginning of the condition the categories of providers to which it applies (being referred to as “Regulated Providers” for the purposes of the condition).
- 4.7 We propose to change the heading of this condition to “General network access and interconnection obligations”.
- 4.8 The proposed revised text of GC 1 can be seen at Annex 9 and a marked up version showing the changes we are proposing to make can be seen at Annex 10.

Legal tests

- 4.9 We consider that the changes we are proposing to make to GC 1 meet the test for setting or modifying conditions set out in section 47(2) of the Act. Our proposed changes are:
- a) **objectively justifiable** as we consider that GC 1.3 is not necessary since Ofcom may exercise its powers under section 135 of the Act, as and where appropriate, to require the provision of relevant information;
 - b) **not unduly discriminatory** as the revised changes to GC 1 would apply equally to all CPs to which the condition applies;
 - c) **proportionate** as we think that those parts of GC 1 which we are proposing to retain are the minimum necessary to implement Art. 4(1) and (3) of the Access Directive; and
 - d) **transparent** as the purpose of the revised GC 1 is clear and the effect of the proposed changes will be clear to CPs on the face of the revised condition itself.

GC 2 (Standardisation and Specified Interfaces)

- 4.10 GC 2 requires CPs¹⁶ to comply with, or take full account of, certain European and international technical standards and specifications to encourage interconnection and interoperability.
- 4.11 Paragraphs 2.1 and 2.2 implement Art. 17 of the Framework Directive. In brief, they require CPs to comply with those technical standards that the European Commission has made compulsory and to take full account of other non-compulsory international standards.
- 4.12 In the absence of such standards and/or specifications referred to in paragraphs 2.1 and 2.2, paragraph 2.3 gives Ofcom the power to issue directions for the purposes of service interoperability and interconnection requiring CPs to take full account of any other standard to be specified by Ofcom in its direction (e.g. national standards for interconnection). Ofcom cannot make any such direction if 'an appropriate European or other international standard is expected to be promulgated within a reasonable timeframe'.
- 4.13 Paragraph 2.4 gives Ofcom the power to issue a direction, from time to time, requiring CPs to ensure that any Network Interconnection Interface¹⁷ provided by them which is specified in such direction is compliant with a specified standard which is already in existence as referred to in paragraphs 2.1, 2.2 or 2.3, and is available, upon request, to other providers of public electronic communications networks. Ofcom can exercise this direction-making power for the sole purpose of ensuring End to End Connectivity¹⁸ and interoperability. CPs are not required to comply with any direction issued by Ofcom under paragraph 2.4 in the situations set out in paragraph 2.6. These situations are where:
- a) any other provider of a public electronic communications network seeking interconnection with the CP's network at the relevant network interconnection point does not require it to do so; or
 - b) to do so would require the CP to incur any cost, or resolve any technical difficulty, disproportionate to the benefits to be gained from implementing the specified standard, provided that the CP takes reasonable steps to incorporate the specified standards in its plans for network development.
- 4.14 The direction-making powers set out in paragraphs 2.3 and 2.4 do not derive from the EU Framework¹⁹ and they are not necessary to transpose Art. 17 of the Framework Directive into the UK.

¹⁶ In GC 2, a CP means a person who provides an Electronic Communications Network or provides an Electronic Communications Service.

¹⁷ In GC 3, a Network Interconnection Interface means the physical, electrical and other relevant characteristics and the network interworking and service management protocols of each interface at any physical location at which interconnection between different public electronic communications networks takes place ('Network Interconnection Point').

¹⁸ 'End to End Connectivity' is defined in GC 2.7(b).

¹⁹ Ofcom's direction-making power to require CPs to take full account of any standards other than those published by the Commission in the Official Journal of the European Union or adopted by the organisations mentioned in paragraphs 2.1 and 2.2, was introduced in 2002 as a 'back-stop' power. Ofcom's direction-making power to specify interconnection interface standards required for end to end

- 4.15 Finally, paragraph 2.7 defines the following terms for the purposes of this condition: ‘Communications Provider’, ‘End to End Connectivity’, ‘European Standards Organisations’, ‘Network Interconnection Interface’, ‘Network Interconnection Point’ and ‘Technical Characteristics’.

Ofcom’s proposals

- 4.16 We are proposing to significantly simplify and shorten this condition. We discuss below the changes that we are proposing to make, starting with the more substantive modifications.
- 4.17 We have considered whether Ofcom’s direction-making powers under paragraphs 2.3 and 2.4 are still necessary.
- 4.18 We note that Ofcom has never made any such direction, which suggests that these direction-making powers have proved in practice to be unnecessary. In addition, we would normally expect CPs to have incentives to agree the appropriate standards to be used for interconnection without the need for specific intervention by Ofcom.
- 4.19 We recognise that the transition to Internet Protocol based interconnection might require CPs to agree standards that are not currently covered by paragraphs 2.1 and 2.2, such as any relevant standards adopted by the Internet Engineering Task Force. However, we note that we could (re-)introduce more detailed regulation at a later date if problems arose in this area, or in any other area.
- 4.20 On balance, our initial provisional view is that the direction-making powers set out in GC 2.3 and 2.4 are no longer necessary and could be removed. As a consequential amendment, we would also propose to remove paragraphs 2.5 and 2.6, which qualify Ofcom’s direction-making power concerning network interconnection interfaces. If stakeholders have any specific concerns about the proposed removal of these paragraphs, we invite them to provide comments and give examples of scenarios in which these powers might be used.
- 4.21 If, following consideration of stakeholders’ responses, we decide to retain the direction-making powers set out in GC 2.3 and 2.4, we propose that:

- a) we would clarify and simplify the wording of paragraph 2.3 as follows:

“In the absence of such standards and/or specifications referred to in paragraphs 2.1 to 2.3 above²⁰, ~~the Communications Provider shall~~ Ofcom may issue a direction requiring Regulated Providers to take full account of any other standard specified by Ofcom in any such a direction under this Condition for the purposes of service interoperability and Interconnection; provided that. Ofcom shall not make such a direction if an appropriate European or other international standard is expected to be promulgated-adopted by the standards organisations mentioned in paragraphs 2.1 to 2.3 within a reasonable time.”

- b) we would clarify and simplify the wording of paragraph 2.4 as follows:

interoperability derives from legacy regulation (Condition 16 of the former public telecommunication operator licences).

²⁰ As explained below, we are proposing to split paragraph 2.1 into two separate paragraphs.

“Ofcom may ~~from time to time~~ issue a direction under this Condition requiring Regulated Providers to comply with a specified standard in relation to the provision of Network Interconnection Interfaces ~~to be compliant with a specified standard~~. Any such direction shall be to ensure End to End Connectivity and Interoperability, and shall only require compliance with a relevant standard in existence as referred to in paragraphs 2.1 to ~~2.32.4~~²¹ above.”; and

- c) we would remove paragraphs 2.5 and 2.6. In essence, these provisions qualify the CP’s requirements to comply with any direction made by Ofcom under GC 2.4 in relation to Network Interconnection Interfaces. For instance, paragraph 2.6 exempts CPs from making available a certain Network Interconnection Interface, as specified by Ofcom, where any other CPs do not require it to do so or where to do so would be disproportionate. The issues considered in paragraphs 2.5 and 2.6 would be taken into account by Ofcom at the time of making any specific proposal to issue a direction, as any such direction would have to be proportionate (section 49(2)(c) of the Act). Therefore, we consider that paragraphs 2.5 and 2.6 could be omitted;
- d) we would incorporate the definition of ‘Network Interconnection Point’ into the definition of ‘Network Interconnection Interface’, removing the reference to a ‘physical location’²².

4.22 We now turn to other minor drafting changes that we propose to make, which are as follows:

- a) we propose to specify at the beginning of the condition the categories of providers to which it applies (i.e. to all Communications Providers);
- b) we do not propose any substantive change to paragraphs 2.1 and 2.2 as these provisions closely reflect Art. 17 of the Framework Directive, without any element of gold-plating. However, we propose to split paragraph 2.1 into two separate paragraphs given that it imposes two different requirements: compliance with mandatory standards and, in addition, the obligation to take full account of non-mandatory standards. We also propose some minor drafting changes to simplify these provisions;
- c) we propose to mention the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC) and the European Telecommunications Standards Institute (ETSI) directly in the main text of this condition so that there would be no need for a separate definition of ‘European Standard Organisations’ in paragraph 2.7(c), or in the proposed ‘Definitions’ Annex;
- d) if we decide not to retain the direction-making powers currently in GC 2.3 and 2.4, the definitions of ‘End to End Connectivity’, ‘Network Interconnection

²¹ See footnote 20 above.

²² We would propose the following definition of ‘Network Interconnection Interface’: “the Technical Characteristics of each Interface at which Interconnection between different Public Electronic Communications Networks take place”. We think that removing the reference to a ‘physical location’ would make the definition of ‘Network Interconnection Interface’ more flexible and future-proof, which we consider appropriate in light of technological development. We note, for example, that the physical location of interconnection between IP networks may not be relevant for the purposes of interconnection of certain services.

Interface', 'Network Interconnection Point' and 'Technical Characteristics' in GC 2.7 would no longer be necessary and could be deleted;

- e) if we decide to retain those direction-making powers, we propose to remove the definition of 'Network Interconnection Point' as this would be incorporated into the definition of 'Network Interconnection Interface', as suggested above, and we would propose to move all the other definitions into the Definitions Annex;
- f) we propose to change the heading of this condition to "Standards and specifications".

4.23 The proposed revised text of GC 2 can be seen at Annex 9 and a marked up version showing the changes we are proposing to make can be seen at Annex 10.

Legal tests

4.24 We consider that the changes we are proposing to make to GC 2 meet the test for setting or modifying conditions set out in section 47(2) of the Act. Our proposed changes are:

- a) **objectively justifiable** as we have not used the direction-making powers that we propose to remove and we do not envisage using them in the future;
- b) **not unduly discriminatory** as the revised condition corresponding to GC 2 would apply equally to all CPs to which the condition applies;
- c) **proportionate** as we think that those parts of the current condition which we are proposing to retain are the minimum necessary to implement Art. 17 of the Framework Directive. (We also note that, if we were to retain the direction-making powers set out in paragraphs 2.3 and 2.4, we would retain them in the simplified form discussed above); and
- d) **transparent** as the purpose of the revised condition is clear and the effect of the proposed changes will be clear to CPs on the face of the revised condition itself.

GC 3 (Proper and effective functioning of the network)

4.25 GC 3 requires CPs²³ to take all necessary measures to maintain, to the greatest extent possible:

- a) the proper and effective functioning of their networks (sub-paragraph 3.1(a));
- b) the fullest possible availability of their network and the public available telephone services provided by them, in the event of catastrophic network breakdown or force majeure (sub-paragraph 3.1(b)); and
- c) uninterrupted access to emergency organisations (sub-paragraph 3.1(c)).

²³ In GC 3, a CP means a person who provides Publicly Available Telephone Services and/or provides a Public Communications Network over which a Publicly Available Telephone Service is provided.

- 4.26 Paragraph 3.2 requires CPs to ensure that any restriction imposed by them to comply with paragraph 3.1 is proportionate, non-discriminatory and based on objective criteria identified in advance.
- 4.27 Paragraph 3.3 defines the categories of CP to which this condition applies.
- 4.28 Sub-paragraphs 3.1(b) and 3.1(c) implement Art. 23 of the Universal Service Directive, which requires Member States:
- a) to take all necessary measures to ensure the fullest possible availability of publicly available telephone services ('PATS') provided over public communications networks in the event of catastrophic network breakdown or in cases of force majeure; and
 - b) to ensure that undertakings providing PATS take all necessary measures to ensure uninterrupted access to emergency services.
- 4.29 Sub-paragraph 3.1(a) and paragraph 3.2 derive from legacy UK regulations. Specifically, sub-paragraph 3.1(a) derives from condition 20.4 of the former fixed public telephony operator licences and paragraph 3.2 derives from condition 20.6 of those former licences.

Stakeholders' comments

- 4.30 In response to the DCR consultation and Ofcom's consultation on its Annual Plan for 2015/16, stakeholders made the following comments on GC 3:
- a) KCOM²⁴ and UKCTA²⁵ suggested that Ofcom should review its Guidance on battery back-up (which relates to GC3(1)(c));
 - b) BT²⁶ argued that GC3 should be "expressed in a form that does not pre-suppose that the communications provider has end-to-end control over the network, or that network operators have control of applications"; and
 - c) Talk Talk²⁷ found it unclear how GC3 should be interpreted alongside s.105 Act and in regard to FTTH.

Ofcom's proposals

Requirements we propose to remove – GC 3.1(a) and GC 3.2

- 4.31 Sub-paragraph 3.1(a) requires CPs to take all necessary measures to ensure the proper and effective functioning of their networks. We propose to remove this sub-paragraph because section 105A(4) of the Act, which was introduced in 2011 to implement Article 13a of the (amended) Framework Directive, imposes an equivalent requirement. Specifically, section 105A(4) of the Act requires providers

²⁴ KCOM's response to Ofcom's consultation on its Draft Annual Plan 2015/2016 (page 2):

<http://stakeholders.ofcom.org.uk/binaries/consultations/draft-ann-plan-15-16/responses/KCOM.pdf>

²⁵ UKCTA's response to Ofcom's consultation on its Draft Annual Plan 2015/2016 (page 6):

<http://stakeholders.ofcom.org.uk/binaries/consultations/draft-ann-plan-15-16/responses/UKCTA.pdf>

²⁶ BT's response to Ofcom's DCR Consultation(pages 61-62):

http://stakeholders.ofcom.org.uk/binaries/consultations/dcr_discussion/responses/BT.pdf

²⁷ Talk Talk's response to Ofcom's DCR Consultation(page 66, paragraph 7.3):

http://stakeholders.ofcom.org.uk/binaries/consultations/dcr_discussion/responses/TalkTalk.pdf

of a public electronic communications network ('network providers') to take all appropriate steps to protect, so far as possible, the availability of the provider's public electronic communications network.

- 4.32 We recognise that section 105A(4) of the Act has a narrower scope of application than GC 3 since this latter applies also to providers of PATS which do not additionally provide the network over which their services are transmitted, whereas section 105A(4) of the Act applies to network providers only. However, the nature of the specific requirement set out in sub-paragraph 3.1(a) makes it in effect applicable to network providers only. Therefore, we consider that removing sub-paragraph 3.1(a) would not give rise to a regulatory gap.
- 4.33 This proposal also addresses Talk Talk's comment as to how GC3 should be interpreted alongside section 105 of the Act.
- 4.34 We propose also to remove paragraph 3.2, as we consider that any potential restriction to network access imposed on other communications providers at the wholesale level could, if necessary, be addressed by Ofcom's powers deriving from the Access Directive, including our powers to impose access-related conditions and to resolve disputes concerning the provisions of network access. To the extent that paragraph 3.2 prevents network providers from using the requirements of paragraph 3.1 as a basis for imposing undue restrictions to network access (and use) directly on end-users, we consider that the drafting changes to paragraph 3.1 introduced in 2011²⁸ make it clear that any potential restriction should be limited to the minimum necessary and, therefore, cannot give rise to any disproportionate or discriminatory behaviour vis-à-vis end-users.

Requirements we propose to retain – GC 3.1(b) and 3.1(c)

- 4.35 The other requirements imposed under GC 3, which concern the fullest possible availability of the network in the event of catastrophic breakdown (sub-paragraph 3.1(b)) and uninterrupted access to emergency services (sub-paragraph 3.1(c)) address policy concerns that remain important as they deal with situations where human life might be at risk. We propose to retain these provisions and simplify them by moving the expression '*to the greatest extent possible*' from the initial part of paragraph 3.1 to sub-paragraph 3.1(c), so that this would require CPs to "*take all necessary measures to maintain (...) uninterrupted access to Emergency Organisations to the greatest extent possible as part of any PATS offered*". We consider that the expression '*to the greatest extent possible*' could be removed as it covered by the requirement in sub-paragraph 3.1(b) to ensure '*the fullest possible availability*'.
- 4.36 We note stakeholders' comment on guidance that we had issued under this Condition about the use of battery back-up to protect against localised power outages. In the Digital Communications Review we announced that we were withdrawing this guidance. The issue arises in relation to concerns about fibre-

²⁸ Before the changes introduced in 2011, GC 3.1 required CPs to take "all reasonably practicable steps" to maintain their networks and services and access to emergency services. In 2011, we replaced the words "all reasonably practicable steps" with "all necessary measures" and we added the words "fullest possible" with reference to maintaining availability in the event of catastrophic network breakdown or in case of force majeure. See Ofcom's Statement "Changes to General Conditions and Universal Service Conditions" of 25 March 2011, paragraphs 5.1-5.24 (<http://stakeholders.ofcom.org.uk/binaries/consultations/gc-usc/statement/Statement.pdf>).

based networks, which do not conduct electricity. As we said in the DCR Statement, we are engaging with operators deploying these networks to assess on a case-by-case basis the technical solution they propose to deliver an equivalent level of protection to battery back-up²⁹.

- 4.37 As to BT's comment that GC3 should be "expressed in a form that does not presuppose that the communications provider has end-to-end control over the network, or that network operators have control of applications", we consider that GC 3 already meets this objective in that it applies to: (i) network providers in relation to the provision of their network (to support their PATS³⁰ or PATS provided by other CPs); and (ii) PATS providers in relation to the provision of the PATS that they provide to their subscribers.

Providers of VoIP Call Services

- 4.38 Currently, another condition (Annex 3 to GC 14) contains a number of provisions setting out specific requirements that apply to VoIP providers concerning network availability and access to emergency calls (see paragraphs 5-7, 10 and 11 of Annex 3 to GC 14).

- 4.39 We consider that some of these provisions are still necessary and we do not propose any substantive change to them, but we propose to move them so that they would form part of Condition 3. Specifically, we propose to continue to require VoIP providers whose customers can make calls to national/international numbers to inform them that access to emergency calls may cease if there is a power cut or power failure or a failure of the broadband connection, as currently set out in paragraph 11(a) of Annex 3 to GC 14. For greater clarity and transparency, we propose to set out this requirement as follows:

"Regulated Providers who provide VoIP Call Services must inform their customers in a clear and readily accessible manner that access to Emergency Organisations using VoIP Call Services may cease if there is a power cut or power failure, or a failure of the internet connection on which the service relies. This information must be provided during the sales process, within the terms and conditions of use, and in any user guide issued by the Regulated Provider", where:

"VoIP Call Services" means "a service that allows End-Users to make a voice call to a number included in a national or international telephone numbering plan using an internet connection where the VoIP Call Service is provided independently of the provision of the internet connection".

- 4.40 We propose to remove other requirements imposed on VoIP providers under Annex 3 to GC14 on the grounds that they now go beyond what is necessary to achieve the original policy objectives of providing additional information to VoIP customers in order to ensure that are aware of the specific characteristics of the services they buy. Specifically, our initial view is that it is no longer necessary to require VoIP providers to do the following:

- a) inform customers that the voice call service as a whole may cease in the event of a power cut or power failure, or a failure of the broadband connection (paragraphs 5-7 of Annex 3 to GC14);

²⁹ DCR Statement, § 8.14.

³⁰ Publicly available telephone services.

- b) if the customer chooses to take up a voice call service that does not offer 999/112 access, or that does offer 999/112 access but that emergency service may cease in the event of a power cut or power failure, or a failure of the broadband connection, the Code set out at Annex 3 to GC 14 requires providers to:
- (i) take certain steps in order to make sure that those customers buying a VoIP service that does not provide access to emergency calls (i.e. where the VoIP service is for receiving calls only or for just IP-to-IP calling) are aware of this (paragraphs 10(a) and 10(d) of Annex 3 to GC14). These steps include a requirement to “*supply [its] Domestic and Business Customer with a clear and readily accessible printed statement, or an on-screen statement that the Domestic and Small Business Customer is encouraged to print out, that Emergency Calls cannot be made using the Service*” (paragraph 10(d) of Annex 3 to GC14);
 - (ii) secure the customer’s positive acknowledgement of that limitation at the point of sale and provide evidence to Ofcom of such acknowledgement if requested (paragraphs 10(b), 10(c), 11(b) and 11(c) of Annex 3 to GC14);
 - (iii) give the customer the choice of whether to receive a physical label for equipment or information on the computer screen stating there is no 999/112 access or that such access may fail in the event of a power cut or power failure, or a failure of the broadband connection (paragraphs 10(e) and 11(d) of Annex 3 to GC14); and
 - (iv) play an announcement each time a 999/112 call is attempted reminding the caller that 999/112 access is unavailable (paragraph 10(f) and (g) of Annex 3 to GC14).

Other proposed changes

- 4.41 We propose to set out at the beginning of GC 3 the categories of provider to which this condition applies, so that paragraph 3.3 could be removed in its entirety.
- 4.42 We also propose to combine the current GC 3 (Proper and effective functioning of the network) and GC 4 (Emergency call numbers) into a single condition headed ‘Availability of services and access to emergency services’, so that all the main requirements concerning access to emergency services would be set out in one place.
- 4.43 The proposed revised text of the condition that would combine GCs 3 and 4 can be seen at Annex 9 and a marked up version showing the changes we are proposing to make can be seen at Annex 10.

GC 4 (Emergency call numbers)

- 4.44 GC 4 requires CPs³¹ to ensure that end users can access the emergency services by calling the emergency call numbers 112 and 999 free of charge and, where

³¹ In GC 4, ‘Communications Provider’ means a person who provides End-Users with an Electronic Communications Service, or provides access to such a service by means of a Pay Telephone, for

technically feasible, make caller location information available to the emergency services. Specifically:

- a) paragraph 4.1 requires all CPs to ensure that any end-user can access emergency organisations free of charge by dialling 999 or 112;
- b) paragraph 4.2 further requires CPs to ensure, to the extent technically feasible, that Caller Location Information ('CLI') is available to emergency organisations at no charge and at the time the call is answered;
- c) paragraph 4.3 defines high-level criteria for fixed and cellular mobile services respectively, in order to ensure the accuracy and reliability of caller location information. In relation to fixed calls, CLI must, at least, accurately reflect the fixed location of the end-user's terminal equipment, including the full postal address. In relation to calls made on the mobile network, CLI must include at least the cell identification of the cell from which the call is being made or, in exceptional circumstances, the zone code;
- d) paragraph 4.4 contains definitions, for the purposes of this condition, of the following terms: 'Caller Location Information', 'Cell Identification', 'Click to Call Service', 'Communications Provider', 'Mobile Network', 'Pay Telephone' and 'Zone Code'.

- 4.45 GC 4 implements Art. 26(1), (2) and (5) of the Universal Service Directive, which impose certain requirements in relation to the single European emergency call number 112 and allows Member States to extend the requirements concerning the CLI to cover calls to national emergency numbers (i.e. 999 in the UK).

Stakeholders' comments

- 4.46 In response to the DCR consultation, BT³² said that "modern mobile phones with GPS know exactly where they are and it may be appropriate to place obligations on device manufacturers to provide GPS location information alongside emergency calls". In BT's view, "it may be more efficient with IP to use IP addresses to identify location than information associated with access lines" and "it might also make sense to include text, IM and even social media interfaces into the 999 service as there may well be situations where people have a connected device but no voice capability".
- 4.47 The Federation of Communication Services (FCS) suggested that it would be useful to include better guidance on how to meet the obligations concerning the provision of emergency services location information under GC 4.3 with regard to a nomadic VoIP service.

originating calls to a number or numbers in the National Telephone Numbering Plan, excluding any Click to Call Service. A 'Click to Call Service' is defined as a service which may be selected on a web-site or other application by an End-User and which connects the End-User only to a number or a limited set of numbers pre-selected by the Communications Provider or an End-User. In practice, Click to Call services are those which may be selected by the user of a web-site or other computer application to support a very specific function such as connecting to customer service or sales representatives.

³² BT's response to Ofcom's DCR Consultation (page 62):

http://stakeholders.ofcom.org.uk/binaries/consultations/dcr_discussion/responses/BT.pdf

Ofcom's proposals

- 4.48 We do not propose to make any substantive change to GC 4 because we consider that this condition works effectively. We note, in particular, that Ofcom runs a programme which monitors trends in this area by gathering information from stakeholders. This regular information-gathering exercise allows us to prioritise our work in relation to emergency calls and work with stakeholders to improve the accuracy and reliability of caller location information. We have also on occasion opened separate investigations into specific breaches of GC 4.
- 4.49 In October 2013, we published a Call for Inputs on the criteria for the accuracy and reliability of the Emergency Caller Location Information ('ECLI') for mobile calls³³. Following consideration of stakeholders' responses, in August 2014 we published a final statement³⁴ where we concluded that no change to the criteria set out in GC 4.3(b) was needed at that stage. We noted that the UK mobile industry had concluded trials of a new handset-based approach to providing location information which operators and mobile handset manufacturers had started implementing. Under this approach, when the handset detects that an emergency call is being initiated, it uses satellite navigation and other location capabilities (such as Wi-Fi hotspot identification), if available, to ascertain its position. It then sends an emergency SMS ("eSMS") with this information, along with an identifier of the call so that a correlation can be made between the call and the associated location information. We said that we considered it appropriate to monitor the situation before considering whether to take any regulatory action.
- 4.50 We noted BT's comment on the potential use of GPS location information and we have considered whether it would now be an appropriate time for assessing whether the current regulatory obligations should be amended in light of a handset-based approach. Our initial view is that it is still premature to do so despite the fact that a number of mobile providers and handset manufacturers have started to implement it in newer handsets, as the number of handsets in use that have this facility still remains relatively small. For the avoidance of doubt, the general conditions can only apply to communications providers (and not device manufacturers).
- 4.51 We also note that the European Union has recently finalised the legislation for the mandatory deployment of 'eCalls': devices to be installed in new types of passenger cars and light commercial vehicles manufactured after 31 March 2018 which will automatically call the nearest emergency centre via a mobile wireless communications network in the event of an accident.³⁵ The infrastructure for receipt and handling of eCalls is required to be put in place by 1 October 2017.³⁶

³³ Ofcom's document of 14 October 2013, entitled 'Location information for emergency calls from mobile phones' (Call for Inputs): http://stakeholders.ofcom.org.uk/binaries/consultations/emergency-mobiles-cfi/summary/Emergency_Mobile_Location_Cfi.pdf

³⁴ Ofcom's document of 13 August 2014, entitled 'Location information for emergency calls from mobile phones' (Statement): http://stakeholders.ofcom.org.uk/binaries/consultations/emergency-mobiles-cfi/statement/Emergency_Mobile_Location_Information_Statement.pdf

³⁵ This new requirement has been introduced by Regulation 2015/758 of the European Parliament and of the Council of 29 April 2015 concerning type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC.

³⁶ Article 1 of Decision No 585/2014/EU of the European Parliament and of the Council of 15 May 2014 on the deployment of the interoperable EU-wide eCall service.

- 4.52 The EU legislation, in particular the Commission Delegated Regulation with regard to the harmonised provision of an interoperable EU-wide eCall³⁷, makes clear that an eCall is a type of emergency call to which Art. 26(1) and (2) of the Universal Service Directive apply.³⁸ In line with the requirements contained in these provisions, the European Parliament and the Council have decided to require Member States to ensure that the handling of eCalls is also provided free of charge to users of the EU-wide eCall service.³⁹ We have therefore considered whether we need to amend the existing GC 4.1 to ensure that emergency calls generated by eCalls are treated in the same manner as other calls to the emergency services.
- 4.53 GC 4.1 (using the current numbering) seeks to implement Art. 26(1) and (2) of the Universal Service Directive. Whilst the existing wording may be sufficient to cover eCalls, we propose to make it clear in the revised condition that the obligation requiring CPs to ensure that end-users can access emergency organisations by using the EU-wide emergency call number “112” free of charge will also apply to access by means of eCalls from and including 1 October 2017. In addition, we propose that this requirement should apply to eCalls made to the national emergency call number “999” to ensure that eCalls are treated in a consistent way to other emergency calls under the existing regulation.
- 4.54 We therefore propose that the paragraph of the revised condition that would combine GC 3 and GC 4 corresponding to the existing GC 4.1 should read as follows (the words underlined are those that we propose to insert, the words struck through are those that we propose to delete):
- ~~“The Communications Regulated Providers shall~~must ensure that all any End-Users can access Emergency Organisations by using the emergency call numbers “112” and “999” at no charge and, in the case of a Pay Telephone, without having to use coins or cards. From 1 October 2017, in the case of Regulated Providers providing Mobile Services, this obligation shall also apply to access by all End-Users to Emergency Organisations by using eCalls”.
- 4.55 When defining “eCall”, we propose to adopt the same definition as that set out in Article 2(h) of the Commission Delegated Regulation.⁴⁰
- 4.56 As to BT’s proposals “to use IP addresses to identify location” and “to include text, IM and even social media interfaces into the 999 service”, as set out above, GC 4 implements Art. 26(1), (2) and (5) of the Universal Service Directive and we consider that it works effectively. We would add that CPs are not prevented from going beyond the minimum requirements set out in GC 4 and providing alternative means of accessing emergency services. We have been engaging with recent initiatives in this area, and will continue to support them. However, we do not consider it appropriate at this point in time to require undertakings providing end-users with an electronic communications service to provide information to

³⁷ Commission Delegated Regulation (EU) 305/2013 of 26 November 2012 supplementing Directive 2010/40/EU of the European Parliament and of the Council with regard to harmonised provision for an interoperable EU-wide eCall.

³⁸ See Recital 3 and the definition of eCall in Article 2(h) of the Commission Delegated Regulation.

³⁹ Article 2 of Decision No 585/2014/EU.

⁴⁰ ‘eCall’ is defined in Article 2(h) as an in-vehicle emergency call to 112, made either automatically by means of the activation of in-vehicle sensors or manually, which carries a standardised minimum set of data and establishes an audio channel between the vehicle and the eCall PSAP via public mobile wireless communications networks.

emergency organisations regarding the location of their customers over and above caller location information.

Providers of VoIP Calls Services

- 4.57 GC 4 applies also to VoIP providers whose customers can make calls to national/international numbers. However, paragraph 4.3 does not specify which location information VoIP providers are expected to provide to emergency organisations in order to comply with GC 4. This is covered by Annex 3 to GC 14, which requires VoIP providers to:
- a) require their customers to register their location if the VoIP service is to be used principally at a single fixed location (paragraphs 12(a) of Annex 3 to GC 14); and
 - b) recommend that customers update their location information if the VoIP service is to be accessed from several locations (paragraph 12(b) Annex 3 to GC 14).
- 4.58 We propose to retain these specifications because we think they help industry understand how to comply with the current regulatory framework. In line with our proposals in relation to GC 3, we propose to move these requirements to the single condition that would combine GC 3 and GC 4.
- 4.59 As explained above in relation to GC 3 (paragraph 4.39), we propose to define a 'VoIP Call Service' as: *"a service that allows End-Users to make a voice call to a number included in a national or international telephone numbering plan using an internet connection where the VoIP Call Service is provided independently of the provision of the internet connection"*.
- 4.60 We propose to remove the requirement on VoIP providers who provide access to 999/112 to inform their customers that they do not offer location information to the emergency services operators (if this is the case) at the point of signature, in any guide to using the voice call service, in the contract and as part of the sales process (paragraph 12(d) of Annex 3 to GC 14). We consider this requirement is no longer necessary because we are concerned with VoIP providers whose customers can make calls to national/international numbers. As set out above, these VoIP providers fall within the scope of GC 4 and consequently they are obliged, to the extent technically feasible, to make accurate and reliable caller location information available.
- 4.61 We are also proposing to remove the requirement on VoIP providers who provide access to 112/999 to inform their customers on any limitations on the location information that will be provided to the emergency services if the location information they have provided is not up-to-date at the point of signature, in any guide to using their voice call service, in the contract and as part of the sales process (paragraph 12(c) of Annex 3 to GC 14). We consider the obligation to recommend that customers update their location information if the VoIP service is to be accessed from several locations (paragraph 12(b) of Annex 3 to GC 14), which we are retaining, is sufficient to achieve the original policy objectives of ensuring consumers are well informed and ensuring maximum availability of emergency services access.

Other drafting changes

- 4.62 Below, we discuss some minor drafting changes that we propose to make.
- 4.63 For clarity, we propose to remove the definition of ‘Communications Provider’ in GC 4.4(d) and set out upfront, at the beginning of the revised condition, the persons to whom it shall apply (referring to them as ‘Regulated Providers’).
- 4.64 For the avoidance of doubt, this drafting change would not modify the scope of application of this condition. In particular, organisations maintaining a private communications network that is not available to the public, such as a company using a private branch exchange (‘PBX’) solely to route calls to and from its employees, would continue to be excluded from its scope of application. This is because a person who provides an electronic communications service to ‘End-Users’ (as defined in section 151(1) of the Act) is, in practice, a provider of a public electronic communications service⁴¹.
- 4.65 In relation to paragraph 4(3)(b), which specifies the caller location information to be provided in relation to mobile calls to 112 and 999 (as a minimum), we propose these drafting changes:
- a) to refer to a “Mobile Service” rather than a “Mobile Network” and adopt the definition of “Mobile Service” which is currently set out in GC 23.11(f) (“*a service consisting in the conveyance of signals, by means of a mobile Public Electronic Communications Network, through the agency of Wireless Telegraphy to or from Apparatus designed or adapted to be capable of being used while in motion*”). We consider that this amendment would make this paragraph clearer and simpler by focusing on the type of service provided to end-users rather than the underlying technical standards adopted by mobile operators to provide such services (e.g. ‘GSM’ or ‘UMTS’, which are expressly mentioned in the current definition of “Mobile Network” in GC 4.4(e)); and
 - b) clarify that the mobile operators are allowed to provide the “Zone Code” rather than the “Cell Identification”, as a minimum, only in exceptional circumstances, where the Cell Identification is temporarily unavailable for technical reasons. We are also interested in any views regarding whether we should continue to allow mobile operators to provide the Zone Code rather than the Cell Identification in exceptional circumstances.
- 4.66 The paragraph corresponding to paragraph 4.3(b), with the amendments discussed above, would read as follows:
- “Where a ~~Communications~~Regulated Provider provides an Electronic Communications Service: (...)*
- (b) ~~using which is a Mobile Network~~Service, the Caller Location information must include, at least, the Cell Identification of the cell from which the call is being*

⁴¹ See paragraphs 6.8-6.9 and 6.18-6.20 of Ofcom’s statement of 25 May 2011 on the ‘Changes to General Conditions and Universal Service Conditions’ to implement the revised EU Framework (which is available here: <http://stakeholders.ofcom.org.uk/binaries/consultations/gc-usc/statement/Statement.pdf>). See also Ofcom’s related clarification of 18 March 2011: <http://stakeholders.ofcom.org.uk/consultations/gc-usc/general-condition-4/>

made. ~~or in~~ In exceptional circumstances, where the Cell Identification is temporarily unavailable for technical reasons, the Caller Location information must include the Zone Code".

- 4.67 As explained above, the definitions of "Mobile Network" and "Communications Provider" would no longer be necessary and could be deleted.
- 4.68 In order to remove duplication, we propose to:
- a) remove wording from the definition of "Pay Telephone" in GC 4.4(f) which we consider unnecessary (i.e. "~~For the avoidance of any doubt, references to a Pay Telephone include references to a Public Pay Telephone~~"); and
 - b) simplify the definition of "Public Pay Telephone" which is currently set out in the Definitions section by defining it as "*a Pay Telephone which is available to the general public*".
- 4.69 We propose to move all the other definitions into the main definitions section in the Annex.
- 4.70 The proposed revised text of the revised condition that would combine GC 3 and GC 4 can be seen at Annex 9 and a marked up version showing the changes we are proposing to make can be seen at Annex 10.

Legal tests

- 4.71 We consider that the changes we are proposing to make to GCs 3 and GC 4 meet the test for setting or modifying conditions set out in section 47(2) of the Act. Our proposed changes are:
- a) **objectively justifiable** as we think that:
 - (i) following the insertion into the Act of the obligation on network providers to take all appropriate steps to protect their network availability in 2011 (s.105A(4)), the inclusion of an equivalent provision in the general conditions (i.e. GC 3.1(a)) has become redundant;
 - (ii) GC 3.2 could be removed because we consider that any potential restriction to network access imposed on other communications providers at the wholesale level could be addressed by Ofcom's powers deriving from the Access Directive, if necessary;
 - (iii) certain specific requirements on VoIP providers about network availability and access to emergency calls which are currently set out in Annex 3 to GC 14 (paragraphs 5-7, 10 and 11(b)-(d)) are no longer needed as they are now going beyond what is necessary to achieve the original policy objectives;
 - (iv) we think that it is no longer necessary to require VoIP providers who provide access to 112/999 to inform their customers that they do not offer location information to the emergency services operators (if this is the case) at the point of signature, in any guide to using the voice call service, in the contract and as part of the sales process because VoIP providers whose customers can make calls to national/international numbers are obliged, to the extent technically feasible, to make accurate and reliable caller location information available;

- (v) we think that it is no longer necessary to require VoIP providers who provide access to 112/999 to inform their customers of any limitations on the location information that will be provided to the emergency services if the location information they have provided is not up-to-date (paragraph 12(c) of Annex 3 to GC 14). We consider the original policy objectives that this obligation was imposed to achieve can continue to be achieved by retaining the less onerous obligation of recommending that customers update their location information if the VoIP service is to be accessed from several locations;
- b) **not unduly discriminatory** as the revised condition would apply equally to all CPs to which the condition currently applies;
- c) **proportionate** as we think that the parts of GCs 3 and 4 that we are proposing to retain are the minimum necessary to implement Articles 23 and 26 of the Universal Service Directive; and
- d) **transparent** as the purpose of the drafting changes that we are proposing is to increase clarity and, therefore, transparency.

GC 5 (Emergency planning)

4.72 GC 5 requires CPs⁴² to co-operate with central and local government departments and the authorities responsible for the emergency organisations to make arrangements for the provision or rapid restoration of the communications services which are needed in the event of disasters and major incidents.

4.73 Specifically:

- a) paragraph 5.1 requires CPs to make arrangements for the provision or rapid restoration of such communications services as are practicable and may reasonably be required in disasters, at the request of authorities responsible for emergency organisations and government departments as directed by Ofcom;
- b) paragraph 5.2 requires CPs to implement any arrangement made under paragraph 5.1 in so far as is reasonable and practicable to do so;
- c) paragraph 5.3 makes clear that CPs should not be precluded from recovering the costs associated with the emergency arrangements or making the implementation of any such arrangement conditional upon being indemnified for all the associated costs; and
- d) paragraph 5.4 defines 'CP' and 'Disaster' for the purposes of this condition.

4.74 The obligations in this condition are not derived from the EU Framework. This condition was introduced by Ofcom's predecessor, Oftel, in 2002 and has never been amended. On 30 July 2003, Oftel issued a direction which specifies a list of central and local government departments for the purposes of GC 5.1(b).⁴³

⁴² In GC 5, a CP means a person who provides a Public Communications Network and/or provides Publicly Available Telephone Services.

⁴³ Oftel's "Statement and Direction issued by the Director General of Telecommunications following a consultation on a draft Direction on Emergency Planning" of 30 July 2003.

Ofcom's proposals

- 4.75 We have considered whether we should remove this condition entirely. We are not aware of any relevant government department ever having used it and we note that CPs might be willing to undertake emergency planning voluntarily. For instance, we understand that mobile operators voluntarily participated with the Civil Contingencies Secretariat in the recent mobile alerting trials for public emergencies.⁴⁴
- 4.76 Nevertheless, we think that GC 5 has been an important backstop power which has encouraged industry to undertake emergency planning voluntarily and we note that emergency planning remains a crucial policy concern. Therefore, our provisional view is that this condition should be retained.
- 4.77 We are proposing some minor drafting changes to simplify this condition, such as incorporating the definition of 'disaster' into the paragraph where this term appears and specifying upfront the categories of communications provider to whom this condition applies.
- 4.78 The proposed revised text of this condition can be seen at Annex 9 and a marked up version showing the changes we are proposing to make can be seen at Annex 10.
- 4.79 We propose to update Oftel's direction of 30 July 2003 specifying the central and local government departments which are relevant for the purposes of GC 5.1(b) by consulting on a revised direction in due course. Pending revision of the direction, the direction in its current form would continue to apply under the revised GC.

Legal tests

- 4.80 We consider that the changes we are proposing to make to GC 5 meet the test for setting or modifying conditions set out in section 47(2) of the Act. Our proposed changes are:
- a) **objectively justifiable** as we think that the requirements concerning emergency arrangements in GC 5 are still necessary as an important backstop and so we should retain them;
 - b) **not unduly discriminatory** since GC 5 would continue to apply equally to all providers of a public communications network and/or publicly available telephone services;
 - c) **proportionate** as retaining GC 5 would not impose any additional burden on CPs; and
 - d) **transparent** as the reasons for retaining GC 5 are explained above and its effects are already clear to CPs on the face of this general condition.

⁴⁴ <https://www.gov.uk/government/publications/mobile-alerting-trials-for-public-emergencies>

Consultation questions

Question 2(a): Do you agree with the changes we are proposing to make to General Conditions 1 to 5, as set out in this consultation? If not, please explain why you do not agree, giving reasons.

Question 2(b): Are there any other modifications to General Conditions 1 to 5 that you consider would be appropriate? If so, please explain why giving reasons.

Section 5

Public pay telephones (GC 6)

GC 6 (Public pay telephones)

- 5.1 GC 6 sets requirements for providers of public pay telephones, including ensuring the provision of operator assistance and directory enquiry facilities, the display of certain information on or near public pay telephones (e.g. minimum call charges and its location) and certain minimum accessibility requirements for people with disabilities.
- 5.2 Specifically:
- a) paragraph 6.1 requires providers of all public pay telephones, including those on private land (e.g. in stations and shopping malls), to make operator assistance and directory enquires services available;
 - b) paragraph 6.2 requires providers of all public pay telephones to display certain information (e.g. minimum call charges, the location and telephone number of the public pay telephone and that calls to 999 are free of charge);
 - c) paragraph 6.3 applies only to providers of public pay telephones on public land (which are referred to as 'Public Call Boxes' or '**PCBs**'):
 - (i) paragraph 6.3(a) requires providers of PCBs to ensure that 75% of the PCBs they provide in the UK except for the Hull area are wheelchair accessible (50% in the Hull area⁴⁵) and that 70% have amplification facilities;
 - (ii) paragraph 6.3(b) requires providers of PCBs to consult Ofcom on material changes to the design of PCBs where the interests of disabled persons are likely to be affected;
 - (iii) paragraph 6.3(c) concerns the provision of PCBs incorporating textphone facilities and includes a power for Ofcom to make directions in this regard;
 - (iv) paragraph 6.3(d) requires providers of PCBs to give at least 42 days' notice of the proposed removal of any PCB.
 - d) Paragraph 6.4 provides definitions of the terms "Communications Provider", "Hull Area" and "Public Call Box" for the purposes of this condition.

Stakeholders' comments

- 5.3 In addition to this general condition, BT and KCOM are subject to a universal service condition in relation to the provision of public pay telephones. In response to the DCR consultation, BT commented that the Universal Service Condition

⁴⁵ The Hull area being for these purposes the area in which KCOM plc previously held a public telecommunications licence.

obligation to provide public call box services “is an anachronism in a world where there are more mobile phones than people”.⁴⁶

Ofcom’s proposals

Operator assistance services and directory enquiry services

- 5.4 In the following section of this document (concerning directory information, GCs 8 and 19), we explain why we no longer consider it necessary to require the provision of operator assistance services generally. We also explain why we propose to remove GC 8.1(b), which requires CPs generally to ensure that any end-user can access a comprehensive directory enquiry service. We propose to remove the specific requirements in GC 6.1 relating to operator assistance and directory enquiry facilities for public pay telephones for the same reasons.

Information to be displayed on or around public pay telephones

- 5.5 The current version of this condition (specifically, GC 6.2) requires providers of public pay telephones to display:
- a) the minimum charge payable for connection of a call;
 - b) the means by which the charge may be paid;
 - c) the location of the public pay telephone sufficient to enable it to be located as swiftly as possible by the emergency organisations;
 - d) that calls to emergency organisations using the numbers “112” and “999” may be made from the public pay telephone free of charge without having to use coins or cards; and
 - e) whether or not the public pay telephone is available to receive a call, and if so, the telephone number of the public pay telephone.
- 5.6 We think that it remains important that the minimum price of a call is displayed and are not proposing to change this requirement. However, we are proposing to remove the requirement to display the means by which charges must be paid in GC 6.2(b) as we believe that communications providers will have a sufficient incentive to display this information without it being necessary to require its provision through regulation.
- 5.7 In relation to location information and displaying the number on which the phone can receive calls, we welcome specific input on whether it is necessary to include in the condition a requirement for this information to be displayed or whether there is a sufficient incentive for this information to be provided in any event. We would welcome comments from breakdown services and organisations that offer helplines on this point in particular.

⁴⁶ BT’s response to Ofcom’s DCR Consultation (page 150):
http://stakeholders.ofcom.org.uk/binaries/consultations/dcr_discussion/responses/BT.pdf

The design of Public Call Boxes

- 5.8 GC 6.3 applies only to PCBs, that is, public pay telephones which are permanently accessible on public land. This would include payphones located in the street, but does not include those public pay telephones which are installed on private land or which are not accessible by the public 24 hours a day (e.g. in shopping centres or train stations which are closed overnight). The condition sets requirements as to the minimum percentage of PCBs which must be accessible to End-Users using wheelchairs and which must incorporate additional amplification facilities.
- 5.9 We are seeking views in this review on whether it is necessary to maintain these specific accessibility requirements for PCBs or whether it is now appropriate to deregulate in this area. These requirements are already met in respect of PCBs currently installed on public land. The installation of new PCBs on public land is relatively rare given the rise in use of mobile phones and the corresponding decline in the use of public payphones, but it clearly remains important that any such new PCBs that may be installed are accessible to people with disabilities.
- 5.10 Since this condition was first imposed there have been relevant changes to general equalities legislation, in particular the passing of the Equality Act 2010. CPs providing services to the public are required to comply with the provisions of the Equality Act 2010,⁴⁷ which imposes a duty on service providers to make reasonable adjustments to allow people with disabilities to use the services offered by the provider.
- 5.11 This duty to make reasonable adjustments specifically requires that where a physical feature puts a person with disabilities at a substantial disadvantage in relation to their ability to access relevant services in comparison with persons who are not disabled, the service provider must take such steps as are reasonable to avoid the disadvantage. In the case of PCBs, this places a duty on those CPs which provide PCBs to make reasonable adjustments to the design of their PCBs to enable people with disabilities to access and use the PCB if it is reasonable to do so.
- 5.12 The Equality Act 2010 further provides that the duty to make reasonable adjustments includes the requirement to take such steps as are reasonable to provide auxiliary aids where, but for the provision of the auxiliary aid, a person with disabilities would be put at a substantial disadvantage in relation to a relevant service in comparison with persons who are not disabled. In the case of PCBs this would include the provision of equipment capable of additional amplification.
- 5.13 The policy goal of the accessibility requirements currently in GC 6.3(a) clearly remains important. However, for the reasons set out above, we believe it may no longer be necessary to include these provisions in sector-specific regulation.
- 5.14 Similarly, the requirement currently in GC 6.3(b) to consult Ofcom from time to time on the design of PCBs may no longer be necessary. This is because of the duty imposed by the Equality Act 2010 to ensure people with disabilities are able to access and use PCBs. We also note that the current model of PCB used by BT meets these accessibility requirements and the low number of new PCBs being

⁴⁷ For the avoidance of doubt, we note that the enforcement of the Equality Act 2010 is not within Ofcom's statutory remit. The Equality Act 2010 grants individuals rights, which they may enforce directly in the courts.

installed suggests that it is likely to be uneconomic to change the design currently being used.

- 5.15 We would particularly welcome comments from stakeholders on these proposals, noting the potential impact on certain vulnerable consumers. We have adopted a more cautious approach when considering the removal of regulatory protections which are targeted specifically at meeting the needs of disabled people or vulnerable groups of consumers. However, for the reasons given above, we provisionally consider that these specific requirements for the provision of public pay telephones are no longer necessary. If there are any other factors that we should take into account or any evidence of the continued need for these regulatory protections, we would encourage stakeholders to bring these to our attention in response to this consultation.

Textphone facilities

- 5.16 GC 6.3(c) requires CPs to consult with Ofcom from time to time to ensure the adequate provision of PCBs incorporating textphone facilities in order to allow disabled users to access text relay services. It also provides Ofcom with a power to direct CPs to provide PCBs incorporating textphone facilities as Ofcom considers appropriate in terms of numbers and location. Textphone facilities enable end users to access text relay services.
- 5.17 Since October 2014, text relay has been available on smartphones via the NGT Lite app. Take-up of mobile telephony in the UK is high, and 46% of hearing impaired adults, 41% of all disabled adults and 66% of non-disabled adults currently have a smartphone⁴⁸. There is no evidence of demand for new public textphones and there is evidence that the use of textphone from PCB is extremely low.⁴⁹ Given that Ofcom has not found it necessary to make a direction in relation to PCBs incorporating textphone before the NGT Lite app was available, it is extremely unlikely that we would do so now. We therefore consider the requirements in GC 6.3(c) to consult Ofcom on the number and location of PCBs providing textphone facilities and the power for Ofcom to direct CPs to provide PCBs including textphone to no longer be necessary.

Removal of public calls boxes

- 5.18 GC 6.3(d) requires providers of PCBs to give notice of any proposed removal of a PCB and sets requirements including information that must be displayed on or around the PCB and the minimum amount of notice that must be given before the provider is entitled to cease to provide services from a PCB.
- 5.19 Condition 3 of the specific Universal Service Conditions imposed on BT and KCOM sets requirements in relation to the provision of PCBs and allows Ofcom to make a direction from time to time regarding the details of the regulation of call box

⁴⁸ Ofcom's "Disabled consumers' use of communications services. A Consumer Experience report", 1 October 2015, page 78 http://stakeholders.ofcom.org.uk/binaries/research/media-literacy/1515282/Disabled_consumers_use_of_communications_services.pdf

⁴⁹ BT told us that in the period from January to May 2016, over 80% of public textphones operated by it have not been used to make any text relay calls. Of the text relay calls that were made from BT public textphones during this period, nearly all were made using the text relay emergency number 18000, but with no conversation associated with the calls. We understand that BT receives a high volume of silent voice calls to 999 from payphones, so it is likely that the text relay emergency number is subject to the same type of misuse.

services, including the procedure for removal and installation of PCBs. In 2003, Oftel exercised this direction-making power by specifying the procedure for removing PCBs and for considering requests for new PCBs. In March 2006, Ofcom amended Oftel's direction and issued Guidance on the procedure for the removal of PCBs and the procedure for considering a request for the provision of a new PCB in order to meet the reasonable needs of a local community.⁵⁰

- 5.20 We propose to remove the requirements in GC 6.3(d) from the General Conditions as the removal of PCBs by BT and KCOM is also regulated by Condition 3 of the specific Universal Service Conditions and the Public Call Box Direction. The overwhelming majority of PCBs are operated by BT and KCOM and we therefore do not consider it necessary to duplicate these provisions in the general conditions.
- 5.21 We are provisionally proposing to remove much of the current regulation of public pay telephones from the general conditions. As noted above, we would welcome comments from stakeholders on these proposals and in particular, any evidence which would suggest that it is necessary to retain more detailed regulation of payphone providers. If we decide to proceed with our proposals to deregulate in this area we could, if market circumstances necessitate it, re-intervene at a later stage.

Definitions

- 5.22 We propose to delete the current definition of 'Communications Provider' from GC 6.4 and specify at the beginning of the condition the categories of providers to which it applies (being referred to as "Regulated Providers" for the purposes of the condition).
- 5.23 As noted above at paragraph 4.68, we propose to move the definition of 'Pay Telephone' from GC 4 into the main definitions Annex, which enables us to simplify the definition of 'Public Pay Telephone', as "a Pay Telephone which is available to the general public".
- 5.24 We also propose to omit the definitions of 'Hull Area' and 'Public Call Box'. In light of the proposed removal of GC 6.1 and 6.3, these definitions would no longer be necessary.

Revised text of the condition

- 5.25 The proposed revised text of this condition can be seen at Annex 9 and a marked up version showing the changes we are proposing to make can be seen at Annex 10.

Legal tests

- 5.26 We consider that the changes we are proposing to make to GC 6 meet the test for setting or modifying conditions set out in section 47(2) of the Act. Our proposed changes are:
- a) **objectively justifiable** as we think that the requirements we are proposing to remove from this condition are no longer necessary;

⁵⁰ <http://stakeholders.ofcom.org.uk/binaries/consultations/uso/statement/callboxdirection.pdf>
<http://stakeholders.ofcom.org.uk/binaries/consultations/uso/statement/removals.pdf>
<http://stakeholders.ofcom.org.uk/binaries/consultations/uso/statement/requestcallbox.pdf>

- b) **not unduly discriminatory** since the changes we are proposing to make to this condition would apply equally to all providers of public pay telephones;
- c) **proportionate** as the changes to this condition would not impose any additional burden on CPs; and
- d) **transparent** as the reasons for retaining certain requirements in GC 6 are explained above and their effects are already clear to CPs on the face of this general condition.

Consultation questions

Question 3(a): Do you agree with the proposed revised version of General Condition 6? If not, please explain why and provide reasons.

Question 3(b): Do you agree with Ofcom's proposals to remove the requirement to display the means by which charges must be paid on or around PCBs?

Question 3(c): Do you consider the requirements to display the location of the public pay telephone and whether or not the public pay telephone is available to receive a call, and if so, the telephone number of the public pay telephone to be necessary requirements? If so, please explain why.

Question 3(d): Do you consider that the specific requirements in relation to the accessibility of PCBs and the removal of PCBs in GC 6.3 are no longer necessary to ensure adequate protection of the interests of end users with disabilities? If you do not agree, please explain why.

Question 3(e): Is there any other modification to General Condition 6 that you consider appropriate? If so, please explain why.

Section 6

Directory information (GCs 8 and 19)

GC 8 (Operator assistance, directories and directory enquiry services)

- 6.1 GC 8 requires CPs⁵¹ to make operator assistance services, directory enquiry services and printed directories available to end users.
- 6.2 Specifically:
- a) paragraph 8.1 requires CPs to ensure that any end-user can access operator assistance services and a comprehensive directory enquiry service;
 - b) paragraph 8.2 requires CPs to supply printed directories to their subscribers on request;
 - c) paragraph 8.3 provides that a printed directory may be produced by the CP or by another person. CPs which produce a printed directory must update it on a regular basis (at least once a year). Ofcom may direct that a directory is available in a particular form;
 - d) paragraph 8.4 allows CPs to charge end-users a reasonable fee for making printed directories and directory enquiry services available, and for the inclusion in a directory;
 - e) paragraph 8.5 specifies that this condition is subject to the requirements of the relevant data protection legislation; and
 - f) paragraph 8.6 defines 'Communications Provider' for the purposes of this condition.
- 6.3 GC 8 was introduced in 2002 to ensure that operator assistance services and directory information would be made available to end-users. In doing so, GC 8 implemented the obligations contained in Article 5 and Article 25 of the Universal Service Directive. We note, however, that after the amendments introduced in 2009, Art. 25(3) of the Universal Service Directive no longer requires the provision of operator assistance services on the basis that "the provision of such services should be left to commercial negotiations between providers of public communications networks and operator assistance services, as is the case for any other customer support service".⁵²

⁵¹ In GC 8, CP means a person who provides publicly available telephone services ('PATS'), except Public Pay Telephones.

⁵² Recital 37 of Directive 2009/136/EC, which amended the Universal Service Directive.

Stakeholders' comments

- 6.4 In response to Ofcom's DCR Consultation, EE suggested that GCs 8 and 19 should be combined.⁵³

Ofcom's proposals

Operator assistance services (GC 8.1(a))

- 6.5 GC 8.1(a) requires CPs to ensure that any end-user can access operator assistance services. This condition does not specify which particular services should be provided and no definition of operator assistance services is provided. In general, any service which requires the assistance of an operator to connect the call or avail oneself of the service could be considered an operator assistance service. This would include services such as alarm calls; providing information on the time, day and date; requesting connection to a specified number; and reverse charge calls.
- 6.6 We note that the EU Framework no longer requires the provision of operator assistance services. Further, given that CPs offer a range of services on a commercial basis and arguably above and beyond the minimum obligation GC 8.1(a) imposes, we consider that it is unlikely that such services will be withdrawn while consumer demand continues to exist. Finally, as we have not identified any specific operator assisted service which we consider to be essential for consumers, we do not consider that there is any compelling case for sustaining this general obligation.
- 6.7 We are therefore seeking stakeholders' views on our proposal to remove GC 8.1(a) and we invite comments on this proposal. If stakeholders consider that we should retain the current requirement on CPs to ensure access to operator assistance services, we would invite them to specify which particular operator assistance services they are concerned about. If, following consideration of stakeholders' responses, we were to decide that the requirement to provide operator assistance services should be retained, we consider that we should revise the current condition to make it clearer by specifying which services are required.
- 6.8 In practice, we would not expect CPs to stop providing operator assistance services in the absence of regulation. Thus, our provisional view is that the proposed removal of GC 8.1(a) should not have any significant impact on the market.

Access to directory enquiry services (GC 8.1(b))

- 6.9 GC 8.1(b) requires CPs to ensure that any end-user can access a comprehensive directory enquiry service, except where such services have been rendered inaccessible to a particular end-user by the CP at the end-user's request or for the purposes of debt management.
- 6.10 Since the voice directory enquiry market was liberalised in December 2002,⁵⁴ a number of companies have entered the market for the provision of directory enquiry

⁵³ EE's response to Ofcom's DCR Consultation (p. 26, table 2):

http://stakeholders.ofcom.org.uk/binaries/consultations/dcr_discussion/responses/EE.pdf

⁵⁴ In December 2002, the new '118 XXX' number range began operating in parallel with the legacy '192' and '153' directory enquiry service access codes.

services. As the market is providing directory enquiry services commercially through non-geographic numbers (118 and in one case 0800), we consider that the obligation in GC 8.1(b) to ensure access to a comprehensive directory enquiry service could be subsumed within the broader obligation in what is currently GC 20.1(a), as revised in 2011, to ensure that end-users in any part of the EU are able to access and use all non-geographic numbers which the CP adopts.

- 6.11 We note that the exemptions set out in GC 20.1(a) are not exactly the same as those set out in GC 8.1(b):
- a) GC 20.1(a) exempts CPs from the requirement to give access to the non-geographic numbers adopted by them where this is not 'technically and economically feasible';
 - b) GC 8.1(b) exempts CPs from giving access to a comprehensive directory enquiry service where such services have been rendered inaccessible to a particular end-user by the CP at the end-user's request or for the purposes of debt management.
- 6.12 Currently, it is difficult to envisage circumstances where the exemption set out in GC 20.1(a) would apply such that CPs would not allow users to call the non-geographic numbers used for directory enquiry services. This is because CPs are already hosting directory enquiry services on the numbers allocated to them and they are already connecting their subscribers to the non-geographic numbers used for directory enquiry services (including the numbers allocated to other CPs). Equally, we have no evidence that the provision of directory enquiry services impose any greater credit risk than that of other non-geographic services. Accordingly, we consider that GC 20 offers at this time a suitable regulatory route to ensuring the availability of directory enquiry services.
- 6.13 However, we acknowledge that circumstances can change (e.g. if the economics of the provision of directory enquiry service were to change materially) which might in the future require us to reconsider whether GC 20 alone is sufficient. We consider this is best addressed in the context of future changes (if any).
- 6.14 For the reasons explained above, we propose to remove GC 8.1(b), noting that CPs would continue to be required to give access to directory enquiry services under GC 20.1(a).

Printed directories (GC 8.2)

- 6.15 GC 8.2 requires CPs to provide a printed directory to each subscriber who requests one. We have considered whether we should remove this requirement, as we proposed in March 2008,⁵⁵ on the basis that in practice this obligation is satisfied by the annual delivery of local directories provided by BT and KCOM free of charge to all end-users. However, we consider it appropriate to retain GC 8.2 as we think that the commercial incentives on BT and KCOM might fall in the future. This is due, in particular, to two main factors: firstly, given the competition for advertising revenue by on-line portals, advertisers appear to be progressively spending less on the print advertisements of the kind included in phone books; and secondly, under the current regulatory framework, BT is no longer allowed to recover the costs of

⁵⁵ Ofcom's Statement of 10 March 2008, entitled 'Telephone Directory Information obligations and regulations': <http://stakeholders.ofcom.org.uk/consultations/dirinfo/>

printed directories from the provision of wholesale line rental. Therefore, although the existing market conditions meet the USD requirement for a comprehensive directory, we consider that Ofcom's ability to enforce compliance with GC 8.2 is an important backstop since it would encourage industry to continue to provide such services without need for intervention even if the commercial incentives to do so were to fall in future.

- 6.16 We have also considered whether we should replace the requirement to provide a printed directory with an electronic directory.⁵⁶ The evidence that we gathered in 2013 suggested that about 10% of end-users have used printed directories at least once a month and about 30% of end-users have used printed directories at least once a year⁵⁷. We also note that those people who do not have internet access (about 14% of adults)⁵⁸ would not be able to use CD-ROMs or on-line directories as alternatives to paper directories. Therefore, our provisional view (subject to consultation) is that it is appropriate to retain the regulatory obligation to provide end-users with a printed directory. Although printed directories are currently delivered to almost all UK residents, we note that the regulatory obligation is actually limited to those who request it. Thus, we provisionally consider that the requirement in GC 8.2 should remain in place to meet the needs of consumers who do not have online access and (by being "on request" only) is proportionate to meet that need.

Charges (GC 8.4)

- 6.17 GC 8.4 allows CPs to charge a "reasonable fee" for making directory enquiry services and/or printed directories available. In addition, CPs may also charge their subscribers a fee for the inclusion of their directory information in a directory or directory enquiry facility.
- 6.18 We think we should retain the 'reasonable fee' threshold in relation to the provision of printed directories. This is because we are proposing to retain the requirement to provide printed directories (on request) and we think this power would only remain effective if we continue to require any fees for the provision of printed directories to be reasonable. Otherwise, consumers who still depend on printed directories (i.e. the same category of people who we are seeking to protect from consumer harm by not proposing to move to electronic directories) might find charges for printed directories to be too high.
- 6.19 We think we should also retain the reasonable fee threshold in relation to any fee that CPs may charge their subscribers for the inclusion of their directory information in a directory or directory enquiry facility, which is necessary to give effect to Art. 25(1) of the Universal Service Directive.

⁵⁶ The form of telephone directories, which can be printed or electronic or both, is left to the discretion of Member States under Art 5(1)(a) of the Universal Service Directive.

⁵⁷ http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/1107018/Telephone_Directory_Research1.pdf

⁵⁸ Ofcom's Nations and Regions Tracker – Main set - H1 2016 (4th January to 29th February 2016), table 62:

http://stakeholders.ofcom.org.uk/binaries/research/statistics/2016April/Ofcom_Technology_Tracker_H1_2016.pdf

- 6.20 In relation to directory enquiry services, given that fixed voice subscribers have access to a wide range of directory enquiry services at a wide range of prices⁵⁹, the need for and the appropriateness of an obligation on CPs to ensure that there is at least one service which is ‘reasonably’ priced is unclear.
- 6.21 Furthermore, since 2011, CPs have been required to ensure that callers are able to access all services provided on non-geographic numbers (including 118 numbers). Since 2015, under the changes to the pricing rule for non-geographic numbers (including 118 numbers)⁶⁰, directory enquiry companies are obliged to state clearly their service charge for any call and CPs are obliged to pass on this service charge to consumers, adding only a flat rate for originating the calls (i.e. the “access charge”), which is the same for all revenue share non-geographic numbers. We consider these changes have improved the transparency of the charges for these services. Consumers can choose from a large range of directory enquiry services available with all CPs, with a similarly wide range of prices (including a free-of-charge service which is currently provided in the 0800 range⁶¹).
- 6.22 In light of these developments, we consider that there is no clear purpose in maintaining this obligation and we propose to remove the requirement in GC 8.4 to the extent that it applies to directory enquiry services.

Other drafting changes

- 6.23 In addition to the proposed changes discussed above, we propose to make the following drafting changes:
- a) we agree with EE’s suggestion that GCs 8 and 19 should be combined and we are proposing to do so; and
 - b) we also propose some drafting changes to make the revised condition significantly shorter and clearer, and mainly limited to the minimum requirements under the Universal Service Directive.

Definitions

- 6.24 We propose to omit the definition of “Communications Provider” that is currently set out in GC 8.6 and set out the scope of application of the proposed revised condition in its first paragraph. Specifically, we propose that the revised condition will apply to “*all providers of Publicly Available Telephone Services which assign Telephone Numbers to Subscribers*”. We propose to refer to these providers for the purposes of the proposed revised condition as the ‘Regulated Providers’.
- 6.25 We are proposing to retain the current definitions of ‘Directory’, ‘Directory Information’, ‘Directory Enquiry Facility’ and ‘Relevant Data Protection Legislation’ (as currently set out in the Definitions section) and move them to the Definition Annex without any change.

⁵⁹ This is unlike the provision of printed directories, where there is only one comprehensive directory available in any given area.

⁶⁰ ‘084’, ‘087’, ‘09’ and ‘118’.

⁶¹ Also in the 118 range there are directory enquiry services available, which are offered for relatively ‘low’ prices, e.g., 35 pence per call (plus the access charge) or 55 pence per minute (plus the access charge). Access charges vary between 5 pence per minute and 45 pence per minute. (Prices are available on all CPs but see for example BT Retail price list http://www.productsandservices.bt.com/products/lib/pdf/BT_PhoneTariff_SpecialNos.pdf).

Data protection

6.26 We are not proposing any change to GC 8.5, other than re-numbering.

GC 19 (Provision of directory information)

6.27 GC 19 requires all providers which have been allocated telephone numbers or authorised to use the numbers allocated to another CP to ensure that details of those numbers which are issued to end users are made available to other organisations which wish to compile directories or directory enquiry services. Specifically:

- a) paragraphs 19.1 and 19.2 impose a requirement on CPs to make available directory enquiry information in relation to subscribers and end-users of telephone numbers allocated to them or which they are authorised to use;
- b) paragraph 19.3 provides that where a CP is required to supply directory information in accordance with GC 19.1 or 19.2, it shall do so on fair, cost-oriented, and non-discriminatory terms and in a format agreed with the person requesting the information;
- c) paragraph 19.4 provides that GC 19 applies subject to the requirements of relevant data protection legislation; and
- d) paragraph 19.5 defines 'Communications Provider' for the purposes of GC 19 as a person who provides an electronic communications network or service.

6.28 GC 19 was introduced in 2002 to implement Art. 25(2) of the Universal Service Directive, which requires Member States to "*ensure that all undertakings which assign telephone numbers to subscribers meet all reasonable requests to make available, for the purposes of the provision of publicly available directory enquiry services and directories, the relevant information in an agreed format on terms which are fair, objective, cost oriented and non-discriminatory*".

Ofcom's proposals

6.29 Currently, CPs provide their subscribers' data to BT under a standard agreement. BT aggregates all the data received to produce an up-to-date database known as the 'Operator Services Information System' ('OSIS') and supplies access to this database to providers of directory information services and/or directories on terms set out in its licence arrangements. In addition, alternative (largely business-focussed) directory information compilers separately compile databases of business contact numbers for commercial resale. Therefore, the current market conditions allow providers of directory information services and/or directories to have access to the information required to compile a single comprehensive database without having to request subscribers' data from each individual CP.

6.30 Given that these industry arrangements seem to be effective, we have considered whether we should reduce regulatory intervention in this area. Our initial view is that we need to retain appropriate backstop powers to ensure the continued delivery of directories and directory enquiry services in the event that industry commercial incentives change in future. However, we think that such powers can be set in a much shorter and simplified form by replacing GC 19.1 to 19.3 with the following regulatory obligation:

“In order to facilitate the provision of publicly available Directories and Directory Enquiry Facilities, Regulated Providers must meet all reasonable requests to make Directory Information available in an agreed format on terms which are fair, objective, cost-oriented and non-discriminatory”.

- 6.31 Should CPs (BT, in particular) stop entering into the current commercial arrangements in future, the simplified text that we are proposing for GC 19 would continue to allow providers of directory information services and/or directories to carry out their activity by requesting CPs to provide the name, address and telephone number of their subscribers (or information that the telephone number of certain subscribers may not be supplied because they have asked for their directory information to be removed). If this simplified version of the obligation proves in future to be insufficient, we could reintroduce more detailed requirements as and when appropriate.
- 6.32 As explained above, we propose to combine GC 8 with GC 19 because they both concern the provision of directory information.
- 6.33 We propose to omit the definition of “Communications Provider” that is currently set out in GC 19.5 and set out the scope of application of the proposed revised condition in its first paragraph.
- 6.34 The text of the revised condition is set out in Annex 9 and a marked up version showing the changes we are proposing to make can be seen at Annex 10.

Legal tests

- 6.35 We consider that the changes we are proposing to make to GCs 8 and 19 meet the test for setting or modifying conditions set out in section 47(2) of the Act. Our proposed changes are:
- a) **objectively justifiable** as we consider that:
 - (i) the regulatory obligations which we propose to remove (i.e. GC 8.1 and GC 8.4 to the extent that it applies to directory enquiry services) have become redundant, or otherwise unnecessary, in light of regulatory and market developments; and
 - (ii) the regulatory obligations for ensuring continued access to a single comprehensive directory can be simplified in light of current market conditions;
 - b) **not unduly discriminatory** since the condition combining GCs 8 and 19 would apply equally to all CPs to which GCs 8 and 19 currently apply;
 - c) **proportionate** as we essentially propose to retain the minimum necessary regulatory measures to meet the Universal Service Directive requirements; and
 - d) **transparent** as the purpose of the proposed changes to GCs 8 and 9 are explained in this document and their effect will be clear to CPs on the face of the condition that would combine GCs 8 and 19.

Consultation questions

Question 4(a): Do you agree with the proposed revised version of the condition that would combine General Conditions 8 and 19, as set out in this consultation? If not, please explain why you do not agree giving reasons.

Question 4(b): In particular, do you agree with the proposal to retain the obligation to provide subscribers with printed directories on request, rather than moving to electronic directories?

Question 4(c): Are there any other modifications to General Conditions 8 and 19 that you consider would be appropriate? If so, please explain why giving reasons.

Section 7

Numbering conditions (GCs 17 and 20)

GC 17 (Allocation, adoption and use of telephone numbers)

- 7.1 GC 17 imposes various obligations on CPs in relation to telephone numbers. Specifically:
- a) paragraphs 17.1 to 17.3 set out general prohibitions on the adoption and use of numbers;
 - b) paragraphs 17.4 to 17.8 set out obligations related to the adoption and transfer of numbers;
 - c) paragraphs 17.9 sets out obligations related to applications for telephone numbers;
 - d) paragraphs 17.13 to 17.18 set out obligations in relation to charging for certain geographic numbers; and
 - e) paragraphs 17.20 to 17.32 set out restrictions and requirements in relation to the use of certain non-geographic numbers.
- 7.2 In addition:
- a) paragraph 17.10 specifies the period of time within which Ofcom will determine applications for telephone numbers (as envisaged by sections 58(2)(a) and 58(4) of the Act);
 - b) paragraphs 17.11 and 17.12 set out Ofcom's powers to allocate numbers for a limited period of time; and
 - c) paragraph 17.19 specifies certain circumstances under which Ofcom may withdraw an allocation of telephone numbers (as envisaged by section 61(2)(e) and (f) of the Act).
- 7.3 We note that we are already planning, separately from this review, to consult on the outcome of the pilot scheme for charging for geographic numbers, which might result in changes to GC 17.13-17.18 and the corresponding definitions in GC 17.33. We are not proposing to make any further changes to those paragraphs or definitions in this review.

Ofcom's proposals

Deletion of redundant references in relation to non-geographic numbers

- 7.4 We propose to delete paragraphs 17.20 and 17.21. These impose obligations on CPs in relation to non-geographic numbers for the period prior to the Effective Date, which is defined as 1 July 2015. As this date has now passed, these obligations are redundant. We also propose to delete the reference to "*on or after the Effective Date*" in paragraph 17.22, as this reference is no longer required.

- 7.5 Paragraph 17.31 imposes an obligation on CPs in relation to non-geographic numbers, which applies for the period of twelve months beginning on the Effective Date (i.e. from 1 July 2015 until 30 June 2016). Paragraph 17.31(b) imposes a follow-on obligation, which then takes effect, from 1 July 2016 onwards. The obligation in sub-paragraph (a) is now redundant. We therefore propose to amend and simplify the drafting of paragraph 17.31 such that it only refers to the obligation currently set out in sub-paragraph (b). We also propose to delete the definition of the “Effective Date” (currently in paragraph 17.33(m)), which would then be redundant.
- 7.6 These proposed amendments have no substantive effect and are intended only to simplify the drafting of GC 17. We are not proposing any other amendments to the provisions in relation to non-geographic numbers (paragraphs 17.22 – 17.32), other than renumbering of paragraphs and updating of paragraph cross-references, as these provisions only came into effect fairly recently.

Numbering application form

- 7.7 At present, paragraph 17.9(a) requires CPs to apply for telephone numbers using an appropriate application form as directed by Ofcom from time to time. Paragraph 17.9(b) requires CPs to provide such information as is required by that form.
- 7.8 In December 2014, Ofcom migrated to an online number management system so that applications for numbers can be made via a portal on the Ofcom website. However, paragraph 17.9 was not amended at that time. As such, Ofcom has continued to issue a direction specifying the form of application to be used (albeit the form is now made available via the online portal). Whilst the direction-making power in paragraph 17.9(a) is therefore not redundant, we nevertheless consider it to be unnecessary. The online number management system has now been up and running for over 18 months and we consider that paragraph 17.9 could be simplified by removing the direction making power and instead requiring CPs to apply for numbers using the online system. However, we consider it sensible to also provide for the use of an application form, made available on the Ofcom website, as a fall back in circumstances when the online system is not available (e.g. in the event of technical issues). We also propose to make a consequential amendment to paragraph 17.9(b) so that CPs are required to provide the information required by the online system or the form.
- 7.9 We are not proposing any amendments to GC 17.10, other than renumbering that paragraph and updating a cross-reference to a paragraph in the same condition.

Allocation of numbers for a limited time period

- 7.10 We propose to delete paragraphs 17.11 and 17.12. These paragraphs set out Ofcom’s powers to allocate numbers for a limited period of time and to withdraw those numbers at the end of the set period. However, they do not impose any obligations on CPs. Ofcom’s power to allocate numbers for a limited period derives from the Act (section 56A), rather than from the General Conditions. Any such allocation automatically ceases to have effect at the expiry of the specified time period. We therefore do not consider it necessary to retain these paragraphs.

Withdrawal of numbers

- 7.11 We propose to amend paragraph 17.19 to specify a further circumstance in which Ofcom may withdraw telephone numbers, as envisaged by section 61(2)(d) of the Act.
- 7.12 Ofcom's powers to withdraw numbers are set out in section 61 of the Act (supplemented by paragraph 17.19 of GC 17). These include powers to withdraw numbers: (i) with the consent of the CP allocated the numbers; (ii) for the purposes of a numbering reorganisation; (iii) where the numbers have not been adopted within six months of their allocation; or (iv) (in certain circumstances) where the person holding the numbers is in breach of the numbering conditions (which includes GC 17).
- 7.13 Section 61(2)(d) of the Act also provides that Ofcom may withdraw numbers in circumstances specified in the numbering conditions and for the purpose of securing best and most efficient use of numbers. However, GC 17 currently does not specify any such circumstances. Consequently, Ofcom does not currently have the power to withdraw numbers in the following two circumstances:
- a) numbers are adopted (e.g. included in a CP's routing plan), but are never assigned to a subscriber; or
 - b) numbers are adopted and assigned to a subscriber at some point in time, but are then returned / vacated by the subscriber and remain dormant.
- 7.14 This prevents Ofcom from acting to address certain inefficient uses of numbers, contrary to its duty under section 63 of the Act. We recognise that due to the technical need to allocate numbers in large blocks, there will inevitably be a proportion of allocated numbers that are not assigned to subscribers. Also CPs need to anticipate subscribers' needs and apply for number blocks ahead of when they expect them to be required. However, we have found through our audits of allocated numbers that there are a number of CPs that are holding full blocks of unassigned numbers (or numbers that were once assigned but are now dormant) that could be returned to Ofcom for efficient re-allocation. Whilst the introduction of charging for geographic numbers encourages CPs to return unused geographic number blocks to Ofcom, the same incentive does not exist in relation to other number types.
- 7.15 In addition to CPs retaining unused numbers, we are also aware of other instances in which numbers are not assigned to subscribers and are instead being used inefficiently. For example, we are aware of non-geographic numbers being adopted and used for the sole purpose of earning revenue, for instance as a result of members of the public misdialling (e.g. a number is brought into use that is one digit different to the number used for registering votes on a popular TV programme) or numbers being advertised for the public to call for a particular service, which is not provided, yet the call is charged. A further example is numbers that are not assigned to subscribers being used to carry messages either promoting a service or explaining that the number is free and available for assignment.
- 7.16 In order to encourage the efficient use of numbers, we therefore propose to amend paragraph 17.19 (as envisaged by section 61(2)(d) of the Act) to specify that an allocation of numbers may be withdrawn where the CP is unable to demonstrate to

Ofcom's reasonable satisfaction that the numbers are either currently assigned to a subscriber⁶² (or subscribers), or have been assigned to a subscriber (or subscribers) within the previous 12 months. We consider it reasonable to allow CPs a period of 12 months within which to assign newly allocated numbers to subscribers or to "sterilise" and then "recycle" numbers previously assigned, before the proposed power of withdrawal would apply. The withdrawal must also be made for the purpose of securing that what appears to Ofcom to be the best and most efficient use is made of numbers.

- 7.17 Such a power of withdrawal would enable Ofcom to address the circumstances described above and would be consistent with Ofcom's duty to secure best use of telephone numbers and to encourage efficiency and innovation for that purpose.
- 7.18 Whilst the condition would require CPs to demonstrate to Ofcom that their numbers are being assigned to subscribers and recycled within a rolling 12 month period, we currently do not intend to implement a periodic audit or similar process involving all CPs, as we consider that this is likely to be unduly burdensome to industry. Our intention is instead to use the condition in a more targeted way where it has come to our attention that individual CPs may be holding unused numbers for longer than 12 months, or may be using numbers for purposes other than assignment to subscribers.
- 7.19 We recognise that there may be some circumstances in which CPs use numbers that are not assigned to subscribers, but we would nonetheless consider their use to be efficient. For example, CPs may designate a small batch of numbers for testing purposes and therefore not assign these to subscribers. We will take into account legitimate uses such as these in considering whether withdrawal would secure the efficient use of numbers, as required by the proposed new condition.
- 7.20 In addition, we are also likely to have regard to any other circumstances which suggest that a proposed withdrawal of numbers would not be efficient. In particular, we recognise that forecasting numbering requirements is not an exact science and that CPs may find themselves in the situation of holding unused numbers for longer than 12 months, but with the intention of using them imminently. We would not wish to create a situation in which a CP has an allocation of numbers withdrawn, only to then have to apply for a new allocation of the same number type shortly afterwards.
- 7.21 Any exercise of this proposed power of withdrawal would be subject to the safeguards in section 61(5) of the Act. Namely, the power would be exercisable only in a manner that does not discriminate unduly against particular CPs, against particular users of the allocated numbers or against a particular description of such CPs or users. In addition, section 3(3) of the Act requires Ofcom to have regard, in all cases, to principles of best regulatory practice, including proportionality, consistency and targeting activities only at cases in which action is needed.

Definitions and other proposed amendments

- 7.22 We propose to set out at the beginning of GC 17 the categories of provider to which this condition applies.

⁶² A subscriber is defined in the general definitions section of the General Conditions (in Part 1 of the conditions currently in force) as any person who is party to a contract with a provider of public electronic communications services (PECS) for the supply of such services.

- 7.23 We are not at this stage proposing any amendments to the provisions of GC 17 in relation to the adoption, use and transfer of numbers (paragraphs 17.1 – 17.8), or charging for geographic numbers (paragraphs 17.13 – 17.18), other than renumbering of paragraphs or updating of paragraph cross-references.
- 7.24 We propose to replace the current definition of “Adoption”, as set out in the “Definitions” section at the beginning of the General Conditions, with a reference to the definition of the same term in section 56(6) of the Act. We note that these two definitions are slightly different. However, we do not consider that referring to the definition in the Act would make any material difference.
- 7.25 As a consequential change, we note that the definition of “Electronic Communications” would no longer be necessary. Therefore, we propose to remove it.
- 7.26 In the definition of ‘Public Payphone Number’ that is currently set out in GC 17.33(t), we propose to replace the reference to a ‘Universal Service Obligation’ (which is not currently defined) with a reference to a ‘Universal Service Condition’, as defined in section 151(1) of the Act.
- 7.27 We are proposing to move all of the remaining definitions into the main definitions section in the Annex.

GC 20 (Access to numbers and services)

- 7.28 GC 20 imposes various obligations on CPs in relation to access to telephone numbers and services. Specifically:
- a) paragraph 20.1 requires all CPs to ensure that end users anywhere in the UK or EU can access and use non-geographic numbers adopted by that CP and access all telephone numbers provided anywhere in the EU provided it is technically and economically feasible to do so;
 - b) paragraph 20.2 provides, by way of exception to paragraph 20.1, that where the person being called has chosen to limit access to calls coming from a specific geographic area, the CP shall limit access accordingly;
 - c) paragraph 20.3 provides that CPs shall block access to telephone numbers or public electronic communications services and withhold revenue associated with those services, where requested to do so by or on behalf of Ofcom on the basis of fraud or misuse;
 - d) paragraph 20.4 provides that CPs that allow international calls shall handle all calls to and from the European Telephone Numbering Space (ETNS) at rates similar to those applied for calls to and from other EU member states;
 - e) paragraph 20.5 provides that all CPs must ensure access to the EU-wide missing children hotline number, “116000”; and
 - f) paragraph 20.6 provides that the condition applies to any provider of an electronic communications network or electronic communications service.

Ofcom's proposals

- 7.29 GC 20 was first put in place in 2002 in a much more simplified form, primarily concerned with access to non-geographic numbers. The condition was substantially amended and extended in 2011, following changes to the EU Framework in 2009. The policy purpose of this condition is to ensure that all end-users can access all numbers, and the services hosted on those numbers, subject to certain technical and economic safeguards. We believe that this policy purpose is still important and the rationale for maintaining this GC is still valid.
- 7.30 GC 20.1 and 20.2 together implement Art 28(1) of the Universal Service Directive and do not go beyond what is required under that Directive. We do not propose any substantive change to these paragraphs, though we will replace references to 'European Community' with 'European Union' in 20.1 and delete the reference to 'European Telephone Numbering Space' (see below).
- 7.31 GC 20.3 implements Art 28(2) Universal Service Directive and goes no further than what is required under that Directive. We do not propose any substantive change to this paragraph.
- 7.32 Although the ETNS is referred to in the Universal Service Directive, it is no longer operative. Therefore paragraph 20.4 serves no useful purpose at present and we consider that it can be removed without giving rise to any regulatory gap. If the review of the EU Framework proposes a replacement for the ETNS, we will update this condition accordingly in due course.
- 7.33 In response to a query raised by a stakeholder who provides broadband services but does not provide call services about the scope of application of paragraph 20.5, we propose to amend this paragraph to clarify that this requirement to provide access to "116000" only applies to CPs who provide telephony call services.
- 7.34 We propose to set out at the beginning of GC 20 the categories of provider to which this condition applies, so that paragraph 20.6 could be removed in its entirety.
- 7.35 The revised text of these two conditions is set out in Annex 9 and a marked up version showing the changes we are proposing to make can be seen at Annex 10.

Legal tests

- 7.36 We consider that the changes we are proposing to make to GC 17 and GC 20 meet the test for setting or modifying conditions set out in section 47(2) of the Act. Our proposed changes are:
- a) **objectively justifiable**, as they will ensure that Ofcom's powers to withdraw telephone numbers are consistent with its duty to secure best use of telephone numbers and to encourage efficiency for that purpose, and they will otherwise ensure that these conditions are clear and concise;
 - b) **not unduly discriminatory**, in that all CPs that provide an electronic communications network or service will be subject to the proposed changes;⁶³

⁶³ For the same reasons, we consider that our proposed amendment to paragraph 17.19 satisfies the requirement of section 61(5) of the Act.

- c) **proportionate**, as the changes are the minimum necessary to achieve the objective outlined above. In particular, we have sought to ensure that the proposed new power of withdrawal allows CPs a reasonable period of time within which to assign or recycle numbers; and
 - d) **transparent**, as the proposed changes are explained in this consultation document and set out in full in Annex 9. The proposed changes themselves seek to increase transparency by removing redundant provisions from GC 17 and GC 20 and simplifying their drafting.
- 7.37 In addition, we consider that we are fulfilling our general duty in relation to our telephone numbering functions, as set out in section 63 of the Act, by **securing the best use of telephone numbers** and **encouraging efficiency and innovation** for that purpose. In particular, the proposed new power of withdrawal will enable Ofcom to recycle dormant numbers and bring them back into use, thereby making better and more efficient use of numbers. Our other proposed changes will ensure that numbering policy is reflected in a clear and concise manner in GC 17, encouraging efficiency in relation to numbering administration and management.

Consultation questions

Question 5(a): *Do you agree with the proposed revised version of General Conditions 17 and 20? If not, please explain why you do not agree giving reasons.*

Question 5(b): *Are there any other modifications to General Conditions 17 and 20 that you consider would be appropriate? If so, please explain why.*

Section 8

Summary table of proposed changes

Introduction

8.1 The following table shows how we are proposing to revise and consolidate conditions 1-6, 8, 17 and 19-20. It sets out for each paragraph of the proposed new conditions, the corresponding paragraph(s) of the current GCs, a brief description of the changes we are proposing for consultation and includes a cross-reference to the relevant section of this consultation document where the proposed changes are explained.

Table

Proposed revised condition	Corresponding paragraph in the current condition	Brief description of proposed changes	Relevant paragraphs in this consultation document
GC 1 (General network access and interconnection obligations)			
GC 1.1	N/A	Inserted (scope)	§ 4.6
GC 1.2	GC 1.1	Minor drafting changes	§ 4.4
GC 1.3	GC 1.2	Amended (simplified)	§ 4.4
N/A	GC 1.3	Omitted	§ 4.5
N/A	GC 1.4	Definition of 'CP' replaced by 'Regulated Provider' and moved to revised GC 1.1 (scope)	§ 4.6
GC 2 (Standardisation and specified interfaces)			
GC 2.1	N/A	Inserted (scope)	§ 4.22
GC 2.2	GC 2.1	Minor drafting changes	§ 4.22
GC 2.3	GC 2.2 (1 st part)	Minor drafting changes, including incorporating definition of 'European Standards Organisations' and splitting GC 2.2 into two separate paragraphs	§ 4.22
GC 2.4	GC 2.2 (2 nd part)	Moved to a separate paragraph	§ 4.22
N/A	GC 2.3	Omitted	§§ 4.17-4.21
N/A	GC 2.4	Omitted	§§ 4.17-4.21

Proposed revised condition	Corresponding paragraph in the current condition	Brief description of proposed changes	Relevant paragraphs in this consultation document
N/A	GC 2.5	Omitted	§§ 4.17-4.21
N/A	GC 2.6	Omitted	§§ 4.17-4.21
Definitions Annex	GC 2.7	Omitted definitions: 'End-to-End Connectivity', 'Network Interconnection Interface', 'Network Interconnection Point' and 'Technical Characteristics' Definitions incorporated into the main text of the revised condition: 'Communications Provider' and 'European Standards Organisations'	§§ 4.21-4.22
Combined GC 3 and GC 4 (Availability of services and access to emergency services)			
GC 3.1	N/A	Inserted (scope)	§§ 4.41 and 4.63-4.64
N/A	GC 3.1(a)	Omitted	§§ 4.31-4.33
GC 3.2(a)	GC 3.1(b)	Retained (with minor drafting changes)	§§ 4.35-4.37
GC 3.2(b)	GC 3.1(c)	Retained (with minor drafting changes)	§§ 4.35-4.37
GC 3.3	Annex 3 to GC 14, paragraph 11(a)	Retained (with some drafting changes) and moved	§§ 4.38-4.39
N/A	Annex 3 to GC 14, paragraphs 5-7, 10 and 11(b)-(d)	Omitted	§ 4.40
N/A	GC 3.2	Omitted	§ 4.34
N/A	GC 3.3	Definition of 'CP' incorporated into revised scope at GC 3.1	§ 4.41
GC 3.4	GC 4.1	Extended to 'eCalls'	§§ 4.51-4.55
GC 3.5	GC 4.2	Minor drafting change	§ 4.48
GC 3.6(a)	GC 4.3(a)	Minor drafting change	§ 4.48
GC 3.6(b)	GC 4.3(b)	Drafting changes to clarify the meaning of 'exceptional circumstances'	§§ 4.65-4.66
GC 3.7	Annex 3 to GC 14, paragraph 12.(a) and (b)	Retained (with some drafting changes) and moved	§§ 4.57-4.59

Proposed revised condition	Corresponding paragraph in the current condition	Brief description of proposed changes	Relevant paragraphs in this consultation document
N/A	Annex 3 to GC 14, paragraphs (c) and (d)	Omitted	§§ 4.60-4.61
Definitions Annex	GC 4.4	<p>Inserted definitions: 'Apparatus' (used to define Mobile Service), 'eCall', 'Mobile Service' and 'Wireless Telegraphy' (used to define Mobile Service);</p> <p>Omitted definitions: 'Mobile Network';</p> <p>Definition incorporated into the main text of the revised condition: 'Communications Provider';</p> <p>Definitions moved to the Definitions Annex: 'Caller Location Information', 'Cell Identification', 'Click to Call Service', 'Pay Telephone' and 'Zone Code'</p>	§§ 4.65 and 4.67-4.69
GC 5 (Emergency planning)			
GC 5.1	N/A	Inserted (scope)	§§ 4.75-4.77
GC 5.2	GC 5.1	Minor drafting changes	§§ 4.75-4.77
GC 5.3	GC 5.2	Minor drafting change	§§ 4.75-4.77
GC 5.4	GC 5.3	Minor drafting changes	§§ 4.75-4.77
N/A	GC 5.4	Definitions of 'Communications Provider' and 'Disaster' incorporated into the main text of the revised condition	§§ 4.75-4.77
GC 6 (Public pay telephones)			
GC 6.1	N/A	Inserted (scope)	§ 5.22
N/A	GC 6.1	Omitted	§§ 5.4
GC 6.2(a)	GC 6.2(a)	Retained	§§ 5.5-5.7
N/A	GC 6.2(b)	Omitted	§§ 5.5-5.7
GC 6.2(b)	GC 6.2(c)	Retained	§§ 5.5-5.7
GC 6.2(c)	GC 6.2(d)	Retained	§§ 5.5-5.7

Proposed revised condition	Corresponding paragraph in the current condition	Brief description of proposed changes	Relevant paragraphs in this consultation document
GC 6.2(d)	GC 6.2(e)	Retained	§§ 5.5-5.7
N/A	GC 6.3(a)-(b)	Omitted	§§ 5.8-5.15
N/A	GC 6.3(c)	Omitted	§§ 5.16-5.17
N/A	GC 6.3(d)	Omitted	§§ 5.18-5.21
N/A	GC 6.4	Omitted definitions: 'Hull Area' and 'Public Call Box'; Definition of 'Communications Provider' incorporated into the main text of the revised condition Definition of 'Public Pay Telephone' simplified	§§ 5.22-5.24
Combined GC 8 and GC 19 (Directory Information)			
GC 8.1	N/A	Inserted (scope)	§ 6.24
N/A	GC 8.1(a)	Omitted	§§ 6.5-6.8
N/A	GC 8.1(b)	Omitted	§§ 6.9-6.14
GC 8.2	GC 19	Significantly shortened and simplified	§§ 6.29-6.33
GC 8.3	GC 8.2	Shortened and simplified	§§ 6.15-6.16
GC 8.4 and GC 8.5	GC 8.3	Drafting changes and paragraph split into two separate paragraphs	§§ 6.23
GC 8.6	GC 8.4	Retained with some changes and split into two sub-paragraphs	§§ 6.17-6.22
GC 8.7	GC 8.5	Retained	§ 6.26
N/A	GC 8.6	Definition of 'Communications Provider' incorporated into the main text of the revised condition	§ 6.24
GC 17 (Allocation, adoption and use of numbers)			
GC 17.1	N/A	Inserted (scope)	§ 7.22
GC 17.2	GC 17.1	Retained (no changes)	§ 7.23
GC 17.3	GC 17.2	Retained (no changes)	§ 7.23

Proposed revised condition	Corresponding paragraph in the current condition	Brief description of proposed changes	Relevant paragraphs in this consultation document
GC 17.4	GC 17.3	Retained (no changes)	§ 7.23
GC 17.5	GC 17.4	Retained (no changes)	§ 7.23
GC 17.6	GC 17.5	Retained (no changes)	§ 7.23
GC 17.7	GC 17.6	Retained (no changes)	§ 7.23
GC 17.8	GC 17.7	Retained (no changes)	§ 7.23
GC 17.9	GC 17.8	Retained (no changes)	§ 7.23
GC 17.10	GC 17.9	Amended	§ 7.7-7.8
GC 17.11	GC 17.10	Retained (cross-reference updated)	§ 7.9
N/A	GC 17.11	Omitted	§ 7.10
N/A	GC 17.12	Omitted	§ 7.10
GC 17.12	GC 17.13	Retained (no changes)	§ 7.23
GC 17.13	GC 17.14	Retained (no changes)	§ 7.23
GC 17.14	GC 17.15	Retained (cross-reference updated)	§ 7.23
GC 17.15	GC 17.16	Retained (no changes)	§ 7.23
GC 17.16	GC 17.17	Retained (no changes)	§ 7.23
GC 17.17	GC 17.18	Retained (cross-reference updated)	§ 7.23
GC 17.18(a)	GC 17.19(a)	Retained (no changes)	§§ 7.11-7.21
GC 17.18(b)	GC 17.19(b)	Retained (no changes)	§§ 7.11-7.21
GC 17.18(c)	N/A	Inserted	§§ 7.11-7.21
N/A	GC 17.20	Omitted	§ 7.4
N/A	GC 17.21	Omitted	§ 7.4
GC 17.19	GC 17.22	Retained (removing reference to the 'Effective Date' and updating a cross-reference)	§ 7.4

Proposed revised condition	Corresponding paragraph in the current condition	Brief description of proposed changes	Relevant paragraphs in this consultation document
GC 17.20	GC 17.23	Retained (cross-reference updated)	§ 7.6
GC 17.21	GC 17.24	Retained (no changes)	§ 7.6
GC 17.22	GC 17.25	Retained (no changes)	§ 7.6
GC 17.23	GC 17.26	Retained (cross-reference updated)	§ 7.6
GC 17.24	GC 17.27	Retained (no changes)	§ 7.6
GC 17.25	GC 17.28	Retained (no changes)	§ 7.6
GC 17.26	GC 17.29	Retained (cross-reference updated)	§ 7.6
GC 17.27	GC 17.30	Retained (no changes)	§ 7.6
GC 17.28	GC 17.31	Retain, but amend in order to remove redundant (time-expired) requirements	§ 7.5
GC 17.29	GC 17.32	Retained (cross-reference updated)	§ 7.6
Definitions Annex	GC 17.33	<p>Omitted definition: 'Effective Date';</p> <p>Definition of 'Communications Provider' incorporated into the main text of the revised condition;</p> <p>For 'Universal Service Obligation' in the definition of 'Public Payphone Number', substitute 'Universal Service Condition';</p> <p>All remaining definitions moved to the Definitions Annex.</p>	<p>§ 7.5 on GC 17.33(m) ('Effective Date')</p> <p>§§ 7.22-7.27</p>
GC 20 (Access to numbers and services)			
GC 20.1	N/A	Inserted (scope)	§ 7.34
GC 20.2	GC 20.1	Minor drafting change and reference to the 'European Telephone Numbering Space' omitted	§§ 7.30 and 7.32

Proposed revised condition	Corresponding paragraph in the current condition	Brief description of proposed changes	Relevant paragraphs in this consultation document
GC 20.3	GC 20.2	Retained (no substantive change)	§ 7.30
GC 20.4	GC 20.3	Retained (no substantive change)	§ 7.31
N/A	GC 20.4	Omitted	§ 7.32
GC 20.5	GC 20.5	Minor drafting changes and clarification of its scope of application	§7.33
N/A	GC 20.6	Definition of 'Communications Provider' amended and incorporated into the main text of the revised condition	§ 7.34

Section 9

Consequential changes

Introduction

- 9.1 Our proposed amendments to the GCs and, in particular to GC 17, would require certain consequential amendments to be made to the National Telephone Numbering Plan (the '**Numbering Plan**') and to the Premium Rate Services Condition (the "**PRS Condition**").

Changes to the Numbering Plan

- 9.2 We consider that the following consequential amendments to the Numbering Plan will be required:
- a) an amendment to the definitions of 'Access Charge', 'Service Charge' and 'Portability' so that they cross-refer to the proposed definitions Annex of the new GCs (rather than, as at present, to the definitions of those terms in GC 17 and GC 18);
 - b) an amendment to paragraph 2(i) of the 'Definitions and Interpretation' section so that it cross-refers to the proposed definitions Annex of the new GCs (rather than, as at present, to the definitions in Part 1 of the GCs);
 - c) amendments to references throughout the Numbering Plan to specific paragraphs of GC 17, to reflect our proposed deletion of paragraphs from GC 17 and subsequent paragraph renumbering.
- 9.3 However, we are not formally consulting on changes to the Numbering Plan at this time, in case the proposals set out in our second consultation on the remaining general conditions would result in GC 17 and GC 18 being renumbered in their entirety (which would then necessitate further amendments to the Numbering Plan).
- 9.4 We intend to consult on all consequential amendment to the Numbering Plan as part of our second consultation later this year.

Changes to the PRS Condition

- 9.5 We propose to amend the definition of 'Service Charge' in the PRS Condition so that it cross-refers to the proposed definitions Annex of the new GCs (rather than, as at present, to the definition of that term in GC 17).
- 9.6 A notification setting out our proposed amendment to the PRS Condition is at Annex 6 of this document. The proposed new definition of 'Service Charge' refers to the date on which the notification setting the new general conditions is issued. This date cannot be specified at this point in time, but will be inserted into the final amendment.

Consultation questions

Question 6(a): *Do you agree with the changes we are proposing to make to the Numbering Plan and the PRS Condition, as set out in this consultation? If not, please explain why you do not agree, giving reasons.*

Question 6(b): *Are there any other consequential changes that you consider would be appropriate? If so, please explain why giving reasons.*

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written comments or representations on the proposals set out in this document, to be made **by 11 October 2016 (5pm)**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/review-general-conditions/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email gcreview@ofcom.org.uk, attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- Selene Rosso
Ofcom
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 how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Selene Rosso (Selene.Rosso@ofcom.org.uk) or Robert Wells (Robert.Wells@ofcom.org.uk) by email or on 020 7981 3000.

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 you think your response should be kept confidential, can you please specify what part or whether

all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

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

Ofcom's consultation processes

- A1.11 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.12 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.
- A1.13 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Steve Gettings, Secretary to the Corporation, who is Ofcom's consultation champion:

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

Tel: 020 7783 4652

Email Steve.Gettings@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 questions

Question 1(a): Do you agree with our overall approach to this review of the general conditions as set out in Section 3 of this consultation? If you do not agree, please explain why, giving reasons for your views.

Question 1(b): In particular, do you have any alternative suggestions for how to approach the definitions used in the general conditions? If so, please explain why, giving reasons for your views.

Question 2(a): Do you agree with the changes we are proposing to make to General Conditions 1 to 5, as set out in this consultation? If not, please explain why you do not agree, giving reasons.

Question 2(b): Are there any other modifications to General Conditions 1 to 5 that you consider would be appropriate? If so, please explain why giving reasons.

Question 3(a): Do you agree with the proposed revised version of General Condition 6? If not, please explain why and provide reasons.

Question 3(b) Do you agree with Ofcom's proposals to remove the requirement to display the means by which charges must be paid on or around PCBs?

Question 3(c) Do you consider the requirements to display the location of the public pay telephone and whether or not the public pay telephone is available to receive a call, and if so, the telephone number of the public pay telephone to be necessary requirements? If so, please explain why.

Question 3(d) Do you consider that the specific requirements in relation to the accessibility of PCBs and the removal of PCBs in GC 6.3 are no longer necessary to ensure adequate protection of the interests of end users with disabilities? If you do not agree, please explain why.

Question 3(e): Is there any other modification to General Condition 6 that you consider appropriate? If so, please explain why.

Question 4(a): Do you agree with the proposed revised version of the condition that would combine General Conditions 8 and 19, as set out in this consultation? If not, please explain why you do not agree giving reasons.

Question 4(b): In particular, do you agree with the proposal to retain the obligation to provide subscribers with printed directories on request, rather than moving to electronic directories?

Question 4(c): Are there any other modifications to General Conditions 8 and 19 that you consider would be appropriate? If so, please explain why giving reasons.

Question 5(a): Do you agree with the proposed revised version of General Conditions 17 and 20? If not, please explain why you do not agree giving reasons.

Question 5(b): Are there any other modifications to General Conditions 17 and 20 that you consider would be appropriate? If so, please explain why.

Question 6(a): Do you agree with the changes we are proposing to make to the Numbering Plan and the PRS Condition, as set out in this consultation? If not, please explain why you do not agree, giving reasons.

Question 6(b): Are there any other consequential changes that you consider would be appropriate? If so, please explain why giving reasons.

Annex 5

Notification proposing to revoke existing conditions and set new General Conditions

Notification of Ofcom's proposals to revoke general conditions 1 to 6, 8, 17, 19 and 20 and set new general conditions under sections 48(1) and 48A(3) of the Communications Act 2003

1. Ofcom, in accordance with sections 48(1) and 48A(3) of the Act, hereby makes the following proposals for:
 - a) revoking the current General Conditions 1 to 6, 8, 17, 19 and 20 of the General Conditions of Entitlement, as set by the General Condition Notification; and
 - b) setting new General Conditions.
2. The new General Conditions that Ofcom is proposing to make are set out in the Schedule to this Notification, which is published as a separate Annex (Annex 9).
3. The effect of, and Ofcom's reasons for making, the proposals referred to in paragraph 1 above is set out in the accompanying consultation document.
4. Ofcom considers that these proposals comply with the requirements of sections 45 to 49C of the Act, insofar as they are applicable.
5. Ofcom considers that these proposals are not of EU significance pursuant to section 150A(2) of the Act.
6. In making these proposals, 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.
7. Any direction which is currently in force, made under the current General Conditions that Ofcom is proposing to revoke, will continue to have effect after revocation, unless Ofcom removes the relevant direction-making power from the corresponding General Condition that Ofcom is proposing to set.⁶⁴
8. Representations may be made to Ofcom about the proposals set out in this Notification by **11 October 2016 (5pm)**.

⁶⁴ Ofcom's direction under General Condition 17.9(a) set out in Annex 4 to the Ofcom's statement of 1 December 2014 entitled "Telephone number application form", as amended by Ofcom on 1 July 2015, will cease to have effect if Ofcom's proposal to remove General Condition 17.9(a) is implemented.

9. If implemented, the new General Conditions that Ofcom is proposing to make shall enter into force on the date of publication of the final Notification or such later date as specified therein.
10. Copies of this Notification and the accompanying consultation document have been sent to the Secretary of State in accordance with section 48C(1) of the Act.
11. In this Notification:
 - a) **“the 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”.
12. 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.
13. For the purposes of interpreting this Notification: (i) headings and titles shall be disregarded; and (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
14. The Schedule to this Notification shall form part of this Notification.

Signed by



Polly Weitzman

General Counsel

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

2 August 2016

Annex 6

Notification of proposed modification to the Premium Rate Services Condition under section 120A(3) of the Act

Proposal to modify the PRS Condition

1. Ofcom proposes to modify the PRS Condition. The draft modification is set out in the Schedule to this Notification.
2. Ofcom's reasons for making this proposal, and the effect of the proposed modification, are set out in the accompanying consultation document.
3. Ofcom considers that the proposal complies with the requirements of sections 47, 120 and 120A of the Act, insofar as they are applicable.
4. In making this proposal, Ofcom has 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.
5. Representations may be made to Ofcom about the proposal until **5pm on 11 October 2016**.
6. If implemented, the modification shall enter into force on a date to be specified in Ofcom's final statement in relation to this proposal.
7. A copy of this Notification and the accompanying consultation document is being sent to the Secretary of State.
8. In this Notification:
 - a) "**the Act**" means the Communications Act 2003;
 - b) "**Ofcom**" means the Office of Communications; and
 - c) "**PRS Condition**" means the condition set under section 120 of the Act by the Director General of Telecommunications on 23 December 2003, as amended from time to time.
9. 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.
10. For the purposes of interpreting this Notification: (i) headings and titles shall be disregarded; and (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
11. The Schedule to this Notification shall form part of this Notification.



Polly Weitzman

General Counsel

2 August 2016

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

Schedule

1. The definition of 'Service Charge' in paragraph 2(t) of the PRS Condition shall be deleted in its entirety and replaced with the following:

“Service Charge” shall have the meaning ascribed to that term in Annex 1 (Definitions) of the Schedule to the Notification issued by Ofcom on [*date to be inserted – will be date on which notification setting new general conditions is issued*] setting general conditions under section 48(1) of the Act (as that Schedule may be modified from time to time);

Annex 7

Equality impact assessment

Introduction

- A7.1 Ofcom is required by statute to assess the potential impact of all our functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.⁶⁵ We refer to groups of people with these protected characteristics as equality groups.
- A7.2 We fulfil these obligations by carrying out an Equality Impact Assessment (EIA), which examines the potential impact our proposed policy is likely to have on people, depending on their personal circumstances. 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 and identity.
- A7.3 We have not considered it necessary to carry out separate EIAs in relation to the additional equality groups in Northern Ireland: political opinion and dependants. This is because we anticipate that our proposals would not have a differential impact in Northern Ireland compared to consumers in general.

The aims of our Review of the General Conditions

- A7.4 Our review seeks to make the general conditions fit for purpose in today's market and reflect our current policy priorities and concerns. The objectives of this review are to make the GCs clearer and more practical, to make it easier for businesses to comply with them and to establish processes to ensure compliance. We think this should also make it quicker and easier for us to enforce the GCs, as and when necessary, so as to protect the interests of consumers. In light of these objectives, we expect that our Review will bring benefits to UK consumers in general, including the equality groups.

Equality impact assessment

- A7.5 We do not consider that the changes we propose to make to the general conditions considered in this consultation document will have any disproportionate impact on any equality group.
- A7.6 We note, in particular, that the changes we are proposing in Section 5 of this document (Public Pay Telephones) include the removal of certain measures put in place to protect the interests of disabled people. However, we do not consider that the proposals will have any significant negative effect.
- A7.7 While we are proposing to remove the requirements that relate to the accessibility of Public Calls Boxes ('PCB'), this is on the basis that sector-specific regulation is no longer necessary because providers of PCBs have met current targets for accessible PCBs and are currently only installing PCBs of an accessible design. In

⁶⁵ As defined in the Equality Act 2010.

addition, the interests of disabled people are now protected through the provisions of the Equality Act 2010.

- A7.8 In relation to our proposals to remove regulation in relation to the adequate provision of PCBs incorporating textphone facilities, text relay is now widely available on smartphones via the NGT Lite app. There is no evidence of demand for new public textphones and there is evidence that the use of textphone from PCB is extremely low. Given the low usage and availability of other means of accessing text relay, we do not consider that our proposals will have a significant negative effect.
- A7.9 We also note that the changes we are proposing in Section 6 of this document (Directory Information) include the removal of certain regulatory obligations concerning operator assistance services and directory enquiry services. As explained in that Section, our provisional view is that these proposals would not have any significant impact on the market. Therefore, we do not consider that our proposals in relation to operator assistance services and directory enquiry services will have any significant negative effect on any equality group.
- A7.10 The only area in this consultation where we are proposing to extend regulation is in relation to Ofcom's powers to withdraw number allocations, where those numbers have not been allocated or are dormant. We do not expect this to have any impact on end-users of any description, and therefore it will not affect any equality group.
- A7.11 We do not think that any of the other changes which we are proposing for consultation will have any material impact on any of the equality groups.

Provisional conclusions

- A7.12 Subject to consideration of any comments received in response to this consultation, we do not believe that our proposals would have any detrimental impact on any of the relevant equality groups.

Annex 8

Glossary

A8.1 The following terms have been used in this document and are defined as follows:

- **Act** means the Communications Act 2003 (2003 c. 21);
- **Access Directive** means Directive 2002/19/EC, as revised in 2009;
- **Authorisation Directive** means Directive 2002/20/EC, as revised in 2009;
- **CP** means communications provider (see footnote 2);
- **DCR Consultation** means Ofcom's document of 16 July 2015 entitled "Strategic Review of Digital Communications. Discussion document",⁶⁶
- **DCR Statement** means Ofcom's Statement of 25 February 2016 entitled "Making communications work for everyone. Initial conclusions from the Strategic Review of Digital Communications";⁶⁷
- **EU Framework** means the European framework consisting of the following five Directives: the Framework Directive, the Authorisation Directive, the Access Directive, the Universal Service Directive and the Privacy and Electronic Communications Directive;
- **Framework Directive** means ('FD') means Directive 2002/21/EC, as revised in 2009;
- **General Condition ('GC')** means a general condition imposed by Ofcom under section 45(2)(a) of the Act;
- **Numbering Plan** means the National Telephone Numbering Plan;
- **PATS** means a publicly available telephone service;
- **PCB** means Public Call Box;
- **Privacy and Electronic Communications Directive** means Directive 2002/58/EC, as revised in 2009;
- **Universal Service Directive ('USD')** means Directive 2002/22/EC, as revised in 2009.

⁶⁶ http://stakeholders.ofcom.org.uk/binaries/consultations/dcr_discussion/summary/digital-comms-review.pdf

⁶⁷ <http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/digital-comms-review/DCR-statement.pdf>