

NOTIFICATION OF PROPOSALS UNDER SECTION 48A OF THE COMMUNICATIONS ACT 2003

Proposals for the setting of SMP services conditions in relation to BT under section 45 of the Communications Act 2003

Background

- A1.1 On 15 May 2015, the Office of Communications (“Ofcom”) published its consultation document entitled “*Business Connectivity Market Review, Review of competition in the provision of leased lines*” (“**BCMR Consultation**”).
- A1.2 Annex 6 of the BCMR Consultation sets out the Notification (“**BCMR Notification**”) under sections 48A and 80A of the Communications Act 2003 (“**Act**”), in accordance with sections 48(1) and section 80(1) of the Act, in which Ofcom proposes to:
- a) identify certain markets;
 - b) make market power determinations; and
 - c) set SMP services conditions.
- A1.3 In the BCMR Notification, Ofcom proposes to identify, among others, the following markets for the purpose of making proposed market power determinations:
- a) wholesale market for low bandwidth traditional interface symmetric broadband origination in the UK excluding the Hull Area, at bandwidths up to and including 8Mbit/s;
 - b) wholesale market for contemporary interface symmetric broadband origination in the Rest of the UK excluding the Hull Area; and
 - c) wholesale market for contemporary interface symmetric broadband origination in the London Periphery.
- A1.4 In the BCMR Notification, Ofcom makes a proposed market power determination for BT in relation to all markets set out in A1.3 above.
- A1.5 In the BCMR Notification, Ofcom proposes to set certain SMP service conditions on BT in relation to such of those markets it proposes to identify as are specified in Schedule 6 to the BCMR Notification. Ofcom stated in the BCMR Notification that its proposals for SMP charge control conditions on BT in the markets referred to at paragraphs A1.3(a) to A1.3(c) above would be set out in a separate notification.
- A1.6 On 12 June 2015, Ofcom published a document entitled “*Business Connectivity Market Review: Leased lines charge controls and dark fibre pricing*” (the “**Leased Lines Charge Control Consultation**”). Annex 15 of the Leased Lines Charge Control Consultation set out the Notification under sections 48A and 80A of the Act in which Ofcom proposed to set the charge controls in respect of the markets referred to at paragraphs A1.3(a) to A1.3(c) above (the “**Leased Lines Charge Control Notification**”). These proposals were made by reference to the proposed market power determinations referred to in the BCMR Notification and, as such, were to be treated as supplementary to the BCMR Notification.

- A1.7 The periods within which representations could be made to Ofcom about its proposals in both the BCMR Consultation and the Leased Lines Charge Control Consultation ended on 31 July 2015 and 7 August 2015 respectively. Ofcom received representations from several respondents to the proposals set out in the BCMR Consultation and the Leased Lines Charge Control Consultation. In light of Ofcom's consideration of certain representations and further analysis, in this Notification Ofcom sets out its further proposals in relation to certain of the SMP charge control conditions proposed to be set in respect of BT in the markets set out at paragraphs A1.3(a) to A1.3(c) above.

Proposals

Proposed amendments to proposed SMP services condition 5A – Controls on the Ethernet Services Basket

- A1.8 Ofcom hereby gives notice of its proposals, in accordance with section 48A of the Act, in relation to the markets set out at paragraphs A1.3(b) and A1.3(c) above to set the SMP charge control conditions on BT as set out in proposed Condition 5A in Annex 15 to the Leased Lines Charge Control Consultation, as amended by Schedule 1 to this Notification, pursuant to their powers under section 87(9) of the Act. Consequently, the Leased Lines Charge Control Notification should be read accordingly. It is proposed that Condition 5A will take effect from the date of any notification under section 48(1) of the Act adopting the proposals set out in this Notification.
- A1.9 The effect of, and the reasons for making, the amendments set out above at paragraph A1.8 are set out in the consultation document accompanying this Notification.

Proposed amendments to proposed SMP services condition 5D – Controls on the TI Services Basket

- A1.10 Ofcom hereby gives notice of its proposals, in accordance with section 48A of the Act, in relation to the market set out at paragraph A1.3(a) above to set the SMP charge control conditions on BT as set out in proposed Condition 5D in Annex 15 to the Leased Lines Charge Control Consultation, as amended by Schedule 2 to this Notification, pursuant to their powers under section 87(9) of the Act. Consequently, the Leased Lines Charge Control Notification should be read accordingly. It is proposed that Condition 5D will take effect from the date of any notification under section 48(1) of the Act adopting the proposals set out in this Notification.
- A1.11 The effect of, and the reasons for making, the amendments set out above at paragraph A1.10 are set out in the consultation document accompanying this Notification.

Ofcom's duties and legal tests

- A1.12 For the reasons set out in the consultation document accompanying this Notification, in making the proposals referred to in this Notification, Ofcom has:
- a) considered and acted in accordance with its general duties set out in section 3 of the Act and the six Community requirements in section 4 of the Act;

- b) taken due account of all applicable recommendations in accordance with section 4A of the Act; and
- c) taken utmost account of any relevant opinion, recommendation, guidance advice or regulatory practice adopted by BEREC in accordance with Article 3(3) of Regulation (EC) No 1211/2009.

A1.13 For the reasons set out in the consultation document accompanying this Notification, Ofcom is satisfied that all applicable legal tests would be met if the proposed SMP charge control conditions were to be imposed on BT, including the tests in sections 88 and 47(2) of the Act.

Representations

A1.14 Representations may be made to Ofcom about the proposals set out in this Notification and the accompanying consultation document no later than 14 December 2015.

A1.15 A copy 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.

Interpretation

A1.16 Except for reference made to proposed identified markets in paragraph A1.3 above, and except also as otherwise defined in this Notification, words or expressions used shall have the same meaning as in the Act.

A1.17 In this Notification:

“**Act**” means the Communications Act 2003 (c. 21);

“**BT**” means British Telecommunications plc, whose registered company number is 1800000 and any British Telecommunications plc subsidiary or holding company, or any subsidiary of that holding company, all as defined in section 1159 of the Companies Act 2006;

“**Central London Area or CLA**” means the area consisting of the postal sectors set out in Schedule 1 to the BCMR Notification;

“**Hull Area**” means the area defined as the ‘Licensed Area’ in the licence granted on 30 November 1987 by the Secretary of State under section 7 of the Telecommunications Act 1984 to Kingston upon Hull City Council and KCOM Group plc, whose registered company number is 2150618;

“**London Periphery or LP**” means the area consisting of the postal sectors set out in Schedule 2 to the BCMR Notification;

“**Ofcom**” means the Office of Communications;

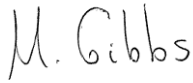
“**Rest of UK or RoUK**” means the area consisting of the UK excluding the CLA and the London Periphery;

“**United Kingdom**” has the meaning given to it in the Interpretation Act 1978 (1978 c30).

A1.18 For the purpose of interpreting this Notification:

- a) headings and titles shall be disregarded; and
- b) the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.

A1.19 The Schedules to this Notification shall form part of this Notification.

A handwritten signature in black ink, appearing to read 'M. Gibbs'.

Competition Policy Director, Ofcom

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

13 November 2015

Schedule 1

Condition 5A

Controls of the Ethernet Services Basket

5A.1 Subject to the provisions set out in Condition **5A.15**, the Dominant Provider shall take all reasonable steps to secure that on 1 April 2016 for each of:

- (i) the Ethernet Services Basket;
- (ii) the Ethernet Interconnection Sub-basket;
- (iii) the Ethernet 1Gbit/s EAD Sub-basket;
- (iv) the Ethernet Main Link Sub-basket,

(each of which is referred to in Condition **5A** as “**Basket**” unless otherwise specified) the Percentage Starting Charge Change (determined in accordance with Condition **5A.2** below) in the aggregate of charges for all of the services falling within the relevant Basket is not greater than minus 9 10 percentage points.

(...)

5A.7 Subject to the provisions set out in Conditions **5A.8** to **5A.10** below, the Controlling Percentage in relation to any Relevant Year for each of the Baskets specified in Conditions **5A.5(i)** to **5A.5(iv)** shall be calculated, for the purposes of complying with Condition **5A.5**, by employing the following formula:

$$CP_t = CPI_t + X$$

Where:

CP_t is the Controlling Percentage for Relevant Year t ,

CPI_t is CPI for the Relevant Year, t ,

X is equal to ~~-13.75~~ -12.50 percentage points.

(...)

Schedule 2

Condition 5D

Controls of the TI Services Basket

5D.1 Subject to the provision set out in Condition **5D.14**, the Dominant Provider shall take all reasonable steps to secure that on 1 April 2016 for each of:

- i. the TI Services Basket; and
- ii. the TI Mobile Services Sub-basket,

(each of which is referred to in Condition **5D** as “**Basket**” unless otherwise specified) the Percentage Starting Charge Change (determined in accordance with Condition **5D.2** below) in the aggregate of charges for all of the services falling within the relevant Basket is not greater than minus ~~7.75~~ 5 percentage points.

(...)

5D.7 Subject to the provisions set out in Conditions **5D.8** to **5D.10** below, the Controlling Percentage in relation to any Relevant Year for the Baskets specified in Conditions **5D.5(i)** and **5D.5(ii)** shall be calculated, for the purposes of complying with Condition **5D.5**, by employing the following formula:

$$CP_t = CPI_t + X$$

Where:

CP_t is the Controlling Percentage for Relevant Year t ,

CPI_t is CPI for the Relevant Year, t ,

X is equal to ~~-12.25~~ -3.50 percentage points.

(...)

Proposal for direction – Consistency with regulatory decisions

Notification of proposal under sections 49 and 49A of the Communications Act 2003 and proposed SMP Services Condition 11.4 specifying the requirements in relation to consistency with regulatory decisions

Background

1. On 20 May 2014, Ofcom published a policy statement entitled “*Regulatory Financial Reporting – Final Statement*” (“**2014 RFR Statement**”), which set out Ofcom’s conclusions on the requirements for regulatory financial reporting that Ofcom considered should be applied to BT in markets in which BT has significant market power. Ofcom decided among other things to introduce new Regulatory Accounting Principles which principles will include a requirement for “Consistency with regulatory decisions” (“**Principle 4**”).
2. On 15 May 2015, Ofcom published a consultation document entitled “*Business Connectivity Market Review – Review of competition in the provision of leased lines*” (“**BCMR Consultation**”). At Annex 6 of the BCMR Consultation, Ofcom proposed, in relation to the markets set out below, to impose, among other things, SMP services conditions with respect to regulatory accounting on BT (condition 11) which Ofcom concluded in the 2014 RFR Statement should be applied to BT:
 - Wholesale market for low bandwidth traditional interface symmetric broadband origination in the UK excluding the Hull Area, at bandwidths up to and including 8Mbit/s;
 - Wholesale market for contemporary interface symmetric broadband origination in the Rest of the UK excluding the Hull Area;
 - Wholesale market for contemporary interface symmetric broadband origination in the London Periphery.
3. Under proposed condition 11.8 set out at Annex 6 of the BCMR Consultation, BT will be required to comply with, among other things, the Regulatory Accounting Principles.
4. Under proposed condition 11.4 set out at Annex 6 of the BCMR Consultation, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under the proposed conditions.
5. On 12 June 2015, Ofcom published a document entitled “*Business Connectivity Market Review: Leased lines charge controls and dark fibre pricing*” (“**Leased Lines Charge Control Consultation**”). Annex 15 of the Leased Lines Charge Control Consultation set out the Notification under sections 49 and 49A of the Act in which Ofcom made proposals in relation to Principle 4 of the Regulatory Accounting Principles (“**Leased Lines Charge Control RFR Notification**”).
6. In this Notification Ofcom revises certain proposals made in the Leased Lines Charge Control RFR Notification and sets out its further proposals in relation to Principle 4 of

the Regulatory Accounting Principles. The revised proposals and new proposals are shown as deletions and insertions included in the Leased Lines Charge Control RFR Notification.

Proposed amendments to proposed requirements in relation to Principle 4 of the Regulatory Accounting Principles

7. Ofcom hereby gives notice of its proposals, in accordance with section 49(2) of the Communications Act 2003 (“**Act**”) to make the proposed direction, as amended by the Schedule to this Notification. Consequently, the Leased Lines Charge Control RFR Notification should be read accordingly.
8. The effect and reasons for giving the proposed direction are set out in the BCMR Consultation, the Leased Lines Charge Control Consultation and in the consultation accompanying this Notification.

Ofcom’s duties and legal tests

9. Ofcom considers that the proposed direction referred to in paragraph 7 complies with the requirements of section 49(2) of the Act.
10. In making the proposal referred to in paragraph 7, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making representations

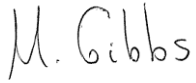
11. Representations may be made to Ofcom about the proposals set out in this Notification and the accompanying consultation by no later than 14 December 2015.
12. In accordance with section 49C(1)(a) of the Act, a copy of the Notification, together with the Schedule, has been sent to the Secretary of State.

Interpretation

13. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP services conditions set out in Annex 6 of the BCMR Consultation, Annex 15 of the Leased Lines Charge Control Consultation and in the consultation accompanying this Notification.

Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink that reads "M. Gibbs". The signature is written in a cursive, slightly stylized font.

Marina Gibbs
Competition Policy Director, Ofcom

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

13 November 2015

Schedule

Part 1: Definitions and Interpretation

In this Schedule:

“**20CN**” means that part of BT’s network which does not use the assets deployed by 21CN or NGA;

“**21CN**” means BT’s next generation network upgrade;

“**BCMR Markets**” means the markets set out in paragraph 2 of the Notification;

“**BT Group PAC**” means the cost attribution methodology specifying that:

- (a) costs must be attributed pro-rata to each and every cost category (e.g. activity group, plant group, residual) that has previously received an allocation of one or more of the following: (i) current pay costs, (ii) non-pay costs (excluding POLOs, other operating income and software capitalisation credits), (iii) capital expenditure at that that level of the Regulatory Accounting System; and
- (b) the pro-rata attribution to each cost category referred to in paragraph (a) of this definition must be calculated by dividing the total cost of (i) current pay costs, (ii) non pay costs, and (iii) capital expenditure included in that cost category by the total cost of (i) current pay costs, (ii) non pay costs, and (iii) capital expenditure in all cost categories at that level of the Regulatory Accounting System;

“**BT Group Pay**” means the cost attribution methodology specifying that:

- (a) costs must be attributed pro-rata to each and every cost category (e.g. activity group, plant group, residual) that has previously received an allocation of pay costs (current or capital pay associated with in-year pay costs) at that level of the Regulatory Accounting System; and
- (b) the pro-rata attribution to each cost category referred to in paragraph (a) of this definition must be calculated by dividing the pay costs in that cost category by the total pay costs in all cost categories at that level of the Regulatory Accounting System;

“**BT Group Employees**” means the cost attribution methodology specifying that:

- (a) costs must be attributed pro-rata to any cost category (e.g. activity group, plant group, residual) that has previously received an allocation of factorised pay costs (current or capital pay associated with in-year pay costs) at that level of the Regulatory Accounting System;
- (b) the pro-rata attribution to each cost category referred to in paragraph (a) of this definition must be calculated by dividing the factorised pay costs in that cost category by the total factorised pay costs in all cost categories at that level of the Regulatory Accounting System; and
- (c) factorised pay referred to in paragraph (b) of this definition means that the pay costs have been adjusted to take account of the number of employees within each BT line of business by multiplying the pay costs in a line of business by a pay factor equal to the average pay per employee in all of BT Group divided by the average pay per employee in that line of business;

“BT Wholesale PAC” means the cost attribution methodology specifying that:

- (a) costs must be attributed pro-rata to each and every cost category (e.g. activity group, plant group, residual) that has previously received an allocation of one or more of the following: (i) BT Wholesale current pay costs, (ii) BT Wholesale non-pay costs (excluding POLOs, other operating income and software capitalisation credits), (iii) BT Wholesale capital expenditure at that level of the Regulatory Accounting System;
- (b) the pro-rata attribution to each cost category referred to in paragraph (a) of this definition must be calculated by dividing the total cost of (i) BT Wholesale current pay costs, (ii) BT Wholesale non-pay costs, and (iii) BT Wholesale capital expenditure included in that cost category by the total cost of (i) BT Wholesale current pay costs, (ii) BT Wholesale non-pay costs, and (iii) BT Wholesale capital expenditure in all cost categories at that level of the Regulatory Accounting System;

“Cumulo costs” means the non-domestic (business) rates that BT pays on its Cumulo Rateable Assets within the United Kingdom;

“Cumulo Rateable Assets” means the assets that make up BT’s Cumulo non domestic rating assessments in the United Kingdom as defined for England in The Central Rating List (England) Regulations 2005 (SI 2005/551), as amended by The Central Rating List (Amendment) (England) Regulations 2006 (SI 2006/495) and The Central Rating List (Amendment) (England) Regulations 2008 (SI 2008/429), and the analogous legislation that define these assets in Wales, Scotland and Northern Ireland;

“EE” means EE Limited, whose registered company number is 02382161;

“Estimated Electricity Consumption” means the cost attribution methodology specifying that the costs of electricity must be attributed pro-rata to each cost category (e.g. activity group, plant group, residual) on the basis of the Estimated Electricity Consumption of each Equipment Type where the Estimated Electricity Consumption shall be calculated by using the following formula:

$$\text{Estimated Electricity Consumption} = \frac{\text{Theoretical power rating of the Equipment Type} \times \text{Volume of Equipment} \times \text{Utilisation of Equipment (as a percentage of maximum capacity)}}{\text{}}$$

“Equipment Type” means the equipment which is solely used to provide a specific Product or support a specific asset;

“Featurenet” means the Network Services listed by BT at the following link:

<https://www2.bt.com/static/i/btretail/panretail/terms/bt022.htm>;

“Gross Replacement Cost or GRC” means the cost of replacing an existing tangible fixed asset with an identical or substantially similar new asset having a similar production or service capacity;

“Net Replacement Cost” means the Gross Replacement Cost less accumulated depreciation based on Gross Replacement Cost;

“Next Generation Access or NGA” means the wired access networks which consist wholly or in part of optical elements and which are capable of delivering broadband access services with enhanced characteristics as compared to those provided over already existing copper networks;

“NGA related Cumulo costs” means the element of BT’s Cumulo costs within the United Kingdom that is directly attributable to NGA Network Components;

“NGA Network Components” means the Network Components which are used solely to supply VULA services;

“Non-NGA Network Components” means the Network Components other than the NGA Network Components;

“Non-NGA related Cumulo costs” means the Cumulo costs excluding the NGA related Cumulo costs;

“Openreach Engineering Team Pay” means the cost attribution methodology specifying that:

- (a) costs must be attributed pro-rata to each and every cost category (e.g. activity group, plant group, residual) that has previously received an allocation of Openreach pay costs (current or capital pay associated with in-year pay costs) of the engineering team at that level of the Regulatory Accounting System; and
- (b) the pro-rata attribution to each cost category referred to in paragraph (a) of this definition must be calculated by dividing the Openreach engineering team pay costs in that cost category by the total pay costs in all cost categories at that level of the Regulatory Accounting System;

“Openreach PAC” means the cost attribution methodology specifying that:

- (a) costs must be attributed pro-rata to any cost category (e.g. activity group, plant group, residual) that has previously received an allocation of one or more of the following: (i) Openreach current pay costs, (ii) Openreach non-pay costs (excluding POLOs, other operating income and software capitalisation credits), (iii) Openreach capital expenditure at that level of the Regulatory Accounting System; and
- (b) the pro-rata attribution to each cost category referred to in paragraph (a) of this definition must be calculated by dividing the total cost of (i) Openreach current pay costs, (ii) Openreach non-pay costs, and (iii) Openreach capital expenditure included in that cost category by the total cost of (i) Openreach current pay costs, (ii) Openreach non-pay costs, and (iii) Openreach capital expenditure in all cost categories at that level of the Regulatory Accounting System;

“Openreach Pay” means the cost attribution methodology specifying that:

- (a) costs must be attributed pro-rata to any cost category (e.g. activity group, plant group, residual) that has previously received an allocation of Openreach pay costs (current or capital pay associated with in-year pay costs) at that level of the Regulatory Accounting System; and
- (b) the pro-rata attribution to each cost category referred to in paragraph (a) of this definition must be calculated by dividing the Openreach pay costs in that cost category by the total Openreach pay costs in all cost categories at that level of the Regulatory Accounting System;

“Openreach Product Revenues” means the cost attribution methodology specifying that costs must be attributed to each and every Product based on the proportion of total Openreach product revenues associated with that Product in the prior Financial Year;

“POLO” means a payment made by BT to another communications provider for call termination;

“Number of employees” means the cost attribution methodology specifying that costs at each level of the cost exhaustion system must be allocated in accordance with the number of employees at that level of the cost exhaustion system divided by the total number of employees within BT;

“Previously allocated BT fleet costs” means the cost attribution methodology specifying that costs at each level of the cost exhaustion system must be allocated in accordance with the previously allocated BT fleet costs at that level of the cost exhaustion system divided by the total previously allocated BT fleet costs within BT up to that level of the cost exhaustion system;

“Previously allocated IT costs” means the cost attribution methodology specifying that costs at each level of the cost exhaustion system must be allocated in accordance with the previously allocated IT costs at that level of the cost exhaustion system divided by the total of all previously allocated IT costs within BT up to that level of the cost exhaustion system;

“Previously allocated pay costs or Employee pay costs” means the cost attribution methodology specifying that costs at each level of the cost exhaustion system must be allocated in accordance with the pay costs of employees at that level of the cost exhaustion system divided by the total pay costs of employees within BT up to that level of the cost exhaustion system;

“Previously allocated total costs” means the cost attribution methodology specifying that costs at each level of the cost exhaustion system must be allocated in accordance with the previously allocated total costs at that level of the cost exhaustion system divided by the total of all previously allocated total costs within BT up to that level of the cost exhaustion system;

“Previously allocated property costs” means the cost attribution methodology specifying that costs at each level of the cost exhaustion system must be allocated in accordance with the previously allocated property costs at that level of the cost exhaustion system divided by the total previously allocated property costs within BT up to that level of the cost exhaustion system;

“Relevant revenue” means the cost attribution methodology specifying that costs at each level of the cost exhaustion system must be allocated in accordance with the relevant revenue at that level of the cost exhaustion system divided by the total of total relevant revenue within BT;

“Relevant Revenue” means the cost attribution methodology specifying that costs must be attributed to each and every Product based on the proportion of the Relevant Turnover associated with that Product in the prior Financial Year;

“Relevant Turnover” has the same meaning as the definition set out in Ofcom’s statement entitled *“Amendment to the Statement of Charging Principles: Definition of Relevant Activity”* and published on 20 December 2011¹;

‘Residual Market’ means the primarily unregulated products, services and components currently referred to as ‘Wholesale Residual Market’ or “Retail Residual Market” in the Regulatory Financial Statements;

“TSO PAC” means the cost attribution methodology specifying that:

- (a) costs must be attributed pro-rata to each and every cost category (e.g. activity group, plant group, residual) that has previously received an allocation of one or more of the following: (i) TSO current pay costs, (ii) TSO non-pay costs (excluding POLOs, other operating income and software capitalisation credits), (iii) TSO capital expenditure at that level of the Regulatory Accounting System; and
- (b) the pro-rata attribution to each cost category referred to in paragraph (a) of this definition must be calculated by dividing the total cost of (i) TSO current pay costs; (ii) TSO non-pay costs, and (iii) TSO capital expenditure included in that cost category by the total costs of (i) TSO current pay costs; (ii) TSO non-pay costs, and (iii) TSO capital expenditure in all cost categories at that level of the Regulatory Accounting System;

“TSO Pay” means the cost attribution methodology specifying that:

- (a) costs must be attributed pro-rata to each and every cost category (e.g. activity group, plant group, residual) that has previously received an allocation of TSO pay costs (current or capital pay associated with in-year pay costs) at that level of the Regulatory Accounting System; and
- (b) the pro-rata attribution to each cost category referred to in paragraph (a) of this definition must be calculated by dividing the TSO pay costs in that cost category by the total pay costs in all cost categories at that level of the Regulatory Accounting System;

¹ Available at <http://stakeholders.ofcom.org.uk/binaries/consultations/statement-charging-principles/statement/Statement-final.pdf>

Part 2: Direction

Requirements to ensure the Regulatory Financial Statements are consistent with specified regulatory proposals made by Ofcom in the BCMR Consultation

1. BT shall prepare the Regulatory Financial Statements in accordance with the requirements set out in paragraphs 1.1 – 4.9 1.22 below. BT shall give priority to the requirements set out in paragraphs 1.1 – 4.9 1.22 in the order in which they are set out below.
 - 1.1. BT shall:
 - 1.1.1. apportion the costs of each of core fibre (plant group PG350N) and backhaul fibre (plant group PG170B) to all relevant cost components in accordance with the bandwidth and the length of fibre;
 - 1.1.2. apportion the costs of access fibre (plant groups PG111C spine fibre, PG959C distribution fibre and PG111M access fibre maintenance) to all relevant cost components in accordance with the number of fibres used by each circuit type in the access network;
 - 1.1.3. apportion backhaul duct (activity group AG148) to 20CN and 21CN fibre plant groups associated with the backhaul network and apportion core duct (activity group AG149) to 20CN and 21CN fibre plant groups associated with the core network;
 - 1.1.4. not allocate to the BCMR Markets Transfer Charges from non-core units which relate to services in the Residual Markets.
 - 1.2. ~~BT shall separate the overhead costs from activity group AG112 into the following organisational unit code (OUC) cost groups and attribute each of these cost groups on the basis set out below:~~
 - ~~1.2.1. Employee Liability Insurance: Number of employees.~~
 - ~~1.2.2. Employment Practice Liability: Number of employees.~~
 - ~~1.2.3. Employee healthcare: Number of employees.~~
 - ~~1.2.4. Employee broadband offer: Number of employees.~~
 - ~~1.2.5. Employee death in service benefit insurance: Previously allocated pay costs.~~
 - ~~1.2.6. Business interruption insurance: Previously allocated property costs.~~
 - ~~1.2.7. Motor vehicle insurance: Previously allocated BT fleet costs.~~
 - ~~1.2.8. BT TSO Research & Innovation: Number of employees.~~
 - ~~1.2.9. BT TSO Architecture and Global IT Platforms: Previously allocated IT costs.~~

- ~~1.2.10. Group Finance: Previously allocated total costs.~~
- ~~1.2.11. BT TSO Chief Information Office for Group: Previously allocated total costs.~~
- ~~1.2.12. Group Human Resources: Number of employees.~~
- ~~1.2.13. Corporate Communications: Previously allocated total costs.~~
- ~~1.2.14. Group Legal: Previously allocated total costs.~~
- ~~1.2.15. Reporting planning analysis: Previously allocated total costs.~~
- ~~1.2.16. Corporate Special Projects: Previously allocated total costs.~~
- ~~1.2.17. Learning Academy—HR: Employee pay costs.~~
- ~~1.2.18. Strategy, Policy and Portfolio: Relevant revenue.~~
- ~~1.2.19. BT TSO Chief Information Office for BT Wholesale: Previously allocated total costs.~~
- ~~1.2.20. BT TSO Chief Information Office for Retail: Previously allocated total costs.~~
- ~~1.2.21. Other OUC costs: Previously allocated total costs.~~
- ~~1.3. BT shall separate the overhead costs from activity group AG103 into the following OUC cost groups and attribute each of these cost groups on the basis set out below:~~
 - ~~1.3.1. Redundancy payments: Employee pay costs.~~
 - ~~1.3.2. IT Services Subcon. Offshore SGA: Previously allocated IT costs.~~
 - ~~1.3.3. BT TSO Human Resources & Communications: Previously allocated total costs.~~
 - ~~1.3.4. BT TSO Service, Strategy and Operations: Previously allocated total costs.~~
 - ~~1.3.5. BT TSO Finance: Previously allocated total costs.~~
 - ~~1.3.6. BT TSO Chief Information Office for Global Services: Previously allocated total costs.~~
 - ~~1.3.7. BT TSO General Infrastructure Services: Employee pay costs.~~
 - ~~1.3.8. BT Fleet: Previously allocated BT fleet costs.~~
 - ~~1.3.9. BT TSO Global Network Services Management and Support: Previously allocated IT costs.~~
 - ~~1.3.10. Other OUC costs: Previously allocated total costs.~~
- 1.4. BT shall attribute:
 - 1.4.1. distribution fibre depreciation costs and mean capital employed between NGA and non-NGA cost categories in a manner which takes into account the difference in asset lives between NGA and non-NGA distribution fibre, such that

an asset receives a relatively higher or lower proportion of depreciation and mean capital employed depending on its asset life; and

- 1.4.2. spine fibre depreciation costs and mean capital employed between NGA and non-NGA cost categories pro-rata to the volume of NGA and non-NGA distribution fibre as a proportion of total volumes of distribution fibre.
- 1.5. In apportioning duct costs between access, core and backhaul parts of the network, BT shall take into account circuit length and circuit volumes to estimate the proportion of core duct which relates to (i) inner core duct and (ii) backhaul duct, so that part of the duct network carrying more circuits and longer circuits (as applicable) receives a relatively higher proportion of duct costs.
- 1.6. In the case of software costs associated with the TSO line of business, BT shall allocate these costs directly to Products, assets and lines of business where the information which BT holds demonstrates that such costs are associated with those Products, assets and lines of business as applicable.
- 1.7. In the case of software costs associated with the Openreach line of business, BT shall:
 - 1.7.1. allocate these costs directly to Products and assets where the information which BT holds demonstrates that such costs are associated with those Products and assets (as applicable);
 - 1.7.2. attribute costs of software that is shared between two or more Products and assets (as applicable) to all of those Products and assets which that software supports;
 - 1.7.3. attribute costs of software using the Openreach PAC methodology where the information which BT holds demonstrates that such costs are not:
 - (i) associated with a specific Product and asset (as applicable), or
 - (ii) shared across two or more Products and assets (as applicable).
- 1.8. In the case of costs of electricity, BT shall:
 - 1.8.1. identify the proportion of the costs which relate to all Equipment Types which have individual electricity meters;
 - 1.8.2. attribute the costs identified in paragraph 1.8.1 to each Equipment Type on the basis of metered electricity consumed by that Equipment Type;
 - 1.8.3. attribute the remainder of the costs of electricity using the Estimated Electricity Consumption methodology.
- 1.9. In the case of vacant space, BT shall:
 - 1.9.1. attribute vacant space within any building in the same proportions as non-vacant space is attributed within that building;

- 1.9.2. not attribute all vacant space in operational buildings with a main distribution frame solely to: (i) Openreach; or (ii) cable chambers; or (iii) main distribution frame areas.
- 1.9.3. not apply to LLU hostel areas any mark-up for potential future growth.
- 1.10. In the case of property costs, BT shall separately identify and separately attribute the costs of each type of space.
- 1.11. BT shall separate the costs currently included in activity group AG112 (Corporate Overheads) into the following cost groups and attribute costs in each of these cost groups using the cost attribution methodology specified below.
 - 1.11.1. Costs of BT TSO Chief Information Office for Group (currently included in OUC TM) using the BT Group PAC methodology.
 - 1.11.2. Costs of BT TSO Research and Innovation (currently included in OUC TU) which are associated with existing Products using the BT Group PAC methodology.
 - 1.11.3. Costs of BT TSO Research and Innovation (currently included in OUC TU) which are associated with future Products shall be attributed to Residual Markets.
 - 1.11.4. Costs of BT TSO Chief Information Office for Retail (currently included in OUC TR) using the BT Group PAC methodology.
 - 1.11.5. Costs of Group Finance (currently included in OUC CF) using the BT Group PAC methodology.
 - 1.11.6. Costs of Corporate Communications (currently included in OUC CR) using the BT Group PAC methodology.
 - 1.11.7. Costs of Group Legal (currently included in OUC CG) using the BT Group PAC methodology.
 - 1.11.8. Costs of Financial Shared Service Centre (currently included in OUC CFR) using the BT Group PAC methodology.
 - 1.11.9. Costs of Corporate Special Projects (currently included in OUC CP) using the BT Group PAC methodology.
 - 1.11.10. Costs of General Group Computing Assets (currently included in OUC TT) using the BT Group PAC methodology.
 - 1.11.11. Costs of Group Human Resources (currently included in OUC CH) using the BT Group Employees methodology.

- 1.11.12. Costs of BT TSO Architecture and Global IT Platforms (currently included in OUC TA) using the BT Group PAC methodology.
- 1.11.13. Costs of Learning Academy (currently included in OUC CC) using the BT Group Employees methodology.
- 1.11.14. Costs of Ofcom licence fee (currently included in OUC CO) using the Relevant Revenue methodology.
- 1.11.15. Costs of Strategy, Policy and Portfolio (currently included in OUC CO) using the BT Group PAC methodology.
- 1.11.16. In the case of costs of insurance (currently included in OUC CD):
- (i) these costs shall be directly attributed to lines of business on a basis that reflects the risk factors affecting the amount of premiums for each type of insurance;
 - (ii) the costs of property damage and business interruption insurance and the costs of terrorism insurance shall be attributed within the lines of business referred to in paragraph 1.11.16(i) as follows:
 - (a) in the case of an Openreach line of business, insurance costs shall be attributed pro-rata to any cost category (e.g. activity group, plant group, residual) that has previously received an allocation of Openreach fixed assets at that level of the Regulatory Accounting System.
 - (b) In the case of a TSO line of business, insurance costs shall be attributed pro-rata to any cost category (e.g. activity group, plant group, residual) that has previously received an allocation of TSO fixed assets at that level of the Regulatory Accounting System.
 - (c) In the case of a BT Group property line of business, insurance costs shall be attributed to the costs of BT Group property (currently included in AG106);
 - (d) In the case of a BT Group line of business, insurance costs shall be attributed using the BT Group PAC methodology;
 - (e) In the case of any lines of business which are not referred to in paragraphs 1.11.16(ii)(a) to 1.11.16(ii)(d), insurance costs shall be attributed pro-rata to any cost category (e.g. activity group, plant group, residual) that has previously received an allocation of pay costs associated with the line of business at that level of the Regulatory Accounting System.

- (iii) insurance costs which are not referred to in paragraph 1.11.16(ii) shall be attributed within the lines of business referred to in paragraph 1.11.16(i) as follows:
 - (a) In the case of an Openreach line of business, insurance costs shall be attributed pro-rata to any cost category (e.g. activity group, plant group, residual) that has previously received an allocation of Openreach pay costs at that level of the Regulatory Accounting System.
 - (b) In the case of a TSO line of business, insurance costs shall be attributed pro-rata to any cost category (e.g. activity group, plant group, residual) that has previously received an allocation of TSO pay costs at that level of the Regulatory Accounting System.
 - (c) In the case of a BT Group property line of business, insurance costs shall be attributed to the costs of BT Group property (currently included in AG106).
 - (d) In the case of a BT Group line of business, insurance costs shall be attributed using the BT Group PAC methodology.
 - (e) In the case of any lines of business which are not referred to in paragraphs 1.11.16(iii)(a) to 1.11.16(iii)(d), insurance costs shall be attributed pro-rata to any cost category (e.g. activity group, plant group, residual) that has previously received an allocation of pay costs associated with the line of business at that level of the Regulatory Accounting System.
 - (iv) Where the applicable cost attribution methodology referred to in paragraphs 1.11.16(ii) and 1.11.16(iii) requires a pro-rata attribution, that pro-rata attribution shall be calculated by dividing each applicable insurance cost in that cost category by the total insurance costs in all cost categories for that line of business at that level of the Regulatory Accounting System.
- 1.11.17. Costs of Employee Broadband Offer (currently included in OUC CD) using the BT Group Employees methodology.
- 1.11.18. Costs not referred to in paragraphs 1.11.1 to 1.11.17 using the BT Group PAC methodology.
- 1.12. BT shall separate the costs currently included in activity group AG103 (TSO Support Functions) into the following cost groups and attribute costs in each of these cost groups using the cost attribution methodology specified below.
- 1.12.1. TSO Redundancy costs (currently included in OUC TX) using the TSO Pay methodology.

- 1.12.2. TSO Human Resources and Communications costs (currently included in OUC TH) using the TSO PAC methodology.
- 1.12.3. TSO Service, Strategy and Operations (currently included in OUC TB) using the TSO PAC methodology.
- 1.12.4. TSO Finance (currently included in OUC TF) using the TSO PAC methodology.
- 1.12.5. TSO Career Transition Centre costs using the TSO Pay methodology.
- 1.12.6. TSO costs which are not referred to in paragraphs 1.12.1 to 1.12.5 using the TSO PAC methodology.
- 1.13. BT shall separate the costs currently included in activity group COMCOS (Openreach Overheads) into the following cost groups and attribute costs in each of these cost groups using the cost attribution methodology specified below.
 - 1.13.1. Openreach Learning and Development (currently included in OUC BA) using the Openreach Pay methodology.
 - 1.13.2. Openreach Finance (currently included in OUC BF) using the Openreach PAC methodology.
 - 1.13.3. Openreach Marketing and Sales (currently included in OUC BR) using the Openreach Product Revenues methodology.
 - 1.13.4. Openreach Transformation (currently included in OUC BQ) using the Openreach PAC methodology.
 - 1.13.5. Openreach General Counsel (currently included in OUC BJ) using the Openreach PAC methodology.
 - 1.13.6. Openreach Engineering Teams (currently includes in OUCs BL, BV, BK, BI and BD) using the Openreach Engineering Team Pay methodology.
 - 1.13.7. Openreach costs which are not referred to in paragraphs 1.13.1 to 1.13.6 using the Openreach PAC methodology.
- 1.14. BT shall attribute the costs currently included in AG409 (BT Wholesale General Software) using the BT Wholesale PAC methodology.
- 1.15. BT shall separate the costs currently included in AG410 (Openreach General Software) into the following cost groups and attribute costs in each of these cost groups using the cost attribution methodology specified below.
 - 1.15.1. Internally developed software using the Openreach PAC methodology.

- 1.15.2. Miscellaneous engineering activity using the Openreach Engineering Team Pay methodology.
- 1.15.3. Costs which are not referred to in paragraphs 1.15.1 and 1.15.2 using the Openreach PAC methodology.
- 1.16. BT shall not allocate to the BCMR Markets any of the following Network Components:
- 1.16.1. Ethernet Switch Access HE/MEAS;
- 1.16.2. Ethernet Switches HE/MEAS;
- 1.16.3. any other Network Components relating to the Ethernet Switch Access HE/MEAS and Ethernet Switches HE/MEAS as directed by Ofcom from time to time.
- 1.17. In the case of Cumulo costs, BT shall follow the requirements set out in paragraphs 1.17.1 – 1.17.2 ~~4.5.1 – 4.5.2~~ in the order in which these requirements are set out below:
- 1.17.1. BT shall attribute the NGA related Cumulo costs to the NGA Network Components;
- 1.17.2. BT shall attribute the Non-NGA related Cumulo costs to the Non-NGA Network Components on the basis of profit weighted Net Replacement Costs in accordance with the following formula:
- $$Cumall_i = NNGACC \times \left(\frac{\sum_{j=1}^m nrc_{ij} land\%_j wacc_i}{\sum_{i=1}^n \sum_{j=1}^m nrc_{ij} land\%_j wacc_i} \right)$$
- Where
- Cumall_i = the allocation of the Non-NGA related Cumulo costs to component _i
- NNGACC = Non-NGA related Cumulo costs
- nrc_{ij} = the Net Replacement Costs of the Cumulo Rateable Asset _j that has been attributed to component _i
- land%_j = the percentage of the Cumulo Rateable Asset _j that is regarded as being a landlord asset within the most recent rating model used by the Valuation Office Agency in England and Wales to value BT's Cumulo assessment
- wacc_i = the weighted average cost of capital that is applicable for component _i
- m = the number of the Cumulo Rateable Asset categories
- n = the number of the Non-NGA Network Components
- 1.18. BT shall not allocate to the BCMR Markets the mean capital employed and depreciation costs of the Ethernet Electronics Network Component when it is used in relation to the transmission assets which were deployed prior to 1 April 2011.

- 1.19. BT shall not attribute the costs of Group Restructuring to the Network Services in the BCMR Markets.
- 1.20. BT shall allocate credit notes relating to the service level commitments against the income that they relate to.
- 1.21. BT must separately identify and separately account for the costs and volumes of the Featurenet with bandwidth of 64kbit/s and 2Mbit/s.
- 1.22. BT shall not allocate the transactional costs of the anticipated acquisition of EE to the BCMR Markets.

Proposal for direction – Adjusted Financial Performance

Notification of proposal under sections 49 and 49A of the Communications Act 2003 and SMP Services Condition OA2, 13A.4 and 8A.4 specifying the requirements in relation to additional reporting of information relating to BT's adjusted financial performance

Background

1. On 22 July 2004, Ofcom published a statement entitled "*The regulatory financial reporting obligations on BT and Kingston Communications Final statement and notification – Accounting separation and cost accounting: Final Statement and notification*" ("**July 2004 Statement**"). At Annex 2 of this statement, Ofcom imposed SMP services conditions with respect to regulatory accounting on BT in markets in which BT had been found to have significant market power in previously concluded market reviews.
2. On 15 May 2015, Ofcom published a consultation document entitled "*Business Connectivity Market Review – Review of competition in the provision of leased lines*" ("**BCMR Consultation**"). At Annex 6 of the BCMR Consultation, Ofcom proposed, in relation to the markets set out below, to impose, among other things, SMP services conditions with respect to regulatory accounting on BT (condition 11) which Ofcom concluded in the 2014 RFR Statement should be applied to BT:
 - (a) Wholesale market for low bandwidth traditional interface symmetric broadband origination in the UK excluding the Hull Area, at bandwidths up to and including 8Mbit/s;
 - (b) Wholesale market for contemporary interface symmetric broadband origination in the Rest of the UK excluding the Hull Area;
 - (c) Wholesale market for contemporary interface symmetric broadband origination in the London Periphery.
3. Under condition OA2 set out at Annex 2 of the July 2004 Statement and proposed condition 11.4 set out at Annex 6 of the BCMR Consultation, Ofcom may from time to time make such directions as they consider appropriate in relation to BT's obligations under the proposed conditions.
4. This Notification relates to proposals in relation to the Regulatory Financial Statements which BT is required to prepare, and in particular BT's reporting of information relating to its adjusted financial performance.

Proposal to give direction

5. Ofcom is proposing to make the direction set out in the Schedule to this Notification.

6. The effect of and reasons for giving the proposed direction are set out in the accompanying consultation.

Ofcom's duties and legal tests

7. Ofcom considers that the proposed direction referred to in paragraph 5 complies with the requirements of section 49(2) of the Communications Act 2003 ("**Act**").
8. In making the proposal referred to in paragraph 5, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

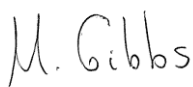
Making representations

9. Representations may be made to Ofcom about the proposals set out in this Notification and the accompanying consultation by no later than 14 December 2015.
10. In accordance with section 49C(1)(a) of the Act, a copy of the Notification, together with the Schedule, has been sent to the Secretary of State.

Interpretation

11. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP services conditions set out in Annex 6 of the BCMR Consultation, Annex 15 of the Leased Lines Charge Control Consultation and in the consultation accompanying this Notification. Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed



Marina Gibbs
Competition Policy Director, Ofcom

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

13 November 2015

Schedule

Part 1: Definitions and Interpretation

In this Schedule:

“BCMR Markets” means the markets set out in paragraph 2 of the Notification; and

“Property Rationalisation Costs” means onerous lease provisions relating to the rationalisation of the BT Group’s property portfolio.

Part 2: Direction

1. BT shall prepare the “Adjusted Financial Performance at a market review level” statement and the “Adjusted Financial Performance at a market level” statement in order to show the impact on the Regulatory Financial Statements of:
 - 1.1. calculating, for each Financial Year, an average of the Property Rationalisation Costs incurred in the three prior Financial Years; and
 - 1.2. attributing that average to the BCMR Markets.

Proposal for direction setting requirements in relation to preparation and delivery of the Regulatory Financial Statements

Notification of proposal under sections 49 and 49A of the Communications Act 2003 and proposed SMP Services Condition 11.4 setting the requirements in relation to preparation and delivery of the Regulatory Financial Statements

Background

1. On 22 July 2004, Ofcom published a statement entitled "*The regulatory financial reporting obligations on BT and Kingston Communications Final statement and notification – Accounting separation and cost accounting: Final Statement and notification*" ("**2004 Statement**"). At Annex 2 of this statement, Ofcom imposed SMP services conditions with respect to regulatory accounting on BT in markets in which BT had been found to have significant market power in previously concluded market reviews.
2. At Annex 4 of the 2004 Statement, Ofcom published various directions for BT given under the SMP services conditions. These included a direction relating to the preparation, audit, delivery and publication of the Regulatory Financial Statements ("**Direction 3**").
3. Direction 3 was subsequently modified by:
 - a. the Direction published at Annex 2 of the regulatory statement "Changes to BT's regulatory financial reporting framework" of 31 August 2005;
 - b. the Direction published at Annex 2 of the regulatory statement "Changes to BT's regulatory financial reporting and audit requirements" of 16 August 2006;
 - c. the Direction published at Annex 4 of the regulatory statement "Changes to BT's regulatory financial reporting and audit requirements" of 30 May 2007;
 - d. the Direction published at Annex 4 of the regulatory statement "Changes to BT's 2007/08 regulatory financial statements" of 26 June 2008;
 - e. the Direction published at Annex 4 of the regulatory statement "Changes to BT and KCOM's regulatory financial reporting – 2008/09 update" of 15 June 2009;
 - f. the Direction published at Annex 3 of the regulatory statement "Changes to BT and KCOM's regulatory and financial reporting 2009/10 update" of 4 June 2010;
 - g. the Direction published at Annex 4 of the regulatory statement "Changes to BT and KCOM's regulatory and financial reporting 2010/11 update" of 2 June 2011; and
 - h. the Direction published at Annex 3 of the regulatory statement "Changes to BT and KCOM's regulatory and financial reporting 2013/14 update" of 3 April 2014.
4. The SMP services conditions set out at Annex 2 of the 2004 Statement and Direction 3 were applied in relation to the markets in which BT was found to have significant market power and regulatory reporting requirements were imposed at Annex 7 of a statement entitled "*Business Connectivity Market Review: Review of retail leased*

lines, wholesale symmetric broadband origination and wholesale trunk segments" published on 28 March 2013.

5. On 20 December 2013, Ofcom published a consultation document entitled "*Regulatory Financial Reporting – A Review*" ("**2013 RFR Consultation**"). In that consultation, Ofcom made proposals in relation to the regulatory accounting SMP obligations of BT. In particular, Ofcom no longer proposed to apply to BT the regulatory accounting conditions set out in the 2004 Statement.
6. On 20 May 2014, following consideration of the responses to the 2013 RFR Consultation and the making of such modifications to its proposals as it considered appropriate, Ofcom published a policy statement entitled "*Regulatory Financial Reporting: Final Statement*" ("**2014 RFR Statement**") which set out (among other things) Ofcom's conclusions on the regulatory financial reporting policy that it considered should be applied to BT.
7. On 15 May 2015, Ofcom published a consultation document entitled "*Business Connectivity Market Review – Review of competition in the provision of leased lines*" ("**BCMR Consultation**"). At Annex 6 of the BCMR Consultation, Ofcom proposed, in relation to the markets listed below, to impose, among other things, SMP services conditions with respect to regulatory accounting on BT (condition 11) which Ofcom concluded in the 2014 RFR Statement should be applied to BT:
 - a. Wholesale market for low bandwidth traditional interface symmetric broadband origination in the UK excluding the Hull Area, at bandwidths up to and including 8Mbit/s;
 - b. Wholesale market for contemporary interface symmetric broadband origination in the Rest of the UK excluding the Hull Area; and
 - c. Wholesale market for contemporary interface symmetric broadband origination in the London Periphery.
8. Ofcom proposed in paragraph 8.138 of the BCMR Consultation to issue directions under the proposed SMP services conditions subject to making any necessary changes to reflect Ofcom's proposals and ultimately decisions in relation to the markets set out in paragraph 7 above.
9. Under proposed SMP services condition 11.8 set out at Annex 6 of the BCMR Consultation, BT will be required to prepare, deliver to Ofcom and publish the Regulatory Financial Statements as directed by Ofcom from time to time.
10. Under proposed SMP services condition 11.4 set out at Annex 6 of the BCMR Consultation, Ofcom may from time to time make such directions as they consider appropriate in relation to BT's obligations under proposed SMP services condition 11.
11. On 12 June 2015, Ofcom published a document entitled "*Business Connectivity Market Review: Leased lines charge controls and dark fibre pricing*" ("**Leased Lines Charge Control Consultation**"). Annex 15 of the Leased Lines Charge Control

Consultation set out the Notification under sections 49 and 49A of the Act in which Ofcom made proposals in relation to preparation and delivery of the Regulatory Financial Statements ("**Leased Lines Charge Control RFR Notification**").

12. In this Notification Ofcom sets out its further proposals in relation to preparation and delivery of the Regulatory Financial Statements. The new proposals are shown as insertions included in the Leased Lines Charge Control RFR Notification.

Proposed amendments to proposed requirements in relation to preparation and delivery of the Regulatory Financial Statements

13. Ofcom hereby gives notice of its proposals, in accordance with section 49(2) of the Communications Act 2003 ("**Act**") to make the proposed direction, as amended by the Schedule to this Notification. Consequently, the Leased Lines Charge Control RFR Notification should be read accordingly.
14. The effect and reasons for giving the proposed direction are set out in the BCMR Consultation, the Leased Lines Charge Control Consultation and in the consultation accompanying this Notification.

Ofcom's duties and legal tests

15. Ofcom considers that the proposed direction referred to in paragraph 13 complies with the requirements of section 49(2) of the Act.
16. In making the proposal referred to in paragraph 13, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making representations

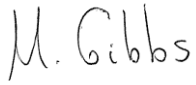
17. Representations may be made to Ofcom about the proposals set out in this Notification and the accompanying consultation by no later than 14 December 2015.
18. In accordance with section 49C(1)(a) of the Act, a copy of the Notification, together with the Schedule, has been sent to the Secretary of State.

Interpretation

19. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP services conditions set out in Annex 6 of the BCMR Consultation, Annex 15 of the Leased Lines Charge Control Consultation and in the consultation accompanying this Notification.

Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink that reads "M. Gibbs". The signature is written in a cursive style with a large, stylized 'M' and 'G'.

Marina Gibbs
Competition Policy Director, Ofcom

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

13 November 2015

Schedule

In addition to the requirements set out in Direction 3, BT shall, for the purposes of condition 11.8:

- 1.1 prepare, deliver to Ofcom and publish the following statements:
 - a) Dark Fibre Services (Non Confidential Statements);
 - b) Time Related Charges Costs Relating to the Business Connectivity Markets (Non Confidential Statements); and
 - c) Adjusted Financial Performance at a market review level.
- 1.2 prepare and deliver to Ofcom the following additional financial information as described in the Annex to this Schedule in respect of the markets set out in paragraph 7 of this Notification:
 - a) Detailed BCMR Services;
 - b) Detailed BCMR Service Component FACs; and
 - c) BCMR EAD/EAD LA 1Gbit/s Component LRICs and FACs;
 - d) Dark Fibre Services Revenues and Costs;
 - e) Time Related Charges Costs Relating to the Business Connectivity Markets; and
 - f) Adjusted Financial Performance at a market level.

Annex

Reference	Additional Financial Information	Description
1(a)	Detailed BCMR Services	<ol style="list-style-type: none"> 1. set out the revenues, volumes and FAC on a CCA basis of any other wholesale leased lines service not publically disclosed where the revenue from this service is above £1m; 2. the revenues and costs should, in total, be reconciled to the revenues and costs included within the publicly reported totals for the BCMR markets.
1(b)	Detailed BCMR Service Component FACs	<ol style="list-style-type: none"> 1. set out the calculation of FAC based on component costs and usage factors for all services reported in the Detailed BCMR Services schedule; 2. the fully allocated service unit costs should reconcile to those given in the in the Detailed BCMR Services schedule.
1(c)	BCMR EAD/EAD LA 1Gbit/s Component LRICs and FACs	<ol style="list-style-type: none"> 1. set out the LRIC and FAC by component for EAD 1Gbit/s and EAD LA 1Gbit/s.
<u>1(d)</u>	<u>Dark Fibre Services Revenues and Costs</u>	<ol style="list-style-type: none"> 1. <u>set out the volume, revenue, costs (split by operating costs, depreciation, holding gains/losses), return, MCE and ROCE;</u> 2. <u>set out the breakdown of costs by Network Components.</u>
<u>1(e)</u>	<u>Time Related Charges Costs Relating to the Business Connectivity Markets</u>	<ol style="list-style-type: none"> 1. <u>provide Time Related Charges costs and billed volume information.</u>
<u>1(f)</u>	<u>Adjusted Financial Performance at a market level</u>	<ol style="list-style-type: none"> 1. <u>provide revenue, cost, return and MCE at a market level adjusted for consistent application of Ofcom's price</u>

Leased Lines Charge Control

		<u>controls, including reconciliation to the numbers published in the Regulatory Financial Statements.</u>
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Proposals for direction setting requirements in relation to the form and content of the Regulatory Financial Statements

Notification of proposal under sections 49 and 49A of the Communications Act 2003 and proposed SMP Services Condition 11.4 and 8A.4 setting the requirements in relation to the form and content of the Regulatory Financial Statements

Background

1. On 22 July 2004, Ofcom published a statement entitled "*The regulatory financial reporting obligations on BT and Kingston Communications Final statement and notification – Accounting separation and cost accounting: Final Statement and notification*" ("**2004 Statement**"). At Annex 2 of this statement, Ofcom imposed SMP services conditions with respect to regulatory accounting on BT in markets in which BT had been found to have significant market power in previously concluded market reviews.
2. At Annex 4 of the 2004 Statement, Ofcom published various directions for BT given under the SMP services conditions. These included a direction relating to the form and content of the Regulatory Financial Statements ("**Direction 4**").
3. Direction 4 was subsequently modified by:
 - a. the Direction published at Annex 3 of the regulatory statement "Changes to BT's regulatory financial reporting framework" of 31 August 2005;
 - b. the Direction published at Annex 3 of the regulatory statement "Changes to BT's regulatory financial reporting and audit requirements" of 16 August 2006;
 - c. the Direction published at Annex 5 of the regulatory statement "Changes to BT's regulatory financial reporting and audit requirements" of 30 May 2007;
 - d. the Direction published at Annex 5 of the regulatory statement "Changes to BT's 2007/08 regulatory financial statements" of 26 June 2008;
 - e. the Direction published at Annex 5 of the regulatory statement "Changes to BT and KCOM's regulatory financial reporting – 2008/09 update" of 15 June 2009;
 - f. the Direction published at Annex 4 of the regulatory statement "Changes to BT and KCOM's regulatory and financial reporting 2009/10 update" of 4 June 2010;
 - g. the Direction published at Annex 5 of the regulatory statement "Changes to BT and KCOM's regulatory and financial reporting 2010/11 update" of 2 June 2011;
 - h. the Direction published at Annex 2 of the regulatory statement "Changes to BT and KCOM's regulatory and financial reporting 2011/12 update" of 17 April 2012; and
 - i. the Direction published at Annex 1 of the regulatory statement "Changes to BT and KCOM's regulatory and financial reporting 2012/13 update" of 25 April 2013; and
 - j. the Direction published at Annex 4 of the regulatory statement "Changes to BT and KCOM's regulatory and financial reporting 2013/14 update" of 3 April 2014.

4. The SMP services conditions set out at Annex 2 of the 2004 Statement and Direction 4 were applied in relation to the markets in which BT was found to have significant market power and regulatory reporting requirements were imposed at Annex 7 of a statement entitled "*Business Connectivity Market Review: Review of retail leased lines, wholesale symmetric broadband origination and wholesale trunk segments*" published on 28 March 2013.
5. On 20 December 2013, Ofcom published a consultation document entitled "*Regulatory Financial Reporting – A Review*" ("**2013 RFR Consultation**"). In that consultation, Ofcom made proposals in relation to the regulatory accounting SMP obligations of BT. In particular, Ofcom no longer proposed to apply to BT the regulatory accounting conditions set out in the 2004 Statement.
6. On 20 May 2014, following consideration of the responses to the 2013 RFR Consultation and the making of such modifications to its proposals as it considered appropriate, Ofcom published a policy statement entitled "*Regulatory Financial Reporting: Final Statement*" ("**2014 RFR Statement**") which set out (among other things) Ofcom's conclusions on the regulatory financial reporting policy that it considered should be applied to BT.
7. On 15 May 2015, Ofcom published a consultation document entitled "*Business Connectivity Market Review – Review of competition in the provision of leased lines*" ("**BCMR Consultation**"). At Annex 6 of the BCMR Consultation, Ofcom proposed, in relation to the markets listed below, to impose, among others, SMP services conditions with respect to regulatory accounting on BT (condition 11) which Ofcom concluded in the 2014 RFR Statement should be applied to BT:
 - Wholesale market for low bandwidth traditional interface symmetric broadband origination in the UK excluding the Hull Area, at bandwidths up to and including 8Mbit/s;
 - Wholesale market for contemporary interface symmetric broadband origination in the Rest of the UK excluding the Hull Area;
 - Wholesale market for contemporary interface symmetric broadband origination in the London Periphery.
8. Ofcom proposed in paragraph 8.138 of the BCMR Consultation to issue directions under the proposed SMP services conditions subject to making any necessary changes to reflect Ofcom's proposals and ultimately decisions in relation to the markets set out in paragraph 7 above.
9. Under proposed SMP services condition 11.8 set out at Annex 6 of the BCMR Consultation, BT will be required to prepare, deliver to Ofcom and publish the Regulatory Financial Statements as directed by Ofcom from time to time.

10. Under proposed SMP services condition 11.4, Ofcom may from time to time make such directions as they consider appropriate in relation to BT's obligations under the proposed SMP services conditions.
11. On 12 June 2015, Ofcom published a document entitled "*Business Connectivity Market Review: Leased lines charge controls and dark fibre pricing*" ("**Leased Lines Charge Control Consultation**"). Annex 15 of the Leased Lines Charge Control Consultation set out the Notification under sections 49 and 49A of the Act in which Ofcom made proposals in relation to the form and content of the Regulatory Financial Statements ("**Leased Lines Charge Control RFR Notification**").
12. In this Notification Ofcom sets out its further proposals in relation to the form and content of the Regulatory Financial Statements. The new proposals are shown as insertions included in the Leased Lines Charge Control RFR Notification.

Proposed amendments to proposed requirements in relation to the form and content of the Regulatory Financial Statements

13. Ofcom hereby gives notice of its proposals, in accordance with section 49(2) of the Communications Act 2003 ("**Act**") to make the proposed direction, as amended by the Schedule to this Notification. Consequently, the Leased Lines Charge Control RFR Notification should be read accordingly.
14. The effect and reasons for giving the proposed direction are set out in the BCMR Consultation, the Leased Lines Charge Control Consultation and in the consultation accompanying this Notification.

Ofcom's duties and legal tests

15. Ofcom considers that the proposed direction referred to in paragraph 13 complies with the requirements of section 49(2) of the Act.
16. In making the proposal referred to in paragraph 13, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making representations

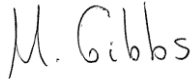
17. Representations may be made to Ofcom about the proposals set out in this Notification and the accompanying consultation by no later than 14 December 2015.
18. In accordance with section 49C(1)(a) of the Act, a copy of the Notification, together with the Schedule, has been sent to the Secretary of State.

Interpretation

19. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP services conditions set out in Annex 6 of the BCMR Consultation, Annex 15 of the Leased Lines Charge

Control Consultation and in the consultation accompanying this Notification.
Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink that reads "M. Gibbs". The signature is written in a cursive, slightly stylized font.

Marina Gibbs
Competition Policy Director, Ofcom

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

13 November 2015

Schedule

1. The form and content of the Regulatory Financial Statements set out in Direction 4 at Annex 4 of the 2004 Statement is modified in that BT shall prepare:
 - 1.1. the statement “Dark Fibre Services (Non Confidential Statements)” as shown in Annex 1 to this Schedule;
 - 1.2. the statement “Time Related Charges Costs Relating to the Business Connectivity Markets (Non Confidential Statements)” as shown in Annex 2 to this Schedule; and
 - 1.3. the statement “Adjusted Financial Performance at a market review level” as shown in Annex 3 to this Schedule.
2. In addition to the form and content requirements set out in Direction 4, BT shall prepare the Regulatory Financial Statements required under SMP services condition 11.8 set out at Annex 6 of the BCMR Consultation and under any direction setting out requirements of statements to be prepared, delivered to Ofcom and published, in accordance with the following form and content requirements:

Market Summary

- 2.1. In relation to the market summary for the wholesale market for contemporary interface symmetric broadband origination in the Rest of the UK excluding the Hull Area and the wholesale market for contemporary interface symmetric broadband origination in the London Periphery, BT shall:
 - 2.1.1. disclose the revenue, volume, average price and FAC of the following services:
 - a) Wholesale extension services 10Mbit/s;
 - b) Wholesale extension services 100Mbit/s;
 - c) Wholesale extension services 1000Mbit/s;
 - d) Wholesale extension services above 1000Mbit/s;
 - e) Backhaul extension services up to and including 1000Mbit/s;
 - f) Backhaul extension services above 1000Mbit/s;
 - g) EAD Local Access 10Mbit/s;
 - h) EAD Local Access 100Mbit/s;
 - i) EAD Local Access 1000Mbit/s;
 - j) EAD Other 10Mbit/s;
 - k) EAD Other 100Mbit/s;
 - l) EAD Other 1000Mbit/s;
 - m) EBD 1000Mbit/s;

- n) EBD 10000Mbit/s;
- o) Optical services;
- 2.1.2. disclose LRIC for each of EAD and EAD LA; ~~and~~
- 2.1.3. separately identify and separately account for each of the Direct ECC Services and the Contractor ECC Services; and
- 2.1.4. include the revenue, volume, average price and FAC of the Dark Fibre Services in the information "Other".
- 2.2. In relation to the market summary for the wholesale market for low bandwidth traditional interface symmetric broadband origination in the UK excluding the Hull Area, at bandwidths up to and including 8Mbit/s, BT shall disclose the revenue, volume, average price and FAC of the following services:
 - a) Partial and Private Circuits 64kbit/s;
 - b) Partial and Private Circuits 2Mbit/s;
 - c) Radio Backhaul Service 64kbit/s;
 - d) Radio Backhaul Service 2Mbit/s; and
 - e) Point of Handover.

Calculation of FAC based on component costs and usage factors

- 2.3. In relation to the calculation of FAC based on component costs and usage factors for the wholesale market for contemporary interface symmetric broadband origination in the Rest of the UK excluding the Hull Area and the wholesale market for contemporary interface symmetric broadband origination in the London Periphery, BT shall disclose all Network Components and FAC of the following services:
 - a) Wholesale extension services 10Mbit/s;
 - b) Wholesale extension services 100Mbit/s;
 - c) Wholesale extension services 1000Mbit/s;
 - d) Wholesale extension services above 1000Mbit/s;
 - e) Backhaul extension services up to and including 1000Mbit/s;
 - f) Backhaul extension services above 1000Mbit/s;
 - g) EAD Local Access 10Mbit/s;
 - h) EAD Local Access 100Mbit/s;
 - i) EAD Local Access 1000Mbit/s;
 - j) EAD Other 10Mbit/s;

- k) EAD Other 100Mbit/s;
- l) EAD Other 1000Mbit/s;
- m) EBD 1000Mbit/s;
- n) EBD 10000Mbit/s; and
- o) Optical services.

2.4. In relation to the calculation of FAC based on component costs and usage factors for the wholesale market for low bandwidth traditional interface symmetric broadband origination in the UK excluding the Hull Area, at bandwidths up to and including 8Mbit/s, BT shall disclose all Network Components and FAC of the following services:

- a) Partial and Private Circuits 64kbit/s;
- b) Partial and Private Circuits 2Mbit/s;
- c) Radio Backhaul Service 64kbit/s;
- d) Radio Backhaul Service 2Mbit/s; and
- e) Point of Handover.

Annex 1

Dark Fibre Services - non confidential statements

1 Gbit Dark Fibre							
	External Rental unit (£)	Internal Rental unit (£)	Variant 1 etc. External Rental unit (£)	Variant 1 etc. Internal Rental unit (£)	External Connection unit (£)	Internal Connection unit (£)	
Unit price (x refer to RFS)	x.xx	x.xx					
Less LRIC of relevant component							
Network Component 1	(x.xx)	(x.xx)					
Network Component 2 etc.	(x.xx)	(x.xx)					
Total Dark Fibre equivalent (average unit £)	x. xx	x. xx					
	<i>Vols</i>	<i>Vols</i>	<i>Vols</i>	<i>Vols</i>	<i>Vols</i>	<i>Vols</i>	
	<i>Unit</i>	<i>Unit</i>	<i>Unit</i>	<i>Unit</i>	<i>Unit</i>	<i>Unit</i>	
Gross Dark Fibre Volumes	xxx,xxx	xxx,xxx	xxx,xxx	xxx,xxx	xxx,xxx	xxx,xxx	
Allowable Discounted Volumes	(xxx,xxx)	(xxx,xxx)	(xxx,xxx)	(xxx,xxx)	(xxx,xxx)	(xxx,xxx)	
Net Dark Fibre Volumes	xxx,xxx	xxx,xxx	xxx,xxx	xxx,xxx	xxx,xxx	xxx,xxx	
Gross Dark Fibre revenues (£m)							Total (£m)
Local Ends	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx
Terminating Segments	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx
Main Links	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx
	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx
Allowable Discounts (£m)	(x.xx)	(x.xx)	(x.xx)	(x.xx)	(x.xx)	(x.xx)	(x.xx)
Net Dark Fibre revenues	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx	x.xx

Dark Fibre Services - non confidential statements
1 Gbit Dark Fibre Local Access

	External Rental unit (£)	Internal Rental unit (£)	Variant 1 etc. Rental unit (£)	External Rental unit (£)	Variant 1 etc. Internal Rental unit (£)	External Connection unit (£)	Internal Connection unit (£)
Unit price (x refer to RFS)	x.xx	x.xx					
Less LRIC of relevant component							
Network Component 1	(x.xx)	(x.xx)					
Network Component 2 etc.	(x.xx)	(x.xx)					
Total Dark Fibre equivalent (average unit £)	x. xx	x. xx					
	<i>Vols</i>	<i>Vols</i>		<i>Vols</i>	<i>Vols</i>	<i>Vols</i>	<i>Vols</i>
	<i>Unit</i>	<i>Unit</i>		<i>Unit</i>	<i>Unit</i>	<i>Unit</i>	<i>Unit</i>
Gross Dark Fibre Volumes	xxx,xxx	xxx,xxx		xxx,xxx	xxx,xxx	xxx,xxx	xxx,xxx
Allowable Discounted Volumes	(xxx,xxx)	(xxx,xxx)		(xxx,xxx)	(xxx,xxx)	(xxx,xxx)	(xxx,xxx)
Net Dark Fibre Volumes	xxx,xxx	xxx,xxx		xxx,xxx	xxx,xxx	xxx,xxx	xxx,xxx
Gross Dark Fibre revenues (£m)							Total (£m)
Local Ends	x.xx	x.xx		x.xx	x.xx	x.xx	x.xx
Terminating Segments Main Links	x.xx	x.xx		x.xx	x.xx	x.xx	x.xx
	x.xx	x.xx		x.xx	x.xx	x.xx	x.xx
Allowable Discounts (£m)	(x.xx)	(x.xx)		(x.xx)	(x.xx)	(x.xx)	(x.xx)
Net Dark Fibre revenues	x.xx	x.xx		x.xx	x.xx	x.xx	x.xx

Annex 2**Openreach Management Accounts information****Volumes (hours) - Billed (exc volume deals)**

Normal Hours	x
Other Hours	x
Sunday/Bank Holiday hours	x
Total TRC hours	0

Direct Costs

	£ per hour
Total	x

Annex 3

Adjusted financial performance at a market review level

For the year ended 31 March 201x

	As reported							Estimated impacts		Impact on return		
	Revenue	HCA Costs	CCA Adjustments	CCA Operating Costs	Return	MCE	Return on MCE	Return	MCE	Revised return	Revised MCE	Return on MCE
	£m	£'m	£m	£m	£m	£m	%	£m	£m	£m	£m	Δ %
Fixed Access Markets	-	-	-	-	-	-	-	-	-	-	-	-
Business Connectivity Markets	-	-	-	-	-	-	-	-	-	-	-	-
Narrowband Markets	-	-	-	-	-	-	-	-	-	-	-	-
Wholesale Broadband Access - Market A	-	-	-	-	-	-	-	-	-	-	-	-
Total	-	-	-	-	-	-	-	-	-	-	-	-
	£'m	£'m										
Smoothing of Property Provision	-	-										
	-	-										

Proposal for modification of requirements in relation to Network Components set out in Direction 1

Notification of proposal under sections 49 and 49A of the Communications Act 2003 modifying requirements in relation to Network Components set out in Direction 1

Background

1. On 22 July 2004, Ofcom published a statement entitled "*The regulatory financial reporting obligations on BT and Kingston Communications Final statement and notification – Accounting separation and cost accounting: Final Statement and notification*" ("**2004 Statement**"). At Annex 2 of this statement, Ofcom imposed SMP services conditions with respect to regulatory accounting on BT in markets in which BT had been found to have significant market power in previously concluded market reviews.
2. At Annex 4 of the 2004 Statement, Ofcom published various directions for BT given under the SMP services conditions. These included a direction specifying Network Components ("**Direction 1**").
3. Direction 1 was subsequently modified by:
 - a. the Direction published at Annex 1 of the regulatory statement "Changes to BT's regulatory financial reporting framework" of 31 August 2005;
 - b. the Direction published at Annex 1 of the regulatory statement "Changes to BT's regulatory financial reporting and audit requirements" of 16 August 2006;
 - c. the Direction published at Annex 3 of the regulatory statement "Changes to BT's 2007/08 regulatory financial statements" of 26 June 2008; and
 - d. the Direction published at Annex 2 of the regulatory statement "Changes to BT and KCOM's regulatory and financial reporting 2013/14 update" of 3 April 2014.
4. The SMP services conditions set out at Annex 2 of the 2004 Statement and Direction 3 were applied in relation to the markets in which BT was found to have significant market power and regulatory reporting requirements were imposed at Annex 7 of a statement entitled "*Business Connectivity Market Review: Review of retail leased lines, wholesale symmetric broadband origination and wholesale trunk segments*" published on 28 March 2013.
5. On 20 December 2013, Ofcom published a consultation document entitled "*Regulatory Financial Reporting – A Review*" ("**2013 RFR Consultation**"). In that consultation, Ofcom made proposals in relation to the regulatory accounting SMP obligations of BT. In particular, Ofcom no longer proposed to apply to BT the regulatory accounting conditions set out in the 2004 Statement.
6. On 20 May 2014, following consideration of the responses to the 2013 RFR Consultation and the making of such modifications to its proposals as it considered appropriate, Ofcom published a policy statement entitled "*Regulatory Financial Reporting: Final Statement*" ("**2014 RFR Statement**") which set out (among other things)

Ofcom's conclusions on the regulatory financial reporting policy that it considered should be applied to BT.

7. On 15 May 2015, Ofcom published a consultation document entitled "*Business Connectivity Market Review – Review of competition in the provision of leased lines*" ("**BCMR Consultation**"). At Annex 6 of the BCMR Consultation, Ofcom proposed, in relation to the markets listed below, to impose, among other things, SMP services conditions with respect to regulatory accounting on BT (condition 11) which Ofcom concluded in the 2014 RFR Statement should be applied to BT:
 - a. Wholesale market for low bandwidth traditional interface symmetric broadband origination in the UK excluding the Hull Area, at bandwidths up to and including 8Mbit/s;
 - b. Wholesale market for contemporary interface symmetric broadband origination in the Rest of the UK excluding the Hull Area; and
 - c. Wholesale market for contemporary interface symmetric broadband origination in the London Periphery.
8. Ofcom proposed in paragraph 8.138 of the BCMR Consultation to issue directions under the proposed SMP services conditions subject to making any necessary changes to reflect Ofcom's proposals and ultimately decisions in relation to the markets set out in paragraph 7 above.
9. Under proposed SMP services condition 11.8 set out at Annex 6 of the BCMR Consultation, BT will be required to prepare, deliver to Ofcom and publish the Regulatory Financial Statements as directed by Ofcom from time to time.
10. Under proposed SMP services condition 11.4 set out at Annex 6 of the BCMR Consultation, Ofcom may from time to time make such directions as they consider appropriate in relation to BT's obligations under proposed SMP services condition 11.
11. This Notification sets out proposals for modification of certain Network Components specified in Direction 1.

Proposal to give direction

12. Ofcom is proposing to make the direction set out in the Schedule to this Notification.
13. The effect of and reasons for giving the proposed direction are set out in the accompanying consultation.

Ofcom's duties and legal tests

14. Ofcom considers that the proposed direction referred to in paragraph 12 complies with the requirements of section 49(2) of the Communications Act 2003 ("**Act**").

15. In making the proposals referred to in paragraph 12, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

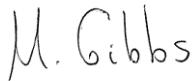
Making representations

16. Representations may be made to Ofcom about the proposals set out in this Notification and the accompanying consultation document by no later than 14 December 2015.
17. In accordance with section 49C(1)(a) of the Act, a copy of the Notification, together with the Schedule, has been sent to the Secretary of State.

Interpretation

18. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP services conditions set out at Annex 6 of the BCMR Consultation and at Annex 15 of a consultation document entitled "*Business Connectivity Market Review: Leased lines charge controls and dark fibre pricing*" published on 12 June 2015. Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink, appearing to read 'M. Gibbs'.

Marina Gibbs, Competition Policy Director, Ofcom

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

13 November 2015

Schedule

The information set out in Annex A to Direction 1 is modified by:

- 1.1 deleting each of Ethernet Backhaul Direct and Ethernet Backhaul Direct Resilience; and
- 1.2 adding the following network components:
 - 1.2.1 Ethernet Backhaul Direct Active;
 - 1.2.2 Ethernet Backhaul Direct Passive;
 - 1.2.3 Ethernet Backhaul Direct Resilience Active; and
 - 1.2.4 Ethernet Backhaul Direct Resilience Passive.