



# Review of the Metering and Billing Direction

A statement on the revisions to the Direction

Statement

Publication date:

31 July 2014

# About this document

This document concludes our review of the Metering and Billing Direction ('the Direction') and sets out the changes being made to it.

The Direction is a technical standard intended to ensure that communications providers' systems deliver accurate bills to customers. All communications providers with a turnover of more than £40 million a year for providing landline and mobile voice services are required to comply with the Direction.

This statement confirms the main proposals we made in our consultation in February 2014. The new Direction will continue to be mandatory in respect of retail and wholesale services and voluntary for data services. Other targeted changes will ensure providers have the appropriate processes and controls in place to produce accurate bills for customers.

# Contents

Section		Page
1	Summary	1
2	Introduction	3
3	Scope of the Direction	11
4	Application of Relevant Turnover threshold to providers of wholesale services	18
5	Revisions to the Direction	22
6	Applying the tests in the Communications Act 2003	36
<b>Annex</b>		<b>Page</b>
1	Respondents to the February and May 2014 Consultations	40
2	Instrument withdrawing a Direction and Ofcom Metering and Billing Direction	41
3	Changes to the draft Direction	71
4	Table of changes	99
5	Assessment of Impacts	105

## Section 1

# Summary

- 1.1 To ensure that consumers are not overcharged for services and to maintain consumer confidence in the accuracy of bills, Ofcom requires all providers of electronic communications services to provide accurate bills under General Condition 11 ('GC11'). In addition GC11.3 – GC 11.5 set out the requirements for providers of Publicly Available Telephone Services (PATS - fixed and mobile voice services) with a turnover in those services of over £40 million per year to obtain approval of their Total Metering and Billing Systems ('TMBS') from third-party assessors against the requirements of a Direction set by Ofcom ("the Direction"). The third party assessors – called Approval Bodies ('ABs') – are appointed by Ofcom. There are currently three ABs.
- 1.2 The Direction is essentially a technical standard intended to ensure that communications providers' ('CPs') billing systems deliver accurate bills. It includes process-based requirements for example on monitoring and reporting errors and also target-based requirements which set maximum error rates ('tolerances') for those systems. The current Direction was adopted by Ofcom in 2008 ('the 2008 Direction'). Providers of fixed and mobile voice services are required to meet mandatory compliance requirements in the Direction whilst providers of data connections (mobile and broadband) and 'Voice over Internet Protocol' (VoIP) are subject to voluntary provisions.
- 1.3 Ofcom has been reviewing the Direction to ensure that its scope and requirements remain appropriate and proportionate given changes in the market, including the growth in data services and the increased availability and take-up of inclusive tariff packages where consumers have an allowance of calls and/or data in exchange for a fixed fee. In addition ABs and CPs have reported difficulties in CPs achieving compliance with the Direction in respect of services for large businesses and wholesale services which CPs provide to each other.
- 1.4 We have published three consultations during the review. On 14 February 2013 ('the February 2013 consultation'), we set out high-level proposals which recognised that, while the Direction was generally working well, some changes were appropriate in particular reflecting difficulties in complying with some target-based requirements.
- 1.5 On 20 February 2014 ('the February 2014 consultation'), having taken account of responses to the February 2013 consultation, we consulted on proposed changes both to the scope and content of the Direction. We proposed that:
  - Retail and wholesale voice services should remain mandatory in the Direction.
  - The requirements in the Direction should be process-based and the target-based tolerances and accuracy limits contained in the 2008 Direction should be deleted. This would align the Direction more closely with the requirements in GC11.1 to ensure general accuracy of billing and also provide a consistent approach across residential, small and large business customers. We proposed that a process-focussed revised Direction would be more adaptable for different CPs' billing systems and more able to evolve as services and products are developed while continuing to ensure that consumers were protected by having the reassurance that CPs' billing systems were being assessed as accurate by ABs.
  - Broadband/data services should remain voluntary with the provisions in the Direction being updated and amended to adopt the same process-based approach being proposed for retail services.

- 1.6 We also proposed a number of detailed changes to the Direction in the February 2014 consultation and set out the text of the proposed new Direction in Annex 5 of the consultation.
- 1.7 The responses to the consultation were broadly supportive of our proposed approach and changes to the Direction.
- 1.8 One response to the February 2014 consultation asked whether wholesale PATS should be included in the calculation of £40 million turnover. To provide clarification on this point, we published a consultation on 23 May 2014 ('the May 2014 consultation') which set out our proposal that turnover derived from wholesale services should be included in the calculation of the £40 million threshold. We explained that we considered it appropriate to include turnover attributable to wholesale PATS in the calculation of the £40 million threshold based on the definition in the General Conditions of "PATS" and "Relevant Turnover" and that it would be anomalous if wholesale services were covered by the mandatory requirements of the Direction but not included in the calculation. The majority of responses to the May 2014 consultation were supportive of our clarification.
- 1.9 We have decided to proceed with the approach to the Direction set out in the February 2014 and May 2014 consultations. That is, the Direction should remain mandatory for providers of retail and wholesale PATS whose combined annual turnover for those services exceeds £40 million and be based around ensuring that CPs have the appropriate processes to ensure the accuracy of their billing.
- 1.10 This Statement includes the new Direction that will come into force on the date of the publication of this Statement. The new Direction reflects the proposals for changes to the text of the Direction set out in the February 2014 and May 2014 consultations with certain further changes made following careful consideration of stakeholder responses to those consultations.
- 1.11 In addition to adopting the new Direction, it will be necessary to modify GC11 to recognise the new Direction (as GC11 currently refers to the 2008 Direction). We will shortly be publishing a consultation proposing that modification. As a result it is our intention that, subject to the outcome of that consultation, CPs will have to apply for approval under the new Direction to the ABs within six months from the date on which the modification to GC11 takes effect.

## Section 2

# Introduction

## Ofcom's role in protecting consumers

- 2.1 Ofcom is the regulator for the communications sector. Under section 3(1) of the Communications Act 2003 ('the Act'), Ofcom's principal duty is to further the interests of citizens in relation to communications matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 2.2 Section 3(3) of the Act sets out that, in performing their duties under section 3(1), Ofcom must have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and to any other principles appearing to us to represent the best regulatory practice. We must also, where relevant, have regard in performing those duties to matters including the desirability of promoting competition in relevant markets (section 3(4)(b)).
- 2.3 Section 3(5) of the Act meanwhile says that, in performing our duty of furthering the interests of consumers, Ofcom must have regard in particular to the interests of those consumers in respect of choice, price, quality of service and value for money.
- 2.4 Ofcom also has a duty under section 6 of the Act to review regulatory burdens. We have also kept that in mind in the context of this review.

## General Conditions

- 2.5 Ofcom has the power under section 45 of the Act to impose various types of conditions on Communications Providers ('CPs'). These include General Conditions ('GCs') which apply to all providers, although not every GC is relevant to every provider or to every type of consumer or service provided. A GC is a condition authorised or required by one or more of sections 51, 52, 57, 58 or 64 of the Act. In particular, under section 51(1)(a) Ofcom may set conditions making such provisions as Ofcom considers appropriate for protecting the interests of the end-users of public electronic communications services.
- 2.6 In order to create or modify a GC, Ofcom must, by virtue of section 47 of the Act, be satisfied that such a condition or modification is:
  - objectively justified,<sup>1</sup>
  - not unduly discriminatory,
  - proportionate, and
  - transparent in relation to what it is intended to achieve.`

## The need for Metering and Billing provisions

- 2.7 GC11 was adopted under the framework outlined above in order to regulate the accuracy of bills for electronic communications services ("ECS"). It was considered necessary because a feature of ECS is that consumers are not generally readily able to

---

<sup>1</sup> This is an express requirement where we modify a GC. It is also relevant where we set a GC, given the need for the condition to meet a proportionality requirement.

quantify their service usage or to verify their bills. Unlike in gas and electricity, for example, there is no domestic meter to enable consumers to monitor their volume of usage. In addition the number of services used and the complexity of billing can make it extremely difficult for a consumer to check that their bill is correct.

- 2.8 Therefore, although consumers may be able to identify major errors, to a large extent many have to take the bills they receive on trust. Ofcom has taken the view that it is important to ensure that such trust is justified, that consumers are not overcharged and that consumer confidence in the accuracy of bills is maintained.
- 2.9 As a result, Ofcom put in place GC11 which provides an important protection for consumers who, in the absence of Ofcom's powers to take enforcement action under GC11, would be forced to rely on bringing multiple contractual claims in the event of inaccurate bills.
- 2.10 GC11 imposes a requirement for billing accuracy on all providers of public electronic communications services. GC11.1 states:

“The Communications Provider shall not render any Bill to an End-User in respect of the provision of any Public Electronic Communications Services unless every amount stated in that Bill represents and does not exceed the true extent of any such service actually provided to the End-User in question”.

- 2.11 GC11.3 imposes additional requirements on any provider of Publicly Available Telephony Services ('PATS') - essentially fixed and mobile voice services - with a Relevant Turnover in its most recent complete financial year exceeding £40 million. Under GC11.4, any such CP is required to obtain approval of its Total Metering and Billing System ('TMBS') for PATS services from an Approval Body, and to comply with any direction made by the Approval Body in respect of such approval.
- 2.12 Approval Bodies ('ABs'), are appointed by Ofcom. Currently there are three ABs appointed - the British Approval Board for Telecommunications (BABT), the British Standards Institution (BSI) and Enigma QPM. The ABs charge the CPs for initial approval and the on-going monitoring that they carry out.

## Ofcom Metering and Billing Direction

- 2.13 Ofcom has power under section 49 of the Act to give directions that affect the operation of GCs. Section 49 says that, where a condition set under section 45 (e.g. a General Condition) has effect by reference to a direction from Ofcom, Ofcom may only give, modify or withdraw the direction where we are satisfied that similar tests to those applicable under section 47 (see above) are met.
- 2.14 Ofcom adopted the current Metering and Billing Direction, under GC11, on 15 July 2008 ('the 2008 Direction'). The 2008 Direction is in essence a technical standard intended to ensure that compliant systems will deliver accurate bills. CP's TMBS must meet its requirements in order to secure approval for that system from an AB.
- 2.15 The Direction is principally comprised of **process-based** requirements. Amongst other things these require the CP to:

- produce, and agree with the AB, a High Level Description<sup>2</sup> of its TMBS, including all business and technical processes that can impact upon the system and those of related third parties or sub-contractors;
- assess risks to the TMBS's accuracy and document mitigation actions;
- produce and agree with the AB a Measurement Strategy<sup>3</sup> setting out how risks are to be monitored; and
- have processes in place for receiving, identifying, investigating and dealing with incorrect charges on consumers' bills.

2.16 The 2008 Direction contains the following **target-based** requirement:

- an error-rate that is allowable (0.002% or £1 in every £50,000 of calls or other charges billed); or
- for CPs whose turnover is less than £360m a year a maximum amount (a 'threshold') of £600 a month of overcharging;

2.17 In addition, the Direction sets out:

- the procedure to be followed by CPs in the event of failures in the performance of their TMBS; and
- the assessment process for initial and ongoing approval.

2.18 The mandatory provisions of the Direction apply to PATS services (i.e. fixed and mobile voice services). The Direction also contains voluntary provisions on data services and Voice over Internet Protocol ('VoIP') services.

## The AB's audit

2.19 The ABs' audit of a CP's TMBS focuses on the process-based requirements: assessing the processes, measures and controls that a CP has in place to meet the standards set out in the Direction.

2.20 The typical areas assessed by the Approval Bodies as part of an audit under the Direction are (not exhaustive):

- **System/Infrastructure design:** to ensure they are adequate to deliver accurate bills for services and products that comply with the Direction;
- **Management systems:** to ensure appropriate controls of the systems and staff involved in the supply and billing of services and products;
- **Management of risk & change control processes:** to ensure that systems remain compliant and produce accurate billing in light of any changes or developments and that staff training is also up to date with changes;

---

<sup>2</sup> A High Level Description is defined in section A3.4.1 of the 2008 Direction as 'a documented explanation of the TMBS and the associated risks to completeness and accuracy'.

<http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/ofcommb.pdf>

<sup>3</sup> A Measurement Strategy is defined in section A3.4.2 of the 2008 Direction as a statement of how risks are to be monitored and where the occurrence of the risk is measured for reporting on the TMBS performance.

- **Service level agreements:** between wholesale and retail communications providers to check that no third party adversely influences the accuracy of bills;
- **Customer contracts:** to ensure the correct service is being provided at the correct rate;
- **Sales literature, published tariffs and routes to market:** to prevent provision of inaccurate and misleading information;
- **Service provisioning & ceasing of services:** to ensure the CP's service starts and stops on the correct days and is accurately recorded;
- **Data recording of usage<sup>4</sup> and non-usage<sup>5</sup> events:** to ensure the accuracy of apportioning them to the consumer's bill;
- **Rating and tariff management:** to ensure that calls are charged and added to the consumer's bill correctly;
- **Billing activities including credits and adjustments:** to ensure they promote timeliness, completeness and accuracy;
- **Corrective action, suspense and complaints records:** to ensure that when something goes wrong it is identified and fixed correctly; and
- **CP's internal audit:** to ensure it adequately checks its billing systems.

2.21 The target-based requirements principally apply to the ongoing monitoring of the TMBS by the CP and reporting breaches of the error-rates or thresholds to the AB.

## Overview of this review

2.22 The Direction, as part of the requirements set out in GC11, has been in operation for over a decade. The original document was created as the "22 July 2003 Oftel Direction". It was subsequently amended in 2006, remaining in place until Ofcom conducted a full review of Metering and Billing in 2007-8, during which the text of GC11 was amended, and the drafting in the Direction was updated, as published on 15 July 2008 ('the 2008 Direction').

2.23 In 2012 Ofcom began work to consider options for reviewing the 2008 Direction in light of ongoing changes to the communications market, including the growth in the use of fixed broadband and mobile data services. We also decided it was appropriate to consider whether the increased availability and take-up of inclusive call and data packages had reduced the need for consumers to ensure the accuracy of individual calls on their bills.

## February 2013 Consultation

2.24 We published a consultation on 14 February 2013 ('the February 2013 consultation') and sought stakeholder views on our proposals to modify and update the Direction.

---

<sup>4</sup> Usage Events records are generated by a telecommunications switch, triggered by the use of a PATS by the End-User

<sup>5</sup> Non-Usage Events records are sub-divided into two categories (Non-Recurring and Recurring Events) and cover the Event records not triggered by the use of a Publicly Available Telephone Service by the End-User

- 2.25 We explained that we did not intend to review the scope of Condition GC11.1, as there was no evidence that the relevance of GC11.1 had changed. However, we indicated that we would take account of its existence in considering whether to amend the requirements of the Direction.
- 2.26 We further explained that we were not proposing to review the requirements set out in GC11.3 and GC11.4, including any review of the level at which CPs have to comply with the Direction i.e. the £40 million threshold. The available evidence suggested that the coverage of the £40 million threshold and the proportion of consumers given protection by the Direction had not materially changed since 2008.
- 2.27 The purpose of this consultation was to review the Direction and consider whether any changes were necessary. We wanted to ensure that the Direction's scope and requirements remained appropriate given the changes in the market in recent years including the growth in data services.
- 2.28 We also wanted to consider the impact of the increased availability and take-up of inclusive tariff packages (e.g. where a data download allowance or a call allowance is provided in exchange for a fixed fee and if a consumer does not exceed their allowance for a particular service, they will not incur any additional costs). We consider that it is still important that the use of inclusive allowances is accurately monitored and that, when consumers do exceed their allowance, the charges are accurately calculated.
- 2.29 In general, we considered that the Direction was working well and proposed that:
- The requirements in respect of fixed and mobile voice services for households and small and medium-sized businesses should remain unchanged.
  - Fixed and mobile data services should remain subject to voluntary provisions. However, the provisions should be reviewed and updated to ensure that they remain relevant and effective.
  - The accuracy and tolerance limits should be removed for services to large business consumers with a telecoms spend in excess of £50k per year, as the evidence we had from CPs and ABs suggested compliance with these limits was not achievable given the volume of traffic for large businesses.
  - CPs and ABs had indicated that the accuracy and tolerance levels for wholesale services were not achievable. As CPs were likely to have an incentive and ability to monitor bills from wholesale providers, we considered it appropriate to remove wholesale services from the Direction rather than simply remove the accuracy and tolerance levels.
- 2.30 The consultation closed on 25 April 2013. In total, Ofcom received 21 responses from stakeholders which included responses from the three ABs, fourteen from CPs and four from individuals and other organisations. The non-confidential responses were published on the Ofcom website. In summary:
- The majority of responses supported retention of mandatory provisions in respect of retail voice services and retention of voluntary provisions in respect of retail data services.
  - The removal of the tolerances and accuracy limits and the focus on process-based requirements for services for large businesses was widely supported with some respondents arguing that this approach should be extended to all voice services.

- There were mixed views on the proposed removal of wholesale services. This was supported by CPs providing wholesale services but generally opposed by CPs receiving those services who argued that if requirements on billing were applied at the retail level, they should also apply to the wholesale services from which the retail bills are derived.

2.31 Following consideration of the consultation responses and further discussions with stakeholders we published revised proposals in a consultation on 20 February 2014 ('the February 2014 consultation') which set out the proposed approach to scope and more detailed proposals for the Direction.

## February 2014 consultation

2.32 In the February 2014 consultation, Ofcom proposed that retail voice services remain mandatory in the Direction (as proposed in the February 2013 consultation) and that the proposal to remove the tolerances and accuracy limits and focus on a process-based set of requirements for large businesses should be extended to all voice services. This would align the Direction more closely with the requirements in GC11.1 to ensure general accuracy of billing and also provide a consistent approach across residential, small and large business customers.

2.33 We also maintained the proposal that broadband/data services remain voluntary with the provisions in the Direction being updated and amended to adopt the same process-based approach being proposed for retail services.

2.34 We proposed that the Direction remain mandatory for wholesale services but the tolerance and accuracy limits should be removed and the focus should be on the process-based requirements in the Direction. We had changed our view on the proposal in the February 2013 consultation to remove wholesale services from the scope of the Direction, having taken account of responses that having consistency between the wholesale and retail regime would assist retail CPs receiving wholesale services to comply with the retail requirements in the Direction.

2.35 In addition to setting out our proposed modified approach, we also proposed details of how the new Direction might work and set out the text of the proposed revised Direction. We received 12 responses to this consultation<sup>6</sup>. These are summarised in section 3 of this statement with the detail of changes to the Direction summarised in section 5.

2.36 One response to the February 2014 consultation requested clarification on whether, in determining if a CP's turnover exceeds the £40 million threshold, wholesale PATS should be included in that calculation.

2.37 Since we had made a change to address this issue in the text of the proposed new Direction that was published with the February 2014 consultation, but had not drawn explicit attention to this change, we published a consultation in May 2014 (the 'May 2014 consultation'), which closed on the 23 June 2014 and which sought views from stakeholders on our proposal that wholesale PATS should be included in the calculation of £40 million turnover. The responses to the May 2014 consultation are set out in this statement.

---

<sup>6</sup> The non-confidential responses are set out <http://stakeholders.ofcom.org.uk/consultations/metering-billing-2014/?showResponses=true&pageNum=2#responses>

## What does this statement cover?

- 2.38 Having carefully considered responses to the February 2013, February 2014 and May 2014 consultations, this statement sets out our conclusions.
- 2.39 Section 3 recaps the issues and proposals in our February 2014 consultation in respect of the scope of the Direction, summarises the responses from stakeholders and sets out Ofcom's response and decisions in light of those comments.
- 2.40 Section 4 recaps the issue and our proposal in the May 2014 consultation, summarises the responses from stakeholders and sets out Ofcom's conclusions on the application of the relevant turnover threshold under General Condition 11 to providers of wholesale services.
- 2.41 Section 5 summarises the responses from stakeholders to the detailed changes to the Direction that we proposed in the February 2014 consultations and sets out Ofcom's response and decisions.
- 2.42 Section 6 sets out our assessment of how our decisions meet the tests set in section 49 and the duties set under sections 3 and 4 of the Act .
- 2.43 The instrument withdrawing and giving of a Direction is in Annex 2 and the text of the new Direction is in the schedule to the instrument. Annex 3 contains a version of the new Direction which tracks the changes that have been made to the proposed new Direction that was set out in Annex 5 of the February 2014 consultation.

## Impact Assessment

- 2.44 The analysis presented in the February 2013, February 2014 and May 2014 consultation documents represented an impact assessment, as defined in section 7 of the Communications Act 2003 (the Act).
- 2.45 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. This reflects section 7 of the Act, which requires Ofcom to carry out impact assessments where its proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the majority of its policy decisions. For further information about Ofcom's approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on Ofcom's website.<sup>7</sup>
- 2.46 Specifically, pursuant to section 7 of the Act, an impact assessment must set out how, in our opinion, the performance of our general duties (within the meaning of section 3 of the Act) is secured or furthered by or in relation to proposals we make.
- 2.47 In making the decisions set out in this Statement, we have taken into account the responses to the three consultations as well as the assessment of the impacts of our proposals on all the key stakeholders that we set out in the consultations. The details of that assessment of impacts are set out in Annex 6.

---

<sup>7</sup> <http://www.ofcom.org.uk/about/policies-and-guidelines/better-policy-making-ofcoms-approach-to-impact-assessment/>

## **Equality Impact Assessment**

- 2.48 Ofcom is also required to assess the potential impact of all our functions, policies, projects and practices on the equality of individuals to whom those policies will apply. Equality impact assessments ('EIAs') 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.
- 2.49 In our three consultation documents, we gave careful consideration to whether or not our proposals would have a particular impact on race, age, disability, gender, pregnancy and maternity, religion or sex equality. In light of that consideration, we do not envisage that the decisions contained in this Statement will have a detrimental impact on any particular group of people.

## Section 3

# Scope of the Direction

3.1 This section re-caps the proposals we made in our February 2014 consultation about the scope of the Direction and summarises stakeholder responses on these points. We set out our response and decisions.

## The February 2014 consultation

3.2 Having carefully considered the consultation responses to the 2013 consultation, we reconsidered and modified some of our proposals in light of those responses. The February 2014 consultation sought input from stakeholders on Ofcom's proposed modified approach and our detailed proposals for implementing that approach in light of the further work we had undertaken on the proposed new Direction with ABs and other stakeholders since the consultation closed.

3.3 We set out proposals on how the Direction should apply to:

- Retail fixed and mobile voice services for households and small- and medium- sized businesses;
- Retail fixed and mobile voice services for large businesses;
- Broadband/data services;
- Wholesale fixed and mobile voice services.

## Fixed and mobile voice services for households and small and medium-sized businesses

### Our proposal

3.4 In the February 2014 consultation we proposed that the fixed and mobile voice services for households and small and medium-sized businesses should remain mandatory within the Direction and the requirements for these services should be focussed on the process-based provisions in the Direction, as described in paragraph 2.15, with the target-based provisions, described in paragraph 2.16, removed. This represented a change relative to the February 2013 consultation where we had proposed that the target-based provision should be retained as part of the mandatory requirements for fixed and mobile voice services for households and small and medium-sized businesses.

### Stakeholders' responses

3.5 As explained in paragraph 2.30, the majority of responses to the February 2013 consultation supported the proposal that fixed and mobile voice services for households and small and medium-sized businesses should remain mandatory provisions in the Direction. There were no further responses on this point to the February 2014 consultation.

3.6 In respect of the use of process-based requirements only for these services, all responses to the February 2014 consultation supported this move. The ABs supported the change saying that they believed it would ensure that CPs focus on corrective action and on improvements rather than being distracted by the possibility of breaching targets.

The ABs have provided (confidential) examples of cases where CPs have met the targets set in the Direction even though other metrics and information, provided as part of monitoring of the process-based requirements, have indicated that there were problems with the accuracy of their billing system.

- 3.7 BT argued that the proposal would have the benefit of utilising the compliance and business controls that already exist within CPs' organisations. They believed this would allow a 'business as usual' approach to be adopted whilst still providing the protection consumers would expect. They also argued that the revised approach would be more flexible to adapt and would therefore enable CPs to apply for a wider range of services covered by the mandatory and voluntary scope for fixed and mobile voice and data services.
- 3.8 Colt supported the change. They argued that the current targets are unworkable because they do not consider the specific design of the CP's TMBS and as a result one exception can result in a failure although this may in of itself be an isolated failure. They believed that moving to a process-based TMBS would ensure that CPs focus on identifying and analysing errors and then put in place corrective measures to remedy errors to avoid reoccurrence, rather than seeking to achieve targets which had been unworkable or which might mask underlying problems.
- 3.9 EE believed that the existing Direction is operating effectively and brings benefits to consumers and providers but acknowledged that the proposed Direction is an improvement to the existing one and provided scope for further improvement. They argued that process-based requirements would ensure that providers focused on billing errors, root cause analysis and corrective action to prevent re-occurrence, rather than seeking to achieve targets which may be unworkable or which might mask the actual problems.
- 3.10 Three welcomed Ofcom's proposals which they believed were positive in simplifying the existing regulation whilst maintaining the objective of ensuring consumers can have total trust in their bills.
- 3.11 Talk Talk Group believed that the removal of target-based requirements would benefit CPs seeking to show compliance with the Direction and that in a simplified format, the Direction would encourage CPs to seek to apply to obtain approval.
- 3.12 KCOM welcomed the removal of the target-based requirements across all retail services and believed the targets had become increasingly unworkable, particularly in relation to business services. KCOM argued that Ofcom's proposal would encourage a focus on continual improvement by ensuring CPs were focussed on fixing underlying issues which result in billing errors rather than simply trying to minimise the total amount of errors in a given period.
- 3.13 Sky supported the proposed removal of target-based requirements to safeguard billing accuracy but considered it would be useful for the ABs in their role of monitoring and auditing performance to work with industry to develop best practice guidance on accuracy performance.
- 3.14 SSE agreed with Ofcom's proposal and supported the retention of process-based requirements in the Direction.
- 3.15 Telecom Plus highlighted that the focus on achieving compliance to defined accuracy tolerances often becomes an end to itself rather than a catalyst for improving services to consumers and refining operation of the TMBS in order to drive improvements in billing accuracy. They argued that the continuous surveillance and refinement of the operation of a TMBS drives improvement in billing accuracy and ensures that errors are effectively

detected and addressed minimising their impact on consumers. They believed it would benefit consumers to ensure this was the main focus of the Direction.

### **Ofcom's response and decision**

- 3.16 In terms of whether the Direction should continue to be mandatory for fixed and mobile voice services for households and small and medium-sized businesses, we have considered:
- the impact of the Direction on CPs' billing systems;
  - the number of complaints Ofcom receives about billing; and
  - whether the take-up of all inclusive tariff packages indicates that the need for consumer protection is altered.
- 3.17 The evidence we have gathered during the review indicates that the Direction has resulted in improvements to CPs' billing systems and brought benefits to consumers and to CPs.<sup>8</sup> CPs and ABs have said in responses to the consultations that the Direction has facilitated changes and improvements to their systems by providing a practical framework for the measurement of billing accuracy and for achieving progressive improvement to CPs processes.
- 3.18 The number of complaints from consumers to Ofcom about billing has dropped since the introduction of the 2008 Direction. In 2007, Ofcom recorded over 14,000 billing complaints compared to approximately 12,000 billing complaints in 2013. However, the number still remains significant. Billing complaints rank fourth highest in terms of the overall complaints recorded by Ofcom with 87% of billing complaints related to voice services. This suggests that while the Direction may have contributed to the reduction in complaints, billing of voice services remains a continuing area of concern where intervention by Ofcom through the Direction remains appropriate.
- 3.19 We also found that a significant proportion of voice bills remain metered. Although fixed line and mobile contract tariffs often have an inclusive call element, in most cases some calls are metered. Even the most inclusive packages rarely, if ever, include all types of calls. International calls and calls to non-geographic numbers, for example, are typically excluded and subject to metered billing. In addition, some CPs provide call packages that have inclusive calls only at selected times of the day, such as evening and/or weekend calls but charge metered fees at other times. Our consumer research found that, of those who check their bills, around a quarter of fixed-line and a third of mobile contract consumers incur charges in addition to a monthly usage allowance.
- 3.20 Further, around half of mobile subscribers are on Pay As You Go (PAYG) tariffs, where consumers are reliant on the CP accurately applying charges because they do not receive bills.
- 3.21 Taking account of these factors and the responses to the consultation, we have decided that there is an ongoing need for fixed and mobile voice services for households and small- and medium- sized businesses to be covered as mandatory requirements in the Direction.
- 3.22 We also believe that the case for revising the proposals so that the provisions in respect of households and small- and medium- sized businesses are focussed on process-

---

<sup>8</sup> See evidence set out in paragraphs 3.10 to 3.55 of the February 2013 consultation.

based provisions in the Direction, as described in paragraph 2.19, with the target-based provisions removed is appropriate and proportionate for the following reasons:

- The removal of the target-based requirements and the retention of the existing process-based requirements should ensure that the approval and audit processes, and ongoing reporting by CPs to ABs, are focussed on CPs identifying and analysing all billing errors. Instead of having targets which envisaged an 'acceptable' error rate, the remaining provisions, while recognising that errors may occur, would aim to achieve ongoing improvement in CPs' systems and processes to ensure that, where errors occur, corrective measures are put in place that address the risk of repetition. This more closely aligns the Direction with the provisions of GC11.1 which requires CPs to ensure that all bills represent and do not exceed the true extent of any such service actually provided, rather than setting targets for billing accuracy.
- CPs have pointed out that they use process-based requirements for their own internal audits and for ensuring billing accuracy, so compliance costs could be reduced. This could also encourage voluntary compliance with the Direction by CPs with annual relevant revenues under £40 million not covered by its scope.
- The arrangements should be more adaptable and future-proof as they would be based solely on processes rather than targets which might need to be changed as usage and services changed.
- Although we will be removing elements of the current requirements, we believe the remaining requirements of the Direction will be adequate to protect consumers by ensuring that CPs processes are focussed on ensuring the accuracy of bills. Indeed, for the reasons explained above, we consider that the focus on the process-based requirements should result in a closer alignment with the objectives of GC 11.1 and should therefore be more effective at protecting consumers.

3.23 As noted above, responses to the February 2014 consultation supported the focus on process-based requirements.

3.24 For these reasons, we have decided that the provisions on voice for households and small- and medium-sized business in the Direction should remain mandatory. We have decided to introduce process-based requirements and to remove target-based provisions.

## Data services

### Our proposal

3.25 We proposed in the February 2013 and February 2014 consultations that data services should continue to be subject to voluntary provisions but that the provisions should be reviewed and updated in order to make them more relevant and useful to CPs. In the February 2014 consultation we proposed that the provisions should be:

- as consistent as possible with the provisions for voice services so that additional compliance costs are minimised; and
- process-based to ensure they are flexible.

### Stakeholders' responses

3.26 There was wide support from CPs in responses to the February 2013 consultation for data services to remain a voluntary requirement. There were no further responses on this point to the February 2014 consultation.

3.27 The responses to the February 2014 consultation – summarised in paragraphs 3.6 to 3.15 above - generally also applied to data services with CPs in particular arguing that simplified requirements, aligned as far as possible between voice and data, would encourage CPs to seek approval for data services on a voluntary basis.

### **Ofcom's response and decision**

3.28 In terms of whether the Direction should continue to be voluntary for data services, we note that the majority (87%) of complaints to Ofcom about billing relate to voice and 13% to data services. In view of this lower level of complaints and given that data services are typically taken with an allowance for a set monthly fee where the customer does not show metered charges, we believe that data services should remain voluntary provisions in the Direction.

3.29 However future usage trends are unclear, in particular with 4G expected to lead to increased use of mobile data as it will be quicker to download data. These changes may lead to more cases where allowances are exceeded and data charges metered which may strengthen the case for making data mandatory under the Direction. On the other hand, the size of data allowances offered by CPs may increase as a result and measures to combat 'unexpectedly high bills' (particularly in relation to international roaming charges) may reduce the risk of consumer harm.<sup>9</sup>

3.30 We have therefore decided that data services should remain as voluntary provisions in the Direction but that we will continue to monitor this area in the future as usage and services develop to assess whether it may be appropriate to introduce mandatory requirements in the future.

3.31 In terms of the provisions in the Direction that relate to data services, there was strong support in responses to the February 2013 and February 2014 consultations for the provisions to be updated and aligned as far as practical with the voice requirements to minimise costs for CPs seeking approval for both voice and data services and thereby to encourage CPs to seek approval on a voluntary basis. In addition, adopting the process-based provisions that we are requiring for voice services should have the same advantages for data services, as set out in paragraph 3.22, that is:

- focused on identifying and analysing billing errors;
- reflecting business practices and internal audits of CPs;
- adaptable and future-proof; and
- aligned to the objectives of GC11.1.

3.32 For these reasons, we have decided that the provisions on data in the Direction should be updated and aligned as far as practical with the requirements for voice.

## **Large businesses**

### **Our proposal**

3.33 In the February 2013 and February 2014 consultations, we proposed that services for large businesses should remain subject to mandatory requirements under the Direction

---

<sup>9</sup> To date, CPs providing 4G services have offered a range of data allowances including some which allow unlimited use of data.

and that the target-based requirements of the Direction should be removed.<sup>10</sup> In February 2014, as explained in paragraph 3.4, we proposed that the same requirements should apply to all voice services.

### **Stakeholder responses**

3.34 Responses to the February 2014 consultation were focussed on our proposed use of process-based requirements in respect of these and other voice services. As reported in paragraphs 3.5 to 3.15 above, our proposals were supported by all stakeholders.

### **Ofcom's response and decision**

- 3.35 We continue to believe that services for large businesses should be subject to mandatory provisions in the Direction. The ABs and the majority of CPs responding to the February 2013 consultation supported retaining services for large businesses as mandatory under the Direction, albeit with target-based requirements removed as they had been found impractical to meet. Two business stakeholders responding to that consultation also supported our proposal arguing that businesses needed the protection given by the Direction as they could not be sure that bills reflected usage and tariffs and they usually relied on CPs to identify errors.
- 3.36 In terms of the provisions in the Direction that relate to services for large business, there was strong support in responses to the February 2014 consultations for the provisions to be process-based and to be aligned with the requirements for other voice services so that CPs have a single set of requirements to meet. In addition, adopting the process-based provisions should have the same advantages as set out in paragraph 3.22.
- 3.37 For these reasons, we have decided that the provisions on services for large businesses in the Direction should be mandatory and be the same as the requirements for other voice services.

## **Wholesale services**

### **Our proposal**

3.38 In the February 2014 consultation, we proposed that the Direction should remain mandatory for wholesale PATS but that its requirements should be focussed on the Call Date Records ('CDRs')<sup>11</sup> supplied by wholesale CPs and should be framed in the same way as retail services around process-based requirements. This represented a change relative to the February 2013 consultation where we had proposed that wholesale services should be removed from the mandatory requirements in the Direction.

### **Stakeholders' responses**

3.39 Responses to the February 2014 consultation were focussed on our proposed use of process-based requirements in respect of wholesale services. As reported in paragraphs 3.5 to 3.15 above, our proposals were supported by all stakeholders

---

<sup>10</sup>In the February 2013 consultation, we had proposed that target-based requirements should be removed only in respect of services for large business and proposed a definition of large businesses for those purposes. In light of our decision to apply process-based requirements to all PATS, there is no need to define large businesses.

<sup>11</sup> CDRs are records, supplied by the wholesaler, of the calls made by users; these records form the basis of the bills issued by the retail CP who either apply their own retail tariff to the calls or in the case of 'rated CDRs' rely on the wholesaler applying the tariffs set by the retailers

- 3.40 Comments were also received in respect of the proposals about the timing of the delivery of CDRs; these and Ofcom's decision are set out in section 5.

### **Ofcom's response and decision**

- 3.41 In the February 2014 consultation, we noted the arguments from seven retail CPs, in response to the earlier consultation, that the accuracy of call records that they receive from wholesale CPs is critical to the accuracy of the bills they present to retail consumers and that they considered that their contractual provisions were not sufficient to mitigate the risks of billing inaccuracy. We also noted that retail CPs, particularly smaller ones, felt that they did not have significant influence over large wholesale CPs and that, if specific problems with accuracy emerged, they needed swift resolution. It was these arguments that had led us to change the proposal we had made in the February 2013 consultation to remove wholesale services from the Direction.
- 3.42 In terms of the provisions in the Direction that relate to wholesale PATS, there was strong support in responses to the February 2014 consultations for the provisions to be process-based. Adopting process-based provisions should have the similar advantages set out in paragraph 3.17 in respect of retail services.
- 3.43 For these reasons, we have decided that the provisions on wholesale PATS in the Direction should be mandatory and be process-based in a similar way to the requirements for voice services.

### **Conclusions on scope**

- 3.44 In light of the analysis above and having carefully considered responses to our consultations, we are maintaining the scope of the Direction in that it will continue to cover retail and wholesale PATS as mandatory requirements and data services as voluntary provisions. We are withdrawing the 2008 Direction and introducing a new Direction so that the provisions are based on ensuring CPs have the appropriate controls and processes in place to ensure the accuracy of bills; the target-based provisions in the 2008 Direction are being removed.
- 3.45 The amended Direction set out in Annex 2 sets out the mandatory requirements in respect of retail and wholesale PATS and voluntary provisions in respect of data. Certain provisions relating to the processes that CPs should have in place to meet the requirements of the Direction are considered further in section 5 below. Section 6 sets out our analysis of how the changes that we have decided to make meet the tests set out in the Act.

## Section 4

# Application of Relevant Turnover threshold to providers of wholesale services

## Introduction

- 4.1 This section recaps the issues raised in our May 2014 consultation and summarises stakeholder responses to that consultation. We set out our decision in light of those responses.
- 4.2 In the February 2014 consultation, amongst other things, we proposed that wholesale PATS should remain subject to the mandatory requirements in the Direction for CPs where their Relevant Turnover exceeds £40 million annually.
- 4.3 One response to the February 2014 consultation requested clarification on whether, in determining if a CP's turnover exceeds the £40 million threshold, wholesale PATS should be included in that calculation.
- 4.4 We had proposed revised wording to the Direction in the February 2014 consultation on this point. However, in the February 2014 consultation we did not draw explicit attention to this change. The revised wording was set out in two places in the proposed Direction:<sup>12</sup>
- In clause 3.1 of the main body of the proposed Direction which deals with the scope of the Direction, we made it clear that the Relevant Turnover for the purposes of the £40 million threshold was turnover for the mandatory service set out in the Annexes. As wholesale PATS are mandatory services dealt with in Annex C, it was clear that turnover attributable to such services should be taken into account in calculating whether the £40 million threshold had been met:

“A CP is required to comply with the Direction if its Relevant Turnover for each mandatory service (as outlined in the Annexes) is more than £40,000,000 on an annual basis (exclusive of VAT and other taxes directly related to turnover).”
  - In Annex C on Wholesale Services, clause 2.1 of the proposed Direction on the application of the CP inclusion thresholds state:

“A CP providing Wholesale services shall apply for Approval of its TMBS when the relevant turnover from PATS exceeds £40,000,000 per annum (exclusive of VAT and other taxes directly related to turnover). That Approval application shall be to an OFCOM appointed AB.”
- 4.5 To ensure we proceeded sufficiently transparently, fairly and on the basis of appropriate inputs and evidence, we published a short consultation (the May consultation), which closed on the 23 June 2014 and sought views from stakeholders on the proposed change to the Direction.

---

<sup>12</sup> It should be noted that similar changes had been made to clause 2.1.1 of Annex B on Retail Services in the proposed Direction in the February 2014 consultation. However, since this did not relate to the question of whether wholesale PATS turnover should be included in the calculation of the £40 million threshold, we did not refer to it in the May 2014 consultation.

## Ofcom's proposal

- 4.6 In the May 2014 consultation we proposed that, if wholesale services remained within the mandatory provisions of the Direction, the calculation of Relevant Turnover should include turnover from wholesale PATS (as well as retail PATS).

## Stakeholders' responses

- 4.7 In total, we received four responses from CPs: BT, KCOM, SSE and Verizon.
- 4.8 BT and SSE supported the wording changes in relation to the provision of wholesale services to be included in the calculation of Relevant Turnover as set out in the May consultation.
- 4.9 Verizon supported and 'agreed with Ofcom's overall assessment that if wholesale services remain within the mandatory provisions of the Direction, the calculation of Relevant Turnover should include turnover from wholesale PATS as well as retail PATS'. They also highlighted concerns in relation 'to fairness and discrimination of the application of the Direction' and 'potential detriment faced by retail consumers who are dependent on wholesale services' should wholesale services be excluded from the threshold calculation. Verizon believed that any additional costs associated with compliance with the clarified obligations are likely to be minimal.
- 4.10 KCOM in its response did not think it was appropriate to consider combined retail and wholesale turnover when determining whether the £40m threshold has been met. They suggested an alternative approach, "would be to make retail and wholesale services separately subject to the £40m relevant turnover threshold". They argued, this would provide consistency "with the wording of clause A3.3.1 of the 2008 Direction and clause 3.1 of the proposed new Direction in that both require compliance if Relevant Turnover "...for each mandatory service (as outlined in the Annexes) is more than £40,000,000...".

## Ofcom's response and decision

- 4.11 We remain of the opinion that it is appropriate to include turnover attributable to the provision of wholesale PATS in the calculation of the £40 million threshold based on the definitions set out in the General Conditions of "PATS" and "Relevant Turnover" for the purposes of that threshold in GC 11.3.
- 4.12 The 2008 Direction includes wholesale services as mandatory requirements for CPs with Relevant Turnover over £40m per annum. As set out in section 3, we have decided that wholesale services should remain as mandatory requirements in the Direction. In other words, we have decided to retain the requirement that CPs with a relevant turnover over £40m per annum must get approval of their TMBS for wholesale, as well as the retail services they provide.
- 4.13 Given that wholesale services are covered by the mandatory requirements, it would be anomalous not to include wholesale services in the calculation of turnover.
- 4.14 For example, if wholesale services were not included in the calculation of Relevant Turnover, a large wholesale CP whose retail turnover fell below the £40m and who might supply significant retail CPs with wholesale services would not fall within the scope of the Direction. As a result, those retail CPs to whom it in turn supplied services would not have the same level of assurance about the accuracy of the bills that they issued to consumers. This would be so notwithstanding that the Direction recognised the need for protection - billing accuracy - in respect of wholesale services, ultimately for the benefit of retail consumers

- 4.15 Conversely, a retail CP with over £40m retail turnover that also provided wholesale services would be assessed for both retail and wholesale services.
- 4.16 We do not consider that the publicly available element of the definition of PATS excludes wholesale services. Ofcom's guidelines on the General Conditions state in relation to PATS that the term covers the class of providers "which provide networks or services which enable members of the public to make and receive PSTN phone calls. Providers of, for example, data services or data networks are excluded from this class of provider, as are providers of Internet access services. Providers of telephone services which are not available to the generality of the public (eg payphone services provided by landlords, or bespoke services only available to particular users) are not considered to be "publicly available" and are excluded from this group. The group does, however, include most providers of indirect access services and resellers of PSTN services...."
- 4.17 The Guidelines make it clear that the publicly available element of the PATS definition is designed to capture services that are available to the public in general (as opposed to services that are available only to a sub-set of users) and that it is not about the stage in the wholesale and retail chain at which these services are provided.
- 4.18 The wholesale element of the provision of PATS to End-Users is part of the provision of PATS and should therefore be included in the calculations of the £40million threshold.
- 4.19 We have considered KCOM's suggestion to make retail and wholesale services separately subject to the £40m relevant turnover threshold but we do consider this an appropriate approach for the following reasons:
- We consider that CPs with PATS turnover above £40 million should have robust metering and billing processes in place, irrespective of whether their turnover relates to the provision of wholesale or retail services or both.
  - KCOM's approach would exclude a CP that has significant total PATS turnover (say £70m) but just happens to fall below the £40m threshold for each of its retail and wholesale turnover.
- 4.20 The analysis of CPs' turnover that we have carried out, and referred to in the May 2014 consultation,<sup>13</sup> shows that CPs whose separate Relevant Turnover in respect of wholesale and retail services fall below the £40m threshold but cumulatively exceed the £40m Relevant Turnover, are unlikely to be negatively impacted as a result of including revenues for both wholesale and retail services in the calculation of the £40m Relevant Turnover. These CPs would already be audited by the ABs and therefore required to have robust billing systems in place. Our decision is that wholesale services are part of the provision of PATS to end-users and should therefore be included in the calculations of the £40 million Relevant Turnover threshold and that the threshold should be the sum of wholesale and retail turnover.
- 4.21 To ensure that this point is clear in the Direction we are making a changes to the wording as follows:
- clause 3.1. of the Direction has been modified as follows (with changes to the text in section 3.1 of the draft Direction that was proposed in the February 2014 consultation highlighted in bold).

“ A CP is required to comply with this Direction if its Relevant Turnover for **the sum of the Mandatory Services that it provides** is more than £40,000,000 on

---

<sup>13</sup> See paragraph 3.20 <http://stakeholders.ofcom.org.uk/binaries/consultations/metering-billing-may14/summary/m-and-b-may14.pdf>

an annual basis (exclusive of VAT and other taxes directly related to turnover). Therefore, not all products and services offered by a CP are covered by this Direction”.

- and to clause 2.1 Annex C on Wholesale Services, on the application of the CP inclusion thresholds states:

“A CP providing Wholesale services shall apply for Approval of its TMBS when the relevant turnover from **the sum of the Mandatory Services that it provides** exceeds £40,000,000 on an annual basis (exclusive of VAT and other taxes directly related to turnover)”.

- 4.22 For consistency, we are also changing the wording of clause 2.1.1 of Annex B on Retail Services to bring it into line with the above clauses. The revised wording of clause 2.1.1 states:

“A CP **providing Retail services** shall apply for Approval **of its TMBS** when the Relevant Turnover from **the sum of the Mandatory Services that it provides** exceeds £40,000,000 **on an annual basis** (exclusive of VAT and other taxes directly related to turnover).”

## Section 5

# Revisions to the Direction

5.1 While sections 3 and 4 considered the scope and application of the Direction, this section sets out changes to the detail of the Direction. It covers detailed changes to the Direction that we proposed in the February 2014 consultation including:

- Structural changes to the Direction;
- Usage measurement limits;
- Target-based requirements;
- The timescales for approval;
- The definition of extraordinary performance failure ('EPF');
- The timescales for the provision of Call Data Records ('CDRs') by wholesale CPs;
- Extension of the scope of existing approvals; and
- Measures to promote consistency between ABs.

5.2 In addition, Annex 3 shows the changes made to the draft Direction proposed in February 2014. Annex 4 provides an explanation of the changes shown in Annex 3, other than those that are typographical or very minor drafting changes; for completeness, it also contains the table published in Annex 6 of the February 2014 consultation which set out material and non-material drafting changes to the 2008 Direction.

## Structural changes

### Ofcom's proposal

5.3 In the February 2014 consultation we proposed to change the structure of the Direction with the number of annexes being reduced from six in the 2008 Direction to three annexes in the draft new Direction. We proposed that retail mandatory and voluntary PATS provisions (Annexes B, C, D, E and F in the 2008 Direction) should be brought under a single annex (Annex B in the proposed new Direction). Similarly we proposed a new Annex for wholesale services rationalising the wholesale provision in the 2008 Direction (currently Annex B,C,D,E,F); these provisions would be in Annex C of the proposed new Direction. Under our proposed Direction, Annex A would continue to set out definitions of terms.

### Stakeholders' responses

5.4 There were no specific comments received on the revised structure.

### Ofcom's response and decision

5.5 We have decided to make the proposed structural changes to the Direction. Bringing the voluntary provisions under the same annex as for mandatory services reflects the greater consistency in the draft new Direction between the mandatory voice and the voluntary data provisions. This should improve the clarity of the Direction and should

assist CPs who wish to obtain approval for both mandatory and voluntary aspects of their TMBS.

## Usage Events Measurement Limits

### Ofcom's proposal

- 5.6 We proposed in the February 2014 consultation that data volume measurement limits for voluntary approvals (Annex D in the 2008 Direction), be included in the annex for retail services (Annex B) and in the annex for wholesale services (Annex C), in the new Direction.

### Stakeholders' responses

- 5.7 No specific responses were received on this point. BT however noted that reference to 'limits' was potentially confusing in that it implied the continued use of targets.

### Ofcom's response and decision

- 5.8 We have decided to include measurement provisions in the retail and wholesale annexes. However we have changed 'limits' to 'capabilities' to make clear these provisions are not targets but relate to the ability of a CP's system to deliver billing accuracy.
- 5.9 As set out in paragraph 5.3, we are bringing the voluntary provisions within the same annexes for mandatory retail and wholesale services respectively. This is intended to improve the clarity of the Direction by bringing all relevant provisions together in one place and in particular should assist CPs who wish to obtain approval for both mandatory and voluntary aspects of their TMBS.
- 5.10 We proposed that the process-based requirements be retained in the new Direction. This would involve the AB ensuring amongst other things through the Measurement Strategy Document (MSD) that the CP has controls and measurements in place that test the accuracy of consumers' bills, monitor customer complaints, credits and bill adjustments and ensure the accuracy of published tariffs.

## Target-based requirements

### Ofcom's proposal

- 5.11 As explained in paragraphs 2.15 and 2.16, the 2008 Direction includes target-based requirements, alongside the process-based requirements. In the February 2014 consultation, we proposed that the target-based requirements be removed from the Direction. That would involve the deletion of section 4 of Annex B (fixed voice), of Annex C (mobile voice) and of Annex D (data) of the 2008 Direction.

### Stakeholders' responses

- 5.12 All responses received to the February consultation supported the removal of target-based requirements. The responses are summarised in paragraphs 3.6 to 3.15.

### Ofcom's response and decision

- 5.13 For the reasons set out in paragraph 3.22, we have decided to adopt a process-based Direction with the target based provisions removed from the Direction.

## Timescales for approval

### Ofcom's proposal

- 5.14 The overall maximum allowable timescale between a CP applying to the AB for approval of its TMBS under the Direction and the approval being granted is currently set at 48 months in the Direction.
- 5.15 In view of the proposed changes to the Direction, in particular in light of the removal of target-based requirements, we proposed in the February 2014 consultation that the overall timescale for **new applications for approval** should be reduced from 48 months to 24 months<sup>14</sup> from agreement of the approval plan with the proposed timetable process comprising:
- Application for approval – 6 months from reaching the Relevant Turnover threshold
  - Agreed approval plan between CP and AB – 3 months from application to the AB
  - Initial approval gained – 24 months from agreement of the plan
- 5.16 In addition, we proposed that for **existing approvals**, the CP should apply to the AB for transfer of their approval within six months of the modification of GC11 taking effect (subject to consultation). For those CPs who are in the **process of seeking approval**, the CPs should apply for approval under the new Direction within three months of the published date of the Direction and gain approval within 12 months of application.
- 5.17 We invited stakeholders' views and evidence on the practicality of the proposed new timeframe for approval.

### Stakeholders' responses

- 5.18 BT, Colt, Three, KCOM, Sky, Telecom Plus and the ABs agreed with the proposed timeframe for application for approval and compliance.
- 5.19 BT believed that the timescales for new applications for approval were appropriate provided the new process-based requirements were adopted.
- 5.20 Three also agreed with Ofcom's proposal to amend the timescales both for application for approval and for demonstrating compliance. They also highlighted that the current 48 month timescale was necessary to address repeated non-compliance with target-based provisions (which would be removed in the proposed new Direction).
- 5.21 The ABs stated that on the basis of their experience in assessing applications for approval, they believed the 24 month overall period was achievable.
- 5.22 However, two CPs – SSE and EE - raised concerns regarding Ofcom's proposal to reduce the time period to agree the Approval Plan between the CP and AB from 12 to three months.
- 5.23 SSE considered the proposal to reduce the period to agree the Approval Plan from 12 to three months was in its view 'unrealistic and extremely onerous'. They cited their own experience where it took longer than three months to agree their Approval Plan with their AB and suggested a period of at least 6 months.

---

<sup>14</sup>Paragraph 5.1 new draft new Direction.

- 5.24 EE pointed out that the proposed Direction stated that the maximum timescale of 15 months of the Direction coming into force for CPs already in the process of seeking approval under the 2008 Direction may be appropriate for applications for approval that are well underway. They argued however in the circumstance of a recent application under the 2008 Direction, this could mean that the total period allowed to gain approval may be shorter than the 24 months proposed for a wholly new application under the new Direction. Ofcom should ensure that the ABs allow some flexibility for such a cases.
- 5.25 Talk Talk Group agreed that revised timescales were appropriate given the changed focus of the Direction on ensuring appropriate processes rather than setting targets. However they were concerned that the timescales for existing approvals and for those CPs in the process of gaining approval might not be achievable given the initial workload of the ABs on the introduction of the new Direction.
- 5.26 Colt asked for greater clarity over the timescales for transferring existing applications.

### **Ofcom's response and decision**

- 5.27 The proposed timeframes for Initial Applications were generally supported by respondents to the February 2013 consultation. We believe that the reduction in the overall maximum time period from 48 to 24 months reflects the changes in the principal requirements of the Direction which should make it possible for CPs to demonstrate compliance in a shorter timeframe. Moreover, since the Direction is intended to protect consumers by ensuring that CPs have processes in place to ensure bills are accurate, we believe that it is important to keep the approval period to the minimum that is achievable for CPs.
- 5.28 However, given that some stakeholders expressed concerns about the timeframes for the transfer of existing approvals and approvals in the process of being gained, we have made further adjustments to the timescales:
- CPs already in the process of seeking approval under the 2008 Direction will now be given a maximum of 24 months to take all reasonable steps to gain approval under the new Direction. This should ensure the timeframe can be applied to all CPs no matter what stage their approval process has reached.
  - The period for the agreeing the approval plan for initial application will be set at 6 months. This takes account of the concerns expressed that the three month period proposed may be difficult to achieve for ABs and CPs.
- 5.29 The timescales set out at clause 3 of the new Direction in Annex 2 are:

#### Initial Application

- Application for Approval – 6 months from reaching Relevant Turnover
- All reasonable steps taken by the CP to agree an Approval Plan with the AB – 6 months from AB Application
- All reasonable steps taken by the CP to achieve compliance with the Direction – 24 months from Agreement of the Plan

#### Transfer of Approval (Existing Approval)

- Application for Approval – 6 months from the modification of GC11

- All reasonable steps taken by the CP to achieve compliance with the Direction – 6 months from Application

#### Gaining Approval (Application in Process)

- Application for Approval – 6 months from the modification of GC11
- All reasonable steps taken by the CP to achieve compliance with the Direction – 24 months from Application

## Extraordinary performance failures (EPFs)

### Ofcom's proposal

- 5.30 The 2008 Direction and the proposed revised Direction require that EPFs in the CPs' billing systems have to be reported to the AB within five working days, so that the AB is alerted to significant problems between audits and can work with the CP to understand the cause and the corrective measures the CP intends to take, or has taken. The 2008 Direction defines an EPF as performance exceeding the target-based requirements four times in any one month.
- 5.31 As discussed in section 3, target-based requirements will be removed from the Direction so, as it remains important that CPs are alerted to significant performance failures, the definition of an EPF needs to be revised.
- 5.32 We set out our proposed definition of an EPF in the February 2014 consultation. Our aim was to ensure CPs reported any unusual circumstances that deviated from the demonstrable normal performance of the TMBS over time. We proposed that the EPF be defined as a 'clear spike in errors detected or reported or movement away from monitored performance'. This spike in errors would be defined by each CP, and agreed with the AB, in the MSD<sup>15</sup> or, as under the 2008 Direction, highlighted through an increase in complaints received by the CP. We welcomed suggestions from stakeholders on alternative ways of trying to capture the circumstances in which an EPF arises.
- 5.33 In making this proposal we recognised that there was a need to ensure that ABs were interpreting the definition in a consistent way. We proposed that ABs should meet quarterly with Ofcom to discuss the implementation of the Direction (which would include the application of EPF) and maintain a list of issues arising from implementation which would be made available to CPs and other stakeholders, subject to ensuring that any confidentiality or competition concerns are addressed.<sup>16</sup>

### Stakeholders' responses

- 5.34 The majority of respondents (two-thirds), broadly agreed with the proposed revised definition of an EPF but some raised concerns that the definition was too vague or that it did not provide sufficient certainty as to how to define and identify an EPF in practice. They were also concerned about how an EPF would be interpreted by the ABs and applied uniformly across the industry.

---

<sup>15</sup> See para 2.15 footnote 3

<sup>16</sup> Paragraph 4.26 of the February 2014 consultation

- 5.35 All the ABs agreed that the proposed definition of EPF was workable.
- 5.36 BT believed that the existing 12 month rolling average view of performance will highlight any significant deviations to report. Colt supported the use of a 'spike' definition but argued that it should be qualified by being 'on a regular basis' or 'repeated consistently'.
- 5.37 EE argued that Ofcom and ABs should meet more frequently than quarterly, at least initially, and also argued the EPF definition should specifically take account of a situation when the spike was a sharp decrease in errors detected.
- 5.38 The FCS said they were comfortable with the proposed revised definition and believed this should meet the intent behind it.
- 5.39 KCOM were broadly happy with the proposed definition. They recognised that what amounts to an EPF would differ for each CP and considered that defining an EPF would be an iterative process undertaken by the CP with their AB and that this might need to evolve to reflect changes in an individual CP's business.
- 5.40 SSE felt the definition was clear in its intention and workable with ABs. SSE asked that a common definition be used throughout the Direction.
- 5.41 Sky believed that the proposed definition without a mathematical target was vague and ambiguous and might not provide CPs with sufficient certainty as to how to define and identify an EPF in practice. Sky argued that there was a risk that ABs may adopt different interpretations. Sky believed that that ABs and CPs should work together to agree objective criteria for measuring EPFs.
- 5.42 Telecom Plus also agreed the definition was workable; they also advocated that the trigger for a full review of a TMBS should not be prescriptive and should allow flexibility for the AB.
- 5.43 TalkTalk Group had no comments in respect of the proposed revised definition of EPF. They believed that best practice meant that trend analysis would take place at many control points in the billing process. Failure to carry out this activity would lead to a decrease in continuous improvement of processes etc.
- 5.44 Three agreed with the revised definition of EPFs but also argued that a clearer definition of a spike should be provided in order to avoid subjective interpretations of what constitutes an EPF and an absence of certainty needed for planning and systems development. It also proposed deleting or drafting more clearly the 'movement away from monitored performance'. Finally, it proposed that Ofcom should take measures to ensure consistency between ABs.

### **Ofcom's response and decision**

- 5.45 We consider it is important that CPs continue to be required to report EPFs to ABs because it alerts the ABs and enables them to address significant problems between audits. The move to a process-based Direction – supported by stakeholders - means that we need to have a definition of EPF that does not relate to target-based requirements set in the Direction.
- 5.46 We continue to believe that the overall approach to EPFs set out in our February 2014 consultation is the correct one, that is:
- to have a general definition of an EPF;

- to have a requirement for each CP to define in its MSD how it intends to define and monitor performance for EPFs; and
- to have measures in place to promote consistency in approach by AB and CPs.

5.47 This approach was supported by the ABs and most CPs in their responses to the consultation. We believe that it is consistent with the process-based approach that the Direction sets a general requirement for CPs to have certain processes in place (in this case a means of identifying EPFs) and that the CP sets out those processes in its documentation (in this case, setting out how it will define, monitor and report EPFs). This recognises that what constitutes an EPF may vary depending on the size and nature of a CP's business.

5.48 In adopting this approach, we also have taken into account that:

- ABs will agree with each CP the EPF(s) that will apply in their MSD (as required by paragraph 4.8.3 of the Direction);
- ABs and Ofcom will work to ensure an appropriate level of consistency on the implementation of EPFs;
- ABs can work with CPs to develop and modify MSDs, including the aspects relating to EPFs, if changes are needed to improve reporting or to promote better consistency over time between CPs;
- ABs receive a range of data reports from CPs' monitoring, including billing errors, refunds and complaints which will provide means other than EPFs for highlighting significant problems;<sup>17</sup> and
- Ofcom and the ABs will make available relevant information that will assist CPs in implementing this (and other aspects) of the Direction.

5.49 Nevertheless, recognising points made in responses, we are making the following changes to our proposals:

- We are revising the definition to 'Extraordinary Performance Failure' is a significant detrimental deviation from the normal daily performance of a CP with regard to its capability to accurately bill or to accurately measure performance in line with the documented Measurement Strategy". This is intended to provide greater clarity that the EPF relates to a significant change to daily performance and also to make clear that the focus is on a detrimental change (which could be an increase or decrease in numbers, if it is detrimental).
- We have also provided some examples of criteria that may be used by CPs for identifying instances EPF (see footnote to clause 4.8.3 in the Direction).
- Ofcom and the ABs will meet monthly (instead of quarterly) during the initial implementation of the Direction to ensure that issues of consistency are identified and addressed swiftly.
- We will keep under review if further guidance or changes to the Direction in respect of an EPF are needed or would be helpful to CPs' compliance in the light of experience of implementation, subject to consultation as required.

---

<sup>17</sup> ABs have provided to us, on a confidential basis, examples of where significant problems have been identified under the 2008 Direction through reporting other than as a result of EPFs.

## Timeframe for provision of Call Data Records (CDRs)

### Ofcom's proposal

- 5.50 The 2008 Direction sets time-limits for the delivery of retail bills to the end-users; it does not set such time-limits in respect of wholesale billing. Some CPs have pointed to a risk that wholesale CDRs (which contain details of consumers' calls made that transit the wholesale CPs network) may arrive later than the maximum period set for the delivery of retail bills (meaning that the retail CP cannot make a charge for the call) and cannot therefore deliver accurate bills to consumers in the time-frame set by the Direction.
- 5.51 The growth of all-inclusive charges means that the possible detriment to retail CPs, in not being able to make appropriate charges for calls, may be reduced. However, we considered there remained some risk to CPs where charges for calls outside all inclusive packages could not be billed to consumers if the CDRs from the wholesale CP were delayed. To seek to address this issue we proposed in the February 2014 consultation a timescale requirement of 60 days for the delivery of CDRs to ensure the capability of CPs to deliver accurate retail bills within the required timescales (of up to 90 days). We invited stakeholders' views on the proposed timeframe for delivery of CDRs

### Stakeholders' responses

- 5.52 Views on the proposed timeframe for delivery of CDRs were split. Four retail CPs as well as the ABs welcomed the proposed timeframe of 60 days and argued that this would facilitate more efficient end-user billing of consumers.
- 5.53 Three Wholesale providers (and one retail CP), put forward arguments against the proposed 60 day timeframe, on the basis that it does not take into account the existence of more complex multiple wholesale supply chains. They pointed out that where there was more than one wholesale CP involved in the delivery of the call that allowable timeframe would be at least 120 days (ie 60 + 60 days) which would mean that our objective of assisting retail CPs in meeting the 90 requirement would not be met.
- 5.54 [3X] argued that competition between wholesale CPs as well as provisions in commercial contracts should minimise the incidence of late billing – allowing the retail CP to switch provider or the wholesale CP to face penalties. The respondent argued that wholesale CPs have a commercial incentive to bill and recover revenues as quickly as possible. The respondent also argued that Ofcom (and CPs) had not provided evidence where material late billing of communications services had occurred or where a dispute had been raised by a CP with Ofcom in respect of late wholesale billing.
- 5.55 Colt did not consider the timeframe for the delivery of CDRs to be a major risk and argued that commercial arrangements between wholesale and retail CPs were sufficient.

### Ofcom's response and decision

- 5.56 Having carefully considered the arguments put forward by stakeholders, including retail and wholesale CPs, which were both in favour of and against the introduction of a timeframe for delivery of CDRs of 60 days, we have decided not to impose a timescale requirement of 60 days. We now consider that the proposed 60 day timescale would not have fully addressed the concerns identified by some retail CPs and, furthermore, that there is a risk that it might have raised further problems for the following reasons:
- Where there is more than one wholesale CPs involved in the delivery of the call, the 60 day timescale for each wholesale CP may not achieve the aim of ensuring that a CDR will be provided to the retail CPs in a timely manner.

- There is a risk that, by setting a maximum period, wholesale CPs may extend current (shorter) timescales in accordance with that time period, potentially leading to a worse experience for retail CPs and exacerbating the problem set out above.
- 5.57 In addition we consider that other measures proposed in the Direction in the February 2014 consultation will assist in addressing concerns raised, namely:
- The new approval criteria for wholesale services in the Direction (proposed in the February 2014 consultation and retained in the new Direction set out in Annex 2) require that CDRs are managed and documented in a timely manner (Annex C – Clause 3). These would enable ABs to seek to address circumstances where CDRs are delivered to retail CPs in timescales which prevent the retail CP billing their End-Users.
  - The provisions at 4.8.4 of the new Direction ('Delayed Events') enable the retail CP to bill later than 90 days with the agreement of Ofcom. In the circumstances where a wholesale CP has alerted the retail CP that some CDRs will be delivered late, the retail CP has the option of seeking the AB and Ofcom's agreement to bill its customers later than 90 days. The AB and Ofcom may in these circumstances seek to establish whether the customers have been notified of prospective late billing, in order to minimise the risk of them receiving bills that are higher than expected.
- 5.58 We also take account that relevant contractual provisions and wholesale CPs' commercial incentives to bill efficiently mitigate the risks of late CDRs.
- 5.59 Taken together we believe that the provisions of clause 4.8.4 and Annex C Clause 3 provide an effective and more proportionate means for ABs to tackle late billing by wholesale CPs and by giving CPs a means to recover revenue from customers in the event of late wholesale billing, while ensuring protection from bill shock for such customers.
- 5.60 For these reasons we are not proceeding with the proposals to introduce a 60 day requirement for CDRs.

## Other changes to the Direction

### Ofcom's proposals

- 5.61 In the February 2014 consultation we proposed some other, smaller changes to the Direction on specific issues. These were:
- We proposed additional text under 'Tariff Description and Detail' (paragraph 4.6.3 of the draft new Direction), in order to provide further explanation of what should be included in a CP's Tariff schedule and the additional information to be provided to the End-User on avoiding and/or understanding perceived errors on the Bill. The expectation was that a Wholesale CP should make available any necessary information to the Retail Service Provider. This is made explicit in section 4 of the proposed new Direction whereas it is only implicit in the 2008 Direction.
  - We proposed that the measurement strategy should be documented (paragraph 4.1 of the draft new Direction). This is an implicit requirement in the 2008 Direction and we proposed making it an explicit requirement in this Direction as that should improve the clarity of the compliance/assessment process for CPs and ABs.
  - We proposed that the TMBS risk management section under 'Principal Obligations' in the 2008 Direction should be separated out into three separate paragraphs entitled 'Risk Management', 'Measurement Strategy' and 'Purpose'. This was aimed

at providing greater clarity and explanation for CPs on the expected risk management approach in relation to their TMBS.

- We proposed that there should no longer be a requirement for the initial Approval Plan between a CP and AB to be submitted to Ofcom by the AB. Provisionally, we did not consider it necessary for Ofcom to have sight of the 'Approval' plan between a CP and its AB as part of the initial 'Approval' process. We proposed that this did not add value to the overall process and was disproportionate given that ABs are better placed to monitor and advise on a CP's Approval plan. If there were compliance issues that could not be resolved, we considered that the AB or CP could bring the issue to Ofcom's attention.
- We proposed that the time period to apply for an extension of scope (e.g. when providing new services) to an existing approval should be reduced from 12 months to three months. Reducing the time period from 12 to three months would mean any errors associated with a new service being introduced would be subject to the compliance requirements of the draft new Direction within a shorter period of time, thus providing consumers with more timely protection.

### **Stakeholders' responses**

- 5.62 With regard to paragraph 4.6.3 'Tariff Description and Detail', Telecom Plus considered the examples were unnecessary and too granular and believed it is up to the ABs to ensure that tariff schedules comply with the clause of the Direction. EE suggested the Direction should contain only the requirements with explanations and examples about application to be included in accompanying guidance.
- 5.63 No substantive comments were received on the other proposed changes set out in paragraph 5.57 above.
- 5.64 In addition to these proposed changes, EE proposed the Direction should "explicitly state whether references to Kilobytes of data indicate the binary Kilobyte (1,024 bytes) or the decimal Kilobytes (1,000bytes) now being increasingly used".
- 5.65 SSE suggested distinguishing in the annexes of the Direction the mandatory and voluntary requirements as this was not explicit. They also suggested rationalising the information on the purpose of the Measurement Strategy (MS) throughout the Direction to make it clear and avoid duplication.
- 5.66 In addition, Colt and SSE raised an objection to the wording in paragraph 5 of clause 5.1 which appeared to allow the AB to report on matters pertaining to a CP unconnected with GC11, which stated:

*"The CP will also agree to, and have processes which facilitate, the disclosure of information to Ofcom by the CP and/or the AB in connection with this Direction and the performance by the CP of its regulatory obligations".*

### **Ofcom's response and decision**

- 5.67 We also do not consider the examples provided in paragraph 4.6.3 – 'Tariff Description and Detail' to be too granular or prevent the ABs from exercising their judgment on a CPs tariff schedules and compliance with the Direction. Rather, we believe the examples provide a useful relevant guidance for CPs in interpreting Tariff schedules for the benefit of consumers. On EE's more general point about the use of guidance, we will consider whether this may be appropriate in the future; at this stage the use of examples and explanations in the Direction is fairly limited and we do not think that a separate guidance document would be appropriate or helpful.

- 5.68 In terms of whether or not the Direction should “explicitly state whether references to Kilobytes of data indicate the binary Kilobyte (1,024 bytes) or the decimal Kilobytes (1,000bytes)”, we do not consider this to be materially significant, as long as the CP defines KB and MB in their published tariffs and uses that definition consistently throughout any accuracy calculations. We have therefore decided not to make a change to the Direction.
- 5.69 With regard to the suggestion of distinguishing the voluntary and mandatory requirements in the annexes, paragraphs 1.1 of Annex B and Annex C of the Direction set out whether services are mandatory or voluntary. We consider this to be sufficiently clear. Moreover, the structure of the Direction has been changed in a way that there is less differentiation between PATS and data services so as to encourage compliance with the Direction irrespective of whether or not services are mandatory or voluntary.
- 5.70 In order to clarify the point raised on the wording of clause 5.1 about disclosure of information to Ofcom by the CP and/or AB, we have inserted the words ‘in connection with this Direction’ after ‘obligations’, to make clear that the obligation to make such disclosure is limited.
- 5.71 We have made a number of other minor changes to the Direction proposed in the February 2014 consultation in the light of comments received and where we believe improvements to the text can be made to provide clarity. These are shown in Annex 3 and referred to in the table of changes in Annex 4.

## **Extension of scope of existing approvals**

### **Ofcom’s proposal**

- 5.72 We proposed in the February 2014 consultation that the time period for CPs to apply for an extension of scope (e.g. when providing new services) to an existing approval should be reduced from 12 months to 3 months,

### **Stakeholders’ responses**

- 5.73 No comments were received on this point.

### **Ofcom’s response and decision**

- 5.74 We have decided to make this change: see clause 3.4.2 of the new Direction in Annex 2. The shorter period is appropriate given that the same or similar billing processes and controls should apply to the subject of the extension; the longer time period in the 2008 Direction was set taking account of the need for CPs to meet the target-based provisions.
- 5.75 Reducing the time period from 12 to three months should mean that any errors associated with a new service being introduced would be subject to the compliance requirements of the new Direction within a shorter period of time, so providing consumers with more timely protection.

## **Ensuring consistency between the ABs**

### **Ofcom’s proposals**

- 5.76 As explained above, CPs commenting on the operation both of the 2008 Direction and of the proposed revised Direction stressed the importance of ensuring that the ABs were applying the Direction consistently. They argued that to ensure that all CPs were treated equally and fairly, Ofcom would need to ensure consistency between the ABs.

- 5.77 We have reviewed the processes in place to ensure consistency and have identified areas for improvements, principally through regular meetings with the ABs and more effective use of Metering and Billing Approval Body Forum (MABABF).
- 5.78 In the February 2014 consultation we proposed that the ABs and Ofcom meet quarterly to discuss the implementation of the Direction.<sup>18</sup> Any such discussions would be to the extent appropriate and subject to the requirements of confidentiality and competition law. We proposed further that the ABs maintain a list of issues raised in audits. We would use the quarterly meetings to consider those issues in order to determine whether changes to the Direction are necessary or whether the issue is better addressed through appropriate guidance to be shared with other CPs and ABs. Any such guidance would be made available to all CPs via MABABF.
- 5.79 There is currently no set timings for MABABF meetings. We proposed in future that MABABF should meet twice a year to discuss the implementation and operation of the Direction (again to the extent appropriate and subject to the requirements of confidentiality and competition law).

### **Stakeholders' responses**

- 5.80 BT supported the holding of open MABABF sessions as a way of clarifying CP issues and of obtaining a clear understanding of Ofcom's and Approval Bodies' proposals.
- 5.81 Colt expressed the view that in addition to the proposed bi-annual MABABF meetings, there needed to be flexibility to call meetings at intervals and that during the transition and implementation period of the new Direction, issues may arise and therefore timeliness of meetings should be sufficiently flexible to accommodate for this.
- 5.82 FCS was in favour of greater transparency along with improved consistency against standards between ABs. It submitted that it will lead to better performance against the process-based requirements and therefore would lead to better outcomes for retail CPs and consumers.
- 5.83 SSE welcomed the measures that Ofcom proposed to take to ensure consistency between the ABs and for information and guidance to be made available as a result of audits by the ABs.

### **Ofcom's response and decision**

- 5.84 The proposals for regular meetings between Ofcom and the ABs, with (non-confidential) notes of discussions provided for CPs, was widely supported as a means of promoting transparency, improving dialogue and encouraging consistency in implementation of the Direction. We will proceed with these but, as noted in paragraph 5.48, we will hold them monthly (rather than quarterly as proposed) during the initial implementation of the Direction. We also intend to hold meetings of MABABF involving CPs at least twice a year and also to agree and publish an MoU between Ofcom and the ABs that will amongst other things set out these arrangements for co-ordination.

## **Promoting awareness of the Direction**

### **Ofcom's proposals**

- 5.85 During the review some stakeholders argued that that low consumer awareness of the Direction reduced the commercial benefits of approval by the ABs and the incentives on

---

<sup>18</sup> Ofcom has usually met ABs once a year or more frequently in response to requests.

CPs not covered by the mandatory aspects of the Direction to comply voluntarily (e.g. those below the £40 million threshold and those providing data services).

5.86 We recognise that CPs may wish to promote the approval of their TMBS to their customers and could use this as a way to differentiate themselves from those CPs whose TMBSs have not received approval. We reviewed the information we provide to consumers via our website and the information provided by the ABs on their websites. We identified areas where this could be improved and proposed to update our website to provide:

- An overview and explanation of General Condition 11;
- An overview and explanation of 2014 Direction;
- Details of the Ofcom Metering and Billing Systems Approval Scheme;
- Details of Approval Bodies and the Metering and Billing Approval Body Forum (MABABF);
- Details of those CPs approved under the Direction (both mandatory and voluntary provisions);
- Memorandum of Understanding between Ofcom and Approval Bodies; and
- Links to Ofcom consumer guides on billing.

5.87 We also proposed to work with the ABs and industry to consider how a logo or kitemark indicating an approved TMBS could be developed, for use by CPs on their literature and websites. We will also consider whether and what changes to the Direction might be necessary to accommodate this proposal.

5.88 In the February 2014 consultation we invited suggestions on these and other ways in which awareness of the Scheme can be promoted.

### **Stakeholder responses**

5.89 There was general support from stakeholders responding for Ofcom's proposals to raise awareness of the Direction. Only Three felt that no further measures were needed as current levels of consumer awareness were adequate.

5.90 BT supported the proposals and said that Ofcom should ensure that measures should cover mandatory and voluntary approvals. BT also put forward a number of suggestions for further consideration in addition to Ofcom's proposals above as follows:

- Working closely with the Alternative Dispute Resolution (ADR)<sup>19</sup> schemes and with price comparison websites approved by Ofcom<sup>20</sup>;
- CPs' advertising when they gain approval; and
- Continued enhancement of the Ofcom website.

---

<sup>19</sup> <http://consumers.ofcom.org.uk/complain/phone-and-broadband-complaints/adr/>

<sup>20</sup> <http://consumers.ofcom.org.uk/tv-radio/price-comparison/>

5.91 With regard to a logo or kitemark, Telecom Plus felt that the proposal could be a simple way of promoting awareness of the Direction. Sky said Ofcom should consider any potential costs involved in introducing a logo or kitemark.

### **Ofcom's response and decision**

5.92 We have recently updated our website to provide clearer information about the Direction.<sup>21</sup> In light of responses to the consultation, we will consider what further enhancements can be made. We will also work with the ABs and CPs to take forward the proposals in the consultation and suggestions made in responses, including further discussions through the MABABF on the possible use of a logo or kitemark.

---

<sup>21</sup> <http://stakeholders.ofcom.org.uk/telecoms/policy/metering-billing/>

## Section 6

# Applying the tests in the Communications Act 2003

- 6.1 This section sets out our analysis of how the changes we are making to the Direction meet the tests set in section 49 and the duties under sections 3 and 4 of the Act.
- 6.2 Under section 49 of the Act, where a condition set under section 45 (for example, a General Condition) has effect by reference to a direction from Ofcom, Ofcom may only give, modify or withdraw a Direction where it is satisfied that it is:
- Objectively justifiable<sup>22</sup>;
  - Not unduly discriminatory;
  - Proportionate; and
  - Transparent.
- 6.3 Under section 3 of the Act, Ofcom's principal duty in carrying out our functions is to further the interests of citizens in relation to communications matters and of consumers in relevant markets where appropriate by promoting competition.
- 6.4 Section 4 of the Act sets out Ofcom's duties for fulfilling the six Community obligations.
- 6.5 This section also sets out our conclusions that the section 49 tests are met, having had regard to the responses to the three consultations and our assessment of the impacts of the proposals on consumers, CPs and ABs.
- 6.6 In the February 2014 and May 2014 consultations, we set out our provisional view of those impacts. We did not receive any specific comments on the impacts in response to the February 2014 consultation. In their responses to the May 2014 consultation, BT, SSE and Verizon agreed with our provisional view. We have reviewed and updated the assessment of impacts. This is set out in Annex 5.

## Application of section 49 tests

- 6.7 We are proposing to withdraw the 2008 Direction and to make a new Direction that modifies the 2008 Direction in three principal ways:
- target-based requirements are removed;
  - the voluntary measures in respect of data services are updated; and
  - certain editorial changes are made.
- 6.8 We are also amending the Direction to make clear that CPs should include the sum of their wholesale and retail PATS turnover in determining if they exceed the £40 million per annum threshold.

---

<sup>22</sup> See following footnote in relation to this point.

## Objective justification<sup>23</sup>

6.9 Our view is that the withdrawal of the 2008 Direction and making of the new Direction are objectively justifiable for the following reasons:

- The removal of the target-based requirements and the retention of the existing process-based requirements will ensure that the approval and audit processes, and on-going reporting by CPs to ABs, are focussed on CPs identifying and analysing all billing errors. Instead of having targets which envisaged an 'acceptable' error rate, the remaining provisions, while recognising that errors might occur, aim to achieve on going improvement in CPs' systems and processes to ensure that, where errors occur, corrective measures are put in place that address the risk of repetition. This more closely aligns the Direction with the provisions of GC11.1 which require CPs to ensure that bills represent and do not exceed the true extent of any such service actually provided, rather than setting targets for billing accuracy. It aligns with the policy intention behind those rules: to achieve metering and billing accuracy and to enable consumers to have confidence in the accuracy of their bills. It also ensures a more flexible and future-proofed approach to regulation which is focused on processes rather than on targets that might need to change over time.
- The error rates and tolerances that apply to services for large businesses and wholesale services have proved unworkable and are largely disregarded. It is therefore appropriate to remove this aspect of regulation for services to those consumers, given that it is not effective and provides no benefits to consumers.
- Adopting a set of process-based requirements across the board would avoid the administrative burdens and increased costs of compliance associated with requiring CPs to comply with different requirements for different services.
- Given the developments in the market since 2008, there is a need for the voluntary provisions in respect of data services to be reviewed and updated to make sure that they retain the potential to be effective. Furthermore, given the relatively low adoption of the voluntary measures, we consider that it is appropriate to consider exploring measures to promote the Direction and approvals under the Direction that may give CPs greater incentives to adopt voluntary measures for the benefit of consumers.
- During the operation of the Direction, problems with the structure and clarity of the Direction have been identified. In addition, other areas for improvement have been identified as being appropriate (i) as a consequence of the removal of the target-based requirements (e.g. the new definition of EPF and the reduction in timescales for approval and compliance) and (ii) more generally to improve the effectiveness of the requirements (e.g. measures to address the late delivery of wholesale CDRs). The changes seek to address these errors and areas for improvement and should result in enhanced protections for consumers.
- The amendment to the Direction that makes clear that, in assessing whether they fall within its provisions in respect of PATS, CPs should include the sum of their wholesale and retail PATS turnover in determining if they exceed the £40 million per annum threshold is objectively justifiable for a number of reasons. First, it provides clarity to CPs on the requirements and it is moreover consistent with the definitions of PATS and Relevant Turnover in the General Conditions. Secondly, it ensures that

---

<sup>23</sup> This is not an express requirement where Ofcom proposes a Direction affecting a General Condition. We consider it relevant in this case, however, given the need for the Direction to meet the proportionality requirement.

the calculation of turnover covers all the mandatory services covered by the Direction. As such, it addresses an ambiguity that previously existed whereby wholesale services were subject to mandatory requirements but the 2008 Direction implied that turnover attributable to wholesale PATS might be excluded from the £40 million turnover threshold.

### **Not unduly discriminatory**

- 6.10 Ofcom considers that the withdrawal of the 2008 Direction and making of the new Direction does not discriminate unduly against particular persons or against a particular description of persons because they will apply equally to those CPs to whom GC 11.3 applies and the basis for application has not changed.
- 6.11 Furthermore, whereas the 2008 Direction involves differences in the regulation of services to different types of consumer (albeit, as we explained in the February 2013 consultation, differences that were objectively justified), the new Direction sets out a more consistent approach to the regulation of the CPs whose services fall within the scope of the Direction.
- 6.12 The amendment to the Direction to make it clear that CPs should include the sum of their wholesale and retail PATS turnover in determining if they exceed the £40 million per annum threshold ensures that the calculation of turnover applies to wholesale and retail CPs in the same way. It will apply equally to all CPs who fit the relevant description. Indeed, it corrects an anomaly that meant the Direction implied that some wholesale CPs potential might not be subject to its requirements because they did not have sufficient turnover in retail PATS whereas other wholesale CPs who provided similar wholesale services were caught because they provided retail PATS that exceeded the £40 million threshold.

### **Proportionate**

- 6.13 Our view is that the withdrawal of the 2008 Direction and the making of the new Direction are proportionate to what they are intended to achieve because they address problems with the current operation of the Direction, while retaining appropriate protections for consumers. Furthermore, since we consider that the modifications more closely align the Direction with the provisions and policy aims of GC11.1, our view is that they will enhance the effectiveness of the Direction at protecting consumers from inaccurate billing.
- 6.14 The focus on process-based provisions provides greater flexibility for CPs to reduce their compliance costs through better alignment of their billing processes with the general requirements of GC11.1 and policy aims and through the removal of target-based requirements which in respect of some services CPs were unable to meet. Thus, the new Direction should be less onerous than the 2008 Direction and goes no further than necessary to achieve the objectives of GC11.1.
- 6.15 While there may be some short-term costs associated with removing the target-based requirements and focusing on the process-based requirements, we consider that those costs should be low. Furthermore, introducing a common set of requirements should reduce the costs of compliance over time.
- 6.16 The update to the voluntary measures in respect of data services represents an appropriate way to ensure a more effective set of measures without imposing on CPs the additional burdens associated with being subject to a set of mandatory requirements in circumstances where the evidence of consumer harm is less clear.

- 6.17 The changes to improve the structure and clarity of the Direction and to improve the effectiveness of the requirements will make the Direction more effective and easier to apply. They will go no further than is necessary to address the problems that have been identified. For example, we have decided not to impose a 60 day requirement for the delivery of wholesale CDRs and are instead seeking to rely on the other measures we had proposed in the draft Direction as we consider these to provide adequate mechanisms for addressing the problems of late wholesale CDRs without the risks associated with imposing a 60 day timescale requirement.
- 6.18 The editorial changes to the Direction are intended to make it clearer and easier for the ABs and CPs to operate and therefore, as noted above, should result in lower costs over time.
- 6.19 The amendment to the Direction to make it clear that CPs should include the sum of their wholesale and retail PATS turnover in determining if they exceed the £40 million per annum threshold is proportionate to what it is intended to achieve. It goes no further than is necessary to address the ambiguity described above. Furthermore, the change would bring benefits to consumers in terms of the accuracy of the bills while resulting in limited (if any) additional costs.

### **Transparent**

- 6.20 We believe that the new Direction is transparent in relation to what it is intended to achieve because it sets out clearly the changes that Ofcom has made to the Direction as a result of the three consultations.

### **Section 3 and section 4 analysis**

- 6.21 Ofcom has considered its duties under section 3 of the Act and all the Community requirements set out in section 4. Ofcom's policy objectives in relation to metering and billing regulation may be broadly characterised as furthering the interests of citizens in relation to communications matters and of consumers in relevant markets by ensuring the accuracy of metering and billing of relevant services and the ability of consumers to have confidence in that accuracy. The modifications to the Direction meet these objectives because they ensure that customers are not overcharged and will maintain the confidence that customers have in the accuracy of their bills. They will also promote the interests of all persons who are citizens of the European Union by ensuring the accuracy of metering and billing systems in an appropriate manner.

## Annex 1

# Respondents to the February and May 2014 Consultations

- Approval Bodies (collective response BABT, BSI & Enigma QPM)
- British Telecom
- Colt Technology Services
- EE
- FCS
- H3G
- KCOM (February & May 2014 consultations)
- Sky
- SSE (February & May 2014 consultations)
- Talk Talk Group
- Telecom Plus
- One respondent asking for their name to be withheld

## Annex 2

# Instrument withdrawing a Direction and Ofcom Metering and Billing Direction

## Instrument withdrawing a Direction and a Direction under section 49 and 49 (A) of the Communications Act 2003 for the purposes of General Condition 11

### The Ofcom Metering and Billing Direction

#### WHEREAS

- A. On 20 February 2014, Ofcom published a notification setting out their proposals for withdrawing the 2008 Ofcom Metering and Billing Direction and the giving of a new Direction (“the First Notification”) for the purposes of General Condition 11;
- B. Ofcom stated in the First Notification that they considered that their proposals were not of EU significance pursuant to section 150A(2) of the Act;
- C. A copy of the First Notification was sent to the Secretary of State in accordance with section 49C(1) of the Act;
- D. In the First Notification and accompanying explanatory statement, Ofcom invited representations about any of the proposals set out therein by **5pm on 1 April 2014**;
- E. By virtue of sections 49A(6) and (7) of the Act, Ofcom may give effect to any proposals set out in the First Notification, with or without modification, where:
  - i. They have considered every representation about the proposals made to them within the period specified in the First Notification; and
  - ii. They have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
- F. Ofcom received responses to the First Notification and have considered every such representation made to them in respect of the proposals set out in the First Notification and the accompanying explanatory statement; and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose;

#### THEREFORE

1. Ofcom in accordance with sections 49 and 49A, section 49A(7) in particular, of the Act hereby make the following Directions, by reference to which General Condition 11 on Metering and Billing will have effect:
  - the withdrawal of the 2008 Ofcom Metering and Billing Direction; and
  - the giving of the Direction set out in the Schedule to this Instrument;
2. The Direction is set out in the Schedule to this Instrument;

3. The effect of, and Ofcom's reasons for, withdrawing the 2008 Ofcom Metering and Billing Direction and for giving the Direction in the Schedule to this Instrument are set out in the accompanying explanatory Statement;
4. Ofcom consider that withdrawing and giving the relevant Directions comply with the requirements of sections 49 to 49C of the Act, as appropriate and relevant;
5. In withdrawing and giving the relevant Directions, Ofcom have considered and acted in accordance with their general duties in section 3 of the Act and the six community requirements in section 4 of the Act;
6. The Direction Ofcom now gives shall enter into force on the date of publication of this Instrument;
7. Copies of this Instrument and the accompanying explanatory Statement are being sent to the Secretary of State in accordance with section 49C(1) of the Act;
8. In this Instrument:
  - a. "the 2008 Ofcom Metering and Billing Direction" means the Direction made by Ofcom for the purposes of General Condition 11 on 15 July 2008;
  - b. "the Act" means the Communications Act 2003;
  - c. "General Condition 11" means Condition 11 of the General Conditions of Entitlement originally made by the Director General of Telecommunications under section 45 of the Act by way of a Notification dated 22 July 2003, which took effect on 25 July 2003, and as subsequently amended by Ofcom;
  - d. "Ofcom" means the Office of Communications;
9. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Instrument and otherwise any word or expression shall have the same meaning as it has in the Act.
10. For the purpose of interpreting this Instrument:
  - a. headings and titles shall be disregarded; and
  - b. the Interpretation Act 1978 shall apply as if this Act were an Act of Parliament.
11. The Schedule to this Instrument shall form part of this Instrument.



Lynn Parker

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

31 July 2014

# SCHEDULE

## The Direction - Ofcom Metering and Billing Direction

### Contents

- 1 Introduction
  - 1.1 Purpose
  - 1.2 Direction Overview
- 2 Document Structure
- 3 Communications Provider Applicability
  - 3.1 Scope
  - 3.2 Initial Application
  - 3.3 Transfer of Approvals
  - 3.4 Additional Approvals
- 4 Principal Obligations
  - 4.1 Accuracy requirement
  - 4.2 High Level Description
  - 4.3 Risk Management
  - 4.4 Measurement Strategy
  - 4.5 Process Management
  - 4.6 Tariffs
  - 4.7 Interworking between Communications Providers
  - 4.8 Assessment Performance
  - 4.9 Individual Bill Accuracy
- 5 Compliance with this Direction
  - 5.1 The Communications Provider Activities
  - 5.2 The Assessment Process
  - 5.3 Approval and Certification
  - 5.4 Maintenance of Approval
  - 5.5 Change of Scope of Approval
  - 5.6 Withdrawal of Approval
- 6 Enforcement
- 7 Annex list
  - Annex A – Definitions and Interpretations
  - Annex B – Retail Services
  - Annex C – Wholesale Services

## 1 Introduction

### 1.1 Purpose

Consumers cannot reasonably be expected to verify the accuracy of all charges made by any **Communications Provider (CP)** for services provided, especially where those charges are based on the extent of consumers' usage of such services.

This Direction and its Annexes set out the requirements on CPs to ensure that the risk to consumers of being incorrectly charged for their use of **Public Electronic Communications Services (PECS)** is reduced.

### 1.2 Direction Overview

This Direction requires that the systems and processes used to generate any chargeable **Event** and the subsequent pricing of such Events are suitably designed to accurately record usage and enable charging at the correct tariffs, that they are being operated within their design limits and that there is reported evidence of performance. In the event of overcharging the remedial action is set out in Clause 4.9.

This Direction recognises that there will always be a need to make changes to the underlying systems and processes and requires that any change introduced is risk assessed to ensure that it does not compromise the integrity of the systems.

This Direction also describes the means whereby **End-Users** who suspect that there is an overcharge Event have access to a process to investigate and report on the issue, as set out in Clause 4.9.

In order to provide the End-Users with confidence, Ofcom uses independent **Approval Bodies (AB)**, who are accredited to approve those CPs who are required to demonstrate compliance with the Direction.

## 2 Document Structure

This document contains the following:

### **Communications Provider Applicability (3)**

Section three clarifies the criteria against which CPs need to apply, gain and maintain **Approval** in accordance with this Direction.

### **Principal Obligations (4)**

Section four outlines those obligations which CPs should implement and demonstrate compliance with, and which are considered generic to all types of communications services, independent of market segment.

### **Compliance with this Direction (5)**

Section five describes the process through which CPs shall demonstrate compliance with this Direction, and the role of an AB.

### **Enforcement (6)**

Section six describes possible enforcement actions.

### **Annex List (7)**

Section seven describes the annexes at the end of the core text.

**Notes:**

1. Defined terms will be presented in Title Case and can be found in the Definitions & Interpretations Annex. Additionally, the first occurrence (excluding section / sub-section titles) of a defined term will be marked in **bold**.
2. Reference to Clause numbers will appear in text such as 2.1 for example.
3. Where the term Direction is used throughout the document this includes relevant Annexes.

## 3 Communications Provider Applicability

### 3.1 Scope

This Direction applies to any **Total Metering and Billing System (TMBS)** used for either **Retail** or **Wholesale** purposes, or both. It does not apply to an invoice raised by one CP against another for handling telecommunications traffic passed between their systems e.g. **Interconnection** and settlement charges between CPs.

A CP is required to comply with this Direction if its **Relevant Turnover** for the sum of the **Mandatory Services** that it provides is more than £40,000,000 on an annual basis (exclusive of VAT and other taxes directly related to turnover). Therefore, not all products and services offered by a CP are covered by this Direction.

### 3.2 Initial Application

Initially, CPs shall apply to an AB for Approval in accordance with this Direction and achieve the milestones within the timescales detailed in the table below:

Milestone	No later than
CP applies for Approval	6 months from reaching Relevant Turnover
All reasonable steps taken by the CP to agree an Approval plan with AB	6 months from application to AB
All reasonable steps taken by the CP to achieve compliance with the Direction	24 months from agreement of the Approval plan

### 3.3 Transfer of Approval

#### 3.3.1 Existing Approval

CPs approved under the **2008 Ofcom Direction** shall apply to the AB and achieve the milestones within the timescales detailed in the table below:

Milestone	No later than
CP applies for Approval	6 months from the date of relevant modification of General Condition 11 <sup>24</sup>

<sup>24</sup> The relevant modification to General Condition 11 referred to in this table is the modification of General Condition 11 to replace the reference to the 2008 Ofcom Direction with a reference to this Direction.

All reasonable steps taken by the CP to achieve compliance with the Direction	6 months from application
---	---------------------------

### 3.3.2 Gaining Approval

CPs in the process of gaining approval under the 2008 Ofcom Direction shall apply to an AB for Approval in accordance with this Direction and achieve the milestones within the timescales detailed in the table below:

<b>Milestone</b>	<b>No later than</b>
CP applies for Approval	6 months from the date of relevant modification of General Condition 11 <sup>25</sup>
All reasonable steps taken by the CP to achieve compliance with the Direction	24 months from application

Note: ABs will agree a timescale for CPs in progress to achieve Approval dependent on progress to achieving approval to the 2008 Ofcom Direction. This will be no more than 24 months and will be likely to be shorter.

## **3.4 Additional Approvals**

There are two routes by which additional products and services can be introduced into the TMBS by CPs with an approved TMBS: as a new and separate Approval or an extension of scope to an existing scheme.

In both instances, it is for the AB to determine whether a new and separate approval or an extension of scope to an existing approval is appropriate.

### 3.4.1 New and Separate Approvals

The first route is where the CP has introduced a substantial number of entirely new controls and systems for the new services and products. In this instance, it is appropriate for the new service to be considered as a new and separate application to the AB. The application process is the same as for an initial application.

### 3.4.2 Extension of Scope to an Existing Approval

The second route is where the TMBS and its controls are not substantially changed by the new product or service. In this instance, the CP is required to extend the scope of its existing Approval to cover the new product or service. (A new product or service is one that requires a technical change to either the delivery mechanism or the usage mechanism. It is not simply a new combination of products and services, some of which may be in scope and some out of scope, into new packages.)

New products and services will be included within the extended scope once the turnover from these products or services represents at least £2,000,000 annual revenue (excluding VAT and other taxes directly related to turnover).

Once a product or service reaches this threshold, the CP shall apply for an extension of scope within three months.

<sup>25</sup> See preceding footnote.

## 4 Principal Obligations

This section outlines those obligations which CPs should implement and demonstrate compliance with. They are applicable to all applications.

This section should be read in conjunction with the relevant Annex depending on the service provided.

### 4.1 Accuracy requirement

The CP shall have systems and processes that accurately record usage by End-Users and enable charging at the correct tariffs.

### 4.2 High Level Description

The CP shall produce a **High Level Description** (HLD) for each TMBS and shall seek approval of the content of that description from its AB. A HLD is a documented explanation of the TMBS and the associated risks to completeness and accuracy of billing thereunder.

The HLD referred to above needs to be sufficient to enable a person who has no personal knowledge of the system, but has a reasonable level of technical understanding, to comprehend the principles of the operation and its associated risks.

The HLD shall refer to lower level documents so that it is clear how the system and process elements interoperate and how the CP inter-works with its suppliers of components and services that may impact on the TMBS, and with other CPs.

### 4.3 Risk Management

The HLD shall be subject to change control and risk management throughout the life of the TMBS. Risk Management is an assessment of the risks to the TMBS accuracy for both the impact and the likely occurrence of risks.

A CP shall assess risks, documented in the HLD defined in Clause 4.2 above, to the TMBS accuracy, for impact and likely occurrence. In considering whether to approve the HLD, the AB shall assess whether mitigation actions are adequately documented and sufficient to address identified risks.

Whenever a change to the TMBS is planned, an impact analysis shall be carried out. This impact analysis shall include a revised risk assessment and will determine the need for any changes to the **Measurement Strategy** (Clause 4.4), HLD and maintained list / register of risks.

Where the scope of Approval changes either to add or delete products or services, the AB will conduct an assessment of the revised TMBS.

The process of managing risks to TMBS accuracy is subject to audit by the AB.

### 4.4 Measurement Strategy

The Measurement Strategy is a documented statement of how risks are to be monitored and where the occurrence of the risk is measured for reporting on the TMBS performance.

The CP shall produce a **Measurement Strategy Document** (MSD) for each TMBS and shall seek approval of its content from its AB. The HLD (Clause 4.2) and risk management assessments (Clause 4.3) of the TMBS will determine the content of the MSD.

#### 4.4.1 Purpose

The purpose of the MSD is to describe the measurements to be taken and supporting controls that the CP shall produce, and undertake, to demonstrate the performance of the TMBS, as described above in Clauses 4.1 and 4.2 above.

The Measurement Strategy shall be subject to change control throughout the period of its application.

For the measures to be used in the assessment of performance and which will be set out in the MSD, see Clause 4.8 below.

### **4.5 Process Management**

A CP shall have in place and enforce the effective use of procedures and / or documentation covering all aspects of the TMBS.

All business and technical processes that can impact upon the TMBS shall be included within the scope of a process management system for Approval purposes, including those of related third parties or sub-contractors.

Where no external accredited certification of the process management system exists, it shall be assessed by the AB against the relevant requirements of ISO 9001 or an equivalent standard. Formal certification against ISO 9001 is not a requirement.

The TMBS shall be subject to change control throughout its life.

### **4.6 Tariffs**

#### 4.6.1 Introduction

In order for End-Users to understand the charges appearing on the **Bill**, the **Tariff** and rules that determine the Event charges shall be made readily available to those End-Users.<sup>26</sup>

Tariffs shall specify the method and the units of measure applied in relation to the resolution and rounding of Event durations and charges, both at an individual and aggregate level. For example, the expression 'rounded to the penny' defines the resolution, but not the method of rounding.

#### 4.6.2 Tariff Types

There are two types of Tariff, a public domain Tariff and a **Bespoke Tariff**.

##### 4.6.2.1 Public Domain Tariff

A public domain Tariff is one that can be confirmed by the general public and shall be published<sup>27</sup>. It is a statement that specifies the charges which a CP makes for **Electronic Communications Services**.

In order to overcome the situation whereby two pieces of information purporting to be the public domain Tariff have differing information, the CP shall publicly identify which takes precedence.

**Note:** This allows CPs to offer special rates to specific destinations over specified periods through advertising, without having to re-issue the complete Tariff.

---

<sup>26</sup> General Condition 9.2(i) requires Communication Providers to specify details of prices and tariffs

<sup>27</sup> General Condition 10.1 and 10.2 set out relevant publication requirements for Communication Providers

Where the End-User is able to make a choice and the Tariff depends upon that choice, then the different Tariffs shall be contained within the public domain Tariff.

**Note:** This is important for certain types of calls such as those via 118xxx services, Operator Assistance, inadvertent Mobile Network Roaming and 0800 from Mobile Networks.

#### 4.6.2.2 Bespoke Tariff

A Bespoke Tariff is confidential between the End-Users and the CP. The End-Users are provided access to the details of the Tariff through defined processes. A Bespoke Tariff is only available to a single End-User or to a limited class of individual End-Users.

Although End-Users may be initially provided with Tariff information at the point of contract acceptance it may be impractical to have a policy of reissuing Tariff information to End-Users when rates are changed. It is important that End-Users can verify the Tariff should they require to do so.

The information on a bespoke Tariff is not available to the general public; it is not displayed on a publicly accessible page on a website nor is it disclosed to others. The information could be contained on a password protected page within a website accessible to the End-User.

Where a previous public domain Tariff has been withdrawn from public use, but some End-Users remain on that Tariff, it shall be treated as a bespoke Tariff, the terms of which shall be disclosed at the request of those End-Users.

Changes to the bespoke Tariff shall be made in accordance with the documented and agreed change process.

#### 4.6.3 Tariff Description and Detail

The CP shall provide a Tariff schedule (which is a list of charges) which shall include a clear statement of what is and is not included in a particular tariff, bundle or additional bolt-on. It must indicate what charges will occur for call types not included in bundles (for example, 08XX calls or calls to certain destinations) or when the bundle is exceeded. Details of resolution and rounding (see Clause 4.6.1 above) for all charges (inside or out of bundle) must be made clear.

It shall also be used to provide additional information to assist the End-User to understand the Bill. This information would normally be provided to the End-User by the Retail service provider; however, a **Wholesale** CP shall make any such information available to the Retail service provider so that it can be made available to the End-User.

The following are non-exhaustive examples of instances where it may be helpful to provide such information:

##### 4.6.3.1 Call Bundling

There can be delays between calls completing and being presented on a Bill caused by a number of technical reasons. This can cause problems when an End-User is charged on the basis of a bundle of calls. Whilst every effort will be made to overcome this situation, calls can appear on a Bill not in call start time order and hence may not necessarily be included in the appropriate bundle if calls are made close to the end of a bundle period.

**Note:** Where such bundling errors occur, they will be evaluated by Approval Bodies according to their real effect on the End-User.

##### 4.6.3.2 Inadvertent Roaming

The End-Users will be charged for the call on the network that provided the service, even if this was not the End-Users' intended CP.

#### 4.6.3.3 Termination of Mobile Calls

Where a call originating from a mobile device e.g. handset is terminated other than by the caller pressing the specific button for that purpose, the network will initially assume that contact between the base station(s) and the handset has been temporarily lost - as when passing under a bridge or through a tunnel. The connection will be maintained and charged for during the first "n" seconds after contact is lost. Should contact be re-established, the call will continue as before. If however, the caller has switched off the phone, run out of battery capacity or moved permanently out of range of any base station etc., the charges for that call will include the "n" seconds. In order to minimise the risk of unnecessary charges, End-Users should be careful to end each call as set out in the user instructions for the handset e.g. pressing the "End" button.

#### 4.6.3.4 Minimum Call Charges and Durations

Where call charges include a minimum charge or a minimum chargeable duration these should be clearly indicated in the published tariff.

#### 4.6.3.5 Rounding within Bundles

If rounding is applied to call durations for calls within bundles, for example, if a call of less than 1 minute will result in 1 minute being deducted from the bundle, this should be made clear in the published tariff.

#### 4.6.3.6 Initial Connection Charges

Any initial connection charge, i.e. a charge which is applied as soon as a call is connected before any usage takes place, should be clearly displayed in the published tariff.

#### 4.6.3.7 Long Texts

The standard length of a mobile network text message is 160 characters; if this limit is exceeded the network will normally charge for a further message (or messages). Most mobile phones are capable of seamlessly splitting and recombining longer messages into multiple texts, often without the user being aware. Customers with unlimited text bundles may only become aware if they send chargeable texts while roaming. Tariffs should make clear the basis of charging for text messages.

#### 4.6.3.8 International and Roaming Charges

Published tariffs should make it clear what charges will be incurred for international and roaming calls and data and which, if any, such calls are included in bundles or inclusive call plans.

#### 4.6.3.9 SMS and Related Anomalies in Delivery Depending on Handset

Customers should be made aware of any known handset-dependent features or settings which could result in anomalous charging or charging which may appear to be anomalous to the customer.

#### 4.6.3.10 Excluded number ranges – clarification and related charges

Published tariffs should make clear which number ranges (for example, calls to 08xx numbers, calls to Channel Islands and Isle of Man) are excluded from bundles or inclusive call plans and what charges will be incurred for calls made to these numbers.

### **4.7 Interworking between Communications Providers**

Where a CP owns part (or all) of the overall TMBS and receives a service from a non-Approved source, either from another CP or via a sub-contractor, it shall ensure the quality of that service either by direct reference to compliance with the Direction or by including explicit requirements that would result in such compliance.

Where Wholesale service contracts exist between two or more CPs approved under the Direction, it shall be for each CP to satisfy itself that the services it offers or receives meet the requirements of this Direction.

Such contractual agreements shall not require any individual party to operate its TMBS free from error. However, any errors or accumulation of errors shall be subject to the measurement capability limits and the principles of corrective action laid down in this Direction.

Approval Bodies will work with each CP in the end-to-end TMBS to ensure the removal of systematic sources of error, and that data sent and received over the interfaces of the supply chain is accurate and measured.

Where a disagreement arises about compliance with this Direction that cannot be resolved between CPs in a reasonable timeframe, escalation shall be first to the appropriate AB(s) concerned. ABs shall seek to resolve differences involving all parties. ABs may escalate the disagreement to Ofcom for consideration in the context of the CP's compliance with General Condition 11.

## **4.8 Assessment of Performance**

### **4.8.1 Measurement Reporting**

The Measurement Strategy shall be documented in the MSD and shall specify the type and frequency of regular reports from operational or assurance systems demonstrating accuracy against the allowable measurement limits.

Where a number of measurements are combined to provide an overall measure to demonstrate accuracy, the method of calculation shall be described.

### **4.8.2 Assessment of Performance**

Measures shall be produced in accordance with the Measurement Strategy approved by the AB, with accuracy measurement limits reflecting the different charge types for usage and non-usage Events. This section outlines the generic measurement criteria applicable to all services. Product specific measurement limits are defined in the relevant annexes.

Performance measurement processes shall be effective in supporting increased knowledge of the end-to-end TMBS. They shall include the identification of root causes of Bill inaccuracies and the implementation of activities aimed at achieving improvements in the accuracy of End-Users' Bills.

#### **4.8.2.1 Routine Performance**

The CP shall measure performance of the TMBS within the required measurement capability limits over a rolling 12 month period. Where there is a failure to address the significant causes of routine TMBS performance or measurement capability failures, remedial action shall be proposed to and agreed by the AB. Routine performance is the underlying or business as usual performance of the system resulting from normal conditions and measurement capability. The Measurement Strategy shall define risk and benefit criteria for identifying significant routine performance failure through root cause analysis. These criteria shall be subject to acceptance by the AB and shall support the aim of continual improvement in underlying performance.

#### **4.8.3 Extraordinary Performance Failure**

An **Extraordinary Performance Failure (EPF)** is a significant detrimental deviation from the normal daily performance of a CP with regard to its capability to accurately bill or to accurately

measure performance in line with the documented Measurement Strategy (which requires CPs to identify and assess the risks to their TMBS for accuracy, impact and likely occurrence), that is distinguishable from routine performance measurements as a result of special or one off conditions.

The Measurement Strategy shall define criteria for identifying significant instances of extraordinary performance failure<sup>28</sup>. These criteria shall be subject to acceptance by the AB. Where significant extraordinary performance failures are identified then the following actions shall be followed:

- a) The AB shall be informed within five working days of the performance failure being identified;
- b) The CP shall ensure that End-Users are not financially disadvantaged, but where individual End-Users cannot be identified, the CP shall derive no financial benefit from the failure, either by donating an equivalent sum to charity or by an adjustment of tariffs;
- c) The CP shall ensure that an initial recovery plan shall be made available to the AB as soon as practicable but no later than ten working days after the initial notification of the performance failure;
- d) The performance failure, impact and recovery plan shall be recorded by the CP and reviewed at regular Approval review meetings and in planned audit and assessments by the CP and AB;
- e) Root cause and impact analysis shall be carried out and corrective actions recorded by the CP; and
- f) The impact of the EPF shall be presented by the CP along with the routine performance results to the AB when measurement results are required.

The AB shall assess the frequency and severity of all extraordinary performance failures collectively. Should this exceed the threshold level of three **Category 2** occurrences within a rolling 12 month period, a full review, by the AB, of the TMBS shall take place to re-establish fitness for Approval.

#### 4.8.4 Delayed Events

Chargeable Events (which are Events that give rise to a charge) may be delayed for a number of reasons but shall be included in a Bill no later than:

- a) The next Bill, when Bills are rendered quarterly or less frequently;
- b) When Bills are rendered monthly, the fourth monthly Bill after the chargeable Events occurred; or
- c) Where an End-User is not subject to a standard consumer contract and a prevailing bespoke contract exists, it is permissible to specify in that contract the acceptable delay to billing Events.

The CP shall not subsequently bill any chargeable Event details not so presented.

Agreement between the CP and the AB to extend the time scales shall be subject to written approval by Ofcom.

**Note:** Late or lost Events should normally be counted for measurement purposes as relating to the period when they should have been billed. If this is impracticable, it is acceptable to count them when they are written off.

---

<sup>28</sup> Examples of such instances may include maximum error rates or thresholds expressed in terms of numbers or percentage deviations.

#### 4.8.5 Timing Effect on Bundled Events

When clarity of information permits, a statement of bundle timing intervals shall be included in public domain or bespoke Tariffs.

Where the timely allocation of Events to bundles is not practicable (e.g. following the failure and recovery of the TMBS), to ensure that the End-Users affected are not disadvantaged, the CP shall undertake the actions set out under Clauses 4.9.1 and 4.9.2 as appropriate.

#### 4.8.6 Timely Despatch of Bills

The CP shall ensure that an effective file delivery schedule is in place for Bills or billing data.

The timeliness of Bill **Issue** or billing data file Issue shall be subject to systematic processes.

### 4.9 Individual Bill Accuracy

#### 4.9.1 Error Handling and End-User Complaints

A CP shall employ and document processes for receiving, identifying, investigating and dealing with incorrect charges, including processes whereby End-Users can readily question the accuracy of their charges.

When a CP identifies that an End-User has been **Overcharged**, either through a End-User enquiry or from internal identification, appropriate and proportionate corrective action shall be undertaken.

The CP shall carry out a root cause analysis for verified overcharges, identify the cause and establish proportionate remedial action to correct it. Where the root cause affects multiple End-User accounts, then all affected Bills shall, if practicable, be included in a recovery programme.

It is a requirement for incorrect charges to be measured, counted and included in TMBS Measurement Reports.

#### 4.9.2 Detection of Gross Billing Errors

A CP shall employ a suitable mechanism, for which it must obtain approval from its AB, for the detection of gross billing errors, which are Bills that contain significant deviations from the expected norm. The precise nature of this mechanism will vary from one TMBS to another, but will usually be derived from existing management controls and reports. Typically it may involve any or all of the following:

- a) Detection of any Bill which differs by a settable percentage from historical Bills for that particular End-User or circuit;
- b) Detection of any billing run which differs in total value by a settable percentage from historical billing runs that would be expected to be similar;
- c) Trend analysis of rejected chargeable Events;
- d) Manual analysis/recalculation of a representative sample of Bills; and
- e) Specific analysis of the reasons for unexpected reports produced by mediation / rating / billing systems etc.

For the purposes of this Direction, CPs can make use of any data provided to Ofcom for another purpose e.g. providing quality of service data. If not subject to dispute with Ofcom and agreed to be suitable by the AB, this data need not be separately audited.

## 5 Compliance with this Direction

### 5.1 The Communications Provider Activities

The CP shall provide the AB with access to all people, locations, **Equipment** and data necessary to establish compliance with this Direction.

The CP shall nominate a senior manager, ideally a Board Member, to manage the relationship with Ofcom for the successful compliance with the Ofcom Metering and Billing Direction by the CP.

The responsibility of the nominated person is to provide the strategic direction for the implementation of the Direction within a CP, to act as the escalation point for the AB and to ensure that an **Ofcom Billing Accuracy Programme Manager** (OBAPM) is appointed, ensuring that they are of sufficient capability and experience to carry out the role.

The day-to-day operational management shall be delegated to the OBAPM, who shall have responsibility for maintaining compliance internally with the CP. The OBAPM will be the point of contact between the AB and the CP. The AB shall confirm the capability and appointment of this manager.

The CP will also agree to, and have in place, processes which facilitate the disclosure of information to Ofcom by the CP and/or the AB in connection with the performance by the CP of its regulatory obligations in connection with this Direction.

### 5.2 The Assessment Process

In general, compliance with this Direction shall be determined by assessments and measurements as set out below:

#### 5.2.1 Approval Body Selection

Once it has been determined that a CP should be complying with the Direction, either through a voluntary or mandatory route, the CP selects an AB. Each AB is independent and appointed by Ofcom to approve CPs' TMBSs; their details may be found on Ofcom's website.

#### 5.2.2 Initial Meeting

The CP shall meet with the AB to determine the extent of the TMBS to be assessed. The CP and the AB will develop a joint and agreed Approval plan, showing the scope of Approval, resources, activities, dependencies and timescales required by both parties.

#### 5.2.3 Initial Assessment

The CP must submit its technical/functional design documentation of the applicable TMBS in accordance with Clauses 4.2, and 4.3 to the AB for initial assessment.

Initial assessment will typically include, but not be limited to, the following:

- a) Tariff, and pricing, management processes;
- b) Transaction data processing activities;
- c) Billing operational & audit processes;
- d) Customer management processes;
- e) Network data transaction processes;
- f) Customer and product reference data integrity processes;
- g) Timeliness of processes; and
- h) Complaints handling.

**Note:** Where specified processes are audited under an accredited Quality or Financial Audit process, the AB will take into account the documented audit findings.

### 5.2.3.1 Revision of the Approval plan

Revisions to the Approval plan, which remains a live document, are to be made no less than annually, once assessments commence and further TMBS requirements and actions come to light. Any significant slippage or amendments to the Approval plan end date will be subject to Ofcom review and re-Approval of the Approval plan.

## 5.2.4 Main Assessment

The main assessment of the TMBS conducted by the AB shall comprise:

### 5.2.4.1 System Design

The AB will review the HLD and the lower level appraisal documents to ensure that there are no inherent weaknesses within the design and that it is capable of complying with the requirements of this Direction.

### 5.2.4.2 System Process Management

The AB will assess the processes surrounding the operation of the TMBS to ensure that these processes are being operated correctly to achieve compliance with the requirements of the Direction.

### 5.2.4.3 System Performance

The AB will assess the on-going performance of the TMBS in meeting the standards in this Direction by means of a measurement system as defined in the approved MSD. The requirement is for the CP to present a rolling 12 months' results. However, based on the stability of the results presented, the AB may, at its discretion, recommend Approval prior to all of the initial 12 months' data being collected, subject to a minimum of six months' data having been collected in the case of a first Approval.

### 5.2.4.4 Conducting Assessments

Audits will be scheduled in accordance with the agreed Approval plan which will incorporate a mix of internal / third party and external AB audits. Audit reports and relevant findings from all sources will be documented by the AB and agreed with the CP. Findings will be categorised (in accordance with the categories set out in Annex A) and recorded. CPs may appeal against the categorisation of any matter by following the AB's documented appeal process (provision of such a process is required by EN 45011 (ISO 17065)).

### 5.2.4.5 Tracking Corrective Actions

The AB will agree with the CP a process for documenting, tracking and addressing non-compliances and deficiencies by means of corrective action.

## **5.3 Approval and Certification**

Once the AB has satisfied itself that all the requirements for Approval have been met, it will publicise its intention to approve the CP and offer a one month consultation period. Such a proposal would be subject to the requirements of sections 49 and 49A-49C of the Communications Act 2003.

At that point, other parties are able to ask questions of the AB on the background and basis of the decision to grant Approval.

The AB will issue a Certificate of Approval as soon as reasonably practical after any queries arising have been satisfactorily resolved. The CP's Approval number and scope will then be published on the AB's own website.

#### **5.4 Maintenance of Approval**

Once Approval has been granted, the CP is required to maintain its Approval. This is achieved through the on-going audit and surveillance of the TMBS by the AB.

Changes to the TMBS continue to be assessed through the review of appraisals of the key parts of the system.

The on-going performance is reported monthly through the presentation of results to the AB.

Should there be compliance related issues, these will be documented and categorised. All Category 1 matters (for an existing Approval) shall be reported by the AB to Ofcom.

In the case of a dispute arising between the AB and the CP that they cannot resolve themselves, either Party can take the dispute to Ofcom.

##### **5.4.1 Change of Approval Body**

Where a CP changes AB, the Approval Bodies are expected to recognise each other's certification.

The CP is able to initiate a change of AB once the initial Approval has been achieved. However, in order to prevent switching being used to circumvent poor performance, the CP must obtain Ofcom's agreement to the transfer and Ofcom will monitor the process as necessary. Handover will be subject to a mutually agreed action list and timescale.

A change of AB may also occur in circumstances where an AB is no longer able to continue serving a CP.

##### **5.4.2 Re-certification**

The CP shall seek a renewal of its certificate which shall be granted by the AB subject to satisfactory reassessment. The renewal period shall be set out in the certificate and shall not exceed three years. Prior to any such renewal, the AB will perform a re-certification exercise and assess the findings of the surveillance visits, audits and measures before determining whether to confirm continuation of the CP's Approval.

#### **5.5 Change of Scope of Approval**

Where the scope of Approval changes either to add or delete products/services, the AB will conduct an assessment of the revised TMBS, using the above process.

**Note:** When the AB adds additional items to the scope of an Approval not requiring a technical change this will require an Approval certificate amendment.

#### **5.6 Withdrawal of Approval**

Withdrawal of Approval can occur in one of two ways.

##### **5.6.1 Services/products not covered by Direction**

The product or service being offered by the CP is no longer covered by the Direction, either through a change in the scope, or through the reduction in the Relevant Turnover.

### 5.6.2 CP's performance and actions

The CP's performance and actions are such that continued certification would contradict the requirements of General Condition of Entitlement 11 and the Ofcom Metering and Billing Direction.

## **6 Enforcement**

An AB may issue, and a CP must comply with, directions issued to the CP by the AB in connection with the requirements of this Direction. Failure to comply with any such direction and/or with this Direction may lead to enforcement action against the CP for a breach of General Condition of Entitlement 11, pursuant to sections 96A-96C of the Communications Act 2003.

## **7 Annex List**

In addition to the general obligations and principles contained in the main body of the Direction, the following annexes have been developed to give more specific information.

Annexes

Definitions and Interpretations – Annex A

Retail services – Annex B

Wholesale services – Annex C

## Annex A Definitions and Interpretations

Where a word or phrase is not defined below, the definitions in the Communications Act 2003 or the General Conditions of Entitlement shall apply, otherwise the definitions in the Oxford English Dictionary apply.

Term	Definition and Interpretations	Notes
Approval	has the meaning given to it in General Condition 11.7.	
Approval Body (AB)	has the meaning given to it in General Condition 11.7.	
Bespoke Tariff	means a Tariff that is only available to a single End-User or to a limited class of individual End-Users.	
Bill	has the meaning given to it in General Condition 11.7.	
Category (Categorisation)	<p>covers the following categories:</p> <p>Category 1:</p> <ul style="list-style-type: none"> <li>• A major non-compliance or deficiency preventing the issue or continuance of Approval for which corrective action must be undertaken urgently. In view of the grave consequences of a Category 1 matter, it is expected that a CP will resolve it as a matter of the utmost importance</li> <li>• A detailed corrective action plan must be approved by the AB within one month and put into effect within four months</li> <li>• All Category 1 matters for an existing Approval are to be reported by the AB to Ofcom</li> <li>• As a Category 1 matter has the potential to constitute a breach of Condition 11, Ofcom reserves the right at its own discretion to provide guidance when a resolution is sought. One resolution would be to amend the scope of Approval until satisfactory Corrective Action has been undertaken</li> <li>• Withdrawal of an Approval will only take place after discussion between Ofcom, the AB and the Approval holder. Such a proposal would be subject to the formal public Notification procedure required under section 49 of the Communications Act 2003</li> </ul> <p>Category 2:</p> <ul style="list-style-type: none"> <li>• A Non-Compliance or Deficiency which is a matter of concern. It is to be resolved within a period approved by the AB, but not exceeding 24 months</li> <li>• In any event a detailed corrective action plan</li> </ul>	<ul style="list-style-type: none"> <li>• The Categorisation of Non-Compliances, Deficiencies and Observations.</li> <li>• An Observation generally comes below “Category 3” in seriousness</li> </ul>

Term	Definition and Interpretations	Notes
	<p>must be approved and put into effect within four months. Categorisation: the accumulation of Category 2 matters may result in a Category 1 matter being raised</p> <p>Category 3:</p> <ul style="list-style-type: none"> <li>• A Deficiency worthy of consideration by the CP, possibly leading to corrective and / or preventative action, but not of sufficient importance to warrant Category 1 or 2 status</li> </ul>	
CDR	means the records, supplied by the wholesaler, of the calls made by users; these records form the basis of the Bills issued by the Retail CP who either applies its own retail tariff to the calls or in the case of 'rated CDRs' rely on the wholesaler applying the tariffs set by the retailers.	
Certificate of Approval	means the certificate issued by the AB to CP on completion of the assessment by the AB that requirements of the Direction have been met.	
Communications Provider (CP)	has the meaning given to it in General Condition 11.7.	
Electronic Communications Services	has the meaning given to it in s.32(2) of the Communications Act 2003.	
End-User	has the meaning given to it in s.151 of the Communications Act 2003.	
Extraordinary Performance Failure (EPF)	has the meaning given to it in Clause 4.8.3.	An EPF is declared by the CP and is not necessarily a non-conformity but may be linked to one
Equipment	means all the hardware and software and / or firmware necessary for the correct operation of a function including mobile terminals.	
Event	means a circumstance where a charge can occur eg a telephone call, data download, access, content, bandwidth or non-usage based e.g. recurring charges.	<p>The term Event can be usage charged for by duration as in a telephone call. Another example is the transmission of data, which could be charged for by counting the number of bytes or data packets required</p> <p>Events may occur without having been initiated by the user. An example would be charges for terminating a leg of a call. Where charges apply to both the origination and termination of the same</p>

Term	Definition and Interpretations	Notes
		call, two distinct Events will have occurred. Examples are call diversion or mobile telephone roaming
(Event) overcharged	means either: (a) a chargeable Event for which the charge to the End-User exceeds that calculated on the basis of the applicable published Tariffs, or Bespoke Tariffs; or (b) any other incident which results in a charge being logged or added erroneously to the Bill.	An example of (b) is multiple entries relating to the same service usage
(Event) undercharging/ under-recording	means a chargeable Event, either: (a) for which the charge to the End-User is lower than that calculated on the basis of published Tariffs, or Bespoke Tariffs; or (b) which has been omitted from the logged record or Bill owing to an incident; and which is not excluded from measurement.	Examples of (b) are: - The loss of call records as a result of a switch restart; - Delay to or loss of call records due to file corruption in mediation; - Delay to or loss of call records due to suspense issues not addressed; or - Line rental or installation fee charged inaccurately
High Level Description (HLD)	has the meaning given to it in Clause 4.2.	
Interconnect	means the passing of communications traffic between the systems of two or more CPs.	

<b>Term</b>	<b>Definition and Interpretations</b>	<b>Notes</b>
Interworking	means the passage of usage data between CPs which will result in an entry and / or charge on an End-User's Bill.	
Issue	means the action whereby the CP, having completed preparation of a Bill, passes it to the delivery agent or posts the information electronically.	The CP has completed preparation of the Bill if any further processing still to be performed by the delivery agent is for presentational purposes only
Key Performance Indicators (KPI)	means agreed measures of performance.	
OBAPM	means the Ofcom Billing Accuracy Programme Manager who shall have the authority to enforce compliance internally within the CP. The Ofcom Billing Accuracy Programme Manager will be the point of contact between CP and AB.	
Mandatory Services	means retail PATS and wholesale PATS that are subject to the requirements of the Direction.	
Measurement Strategy	has the meaning given to it in Clause 4.4.	
Measurement Strategy Document (MSD)	means the document prepared by the CP setting out its Measurement Strategy.	
Management System Requirements	means the requirements that set out the documented processes and procedures linked to the HLD and any upstream and downstream contractual arrangements including SLAs and KPIs.	
Publicly Available Telephone Services (PATS)	has the meaning given to it in Part 1 of the General Conditions of Entitlement (Definitions).	
Public Electronic Communications Services (PECS)	has the meaning given to it in Part 1 of the General Conditions of Entitlement (Definitions).	
Public Pay Telephones	has the meaning given to it in Part 1 of the General Conditions of Entitlement (Definitions).	
Retail	means communications services provided to End-Users.	
Relevant Turnover	has the meaning given to it in General Condition 11.7.	
Tariff	means publicly available statements (unless it is a Bespoke Tariff), that specify the charges which a CP makes for Electronic Communications Services.	The term is intended to cover paper documents made available for public inspection, statements

<b>Term</b>	<b>Definition and Interpretations</b>	<b>Notes</b>
		published in periodicals, advertisements, information published on the Internet, and the like
Total Metering and Billing System	has the meaning given to it in General Condition 11.7.	
Wholesale	means the supply of products and services by CPs both for their internal use and to other CPs for the purpose of resale by those other CPs. Wholesale services are one of the key building blocks in the supply of retail products and services to End-Users.	
2008 Ofcom Direction	means the Direction made by Ofcom for the purposes of General Condition 11 on 15 July 2008.	

## Annex B: Retail Services

### 1 Scope of Annex

The provisions of the Direction in respect of fixed and mobile Retail communications services relate to the provision of usage and non-usage records generated for billing by CPs providing **Publicly Available Telephone Services (PATS)** to End-Users.

The scope of the Direction includes CPs that have no network switch as well as those that employ their own network switching.

#### 1.1 Overcharging

The processes and requirements set out in the Direction are **mandatory** for Retail PATS with respect to preventing overcharging. The processes and requirements set out in the Direction are **voluntary** for other Retail PECS, such as data services, with respect to preventing overcharging.

#### 1.2 Undercharging Detrimental to End-Users

The processes and requirements set out in the Direction are **voluntary** for all retail services with respect to preventing **Undercharging**.

**Note:** This Direction does not apply to **Public Pay Telephones**.

### 2. Communications Provider Inclusion Thresholds

#### 2.1 Publicly Available Telephone Service (Mandatory)

##### 2.1.1 Initial Application

A CP providing Retail services shall apply for Approval of its TMBS when the Relevant Turnover from the sum of the Mandatory Services that it provides exceeds £40,000,000 on an annual basis (exclusive of VAT and other taxes directly related to turnover).

##### 2.1.2 Extension of Scope

Where a CP introduces a new product or service that utilises the majority of the same elements as an existing approved PATS, e.g. it is delivered utilising a switched voice channel, mediated through an existing mediation device and Billed through an existing Billing engine any two of which are covered by an existing TMBS, then the CP shall apply for a suitable extension of scope when the turnover from this product or service reaches £2,000,000 per annum (exclusive of VAT and other taxes directly related to turnover).

It will be for the AB to determine whether a product or service falls into the category of an extension of scope or an initial application described above.

#### 2.2 Other Public Electronic Communications Services (**Voluntary**)

##### 2.2.1 Initial Voluntary Application

As a voluntary scheme the CP may apply for Approval when the relevant turnover from the service exceeds £5,000,000 per annum.

##### 2.2.2 Extension of Voluntary Scope

Because this is a voluntary application the CP can apply for an extension to Approval provided it already has, or is in the process of gaining, an Approval.

Where a CP introduces a new product or service that utilises the majority of the same elements as an existing Approved TMBS, e.g. it is delivered utilising an existing delivery mechanism, aggregated through an existing aggregation device and billed through an existing billing engine any two of which are covered by an existing TMBS, then the CP can apply for a suitable extension of scope when the relevant turnover from this product or service reaches £1,000,000 per annum (exclusive of VAT and other taxes directly related to turnover).

It will be for the AB to determine whether a product or service falls into the category of an extension of scope or an initial application. Examples can be found in this Direction.

### 3. Allowable Measurement Capabilities

A TMBS utilises two distinct types of Events for charging purposes.

#### 3.1 Usage Events

These are Event records that are generated by a telecommunications switch, triggered by the use of the service by the End-User.

#### 3.2 Non-Usage Events

These are sub-divided into two categories and cover the Event records not triggered by the use of the service by the End-User. The two categories are:

##### 3.2.1 Non-Recurring Events

These include costs for the provision, change, suspension or removal of services, products and equipment. They are likely to be actions that do not result in the creation of a usage Event record.

**Note:** Provision includes both cease and re-provision processes.

##### 3.2.2 Recurring Events

These include subscriptions and rentals for equipment or availability that are applied on a regular basis to the Bill irrespective of any usage or non-usage Event.

The measurement system must be able to confirm that recorded Events fall within the limits shown within section 3. Unless otherwise stated, these limits apply to the units of measure used in the systems being measured.

#### 3.3 Usage Events: Measurement Capabilities

	Variable	Allowable Measurement Capabilities
a.	Duration	±1 second or ±0.01% (whichever is less stringent)
b.	Data Volume	±100 kB or ±0.01% (whichever is less stringent)
c.	Time of Day	±1 second
d.	Count of Events	±0.004% (1:25K)
e.	Value of Charges	±0.1p or ±0.01% whichever is less stringent

**Note:** Value of Charges (e.) - the actual charge per usage Event, e.g. a Call Detail Record, shall be within ±0.1p of the expected charge after rounding rules have been applied.

### 3.4 Non-Usage Non-Recurring Events: Measurement Capabilities

	<b>Variable</b>	<b>Allowable Measurement Capabilities</b>
<b>a.</b>	Count of Events	±0.05% (1:2K)
<b>b.</b>	Value of Charges	±1p or ±0.01% whichever is less stringent

### 3.5 Non-Usage Recurring Events: Measurement Capabilities

	<b>Variable</b>	<b>Allowable Measurement Capabilities</b>
<b>a.</b>	Duration	±1 day
<b>b.</b>	Count of Events	±0.01% (1:10K)
<b>c.</b>	Value of Charges	±1p or ±0.01% whichever is less stringent

**Notes:**

1. Where the Recurring Event charge is based upon whole days, the start of the period is the day on which the service was first provided and the end is the day on which the service was de-provisioned, irrespective of the time of that provision, unless otherwise stated in the Tariffs.
2. Duration: shall be within ±1 day on the entire lifetime of the rental or equivalent.

## **4. Performance Measurement Requirements**

### 4.1 Performance Measurement

The performance of the TMBS shall be assessed on the basis of how many errors are made. An error will be defined as exceeding the allowable measurement capability as set out in paragraphs 3.3 to 3.5 of this Annex. This assessment of performance requires that the accuracy requirements are assured by a robust and credible management system, controlling processes and monitoring and recording Events. This is separated into the elements above for the purposes of demonstrating compliance with the allowable measurement capabilities.

Performance will be based on measurements taken over a rolling 12 month average.

The measurements and other performance indicators which the CP must produce and present to its AB on a regular basis to demonstrate that the charging performance of its TMBS is accurate and consistent shall be set out in detail in the MSD.

Measurement processes shall be effective in supporting increased knowledge of the end to end TMBS. They shall include the identification of root causes of bill inaccuracies and the implementation of activities aimed at achieving continual improvement of End-Users' bills.

### 4.2 MSD Requirements

It is a requirement of the Direction (Clause 4.4) that the CP produces a MSD and agrees its content with its AB. In order to obtain the AB's agreement to the content of the MSD, the CP must show that the proposed strategy will enable the accuracy and consistency of charging to be demonstrated to the satisfaction of the AB.

As each TMBS is unique, its MSD will need to be tailored to ensure that its content relates to the HLD (see Clause 4.2) and risk management assessment (see Clause

4.3). Typically the MSD will contain Key Performance Indicators relating to charging accuracy and detail the controls and measurements in place in areas such as, but not limited to:

- a) Billing pipeline measures;
- b) Bill accuracy checks;
- c) Customer complaint handling;
- d) Credits and Bill adjustments;
- e) Handling of suspense and write-offs; and
- f) Testing to ensure the accuracy of published Tariffs.

There may be a requirement for the MSD to contain controls and measures specific to certain customer groups, for example large business customers or mobile pre-pay customers, to ensure that risks and potential charging errors specific to these groups are mitigated and recorded.

## Annex C: Wholesale Services

### 1. Scope

The provisions of the Direction in respect of fixed and mobile Wholesale communications services relates to the provision of Usage and Non-Usage records for use by CPs providing Publicly Available Telephone Services (PATs) to End-Users.

The Scope of the Direction includes CPs that have no network switch as well as those that employ their own network switching.

It does not apply to the bills provided by Wholesale CPs to their customers.

#### 1.1 Overcharging

The processes and requirements set out in the Direction are **mandatory** for Wholesale PATs with respect to preventing overcharging. The processes and requirements set out in the Direction are **voluntary** for other Wholesale PECS, such as data services, with respect to preventing overcharging.

#### 1.2 Detrimental Under-Recording

The processes and requirements set out in the Direction are **mandatory** for Wholesale PATs with respect to preventing under-recording.

### 2. Communications Provider Inclusion Thresholds

#### 2.1 Application

A CP providing Wholesale services shall apply for Approval of its TMBS when the relevant turnover from the sum of the Mandatory Services that it provides exceeds £40,000,000 on an annual basis (exclusive of VAT and other taxes directly related to turnover).

#### 2.2 Extension of Scope

Where an approved Wholesale CP introduces a new Wholesale product or service that utilises the majority of the same elements as an existing approved Wholesale service, e.g. it is delivered utilising a switched voice channel covered by an existing approved TMBS, then the CP shall apply for a suitable extension of scope when the relevant turnover from this product or service reaches £2,000,000 per annum (exclusive of VAT and other taxes directly related to turnover).

It will be for the AB to determine whether a product or service falls into the category of Extension of Scope or Initial Application described above.

If it is deemed to be an Initial Application then that CP will ultimately have more than one TMBS.

### 3. Approval Criteria

The usage and non-usage communications services provided by the Wholesale CP should be managed and documented in an accurate, timely and complete way that supports the compliance with the Direction by CPs providing PATs to End-Users and conforms with the requirements set out in of clauses 4 to 8 of this annex.

## 4. Description of a Wholesale Service

A Wholesale PATS TMBS utilises two distinct types of Event records for future billing purposes:

### 4.1 Usage Events

These are Event records that are generated by a communications switch, triggered by the use of PATS by the End-User.

### 4.2 Non-Usage Events

These are Event records that are generated by non-usage activities and are subdivided into two categories and cover the Event records triggered by the use of a service. The two categories are:

#### 4.2.1 Non-Recurring Events

These include chargeable Events for the provision, installation, change, suspension or removal of services and products. They are likely to be actions that do not result in the creation of a usage Event record.

**Note:** Provision includes both cease and re-provision processes.

#### 4.2.2 Recurring Events

These include subscriptions and rentals for Equipment or availability and accessibility to additional services that are applied on a regular basis to the Bill irrespective of any usage Event.

### 4.3 Rated Call Data / Detailed Records

Wholesale CPs may rate the Call Data / Detailed Records (**CDRs**) and Non-Usage Event records produced for a downstream CP and if contracted to do so, this shall be within the scope of the TMBS.

## 5. Allowable Measurement Capabilities

The measurement capabilities in paragraph 5.1 to 5.3 below are to be used by the CP to determine Events in error.

Unless otherwise stated, these capabilities apply to the units of measurement used in the systems being measured. Measurement results can be presented as an absolute, a ratio or a percentage.

### 5.1 Usage Events: Measurement Capabilities

	Variable	Allowable Measurement Capabilities
a.	Duration	±1 second or ±0.01% (whichever is less stringent)
b.	Data Volume	±100 kB or ±0.01% (whichever is less stringent)
c.	Time of Day	±1 second
d.	Count of Events	±0.004% (1:25K)
e.	Value of Charges	±0.1p or ±0.01% whichever is less stringent

### 5.2 Non-Usage Non-Recurring Events: Measurement Capabilities

	Variable	Allowable Measurement
--	----------	-----------------------

		<b>Capabilities</b>
<b>a.</b>	Count of Events	±0.05% (1:2K)
<b>b.</b>	Rated Events	±1p or ±0.01% whichever is less stringent

### 5.3 Non-Usage Recurring Events: Measurement Capabilities

	<b>Variable</b>	<b>Allowable Measurement Capabilities</b>
<b>a.</b>	Count of Events	±0.01% (1:10K)
<b>b.</b>	Rated Events	±1p or ±0.01% whichever is less stringent

## **6. Measurement Capabilities**

The performance of the TMBS shall be assessed on the basis of how many errors are made. An error will be defined as exceeding the allowable measurement capability as set out in paragraphs 5.1 to 5.3 of this Annex. This requires that the accuracy requirements are assured by a robust and credible management system, controlling processes and monitoring and recording Events. This is separated into the elements above for the purposes of demonstrating compliance with the allowable measurement capabilities.

### 6.1 Period of Measurement

The results shall be based on a rolling 12 month average of performance.

## **7. Detrimental Under-Recording**

### 7.1 Definition of Service

With each of the products and services covered in the Annexes it is possible that a Wholesale CP may disadvantage business partners and their wholesale customers (i.e. a reseller of a product or service supplied by a CP) by under-recording Events, either through loss of, or delays in processing, those Events.

The disadvantage to End-Users arises from the possibility that the under-recording may result in Bills that show lower usage than expected, leading to the uncertainty of whether or not the 'missing' charges will follow on a later Bill.

A business partner who is a reseller of a product or service supplied by a CP derives revenue from the ability to recharge for their customers Event records and may experience a financial loss as a result of the under recording of Events by the CP.

Additionally there are services that are specifically designed to be revenue share services, where the failure to capture and invoice Event records represents lost revenue to the revenue share service provider.

**Note:** Charities are an example of this.

## 7.2 Count of Events Under Recorded

Where the Wholesale CP applies for TMBS Approval, that CP shall include prevention and monitoring of under recording within its HLD, MSD and Management System as in section 8 below.

## **8. The Management System Requirements**

The Management System Requirements set out the documented processes and procedures linked to the HLD and any upstream and downstream contractual arrangements including SLAs and **KPIs**. The documented procedures shall promote the aims and outputs of the MSD.

The MSD and HLD will be regarded as integral parts of the 'Management System Requirements' required by this Annex.

The MSD, HLD and documented procedures shall include but not be limited to:

- a) Under and over recording and rating;
- b) Monitoring and recording as required by this Annex;
- c) Interworking;
- d) Unresolved suspense;
- e) Incomplete records; and
- f) Reported misdirected records sent to the wrong downstream CP regardless of the resolution.

## Annex 3

# Changes to the draft Direction

1. This section shows the changes we have made to the Direction proposed in the February 2014 consultation. The additions are shown underlined; deletions are shown with the text ~~struck through~~.

## 1 Introduction

### 1.1 Purpose

Consumers cannot reasonably be expected to verify the accuracy of all charges made by any Communications Provider (CP) for services provided, especially where those charges are based on the extent of End-Users' usage of such services.

This Direction and its Annexes set out the requirements on CPs to ensure that the risk to consumers of being incorrectly charged for their use of Public Electronic Communications Services (PECS) is reduced.

### 1.2 Direction Overview

This Direction requires that the systems and processes used to generate any chargeable **Event** and the subsequent pricing of such Events are suitably designed to accurately record usage and enable charging at the correct tariffs, that they are being operated within their design limits and that there is reported evidence of performance. In the ~~Event~~ event of overcharging the remedial action is defined in Clause 4.7.

This Direction recognises that there will always be a need to make changes to the underlying systems and processes and requires that any change introduced is risk assessed to ensure that it does not compromise the integrity of the systems.

This Direction also describes the means whereby End-Users who suspect that there is an overcharge Event have access to a process to investigate and report on the issue in Clause 4.8.

In order to provide the End-Users with confidence, Ofcom uses independent Approval Bodies (AB), who are accredited to Approve those CPs who are required to demonstrate compliance.

## 2 Document Structure

This document contains the following:

### Communications Provider Applicability (3)

Section three clarifies the criteria against which CPs need to apply, gain and maintain Approval with this Direction.

### Principal Obligations (4)

Section four outlines those obligations which CPs should implement and demonstrate compliance with, and are considered generic to all types of communications services, independent of market segment.

### Compliance with this Direction (5)

Section five describes the process through which CPs can demonstrate compliance with this Direction, and the role of an AB.

### Enforcement (6)

Section six describes possible enforcement actions.

### Annex List (7)

Section seven describes the annexes at the end of the core text.

#### Notes:

1. Defined terms will be presented in Title Case and can be found in the Definitions & Interpretations Annex. Additionally, the first occurrence (excluding section / sub-section titles) of a defined term will be marked in **bold**.
2. Reference to Clause numbers will appear in text such as 2.1 for example.
3. Where the term Direction is used throughout the document this includes relevant Annexes.

### 3 Communications Provider Applicability

#### 3.1 Scope

This Direction applies to any **Total Metering and Billing System** (TMBS) used for either Retail or **Wholesale** purposes, or both. It does not apply to an invoice raised by one CP against another for handling telecommunications traffic passed between their systems e.g. interconnection and settlement charges between CPs.

~~A CP is required to comply with this Direction if its Relevant Turnover for each mandatory service (as outlined in the Annexes) is more than £40,000,000 on an annual basis (exclusive of VAT and other taxes directly related to turnover).~~

A CP is required to comply with this Direction if its Relevant Turnover for the sum of the Mandatory Services that it provides is more than £40,000,000 on an annual basis (exclusive of VAT and other taxes directly related to turnover).

Therefore, not all products and services offered by a CP are covered by this Direction.

#### 3.2 Initial Application

Initially, CPs shall apply to an AB and achieve the milestones within the timescales detailed in the table below: ~~Clause 5.1.~~

<u>Milestone</u>	<u>No later than</u>
<u>CP applies for Approval</u>	<u>6 months from reaching Relevant turnover</u> <u>Turnover</u>
<u>All reasonable steps taken by the CP to agree an Approval plan between CP and with AB</u>	<u>6 months from Application to AB</u>
<u>All reasonable steps taken by the CP to achieve compliance with the Direction</u>	<u>24 months form Agreement of the Plan plan</u>

#### 3.3 Transfer of Approval

##### 3.3.1 Existing Approval

CPs approved under the ~~previous version of this 2008~~ OFCOM Direction shall apply to the AB for transfer of their Approvals ~~within 6 months of the published date in this Direction.~~ and achieve the milestones within the timescales detailed in the table below:

<u>Milestone</u>	<u>No later than</u>
<u>CP applies for Approval</u>	<u>6 months from the date of modification of GC11</u>
<u>All reasonable steps taken by the CP to achieve compliance with the Direction</u>	<u>6 months from Application</u>

##### 3.3.2 Gaining Approval

CPs in the process of gaining approval under the ~~previous version of this 2008~~ OFCOM Direction ~~but who have not yet achieved approval shall apply to the AB for transfer of their Approval process and submit the application within 3 months of this new Direction coming into~~

~~force and gain Approval under this Direction within 12 Months from application (i.e. no more than 15 months of this Direction coming into force).~~ shall apply to an AB and achieve the milestones within the timescales detailed in the table below:

<u>Milestone</u>	<u>No later than</u>
<u>CP applies for Approval</u>	<u>6 months from the date of modification of GC11</u>
<u>All reasonable steps taken by the CP to achieve compliance with the Direction</u>	<u>24 months from Application</u>

Note: ABs will agree a timescale for CPs in progress to achieve approval dependent on progress to achieving approval to the ~~old~~ 2008 Ofcom Direction. This will be no more than 24 months and will be likely to be shorter.

### **3.4 Additional Approvals**

There are two ~~options~~ routes by which additional products and services can be introduced into the Scheme by CPs with an approved TMBS: a New and Separate Approval or an Extension of Scope to an Existing Scheme.

In both instances, ~~where there is an existing relationship with an AB,~~ it is for the AB to determine whether a New and Separate Approval or an Extension of Scope to an Existing Approval is appropriate.

#### **3.4.1 New and Separate Approvals**

The first route is where the CP has introduced a substantial number of entirely new controls and systems for the new services and products. In this instance, it is appropriate for the new service to be considered as a new and separate application to the AB. The application process is the same as for an Initial Application.

#### **3.4.2 Extension of Scope to an Existing Approval**

The second route is where the TMBS and its controls are not substantially changed by the new product or service. In this instance, the CP is required to extend the scope of its existing Approval to cover the new product or service.

A new product or service requires a technical change to either the delivery mechanism or the usage mechanism. It is not simply a new combination of products and services, some of which may be in scope and some out of scope, into new packages.

New products and services will be included within the extended scope once the turnover from these products or services represents at least £2,000,000 annual revenue (excluding VAT and other taxes directly related to turnover).

Once a product or service reaches this threshold, the CP shall apply for an extension of scope within 3 months.

## **4 Principal Obligations**

This section outlines those obligations which CPs should implement and demonstrate compliance with. They are applicable to all applications.

This section should be read in conjunction with the relevant Annex depending on the service provided.

### **4.1 Accuracy requirement**

The CP shall have systems and processes that accurately record usage by End-Users and enable charging at the correct tariffs.

### **4.2 High Level Description**

The CP shall produce a High Level Description (HLD) for each TMBS and shall seek approval of the content of that description from its AB (~~which must be obtained and will not be unreasonably withheld~~). A HLD is a documented explanation of the TMBS and the associated risks to completeness and accuracy.

The HLD referred to above needs to be sufficient to enable a person who has no personal knowledge of the system, but has a reasonable level of technical understanding, to comprehend the principles of the operation and its associated risks.

The HLD shall refer to lower level documents so that it is clear how the system and process elements interoperate and how the CP inter-works with its suppliers of components and services that may impact on the TMBS, and with other CPs.

### **4.3 Risk Management**

The HLD shall be subject to change control and Risk Management throughout the life of the TMBS. Risk Management is an assessment of the risks to the TMBS accuracy for impact and likely occurrence.

A CP shall assess risks, documented in the HLD defined in Clause 4.2 above, to the TMBS accuracy for impact and likely occurrence. In considering whether to approve the HLD, the AB shall assess whether mitigation actions are adequately documented and sufficient to address identified risks.

Whenever a change to the TMBS is planned, an impact analysis shall be carried out. This impact analysis shall include a revised risk assessment and will determine the need for any changes to the Measurement Strategy (Clause 4.4), HLD and maintained list / register of risks.

Where the scope of Approval changes either to add or delete products or services, the AB will conduct an assessment of the revised TMBS.

The process of managing risks to TMBS accuracy is subject to audit by the AB.

### **4.4 Measurement Strategy**

The Measurement Strategy is a documented statement of how risks are to be monitored and where the occurrence of the risk is measured for reporting on the TMBS performance.

The CP shall produce a Measurement Strategy Document (MSD) for each TMBS and seek approval of its content from its AB (~~which must be obtained and will not be unreasonably withheld~~). The HLD (Clause 4.2) and Risk Management (Clause 4.3) assessments of the TMBS will determine the content of the MSD.

#### **4.4.1 Purpose**

The purpose of the MSD is to describe the measurements to be taken and supporting controls that the CP shall produce, and undertake, to demonstrate the performance of the TMBS, as described above in Clauses 4.2 and 4.1 above.

The Measurement Strategy shall be subject to change control throughout the period of its application.

For ~~measurement~~ the measures to be used in the assessment of performance and which will be set out in the MSD see Clause 4.8 below.

## 4.5 Process Management

A CP shall have in place and enforce the effective use of procedures and / or documentation covering all aspects of the TMBS.

All business and technical processes that can impact the TMBS shall be included within the scope of a process management system for Approval purposes, including those of related third parties or sub-contractors.

Where no external accredited certification of the process management system exists, it shall be assessed by the AB against the relevant requirements of ISO 9001 or an equivalent standard. Formal certification against ISO 9001 is not a requirement.

The TMBS shall be subject to change control throughout its life.

## 4.6 Tariffs

### 4.6.1 Introduction

In order for End-Users to understand the charges appearing on the Bill, the **Tariff** and rules that determine the Event charges shall be made readily available to those End-Users.<sup>29</sup>

Tariffs shall specify the method and the units of measure applied in relation to the resolution and rounding of Event durations and charges, both at an individual and aggregate level. For example, the expression 'rounded to the penny' defines the resolution, but not the method of rounding.

### 4.6.2 Tariff Types

There are two types of Tariff, a public domain Tariff and a ~~bespoke~~ Bespoke Tariff.

#### 4.6.2.1 Public Domain Tariff

A public domain Tariff is one that can be confirmed by the general public and shall be ~~made available on request~~ published<sup>30</sup>. It is a ~~publicly available~~ statement that specifies the charges which a CP makes for Electronic Communications Services.

In order to overcome the situation whereby two pieces of information purporting to be the public domain Tariff have differing information, the CP shall publicly identify which takes precedence.

**Note:** This allows CPs to offer special rates to specific destinations over specified periods through advertising, without having to re-issue the complete Tariff.

Where the End-User is able to make a choice and the Tariff depends upon that choice, then the different Tariffs shall be contained within the public domain Tariff.

**Note:** This is important for certain types of calls such as those via 118xxx services, Operator Assistance, inadvertent Mobile Network Roaming and 0800 from Mobile Networks.

#### 4.6.2.2 Bespoke Tariff

A Bespoke Tariff is confidential between the End-Users and the CP. The End-Users are provided access to the details of the Tariff through defined processes. A Bespoke Tariff is only available to a single End-User or to a limited class of individual End-Users.

Although End-Users may be initially provided with Tariff information at the point of contract acceptance it may be impractical to have a policy of reissuing Tariff information to End-Users when rates are changed. It is important that End-Users can verify the Tariff should they require to do so.

---

<sup>29</sup> General Condition 9.2(i) requires Communication Providers to specify details of prices and tariffs

<sup>30</sup> General Condition 10.1 and 10.2 set out relevant publication requirements for Communication Providers

The information on a bespoke Tariff is not available to the general public; it is not displayed on a publicly accessible page on a website nor is it disclosed to others. The information could be contained on a password protected page within a website accessible to the End-User.

Where a previous public domain Tariff has been withdrawn from public use, but some End-Users remain on that Tariff, it shall be treated as a bespoke Tariff, the terms of which shall be disclosed at the request of those End-Users.

Changes to the bespoke Tariff shall be made in accordance with the documented and agreed change process.

#### 4.6.3 Tariff Description and Detail

The Tariff schedule (which is a list of charges) must include a clear statement of what is and is not included in a particular tariff, bundle or additional bolt-on. It must indicate what charges will occur for call types not included in bundles (for example, 08XX calls or calls to certain destinations) or when the bundle is exceeded. Details of resolution and rounding (see Clause 4.6.1 above) for all charges (inside or out of bundle) must be made clear.

It should also be used to provide additional information to assist the End-User ~~on avoiding and/or~~ understanding ~~perceived errors on~~ the Bill. This information would normally be provided to the End-User by the ~~retail~~ Retail Service service ~~Provider~~ provider; however, a Wholesale CP should make any such necessary information available to the Retail service provider so that it can be made available to the End-User.

The following are non-exhaustive examples of instances where it may be helpful to provide statements would be of benefit are not exhaustive such information:

##### 4.6.3.1 Call Bundling

There can be delays between calls completing and being presented on a Bill caused by a number of technical reasons. This can cause problems when an End-User is charged on the basis of a bundle of calls. Whilst every effort will be made to overcome this situation, calls can appear on a Bill not in call start time order and hence may not necessarily be included in the appropriate bundle if calls are made close to the end of a bundle period.

**Note:** Where such bundling errors occur, they will be evaluated by Approval Bodies according to their real effect on the End-User.

##### 4.6.3.2 Inadvertent Roaming

The End-Users will be charged for the call on the network that provided the service, even if this was not the End-Users' intended CP.

##### 4.6.3.3 Termination of Mobile Calls

Where a call originating from a mobile device e.g. handset is terminated other than by the caller pressing the specific button for that purpose, the network will initially assume that contact between the base station(s) and the handset has been temporarily lost - as when passing under a bridge or through a tunnel. The connection will be maintained and charged for during the first "n" seconds after contact is lost. Should contact be re-established, the call will continue as before. If however, the caller has switched off the phone, run out of battery capacity or moved permanently out of range of any base station etc., the charges for that call will include the "n" seconds. In order to minimise the risk of unnecessary charges, End-Users should be careful to end each call as set out in the user instructions for the handset e.g. pressing the "End" button.

##### 4.6.3.4 Minimum Call Charges and Durations

Where call charges include a minimum charge or a minimum chargeable duration these should be clearly indicated in the published tariff.

##### 4.6.3.5 Rounding within Bundles

If rounding is applied to call durations for calls within bundles, for example, if a call of less than 1 minute will result in 1 minute being deducted from the bundle, this should be made clear in the published tariff.

#### 4.6.3.6 Initial Connection Charges

Any initial connection charge, i.e. a charge which is applied as soon as a call is connected before any usage takes place, should be clearly displayed in the published tariff.

#### 4.6.3.7 Long Texts

The standard length of a mobile network text message is 160 characters; if this limit is exceeded the network will normally charge for a further message (or messages). Most mobile phones are capable of seamlessly splitting and recombining longer messages into multiple texts, often without the user being aware. Customers with unlimited text bundles may only become aware if they send chargeable texts while roaming. Tariffs should make clear the basis of charging for text messages.

#### 4.6.3.8 International and Roaming Charges

Published tariffs should make it clear what charges will be incurred for international and roaming calls and data and which, if any, such calls are included in bundles or inclusive call plans.

#### 4.6.3.9 SMS and Related Anomalies in Delivery Depending on Handset

Customers should be made aware of any known handset-dependent features or settings which could result in anomalous charging or charging which may appear to be anomalous to the customer.

#### 4.6.3.10 Excluded number ranges – clarification and related charges

Published tariffs should make clear which number ranges (for example, calls to 08xx numbers, calls to Channel Islands and Isle of Man) are excluded from bundles or inclusive call plans and what charges will be incurred for calls made to these numbers.

### 4.7 Interworking between Communications Providers

Where a CP owns part (or all) of the overall TMBS and receives a service from a non-Approved source, either from another CP or via a sub-contractor, it shall ensure the quality of that service either by direct reference to compliance with the Direction or by including explicit requirements that would result in such compliance.

Where Wholesale service contracts exist between two or more CPs approved under the Direction, it shall be for each CP to satisfy itself that the services it offers or receives meet the requirements of this Direction.

Such contractual agreements shall not require any individual party to operate its TMBS free from error. However, any errors or accumulation of errors shall be subject to the measurement capability limits and the principles of corrective action laid down in this Direction.

Approval Bodies will work with each CP in the end-to-end TMBS to ensure the removal of systematic sources of error, and that data sent and received over the interfaces of the supply chain is accurate and measured.

Where a disagreement arises about compliance with this Direction that cannot be resolved between CPs in a reasonable timeframe, escalation shall be first to the appropriate AB(s) concerned. ABs shall seek to resolve differences involving all parties. ABs may escalate the disagreement to Ofcom for consideration in the context of the CP's compliance with GC11.

### 4.8 Assessment of Performance

#### 4.8.1 Measurement Reporting

The Measurement Strategy shall be documented and shall specify the type and frequency of regular reports from operational or assurance systems demonstrating accuracy against the allowable measurement limits.

Where a number of measurements are combined to provide an overall measure to demonstrate accuracy the method of calculation shall be described.

## 4.8.2 Assessment of Performance

Measures shall be produced in accordance with the Measurement Strategy approved by the AB, with accuracy measurement limits reflecting the different charge types for usage and non-usage Events. This section outlines the generic measurement criteria applicable to all services. Product specific measurement limits are defined in the relevant annexes.

Performance measurement processes shall be effective in supporting increased knowledge of the end-to-end TMBS. They shall include the identification of root causes of Bill inaccuracies and the implementation of activities aimed at achieving improvements in the accuracy of End-Users' Bills.

### 4.8.2.1 Routine Performance

The CP shall measure performance of the TMBS within the required measurement capability limits over a rolling 12 month period. Where there is a failure to address the significant causes of routine TMBS performance or measurement capability failures, remedial action must be proposed to and agreed by the AB. Routine performance is the underlying or business as usual performance of the system resulting from normal conditions and measurement capability. The Measurement Strategy shall define risk and benefit criteria for identifying significant routine performance failure through root cause analysis. These criteria shall be subject to acceptance by the AB and shall support the aim of continual improvement in underlying performance.

### 4.8.3 Extraordinary Performance Failure

An extraordinary Extraordinary performance Performance failure Failure (EPF) is a significant detrimental deviation from the normal daily performance of a CP with regard to its capability to accurately bill or to accurately measure performance in line with the documented Measurement Strategy clear spike in or movement away from the monitored performance, or capability to accurately measure performance in line with the documented Measurement Strategy (which requires CPs to identify and assess the risks to their TMBS for accuracy, impact and likely occurrence), that is distinguishable from routine performance measurements as a result of special or one off conditions.

The Measurement Strategy<sup>31</sup> shall define criteria for identifying significant instances of extraordinary performance failure. These criteria shall be subject to acceptance by the AB. Where significant extraordinary performance failures are identified then the following actions shall be followed:

- a) The AB shall be informed within five working days of the performance failure being identified;
- b) The CP shall ensure that End-Users shall are not be financially disadvantaged, but where individual End-Users cannot be identified, the CP shall derive no financial benefit from the failure, either by donating an equivalent sum to charity or by an adjustment of tariffs;
- c) The CP shall ensure An initial recovery plan shall be made available to the AB as soon as practicable but no later than ten working days after the initial notification of the performance failure;
- d) The performance failure, impact and recovery plan shall be recorded by the CP and reviewed at regular Approval review meetings and in planned audit and assessments by the CP and AB;
- e) Root cause and impact analysis shall be carried out and corrective actions recorded by the CP; and
- f) The impact of extraordinary performance failure shall be presented by the CP along with the routine performance results to the AB when measurement results are required.

The AB shall assess the frequency and severity of all extraordinary performance failures collectively. Should this exceed the threshold level of three **Category 2** occurrences within a

---

<sup>31</sup> Examples of such instances may include maximum error rates or thresholds expressed in terms of numbers or percentage deviations

rolling 12 month period, a full review, by the AB, of the TMBS shall take place to re-establish fitness for Approval.

#### 4.8.4 Delayed Events

Chargeable Events (which are Events that give rise to a charge) may be delayed for a number of reasons but shall be included in a Bill no later than:

- a) The next Bill, when Bills are rendered quarterly or less frequently;
- b) When Bills are rendered monthly, the fourth monthly Bill after the chargeable Events occurred; or
- c) Where an End-User is not subject to a standard consumer contract and a prevailing bespoke contract exists it is permissible to specify in that contract the acceptable delay to billing Events.

Any chargeable Event details not so presented shall not be subsequently billed.

Agreement between the CP and the AB to extend the time scales shall be subject to written agreement with Ofcom.

**Note:** Late or lost Events should normally be counted for measurement purposes as relating to the period when they should have been billed. If this is impracticable, it is acceptable to count them when they are written off.

#### 4.8.5 Timing Effect on Bundled Events

When clarity of information permits, a statement of bundle timing intervals shall be included in public domain or bespoke Tariffs.

Where the timely allocation of Events to bundles is not practicable (e.g. TMBS recovery following a failure) and as a means of ensuring that the End-Users affected are not disadvantaged, the CP shall undertake the actions set out under Clauses 4.9.1 and 4.9.2 as appropriate. ~~shall apply.~~

#### 4.8.6 Timely Despatch of Bills

The CP shall ensure that an effectual Bill or Bill data file delivery schedule is in place.

The timeliness of Bill Issue or Bill data file Issue shall be subject to systematic processes.

### 4.9 Individual Bill Accuracy

#### 4.9.1 Error Handling and End-User Complaints

A CP shall employ and document processes for receiving, identifying, investigating and dealing with incorrect charges, including processes whereby End-Users can readily question the accuracy of their charges.

When a CP identifies that an End-User has been overcharged, either through a End-User enquiry or from internal identification, appropriate and proportionate corrective action shall be undertaken.

The CP shall carry out a root cause analysis for verified overcharges, identify the cause and establish proportionate remedial action to correct it. Where the root cause affects multiple End-User accounts, then all affected Bills shall, if practicable, be included in a recovery programme.

It is a requirement for incorrect charges to be measured, counted and included in TMBS Measurement Reports.

#### 4.9.2 Detection of Gross Billing Errors

A CP shall employ a suitable mechanism, for which it must obtain approval from its AB, for the detection of gross billing errors, which are Bills that contain significant deviations from the expected norm. The precise nature of this mechanism will vary from one TMBS to another, but will usually be derived from existing management controls and reports. Typically it may involve any or all of the following:

- a) Detection of any bill which differs by a settable percentage from historical bills for that particular End-User or circuit;

- b) Detection of any billing run which differs in total value by a settable percentage from historical billing runs that would be expected to be similar;
- c) Trend analysis of rejected chargeable Events;
- d) Manual analysis/recalculation of a representative sample of bills; and
- e) Specific analysis of the reasons for unexpected reports produced by Mediation / Rating / Billing systems etc.

For the purposes of this Direction, CPs can make use of any data provided to Ofcom for another purposes e.g. providing quality of service data. If not subject to dispute with Ofcom and agreed to be suitable by the AB, this data need not be separately audited.

## 5 Compliance with this Direction

### 5.1 The Communications Provider Activities

The CP shall provide the AB with access to all people, locations, equipment and data necessary to establish compliance with this Direction.

The CP shall nominate a senior manager, ideally a Board Member, to manage the relationship with Ofcom for the successful compliance with the Ofcom Metering and Billing Direction by the CP.

The responsibility of the nominated person is to provide the strategic direction for the implementation of the Direction within a CP, to act as the escalation point for the AB and to ensure that an **Ofcom Billing Accuracy Programme Manager (OBAPM)** is appointed, ensuring that they are of sufficient capability and experience to carry out the role.

The day-to-day operational management shall be delegated to the OBAPM, who shall have responsibility for maintaining compliance internally within the CP. The OPAPM will be the point of contact between the AB and the CP. The AB shall confirm the capability and appointment of this manager.

The CP will also agree to, and have in place processes which facilitate, the disclosure of information to Ofcom by the CP and/or the AB in connection with ~~this Direction~~ and the performance by the CP of its regulatory obligations- in connection with this Direction.

~~The timetable required for this process is as follows:~~

<b>Milestone</b>	<b>No later than</b>
Application for Approval	6 months from reaching Relevant Turnover
<del>Agreed Approval plan between CP and AB</del>	<del>3 months from AB Application</del>
Initial Approval gained	24 months from Agreement of the Plan

~~Any deviations from this timetable shall be agreed with Ofcom.~~

### 5.2 The Assessment Process

In general, compliance with this Direction shall be determined by assessments and measurements as set out below:

#### 5.2.1 Approval Body Selection

Once it has been determined that a CP should be complying with the Direction, either through a voluntary or mandatory route, the CP selects an AB. Each AB is independent and appointed by Ofcom to approve CPs' TMBSs; their details may be found on Ofcom's website.

#### 5.2.2 Initial Meeting

The CP shall meet with the AB to determine the extent of the TMBS to be assessed. The CP and the AB will develop a joint and agreed Approval plan, showing the scope of Approval, resources, activities, dependencies and timescales required by both parties.

### 5.2.3 Initial Assessment

The CP must submit its technical/functional design documentation of the applicable TMBS in accordance with Clauses 4.2, and 4.3 to the AB for initial assessment.

Initial Assessment will typically include, but not be limited to, the following:

- a) Tariff, and pricing, management processes;
- b) Transaction data processing activities;
- c) Billing operational & audit processes;
- d) Customer management processes;
- e) Network data transaction processes;
- f) Customer and product reference data integrity processes;
- g) Timeliness of processes; and
- h) Complaints handling.

**Note:** Where specified processes are audited under an accredited Quality or Financial Audit process, the AB will take into account the documented audit findings.

#### 5.2.3.1 Revision of the Approval plan

Revisions to the Approval plan, which remains a live document, are to be made no less than annually, once Assessments commence and further TMBS requirements and actions come to light. Any significant slippage or amendments to the Approval plan end date will be subject to Ofcom review and re-Approval of the Approval plan.

### 5.2.4 Main Assessment

The main assessment of the TMBS conducted by the AB shall comprise:

#### 5.2.4.1 System Design

The AB will review the HLD and the lower level appraisal documents to ensure that there are no inherent weaknesses within the design and that it is capable of complying with the requirements of this Direction.

#### 5.2.4.2 System Process Management

The AB will assess the processes surrounding the operation of the TMBS to ensure that these processes are being operated correctly to achieve compliance with the requirements of the Direction.

#### 5.2.4.3 System Performance

The AB will assess the on-going performance of the TMBS in meeting the standards in this Direction by means of a Measurement System as defined in the approved MSD. The requirement is for the CP to present a rolling 12 months' ~~results to be presented~~. However, based on the stability of the results presented, the AB may, at its discretion, recommend Approval prior to all of the initial 12 months' data being collected, subject to a minimum of six months' data having been collected in the case of a first Approval.

#### 5.2.4.4 Conducting Assessments

Audits will be scheduled in accordance with the agreed Approval plan which will incorporate a mix of internal / third party and external AB audits. Audit reports and relevant findings from all sources will be documented by the AB and agreed with the CP. Findings will be Categorised (in accordance with the Categories set out in Annex A) and recorded. CPs may appeal against the Categorisation of any matter by following the AB's documented appeal process (provision of such a process is required by EN 45011 (ISO 17065)).

#### 5.2.4.5 Tracking Corrective Actions

The AB will agree with the CP a process for documenting, tracking and addressing non-compliances and deficiencies by means of corrective action.

### 5.3 Approval and Certification

Once the AB has satisfied itself that all the requirements for Approval have been met, it will publicise its intention to approve the CP and offer a one month consultation period. Such a proposal would be subject to the requirements of sections 49 and 49A-49C of the Communications Act 2003.

At that point, other parties are able to ask questions of the AB on the background and basis of the decision to grant Approval.

~~Once any queries arising have been satisfactorily resolved, the~~ The AB will issues a Certificate of Approval as soon as reasonably practical after any queries arising have been satisfactorily resolved. The CP's Approval number and scope will then be ~~are~~ published on the AB's own website.

### 5.4 Maintenance of Approval

Once Approval has been granted, the CP is required to maintain its Approval. This is achieved through the on-going audit and surveillance of the TMBS by the AB.

Changes to the TMBS continue to be assessed through the review of appraisals of the key parts of the system.

The on-going performance is reported monthly through the presentation of results to the AB.

Should there be compliance related issues, these will be documented and categorised. All Category 1 matters (for an existing Approval) shall be reported by the AB to Ofcom.

In the case of a dispute arising between the AB and the CP that they cannot resolve themselves, either Party can take the dispute to Ofcom.

#### 5.4.1 Change of Approval Body

Where a CP changes AB, the Approval Bodies are expected to recognise each other's certification.

The CP is able to initiate a change of AB once the initial Approval has been achieved. However, in order to prevent switching being used to circumvent poor performance, Ofcom has to sanction the transfer and will monitor the process as necessary. Handover will be subject to a mutually agreed action list and time scale.

A change of AB may also occur in circumstances where an AB is no longer able to continue serving a CP.

#### 5.4.2 Recertification

~~The certificate is subject to renewal by the AB. The CP shall seek a renewal of its certificate which shall be granted by the AB subject to satisfactory reassessment. The renewal period shall be set out in the certificate and shall not exceed 3 years.~~ Prior to any such renewal, the AB will perform a re-certification exercise and assess the findings of the surveillance visits, audits and measures before determining whether to confirm continuation of the CP's Approval.

### 5.5 Change of Scope of Approval

Where the scope of Approval changes either to add or delete products/services, the AB will conduct an assessment of the revised TMBS, using the above process.

**Note:** When the AB adds additional items to the scope of an Approval not requiring a technical change this will require an Approval certificate amendment.

### 5.6 Withdrawal of Approval

Withdrawal of Approval can occur in one of two ways.

5.6.1 The product or service being offered by the CP is no longer covered by the Direction, either through a change in the scope, or through the reduction in the Relevant Turnover.

- 5.6.2 The CP's performance and actions are such that continued certification would contradict the requirements of General Condition of Entitlement 11 and the Ofcom Metering and Billing Direction.

## **6 Enforcement**

An AB may issue, and a CP must comply with, directions issued to the CP by the AB in connection with the requirements of this Direction. Failure to comply with any such direction and/or with this Direction may lead to enforcement action against the CP for a breach of General Condition of Entitlement 11, pursuant to sections 96A-96C of the Communications Act 2003.

## 7 Annex List

In addition to the general obligations and principles contained in the main body of the Direction, the following annexes have been developed to give more specific information.

Annexes

Definitions and Interpretations – Annex A

Retail services – Annex B

Wholesale services – Annex C

### Annex A Definitions and Interpretations

Where a word or phrase is not defined below, the definitions in the Communications Act 2003 or the General Conditions of Entitlement shall apply, otherwise the definitions in the Oxford English Dictionary apply.

Term	Definition and Interpretations	Notes
Approval	<del>“Approval” means an approval granted by an Approval Body where a Communications Provider’s Total Metering and Billing System is compliant with the Ofcom Metering and Billing Direction. <u>has the meaning given to it in General Condition 11.7</u></del>	
<u>Approval Body (AB)</u>	<u>has the meaning given to it in General Condition 11.7</u>	
<u>Bespoke Tariff</u>	<u>Means a Tariff that is only available to a single End-User or a limited class of individual End-Users.</u>	
Bill	<del>a charge or request for payment or automatic debit for services provided <u>has the meaning given to it in General Condition 11.7</u></del>	
Category (Categorisation)	<p>Category 1:</p> <ul style="list-style-type: none"> <li>• A major Non-Compliance or Deficiency preventing the issue or continuance of Approval for which corrective action must be undertaken urgently. In view of the grave consequences of a Category 1 matter, it is expected that a CP will resolve it as a matter of the utmost importance</li> <li>• A detailed corrective action plan must be approved by the AB within one month and put into effect within four months</li> <li>• All Category 1 matters for an existing Approval are to be reported by the AB to Ofcom</li> <li>• As a Category 1 matter has the potential to constitute a breach of Condition 11, Ofcom reserves the right at its own discretion to provide guidance when a resolution is sought. One resolution would be to amend the scope of Approval until satisfactory Corrective Action has been undertaken</li> <li>• Withdrawal of an Approval will only take place after discussion between Ofcom, the AB and the Approval holder. Such a proposal would be subject to the formal public Notification</li> </ul>	<ul style="list-style-type: none"> <li>• The Categorisation of Non-Compliances, Deficiencies and Observations.</li> <li>• An Observation generally comes below “Category 3” in seriousness</li> </ul>

Term	Definition and Interpretations	Notes
	<p>procedure required under section 49 of the Communications Act 2003</p> <p>Category 2:</p> <ul style="list-style-type: none"> <li>• A Non-Compliance or Deficiency; which is a matter of concern. It is to be resolved within a period approved by the AB, but not exceeding 24 months</li> <li>• In any event a detailed corrective action plan must be approved and put into effect within four months. Categorisation: the accumulation of Category 2 matters may result in a Category 1 matter being raised</li> </ul> <p>Category 3:</p> <ul style="list-style-type: none"> <li>• A Deficiency worthy of consideration by the CP, possibly leading to corrective and / or preventative action, but not of sufficient importance to warrant Category 1 or 2 status</li> </ul>	
CDR	<u>means CDRs</u> are the records, supplied by the wholesaler, of the calls made by users; these records form the basis of the bills issued by the retail CP who either apply their own retail tariff to the calls or in the case of 'rated CDRs' rely on the wholesaler applying the tariffs set by the retailers.	•
<u>Certificate of Approval</u>	<u>means the certificate issued by the AB to the CP on completion of the assessment by the AB that the requirements of the Direction have been met.</u>	•
<u>Communications Provider (CP)</u>	<u>Has the meaning given to it in General Condition 11.7</u>	•
<u>Directory</u>	<u>has the meaning given to it in Part 1 of the General Conditions of Entitlement (Definitions section).</u>	•
<u>Directory Enquiries</u>	<u>has the meaning given to it in Part 1 of the General Conditions of Entitlement (Definitions section).</u>	•

Term	Definition and Interpretations	Notes
End-User	<del>The individual at the end of the chain contracting and using the services from CPs has the meaning given to it in s.151 of the Communications Act 2003.</del>	
<u>Extraordinary Performance Failure (EPF)</u>	<u>has the meaning given to it in Clause 4.8.3</u>	
Equipment	all the hardware and software and / or firmware necessary for the correct operation of a function including mobile terminals	
Event	<del>the use of Event is intended to overcome a future services issue where a charge can range from e.g. means a circumstance where a charge can occur e.g. a telephone call, data download, access, content, bandwidth or non-usage based e.g. recurring charges.</del>	<ul style="list-style-type: none"> <li>• The term Event can be usage charged for by duration as in a telephone call. Another example is the transmission of data, which could be charged for by counting the number of bytes or data packets required</li> <li>• Events may occur without having been initiated by the user. An example would be charges for the terminating a leg of a call. Where charges apply to both the origination and termination of the same call, two distinct Events will have occurred. Examples are call diversion or mobile telephone roaming</li> </ul>
Event overcharged	means either: (a) a chargeable Event for which the charge to the End-User exceeds that calculated on the basis of the applicable published Tariffs, or Bespoke Tariffs; or (b) any other incident which results in a charge being logged or added erroneously to the Bill	An example of (b) is multiple entries relating to the same service usage
Event undercharged	<u>means</u> a chargeable Event, either: (a) for which the charge to the End-User is lower than that calculated on the basis of published Tariffs, or Bespoke Tariffs; or (b) which has been omitted from the logged record or Bill owing to an incident; and which is not excluded from Measurement	Examples of (b) are: <ul style="list-style-type: none"> <li>• The loss of call records as a result of a switch restart;</li> <li>• Delay to or loss of call records due to file corruption in mediation;</li> <li>• Delay to or loss of call records due to suspense issues not addressed; or</li> <li>• Line rental or installation fee charged inaccurately</li> </ul>
<u>High Level Description (HLD)</u>	<u>has the meaning given to it in Clause 4.2</u>	
Interconnect	the passing of communications traffic between the systems of two or more CPs.	

<b>Term</b>	<b>Definition and Interpretations</b>	<b>Notes</b>
Interworking	<u>means the passage of usage data between CPs which will result in an entry and / or charge on an End-User's Bill.</u>	
Issue	<u>means the action whereby the CP, having completed preparation of a Bill, passes it to the delivery agent or posts the information electronically.</u>	The CP has completed preparation of the Bill if any further processing still to be performed by the delivery agent is for presentational purposes only
<u>Key Performance Indicators (KPI)</u>	<u>means agreed measures of performance</u>	
OBAPM	<u>means the Ofcom Billing Accuracy Programme Manager shall have the authority to enforce compliance internally within the CP. The Ofcom Billing Accuracy Programme Manager will be the point of contact between CP and AB.</u>	
<u>Mandatory Service</u>	<u>Means retail PATS and wholesale PATS that are subject to the requirements of the Direction.</u>	
<u>Measurement Strategy</u>	<u>has the meaning given to it in Clause 4.4.</u>	
<u>Measurement Strategy Document (MSD)</u>	<u>means the document prepared by the CP setting out its Measurement Strategy.</u>	
<u>Management System Requirements</u>	<u>means the requirements that set out the documented processes and procedures linked to the HLD and any upstream and downstream contractual arrangements including SLAs and KPIs.</u>	
<u>Publicly Available Telephone Services (PATS)</u>	<u>has the meaning given to it in Part 1 of the General Conditions of Entitlement (Definitions).</u>	
<u>Public Electronic Communications Services (PECS)</u>	<u>has the meaning given to it in Part 1 of the General Conditions of Entitlement (Definitions).</u>	
<u>Public Pay Telephones</u>	<u>has the meaning given to it in Part 1 of the General Conditions of Entitlement (Definitions).</u>	
<u>Retail</u>	<u>means communications services provided to End-Users.</u>	
<u>Relevant Turnover</u>	<u>has the meaning given to it in General Condition 11.7.</u>	
Tariff	means publicly available statements (unless it is a Bespoke Tariff), that specify the charges which a CP makes for Electronic Communications Services.	The term is intended to cover paper documents made available for public inspection, statements published in periodicals, advertisements, information published on the Internet, and the like
Total Metering and Billing System	<del>The end to end entities, functions and activities that support charging activities to end users</del> <u>has the meaning given to it in General Condition 11.7.</u>	
Wholesale	<u>means Wholesale services relate the supply of products and services by CPs both for their internal use and to other CPs for the purpose of</u>	<u>Wholesale services are</u>

Term	Definition and Interpretations	Notes
	resale by those other CPs. <del>Wholesale services are one of the key building blocks in the supply of retail products and services to consumers.</del>	<u>one of the key building blocks in the supply of retail products and services to consumers.</u>
<u>2008 Ofcom Direction</u>	<u>means the Direction made by Ofcom for the purposes of General Condition 11 on 15 July 2008.</u>	

## Annex B: Retail Services

### 1 Scope of Annex

The provisions of the Direction in respect of fixed and mobile Retail communications services relates to the provision of Usage and Non-Usage records generated for billing by CPs providing Publicly Available Telephone Services (PATS) to End-Users.

The Scope of the Direction includes CPs that have no network switch as well as those that employ their own network switching.

~~“Publicly Available Telephone Service” means a service available to the public for originating and / or receiving national and international calls and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance services, Directory Enquiry Facilities, Directories, provision of Public Pay Telephones, provision of service under special terms, provision of specific facilities for End-users with disabilities or with special social needs and / or the provision of non-geographic services.~~

#### 1.1 Overcharging

~~Inclusion of processed processes and requirements to prevent overcharging is **mandatory** for retail PATS and **voluntary** for other retail PECS such as data services.~~

Processes and requirements set out in the Direction are **mandatory** for Retail PATS with respect to overcharging. Processes and requirements set out in the Direction are **voluntary** for other Retail PECS, such as data services, with respect to overcharging.

#### 1.2 Undercharging Detrimental to End-Users

~~Inclusion of undercharging is **voluntary** for all retail services.~~

Processes and requirements set out in the Direction are **voluntary** for all retail services with respect to undercharging.

**Note:** This Direction does not apply to Public Pay Telephones.

### 2. Communications Provider Inclusion Thresholds

#### 2.1 Publicly Available Telephone Service (Mandatory)

##### 2.1.1 Initial Application

~~A CP shall apply for Approval for a Publicly Available Telephone Service PATS when the Relevant Turnover from that PATS exceeds £40,000,000 per annum (exclusive of VAT and other taxes directly related to turnover).~~

A CP providing Retail services shall apply for Approval of its TMBS when the Relevant Turnover from the sum of the Mandatory Services that it provides exceeds £40,000,000 on an annual basis (exclusive of VAT and other taxes directly related to turnover).

##### 2.1.2 Extension of Scope

Where a CP introduces a new product or service that utilises the majority of the same elements as an existing Approved PATS, e.g. it is delivered utilising a switched voice channel, mediated through an existing mediation device and Billed through an existing Billing engine any two of which are covered by an existing TMBS, then the CP shall apply for a suitable extension of scope when the turnover from this product or service reaches £2,000,000 per annum (exclusive of VAT and other taxes directly related to turnover).

It will be for the AB to determine whether a product or service falls into the category of Extension of Scope or Initial Application described above.

## 2.2 Other Public Electronic Communications Services (Voluntary)

### 2.2.1 Initial Voluntary Application

As a voluntary scheme the CP may apply for Approval when the relevant turnover from the service exceeds £5,000,000 per annum.

### 2.2.2 Extension of Voluntary Scope

Because this is a voluntary application the CP can apply for an extension to Approval provided it already has, or is in the process of gaining an Approval.

Where a CP introduces a new product or service that utilises the majority of the same elements as an existing Approved TMBS, e.g. it is delivered utilising an existing delivery mechanism, aggregated through an existing aggregation device and Billed through an existing Billing engine any two of which are covered by an existing TMBS, then the CP can apply for a suitable extension of scope when the relevant turnover from this product or service reaches £1,000,000 per annum (exclusive of VAT and other taxes directly related to turnover).

It will be for the AB to determine whether a product or service falls into the category of Extension of Scope or Initial Application. Examples can be found in this Direction.

## 3. Allowable Measurement ~~Limits~~ Capabilities

A TMBS utilises two distinct types of Events for charging purposes.

### 3.1 Usage Events

These are Event records that are generated by a telecommunications switch, triggered by the use of the Service by the End-User.

### 3.2 Non-Usage Events

These are sub-divided into two categories and cover the Event records not triggered by the use of the Service by the End-User. The two categories are:

#### 3.2.1 Non-Recurring Events

These include costs for the provision, change, suspension or removal of services, products and Equipment. They are likely to be actions that do not result in the creation of a usage Event record.

Note: Provision includes both cease and re-provision processes.

#### 3.2.2 Recurring Events

These include subscriptions and rentals for Equipment or availability that are applied on a regular basis to the Bill irrespective of any usage or non-usage Event.

The measurement system must be able to confirm that recorded Events fall within the limits shown within section 3. Unless otherwise stated, these limits apply to the units of measure used in the systems being measured.

### 3.3 Usage Events Measurement ~~Limits~~ Capabilities

	<b>Variable</b>	<b>Allowable Measurement <del>Limit</del> <u>Capabilities</u></b>
<b>a.</b>	Duration	±1 second or ±0.01% (whichever is less stringent)
<b>b.</b>	Data Volume	±100 kB or ±0.01% (whichever is less stringent)
<b>c.</b>	Time of Day	±1 second

<b>d.</b>	Count of Events	±0.004% (1:25K)
<b>e.</b>	Value of Charges	±0.1p or ±0.01% whichever is less stringent

**Note:** Value of Charges (e.) - the actual charge per usage Event, e.g. a Call Detail Record, shall be within ±0.1p of the expected charge after rounding rules have been applied.

### 3.4 Non-Usage Non-Recurring Events Measurement ~~Limits~~ Capabilities

	<b>Variable</b>	<b>Allowable Measurement Limit <u>Capabilities</u></b>
<b>a.</b>	Count of Events	±0.05% (1:2K)
<b>b.</b>	Value of Charges	±1p or ±0.01% whichever is less stringent

### 3.5 Non-Usage Recurring Events

	<b>Variable</b>	<b>Allowable Measurement Limit <u>Capabilities</u></b>
<b>a.</b>	Duration	±1 day
<b>b.</b>	Count of Events	±0.01% (1:10K)
<b>c.</b>	Value of Charges	±1p or ±0.01% whichever is less stringent

**Notes:**

- Where the Recurring Event charge is based upon whole days, the start of the period is the day on which the service was first provided and the end is the day on which the service was de-provisioned, irrespective of the time of that provision, unless otherwise stated in the Tariffs.
- Duration: shall be within ±1 day on the entire lifetime of the rental or equivalent.

## 4. Performance Measurement Requirements

### 4.1 Performance Measurement

The performance of the TMBS shall be assessed on the basis of how many errors are made. An error will be defined as exceeding the 'Allowable Measurement Limits' as set out in paragraphs 3.3 to 3.5 of this Annex ~~being exceeded~~. This assessment of performance requires that the accuracy requirements are assured by a robust and credible management system, controlling processes and monitoring and recording Events. Performance will be based on measurements taken over a rolling 12 month average.

The measurements and other performance indicators which the CP must produce and present to its AB on a regular basis to demonstrate that the charging performance of its TMBS is accurate and consistent shall be set out in detail in the Measurement Strategy Document.

Measurement processes shall be effective in supporting increased knowledge of the end to end TMBS. They shall include the identification of root causes of bill inaccuracies and the implementation of activities aimed at achieving continual improvement of End-Users' bills.

### 4.2 MSD Requirements

It is a requirement of the Direction (Clause 4.3) that the CP produces a MSD and agrees its content with its AB. ~~Agreement by the AB will require~~ In order to obtain the AB's agreement to the content of the MSD, the CP to must show that the proposed

strategy will enable the accuracy and consistency of charging to be demonstrated to the satisfaction of the AB.

As each TMBS is unique its MSD will need to be tailored to ensure that its content relates to the HLD see Clause 4.1 and Risk Management assessment see Clause 4.2. Typically ~~it~~ the MSD will contain Key Performance Indicators relating to charging accuracy and detail the controls and measurements in place in areas such as, but not limited to:

- a) Billing pipeline measures;
- b) Bill accuracy checks;
- c) Customer Complaint handling;
- d) Credits and Bill adjustments;
- e) Handling of suspense and write-offs; and
- f) Testing to ensure the accuracy of published Tariffs.

There may be a requirement for the MSD to contain controls and measures specific to certain customer groups, for example large business customers or mobile pre-pay customers, to ensure that risks and potential charging errors ~~unique~~ specific to these groups are mitigated and recorded.

## Annex C: Wholesale Services

### 2. Scope

The provisions of the Direction in respect of fixed and mobile Wholesale communications services relates to the provision of Usage and Non-Usage records for use by CPs providing Publicly Available Telephone Service (PATS) to End-Users.

The Scope of the Direction includes CPs that have no network switch as well as those that employ their own network switching.

It does not apply to the bills provided by Wholesale CPs to their customers.

~~“Publicly Available Telephone Service” means a service available to the public for originating and / or receiving national and international calls and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance services, Directory Enquiry Facilities, Directories, provision of Public Pay Telephones, provision of service under special terms, provision of specific facilities for End-users with disabilities or with special social needs and / or the provision of non-geographic services.~~

#### 1.1 Overcharging

~~Inclusion of processes and requirements to prevent overcharging is **mandatory** for Wholesale PATS and **voluntary** for other retail Wholesale PECS such as data services.~~

Processes and requirements set out in the Direction are **mandatory** for Wholesale PATS with respect to overcharging. Processes and requirements set out in the Direction are **voluntary** for other Wholesale PECS, such as data services, with respect to overcharging.

#### 1.2 Detrimental Under Recording

~~Inclusion of processes and requirements to prevent under recording is **mandatory** for Wholesale PATS.~~

Inclusion of processes and requirements to prevent under recording is **mandatory** for Wholesale PATS.

### 2. Communications Provider Inclusion Thresholds

#### 2.1 Application

~~A CP providing Wholesale services shall apply for Approval of its TMBS when the relevant turnover Relevant Turnover from PATS exceeds £40,000,000 per annum (exclusive of VAT and other taxes directly related to turnover). That Approval application shall be to an OFCOM appointed AB.~~

A CP providing Wholesale services shall apply for Approval of its TMBS when the relevant turnover from the sum of the Mandatory Services that it provides exceeds £40,000,000 on an annual basis (exclusive of VAT and other taxes directly related to turnover).

The application for Approval shall be for a TMBS that includes Under Recording and Under Rating for downstream services to a CP.

## 2.2 Extension of Scope

Where an approved Wholesale CP introduces a new Wholesale product or service that utilises the majority of the same elements as an existing approved Wholesale service, e.g. it is delivered utilising a switched voice channel covered by an existing approved TMBS, then the CP shall apply for a suitable extension of scope when the relevant turnover from this product or service reaches £2,000,000 per annum (exclusive of VAT and other taxes directly related to turnover).

It will be for the AB to determine whether a product or service falls into the category of an Extension of Scope or Initial Application described above.

If it is deemed to be an Initial Application then that CP will ultimately have more than one TMBS.

## 3. Approval criteria

The Usage and Non-Usage communications services provided by the Wholesale CP should be managed and documented in an accurate, timely and complete way that supports the compliance with the Direction by CPs providing PATS to End-Users and conforms with the requirements set out in of clauses 4 to 8 of this annex.

## 4. Description of a Wholesale Service

A Wholesale PATS TMBS utilises two distinct types of Event records for future billing purposes.

### 4.1 Usage Events

These are Event records that are generated by a communications switch, triggered by the use of PATS by the End-User.

### 4.2 Non-Usage Events

These are Event records that are generated by non-usage activities and are subdivided into two categories and cover the Event records triggered by the use of a service. The two categories are:

#### 4.2.1 Non-Recurring Events

These include chargeable Events for the provision, installation, change, suspension or removal of services and products. They are likely to be actions that do not result in the creation of a usage Event record.

**Note:** Provision includes both cease and re-provision processes.

#### 4.2.2 Recurring Events

These include subscriptions and rentals for Equipment or availability and accessibility to additional services that are applied on a regular basis to the Bill irrespective of any usage Event.

### 4.3 Rated Call Data / Detailed Records

Wholesale CPs may rate the Call Data / Detailed Records (CDRs) and Non-Usage Event records produced for a downstream CP and if contracted to do so, this shall be within the scope of the TMBS.

## 5. Allowable Measurement ~~Limits~~ Capabilities

~~These measurement limits determine the Events in error that will be applied to the limits in paragraph 5.1 to 5.3 below.~~

The measurement capabilities in paragraph 5.1 to 5.3 below are to be used by the CP to determine Events in error.

Unless otherwise stated, these limits apply to the units of measurement used in the systems being measured. Measurement results can be presented as an absolute, a ratio or a percentage.

5.1 Usage Events

	<b>Variable</b>	<b>Allowable Measurement Limit Capabilities</b>
<b>a.</b>	Duration	$\pm 1$ second or $\pm 0.01\%$ (whichever is less stringent)
<b>b.</b>	Data Volume	$\pm 100$ kB or $\pm 0.01\%$ (whichever is less stringent)
<b>c.</b>	Time of Day	$\pm 1$ second
<b>d.</b>	Count of Events	$\pm 0.004\%$ (1:25K)
<b>e.</b>	Value of Charges	$\pm 0.1p$ or $\pm 0.01\%$ whichever is less stringent

## 5.2 Non-Usage Non-Recurring Events

	<b>Variable</b>	<b>Allowable Measurement Limit Capabilities</b>
<b>a.</b>	Count of Events	$\pm 0.05\%$ (1:2K)
<b>b.</b>	Rated Events	$\pm 1p$ or $\pm 0.01\%$ whichever is less stringent

## 5.3 Non-Usage Recurring Events

	<b>Variable</b>	<b>Allowable Measurement Limit Capabilities</b>
<b>a.</b>	Count of Events	$\pm 0.01\%$ (1:10K)
<b>b.</b>	Rated Events	$\pm 1p$ or $\pm 0.01\%$ whichever is less stringent

## 6. ~~Measurement Limits Capabilities~~

~~The performance of the TMBS shall be assessed on the basis of how many errors are made. An error will be defined by a measurement limit capability being exceeded as the allowable measurement capability being exceeded as set out in paragraphs 5.1 to 5.3 of this Annex~~

~~It is not practicable to combine accuracy limits capabilities into a single quantity of the numbers of Events counted or recorded. This requires that the accuracy requirements are assured by a robust and credible management system, controlling processes and monitoring and recording Events. This is separated into three elements above for the purposes of demonstrating compliance with the allowable measurement limits capabilities.~~

~~The measurement limits in 5 above, determine Event errors that are to be applied to these limits capabilities.~~

~~The performance of the TMBS shall be assessed on the basis of how many errors are made. An error will be defined as the allowable measurement capability being exceeded as set out in paragraphs 5.1 to 5.3 of this Annex. This requires that the accuracy requirements are assured by a robust and credible management system, controlling processes and monitoring and recording Events. This is separated into the elements above for the purposes of demonstrating compliance with the allowable measurement capabilities.~~

### 6.1 Period of Measurement

The results shall be based on a rolling 12 month average of performance.

## 7. **Detrimental Under Recording**

### 7.1 Definition of Service

With each of the products and services covered in the Annexes it is possible that a Wholesale CP may disadvantage business partners and their End-Users (i.e. a reseller of a product or service supplied by a CP) by under recording Events, either through loss of, or delays in processing, those Events.

The disadvantage to End-Users arises from the possibility that the under recording may result in Bills that show lower usage than expected, leading to the uncertainty of whether or not the 'missing' charges will follow on a later Bill.

A business partner who is a reseller of a product or service supplied by a CP derives revenue from the ability to recharge for their customers Event records and may experience a financial loss as a result of the under recording of Events by the CP.

Additionally there are services that are specifically designed to be revenue share services, where the failure to capture and invoice Event records represents lost revenue to the revenue share service provider.

**Note:** Charities are an example of this.

## 7.2 Count of Events Under Recorded

Where the Wholesale CP applies for TMBS Approval; that CP shall include prevention and monitoring of under recording within its HLD, MSD and Management System as in section 8 below.

### ~~7.3 Unacceptable Delays~~

~~The passing of Chargeable Event Records downstream older than 60 days would be unacceptable and counted as an error unless contractually permitted or by Service Level Agreements (SLA) or Key Performance Indicators (KPI).~~

## 8. The Management System Requirements

The Management System Requirements set out the documented processes and procedures linked to the HLD and any upstream and downstream contractual arrangements including SLAs and KPIs. The documented procedures shall promote the aims and outputs of the MSD.

The MSD and HLD will be regarded as integral parts of the 'Management System Requirements' required by this Annex.

The MSD, HLD and documented procedures shall include but not be limited to:

- a) Under and over recording and rating;
- b) Monitoring and recording as required by this Annex;
- c) Interworking;
- d) Unresolved Suspense;
- e) Incomplete records; and
- f) Reported misdirected records sent to the wrong downstream CP regardless of the resolution.

## Annex 4

# Table of changes

- The table below shows changes made to the proposed Direction in the February 2014 consultation and gives the reasons for the change. Minor typographical changes are not included.

Change	Explanation
<p><b>3.1 Scope</b></p> <p>New text:</p> <p>A CP is required to comply with this Direction if its <b>Relevant Turnover</b> for the sum of the <b>Mandatory Services</b> that it provides is more than £40,000,000 on an annual basis (exclusive of VAT and other taxes directly related to turnover). Therefore, not all products and services offered by a CP are covered by this Direction.</p>	<p>Clarification of the calculation of Relevant Turnover. See section 4.</p>
<p><b>3.2 Initial Application</b></p> <p>Timescale requirements for CP to agree approval plan and for CP to obtain approval changed to timescale requirements for CP to take all reasonable steps to obtain approval and achieve compliance.</p>	<p>Previously, the CP was required to comply with a timetable where achievement of the milestones was outside its control as they were dependent on the ABs. Requirements have therefore been changed so that they are focussed on what the CP can reasonably achieve.</p>
<p><b>3.3 Transfer of Approval</b></p> <p>Timescale requirements for CP to obtain approval changed to timescale requirements for CP to take all reasonable steps to achieve compliance.</p>	<p>Previously, the CP was required to comply with a timetable where achievement of the milestones was outside its control as they were dependent on the ABs. Requirements have therefore been changed so that they are focussed on what the CP can reasonably achieve.</p>
<p><b>3.3.2 Gaining approval</b></p> <p>Timescale to apply for approval changed to 6 months from 3 months</p>	<p>See section 5 - paragraphs 5.12 - 5.27</p>
<p><b>3.4.2 Extension of scope to an existing approval</b></p> <p>A new product or service is one that requires</p>	

<p>a technical change to either the delivery mechanism or the usage mechanism. It is not simply a new combination of products and services, some of which may be in scope and some out of scope, into new packages: text moved and amended</p>	<p>Moved and amended to make clear this is intended to provide guidance on what is a 'new product or service'.</p>
<p><b>4.2 High Level Description</b></p> <p>'which must be obtained and will not be unreasonably withheld' deleted</p>	<p>Requirement is now focussed on what the CP is expected to do (ie produce the HLD and seek approval). The requirement that has been deleted was unnecessary as the CP has the incentive to seek approval of its HLD.</p>
<p><b>4.4 Measurement strategy</b></p> <p>'which must be obtained and will not be unreasonably withheld' deleted</p>	<p>Requirement is now focussed on what the CP is expected to do (ie produce the MSD and seek approval). The requirement that has been deleted was unnecessary as the CP has the incentive to seek approval of its MSD.</p>
<p><b>4.4.1 Purpose</b></p> <p>Amended text added: 'For the measures to be used in the assessment of performance and which will be set out in the MSD see Clause 4.8 below.'</p>	<p>To make link with clause 4.8 clearer</p>
<p><b>4.6.2.1 Public Domain Tariff</b></p> <p>Amendments made as shown:</p> <p style="padding-left: 40px;">A public domain Tariff is one that can be confirmed by the general public and shall be <del>made available on request</del> <u>published</u>. It is a <del>publicly available</del> statement that specifies the charges which a CP makes for Electronic Communications Services.</p>	<p>Change made to reflect requirements in GC 10.</p>
<p><b>4.6.3 Tariff Description and Detail</b></p> <p>'It should also be used to provide additional information to the End User on avoiding and/or understanding perceived errors on the Bill' changed to 'It should also be used to provide additional information assist the End-User understand the Bill'</p>	<p>Wording changed to reflect the purpose of the requirement – ie assisting the End User to understand the Bill.</p>

<p><b>4.8.3 Extraordinary Performance Failure</b></p> <p>Definition of EPF changed to ‘significant detrimental deviation from the daily normal performance of a CP with regard to accurate billing’. Footnote added.</p>	<p>See section 5 – paragraphs 5.28 – 5.48</p>
<p><b>4.8.3 Extraordinary Performance Failure</b></p> <p>Various changes to the actions listed in a)-f).</p>	<p>To make clear who is responsible for meeting the requirements.</p>
<p><b>4.8.6 Timely Despatch of Bills</b></p> <p>The CP shall ensure an effectual Bill or Bill data file delivery schedule is in place</p> <p>changed to</p> <p>The CP shall ensure that an effective file delivery schedule is in place for Billing or Billing data</p>	<p>Clarification</p>
<p><b>5.1 The CP’s Activities</b></p> <p>‘In connection with this Direction’ added</p>	<p>To make clear that the requirement to facilitate the disclosure of information relates only to the performance of the CP’s regulatory obligations only with respect to this Direction and not more generally.</p>
<p><b>5.1 The CP’s Activities</b></p> <p>Table deleted</p>	<p>Moved to 3 ‘Communications Provider Applicability’</p>
<p><b>5.2 Approval and certification</b></p> <p>‘arising from the consultation’ added to ‘once any queries’</p>	<p>Clarification</p>
<p><b>5.2 Approval and certification</b></p> <p>‘as soon as reasonably practical’ added</p>	<p>To allow a reasonable time for the AB to issue a certificate</p>
<p><b>5.4.2 Re-certification</b></p> <p>The certificate is subject to periodic renewal by the AB</p> <p>changed to</p>	<p>To provide greater clarity on the renewal period and to clarify that renewal is dependent on satisfactory reassessment by</p>

<p>The CP shall seek a renewal of its certificate which shall be granted by the AB subject to satisfactory reassessment. The renewal period shall be set out in the certificate and shall not exceed 3 years.</p>	<p>the AB. Reflects current practice.</p>
<p><b>Annex A Definitions and interpretations</b>  Various definitions added or amended</p>	<p>For clarification and to ensure consistency with definitions in the General Conditions and Communications Act 2003.</p>
<p><b>Annex B R 1 Scope of Annex</b>  Definition of PATS deleted</p>	<p>Definition set out in Annex A.</p>
<p><b>Annex C 5 Allowable Measurement Capabilities</b>  'Limits' changed to 'capabilities'</p>	<p>See section 5 - Paragraph 5.7</p>
<p><b>Annex C 5 Measurement Capabilities</b>  'Limits' changed to 'capabilities'</p>	<p>See section 5 - Paragraph 5.7</p>
<p><b>7.3 Unacceptable Delays</b>  Section deleted</p>	<p>See section 5 - Paragraphs 5.49 - 5.55</p>

2 The table below - adapted from the table in Annex 6 of the February 2014 consultation - lists the main changes made to the 2008 Direction

## Overarching changes

### New Annex for Retail Services (Annex B)

Rationalised Retail mandatory and voluntary approvals into one Annex

### New Annex for Wholesale Services (Annex C)

Rationalised wholesale mandatory approvals into one Annex

### Material changes to the 2008 Direction (proposed in the February 2014 consultation and taken forward in the Direction in this statement)

Changes	Explanation
<p><b>Accuracy limit and tolerance threshold</b></p> <p>Removal of 1:50,000 accuracy limit and £600 tolerance threshold</p>	<p>The removal of the target-based requirements and the retention of the existing process-based requirements should ensure that the approval and audit processes, and ongoing reporting by CPs to ABs, are focussed on CPs identifying and analysing all billing errors.</p> <p>The arrangements should be more adaptable and future-proof as they would be based solely on processes rather than targets which might need to be changed as usage and services change.</p> <p>CPs point out that they use process-based requirements for their own internal audits and for ensuring billing accuracy, so compliance costs could be reduced. This could also encourage voluntary compliance with the Direction by CPs with annual relevant revenues under £40 million not covered by its scope.</p>
<p><b>Accuracy requirement</b></p> <p>A general requirement around accuracy added as para 4.1 of the Direction: 'The CP shall have systems and processes that accurately record usage by End-Users and enable charging at published tariffs'.</p>	<p>The addition is intended to make clear the overarching objective of the Direction and approval process and reflects the Direction Overview in para 1.2.</p>
<p><b>'Allowable Measurement Capabilities' Data volume</b></p> <p>'Data volume' measurement capabilities have been added to voluntary approvals for Retail and Wholesale services ±100 KB or ±0.01% (whichever is less stringent)</p>	<p>Data volume measurement limits (Annex D in the current Direction), have been brought into the single annex for Retail Services(Annex B) and into the single annex for Wholesale Services (Annex C) for voluntary approvals in the proposed new Direction, thus bringing the voluntary provisions under the same annex for mandatory retail services. This is aimed to improve the clarity of the Direction by bringing all retail provisions together in one place and in particular would assist CPs who wished to obtain approval for both mandatory and voluntary aspects of their TMBS.</p>

**Non-material drafting changes (proposed in the February 2014 consultation and taken forward in the Direction in this statement)**

<b>Changes</b>	<b>Explanation</b>
<p><b>Introduction</b>  <b>Introduction and purpose separated</b>            Reference to 'overcharged' has been deleted and replaced with 'incorrectly charged'</p>	<p>Minor change to drafting to provide clarity for CPs relating to charging.</p>
<p><b>A3.4.4.4 "Using the Tariff for Clarification"</b>            has been renamed "Tariff Description and Detail" at para 4.6.3 of the draft new Direction.</p>	<p>Additional new text has been introduced in order to provide further explanation of what should be included in a CP's Tariff schedule and an explanation of the additional information to be provided to the End-User on avoiding and/or understanding perceived errors on the Bill.            The expectation for a Wholesale CP to make available any necessary information to the Retail Service Provider is stressed in this section of the proposed new Direction.</p>
<p><b>A3.4.6.2 Reporting (Measurement Strategy)</b>            has been Re-titled "Measurement Reporting" at para 4.8.1 of the new Direction</p>	<p>The Measurement Strategy is required to be documented in the draft new Direction (this was previously implicit in the current Direction), and this highlights the need for a CP to document its 'Measurement Strategy' in addition to producing a statement of how risks are to be monitored for reporting of TMBS performance.</p>
<p><b>A3.4.7.2 Routine Performance</b>            Requirement to maintain performance of the TMBS within the required 'accuracy limits' over a 12 month period has been changed to 'measurement capability'.</p>	<p>Consequent change from proposed removal of accuracy limits and tolerance thresholds.</p>
<p><b>Approval plan</b>            Initial Meeting between CPs and ABs and requirement for the CP/AB Approval Plan to be submitted to Ofcom by the AB has been removed.</p>	<p>Ofcom does not consider it necessary to have sight of the Approval Plan between the CP and AB as part of the initial 'Approval' process between a CP and its AB. This does not add value to the Approval process and is disproportionate given that ABs rather than Ofcom are better placed to comment on a CP's Approval plan.</p>
<p><b>Description of Service</b>            Re-titled 'Allowable Measurements'</p>	<p>Clarification: In line with proposed removal of 1:50,000 accuracy limit and £600 tolerance threshold, reference to tolerances have been removed for clarification.</p>
<p><b>Measurement Limits</b>            Re-titled 'Performance Measurement Requirements'             Performance measurement of a TMBS error has been redefined from "tolerance levels being exceeded" in the current Direction to "Allowable Measurement Limits being exceeded" in the draft new Direction.</p>	<p>'Performance Measurement' Performances measurement limits and error rates clarified             Allowable Measurement Limits in respect of 'Usage Events', 'Non-Usage Events' and 'Recurring Events' for charging purposes (currently in Annexes B,C,D,E and F in the current Direction), have been brought into the single annex for Retail Services (Annex B) and into the single annex for Wholesale Services (Annex C) to improve clarity in the proposed new Direction.</p>



## Annex 5

# Assessment of Impacts

## Impact of changes to the Direction

### Retail Voice Services (including households, small and large businesses)

1. In summary, our conclusions for retail voice services are that
  - The Direction should continue to set process-based mandatory requirements to ensure billing accuracy;
  - The requirements should be common across all retail services (i.e. including households as well as small and large businesses);
  - The tolerances and accuracy limits set in the 2008 Direction should be removed; and
  - Drafting changes should be made to clarify the Direction.

#### Impact on consumers

2. The measures are intended to provide continued protection for consumers as the TMBS of their CP continues to be assessed and approved by ABs. While the requirements differ from the current arrangements as target-based requirements would no longer be included in the Direction, CPs will still be assessed by ABs to ensure they are able to identify all errors, take corrective action and notify significant billing errors to ABs.
3. The removal of the target-based requirements mean that CPs' focus should be on the identification, analysis and addressing of all errors rather on ensuring that a certain error threshold was not exceeded. While this will not necessarily mean that all errors would be eliminated, it should ensure a continual improvement in accuracy of consumers' bills over time. The proposed measures will, in that way, continue to meet the aim of ensuring metering and billing accuracy, providing consumers with confidence their bills were accurate, in line with the efficacy of GC11 and the current Direction (see paragraphs 2.7-2.8 and 3.17 above).

#### Impact on communications providers

4. CPs will continue to have to seek and obtain approval by the ABs and to meet the process-based requirements to ensure the accuracy of their billing systems, although they will not be required to meet the target-based requirements of the current Direction. CPs' systems and processes that are configured to trigger when a 1:50.000 error rate occurs or the £600 threshold is tripped might need to be reconfigured in the light of targets no longer being required. There might be a cost in removing these triggers but we believe it should be modest and that overall the costs of compliance should be reduced with the process-based provisions providing more adaptable arrangements for CPs to refocus their attention more appropriately on identifying, assessing and resolving incidents of inaccurate billing for consumers.

5. The timescales proposed for implementation of the amended Direction are not expected to be onerous or increase costs materially, as CPs covered by the existing Direction should already be meeting the process-based requirements in the Direction. There will be a small cost for those CPs, whose TMBS' are approved under the existing Direction and who will be required to obtain approval in accordance with the new Direction, in the form of a fee payable to an AB. For those seeking approval for the first time, the absence of target-based requirements, which have to date lengthened the approval process, should mean that the two-year period is achievable.
6. The drafting changes made to the Direction are intended to make the requirements clearer and easier for the CPs to implement.

#### Impact on approval bodies

7. ABs will continue to carry out the approval process based on the process-based requirements in the Direction. ABs will have to be satisfied that a CP could measure, identify and resolve issues and demonstrate control and improvement over time. In removing target-based requirements which have caused implementation difficulties and protracted dialogue between CPs and ABs about compliance, some audits might be more straightforward.
8. As the ABs implement the new Direction, in the short term this might require additional work for ABs until precedents are established. We intend that the ABs should work closely together with Ofcom and the CPs to address, where appropriate, any implementation issues that arise in assessing CPs TMBS.
9. The drafting changes made to the Direction are intended to make the requirements clearer and easier for the ABs to implement.

#### **Impact of proposals: Retail Data Services**

10. In summary, our conclusions for retail data service are that:
  - The Direction remain voluntary for data services;
  - The Direction's provisions should be process-based and common across all retail services; and
  - Drafting changes should be made to clarify the Direction.

#### Impact on consumers

11. The aim of having relevant and updated provisions on data services is to encourage CPs to seek and obtain approval from ABs for their systems. If this aim is met, it should provide consumers with assurance that the accuracy of data billing is being appropriately monitored and assessed.

#### Impact on communication providers

12. By ensuring that the provisions in the Direction are up-to-date and common across all retail services, CPs might be more likely to seek approval for their billing systems. This would provide them (and their customers), with assurance about the accuracy of their systems for data and provide them with evidence that they might be able to rely on to demonstrate compliance with GC11.1. It also would present an

opportunity for CPs to further develop their data billing systems and set their own internal targets for accuracy of charges for consumers.

13. By applying a common set of requirements across voice and data services we have sought to reduce the costs of getting the billing systems for data services approved by ABs. Nevertheless we accept there would be likely to be some additional costs if CPs sought approval for data services, although as seeking approval would be voluntary for such CPs, it is to be assumed that they would only choose to incur the costs of approval if they considered that obtaining such approval would bring benefits.
14. The drafting changes made to the Direction are intended to make the requirements clearer and easier for the CPs to implement.

#### Impact on approval bodies

15. There might be an increased role for ABs if more CPs sought approval for their data billing systems as a result of the provisions in the Direction having been made more relevant. We would expect ABs to recover these costs from CPs.
16. The drafting changes made to the Direction are intended to make the requirements clearer and easier for the ABs to implement.

#### **Impact of proposed modification to the Direction: Wholesale services**

17. In summary, our conclusions for wholesale services are:
  - The Direction should remain mandatory for wholesale services
  - The Direction's process-based requirements should continue and be focussed on ensuring the accuracy of CDRs but the target-based requirements should be removed; and
  - Drafting changes should be made to clarify the Direction.

#### Impact on consumers

18. Consumers will have the current level of assurance that the wholesale CPs (where they met the £40 million turnover threshold) supplying their retail CP will have had their billing system approved in accordance with the Direction. The impact on consumers from the removal of target-based requirements should be limited as the target-based requirements are in practice disregarded and do not act as an effective control on the wholesale CPs' billing accuracy. The reliance on the process-based requirements should ensure that the CPs focus on the identification and elimination of errors and on continued system improvements which should ultimately also ensure improvements in the accuracy of end-users' bills. The measure should, therefore, help meet the aim of metering and billing accuracy, providing consumers with confidence in the accuracy of those bills on the basis that the accuracy of the underlying data is regulated. Again, this is in line with the aims of GC11 and the Direction and the evidence of their efficacy (see paragraphs 2.7-2.8 and 3.17).

Impact on communication providers

19. As a result of wholesale services remaining within the scope of the Direction, but with its focus on the accuracy of CDRs and the fact that it would no longer be subject to the target-based requirements, CPs providing wholesale services will have to continue to ensure their systems meet the process-based requirements. Wholesale CPs' systems and processes that are configured to trigger when a 1:50.000 error rate occurs or the £600 threshold is tripped might have to be reconfigured in the light of targets no longer being required. There might be a cost in removing these triggers (and in paying ABs' fees for approval of the system under the new Direction) but we believe it should be modest and that overall the costs of compliance should be reduced with the process-based provisions providing more adaptable arrangements for CPs to refocus their attention more appropriately on identifying, assessing and resolving incidents of inaccurate CDRs.
20. For retail CPs receiving wholesale services, the focus on the identification of CDR errors and resolution of such errors by the wholesale CP should help them ensure the accuracy of their retail bills.
21. The drafting changes made to the Direction are intended to make the provisions clearer and easier for the CPs to implement.

Impact on approval bodies

22. ABs will not have to try to assess compliance with the accuracy and tolerance threshold that have been shown to be impractical to meet and therefore of limited value. Instead the ABs would be able to focus on ensuring appropriate processes were in place and on understanding what was driving billing errors/refunds in order to seek reductions in any errors over time.
23. The drafting changes in the proposed new Direction are intended to make the provisions clearer and easier for the ABs to implement.

**Impact of clarification on the inclusion of wholesale turnover in the calculation of £40 million threshold**

24. In summary, our conclusion is that the calculation of turnover for the purposes of the £40 million threshold should include wholesale PATS (as well as retail PATS).

Impact on consumers

25. In the absence of the clarification, wholesale CPs who did not achieve more than £40 million of retail PATS turnover may fall outside (or at least do not clearly fall within) the scope of the Direction. As a result of the clarification those consumers who indirectly obtain services from those wholesale CPs will benefit from the assurance that the wholesale CPs (where they met the £40 million turnover threshold), supplying their retail CP will have had their billing system approved in accordance with this Direction. The measure should therefore, help meet the aim of metering and billing accuracy, providing consumers with confidence in the accuracy of those bills on the basis that the accuracy of the underlying data is regulated. Again, this is in line with the aims of GC11 and the Direction and the evidence of their efficacy (as set out in the February 2013 and February 2014 consultations).

26. We recognise that there may in theory be an impact on consumers to the extent that the change imposes costs on CPs and that these costs may be passed through to consumers. However, for reasons explained below, we anticipate the impact on CPs to be minimal and therefore the impact on consumers is also likely to be small.

#### Impact on communications providers

27. Wholesale and retail PATS will continue to be covered by the mandatory requirements of the Direction and CPs' turnover in the provision of both wholesale and retail PATS would be taken into account in the calculation of £40 million Relevant Turnover.
28. Any wholesale CPs who previously thought they were outside the scope of the current Direction on the basis that they did not have retail PATS turnover in excess of £40 million will now be required to gain approval of their TMBS. They might therefore incur additional costs as a result of now being captured by the Direction. However, information gathered by Ofcom's market intelligence teams from CPs about their revenues for communications networks and communications services, separately, for 2012, which we believe represents a reasonable approximation to wholesale and retail services respectively, indicates that the impact to Wholesale CPs as a result of the change is minimal. This is because the few CPs we have identified who might now be captured by the Direction as a result of the proposed change already currently have their TMBS approved. We recognise that they might incur on-going compliance costs as a result of being obliged to maintain their approval, but they would not incur the more significant costs associated with obtaining the approval.
29. For retail CPs receiving wholesale services, the focus on the identification of CDR errors and resolution of such errors by the wholesale CP should help them ensure the accuracy of their bills. Thus, to the extent that there were wholesale CPs who were previously outside (or did not seek approval of the TMBS on the basis that they believed themselves outside) the scope of the Direction, but who would be subject to it going forward, they would enable the retail CPs they serve to receive more accurate bills.

#### Impact on approval bodies

30. Our view is that the impact on the ABs would be small. On the basis of the information available to us about CPs and their turnovers, and on currently approved TMBSs, as we do not anticipate any additional TMBS Approvals as a result of the proposed change.
31. ABs will be able to focus on ensuring appropriate processes were in place across the wholesale/retail supply chain and on understanding what is driving billing errors/refunds in order to seek reductions in any errors over time.