



Review of the Metering and Billing Direction

The application of the Relevant Turnover threshold
under General Condition 11 to providers of wholesale
services

Consultation

Publication date: 23 May 2014

Closing date for responses: 23 June 2014

About this document

Ofcom is reviewing the Metering and Billing Direction ('the Direction'). This is essentially a technical standard intended to ensure that communications providers' systems deliver accurate bills. All communications providers with a turnover of over £40 million a year for providing Publicly Available Telephony Services (PATS) are required to comply with the requirements of the Direction.

As part of the review, Ofcom has published two consultations (one in February 2013 and another in February 2014). In response to the February 2014 consultation, a stakeholder has asked whether turnover from wholesale PATS provided by communications providers should be included in the calculation of the £40 million turnover.

This consultation sets out, and invites comments on, our proposal that turnover from wholesale PATS should be included in the calculation.

The conclusions of this narrow consultation will be included within the wider statement that will complete the review, planned for this summer.

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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 communication services to provide accurate bills under General Condition 11 (“GC11”).
- 1.2 GC11 requires providers of Publicly Available Telephone Services (“PATS” – essentially, fixed and mobile voice services of kinds made available to the public) with a turnover in those services of over £40 million per year to obtain approval of their metering and billing systems 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.
- 1.3 The Direction is essentially a technical standard intended to ensure that communications providers’ (“CPs”) billing systems deliver accurate bills. The current Direction was adopted by Ofcom in 2008. Fixed and mobile voice services – at both retail and wholesale levels - are required to meet mandatory compliance requirements in the Direction.
- 1.4 Ofcom has been reviewing the Direction to ensure that its scope and requirements remain appropriate and proportionate given changes in the market and in the light of CPs’ and ABs’ experiences in operating the Direction.
- 1.5 As part of the review, we have published two consultations – in February 2013 and February 2014 - setting out proposals to revise the Direction. In the February 2014 consultation, amongst other things, we proposed that wholesale PATS should remain as mandatory services in the Direction. 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.
- 1.6 Ofcom’s proposal is that, if wholesale services remain within the mandatory provisions of the Direction, the calculation of turnover for the purposes of the £40 million threshold should include wholesale PATS (as well as retail PATS) because:
 - We consider 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 and discussed in more detail in paragraph 3.4 to 3.5.
 - It would be anomalous for wholesale services to be subject to the mandatory requirements of the Direction but not to be included in the calculation of turnover. It could mean that large wholesale suppliers who do not offer any or significant retail services would not be covered by the Direction.
- 1.7 In the February 2014 consultation, we made a change to the Direction that addressed this point. However we did not draw explicit attention to this change in that consultation. This consultation, therefore, now seeks views on the proposed change to the Direction.
- 1.8 We are seeking views on this proposal by **23 June 2014**.

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 also keep that in mind in the context of this consultation.

General Conditions

- 2.5 Ofcom has the power under section 45 of the Act to impose various types of conditions on Communications Providers. 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(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,¹
 - not unduly discriminatory,
 - proportionate, and
 - transparent in relation to what it is intended to achieve.

¹ 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.

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 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 PATS (fixed and mobile voice services of kinds made available to the public), with a Relevant Turnover in its most recent complete financial year exceeding £40million. 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.

Ofcom Metering and Billing Direction

- 2.12 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.
- 2.13 Ofcom adopted the current Metering and Billing Direction, under GC11, on 15 July 2008 (the 2008 Direction). The Direction is in essence a technical standard intended to ensure that compliant systems will deliver accurate bills.

Context of the 2013 and 2014 consultations

- 2.14 The Direction, as part of the requirements set out in GC11, has been in operation in various forms 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.

- 2.15 In 2012 Ofcom began work to consider options for reviewing the Direction in light of ongoing changes to the communications market, including the growth in the use of fixed broadband and mobile data services.
- 2.16 We published two consultations, on 14 February 2013 and 20 February 2014, seeking stakeholder views on our proposals to modify and update the Direction.
- 2.17 The February 2014 consultation, amongst other things, proposed that wholesale services remain within the scope of the mandatory requirements of the Direction.

What does this further consultation cover?

- 2.18 As part of its response to the February 2014 consultation, KCOM requested clarification on whether, in determining if a CP is above or below the £40 million turnover threshold, wholesale PATS services should be included in that calculation.
- 2.19 The proposed amended Direction in the February 2014 included a new definition of the scope of the Direction that did not exclude wholesale PATS turnover from the definition of Relevant Turnover in the way that the 2008 Direction appears to do. However, we did not make it explicit in the February 2014 consultation that the definition of Relevant Turnover from PATS in the Direction was changing to include revenues from mandatory wholesale and retail PATS services.
- 2.20 To ensure we proceed sufficiently transparently, fairly and on the basis of appropriate inputs and evidence, this further consultation seeks views of stakeholders on this proposed change.
- 2.21 Section 3 sets out the issue, our analysis and proposal.
- 2.22 We invite stakeholders to respond to the questions in this consultation.

Impact Assessment

- 2.23 The analysis presented in this document represents an impact assessment, as defined in section 7 of the Communications Act 2003 (the Act).
- 2.24 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.²

² <http://www.ofcom.org.uk/about/policies-and-guidelines/better-policy-making-ofcoms-approach-to-impact-assessment/>

- 2.25 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.

Equality Impact Assessment

- 2.26 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.
- 2.27 We have given careful consideration to whether or not our proposal set out in sections 3 will have a particular impact on race, age, disability, gender, pregnancy and maternity, religion or sex equality. We do not envisage that the proposal contained in this consultation will have a detrimental impact on any particular group of people.

Consultation Process

- 2.28 This consultation runs until **23 June 2014**.
- 2.29 This consultation seeks input from stakeholders on Ofcom's proposal that the calculation of turnover should include wholesale PATS services (as well as retail PATS services).
- 2.30 Responses to this consultation will be considered as part of Ofcom's wider review of the Metering and Billing Direction alongside responses received from stakeholders to its 2013 and 2014 consultations.

Section 3

Inclusion of wholesale services in the calculation of relevant turnover

- 3.1 This section explains the proposed changes to the Direction to make it clear that wholesale PATS should be taken into account in the calculation of Relevant Turnover for the purposes of applying the £40m threshold to determine the point at which a CP is obliged to seek approval of their TMBS.
- 3.2 The current 2008 Direction includes wholesales services as mandatory requirements for CPs with Relevant Turnover over £40m per annum. The proposal, as set out in the February 2014 consultation, is to retain these mandatory requirements for wholesale services. In other words, 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.
- 3.3 However, paragraph A3.3.1 of the 2008 Direction requires CPs to comply with the Direction *‘if its Relevant Turnover from End-Users contracted 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)’*. The 2008 Direction thus appears to exclude turnover attributable to the provision of wholesale PATS from the calculation of Relevant Turnover, because it only considers Relevant Turnover from *End-Users*.
- 3.4 By contrast, the proposed February 2014 Direction indicates that turnover attributable to wholesale PATS should be included in the calculation of the £40 million threshold:
- In paragraph 3.1 of the main body of the proposed February 2014 Direction which deals with the scope of the Direction, we make it clear that the Relevant Turnover for the purposes of the £40 million threshold is turnover for each mandatory service set out in the Annexes. As Wholesale Services are mandatory services dealt with in Annex C, it is clear that turnover attributable to such services should be taken into account:

“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) .”³
 - In Annex C on Wholesale Services, paragraph 2.1 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 PATS exceeds £40,000,000 per annum (exclusive of

³ In the statement that will conclude the review of the Direction, we will consider if there is a need for further modifications to this paragraph of the Direction to make it clear that the £40 million turnover threshold is calculated by reference to the sum of retail and wholesale PATS services.

VAT and other taxes directly related to turnover). That Approval application shall be to an OFCOM appointed AB”

- 3.5 Ofcom’s proposal is that, if wholesale services remain within the mandatory provisions of the Direction (as proposed), the calculation of Relevant Turnover should include turnover from wholesale PATS (as well as retail PATS) because:
- We consider 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.
 - It would be anomalous for wholesale services to be subject to the mandatory requirements of the Direction but not to be included in the calculation of turnover. It could mean that large wholesale suppliers who do not offer any or significant retail services would not be covered by the Direction, notwithstanding that the Direction would recognise the need for protection in respect of billing accuracy, ultimately for the benefit of retail consumers, for wholesale services.

Definition of “PATS”

- 3.6 “Publicly Available Telephone Service” is defined in the definitions and interpretations section of the General Conditions as *“a service made available to the public for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan”*. In other, very broad words, fixed and mobile voices services of kinds made available to the public.
- 3.7 In its response to the February 2014 consultation, KCOM Group plc⁴ argued that taking into account both retail and wholesale relevant turnover was problematic because Ofcom would effectively be including wholesale services within the definition of PATS even though they are not “publically available”.
- 3.8 We do not consider that the publicly available element of the definition of PATS excludes wholesale services. Ofcom’s General conditions guidelines⁵ 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....”*
- 3.9 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 to a sub-set of users) and that it is not

⁴ <http://stakeholders.ofcom.org.uk/binaries/consultations/metering-billing-2014/responses/KCOM.pdf>

⁵ <http://stakeholders.ofcom.org.uk/telecoms/ga-scheme/general-conditions/general-conditions-guidelines/>

about the stage in the wholesale and retail chain at which these services are provided.

Definition of Relevant Turnover

- 3.10 GC11.7(i) defines Relevant Turnover as: "*annual turnover attributable to the provision of Publicly Available Telephone Services after the deduction of sales rebates, value added tax and other taxes directly related to turnover*".
- 3.11 We consider that the wholesale element of the provision of PATS to End-Users is part of the provision of Publicly Available Telephone Services and should therefore be included in the calculations of the £40 million threshold.

Exclusion of wholesale services is anomalous

- 3.12 Given that wholesale services are covered by the mandatory requirements of the current 2008 Direction and will continue to be covered if the February 2014 proposals are adopted, our provisional view is that it would be anomalous not to include wholesale services in the calculation of turnover.
- 3.13 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
- 3.14 Conversely, a retail CP with over £40m retail turnover who also provided wholesale services would be assessed for both retail and wholesale services.
- 3.15 For these reasons, we propose that the changes we put forward in the proposed February 2014 Direction (as set out in paragraph 3.4 above) are appropriate.
- 3.16 We have considered the potential impact on consumers, communications providers and ABs of including wholesale services as part of Relevant Turnover below.

Impact on consumers

- 3.17 In the absence of the proposed clarification, wholesale CPs who did not achieve more than £40 million of retail PATS turnover would fall outside the scope of the Direction. As a result of the clarification those consumers who indirectly obtain services from those wholesale CPs would benefit from the assurance that the wholesale CPs (where they met the £40 million turnover threshold), supplying their retail CP would have had their billing system approved in accordance with this Direction. The proposed 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).

- 3.18 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

- 3.19 Wholesale and retail PATS would 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.
- 3.20 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 would 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.
- 3.21 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 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 ABs

- 3.22 Our provisional 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.
- 3.23 ABs would be able to focus on ensuring appropriate processes were in place across the wholesale/retail supply chain and on understanding what was driving billing errors/refunds in order to seek reductions in any errors over time

Q1 Do you agree with our assessments of the impacts? If not, please explain your reasons why.

Application of section 49 Tests

Our provisional view is that the tests under section 49 of the Act that must be met if we modify a direction would be met in this case:

Objective Justification

3.24 Our provisional view is that the proposed change to the Direction to make it clear that Relevant Turnover includes turnover attributable to wholesale PATS is objectively justifiable on two main bases. First, because it is consistent with the definitions of PATS and Relevant Turnover in the General Conditions. Second because it corrects an anomaly that previously existed whereby wholesale services were subject to mandatory requirements, but wholesale CPs were not required to comply with the Direction unless they also achieved more than £40 million turnover in retail services. Furthermore, it does not appear to us to make sense for the wholesale provision of PATS to be subject to mandatory requirements under the Direction when not all providers of wholesale services are caught by those requirements.

Not unduly discriminatory

3.25 We consider that the proposed clarification does not discriminate unduly against particular persons or against a particular description of persons. It will apply equally to all CPs who fit the relevant description. Indeed, it corrects an anomaly that previously meant that some wholesale CPs were not subject to the Direction 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

3.26 Our provisional view is that the proposed change to the Direction is proportionate to what it is intended to achieve. It goes no further than is necessary to correct the anomaly described above. Furthermore, the change would bring benefits to consumers in terms of the accuracy of their bills while resulting in limited (if any) additional costs.

Transparent

3.27 We believe the proposed change to the Direction is transparent in relation to what it is intended to achieve. Ofcom has explicitly identified the proposed change, has set out a justification for it and is seeking responses on it specifically by way of this consultation.

Section 3 and section 4 analysis

3.28 Ofcom has considered its duties under section 3 of the Act and all the Community requirements set out in section 4. As explained in the February 2014 consultation, 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 proposed modification to the Direction to ensure that turnover attributable to wholesale PATS is taken into account in applying the £40 million threshold in GC11.3 contributes to achieving these objectives because it ensures that

consumers who indirectly obtain PATS services from wholesale CPs are protected and can have confidence in the accuracy of their bills, regardless of whether the wholesale CPs also provide retail PATS services or not. The modification would also contribute to promoting 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.

Q2. Do you agree with our proposed change and the wording of the Direction? If not, please explain your reasons why.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 23 June 2014**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/metering-billing-may14/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email mbt@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Stephen Green
2nd Floor
Consumer Affairs
- Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 0300 123 0811
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Stephen Green on 020 7981 3761.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all

responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

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

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to set out our conclusions as part of the statement concluding the wider review of the Direction in summer 2014.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

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

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

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom consultation principles

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

Before the consultation

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

During the consultation

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

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

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals. We are consulting for one month on this occasion as it is a narrow technical issue which has already been subject to consultation and will have a limited effect on the market (a Category 3 consultation).

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

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

After the consultation

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

Annex 3

Consultation response cover sheet

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

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

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

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

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

DECLARATION

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

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

Name

Signed (if hard copy)

Annex 4

Consultation questions

Q1 Do you agree with our assessments of the impacts? If not, please explain your reasons why.

Q2. Do you agree with our proposed change and the wording of the Direction? If not, please explain your reasons why.

Annex 5

Glossary

Approval Body (AB)	<p>Approval Bodies are approved by Ofcom. They approve and audit a CPs metering and billing systems and monitor compliance with the requirements of the Ofcom Metering and Billing Direction. At present, there are three Approval Bodies, these are:</p> <ul style="list-style-type: none"> • British Approvals Board for Telecommunications (BABT) • British Standards Institute (BSI) • Enigma QPM
CDRs (Call Data Records)	<p>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.</p>
PATS	Publically Available Telephone Services
TMBS	<p>Total Metering and Billing System. The totality of all equipment, data, procedures and activities used to determine the charges to be sought for provision and usage of electronic communications Services and/or to present these charges on end-user's Bills.</p>