



Review of the Metering and Billing Direction

A further consultation on the revisions to the
Metering and Billing Direction

Further Consultation

Publication date: 20 February 2014

Closing Date for Responses: 1 April 2014

Contents

Section		Page
1	Summary	1
2	Introduction	3
3	Reviewing the Direction	9
4	The proposed new Direction	24
Annex		Page
1	Responding to this consultation	37
2	Ofcom's consultation principles	39
3	Consultation response cover sheet	40
4	Consultation questions	42
5	Notification of the Ofcom Metering and Billing Direction	43
6	Table of changes	73
7	List of respondents	78

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). In addition GC11.1 requires 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. Fixed and mobile voice services are required to meet mandatory compliance requirements in the Direction whilst data connections (mobile and broadband) and ‘Voice over Internet Protocol’ (VoIP) are subject to voluntary provisions.
- 1.3 Ofcom is 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 On 14 February 2013, we published a consultation (‘the February 2013 consultation’) setting out our proposals. 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 by ABs and CPs and updated to ensure that they remain relevant and effective. We should also explore ways to encourage greater adoption of these voluntary provisions.
 - 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 the rest of GC11 did not apply to wholesale services and 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

1.5 The consultation closed on 25 April 2013. In total, Ofcom received twenty one 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 derived.

1.6 Having carefully considered the responses, we are proposing that:

- Retail voice services remain mandatory in the Direction as proposed in the February 2013 consultation. 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. We believe a process-focussed revised Direction would have increased adaptability and would be more able to evolve as services and products 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 remain voluntary as proposed in the February 2013 consultation with the provisions in the Direction being updated and amended to adopt the same process-based approach being proposed for retail services.
- The Direction remains mandatory for wholesale services but the tolerance and accuracy limits would be removed and the focus would be on the process-based requirements in the Direction. We have changed our view on the proposal to remove wholesale services from the scope of the Direction having taken account of arguments made in 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.

1.7 This consultation sets out the detailed changes that we are proposing to include in the new Direction in order to implement these proposals.

1.8 We are seeking views on these proposals by **1 April 2014**.

Section 2

Introduction

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), 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 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 ongoing 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 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. 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 Description² 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 Strategy³ 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.

2.15 The Direction also 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;

2.16 In addition, the Direction sets out:

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

2.17 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

2.18 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.

2.19 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;

² A High Level Description is defined in section A3.4.1 of the 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>

³ A Measurement Strategy is defined in section A3.4.2 of the 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.

- **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;
- **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 usage⁴ and non-usage⁵ 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.

2.20 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.

Context of this review

2.21 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 Ofcom 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.

2.22 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. 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.

⁴ Usage Events records are generated by a telecommunications switch, triggered by the use of a Publicly Available Telephone Service by the End-User

⁵ 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

- 2.23 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.
- 2.24 Having carefully considered the consultation responses we have reconsidered and modified some of our proposals in light of those responses. We have also worked with the three approval bodies to develop further details on how a revised new Direction might work; and held a meeting with industry stakeholders via the Metering and Billing Approval Body Forum (MABABF) to discuss our developing thinking.⁶

What does this further consultation cover?

- 2.25 This further consultation seeks input from stakeholders on Ofcom's proposed modified approach and our detailed proposals for implementing that approach in light of the further work we have undertaken on the proposed new Direction with ABs and other stakeholders since the consultation closed.
- 2.26 Section 3 recaps the issues and proposals in our February 2013 consultation, summarises the responses from stakeholders and sets out Ofcom's analysis and proposals in lights of those responses.
- 2.27 Section 4 outlines the details of how we will implement our proposals, including the changes that we propose to make in the new Direction that will replace the 2008 Direction, the reasons for the changes and the impact on stakeholders.
- 2.28 We invite stakeholders to respond to the questions in this consultation.

Impact Assessment

- 2.29 The analysis presented in this document represents an impact assessment, as defined in section 7 of the Communications Act 2003 (the Act).
- 2.30 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.⁷
- 2.31 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

- 2.32 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

⁶ MABABF meeting 4 October 2013

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

our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.

- 2.33 We have given careful consideration to whether or not our proposals set out in sections 3 and 4 will have a particular impact on race, age, disability, gender, pregnancy and maternity, religion or sex equality. We do not envisage that the proposals contained in this consultation will have a detrimental impact on any particular group of people.

Consultation Process

- 2.34 This consultation runs until **1 April 2014**. We are consulting on the proposed amendments to the Direction. Following this further consultation, we plan to confirm the changes made in a final statement introducing the modified Direction.

Section 3

Reviewing the Direction

3.1 This section re-caps the questions we raised in our February 2013 consultation and summarises stakeholder responses to that consultation. We set out our response to the points raised and our proposed approach (which is explained in more detail in section 4).

The February 2013 consultation

3.2 Ofcom published its consultation on the review of the Direction in the February 2013 consultation. The aim of the review was to ensure that the Direction's scope and requirements remained appropriate and proportionate given changes in the market in recent years and with the continued growth of data services. The consultation focused on four main areas: fixed and mobile voice services; data services; large businesses; and wholesale services.

3.3 In that consultation, we outlined the purpose and reasons for the review. We considered whether any changes to the Direction were necessary and whether its scope remained appropriate for regulating billing accuracy. We discussed the growth in data services and the increased availability and take-up of inclusive tariff packages, and the impact these might have had on the provision of protection for consumers.

3.4 We also explained that both ABs and CPs had reported that the accuracy and tolerance limits in the Direction (i.e. what we have defined in paragraph 2.15 above as the target-based requirements) were proving impractical to meet in respect of voice services provided to large business consumers and wholesale voice services provided by CPs to other CPs. In particular the error rates and thresholds were frequently being breached because of the large volume of traffic that such services generated. We therefore considered the extent to which large businesses and wholesale services needed the protection of the Direction given they were likely to have bespoke contractual arrangements. We considered:

- the appropriateness of the target-based requirements; and
- whether, if the target-based requirements were removed, a focus on ensuring appropriate processes were in place and on understanding what was driving billing errors/refunds in order to seek reductions in billing errors over time (i.e. what we have defined in paragraph 2.14 above as the process-based requirements) would provide adequate protection.

3.5 We stated 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.

3.6 We also 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.⁸ 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.

3.7 The consultation sought input from stakeholders on four main issues:

Issue 1 - Whether the Direction should continue to apply to fixed and mobile voice services;

Issue 2 - Whether data services should be brought within the scope of the mandatory provisions of the Direction;

Issue 3 - Whether the provisions of the Direction in respect of services for large businesses should be amended or whether there was a case for excluding such services from the scope of the Direction; and

Issue 4 - Whether the provisions of the Direction in respect of wholesale services should be amended or whether there was a case for excluding such services from the scope of the Direction.

3.8 We explained that the evidence we had gathered on the extent of billing accuracy and on the level of complaints was not conclusive and pointed sometimes in different directions. In particular, it was difficult to identify the extent of billing errors, partly because consumers themselves might be unable to judge if a bill was inaccurate due to an error in the way it was calculated or a misunderstanding of the tariff, and partly because there was wide variation in the way CPs capture and categorise billing errors and complaints. We had therefore additionally considered the extent to which consumers receive metered bills, as opposed to inclusive tariffs. This was because we considered that there might be a greater risk of consumer harm occurring from inaccurate billing when services were metered.

3.9 By contrast, the requirements set by the Direction might be of less relevance in providing protection to consumers who were billed on the basis of inclusive tariffs. We therefore considered the increased availability and take-up of inclusive tariff packages to see if that altered the need of consumers for the protections of the Direction. We did however note that, even in the case of inclusive tariff packages, CPs needed to accurately measure usage in order to determine when the inclusive allowance had been exceeded.

3.10 As part of the review, we considered the operation of the Direction as a whole and considered whether there were ways to modify the Direction which would reduce the burden for CPs that were subject to it, without materially increasing the risks of billing inaccuracies for consumers.

3.11 We also considered in the consultation the merits of removing the target-based elements of the Direction and instead relying on the process-based requirements in the Direction.

3.12 The consultation proposed a series of changes to parts of the Direction based on the proposals set out on the four issues outlined in paragraph 3.7. For each of those issues we considered, in turn, options to either:

⁸ The threshold at which providers of Publicly Available Telephone Services are required to submit their metering and billing systems for approval by an Approval Body.

- maintain the scope and requirements of the Direction (i.e. do nothing);
- maintain the scope of the Direction but modify the requirements; or
- extend or reduce the scope of the Direction.

3.13 In light of that assessment, we proposed the following:

- 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 by ABs and CPs and updated to ensure that they remain relevant and effective. We would also explore ways to encourage greater adoption of these voluntary provisions.
- The target-based requirements 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 target-based requirements for wholesale services were not achievable. As GC11.1 does not apply to wholesale services and CPs were considered 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.

3.14 In respect of the proposals for large business and wholesale services, we recognised that the assessments relating to these proposals were finely balanced with limited evidence being available in respect of some aspects. For instance we considered alternative options for:

- removing services for large businesses from the scope of the Direction altogether; and
- maintaining wholesale services as mandatory in the Direction but with only process-based requirements applying.

3.15 We invited stakeholders to provide additional evidence in these areas in particular.

3.16 The consultation closed on 25 April 2013. In total, Ofcom received twenty one responses from stakeholders which included responses from the three Approval Bodies, 14 from CPs and four from individuals and other organisations. The non-confidential responses were published on the Ofcom website.⁹

⁹ Available at: <http://stakeholders.ofcom.org.uk/consultations/metering-billing-2013/?showResponses=true&pageNum=1#responses>

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

February 2013 Consultation

3.17 Our evidence indicated that the Direction appeared to be operating effectively. This evidence, set out in paragraphs 3.10 to 3.55 of the February 2013 consultation, and which we continue to reply upon, showed in particular that the Direction had resulted in improvements to CPs' billing systems and had brought benefits to consumers and to CPs. We also noted that, although complaint numbers had dropped, they still remained significant, and therefore there was still a need for the Direction in order to ensure protection for consumers. Furthermore, a significant proportion of voice bills remained metered, where accuracy of charges meant there was still a need for the Direction to provide assurance, and maintain consumer confidence in accuracy of bills.

Ofcom proposed:

3.18 The requirements in respect of fixed and mobile voice services for households and small and medium-sized businesses should remain unchanged.

Stakeholders' responses

3.19 A majority of stakeholders (including all three ABs) agreed the Direction should continue to apply to fixed and mobile voice services for households, small and medium-sized business customers.

3.20 There were a range of opinions expressed about the detail of the Direction. These included suggestions to make it easier to interpret and reduce compliance costs for CPs. One confidential respondent felt the Direction should be light touch and take into account the growth of bundles.¹⁰ BABT felt that the targets in the Direction could be seen as setting best practice rather than as mandatory obligations, whilst BSI considered that minor incidents that did not constitute an ongoing risk should be removed from compliance considerations. Enigma QPM argued that the discipline and checks around risk identification and management, driven by independent auditors, in particular, had encouraged more accurate measurement and billing.

3.21 Some CPs suggested removing the target-based elements of the Direction and placing greater emphasis on the process-based elements, as described in paragraph 2.14. BT argued that such an approach would lead to falling compliance costs for CPs by reducing administrative burdens and technical complexity while being clearer, simpler and more relevant to consumers' and businesses' needs.

3.22 BSkyB thought the fixed and mobile voice services should remain in the Direction but that Ofcom should engage with stakeholders to discuss whether the target-based requirements were still relevant and the burden on CPs was proportionate.

3.23 Some CPs favoured more radical change. BT argued that international comparisons suggested that regulation in the UK was too rigorous. Telecom Plus suggested that metering and billing should be split with a new Direction focussing on Metering as

¹⁰ Bundling – a marketing term describing the packaging together of different communication services by organisations that traditionally only offered one or two of those services

this is where inaccuracies occur. However, KCOM thought incorrect metering was less of an issue than incorrect billing.

Ofcom's view

- 3.24 We stated in the February 2013 consultation that the evidence indicated that the current Direction appeared generally to be operating effectively and had resulted in improvements to CPs' billing systems and brought benefits to consumers and to communications providers. We still believed there was an ongoing need for the Direction to remain in place given that billing complaint numbers remained significant and billing accuracy continued to be of concern for consumers.
- 3.25 Billing complaints have remained high since the February 2013 consultation. They rank fourth highest in terms of the overall complaints recorded by Ofcom with 99,408 recorded between January and December 2013 of which 87.5% were in relation to voice services.
- 3.26 In the February 2013 consultation we explained that the responses by CPs to a formal request for information¹¹ by Ofcom showed that, 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 offered 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.¹²
- 3.27 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.
- 3.28 While some responses to the consultation pointed out that the proportion of metered voice calls is falling, they did not dispute that the type of calls identified above remained metered.
- 3.29 With regard to splitting the Direction between metering and billing, as proposed by KCOM and Telecom Plus, we support the objective of ensuring the Direction remains appropriately and proportionately framed but believe that such a split could introduce a further tier of regulation that would be unnecessary and unduly complex. Given the interdependencies that exist between accuracy of metering and the accuracy of billing of consumers we believe it is appropriate to have a single Direction.
- 3.30 We do not agree with BT's view that regulation of metering and billing in the UK is too rigorous when compared to other International regulatory regimes. Regulation in the UK has been set by Ofcom on the basis of an assessment of risks to consumers from incorrect billing and of proportionate measures to address these. The fact that Ofcom's approach for regulating billing accuracy may not be mirrored in other countries, does not in itself mean that its approach is disproportionate, not relevant or unduly onerous.

¹¹ Ofcom sent a Request for Information under section 135 of the Communications Act 2003, in relation to inclusive allowances on voice services sent to eighteen CPs dated 25 June 2012.

¹² Ofcom omnibus consumer research Feb/March 2012.

- 3.31 In the 2013 consultation, we proposed retaining the current scope and requirements for retail voice services as the most appropriate approach. We did not consider that we had sufficient evidence of problems with the operation of the Direction to justify changing the requirements of the Direction, particularly when balanced against the risk of CPs and ABs incurring additional costs if the Direction were extended or loss of protection for consumers if the Direction were reduced.
- 3.32 Our view remains that, for the kinds of reasons referred to in paragraphs 2.7 to 2.8 and 3.17 above, there is an ongoing need for fixed and mobile voice services to be covered by the Direction and that compliance with the Direction is not disproportionate. This is supported by the majority of stakeholders who favour the Direction continuing to apply to fixed and mobile voice services.
- 3.33 However, having considered the responses and as a result of discussions with stakeholders since the consultation closed, we now believe there is a case for revising the proposals so that the provisions in respect of households and small- and medium- sized businesses are focussed on process-based provisions in the Direction, as described in paragraph 2.14, with the target-based provisions removed.
- 3.34 We are proposing this change 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, were 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 would more closely align 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 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.
 - 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 would be removing elements of the current requirements, we believe the remaining requirements of the Direction would be adequate to protect consumers by ensuring that CPs processes were 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;
 - We are considering options around process-based requirements in respect of large businesses and wholesale services. Making the same change for all voice services would help avoid additional administrative burdens and increased costs being imposed as a result of having to define different processes/targets for different services.

- 3.35 Since the close of the February 2013 consultation, we have therefore worked closely with the ABs to develop proposals for modifying the Direction's requirements to ensure that they remain relevant and fit for purpose by removing the target-based requirements and focusing on the process-based requirements. We have also sought to address the concerns raised by CPs and ABs. In carrying out this work, we have sought to apply common approaches across all services where possible.
- 3.36 We believe the proposed modifications to the Direction set out in section 4 and Annex 5 would ensure the continued protection of consumers while reducing the burden on CPs. Further the proposals should increase the adaptability of the Direction, thereby enabling it to remain relevant as services evolve.

Data services

February 2013 Consultation

- 3.37 We considered the growing importance of data services and whether they should be treated in the same way as voice services and become a mandatory service within the Direction.
- 3.38 In examining the issues we considered evidence on:
- trends in the take up and use of data services;
 - the extent to which inclusive tariffs feature in bills for data services;
 - the extent to which consumers exceed their allowance for data usage; and
 - the extent of compliance with the voluntary requirements of the Direction.
- 3.39 We noted that Ofcom's Consumer Contact Team ('CCT') recorded 29 complaints primarily about data billing from 1 September to 31 October 2012; two related to fixed line data and 27 to mobile data. This was significantly lower than the 1,800 complaints about billing for fixed and mobile voice calls in that period.¹³
- 3.40 Our market research showed that 21% of fixed and broadband consumers always or sometimes experience out-of-allowance charges and that 57% of fixed line consumers always or sometimes experience out-of-allowance charges. 33% of mobile contract consumers report that they always or sometimes experience out-of-allowance charges for data.¹⁴ Information provided by CPs indicated a lower incidence of out-of-allowance charging relative to the consumer research. CPs reported that over a six-month period up to 6.5% of fixed broadband consumers, and up to 14% of mobile data consumers exceeded their allowance.
- 3.41 On the basis of this evidence, we considered that it was not yet clear that usage of metered data and errors in billed data or consumer harm had reached levels that justified intervention by Ofcom.

¹³ Ofcom evidence – CCT complaints data

¹⁴ Ofcom omnibus consumer research Feb/Mar and May 2012 - mobile users where consumers exceed their data allowance, charges were on average between £6 and £10 in addition to their contractual monthly fee.

Ofcom proposed:

- 3.42 Data services should continue to be subject to voluntary provisions but with an expectation that the voluntary provisions should be reviewed and updated in order to make them more relevant and useful to CPs.

Stakeholders' response

- 3.43 Nine respondents favoured the approach we had put forward in the consultation to review, but not to mandate, the provisions set out in Annex D of the Direction for data billing. Those in favour of data remaining a voluntary provision were mainly CPs, who argued that data complaints were not yet at a sufficient level to warrant mandatory inclusion to the Direction.
- 3.44 BT, Vodafone, COLT, HG3 and one confidential respondent thought that there was insufficient evidence to warrant the need for the mandatory inclusion of data services. BT argued that data should be removed from the scope of the Direction entirely as consumers would be protected under the general requirements of GC11.1 and suggested complaints about data services were related more to bill-shock than to billing errors.
- 3.45 A number of respondents highlighted the inclusive nature of packages, both fixed and to a lesser extent, mobile, and that data services were not yet a significant enough issue to require further regulatory intervention but that this could change in future. The Federation of Communication Services (FCS) stated that data were 'not currently the key area for Ofcom' but that Annex D of the 2008 Direction (on data) should be updated as an indication of the 'direction of travel'.
- 3.46 Seven respondents favoured mandating the voluntary provisions. Telecom Plus and KCOM disagreed with our view that data services should remain voluntary, particularly due to the linkage of voice and data billing through the use of bundles. Another respondent stated that there was a need to 'extend the scheme to cover data services which are increasingly sold as part of a bundle and are subject to many of the same billing errors as voice'. The CMA and Mr V. Boarer also agreed that mandatory provisions would be the preferable option.
- 3.47 All three ABs were in favour of mandating data services, or at least promoting the improved uptake of any voluntary provisions. BABT believed the lack of uptake amongst CPs regarding the voluntary data provisions was due to it being 'too resource heavy, too difficult and non-mandatory'. The ABs indicated that TMBS billing issues often affected data and voice equally, that there was no consistency within the industry on what constituted data use and that voluntary provisions stood the risk of being ignored by the industry. One respondent suggested the Direction should be clearer on the requirements for bundled services that include both voice and data services
- 3.48 H3G stated that complaint data did indicate significant consumer harm and suggested Ofcom should review this in the future. It also questioned what Ofcom would do to encourage take up of the voluntary requirements.

Ofcom's view

- 3.49 We note the comments by several respondents that provisions on data should become a mandatory part of the Direction. We considered but did not support this option in the consultation primarily because the level of complaints in the respect of

data billing was significantly lower than for voice services and because the proportion of consumers with unmetered /all-inclusive bills for data was much greater than for voice.

- 3.50 Updated complaint figures reveal Ofcom's CCT recorded 55 complaints about mobile data billing in the eight months between 1 April 2013 to 30 November 2013 and two complaints about billing fixed data over the same period. This compares with 6782 complaints received about fixed and mobile voice billing over the same period. This suggests that, although consumers concerns relating to the billing of mobile data are higher than for fixed data, they are still significantly lower than complaints about fixed and mobile voice services.
- 3.51 In our view the level of complaints – which on a monthly basis has fallen slightly between the 2012 data in paragraph 3.39 and the 2013 data in paragraph 3.50 - still does not warrant making the provisions in the Direction applicable to data services mandatory. In addition, as we explained in the February 2013 consultation, although the growing importance of data services may suggest that it should be treated in the same way as voice and brought within the Direction, data is typically taken with an allowance for a set monthly fee which may also suggest that accuracy of metered charges is less important to consumers if they usually do not exceed their allowance.
- 3.52 However future usage trends are unclear. 4G services are expected to result in increased mobile data use because it will be easier and quicker to download data. This may lead to increasing incidences of out-of-allowance charges. On the other hand, the size of data allowances may also increase as a result. Measures to combat 'Unexpectedly High Bills'¹⁵ targeted in particular at international charges may also reduce the potential for consumer harm. We therefore propose that this is an area that should be subject to close monitoring to assess whether it may be appropriate to introduce mandatory provisions in the future.
- 3.53 We therefore propose to maintain the proposal set out in the February 2013 consultation that data services should remain voluntary but with the provisions updated.
- 3.54 We acknowledge the concerns raised by the ABs about the lack of take-up of voluntary provisions on data by CPs to date. We propose to seek to address this by:
- Updating the provisions on data in the Direction (several respondents noted that the existing provisions were outdated and could not be met);
 - Ensuring that provisions on data are as consistent as possible with provisions for voice in the Direction, so that additional compliance costs from including data services are minimised;
 - Removing the target-based approach (which has been found to be inflexible and inappropriate in other aspects of the Direction) and focussing instead on process-based provisions alone;

¹⁵ 'Unexpectedly High Bills' is when a consumer uses a service (consciously or not) and is then billed 'accurately' for those services but may not realise that he or she were using the service ; may not have appreciated the actual costs; or thought the services used were part of an existing agreed bundle

- Improving information to consumers about the existence of the Direction on data services and about any compliance of CPs with its provisions (further details are provided in section 4).

3.55 As explained above, the ABs have assisted us to develop revised proposals on data services within the Direction. These would remain voluntary but the proposals update the provisions in the existing Direction to take account of changes in data services and maximise consistency with other provisions in the Direction. These are set out further in section 4 and Annex 5.

Large businesses

February 2013 Consultation

3.56 In our consultation we explained that ABs and CPs had reported difficulties in meeting the detailed requirements of the Direction in respect of large businesses. We noted that the evidence from ABs and CPs indicated that the target-based requirements in the Direction in respect of error rates and tolerances for large business consumers could not practicably be met.

3.57 ABs and CPs had argued that large businesses did not need the same level of protection in respect of billing accuracy as residential consumers and smaller businesses. However, we were aware that the suggestion of amending the requirements in respect of services to large businesses had come from CPs and we therefore adopted a cautious approach and did not propose to remove services to large businesses from the scope of the Direction. Nonetheless, noting supporting evidence from ABs, we proposed that the tolerance and accuracy limits that were impractical to apply and not therefore providing the intended protection, should be removed. We invited views from stakeholders, in particular large businesses, on whether they agreed with the arguments put forward by CPs and ABs that there were features of large businesses' arrangements with CPs that make the protections of the Direction less relevant.

3.58 We also recognised that, in the event that we applied different requirements to large business services, we would have to define 'large businesses'. CPs suggested that large business had particular characteristics such as having account managers and bespoke tariffs, as well as large telecom spend. However, we recognised that a definition based on consumers having bespoke tariff and account managed services might be difficult to implement in practice.

3.59 We consulted on our proposed definition of a large business as being based on a consumer spend in respect of telecoms in excess of £50k per annum. We considered this to be a threshold which would be indicative of large business consumers which were likely to be account managed and have greater likelihood to have bespoke tariffing arrangements in place, in relation to charging, with their communication providers. However, we acknowledged that we had limited evidence to support this approach and we therefore sought views from stakeholders on the proposed £50k threshold.

Ofcom proposed:

3.60 Services to large businesses should remain under the Direction and the process-based requirements should continue to apply but the target-based requirements of the Direction should be removed. We indicated that we would however consider removing services to large businesses altogether should we receive evidence, in

particular from business customers, that large businesses did not need the protection of the Direction.

Stakeholders' responses

- 3.61 The majority of respondents (thirteen),¹⁶ favoured the Direction continuing to apply to services provided to large businesses. Many of these also argued that the tolerances and error rates were disproportionate and supported Ofcom's proposals that these should be removed and replaced by high-level requirements as they were "meaningless" and a major cause of the difficulties encountered by CPs in not being able to achieve compliance with requirements of the Direction.
- 3.62 We had one response from a large business consumer, Kwik-Fit Insurance services, who argued that some businesses might struggle to verify the accuracy of their bills against the information provided by a CP and that if large businesses were removed from the Direction, assurance currently provided by the ABs on accuracy of billing to large businesses would cease.
- 3.63 Two of the ABs, BSI and Enigma QPM, expressed the view that large businesses should remain in the scope of the Direction both for reasons of practical problems of distinguishing between a large business or SME, and in order to continue to provide protection to these consumers.¹⁷
- 3.64 BABT took an alternative view that large business consumers were important to CPs and therefore it was in their interests to prioritise and rectify errors expediently and thus the inclusion of large businesses was not necessary. They argued that when billing discrepancies for large businesses arose complaints were typically resolved quickly.
- 3.65 Three respondents believed that large businesses had sufficient tools, expertise and purchasing power to be able to deal with billing errors and any subsequent disputes on their own. Respondents' who favoured the removal of large businesses from the Direction typically put forward views that these types of customers had ample resources to deal with any billing issues that might occur and that commercial arrangements were sufficient in ensuring such issues were dealt with by way of bespoke terms and tariffs. TalkTalk highlighted that bespoke terms were "non-standard offerings" and hence these should not be covered by the Direction. BT stated that CPs offered additional bill analysis tools that were utilised to check accuracy which went beyond anything the Direction could offer; and one further respondent noted there were relatively few complaints from large businesses relating to billing accuracy.
- 3.66 Most stakeholders, irrespective of whether they argued for or against applying the Direction to services for large businesses, agreed that the 1:50,000 accuracy limit and £600 tolerance threshold were impractical to meet and largely irrelevant. A number of respondents suggested that a Direction focussed on the process-based requirements would provide proportionate protection for large businesses. BT argued that if the Direction were to remain applicable to services for large business, it should rely on the process-based requirements in the Direction alone. However, BSI stated

¹⁶ BSI, CMA, Enigma QPM, FCS, H3G, Individual, KCOM Group, Kwik-Fit Insurance Services, SSE, Telecom Plus PLC, Virgin Media, Two confidential respondents

¹⁷ Enigma QPM also questioned how the exclusion of large business income within TMBS measurements would impact on the £40m threshold as defined in GC11.3, which determines whether a CP can be included within the scheme through assessment of its relevant PATS turnover.

they had evidence that the current tolerances could be met at least in some circumstances.

- 3.67 CPs commenting on the operation both of the current Direction and of the proposed revised Direction stressed the importance of ensuring that the ABs were applying the Direction consistently.
- 3.68 The majority of respondents did not agree with Ofcom's proposal of £50k telecom spend to define a 'Large Business'. TalkTalk queried what would happen in cases where future business spend was expected to exceed £50k, and what Ofcom's approach would be in relation to fluctuating revenues. Other stakeholders expressed concerns over the £50k definition being too small or too large and suggested Ofcom consider a definition incorporating bespoke tariffing. Enigma QPM however felt that bespoke tariffs were not always an indicator of business size.
- 3.69 Virgin Media stated that further work was needed to refine the definition and KCOM queried a number of aspects of the definition including what services would be included as a part of the measurement. One respondent (COLT) stated that the proposed £50k threshold went significantly beyond the financial telecom spend of their customers - 98% of which are account managed.
- 3.70 BT suggested a definition based on large businesses consumers *"with an annual spend with that CP in excess of £50k per annum spend or those defined as public authorities for the purposes of public procurement of goods and services on the basis of the 'Public Contracts Regulations 2006, Part 1 Regulation 3"*.

Ofcom's view

- 3.71 There is broad agreement that the Direction's target-based requirements are proving impractical to meet, in particular CPs are finding it impractical to adhere to the 1:50,000 error rates and £600 allowable tolerance threshold set out in Annex B of the Direction.
- 3.72 In the consultation we considered, but did not support, the option to remove services for large businesses from the Direction altogether. However we indicated that we would reconsider this if evidence came forwarded in the consultation to support the removal, particularly from large businesses. We had two responses from business stakeholders (Kwik-Fit and the CMA) who argued that the Direction should continue to include services for large business customers. They argued that businesses could not be sure that their bills reflected usage and tariffs accurately. They argued that the business usually relied on CPs to identify errors and that businesses' concerns about losing service continuity if they switched reduced their buyer power in practice.
- 3.73 The majority of CPs responding supported the retention of services for large businesses, albeit with the impractical target-based requirements removed. Although some CPs argued that corporate clients have the tools and resources to detect errors and the buyer power to have errors addressed, the business organisations responding did not agree, as indicated above.
- 3.74 In light of our initial assessment and these responses, we continue to believe that it is appropriate for services for large businesses to remain within the scope of the Direction but that its provisions should be focussed on process-based requirements in the Direction. As set out in paragraph 3.34 we believe that adopting a process-based Direction will have a number of benefits.

3.75 Our proposed revisions are detailed in section 4 and Annex 5.

Wholesale services

February 2013 Consultation

- 3.76 In the February 2013 consultation we set out concerns from CPs and ABs that the Direction's target-based requirements in respect of wholesale services were not currently achievable. We indicated that the accuracy limits and tolerances were often in practice being overlooked. This suggested that they were ineffective in providing protection.
- 3.77 We considered options for the removal of wholesale services from the scope of the Direction and for adopting the same approach that we proposed for services for large businesses, that is to remove the target-based requirements from the Direction and to rely instead solely on the process-based requirements in the Direction. We recognised that retail CPs should have the incentive and ability to monitor bills from wholesale providers more effectively than large business consumers. We noted that retail CPs would have contractual arrangements in place with wholesale CPs which would contain appropriate redress mechanisms and also that CPs could ultimately bring concerns to Ofcom. We also noted that wholesale services did not fall within the scope of GC11.1 which relates to retail billing. As such, the inclusion of wholesale services within the scope of the Direction appeared anomalous.
- 3.78 We proposed that the case for removing wholesale services from the Direction altogether was potentially stronger than for services for large businesses. We also had not identified evidence suggesting there would be a significant detriment to consumers if wholesale services were to be removed. However, we acknowledged concerns raised by ABs and some CPs, particularly those who received wholesale services, who argued that removal of the Direction in respect of these services could be detrimental. We considered that the balance of argument favoured removing wholesale services from the Direction, but sought views on this in light of the concerns that had been raised.

Ofcom proposed:

- 3.79 Removing wholesale services from the scope of the Direction.

Stakeholders' responses

- 3.80 Views on wholesale services were split. Large wholesale providers considered that retail CPs were able to monitor billing accuracy and take up any errors with their wholesale providers and that they could offer billing assurance through bespoke controls to mitigate risks of any inaccuracies flowing down to the end user. Those CPs who use wholesale services disagreed with the proposal to remove wholesale services from the Direction, arguing that the accuracy of retail billing was dependent on accurate data records being provided by the wholesale CP and that removing this protection from the Direction could be damaging to end-users.

- 3.81 Problems created through inaccurate and late Call Data Record Details (CDRs)¹⁸ from wholesale providers were cited as a significant cause of concern and CPs argued that these should be the focus of any regulation. Some CPs argued that it was unclear whether the bill sent by the wholesaler to the retail CP was covered by the current Direction; they argued that it should not be. Sky, BABT, and H3G specifically cited the importance of accuracy in relation to CDRs provided by wholesale CPs to retail CPs which are used to bill end-users. The FCS highlighted the issue of late supply of CDRs from wholesalers as a significant problem for retail CPs as the Direction sets restrictions on late billing for retail CPs but not wholesale CPs. SSE, Telecom Plus and one other respondent, also disagreed with the removal of wholesale services from the Direction because of the retail CPs' reliance on the accuracy and timeliness of data records from wholesale CPs.
- 3.82 The ABs also put forward arguments against removing wholesale services from the Direction, stating that this would be detrimental to the wholesale/retail relationship by reducing confidence in the accuracy of wholesale call records. They argued that the accuracy of service provision by wholesale CPs to retail CPs is paramount to the whole supply chain and ultimately to the end-user. BSI and BABT argued that contractual obligations are not necessarily sufficient to resolve billing matters. BSI pointed out that many resellers are relatively small in scale and less able to apply leverage to resolve disputes. They also highlighted that it would be difficult for ABs to implement the requirements of the Direction on the reseller in isolation of the wholesale supply arrangements. While they agreed that they could bring complaints and disputes to Ofcom, they argued that this might not be an appropriate mechanism for addressing sporadic billing errors that needed to be addressed urgently.
- 3.83 Respondents in favour of removing wholesale services from the Direction typically put forward arguments that commercial arrangements were sufficient, and that the Direction provided no tangible benefits on top of retail-wholesale relationships. Several respondents stated that GC11 was a retail protection measure, and BT and COLT made reference to international comparisons, citing the UK as the only country where there is wholesale regulation.
- 3.84 TalkTalk agreed with the removal of wholesale services, stating that "*primary responsibility for billing accuracy lay with the CP with the contract with the End-User*". Vodafone stated that the scheme's application to wholesale services reduced a reseller's incentive to apply resources into managing its wholesale arrangements effectively.

Ofcom's view

- 3.85 We note the arguments from seven retail CPs that the accuracy of call records that they receive from wholesale CPs is critical to the accuracy of the bills they present to consumers. Furthermore, they consider that their contractual provisions are not sufficient to mitigate the risks of billing inaccuracy. We also note that retail CPs, particularly smaller ones, feel that they do not have significant influence over large wholesale CPs and that, if specific problems with accuracy emerge, they need swift resolution. In the absence of the Direction, they would find it much harder to obtain timely resolution of any such problems through a legal contractual dispute and they would be unlikely to be able to bring a complaint to Ofcom (given that GC 11.1 applies to the CP who bills the end-user).

¹⁸ 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.

- 3.86 Having fully considered and taken account of the arguments put forward by stakeholders for and against removal of wholesale services from the Direction, we recognise that the provision of CDRs by wholesale CPs is important to retail CPs who rely on wholesale services in ensuring the accuracy of their bills. We therefore propose now that wholesale services should remain within the Direction but that its requirements should be focussed on the CDRs supplied and should be framed in the same way as retail services around process-based requirements. It is not intended that bills sent by a wholesale CP to a retail CP for the charges that the wholesale CP makes for the provision of the wholesale service should be covered.
- 3.87 In making these proposals we believe that the Direction should provide appropriate protection to the end-users, by ensuring their retail CP receives accurate and timely bills.
- 3.88 Our proposals in relation to wholesale services are set out in section 4 and Annex 5.

Section 4

The proposed new Direction

Proposed changes to the Direction

4.1 In this section we explain:

- The approach we have taken since the consultation closed, taking account of stakeholder responses;
- How we have developed our thinking in light of those responses;
- What changes we are proposing in the new Direction;
- The measures we are proposing to ensure consistency between the ABs as they apply the Direction;
- The measures we are proposing to increase awareness of the Direction and CPs' approval under its provisions;
- The impacts of the proposals on consumers, CPs and ABs; and
- How the proposals meet the tests set out under 49 of the Act 2003 and are consistent with sections 3 and 4 of the Act.

Developing our thinking in light of responses

4.2 As explained in Section 3, having considered the responses, we propose that the scope of the Direction should continue to apply:

- on a mandatory basis to retail and wholesale voice services, including services for large businesses; and
- on a voluntary basis to data services.

4.3 There was support for the proposed removal of target-based requirements in the Direction (as set out in paragraphs 3.21 – 3.22 above), particularly in relation to large businesses and wholesale services, with the Direction being based instead on its process-based requirements. However, the responses indicated some uncertainty about the form these requirements would take and how they would apply.

4.4 We also noted that:

- Developing a common approach, as far as practical, across all services covered by the Direction would simplify compliance, which should facilitate consumer protection, and reduce costs. This would also remove the need to define large business customers.
- CPs commenting on the operation both of the current Direction and of the proposed revised Direction stressed the importance of ensuring that the ABs were applying the Direction consistently.

- There were concerns about the lack of incentives on CPs to seek voluntary approval under the Direction, either in respect of the provisions on data or where they were below the £40 million threshold requiring them to seek approval for voice services. Some respondents suggested that adopting common requirements across voice and data and increased awareness of CPs' compliance with the Direction would lead CPs to seek approval on a voluntary basis which was considered to provide some consumer benefit (albeit that Ofcom has not proposed that the evidence supports mandatory requirements at this time).

4.5 Following the consultation we have therefore developed a draft new Direction covering wholesale and retail services. We have worked with the ABs on the basis of their expertise to develop the draft new Direction. In addition, we have developed proposals to ensure consistency of implementation by ABs. We have also considered how to promote consumers' awareness of the approvals under the Scheme.

Proposed changes to the Direction

4.6 We propose to withdraw the current Direction and replace it with the draft new Direction which is at Annex 5. The main changes to the Direction we are proposing are explained below and divided into two tranches: Material compliance changes and non-material drafting changes. We have also produced a table that provides a summary of all the proposed changes to the Direction which is set out at Annex 6.

Material compliance changes

Structural changes

- 4.7 We propose to change the structure of the Direction with the number of annexes being reduced from six in the current Direction to three annexes in the draft new Direction. A new annex, rationalising retail mandatory and voluntary approvals (Annexes B, C, D, E and F in the current Direction) has been brought under a single annex (Annex B) for PATS under 'Retail Services'. In addition, a new Annex for Wholesale Services rationalising Wholesale mandatory approvals (currently Annex B,C,D,E,F) has been brought into a single annex (Annex C).
- 4.8 These structural changes would bring the voluntary provisions under the same annex for mandatory retail services reflecting the greater consistency in the draft new Direction between voice and data provisions. This is aimed to improve the clarity of the Direction by bringing all retail provisions together in one place and in particular will assist CPs who wish to obtain approval for both mandatory and voluntary aspects of their TMBS.

Target-based requirements

- 4.9 The current Direction includes target-based requirements, alongside the process-based requirements. We are proposing that the target-based requirements be removed from the Direction. That would involve the deletion of Sections 4 of Annex B (fixed voice), Annex C (mobile voice) and Annex D (data) of the 2008 Direction.
- 4.10 Evidence suggests these target-based requirements have been impractical for CPs to meet in respect of wholesale services and services for large businesses. We are, however, proposing to remove them across all retail and wholesale services as we believe – for the reasons set out in paragraph 3.34 - that the reliance on process-

based requirements in the Direction, rather than adherence to targets, would be a more proportionate and effective way of ensuring the accuracy of consumers' bills.

- 4.11 The process-based requirements that we propose should remain in the new Direction involve the AB ensuring amongst other things through the Measurement Strategy Document 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 (Annex A 4.2.)
- 4.12 The process-based requirements will ensure that CPs will be focussed on identifying and analysing errors and on putting in corrective measures to remedy errors and avoid reoccurrence, rather than seeking to achieve targets which may be unworkable or which may mask problems (as targets permit CPs to make a certain number of errors without the CPs needing to identify or address the underlying problems).
- 4.13 These proposals go further than the proposals in the February 2013 consultation. However, for the reasons set out above and in paragraph 3.34, we believe that the new proposals maintain or enhance consumer protection for accurate bills and set requirements on CPs at a proportionate level.
- 4.14 Of course, if we proceed with the proposed broad removal of target-based requirements, we will monitor the impact of the changes. If concerns arise in the operation of the new Direction or around the accuracy of consumers' bills we will consider appropriate action and make proposals accordingly.

Q1 We invite stakeholders' views on the proposed removal of target-based requirements across all retail services and evidence to support their views.

Timescales for application for approval and compliance

- 4.15 The current overall timescale from a CP applying to the AB for approval for its TMBS and the approval being granted such that the CP is considered capable of compliance with the Direction is currently set at 48 months in the Direction. We are proposing that this overall timescale be reduced to 24 months¹⁹.
- 4.16 The ABs have advised us that CPs should be able to show compliance with process-based requirements within the proposed 24 month period. They advise that much of the 48 month period was needed to address repeated non-compliance with the target-based requirements in respect of services for large businesses and wholesale services and that 24 months should be adequate for CPs in respect of the remaining process-based requirements. As the Direction is intended to protect consumers by ensuring that CPs have processes in place to ensure bills are accurate, it is important to keep the approval period to the minimum that is achievable for CPs. Furthermore, difficulties arise with such a long time period for obtaining approval given that system and staff changes often occur during this period.

Q2 We invite stakeholders' views and evidence on the practicality of the proposed new timeframe for approval as set out in paragraph 5.1 of the draft new Direction.

¹⁹Paragraph 5.1 new draft new Direction.

Extraordinary performance failures

- 4.17 The Direction requires that Extraordinary Performance Failures (EPF) in the CPs' billing systems have to be reported to the AB (as in the current Direction within 5 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 current Direction defines an EPF as performance exceeding the target-based requirements four times in any one month.
- 4.18 As target-based requirements have been removed from the proposed Direction but the proposed Direction still requires that significant performance failures should be reported to ABs a revised definition of EPF is required.
- 4.19 We have considered how to define EPF in the proposed new Direction. The aim is to require the CPs to report any unusual circumstances that deviate from the demonstrable normal performance of the TMBS over time. In light of that aim, we propose that the EPF be defined in the new Direction as a 'clear spike in errors detected or reported or movement away from monitored performance'. This spike would be any sharp increase in errors detected through the performance monitoring set out in the Measurement Strategy Document ²⁰ or, as under the current Direction, highlighted through an increase in complaints received by the CP. However, we welcome suggestions from stakeholders on alternative ways of trying to capture the circumstances in which an EPF arises.

Q3 We invite stakeholders' views on whether the proposed revised definition of EPF would be workable. We also welcome any alternative suggestions for the definition.

Timeframe for provision of CDRs

- 4.20 The current 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. As noted above, some CPs have pointed to a risk that wholesale call records 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. While we recognise that 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, we consider there remains a significant risk to consumers. We therefore propose that this risk be addressed by placing 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).

Q4 We invite stakeholders' views on the proposed timeframe for delivery of CDRs as set out in paragraphs 7.1 of the Direction. If you do not agree, please provide evidence to support an alternative approach or timeframe.

Extension of scope to an existing approval

- 4.21 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

²⁰ See para 2.14 footnote 3

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.

Usage Events Measurement Limits

4.22 We propose that data volume measurement limits for voluntary approvals (Annex D in the current Direction), be brought into the single annex for Retail Services (Annex B), and into the single annex for Wholesale Services (Annex C), in the proposed new Direction. This would bring the voluntary provisions within the same annexes for mandatory retail services and wholesale services respectively. This is aimed to improve the clarity of the Direction by bringing all relevant provisions together in one place and in particular will assist CPs who wish to obtain approval for both mandatory and voluntary aspects of their TMBS.

Non-material changes

- 4.23 In addition, to the changes proposed above to address specific issues, we propose making some general improvements in the proposed new Direction in order to aid clarity:
- Additional text is included 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 is that a Wholesale CP should make available any necessary information to the Retail Service Provider. That is made explicit in section 4 of the proposed new Direction whereas it is only implicit in the current Direction.
 - Measurement strategy to be documented (paragraph 4.1 of the draft new Direction). This is an implicit requirement in the 2008 Direction and we propose making it an explicit requirement in this Direction which should improve the clarity of the compliance/assessment process for CPs and ABs.
 - The TMBS risk management section under 'Principal Obligations' in the current Direction is separated out into three separate paragraphs entitled 'Risk Management', 'Measurement Strategy' and 'Purpose'. This is aimed at providing greater clarity and explanation for CPs on the expected risk management approach in relation to their TMBS.
 - Requirement for the initial Approval Plan between a CP and AB to be submitted to Ofcom by the AB is, we propose, no longer required. Provisionally, we do 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 propose that this does not add value to the overall process and is disproportionate given that ABs are better placed to monitor and advise on a CP's Approval plan. If there are compliance issues that cannot be resolved, the AB or CP can bring the issue to Ofcom's attention.
 - Other minor drafting changes for clarification and to assist understanding are also proposed (details set out in Annex 6)

Q5 We invite stakeholders' views on the proposed non-material changes to the Direction?

Ensuring consistency between the ABs

- 4.24 As explained above, CPs commenting on the operation both of the current 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.
- 4.25 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).
- 4.26 We propose that the ABs and Ofcom meet quarterly to discuss the implementation of the Direction.²¹ Any such discussions would be to the extent appropriate and subject to the requirements of confidentiality and competition law. We propose further that the ABs maintain a list 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.
- 4.27 There is currently no set timings for MABABF meetings. We propose 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).
- 4.28 Ofcom is drawing up a draft Memorandum of Understanding (MoU) with the ABs setting out these arrangements and other processes to ensure effective co-ordination.

Promoting awareness of the Direction

- 4.29 Some respondents argued that that low consumer awareness of the Direction reduced the commercial benefits of approval by the ABs and the incentives on 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).
- 4.30 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 have reviewed the information we provide to consumers via our website and the information provided by the ABs on their websites. We have identified areas where this could be improved and are proposing the following changes with regard to providing information on our website. We propose 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

²¹ Ofcom has usually met ABs once a year or more frequently in response to requests.

- 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
 - Links to Ofcom consumer guides on billing.
- 4.31 We will also 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.

Q6 We invite suggestions on these and other ways in which awareness of the Scheme can be promoted.

Impact of proposals: Retail Voice Services (including households, small and large businesses)

- 4.32 In summary, the proposals for retail voice service 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

- 4.33 This proposal would provide continued protection for consumers as the TMBS of their CP would continue to be assessed and approved by ABs. While the requirements would differ from the current arrangements as target-based requirements would no longer be included in the Direction, CPs would still be assessed by ABs to ensure they are able to identify all errors, take corrective action and notify significant billing errors to ABs.
- 4.34 The removal of the target-based requirements would mean that CPs' focus would be on the identification, analysis and addressing of all errors rather on ensuring that a certain error threshold was not exceeded. While this would 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 would, 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

- 4.35 CPs would 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 would 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.
- 4.36 The timescales proposed for implementation of the amended Direction are not expected to be onerous or increase costs, as CPs covered by the existing Direction should already be meeting the process-based requirements in the Direction. 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.
- 4.37 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

- 4.38 ABs would continue to carry out the approval process based on the process-based requirements in the Direction. ABs would 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.
- 4.39 As the ABs implement the proposed new Direction, in the short term this might require additional work for ABs until precedents are established. We are suggesting that the ABs work closely together with Ofcom and the CPs to address, where appropriate, any implementation issues that arise in assessing CPs TMBS.
- 4.40 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

- 4.41 In summary, the proposals 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

- 4.42 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

- 4.43 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.
- 4.44 By applying a common set of requirements across voice and data services we have sought to reduce the costs of getting 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.
- 4.45 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

- 4.46 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.
- 4.47 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

- 4.48 In summary, the proposals 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

- 4.49 Consumers would have the current level of 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 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 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 (see paragraphs 2.7-2.8 and 3.17).

Impact on communication providers

- 4.50 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 would 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 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.
- 4.51 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.
- 4.52 The introduction of a maximum timescale for the wholesale CP to deliver CDRs should help ensure that retail CPs can deliver complete bills to end users within the timeframe set by the Direction. Ofcom understands that this is the current practice (although not required by Direction) and so should not lead to significant additional processes or costs. However it would ensure that if such delays in delivery of CDRs occurred in future, these could be reported to the ABs who could assist the CPs in understanding the cause and identify appropriate corrective measures to be put in place.
- 4.53 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

- 4.54 ABs would not have to try to assess compliance with the accuracy and tolerance threshold that have been shown to be impractical to meet and therefore meaningless and ineffective. 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.
- 4.55 The drafting changes in the proposed new Direction are intended to make the provisions clearer and easier for the ABs to implement.

Application of section 49 tests

- 4.56 We are proposing to withdraw the 2008 Direction and to make a new Direction that should be modified in three ways:

- target-based requirements should be removed;
- the voluntary measures in respect of data services should be updated; and
- certain editorial changes should be made.

Objective justification²²

4.57 Our provisional view is that the proposed 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 would ensure that the approval and audit processes, and ongoing reporting by CPs to ABs, were 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, would aim to achieve ongoing improvement in CPs' systems and processes to ensure that, where errors occurred, corrective measures were put in place that addressed the risk of repetition. This would more closely align 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 would align 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 would also ensure a more flexible and future-proofed approach to regulation which would be 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 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 measures that give CPs greater incentives to adopt voluntary measures for the benefit of consumers.
- During the operation of the Direction, problems with the structure of the Direction and areas where clarity is lacking have been identified. In addition, other areas for improvement have been identified as being appropriate (i) as a consequence of the proposed 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. introducing

²² 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.

time limits for CDRs). The proposed changes seek to address these errors and areas for improvement and, in our provisional view, should result in enhanced protections for consumers.

Not unduly discriminatory

- 4.58 Ofcom considers that the proposed 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.
- 4.59 Furthermore, whereas the Direction currently 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 proposed new Direction would set out a more consistent approach to the regulation of the CPs whose services fall within the scope of the Direction.

Proportionate

- 4.60 Our provisional view is that the proposed withdrawal of the 2008 Direction and 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 proposed modifications would more closely align the Direction with the provisions and policy aims of GC11.1, our provisional view is that they would enhance the effectiveness of the Direction at protecting consumers from inaccurate billing.
- 4.61 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 proposed new Direction should be less onerous than the current Direction and would go no further than necessary to achieve the objectives of GC11.1.
- 4.62 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.
- 4.63 The proposal to update 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.
- 4.64 The editorial changes to the Direction should make it clearer and easier for the ABs and CPs to operate and therefore, as noted above, result in lower costs over time.

Transparent

- 4.65 We believe that the proposed withdrawal of the 2008 Direction and making of the new Direction are transparent in relation to what it is intended to achieve because Ofcom is seeking responses on the proposed approach and the proposed modifications to the Direction by way of this consultation.

Section 3 and section 4 analysis

- 4.66 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 proposed 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

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 1 April 2014**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/metering-billing-2014/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 mbr@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
Floor 2
Content, Consumer and External Affairs
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3761
- 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 publish a statement in April 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's consultation principles

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

Before the consultation

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

During the consultation

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

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

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals. This consultation is for a period for six weeks (a category 2 consultation), since, whilst containing important policy proposals, it is a change to a detailed technical Direction and will be of interest to a limited number of stakeholders who will be aware of the issues;.

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	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	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

A4.1 We invite stakeholders to respond to any of the questions set out in this consultation as listed below:

Question 1 We invite stakeholders' views on the proposed removal of target-based requirements across all retail services and evidence to support their views

Question 2 We invite stakeholders' views and evidence on the practicality of the proposed new timeframe for approval as set out in paragraph 5.1 of the draft new Direction.

Question 3 : We invite stakeholders' views on whether the proposed revised definition of EPF would be workable. We also welcome any alternative suggestions for the definition.

Question 4: We invite stakeholders' views on the proposed timeframe for delivery of CDRs as set out in paragraphs 7.1 of the Direction. If you do not agree, please provide evidence to support an alternative approach or timeframe.

Question 5: We invite stakeholders' views on the proposed non-material changes to the Direction?

Question 6 We invite suggestions on these and other ways in which awareness of the Scheme can be promoted.

Annex 5

Notification of the Ofcom Metering and Billing Direction

Notification of a proposed withdrawal of and the giving of a Direction under section 49A(3) of the Communications Act 2003

Proposal for an Ofcom Metering and Billing Direction

1 Ofcom in accordance with section 49A(3) of the Act hereby make the following proposals for 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 draft Direction set out in the Scheduled to this Notification;

The draft Direction is set out in the Schedule to this Notification;

The effect of, and Ofcom's reasons for making, the proposal referred to in paragraph 1 above is set out in the accompanying consultation document;

2 Ofcom consider that the proposal referred to in paragraph 1 above is not of EU significance pursuant to section 150A(2) of the Act;

3 Ofcom consider that the proposal referred to in paragraph 1 above complies with the requirements of sections 49 to 49C of the Act, as appropriate and relevant;

4 In making the proposal set out in this Notification, 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;

5 Representations may be made to Ofcom about the proposal set out in this Notification by **5pm on 1 April 2014**

6 The proposed Direction shall enter into force on the date of publication of the final Notification;

7 Copies of this Notification and the accompanying consultation document are being sent to the Secretary of State in accordance with section 49C(1) of the Act;

8 In this Notification:

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. "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 Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
- 10 For the purpose of interpreting this Notification:
 - 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 Notification shall form part of this Notification.

Lynn Parker

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

20 February 2014

The Direction - Ofcom Metering and Billing Direction

Contents

- 1 Introduction
 - 1.1 Introduction
 - 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 High Level Description
 - 4.2 Risk Management
 - 4.3 Measurement Strategy
 - 4.4 Process Management
 - 4.5 Tariffs
 - 4.6 Interworking between Communications Providers
 - 4.7 Assessment Performance
 - 4.8 Individual Bill Accuracy
- 5 Compliance with this Direction
 - 5.1 The Communications Providers' 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 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 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). 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 within the timescales detailed in Clause 5.1.

3.3 Transfer of Approval

3.3.1 Existing Approval

CPs approved under the previous version of this OFCOM Direction shall apply to the AB for transfer of their Approvals within 6 months of the published date in this Direction.

3.3.2 Gaining Approval

CPs in the process of gaining Approval under the previous version of this 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).

3.4 Additional Approvals

There are two options by which additional products and services can be introduced into the Scheme by CPs with an approved TMBS.

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 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 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 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 see Clause 4.8 below.

4.5 Process Management

A CP shall have 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.²³

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 made available on request. A public domain Tariff 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.

²³ General Condition 9.2(i) requires Communication Providers to specify details of prices and tariffs

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 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 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 Service Provider; however, a Wholesale CP should make any necessary information available to the service provider so that it can be made available to the End-User.

The following examples of instances where statements would be of benefit are not exhaustive:

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 performance failure is a 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 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) End-Users shall 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) 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 and reviewed at regular Approval review meetings and in planned audit and assessments;
- e) Root cause and impact analysis shall be carried out and corrective actions recorded; and
- f) The impact of extraordinary performance failure shall be presented 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.

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 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 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.

The timetable required for this process is as follows:

Milestone	No later than
Application for Approval	6 months from reaching Relevant Turnover
Agreed Approval plan between CP and AB	3 months from AB Application
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; 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.

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 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 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 AB issues a Certificate of Approval. The CP's Approval number and scope 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 periodic renewal by the AB. 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 Conditions of Entitlement shall apply, otherwise the definitions in the Oxford English Dictionary apply.

Term	Definition and Interpretations	Notes
Approval	“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.	
Bill	a charge or request for payment or automatic debit for services provided	
Category (Categorisation)	<p>Category 1:</p> <ul style="list-style-type: none"> • 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 • A detailed corrective action plan must be approved by the AB within one month and put into effect within four months • All Category 1 matters for an existing Approval are to be reported by the AB to Ofcom • 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 • 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 <p>Category 2:</p>	<ul style="list-style-type: none"> • The Categorisation of Non-Compliances, Deficiencies and Observations. • An Observation generally comes below “Category 3” in seriousness

Term	Definition and Interpretations	Notes
	<ul style="list-style-type: none"> • 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 • 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 <p>Category 3:</p> <ul style="list-style-type: none"> • 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 	
CDR	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.	•

Term	Definition and Interpretations	Notes
End-User	the individual at the end of the chain contracting and using the services from CPs	
Equipment	all the hardware and software and / or firmware necessary for the correct operation of a function including mobile terminals	
Event	the use of Event is intended to overcome a future services issue where a charge can range from e.g. a telephone call, data download, access, content, bandwidth or non-usage based e.g. recurring charges	<ul style="list-style-type: none"> • 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 • 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
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	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	<p>Examples of (b) are:</p> <ul style="list-style-type: none"> • 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
Interconnect	the passing of communications traffic between the systems of two or more CPs	

Term	Definition and Interpretations	Notes
Interworking	the passage of usage data between CPs which will result in an entry and / or charge on an End-User's Bill	
Issue	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
Ofcom Billing Accuracy Programme Manager	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	
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	The end to end entities, functions and activities that support charging activities to end users	
Wholesale	Wholesale services relate 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 consumers.	

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 and requirements to prevent overcharging is **Mandatory** for retail PATS and **Voluntary** for other retail PECS such as data services.

1.2 Undercharging Detrimental to End-Users

Inclusion of undercharging is **Voluntary** for all retail services.

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 when the Relevant Turnover from that PATS exceeds £40,000,000 per annum (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

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.

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

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

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

3.4 Non-Usage Non-Recurring Events Measurement Limits

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

3.5 Non-Usage Recurring Events

	Variable	Allowable Measurement Limit
a.	Duration	± 1 day
b.	Count of Events	$\pm 0.01\%$ (1:10K)
c.	Value of Charges	$\pm 1p$ or $\pm 0.01\%$ 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 the 'Allowable Measurement Limits' being exceeded as set out in paragraphs 3.3 to 3.5 of this Annex being exceeded. This 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 the CP to 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 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 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 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 PECS such as data services.

1.2 Detrimental Under Recording

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 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.

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 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.

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

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

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

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

5.2 Non-Usage Non-Recurring Events

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

5.3 Non-Usage Recurring Events

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

6. Measurement Limits

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 being exceeded.

It is not practicable to combine accuracy limits 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.

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

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 6

Table of changes

Material compliance and non-material drafting changes to the 2008 Direction

The proposed new Direction contains a number of changes, including a reduction from six Annexes in the 2008 Direction to three Annexes in the new proposed new Direction.

The mandatory and voluntary approvals have been rationalised into one annex for PATS (Annex B) and there is a new annex for wholesale mandatory and voluntary approvals for PECS (Annex C).

The proposed changes relative to the 2008 Direction fall into two types – material compliance changes and non-material drafting changes.

Material compliance changes are those that require an adjustment to the compliance requirements of the Direction which include changes to the criteria for defining an ‘Extraordinary Performance Failure’ and alterations to the timescales linked to the application and approval process for Communication Providers’ TMBS.

Non-material drafting changes, as implied, are minor changes to the Direction for the purpose of clarification, making explicit what was previously implicit in the 2008 Direction.

The following table summarises the changes in the proposed new Direction by comparison with the 2008 Direction and outlines why we think these changes are necessary and the explanation for them.

Overarching changes

New Annex for Retail Services (Annex B)

Rationalised Retail mandatory and voluntary approvals into one Annex for PATS Replaced with “Retail Services”

New Annex for Wholesale Services (Annex C)

Rationalised wholesale mandatory approvals into one Annex for PECS

Material compliance changes

Changes	Explanation
Accuracy limit and tolerance threshold Proposed removal of 1:50,000 accuracy limit and £600 tolerance threshold	<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>Accuracy requirement A general requirement around accuracy added as para 4.1 of the draft 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>Extension of scope The time period to apply for an extension of scope (e.g. when providing new services) to an existing approval has been reduced from 12 months to 3 months</p>	<p>Reducing the time period from 12 to 3 months reduces the length of time a CP has to make sure any new service complies with the requirements of the Direction thus reducing the potential risk to consumers of being exposed to unidentified errors/risks as a result of new services being introduced.</p> <p>Reducing the time period from 12 to 3 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.</p> <p>ABs state that CPs who extend their scope are already familiar with the operation and monitoring of an Approved TMBS.</p>
<p>‘Extraordinary Performance Failure’ Criteria for defining an ‘Extraordinary Performance Failure’ have been redefined</p> <p>The ‘Performance exceeding four times the accuracy limit in any one month’ has been re-defined to “clear spike in errors detected or reported or movement away from monitored performance”</p>	<p>By redefining an ‘Extraordinary Performance Failure as “clear spike in errors detected or reported or movement away from monitored performance”, ABs would focus on a CP’s ability to quickly identify and remedy billing errors rather than assessing the number of times a CP is able to comply with a fixed performance target which could potentially mask underlying billing issues that affect consumers.</p> <p>CPs would still be required to assess the risks to their TMBS for accuracy, impact and likely occurrence and for these risks to be documented in the Measurement Strategy Document which is a central pillar for effective TMBS management.</p> <p>In addition, the definition and interpretations for deciding the three categories of non-compliance remain unchanged and ABs would continue to use their judgment to assess performance of a CP’s TMBS.</p>

	<p>We do not believe this would result in a significant change in the approach the ABs take when assessing a failure in performance in a CP's TMBS to identify billing errors.</p>
<p>Compliance with the Direction Proposed alterations to the timetable for applying and obtaining 'Approval':</p> <ol style="list-style-type: none"> 1. Application: - 12 to 6 months 2. Agreement plan - CP and AB 24 to 3 months. 3. Approval obtained - 48 to 24 months 	<p>Application for 'Approval' of TMBS has been reduced to provide increased protection for consumers.</p> <p>The 48 month time period for a CP to obtain 'Approval' of its TMBS is considered by the ABs to be too long as there can be too many system and staff changes occurring throughout this period.</p> <p>Reducing time period for a CP to obtain – 'Approval' would also mitigate the risks of billing errors associated with products and services occurring over a longer period of time and not being subject to the compliance requirements of the Direction.</p>
<p>'Allowable Measurement Limits' Data volume</p> <p>'Data volume' measurement limits 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>
<p>Delayed Events Unacceptable Delays Chargeable events that give rise to a charge. Proposal to place a timescale of 60 days for the delivery of CDRs to ensure the capability of CPs to deliver accurate retail bills within the required timescales.</p>	<p>To mitigate the risk of disadvantaging End-Users due to delayed presentation of a bill for under-charged downstream services generated by a Wholesale CP to a Retail CP.</p> <p>ABs report many retail CPs have raised complaints that the period whereby a Wholesale CP can present a bill to a Retail CP for downstream services may disadvantage business partners and End-Users in terms of recovering costs from End-Users.</p> <p>Setting a period for the timely delivery of CDRs that is within the time period set for the timely delivery of retail bills should ensure that retail CPs are able to deliver complete and accurate bills to their customers.</p>

Non-material drafting changes

Changes	Explanation
<p>Introduction Introduction and purpose separated 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>A3.4.4.4 “Using the Tariff for Clarification” 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.</p> <p>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>A3.4.6.2 Reporting (Measurement Strategy) 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>A3.4.7.2 Routine Performance Requirement to maintain performance of the TMBS within the required ‘accuracy limits’ over a 12 month period has been changed to ‘measurement limits’.</p>	<p>Consequent change from proposed removal of accuracy limits and tolerance thresholds.</p>
<p>4.5.3.2 in proposed new Direction sentences deleted: ‘To prevent a situation where the network used is not the network of choice the End-Users should turn off automatic network selection and manually select the preferred network. This ensures that the call is not inadvertently routed over another network at a different cost. This is particularly important in areas close to national borders and when travelling outside the UK where the preferred CP may have</p>	<p>The wording relates to End User behaviour and is not relevant to requirements of the Direction for accuracy of billing by the CP.</p>

<p>preferential rates with only one of the available networks. CPs will take reasonable steps to publicise the consequences of inadvertent roaming and how to mitigate them.'</p>	
<p>Approval plan 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 provisionally 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. We propose 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>Description of Service Re-titled 'Allowable Measurements' (References to 'Tolerance deleted')</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>Measurement Limits 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 7

List of respondents

Respondents to the February 2013 Consultation

A7.1 The consultation closed on 25 April 2013. There were 21 responses to the consultation, of which three were from Approval Bodies, eleven were from Communications Providers, four were from individuals and organisations, and three were confidential. The non-confidential responses have been published at on our website.²⁴

A7.2 Those who responded were:

- BABT
- BSI
- Enigma QPM
- Mr V. Boarer
- The CMA
- Kwik-Fit Insurance Services
- SSE
- Telecom Plus PLC
- H3G
- TalkTalk Group
- KCOM Group
- BT
- Vodafone
- Virgin Media
- BSkyB
- COLT
- The FCS
- One respondent whose name was withheld, and
- Three confidential respondents

²⁴ Available at: <http://stakeholders.ofcom.org.uk/consultations/metering-billing-2013/?showResponses=true&pageNum=1#responses>