

Draft Legal Instruments

Proposals for SMP services conditions

PART I - NOTIFICATION OF PROPOSALS UNDER SECTIONS 48A AND 80A OF THE COMMUNICATIONS ACT 2003

Proposals for identifying markets, making market power determinations and setting SMP services conditions in relation to BT under section 45 of the Communications Act 2003

Background

1. On 26 June 2014, Ofcom published a statement entitled “*Fixed access market reviews: wholesale local access, wholesale fixed analogue exchange lines, ISDN2 and ISDN30 Volume 1: Statement on the markets, market power determinations and remedies and Fixed access market reviews: wholesale local access, wholesale fixed analogue exchange lines, ISDN2 and ISDN30: Volume 2: LLU and WLR Charge Controls*” (together the “**2014 FAMR Statement**”).¹ Among other fixed access markets identified, the 2014 FAMR Statement identified the market for:
 - the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area and determined that BT has significant market power in relation to such market.
2. As a result of that significant market power determination, in the 2014 FAMR Statement Ofcom imposed certain SMP services conditions which, together with provisions modifying and revoking certain SMP services conditions previously imposed, are contained in a notification dated 26 June 2014 (the “**2014 FAMR Notification**”).
3. On 20 May 2014, Ofcom published a policy statement entitled *Regulatory Financial Reporting: Final Statement* (“**2014 RFR Statement**”)² which set out (among other things)

¹ <http://stakeholders.ofcom.org.uk/telecoms/ga-scheme/specific-conditions-entitlement/market-power/fixed-access-market-reviews-2014/statement/>

² https://www.ofcom.org.uk/data/assets/pdf_file/0025/78460/financial-reporting-statement-may14.pdf

Ofcom's conclusions on the regulatory financial reporting policy that it consider should be applied to BT. On 30 March 2015 Ofcom published a statement entitled "*Directions for Regulatory Financial Reporting*"³ and made directions ("**2015 RFS Directions**") implementing the conclusions set out in the 2014 RFS Statement and 2014 FAMR Statement.

4. On 19 March 2015, Ofcom published a further statement entitled "*Fixed Access Market Reviews: Approach to the VULA margin*"⁴(the "**2015 VULA Statement**") which considered the margin between BT's wholesale and retail superfast broadband prices. As a result of the significant market power determinations in the 2014 FAMR Statement, the 2015 VULA Statement imposed on BT an additional SMP services condition which, together with provisions modifying the SMP service conditions imposed by the 2014 FAMR Notification are contained in a notification dated 19 March 2015 (the "**2015 VULA Notification**").

Markets not affected by this review

5. The following markets listed below, which were defined and reviewed in the 2014 FAMR Statement, are the subject of proposals set out for consultation by Ofcom in the document of 1 December 2016 entitled: "*Narrowband Market Review: Consultation on the proposed markets, market power determinations and remedies for wholesale call termination, wholesale call origination and wholesale narrowband access markets*"⁵ and are not considered in this Notification:

- wholesale fixed analogue exchange line services in the United Kingdom excluding the Hull Area;
- wholesale fixed analogue exchange line services in the Hull Area;
- wholesale ISDN30 exchange line services in the United Kingdom excluding the Hull Area; and
- wholesale ISDN30 exchange line services in the Hull Area;

³ https://www.ofcom.org.uk/_data/assets/pdf_file/0018/59112/statement.pdf

⁴ https://www.ofcom.org.uk/_data/assets/pdf_file/0015/72420/vula_margin_final_statement.pdf

⁵ https://www.ofcom.org.uk/_data/assets/pdf_file/0016/95011/Narrowband-Market-Review.pdf

- wholesale ISDN2 exchange line services in the United Kingdom excluding the Hull Area; and
 - wholesale ISDN2 exchange line services in the Hull Area.
6. Moreover, the following market, for which Ofcom determined that KCOM has significant market power in the 2014 FAMR Statement, will be the subject of a separate consultation and notification later in 2017:
- the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the Hull Area.

Proposals in relation to the United Kingdom excluding the Hull Area

Proposal for market identification and market power determination

7. Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area for the purpose of making a determination that BT has significant market power in relation to that identified market.

Proposals to set and apply, modify and revoke SMP services conditions

8. Ofcom is proposing to set, in relation to the market identified in paragraph 7 above, the SMP conditions as set out in **Schedule 1** to this Notification to be applied to BT to the extent specified in that Schedule, which SMP conditions shall, unless otherwise is stated in that Schedule, take effect from 1 April 2018 or such other date specified in any notification under sections 48(1) and 79(4) of the Act adopting the proposals set out in this Notification.
9. Ofcom is (to the extent still extant) proposing to revoke the SMP conditions applied to BT as set out in the 2014 FAMR Notification and the 2015 VULA Notification in so far as they apply to the market set out above in paragraph 1 on 1 April 2018 or such other date specified in any subsequent notification under section 48(1) and 79(4) of the Act adopting the proposals set out in this Notification. It is proposed that section 16 of the Interpretation Act 1978 shall apply as if this revocation were a repeal of an enactment by an Act of Parliament.

Duct and Pole Access

10. Ofcom's proposals relating to access to duct and pole access will be contained in a further consultation document and SMP conditions will be contained in a separate notification under section 48A of the Act.

Ofcom's duties and legal tests

11. The effect of, and Ofcom's reasons for making, the proposals for identifying the market, making the market power determination and determinations in relation to SMP conditions referred to in this Notification are set out in the consultation document accompanying this Notification.
12. In identifying and analysing the markets referred to in this Notification, and in considering whether to make the corresponding proposals set out in this Notification, Ofcom has, in accordance with section 79 of the Act, taken due account of all applicable guidelines and recommendations which have been issued or made by the European Commission in pursuance of an EU instrument, and which relate to market identification and analysis or the determination of what constitutes SMP. In so doing, pursuant to Article 3(3) of Regulation (EC) No 1211/2009, Ofcom has also taken the utmost account of any relevant opinion, recommendation, guidelines, advice or regulatory practice adopted by the Body of European Regulators for Electronic Communications (BEREC).
13. Ofcom considers that the proposed SMP conditions comply with the requirements of sections 45 to 47, 87 and 88 of the Act, as appropriate and relevant to each such SMP condition.
14. In making all of the proposals referred to in this Notification, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act and the six Community requirements in section 4 of the Act. In accordance with section 4A of the Act, Ofcom has also taken due account of all applicable recommendations issued by the European Commission under Article 19(1) of the Framework Directive.

Making representations

15. Representations may be made to Ofcom about any of the proposals set out in this Notification and the accompanying consultation document by no later than 9 June 2017.

16. Copies of this Notification and the accompanying consultation document will be sent to the Secretary of State in accordance with sections 48C(1) and 81(1) of the Act.

Interpretation

17. For the purpose of interpreting this Notification (which for the avoidance of doubt includes the Schedules):

- (a) except in so far as the context otherwise requires, words or expressions have the meaning assigned to them in paragraph 18 below, and otherwise any word or expression has the same meaning as it has in the Act;
- (b) headings and titles shall be disregarded;
- (c) expressions cognate with those referred to in this Notification shall be construed accordingly; and
- (d) the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.

18. In this Notification:

- (a) “**2014 FAMR Notification**” means the notification described in paragraph 2 above;
- (b) “**2014 FAMR Statement**” means the statements described in paragraph 1 above;
- (c) “**2014 RFR Statement**” means the statement described in paragraph 3 above;
- (d) “**2015 RFS Directions**” means the directions described in paragraph 3 above;
- (e) “**2015 VULA Notification**” means the notification described in paragraph 4 above;
- (f) “**2015 VULA Statement**” means the statement described in paragraph 4 above;
- (g) “**Act**” means the Communications Act 2003 (c. 21), as amended;
- (h) “**BT**” means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 1159 of the Companies Act 2006;

- (i) **“Framework Directive”** means Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services, as amended;
- (j) **“Hull Area”** means the area defined as the 'Licensed Area' in the licence granted on 30 November 1987 by the Secretary of State under section 7 of the Telecommunications Act 1984 to Kingston upon Hull City Council and Kingston Communication (Hull) plc, (now known as KCOM);
- (k) **“Ofcom”** means the Office of Communications as established pursuant to section 1(1) of the Office of Communications Act 2002;
- (l) **“United Kingdom”** has the meaning given to it in the Interpretation Act 1978 (1978 c30).

21. The Schedules to this Notification shall form part of this Notification.

Signed

A handwritten signature in black ink, appearing to read 'B. Potterill', enclosed within a thin black rectangular border.

Brian Potterill

Competition Policy Director, Ofcom

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

31 March 2017

Schedule 1: Proposed SMP conditions (BT)

Part 1: Application

1. The SMP conditions in Part 3 of this Schedule 1, except where specified otherwise, apply to the Dominant Provider in the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area. Save as otherwise specified in any condition, each condition will enter into force on [1 April 2018] and shall have effect until the publication of a notification under section 48(1) of the Act revoking such conditions.
2. The conditions referred to in paragraph 1 above are entitled as follows—

Condition 1	Network access on reasonable request
Condition 2	Specific forms of network access
Condition 3	Requests for new forms of network access
Condition 4	No undue discrimination
Condition 5	Equivalence of Inputs basis
Condition 6	Basis of charges
Condition 7	Charge controls
Condition 8	Publication of a Reference Offer
Condition 9	Notification of charges and terms and conditions
Condition 10	Notification of technical information
Condition 11	Quality of service
Condition 12	Regulatory Financial Reporting

Part 2: Interpretation

1. In addition to the definitions set out above in this notification and in each condition below (where relevant), in this Schedule 1—

- a) **“Access Agreement”** means an agreement entered into between the Dominant Provider and a Third Party for the provision of network access in accordance with condition 1 and, in relevant cases, condition 2;
- b) **“Dominant Provider”** means BT;
- c) **“Charge”** means the charge (being in all cases the amounts offered or charged by the Dominant Provider), excluding any discounts offered by the Dominant Provider, to a communications provider for the Charge Controlled Service”;
- d) **“Consumer Prices Index”** means the index of prices compiled by an agency or a public body on behalf of Her Majesty’s Government or a governmental department (which is the Office for National Statistics at the time of publication of this Notification) from time to time in respect of all items;
- e) **“CPI”** means the amount of the change in the Consumer Prices Index in the period of twelve months ending on 31 October immediately before the beginning of the Relevant Year, expressed as a percentage (rounded to one decimal place) of that Consumer Prices Index as at the beginning of that first mentioned period;
- f) **“First Relevant Year”** means the period of 12 months beginning on 1 April 2018 and ending on 31 March 2019;
- g) **“FTTC”** means Fibre-to-the-Cabinet, an Electronic Communications Network consisting of optical fibre extending from the local access node to the street cabinet;
- h) **“FTTP”** means Fibre-to-the-Premises, an Electronic Communications Network consisting of optical fibre extending from the local access node to the customer’s premises;

- i) **“GEA”** means Generic Ethernet Access, the BT non-physical wholesale services providing wholesale access to higher speed broadband products;
- j) **“GEA – FTTC”** means BT’s product consisting in the provision of GEA services via its FTTC network;
- k) **“GEA – FTTP”** means Virtual Unbundled Local Access provided through BT’s GEA services over its FTTP network;
- l) **“Local Loop Unbundling Services”** means network access to Metallic Path Facilities or Shared Access;
- m) **“Local Serving Exchange”** means the site of an operational building of the Dominant Provider, where interconnection is made available by the Dominant Provider to a Third Party for Network Termination Points served by that site for the provision of Virtual Unbundled Local Access;
- n) **“Metallic Path Facilities”** or **“MPF”** means a circuit comprising a pair of twisted metal wires employing electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy to convey signals when connected to an electronic communications network;
- o) **“MPF Cancellation”** shall be construed as having the same meaning as the service described in row 3 of the table in Part 4 of the Annex to condition 7A;
- p) **“MPF Co-Location”** means the provision of space permitting a Third Party to occupy part of an MDF Site reasonably sufficient to permit the use of Metallic Path Facilities, and in particular to permit the connection of the Dominant Provider’s electronic communications network with the electronic communications network of a Third Party at that location;
- q) **“MPF Connection Charge”** shall be construed as having the same meaning as ‘MPF Connection Charge – New Provide Standard’, as

provided by the Dominant Provider on its website for definitions and explanations of its products;

- r) **“MDF Site”** means the site of an operational building of the Dominant Provider that houses a main distribution frame
- s) **“MPF Site Access”** means access (including the right of entry) to the Dominant Provider’s MDF Sites in order to install and operate an electronic communications network to provide electronic communications services via Metallic Path Facilities;
- t) **“MPF SML1 Rental”** shall be construed as having the same meaning as “MPF Discounted Rental (SML1 in tariff)” as provided by the Dominant Provider on its website for definitions and explanations of its products;
- u) **“MPF Service Maintenance Level 1”** shall be construed as having the same meaning as ‘Service Maintenance Level 1 (Annual Rental)’ in respect of the feature ‘LLU MPF’, as provided by the Dominant Provider on its website for definitions and explanations of its products;
- v) **“MPF Service Maintenance Level 2”** shall be construed as having the same meaning as ‘Service Maintenance Level 2 (Annual Rental)’ in respect of the feature ‘LLU MPF’, as provided by the Dominant Provider on its website for definitions and explanations of its products;
- w) **“MPF Service Maintenance Level 3”** shall be construed as having the same meaning as ‘Service Maintenance Level 3 (Annual Rental)’ in respect of the feature ‘LLU MPF’, as provided by the Dominant Provider on its website for definitions and explanations of its products;
- x) **“MPF Service Maintenance Level 4”** shall be construed as having the same meaning as ‘Service Maintenance Level 4 (Annual Rental)’ in respect of the feature ‘LLU MPF’, as provided by the Dominant Provider on its website for definitions and explanations of its products;

- y) **“Network Termination Point”** means the physical point at which a Relevant Subscriber is provided with access to a public electronic communications network;
- z) **“Point of Connection”** means a point at which the Dominant Provider’s electronic communications network and a Third Party’s electronic communications network are connected;
- aa) **“Prior Year”** means in relation to each Relevant Year, the period of 12 months ending on 31 March immediately preceding that Relevant Year;
- bb) **“Reference Offer”** means the terms and conditions on which the Dominant Provider is willing to enter into an Access Agreement;
- cc) **“Relevant Excess Revenue”** means the Excess Revenue earned from charging the Affected Communications Provider;
- dd) **“Relevant Subscriber”** means any person who is party to a contract with a provider of public electronic communications services for the supply of such services;
- ee) **“Relevant Year”** means each of the following three periods:
 - (1) the First Relevant Year;
 - (2) the Second Relevant Year; and
 - (3) the Third Relevant Year;
- ff) **“Second Relevant Year”** means the period of 12 months beginning on 1 April 2019 and ending on 31 March 2020;
- gg) **“Service Level Commitment”** means the quality standards that the Dominant Provider must meet when performing its obligations;
- hh) **“Service Level Guarantees”** means a commitment specifying the amount payable proactively by the Dominant Provider to a Third Party for a failure to adhere to a Service Level Commitment;

- ii) **“Shared Access”** means the non-voice band frequency of Metallic Path Facilities;
- jj) **“Sub-Loop Unbundling Service”** means access to Metallic Path Facilities or Shared Access at an intermediate point to the main distribution frame;
- kk) **“Third Party”** means a person providing a public electronic communications service or a person providing a public electronic communications network;
- ll) **“Third Relevant Year”** means the period of 12 months beginning on 1 April 2020 and ending on 31 March 2021;
- mm) **“Virtual Unbundled Local Access”** or **“VULA”** means network access comprising of a virtual circuit between a Point of Connection at the Local Serving Exchange and a Network Termination Point, which circuit provides such specified capacity as is agreed between the Dominant Provider and the Third Party for the Third Party’s exclusive use;
- nn) **“Working Day”** means any day other than Saturdays, Sundays, public holidays or bank holidays in England and Wales, Scotland or Northern Ireland (as applicable); and
- oo) references to the expression electronic communications network for the purposes of the expressions MPF Co-Location, MPF Co-Mingling, MPF Site Access, SLU MPF Ancillary Services, VULA Co-Location, VULA Co-Mingling and VULA Site Access, as they apply in condition 2 of Part 3 shall be limited to those matters set out at section 32(1)(b)(i)-(iii) of the Act.

2. For the purpose of interpreting this Schedule, except in so far as the context otherwise requires, the terms or descriptions of products and/or services used in this Schedule shall be construed as having the same meaning as those provided by the Dominant Provider on its website for definitions and explanations of its products in addition to future product updates. These are as at 31 March 2017 found as follows:

- For MPF and SMPF product information, please refer to:
<http://www.openreach.co.uk/orpg/home/products/llu/llu.do>
- For VULA (GEA – FTTC) product information please refer to:
<https://www.openreach.co.uk/orpg/home/products/super-fastfibreaccess/fibretothecabinet/fttc.do>
- For VULA (GEA – FTTP) product information please refer to:
<https://www.openreach.co.uk/orpg/home/products/ultrafastfibreaccess/geaftp/ftp.p.do>
- For assurance information including care levels, please refer to the Service Products section of the Openreach website:
http://www.openreach.co.uk/orpg/home/products/serviceproducts/service_products.do
- For information held in the price list, please refer to the Plan and Build area within the “Local Loop Unbundling Pricing” section of the price list available at:
<http://www.openreach.co.uk/orpg/home/products/pricing/loadPricing.do>

Part 3: SMP conditions

Condition 1 – Network access on reasonable request

- 1.1** The Dominant Provider must provide network access to a Third Party where that Third Party, in writing, reasonably requests it.
- 1.2** Except where condition 1.3 applies, the provision of network access by the Dominant Provider in accordance with this condition must:
- (a) take place as soon as reasonably practicable after receiving the request from a Third Party (and, in any event, in accordance with condition 11); and
- (b) be on:
- (i) fair and reasonable terms, conditions and charges; and
- (ii) such terms, conditions and charges as OFCOM may from time to time direct.
- 1.3** Where any of conditions 6 or 7 apply the provision of network access by the Dominant Provider in accordance with this condition must:
- (a) take place as soon as reasonably practicable after receiving the request from a Third Party (and, in any event, in accordance with condition 11); and
- (b) be on:
- (i) fair and reasonable terms and conditions (excluding charges); and
- (ii) such terms and conditions (excluding charges) as OFCOM may from time to time direct.

For the avoidance of doubt, condition 1.2 above shall apply to the provision of network access by the Dominant Provider in the specific form of MPF Service Maintenance Level 2, MPF Service Maintenance Level 3 and MPF Service Maintenance Level 4.

- 1.4** The provision of network access by the Dominant Provider in accordance with this condition must also include such associated facilities as are reasonably necessary for the provision of network access and such other entitlements as OFCOM may from time to time direct.
- 1.5** The Dominant Provider must comply with any direction OFCOM may make from time to time under this condition.

Condition 2 – Specific forms of network access

2.1 Without prejudice to the generality of condition 1, the provision of network access under that condition must include, where the Third Party, in writing, reasonably requests, the following specific forms of network access—

(a) except insofar as OFCOM may from time to time otherwise consent in writing, Metallic Path Facilities including such MPF Ancillary Services as may be reasonably necessary for the use of Metallic Path Facilities;

(b) Virtual Unbundled Local Access including such VULA Ancillary Services as may be reasonably necessary for the use of Virtual Unbundled Local Access;

(c) Sub-Loop Unbundling Services including such SLU Ancillary Services as may be reasonably necessary for the use of Sub-Loop Unbundling Services; and

[Physical Infrastructure Access: OFCOM's proposals for SMP Conditions for Physical Infrastructure Access are contained in a separate notification under section 48A and 80A of the Act.]

2.2 In this condition 2:

(a) “**MPF Ancillary Services**” mean an associated facility or services associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of Metallic Path Facilities via that network and/or service or have the potential to do so, which include at a minimum (but without limitation) the following:

(i) power;

(ii) MPF Co-Location;

(iii) MPF Co-Mingling;

- (iv) MPF Site Access;
- (v) MPF Internal Tie Circuits; and
- (vi) MPF External Tie Circuits;

(b) **“MPF Co-Mingling”** means the provision of MPF Co-Location having the following characteristics:

- (i) the Third Party’s electronic communications network is situated in an area of the MDF Site which:
 - A. is a single undivided space;
 - B. after proper performance by the Dominant Provider of its obligation to provide Metallic Path Facilities pursuant to conditions 1 and 2, would permit the normal operation of the Third Party’s electronic communications network (or would permit if the Dominant Provider removed any object or substance whether toxic or not, which might reasonably prevent or hinder the occupation of the MDF Site for such use); and
 - C. if so requested by the Third Party, is not unreasonably distant from the Dominant Provider’s electronic communications network within the MDF Site;
- (ii) no permanent physical partition is erected in the space between the Third Party’s electronic communications network and the Dominant Provider’s electronic communications network; and
- (iii) the Third Party’s electronic communications network is neither owned nor run by the Dominant Provider or by any person acting on the Dominant Provider’s behalf;

- (c) **“MPF Internal Tie Circuit”** means a link, the whole of which is contained within an MDF Site, that connects Metallic Path Facilities to the electronic communications network of a Third Party;
- (d) **“MPF External Tie Circuit”** means a link that connects Metallic Path Facilities to the electronic communications network of a Third Party at a location outside the MDF Site;
- (e) **“SLU Ancillary Services”** mean an associated facility or services associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of Sub-Loop Unbundling Services via that network and/or service or have the potential to do so, which include at a minimum (but without limitation) SLU Tie Circuit;
- (f) **“SLU Tie Circuit”** means a link that connects Sub-Loop Unbundling Services to the electronic communications network of a Third Party;
- (g) **“VULA Ancillary Services”** mean an associated facility or services associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of Virtual Unbundled Local Access via that network and/or service or have the potential to do so, which include at a minimum (but without limitation) the following:
- i. power;
 - ii. VULA Co-Location;
 - iii. VULA Co-Mingling; and
 - iv. VULA Site Access;
- (h) **“VULA Co-Location”** means the provision of space permitting a Third Party to occupy part of a Local Serving Exchange reasonably sufficient to permit the use of Virtual Unbundled Local Access, and in particular to permit the

connection of the Dominant Provider's electronic communications network with the electronic communications network of a Third Party at that location;

- (i) **"VULA Co-Mingling"** means the provision of VULA Co-Location having the following characteristics:
 - i. the Third Party's electronic communications network is situated in an area of the Local Serving Exchange which:
 - A. is a single undivided space;
 - B. after proper performance by the Dominant Provider of its obligation to provide Virtual Unbundled Local Access pursuant to conditions 1 and 2, would permit the normal operation of the Third Party's electronic communications network (or would permit if the Dominant Provider removed any object or substance whether toxic or not, which might reasonably prevent or hinder the occupation of the Local Serving Exchange for such use); and
 - C. if so requested by the Third Party, is not unreasonably distant from the Dominant Provider's electronic communications network within the Local Serving Exchange;
 - ii. no permanent physical partition is erected in the space between the Third Party's electronic communications network and the Dominant Provider's electronic communications network; and
 - iii. the Third Party's electronic communications network is neither owned nor run by the Dominant Provider or by any person acting on the Dominant Provider's behalf; and
- (j) **"VULA Site Access"** means access (including the right of entry) to the Dominant Provider's Local Serving Exchange in order to install and operate an electronic communications network to provide electronic communications services over Virtual Unbundled Local Access.

Condition 3 – Requests for new forms of network access

- 3.1** The Dominant Provider shall, for the purposes of transparency, publish guidelines in relation to requests for new forms of network access made to it. Such guidelines shall detail:
- (a) the form in which such a request should be made;
 - (b) the information that the Dominant Provider requires in order to consider a request for a new form of network access;
 - (c) the criteria by which requests will be assessed; and
 - (d) the timescales in which such requests will be handled by the Dominant Provider in accordance with this condition.
- 3.2** Such guidelines shall be published within two months of the date that this condition enters into force following a consultation with Ofcom and Third Parties. The Dominant Provider shall keep the guidelines under review and consult with relevant Third Parties and Ofcom before making any amendments to the guidelines. The Dominant Provider shall make such amendments to the guidelines as Ofcom may direct from time to time.
- 3.3** The Dominant Provider shall, upon a reasonable request from a Third Party considering making a request for a new form of network access, provide that Third Party with information so as to enable that Third Party to make a request for a new form of network access. Such information shall be provided within a reasonable period.
- 3.4** On receipt of a written request for a new form of network access, the Dominant Provider shall ensure that the requirements of this condition are met. A modification of a request for a new form of network access which has previously been submitted to the Dominant Provider, and rejected by the Dominant Provider, shall be considered as a new request.
- 3.5** Within five Working Days of receipt of a request under condition 3.4 the Dominant Provider shall acknowledge that request in writing.

- 3.6** Within fifteen Working Days of receipt of a request under condition 3.4 the Dominant Provider shall respond in writing to the requesting Third Party in one of the following ways:
- (a) the Dominant Provider shall confirm that the request will be met and shall confirm that the following will be prepared—
 - (i) the timetable for the provision of network access;
 - (ii) an initial offer of terms and conditions for the provision of network access; and
 - (iii) the timetable for the agreement of technical issues;
 - (b) the Dominant Provider shall confirm that a feasibility study is reasonably required in order to determine whether the request made is reasonable and the Dominant Provider shall set out its objective reasons for the need for such a study;
 - (c) the Dominant Provider shall confirm that the request is not sufficiently well formulated and, where it does so, the Dominant Provider shall detail all of the defects in the request which has been made; or
 - (d) the Dominant Provider shall confirm that the request is refused on the basis that it is not reasonable and, where it does so, the Dominant Provider shall detail its reasons for refusal.

3.7 Where the Dominant Provider responds to a request under condition 3.4 in accordance with condition 3.6(a) it shall, within thirty five Working Days of receipt of a request under condition 3.4, respond further to the requesting Third Party in writing and:

- (a) confirm the timetable for the provision of network access;
- (b) provide an initial offer of terms and conditions for the provision of network access; and
- (c) confirm the timetable for the agreement of technical issues.

- 3.8** Where the Dominant Provider responds to a request under condition 3.4 in accordance with condition 3.6(a) and determines, due to a genuine error of fact, that it reasonably needs to complete a feasibility study, it may, as soon as practicable and in any event, within thirty five Working Days of receipt of a request under condition 3.4, inform the requesting Third Party that a feasibility study is reasonably required and set out its objective reasons for such a study.
- 3.9** Where condition 3.8 applies the Dominant Provider shall, within forty five Working Days from the date that the Dominant Provider informs the requesting Third Party that a feasibility study is reasonably required, respond further to the requesting Third Party, in writing, in one of the following ways:
- (a) the Dominant Provider shall confirm that the request will be met and shall:
 - (i) confirm the timetable for the provision of network access;
 - (ii) provide an initial offer of terms and conditions for the provision of network access; and
 - (iii) confirm the timetable for the agreement of technical issues; or
 - (b) the Dominant Provider shall confirm that the request is refused on the basis that it is not reasonable and, where it does so, the Dominant Provider shall detail its reasons for refusal. The Dominant Provider shall provide to Ofcom a copy of the feasibility study and shall provide to the requesting Third Party a non-confidential copy of the feasibility study.
- 3.10** The time limit set out in condition 3.9 shall be extended up to seventy Working Days from the date that the Dominant Provider informs the requesting Third Party that a feasibility study is reasonably required pursuant to condition 3.8, if—
- (a) circumstances have arisen which, despite the Dominant Provider using its best endeavours, prevent it from completing the feasibility study within forty five Working Days of the date that the requesting Third Party was informed of the need for a feasibility study pursuant to condition 3.8; or

- (b) the Third Party and the Dominant Provider agree to extend the time limit up to seventy Working Days.

3.11 The time limit set out in condition 3.9 shall be extended beyond seventy Working Days from the date that the Dominant Provider informs the requesting Third Party that a feasibility study is reasonably required pursuant to condition 3.8, if—

- (a) Ofcom agrees; or
- (b) the Third Party and the Dominant Provider agree to extend the time limit beyond seventy Working Days.

3.12 Where the Dominant Provider responds to a request under condition 3.4 in accordance with condition 3.6(b), the Dominant Provider shall, within sixty Working Days of receipt of a request under condition 3.4, respond further to the requesting Third Party, in writing, in one of the following ways:

- (a) the Dominant Provider shall confirm that the request will be met and shall:
 - (i) confirm the timetable for the provision of network access;
 - (ii) provide an initial offer of terms and conditions for the provision of network access; and
 - (iii) confirm the timetable for the agreement of technical issues;
- (b) the Dominant Provider shall confirm that the request is refused on the basis that it is not reasonable and, where it does so, the Dominant Provider shall detail its reasons for refusal. The Dominant Provider shall provide to Ofcom a copy of the feasibility study and shall provide to the requesting Third Party a non-confidential copy of the feasibility study.

3.13 The time limit set out in condition 3.12 shall be extended up to eighty five Working Days of receipt of a request under condition 3.4, if—

- (a) circumstances have arisen which, despite the Dominant Provider using its best endeavours, prevent it from completing the feasibility

study within sixty Working Days of receipt of a request under condition 3.4; or

- (b) the Third Party and the Dominant Provider agree to extend the time limit up to eighty five Working Days.

3.14 The time limit set out in condition 3.12 shall be extended beyond eighty five Working Days of receipt of a request under condition 3.4, if—

- (a) Ofcom agrees; or
- (b) the Third Party and the Dominant Provider agree to extend the time limit beyond eighty five Working Days.

3.15 The Dominant Provider shall keep the processes it has put in place to ensure compliance with this condition under review to ensure that they remain adequate for that purpose.

3.16 The Dominant Provider shall comply with any direction Ofcom may make from time to time under this condition.

Condition 4 – No undue discrimination

- 4.1** The Dominant Provider must not unduly discriminate against particular persons or against a particular description of persons, in relation to the provision of network access in accordance with conditions 1 and 2, as applicable.
- 4.2** In this condition, the Dominant Provider may be deemed to have shown undue discrimination if it unfairly favours to a material extent an activity carried on by it so as to place one or more Third Parties at a competitive disadvantage in relation to activities carried on by the Dominant Provider.

Condition 5 – Equivalence of Inputs basis

- 5.1** Subject to condition 5.2, the Dominant Provider must provide network access in accordance with conditions 1 and 2 (as applicable) on an Equivalence of Inputs basis.
- 5.2** The obligation in condition 5.1 to provide network access on an Equivalence of Inputs basis shall not apply to—
- (a) the provision of Sub-Loop Unbundling Services in accordance with conditions 1 and 2;
 - (b) existing network access which the Dominant Provider was not providing on an Equivalence of Inputs basis as at the date that this condition enters into force; and
 - (d) such provision of network access as Ofcom may from time to time otherwise consent in writing.
- 5.3** Without prejudice to the generality of condition 5.1, the Dominant Provider must not provide (or seek to provide) network access for its own services (including for those of its retail divisions, subsidiaries or partners), unless at the same time the Dominant Provider provides and/or offers to provide such network access to Third Parties (other than its retail divisions, subsidiaries or partners) on an Equivalence of Inputs basis.
- 5.4** For the avoidance of doubt, the obligations set out in this condition 5 apply in addition to the obligations set out in condition 4.
- 5.5** In this condition 5:
- (a) **“Equivalence of Inputs basis”** means that the Dominant Provider must provide, in respect of a particular product or service, the same product or service to all Third Parties and itself on the same timescales, terms and conditions (including price and service levels) by means of the same systems and processes, and includes the provision to all Third Parties and itself of the same Relevant Commercial Information about such

products, services, systems and processes as the Dominant Provider provides to its own divisions, subsidiaries or partners. In particular, it includes the use by the Dominant Provider of such systems and processes in the same way as Third Parties and with the same degree of reliability and performance as experienced by Third Parties.

In this definition “the same” means exactly the same subject only to:

- (A) trivial differences;
- (B) differences relating to;
 - (i) credit vetting procedures,
 - (ii) payment procedures,
 - (iii) matters of national and crime-related security (which for the avoidance of doubt includes for purposes related to the Regulation of Investigatory Powers Act 2000), physical security, security required to protect the operational integrity of the network,
 - (iv) provisions relating to the termination of a contract, or
 - (v) contractual provisions relating to requirements for a safe working environment;
- (C) differences relating to the provision of Relevant Commercial Information by the Dominant Provider to its own divisions, subsidiaries or partners where this is necessary for purposes other than relating to the provision of network access to those own divisions, subsidiaries or partners; and
- (D) such other differences as Ofcom may from time to time consent to in writing.

For the avoidance of any doubt, unless seeking Ofcom’s consent, the Dominant Provider may not rely on any other reasons in seeking to objectively justify the provision in a different manner.

(b) **“Relevant Commercial Information”** means information of a commercially confidential nature relating to products and/or services to which this condition 5 applies, and which relates to any or all of the following in relation thereto—

- i. product development;
- ii. pricing;
- iii. marketing strategy and intelligence;
- iv. product launch dates;
- v. cost;
- vi. projected sales volumes; or
- vii. network coverage and capabilities;

save for any such information in relation to which Ofcom consents in writing is to be treated as falling outside this definition.

Condition 6 – Basis of charges

- 6.1** Except insofar as Ofcom may from time to time otherwise consent in writing, the Dominant Provider must secure, and must be able to demonstrate to the satisfaction of Ofcom, that the Electricity Charge when averaged over each Relevant Year is reasonably derived from the costs of provision based on the wholesale electricity charges paid by the Dominant Provider plus an appropriate mark-up to reflect the Dominant Provider's costs related to its wholesale purchase of electricity and the setting of the Electricity Charge.
- 6.2** Except where condition 6.3 applies, the Dominant Provider must secure, and must be able to demonstrate to the satisfaction of Ofcom, that each and every charge offered or payable when averaged over each Relevant Year for Sub-Loop Unbundling Services provided under conditions 1 and 2 is reasonably derived from the costs of provision calculated on a reasonable forward looking fully allocated cost basis, including an appropriate return on capital employed.
- 6.3** The Dominant Provider must secure, and must be able to demonstrate to the satisfaction of Ofcom, that each and every charge offered or payable when averaged over each Relevant Year:
- (a) for SLU MPF Rental provided under conditions 1 and 2 is reasonably derived from the costs of provision calculated by reference to the charge for MPF SML1 Rental (determined in accordance with condition 7A) for the corresponding Relevant Year adjusted to reflect the difference in the forward looking long run incremental costs of SLU MPF Rental;
 - (b) for SLU MPF Connection provided under conditions 1 and 2 is reasonably derived from the costs of provision calculated by reference to the charge for MPF Connection Charge (determined in accordance with condition 7A) for the corresponding Relevant Year adjusted to reflect the difference in the forward looking long run incremental costs of SLU MPF Connection; and
 - (c) for SLU SMPF Connection provided under conditions 1 and 2 is reasonably derived from the costs of provision calculated by reference to the charge for SMPF New Provide for the corresponding Relevant Year adjusted to reflect the difference in the forward looking long run incremental costs of SLU SMPF Connection.

6.4 The Dominant Provider must comply with any direction Ofcom may make from time to time under this condition.

6.5 In this condition 6:

- (a) **“Electricity Charge”** means the charge from time to time on a usage per kWH basis for electricity purchased by Third Parties to provide power for equipment used in connection with network access provided under conditions 1 and 2.
- (b) **“SLU MPF Connection”** shall be construed as having the same meaning as “Sub Loop MPF Connection charge - New Provide – Standard” as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (c) **“SLU SMPF Connection”** shall be construed as having the same meaning as “Sub Loop – Shared MPF Connection (including SMPF Transfer)” as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (d) **“SLU MPF Rental”** shall be construed as having the same meaning as “Sub Loop MPF Rental per annum” as provided by the Dominant Provider on its website for definitions and explanations of its products.

Condition 7 – Charge controls

Condition 7A – LLU charge control

- 7A.1** The Dominant Provider shall take all reasonable steps to secure that, at the end of each Relevant Year, the Percentage Change (determined in accordance with condition 7A.3 and 7A.4, as applicable) in:
- (a) the aggregate of charges for Tie Cables;
 - (b) the aggregate of charges for Hard Cease Services;
 - (c) the aggregate of charges for MPF New Provide Services;
 - (d) the aggregate of charges for Other MPF Ancillary Services;
 - (e) the aggregate of charges for Co-Mingling New Provide and Rental Services;
 - (f) the charge for MPF SML1 Rental, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7A.2(a) applies;
 - (g) the charge for MPF Single Migration, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7A.2(b) applies;
 - (h) the charge for MPF Bulk Migration, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7A.2(c) applies,
- is not more than the Controlling Percentage (as determined in accordance with condition 7A.6).

- 7A.2** The Dominant Provider shall not charge more than:

- (a) for MPF SML1 Rental, the amount of £[80.0 to £88.2] in the First Relevant Year;
- (b) for MPF Single Migration, the amount of £[22.9 to £25.5] in the First Relevant Year;
- (c) for MPF Bulk Migration, the amount of £[14.3 to £16.0] in the First Relevant Year;
- (d) for MPF Cease, the amount of £[0] in each Relevant Year; and

(e) for SMPF Cease, the amount of £[0] in each Relevant Year.

7A.3 The Percentage Change for the purposes of each of the categories of products and/or services (each of which is known as a “Basket”) specified in conditions 7A.1(a) to 7A.1(e) shall be calculated, for the purposes of complying with condition 7A.1, by employing the following formula:

$$C_t = \frac{\sum_{i=1}^n \left[R_i \frac{(\bar{p}_{i,t} - \bar{p}_{i,t-1})}{\bar{p}_{i,t-1}} \right]}{\sum_{i=1}^n R_i}$$

Where:

C_t is the Percentage Change in the aggregate of charges for the services in the Basket for Relevant Year t ;

n is the number of individual services in the Basket;

i is a number from 1 to n for each of the n individual services in the Basket;

R_i is the Total Revenue accrued during the Prior Year in respect of the individual service i that forms part of the Basket;

t is the Relevant Year;

$t-1$ is the Prior Year;

$\bar{p}_{i,t}$ is the Relevant Year Weighted Average Charge made by the Dominant Provider for the individual service i that forms part of the Basket during the Relevant Year, excluding any discounts offered by the Dominant Provider:

Where such Relevant Year Weighted Average Charge shall be calculated by employing the following formula:

$$\bar{p}_{i,t} = \sum_{j=1}^m (w_{i,j,t} p_{i,j,t})$$

Where:

m is the number of time periods for which there are distinct charges during the Relevant Year;

j is a number from 1 to m for each of the m time periods during which a distinct charge is in effect;

$w_{i,j,t}$ is the proportion of the Relevant Year in which each charge, $p_{i,j,t}$ is in effect, calculated by the number of days during which the charge is in effect and dividing:

- 1) for the First Relevant Year, by 365;
- 2) for the Second Relevant Year, by 366; and
- 3) for the Third Relevant Year, by 365.

$p_{i,j,t}$ is the charge for the specified period, j , during the Relevant Year t for the individual service, i ;

$\bar{p}_{i,t-1}$ is, for the purposes of calculating the Percentage Change for the First Relevant Year, the Initial Charge for the individual service i that forms part of the Basket during the Prior Year, excluding any discounts offered by the Dominant Provider. For the purposes of calculating the Percentage Change for the Second Relevant Year and the Third Relevant Year, $\bar{p}_{i,t-1}$ is the Prior Year Weighted Average Charge made by the Dominant Provider for the individual service i that forms part of the Basket during the Prior Year, excluding any discounts offered by the Dominant Provider;

Where such Prior Year Weighted Average Charge shall be calculated by employing the following formula:

$$\bar{p}_{i,t-1} = \sum_{j=1}^m (w_{i,j,t-1} p_{i,j,t-1})$$

Where:

m is the number of time periods for which there are distinct charges during the Prior Year;

j is a number from 1 to m for each of the m time periods during which a distinct charge is in effect;

$w_{i,j,t-1}$ is the proportion of the Prior Year in which each charge, $p_{i,j,t-1}$, is in effect, calculated by the number of days during which the charge is in effect and dividing:

- 1) for the First Relevant Year, by 365;
- 2) for the Second Relevant Year, by 365;
- 3) for the Third Relevant Year, by 366;

$p_{i,j,t-1}$ is the charge for the individual period, j , during the Prior Year, $t-1$, for the individual service, i .

7A.4 The Percentage Change for the purposes of each of the products and/or services specified (each of which is referred to in this condition as a “single charge category”) in conditions 7A.1(f) to 7A.1(h) shall be calculated, for the purposes of complying with condition 7A.1, by employing the following formula:

$$C_t = \frac{(\bar{p}_t - \bar{p}_{t-1})}{\bar{p}_{t-1}}$$

Where:

C_t is the Percentage Change in charges for the specific product and/or service in the single charge category in question for the Relevant Year t ;

t is the Relevant Year;

$t-1$ is the Prior Year;

\bar{p}_t shall be calculated by employing the formula set out in condition 7A.3 for the Relevant Year Weighted Average Charge, excluding any discounts offered by the Dominant Provider, and its references to individual service i shall be treated as references to charges for the specific product and/or service in the single charge category in question; and

\bar{p}_{t-1} shall be calculated by employing the formula set out in condition 7A.3 for the Prior Year Weighted Average Charge, excluding any discounts offered by the Dominant Provider, and its references to individual service i shall be treated as references to charges for the specific product and/or service in the single charge category in question.

7A.5 In the case of each of the categories of products and/or services that form part of a Basket specified in conditions 7A.1(a) to 7A.1(e) respectively, the Dominant Provider shall also and, in any event, take all reasonable steps to secure that, at the end of each Relevant Year, the Percentage Change in discrete charges for each and every product and/or service falling

within the Basket in question is no more than the Controlling Percentage increased by [7.5] percentage points.

For the purposes of this condition 7A.5:

- (a) the Controlling Percentage is the Controlling Percentage (as determined in accordance with condition 7A.6) for the Basket within which the product and/or service falls to which the discrete charges relate; and
- (b) the Percentage Change shall be calculated by employing the formula set out in condition 7A.4 and its references to a single charge category shall be treated as references to charges for the specific product and/or service falling with the Basket in question.

7A.6 (a) Subject to conditions 7A.6(c) to 7A.6(e) below, the Controlling Percentage in relation to any Relevant Year for each of the categories of products and/or services specified in conditions 7A.1(a) to 7A.1(h) shall be calculated by employing the following formula:

$$CP_t = CPI_t + X_t$$

Where:

CP_t is the Controlling Percentage for Relevant Year t ,

CPI_t is CPI for the Relevant Year, t ,

X_t means:

- for the category of products and/or services specified in condition 7A.1(a):
 - i. in the First Relevant Year: [-4.4% to 0.8%] percentage points;
 - ii. in the Second Relevant Year: [-3.4% to -0.8%] percentage points;
 - iii. in the Third Relevant Year: [-4.2% to -2.8%] percentage points;
- for the category of products and/or services specified in condition 7A.1(b):
 - i. in the First Relevant Year: [-30.8% to -22.3%] percentage points;
 - ii. in the Second Relevant Year: [-17.8% to -12.9%] percentage points;
 - iii. in the Third Relevant Year: [-6.3% to -2.1%] percentage points;
- for the category of products and/or services specified in condition 7A.1(c):
 - i. in the First Relevant Year: [-30.7% to -22.5%] percentage points;

- ii. in the Second Relevant Year: [-17.7% to -13.1%] percentage points;
 - iii. in the Third Relevant Year: [-7% to -2.8%] percentage points;
- for the category of products and/or services specified in condition 7A.1(d):
 - i. in the First Relevant Year: [-57.9% to -53.1%] percentage points;
 - ii. in the Second Relevant Year: [-35.7% to -32.2%] percentage points;
 - iii. in the Third Relevant Year: [-7.7% to -3.5%] percentage points;
- for the category of products and/or services specified in condition 7A.1(e):
 - i. in the First Relevant Year: [27.8% to 65.5%] percentage points;
 - ii. in the Second Relevant Year: [11.7% to 27.2%] percentage points;
 - iii. in the Third Relevant Year: [-5.3% to -2.9%] percentage points;
- for the category of products and/or services specified in condition 7A.1(f):
 - i. in the Second Relevant Year: [-5.6% to -0.7%] percentage points;
 - ii. in the Third Relevant Year: [-3.6% to -0.5%] percentage points;
- for the category of products and/or services specified in condition 7A.1(g):
 - i. in the Second Relevant Year: [-15.5% to -10.7%] percentage points;
 - ii. in the Third Relevant Year: [-6.9% to -2.7%] percentage points; and
- for the category of products and/or services specified in condition 7A.1(h):
 - i. in the Second Relevant Year: [-19.9% to -15.2%] percentage points;
 - ii. in the Third Relevant Year: [-6.3% to -2.1%] percentage points.

For the avoidance of doubt, the MPF SML1 Rental, MPF Single Migration and MPF Bulk Migration charges are constrained by condition 7A.2 in the First Relevant Year.

- (b) For each of the categories of products and/or services specified in conditions 7A.1(a) to 7A.1(h), where the Percentage Change at the end of either the First Relevant Year or the Second Relevant Year is less than the Controlling Percentage (“**Deficiency**”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with condition 7A.6(d);
- (c) For each of the categories of products and/or services specified in conditions 7A.1(a) to 7A.1(h), where the Percentage Change at the end of either the First Relevant Year or

the Second Relevant Year is more than the Controlling Percentage (“**Excess**”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with condition 7A.6(d).

- (d) For each of the categories of products and/or services specified in condition 7A.1(a) to 7A.1(h), in the case of Deficiency or Excess, the Controlling Percentage will be calculated by employing the following formula:

$$CP_t = [(100\% + CPI_t + X_t)(100\% + CP_{t-1}) / (100\% + C_{t-1})] - 100\%$$

Where:

CP_t is the Controlling Percentage for the Second Relevant Year (in the case of Deficiency or Excess in the First Relevant Year) or for the Third Relevant Year (in the case of Deficiency or Excess in the Second Relevant Year);

CP_{t-1} is the Controlling Percentage for the First Relevant Year (in the case of Deficiency or Excess in the First Relevant Year) or for the Second Relevant Year (in the case of Deficiency or Excess in the Second Relevant Year);

C_{t-1} is the Percentage Change in the Charge for the category of products and/or services specified in condition 7A.1(a) to 7A.1(h) during the First Relevant Year (in the case of Deficiency or Excess in the First Relevant Year) or for the Second Relevant Year (in the case of Deficiency or Excess in the Second Relevant Year), calculated in accordance with the formula for C_t set out in condition 7A.3 or 7A.4, as applicable;

X_t is as set out in condition 7A.6(a); and

CPI_t is CPI for the Relevant Year, t.

- (e) For each of the categories of products and/or services specified in condition 7A.1(a) to 7A.1(h), where the Percentage Change in any Relevant Year is more than the Controlling Percentage, the Dominant Provider shall, to the extent reasonably possible, and as soon as reasonably practicable, repay the Relevant Excess Revenue to the relevant Affected Communications Provider.

7A.7 The Dominant Provider shall secure that during each Relevant Year:

- (a) the charge made by it for MPF Remove Jumper Order Singleton Charge is the same as the charge made by it for SMPF Remove Jumper Order Singleton Charge;
- (b) the charge made by it for MPF Remove Jumper Order Bulk Charge is the same as the charge made by it for SMPF Remove Jumper Order Bulk Charge; and
- (c) the charge made by it for MPF Amend is the same as the charge made by it for MPF Cancellation.

For the avoidance of doubt, nothing in this condition 7A.7 shall prevent the Dominant Provider from increasing and/or decreasing the charges made for each of the services at conditions 7A.7(a) to 7A.7(c) provided the requirements set out in this condition 7A.7 and condition 7A.1 are complied with.

7A.8 Where:

- (a) the Dominant Provider makes a material change (other than to a Charge) to any Charge Controlled Service for which a Charge is charged;
- (b) the Dominant Provider makes a change to the date on which its financial year ends; or
- (c) there is a material change in the basis of the Consumer Prices Index,

conditions 7A.1 to 7A.7 shall have effect subject to such reasonable adjustment to take account of the change as OFCOM may direct to be appropriate in the circumstances. For the purposes of this condition 7A.8, a material change to the Charge Controlled Service includes (but is not limited to) the introduction of a new product and/or service wholly or substantially in substitution for that existing Charge Controlled Service or a change as to the billing practice for the Charge Controlled Service.

7A.9 The Dominant Provider must record, maintain and supply to OFCOM in an electronic format, no later than three months after the end of each Relevant Year, the data necessary for OFCOM to monitor compliance of the Dominant Provider with this condition 7A. The data must include:

- (a) pursuant to conditions 7A.3 and 7A.4, as applicable, the calculated Percentage Change relating to each category of products and services listed in conditions 7A.1(a) through to 7A.1(h);
- (b) all relevant data the Dominant Provider used in the calculation of the Percentage Change as set out in conditions 7A.3 and 7A.4, including for each specific service and/or product in a Basket;
- (c) all charges, excluding any discounts, published by the Dominant Provider from time to time during the Relevant Year and the Prior Year, including the dates and time periods during which they were in force;
- (d) the Relevant Year Weighted Average Charges and the Prior Year Weighted Average Charges for all of the services for which conditions 7A.3 and 7A.4 apply and calculations thereof;
- (e) other data necessary for monitoring compliance with the charge control; and
- (f) such data as OFCOM may from time to time direct.

All relevant revenues in respect of a specific service in a Basket shall be provided to at least the nearest £1,000.

7A.10 Conditions 7A.1 to 7A.9 shall not apply to such extent as OFCOM may direct.

7A.11 The Dominant Provider shall comply with any direction OFCOM may make from time to time under this condition 7A.

7A.12 In this condition 7A:

- (a) “**Affected Communications Provider**” means each communications provider to whom the Dominant Provider has provided any of the services and/or products listed in conditions 7A.1(a) to 7A.1(h) during the Relevant Year;
- (b) “**Basket**” shall be construed in accordance with condition 7A.3;

- (c) **“Charge Controlled Service”** means a service or Basket of services listed in condition 7A.1(a) to 7A.1(h);
- (d) **“Co-Mingling New Provide and Rental Services”** means all of the products and/or services listed from time to time for the purpose of Part 5 of the Annex to this condition 7A;
- (e) **“Controlling Percentage”** is to be determined in accordance with condition 7A.6;
- (f) **“Deficiency”** shall be construed in accordance with condition 7A.6(b);
- (g) **“Excess”** shall be construed in accordance with condition 7A.6(c);
- (h) **“Excess Revenue”** means the difference between (a) the revenue which the Dominant Provider earned in the Relevant Year from providing the services and/or products listed in conditions 7A.1(a) to 7A.1(h) and (b) the revenue the Dominant Provider would have earned in the Relevant Year from providing the services and/or products listed in conditions 7A.1(a) to 7A.1(h) if it had complied with condition 7A.1;
- (i) **“Hard Cease Services”** means all of the products and/or services listed from time to time for the purpose of Part 2 of the Annex to this condition 7A;
- (j) **“Initial Charge”** means, for the purposes of calculating the Percentage Change in accordance with condition 7A.3, the charge by the Dominant Provider for the individual service, *i*, in the relevant Basket as set out in the column entitled ‘Initial Charge’ in the relevant Part of the Annex to this condition 7A;
- (k) **“MPF Amend”** shall be construed as having the same meaning as the service described in row 4 of the table in Part 4 of the Annex to this condition 7A;
- (l) **“MPF Bulk Migration”** shall be construed as having the same meaning as ‘MPF Mass Migration charge - Normal hours’ as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (m) **“MPF Cease”** shall be construed as having the same meaning as ‘MPF Cease charge’ as provided by the Dominant Provider on its website for definitions and explanations of its products;

- (n) **“MPF New Provide Services”** means all of the products and/or services listed from time to time for the purpose of Part 3 of the Annex to this condition 7A;
- (o) **“MPF Remove Jumper Order Bulk Charge”** shall be construed as having the same meaning as the service described in row 2 of the table in Part 2 of the Annex to condition 7A;
- (p) **“MPF Remove Jumper Order Singleton Charge”** shall be construed as having the same meaning as the service described in row 1 of the table in Part 2 of the Annex to condition 7A;
- (q) **“MPF Single Migration”** shall be construed as having the same meaning as “MPF Connection charge – Singleton migrations (Transfer from WLR/SMPF or Change of CP migrations)” as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (r) **“MPF Standard Line Test”** shall be construed as having the same meaning as the service described in row 5 of the table in Part 4 of the Annex to this condition 7A;
- (s) **“MPF Tie Pair Modification”** shall be construed as having the same meaning as the service described in row 1 of the table in Part 4 of the Annex to this condition 7A;
- (t) **“MPF Tie Pair Modification (Multiple Re-termination)”** shall be construed as having the same meaning as the service described in row 2 of the table in Part 4 of the Annex to this condition 7A;
- (u) **“Other MPF Ancillary Services”** means all of the products and/or services listed from time to time for the purpose of Part 4 of the Annex to this condition 7A;
- (v) **“Percentage Change”** has the meaning given to it in condition 7A.3 and 7A.4, as applicable;
- (w) **“Prior Year Weighted Average Charge”** is to be determined in accordance with the relevant formula in condition 7A.3;
- (x) **“Relevant Year Weighted Average Charge”** is to be determined in accordance with the relevant formula in condition 7A.3;

- (y) **"SMPF Cease"** shall be construed as having the same meaning as 'SMPF Cease charge' as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (z) **"SMPF Remove Jumper Order Bulk Charge"** shall be construed as having the same meaning as the service described in row 4 of the table in Part 2 of the Annex to this condition 7A;
- (aa) **"SMPF Remove Jumper Order Singleton Charge"** shall be construed as having the same meaning as the service described in row 3 of the table in Part 2 of the Annex to this condition 7A;
- (bb) **"Tie Cables"** means all of the products and/or services listed from time to time for the purpose of Part 1 of the Annex to this condition 7A; and
- (cc) **"Total Revenue"** means the total revenue from communications providers (including, for the avoidance of doubt, from the Dominant Provider to itself), in relation to the services and/or products subject to this condition 7A, excluding any discounts offered by the Dominant Provider.

Annex to Condition 7A

Products and/or services subject to charge control pursuant to conditions

7A.1(a), 7A.1(b), 7A.1(c), 7A.1(d) and 7A.1(e)

Part 1

Meaning of Tie Cables

For the purposes of condition 7A, the expression “**Tie Cables**” shall be construed as including only the following forty eight products and/or services, subject to such changes as OFCOM may direct from time to time following any proposal by the Dominant Provider to introduce a new product and/or service or to substitute one or more of these forty eight products and/or services for another (in which case this list shall be construed accordingly):

Item	[Initial Charge]
1. Handover Distribution Frame charge per 100 pair tie cable	£17.89
2. Handover Distribution Frame Extension to provide additional 1500 tie pair capacity for MCU1	£223.76
3. Additional Handover Distribution Frame to provide additional 4800 tie pair capacity for B-BUSS7	£1,688.20
4. Standalone Handover Distribution Frame (HDF) 9	£1,839.19
5. Standalone Handover Distribution Frame (HDF) 18	£1,210
6. Internal Tie Cable (2) Jointing Fixed Charge per External Tie Cable	£159.11
7. Internal 100 pair Tie Cable - HDF connected (1) for Co-Location and Co-Mingling – Connection	£150.75
8. Internal 100 pair Tie Cable - HDF connected (1) for Co-Location and Co-Mingling – Annual Rental	£18.43
9. Internal Tie Cable (2) – Connection	£140.32
10. Internal Tie Cable (2) – Annual Rental	£13.46
11. 20 CN Enhanced Specification LLU Internal Tie Cable (1) for Co-location and Co-mingling – Connection	£408.36

12.	20 CN Enhanced Specification LLU Internal Tie Cable (1) for Co-location and Co-mingling – Annual Rental	£77.31
13.	21CN-32 pair standard Internal Tie Cable-HDF connected – Connection	£244.91
14.	21CN-32 pair standard Internal Tie Cable-HDF connected – Annual Rental	£34.51
15.	21CN-64 pair standard Internal Tie Cable-HDF connected – Connection	£312.36
16.	21CN-64 pair standard Internal Tie Cable-HDF connected – Annual Rental	£43.99
17.	21CN-32 pair enhanced Internal Tie Cable-HDF connected – Connection	£144.72
18.	21CN-32 pair enhanced Internal Tie Cable-HDF connected – Annual Rental	£31.78
19.	21CN-64 pair enhanced Internal Tie Cable-HDF connected – Connection	£186.29
20.	21CN-64 pair enhanced Internal Tie Cable-HDF connected – Annual Rental	£41.09
21.	21CN-100 pair enhanced Internal Tie Cable-HDF connected – Connection	£229.97
22.	21CN-100 pair enhanced Internal Tie Cable-HDF connected – Annual Rental	£66.76
23.	LLU Internal Tie Cable Cease of 1-10 Cables (per Point of Presence)	£335.93
24.	LLU Internal Tie Cable Cease of 11-20 Cables (per Point of Presence)	£551.74
25.	LLU Internal Tie Cable Cease of 21-30 Cables (per Point of Presence)	£613.50
26.	LLU Internal Tie Cable Cease of 31-40 Cables (per Point of Presence)	£704.63

27.	LLU Internal Tie Cable Cease of 41-50 Cables (per Point of Presence)	£769.21
28.	BT Provided External 100 Pair cable @ 100 metres - Connection charge per cable	£886.67
29.	BT Provided External 100 Pair cable @ 100 metres - Connection charge per extra 100 pair	£279.70
30.	BT Provided External 100 Pair cable @ 100 metres – Connection charge per extra 100 metres	£138.43
31.	BT Provided External 100 Pair cable @ 100 metres - Rental per annum per cable	£95.22
32.	BT Provided External 100 Pair cable @ 100 metres - Rental per annum per extra 100 pairs	£92.57
33.	BT Provided External 100 Pair cable @ 100 metres - Rental per annum per extra 100m	£78.51
34.	BT Provided external 500 Pair cable @ 100 metres - Connection charge per cable	£1,450.31
35.	BT Provided external 500 Pair cable @ 100 metres – Connection charge per cable per extra 100m	£138.43
36.	BT Provided external 500 Pair cable @ 100 metres - Connection charge per cable per extra 100 pairs	£279.70
37.	BT Provided external -500 Pair cable @ 100 metres - Rental per annum per cable	£152.76
38.	BT Provided external -500 Pair cable @ 100 metres - Rental per annum per extra 100m	£146.35
39.	BT Provided external 500 Pair cable @ 100 metres - Rental per annum per extra 100 pairs	£98.77
40.	Hand-over Distribution Frame option per 100 pair Frame capacity	£110.46
41.	Communications Provider provided External Tie Cable Pull Through – 100 Pair cable @ 100 metres - Connection charge per cable	£785.86

42.	Communications Provider provided External Tie Cable Pull Through – 100 Pair cable @ 100 metres - Connection charge per extra 100 pairs	£269.05
43.	Communications Provider provided External Tie Cable Pull Through – 100 Pair cable @ 100 metres - Rental fixed per annum per cable	£22.31
44.	Communications Provider provided External Tie Cable Pull Through – 100 Pair cable @ 100 metres - Rental fixed per annum per extra 100 pairs	£14.26
45.	Communications Provider Provided External Tie Cable Pull Through – 500 Pair cable @ 100 metres - Connection charge per cable	£1,117.37
46.	Communications Provider provided External Tie Cable Pull Through – 500 Pair cable @ 100 metres - Connection charge per extra 100 pairs	£269.05
47.	Communications Provider Provided External Tie Cable Pull Through – 500 Pair cable @ 100 metres - Rental fixed per annum per cable	£30.93
48.	Communications Provider provided External Tie Cable Pull Through – 500 Pair cable @ 100 metres - Rental fixed per annum per extra 100 pairs	£14.26

Part 2

Meaning of Hard Cease Services

For the purposes of condition 7A, the expression “**Hard Cease Services**” shall be construed as including only the following four products and/or services, subject to such changes as OFCOM may direct from time to time following any proposal by the Dominant Provider to introduce a new product and/or service or to substitute one or more of these four products and/or services for another (in which case this list shall be construed accordingly):

	Item	[Initial Charge]
1.	MPF MDF Remove Jumper Order Singleton Charge	£25.08
2.	MPF MDF Remove Jumper Order Bulk Charge	£14.07
3.	SMPF MDF Remove Jumper Order Singleton Charge	£25.08
4.	SMPF MDF Remove Jumper Order Bulk Charge	£14.07

Part 3

Meaning of MPF New Provide Services

For the purposes of condition 7A, the expression “**MPF New Provide Services**” shall be construed as including only the following five products and/or services, subject to such changes as OFCOM may direct from time to time following any proposal by the Dominant Provider to introduce a new product and/or service or to substitute one or more of these five products and/or services for another (in which case this list shall be construed accordingly):

Item		[Initial Charge]
1.	MPF Working Line Takeover (WLTO)	£34.71
2.	MPF Connection Charge Stopped Line Provide	£34.71
3.	MPF Working Line Takeover (WLTO) Re-using existing LIJ	£12.73
4.	MPF Connection Charge Stopped Line Provide Re-using existing LIJ	£12.73
5.	MPF Connection charge – New Provide Standard	£44.42

Part 4

Meaning of Other MPF Ancillary Services

For the purposes of condition 7A, the expression “**Other MPF Ancillary Services**” shall be construed as including only the following five products and/or services, subject to such changes as OFCOM may direct from time to time following any proposal by the Dominant Provider to introduce a new product and/or service or to substitute one or more of these five products and/or services for another (in which case this list shall be construed accordingly):

Item	[Initial Charge]
1. MPF Tie Pair Modification (3 working day lead time Re-termination)	£34.40
2. MPF Tie Pair Modification (Multiple Re-termination)	£25.87
3. Cancellation of MPF orders for Provide, Migration, Working Line Takeover, Modification or Amend	£10.28
4. Amend orders. Allowable change to MPF Order	£10.28
5. MPF Standard line test	£3.93

Part 5

Meaning of Co-Mingling New Provide and Rental Services

For the purposes of condition 7A, the expression “**Co-Mingling New Provide and Rental Services**” shall be construed as including only the following thirty three products and/or services, subject to any such changes as OFCOM may direct from time to time following any proposal by the Dominant Provider to introduce a new product and/or service or to substitute one or more of these thirty three products and/or services for another (in which case this list shall be construed accordingly):

Item	[Initial Charge]
1. Distant location full survey	£1,208.37
2. Missed joint survey or testing appointment	£22.36
3. Co-location order rejection - no space available	£281.94
4. Co-location full survey	£6,225.30
5. Site visit charge to be allocated to all orders not in conjunction with the installation of a base product	£353.55
6. Co-Mingling order rejection - no space or insufficient space available	£577.33
7. APO Cancellation Charge	£374.44
8. Co-Mingling set up fee (per sq metre)	£298.95
9. Comingling Shared Point of Presence Administration Fee	£283.43
10. Cooling per kw	£1,921.47
11. FCP (Powerbase) AC only base unit 600mm (w) x 600mm (d) to include lighting and cable management	£2,342.77
12. FCP (Powerbase) AC only base unit 800mm (w) x 600mm (d) to include lighting and cable management	£2,764.12
13. FCP (Powerbase) AC only base unit 600mm (w) x 800mm (d) to include lighting and cable management	£2,534.61
14. FCP (Powerbase) AC only base unit 800mm (w) x 800mm (d) to include lighting and cable management	£3,028.38
15. HDF sub rack (per sub rack 3x 100 pair capacity)	£33.64

16.	HDF cabinet 800mm (w) x 600mm (d) for FCP	£1,168.24
17.	HDF cabinet 800mm (w) x 800mm (d) for FCP	£1,413.91
18.	Rack Space Unit (RSU) for FCP to include lighting and cable management	£477.53
19.	MCB customisation at initial build for FCP	£33.00
20.	Cabinet doors per pair for FCP only (where provided as an upgrade will be subject to a Site Visit charge)	£385.77
21.	BT's Normal Working Hours, planned (hourly charge)	£53.69
22.	BT's Normal Working Hours, unplanned (hourly charge)	£80.55
23.	BASIS (BT Assisted Site Delivery Service) fixed charge	£431.12
24.	Site Access	£313.29
25.	Handover	£260.76
26.	Provision of sub meter	£730.94
27.	Survey for capacity upgrade	£431.20
28.	AC Final Distribution Rental per 10kw increment per annum (Charges will appear in billed units of decawatts (10W))	£432.60
29.	Security rental per sq. metre per annum	£28.32
30.	Service Charge per square metre per annum	£70
31.	Security partitioning per site – annual rental charge	£143.04
32.	Rental of existing capacity per kW per annum (Charges will appear in billed units of decawatts (10W))	£201.48
33.	MDF Licence Fee per Internal Tie Cable per annum	£28.14

Condition 7B – VULA charge control

7B.1 The Dominant Provider shall take all reasonable steps to secure that, at the end of each Relevant Year, the Percentage Change (determined in accordance with condition 7B.3) in:

- (a) the charge for FTTC 40/10 Rental, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7B.2(a) applies;
- (b) the charge for FTTC 40/10 PCP Only Install Connection, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7B.2(b) applies;
- (c) the charge for FTTC 40/10 Start of Stopped Line Connection, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7B.2(c) applies;
- (d) the charge for VULA Migration, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7B.2(d) applies;
- (e) the charge for VULA 40/10 Bandwidth Change, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7B.2(e) applies;

is not more than the Controlling Percentage (as determined in accordance with condition 7B.4).

7B.2 The Dominant Provider shall not charge more than:

- (a) for FTTC 40/10 Rental, the amount of £[54.5 to £78.1] in the First Relevant Year;
- (b) for FTTC 40/10 PCP Only Install Connection, the amount of £[42.4 to £44.7] in the First Relevant Year;
- (c) for FTTC 40/10 Start of Stopped Line Connection, the amount of £[6.4 to £6.6] in the First Relevant Year;
- (d) for VULA Migration, the amount of £[4.4 to £4.6] in the First Relevant Year;

- (e) for VULA 40/10 Bandwidth Change, the amount of £[7.9 to £8.2] in the First Relevant Year;
- (f) for FTTP 40/10 Voice and Data Connection, the amount of £[117] in each Relevant Year;
- (g) for FTTP 40/10 Transition Connection, the amount of £[92] in each Relevant Year;
- (h) for 1 Gbit Cablelink, the amount of £[2,000] in each Relevant Year;
- (i) for 10 Gbit Cablelink, the amount of £[10,000] in each Relevant Year;
- (j) for VLAN Move, the amount of £[15] in each Relevant Year;
- (k) for Fibre Broadband Boost, the amount of £[159] in each Relevant Year;
- (l) for Superfast Visit Assure, the amount of £[130] in each Relevant Year; and
- (m) for VULA Cease, the amount of £[0] in each Relevant Year.

7B.3 The Percentage Change for the purposes of each of the services specified (each of which is referred to in this condition as a “single charge category”) in condition 7B.1 shall be calculated, for the purposes of complying with condition 7B.1, by employing the following formula:

$$C_t = \frac{(\bar{p}_t - \bar{p}_{t-1})}{\bar{p}_{t-1}}$$

Where:

C_t is the Percentage Change in charges for the specific service in the single charge category in question for the Relevant Year t ;

t is the Relevant Year;

$t-1$ is the Prior Year;

\bar{p}_t is the Relevant Year Weighted Average Charge made by the Dominant Provider for the specific service in the single charge category in question for the Relevant Year t , excluding any discounts offered by the Dominant Provider:

Where such Relevant Year Weighted Average Charge shall be calculated by employing the following formula:

$$\bar{p}_t = \sum_{j=1}^m (w_{j,t} p_{j,t})$$

Where:

m is the number of time periods for which there are distinct charges during the Relevant Year;

j is a number from 1 to m for each of the m time periods during which a distinct charge is in effect;

$w_{j,t}$ is the proportion of the Relevant Year in which each charge, $p_{j,t}$ is in effect, calculated by the number of days during which the charge is in effect and dividing:

- 1) for the First Relevant Year, by 365;
- 2) for the Second Relevant Year, by 366; and
- 3) for the Third Relevant Year, by 365.

$p_{j,t}$ is the charge for the specified period, j , during the Relevant Year t for the specific service in the single charge category in question;

\bar{p}_{t-1} is, for the purposes of calculating the Percentage Change for the Second Relevant Year and the Third Relevant Year, \bar{p}_{t-1} is the Prior Year Weighted Average Charge made by the Dominant Provider for the specific service in the single charge category in question during the Prior Year, excluding any discounts offered by the Dominant Provider;

Where such Prior Year Weighted Average Charge shall be calculated by employing the following formula:

$$\bar{p}_{t-1} = \sum_{j=1}^m (w_{j,t-1} p_{j,t-1})$$

Where:

m is the number of time periods for which there are distinct charges during the Prior Year;

j is a number from 1 to m for each of the m time periods during which a distinct charge is in effect;

$w_{j,t-1}$ is the proportion of the Prior Year in which each charge, $p_{j,t-1}$, is in effect, calculated by the number of days during which the charge is in effect and dividing:

- 1) for the First Relevant Year, by 365;
- 2) for the Second Relevant Year, by 365;
- 3) for the Third Relevant Year, by 366;

$p_{j,t-1}$ is the charge for the individual period, j , during the Prior Year, $t-1$, for the specific service in the single charge category in question.

7B.4 (a) Subject to conditions 7B.4(b) to 7B.4(e) below, the Controlling Percentage in relation to any Relevant Year for each of the services specified in conditions 7B.1(a) to 7B.1(e) shall be calculated by employing the following formula:

$$CP_t = CPI_t + X_t$$

Where:

CP_t is the Controlling Percentage for Relevant Year t ,

CPI_t is CPI for the Relevant Year, t ,

X_t means:

- for the service specified in condition 7B.1(a):
 - (1) for the Second Relevant Year: [-24.1% to -8.7%] percentage points;
 - (2) for the Third Relevant Year: [-11.0% to -6.1%] percentage points;
- for the service specified in condition 7B.1(b):
 - (1) for the Second Relevant Year: [-9.5% to -6.9%] percentage points;

(2) for the Third Relevant Year: [0.4% to 2.2%] percentage points;

- for the service specified in condition 7B.1(c):
 - (1) for the Second Relevant Year: [-58.2% to -57.5%] percentage points;
 - (2) for the Third Relevant Year: [0.5% to 1.7%] percentage points;
- for the service specified in condition 7B.1(d):
 - (1) for the Second Relevant Year: [-39.0% to -38.0%] percentage points;
 - (2) for the Third Relevant Year: [0.5% to 1.7%] percentage points.
- for the service specified in condition 7B.1(e):
 - (1) for the Second Relevant Year: [-18.8% to -17.1%] percentage points;
 - (2) for the Third Relevant Year: [-3.3% to -2.3%] percentage points;

For the avoidance of doubt, the FTTC 40/10 Rental, FTTC 40/10 PCP Only Install Connection, FTTC 40/10 Start of Stopped Line Connection, VULA Migration and VULA 40/10 Bandwidth Change charges are constrained by condition 7B.2 in the First Relevant Year.

- (b) For each of the services specified in conditions 7B.1(a) to 7B.1(e), where the Percentage Change at the end of either the First Relevant Year or the Second Relevant Year is less than the Controlling Percentage (“**Deficiency**”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with condition 7B.7(d).
- (c) For each of the services specified in conditions 7B.1(a) to 7B.1(e), where the Percentage Change at the end of either the First Relevant Year or the Second Relevant Year is more than the Controlling Percentage (“**Excess**”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with condition 7B.7(d).
- (d) For each of the services specified in condition 7B.1(a) to 7B.1(e), in the case of Deficiency or Excess, the Controlling Percentage will be calculated by employing the following formula:

$$CP_t = [(100\% + CPI + X_t)(100\% + CP_{t-1}) / (100\% + C_{t-1})] - 100\%$$

Where:

CP_t is the Controlling Percentage for the Second Relevant Year (in the case of Deficiency or Excess in the First Relevant Year) or for the Third Relevant Year (in the case of Deficiency or Excess in the Second Relevant Year);

CP_{t-1} is the Controlling Percentage for the First Relevant Year (in the case of Deficiency or Excess in the First Relevant Year) or for the Second Relevant Year (in the case of Deficiency or Excess in the Second Relevant Year).

C_{t-1} is the Percentage Change in the Charge for the services specified in condition 7B.1(a) to 7B.1(e) during the First Relevant Year (in the case of Deficiency or Excess in the First Relevant Year) or for the Second Relevant Year (in the case of Deficiency or Excess in the Second Relevant Year), calculated in accordance with the formula for C_t set out in condition 7B.3;

X_t is as set out in condition 7B.4(a); and

CPI has the meaning ascribed to it in Part 2 of the Schedule to this Notification.

- (e) For each of the services specified in condition 7B.1(a) to 7B.1(e), where the Percentage Change in any Relevant Year is more than the Controlling Percentage, the Dominant Provider shall, to the extent reasonably possible, and as soon as reasonably practicable, repay the Relevant Excess Revenue to the relevant Affected Communications Provider.

7B.5 The Dominant Provider shall secure that during each Relevant Year:

(a) the charge made by it for FTTP 40/10 Voice and Data Rental is the same as the charge made by it for the sum of FTTC 40/10 Rental and MPF SML1 Rental;
and

(b) the charge made by it for FTTP 40/10 Transition Rental is the same as the charge made by it for FTTC 40/10 Rental.

7B.6 Where:

- (a) the Dominant Provider makes a material change (other than to a Charge) to any Charge Controlled Service for which a Charge is charged;
- (b) the Dominant Provider makes a change to the date on which its financial year ends; or
- (c) there is a material change in the basis of the Consumer Prices Index,

conditions 7B.1 to 7B.5 shall have effect subject to such reasonable adjustment to take account of the change as OFCOM may direct to be appropriate in the circumstances. For the purposes of this condition 7B.6, a material change to the Charge Controlled Service includes (but is not limited to) the introduction of a new product and/or service wholly or substantially in substitution for that existing Charge Controlled Service or a change as to the billing practice for the Charge Controlled Service.

7B.7 The Dominant Provider must record, maintain and supply to OFCOM in an electronic format, no later than three months after the end of each Relevant Year, the data necessary for OFCOM to monitor compliance of the Dominant Provider with this condition 7B. The data must include:

- (a) pursuant to condition 7B.3, the calculated Percentage Change relating to each service listed in conditions 7B.1(a) through to 7B.1(e);
- (b) all relevant data the Dominant Provider used in the calculation of the Percentage Change as set out in condition 7B.3, including for each specific service;
- (c) all charges, excluding any discounts, published by the Dominant Provider from time to time during the Relevant Year and the Prior Year, including the dates and time periods during which they were in force;
- (d) the Relevant Year Weighted Average Charges and the Prior Year Weighted Average Charges for all of the services for which condition 7B.3 applies and calculations thereof;
- (e) other data necessary for monitoring compliance with the charge control; and
- (f) such data as OFCOM may from time to time direct.

7B.8 Conditions 7B.1 to 7B.7 shall not apply to such extent as OFCOM may direct.

7B.9 The Dominant Provider shall comply with any direction OFCOM may make from time to time under this condition 7B.

7B.10 In this condition 7B:

- (a) **“1Gbit Cablelink”** shall be construed as having the same meaning as ‘1 Gigabit GEA Cablelink (provides access to the Fibre-enabled customer base)’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC and GEA – FTTP products;
- (b) **“10Gbit Cablelink”** shall be construed as having the same meaning as ‘10 Gigabit GEA Cablelink (provides access to the Fibre-enabled customer base)’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC and GEA – FTTP products;
- (c) **“Affected Communications Provider”** means each communications provider to whom the Dominant Provider has provided any of the services and/or products listed in conditions 7B.1(a) to 7B.1(e) during the Relevant Year;
- (d) **“Charge Controlled Service”** means: a service and/or product listed in condition 7B.1(a) to 7B.1(e);
- (e) **“Controlling Percentage”** is to be determined in accordance with condition 7B.4;
- (f) **“Excess Revenue”** means the difference between (a) the revenue which the Dominant Provider earned in the Relevant Year from providing the services and/or products listed in conditions 7B.1(a) to 7B.1(e), and (b) the revenue the Dominant Provider would have earned in the Relevant Year from providing the services and/or products listed in conditions 7B.1(a) to 7B.1(e) if it had complied with condition 7B.1;
- (g) **“Fibre Broadband Boost”** [shall be construed as having the same meaning as [‘Broadband Boost’] as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC and GEA – FTTP products];

- (h) **“FTTC 40/10 Rental”** shall be construed as having the same meaning as ‘Up to 40Mbit/s downstream and up to 10Mbit/s upstream (including Simultaneous Provide)’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC products;
- (i) **“FTTC 40/10 PCP Only Install Connection”** shall be construed as having the same meaning as ‘PCP Only Install’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC products where the connection is to allow the Third Party to access a bandwidth of up to 40Mbit/s downstream and up to 10Mbit/s downstream;
- (j) **“FTTC 40/10 Start of Stopped Line Connection”** shall be construed as having the same meaning as ‘Start of Stopped Line’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC products where the connection is to allow the Third Party to access a bandwidth of up to 40Mbit/s downstream and up to 10Mbit/s downstream;
- (k) **“FTTP 40/10 Transition Connection”** shall be construed as having the same meaning as the connection charge for ‘Up to 40Mbit/s / 10Mbit/s "Transition product" (including Simultaneous Provide)’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTP products;
- (l) **“FTTP 40/10 Transition Rental”** shall be construed as having the same meaning as the annual rental charge for ‘Up to 40Mbit/s / 10Mbit/s "Transition product" (including Simultaneous Provide)’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTP products;
- (m) **“FTTP 40/10 Voice and Data Connection”** shall be construed as having the same meaning as the connection charge for ‘Fibre Voice Access Combination with Generic Ethernet Access up to 40Mbit/s/10Mbit/s’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTP products;
- (n) **“FTTP 40/10 Voice and Data Rental”** shall be construed as having the same meaning as the annual rental charge for ‘Fibre Voice Access Combination with Generic Ethernet Access up to 40Mbit/s/10Mbit/s’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTP products;

- (o) **“Percentage Change”** has the meaning given to it in condition 7B.3;
- (p) **“Prior Year Weighted Average Charge”** is to be determined in accordance with the relevant formula in condition 7B.3;
- (q) **“Relevant Year Weighted Average Charge”** is to be determined in accordance with the relevant formula in condition 7B.3;
- (r) **“Superfast Visit Assure”** shall be construed as having the same meaning as ‘Visit Assure – Visit to customer premises’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC and GEA – FTTP products;
- (s) **“VLAN Move”** shall be construed as having the same meaning as ‘VLAN moves applied to GEA Cablelink Modify transactions’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC and GEA – FTTP products;
- (t) **“VULA 40/10 Bandwidth Change”** shall be construed as having the same meaning as:
 - i. in the case of GEA – FTTC, ‘Bandwidth Modify Charge’;
 - ii. in the case of GEA – FTTP, ‘Charge to change the product bandwidth between any of the products’,where the bandwidth change is to allow the Third Party to access a bandwidth of up to 40Mbit/s downstream and up to 10Mbit/s downstream;
- (u) **“VULA Cease”** shall be construed as having the same meaning as ‘Service cessation (any product variant)’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC and GEA – FTTP products; and
- (v) **“VULA Migration”** means the transfer of control of a Virtual Unbundled Local Access service between Third Parties purchasing Virtual Unbundled Local Access from the Dominant Provider.

Condition 7C – Charge controls and related provisions relevant to both LLU and VULA

7C.1 The Dominant Provider shall take all reasonable steps to secure that, at the end of each Relevant Year, the Percentage Change (determined in accordance with condition 7C.3) in:

- (a) the charge for a Standard Chargeable Visit when that service is provided by the Dominant Provider within the hours of 8am to 5pm on a Working Day, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(a)(i) applies;
- (b) the charge for a Standard Chargeable Visit when that service is provided by the Dominant Provider on a Non-Working Day, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(a)(ii) applies;
- (c) the charge for a Standard Chargeable Visit when that service is provided by the Dominant Provider on a Saturday or outside the hours of 8am to 5pm on a Working Day, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(a)(iii) applies;
- (d) the charge for an Additional Hour when that service is provided by the Dominant Provider within the hours of 8am to 5pm on a Working Day, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(b)(i) applies;
- (e) the charge for an Additional Hour when that service is provided by the Dominant Provider on a Non-Working Day, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(b)(ii) applies;
- (f) the charge for an Additional Hour when that service is provided by the Dominant Provider on a Saturday or outside the hours of 8am to 5pm on a Working Day, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(b)(iii) applies;

- (g) the charge for Supplementary Charges (Per Visit), when that service is provided by the Dominant Provider on a Non-Working Day, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(c)(i) applies;
- (h) the charge for Supplementary Charges (Per Visit), when that service is provided by the Dominant Provider on a Saturday or outside the hours of 8am to 5pm on a Working Day, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(c)(ii) applies;
- (i) the charge for Supplementary Charges (Per Hour), when that service is provided by the Dominant Provider on a Non-Working Day, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(d)(i) applies;
- (j) the charge for Supplementary Charges (Per Hour), when that service is provided by the Dominant Provider on a Saturday or outside the hours of 8am to 5pm on a Working Day, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(d)(ii) applies;
- (k) the charge for Internal and External Shifts, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(e) applies; and
- (l) the charge for Additional Line Shifted, except for the First Relevant Year in relation to which the charge ceiling specified in condition 7C.2(f) applies,

is not more than the Controlling Percentage (as determined in accordance with condition 7C.4).

7C.2

The Dominant Provider shall not charge more than:

- (a) for a Standard Chargeable Visit, in the First Relevant Year, the amount of;
 - (i) £[82.6 to £87.5] when that service is provided within the hours of 8am to 5pm on a Working Day;

- (ii) £[119.8 to £126.9] when that service is provided on a Non-Working Day;
and
 - (iii) £[101.2 to £107.2] when that service is provided on a Saturday or outside the hours of 8am to 5pm on a Working Day;
- (b) for an Additional Hour, in the First Relevant Year, the amount of:
 - (i) £[37.2 to £39.4] per hour when that service is provided within the hours of 8am to 5pm on a Working Day;
 - (ii) £[74.4 to £78.9] per hour when that service is provided on a Non-Working Day; and
 - (iii) £[55.8 to £59.1] per hour when that service is provided on a Saturday or outside the hours of 8am to 5pm on a Working Day;
- (c) for Supplementary Charges (Per Visit), in the First Relevant Year, the amount of:
 - (i) £[45.4 to £48.1] when that service is provided on a Non-Working Day; and
 - (ii) £[22.7 to £24.0] when that service is provided on a Saturday or outside the hours of 8am to 5pm on a Working Day;
- (d) for Supplementary Charges (Per Hour), in the First Relevant Year, the amount of:
 - (i) £[45.4 to £48.1] per hour when that service is provided on a Non-Working Day; and
 - (ii) £[22.7 to £24.0] per hour when that service is provided on a Saturday or outside the hours of 8am to 5pm on a Working Day;
- (e) for Internal and External Shifts, the amount of £[90.7 to £96.2] in the First Relevant Year; and

(f) for Additional Line Shifted, the amount of £[45.4 to 48.1] in the First Relevant Year.

7C.3 The Percentage Change for the purposes of each of the services specified (each of which is referred to in this condition as a “single charge category”) in conditions 7C.1(a) to 7C.1(l) shall be calculated, for the purposes of complying with condition 7C.1, by employing the following formula:

$$C_t = \frac{(\bar{p}_t - \bar{p}_{t-1})}{\bar{p}_{t-1}}$$

Where:

C_t is the Percentage Change in charges for the specific service in the single charge category in question for the Relevant Year t ;

t is the Relevant Year;

$t-1$ is the Prior Year;

\bar{p}_t is the Relevant Year Weighted Average Charge made by the Dominant Provider for the specific service in the single charge category in question for the Relevant Year t , excluding any discounts offered by the Dominant Provider:

Where such Relevant Year Weighted Average Charge shall be calculated by employing the following formula:

$$\bar{p}_t = \sum_{j=1}^m (w_{j,t} p_{j,t})$$

Where:

m is the number of time periods for which there are distinct charges during the Relevant Year;

j is a number from 1 to m for each of the m time periods during which a distinct charge is in effect;

$w_{j,t}$ is the proportion of the Relevant Year in which each charge, $p_{j,t}$ is in effect, calculated by the number of days during which the charge is in effect and dividing:

(1) for the First Relevant Year, by 365;

(2) for the Second Relevant Year, by 366; and

(3) for the Third Relevant Year, by 365.

$p_{j,t}$ is the charge for the specified period, j , during the Relevant Year t for the specific service in the single charge category in question;

\bar{p}_{t-1} is, for the purposes of calculating the Percentage Change for the Second Relevant Year and the Third Relevant Year, \bar{p}_{t-1} is the Prior Year Weighted Average Charge made by the Dominant Provider for the specific service in the single charge category in question during the Prior Year, excluding any discounts offered by the Dominant Provider;

Where such Prior Year Weighted Average Charge shall be calculated by employing the following formula:

$$\bar{p}_{t-1} = \sum_{j=1}^m (w_{j,t-1} p_{j,t-1})$$

Where:

m is the number of time periods for which there are distinct charges during the Prior Year;

j is a number from 1 to m for each of the m time periods during which a distinct charge is in effect;

$w_{j,t-1}$ is the proportion of the Prior Year in which each charge, $p_{j,t-1}$, is in effect, calculated by the number of days during which the charge is in effect and dividing:

1) for the First Relevant Year, by 365;

2) for the Second Relevant Year, by 365;

3) for the Third Relevant Year, by 366;

$p_{j,t-1}$ is the charge for the individual period, j , during the Prior Year, $t-1$, for the specific service in the single charge category in question.

- 7C.4** (a) Subject to conditions 7C.4(b) to 7C.4(e) below, the Controlling Percentage in relation to any Relevant Year for each of the services specified in conditions 7C.1(a) to 7C.1(l) shall be calculated by employing the following formula:

$$CP_t = CPI_t + X_t$$

CP_t is the Controlling Percentage for Relevant Year t ;

CPI_t is CPI for the Relevant Year, t ;

X_t means:

- for the service specified in condition 7C.1(a):
 - (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points;
- for the service specified in condition 7C.1(b):
 - (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points;
- for the service specified in condition 7C.1(c):
 - (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points;
- for the service specified in condition 7C.1(d):
 - (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points;
- for the service specified in condition 7C.1(e):

- (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points;
- for the service specified in condition 7C.1(f):
 - (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points;
- for the service specified in condition 7C.1(g):
 - (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points;
- for the service specified in condition 7C.1(h):
 - (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points;
- for the service specified in condition 7C.1(i):
 - (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points;
- for the service specified in condition 7C.1(j):
 - (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points;
- for the service specified in condition 7C.1(k):
 - (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
 - (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points; and
- for the service specified in condition 7C.1(l):

- (1) for the Second Relevant Year: [-9.9% to -6.8%] percentage points;
- (2) for the Third Relevant Year: [-2.1% to -0.3%] percentage points.

For the avoidance of doubt, the charges for each of the services set out in conditions 7C.1(a) to 7C.1(l) are constrained by condition 7C.2 in the First Relevant Year.

- (b) For each of the services specified in conditions 7C.1(a) to 7C.1(l), where the Percentage Change at the end of either the First Relevant Year or the Second Relevant Year is less than the Controlling Percentage (“**Deficiency**”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with condition 7C.4(d).
- (c) For each of the services specified in conditions 7C.1(a) to 7C.1(l), where the Percentage Change at the end of either the First Relevant Year or the Second Relevant Year is more than the Controlling Percentage (“**Excess**”), then the Controlling Percentage for the following Relevant Year shall be determined in accordance with condition 7C.4(d).
- (d) For each of the services specified in conditions 7C.1(a) to 7C.1(l), in the case of Deficiency or Excess, the Controlling Percentage will be calculated by employing the following formula:

$$CP_t = [(100\% + CPI + X_t)(100\% + CP_{t-1}) / (100\% + C_{t-1})] - 100\%$$

Where:

CP_t is the Controlling Percentage for the Second Relevant Year (in the case of Deficiency or Excess in the First Relevant Year) or for the Third Relevant Year (in the case of Deficiency or Excess in the Second Relevant Year);

CP_{t-1} is the Controlling Percentage for the First Relevant Year (in the case of Deficiency or Excess in the First Relevant Year) or for the Second Relevant Year (in the case of Deficiency or Excess in the Second Relevant Year);

C_{t-1} is the Percentage Change in the Charge for the services specified in condition 7C.1(a) to 7C.1(l) during the First Relevant Year (in the case of Deficiency or Excess in the First Relevant Year) or for the Second Relevant Year (in the case of Deficiency or Excess in the Second Relevant Year), calculated in accordance with the formula for C_t set out in condition 7C.3;

CPI has the meaning ascribed to it in Part 2 of the Schedule to this Notification;

X_t is as set out in condition 7C.4(a).

- (e) For each of the services specified in conditions 7C.1(a) to 7C.1(l), where the Percentage Change in any Relevant Year is more than the Controlling Percentage, the Dominant Provider shall, to the extent reasonable possible, and as soon as reasonably practicable, repay the Relevant Excess Revenue to the relevant Affected Communications Provider.

7C.5 The Dominant Provider shall secure that during each Relevant Year:

- (a) the charge made by it for VULA Cancel/Amend/Modify - CRD is the same as the charge made by it for MPF Cancellation;
- (b) the charge made by it for VULA Cancel/Amend/Modify - Regrading is the same as the charge made by it for MPF Cancellation;

For the avoidance of doubt, nothing in this condition 7C.5 shall prevent the Dominant Provider from increasing and/or decreasing the charges made for each of the services at conditions 7C.5(a) to 7C.5(b) provided the requirements set out in this condition 7C.5 and condition 7C.1 are complied with.

7C.6

- a) The Dominant Provider shall take all reasonable steps to secure that the charge for each Special Fault Investigation Service in each Relevant Year does not exceed the amount calculated in accordance with the following formula:

Engineer Time x Hourly Charge

Where:

Engineer Time means in relation to a Special Fault Investigation Service:

- i. the amount of time determined by the Dominant Provider as at [1 April 2018] as being required by an engineer in order to complete the corresponding Special Fault Investigation Service; or
- ii. such other amount of time as OFCOM may from time to time direct.

Hourly Charge means:

- i. in the First Relevant Year, no more than the amount set out in condition 7C.2(d)(i);
 - ii. in the Second Relevant Year, no more than the Controlling Percentage as determined in accordance with condition 7C.4 for the service specified in condition 7C.1(i); and
 - iii. in the Third Relevant Year, no more than the Controlling Percentage as determined in accordance with condition 7C.4 for the service specified in condition 7C.1(i).
- b) The Dominant Provider shall take all reasonable steps to secure that the charge for each Special Fault Investigation – Base Module and Special Fault Investigation – Frame Direct Module in each Relevant Year does not exceed the amount calculated in accordance with the following formula:

$$(Engineer\ Time \times Hourly\ Charge) + Visit\ Charge$$

Where:

Engineer Time means in relation to a Special Fault Investigation – Base Module or Special Fault Investigation – Frame Direct Module (as applicable):

- i. the amount of time determined by the Dominant Provider as at [1 April 2018] as being required by an engineer in order to complete the corresponding Special Fault Investigation – Base Module or Special Fault Investigation – Frame Direct Module; or
- ii. such other amount of time as OFCOM may from time to time direct.

Hourly Charge means:

- i. in the First Relevant Year, no more than the amount set out in condition 7C.2(d)(i);
- ii. in the Second Relevant Year, no more than the Controlling Percentage as determined in accordance with condition 7C.4 for the service specified in condition 7C.1(i); and
- iii. in the Third Relevant Year, no more than the Controlling Percentage as determined in accordance with condition 7C.4 for the service specified in condition 7C.1(i).

Visit Charge means:

- i. in the First Relevant Year, no more than the amount set out in condition 7C.2(c)(i);
- ii. in the Second Relevant Year, no more than the Controlling Percentage as determined in accordance with condition 7C.4 for the service specified in condition 7C.1(g); and
- iii. in the Third Relevant Year, no more than the Controlling Percentage as determined in accordance with condition 7C.4 for the service specified in condition 7C.1(g).

- c) The amount of time determined by the Dominant Provider under conditions 7C.6(a) and 7C.6(b) as being required by an engineer in order to complete the corresponding Special Fault Investigation Service, Special Fault Investigation – Base Module or Special Fault Investigation – Frame Direct Module (as the case may be) must be fair and reasonable.

7C.7

Where:

- (a) the Dominant Provider makes a material change (other than to a Charge) to any Charge Controlled Service for which a Charge is charged;
- (b) the Dominant Provider makes a change to the date on which its financial year ends; or
- (c) there is a material change in the basis of the Consumer Prices Index,

conditions 7C.1 to 7C.6 shall have effect subject to such reasonable adjustment to take account of the change as OFCOM may direct to be appropriate in the circumstances. For the purposes of this condition 7C.7, a material change to the Charge Controlled Service includes (but is not limited to) the introduction of a new product and/or service wholly or substantially in substitution for that existing Charge Controlled Service or a change as to the billing practice for the Charge Controlled Service.

7C.8

The Dominant Provider must record, maintain and supply to OFCOM in an electronic format, no later than three months after the end of each Relevant Year, the data necessary for OFCOM to monitor compliance of the Dominant Provider with this condition 7C. The data must include:

- (a) pursuant to condition 7C.3, the calculated Percentage Change relating to each service listed in conditions 7C.1(a) through to 7C.1(l);
- (b) all relevant data the Dominant Provider used in the calculation of the Percentage Change as set out in condition 7C.3;

- (c) all charges, excluding any discounts, published by the Dominant Provider from time to time during the Relevant Year and the Prior Year, including the dates and time periods during which they were in force;
- (d) the Relevant Year Weighted Average Charges and the Prior Year Weighted Average Charges for all of the services for which conditions 7C.3 applies and calculations thereof;
- (e) other data necessary for monitoring compliance with the charge control; and
- (f) such data as OFCOM may from time to time direct.

7C.9 Conditions 7C.1 to 7C.8 shall not apply to such extent as OFCOM may direct.

7C.10 The Dominant Provider shall comply with any direction OFCOM may make from time to time under this condition 7C.

7C.11 In this condition 7C:

- (a) **“Additional Hour”** means the provision of the service ‘Additional Hours (or Part thereof)’ (which shall be construed as having the same meaning as provided by the Dominant Provider on its website for definitions and explanations of its products) where this is reasonably necessary for the use of Local Loop Unbundling Services or VULA, as applicable;
- (b) **“Additional Line Shifted”** means the provision of the service ‘Additional Line shifted’ (which shall be construed as having the same meaning as provided by the Dominant Provider on its website for definitions and explanations of its products) where this is reasonably necessary for the use of Local Loop Unbundling Services or VULA, as applicable;
- (c) **“Charge Controlled Service”** means:

- i. a service listed in condition 7C.1(a) to 7C.1(l);
 - ii. any Special Fault Investigation Service;
 - iii. any Special Fault Investigation – Base Module; and
 - iv. any Special Fault Investigation – Frame Direct Module.
- (d) **“Excess Revenue”** means the difference between (a) the revenue which the Dominant Provider earned in the Relevant Year from providing the services listed in conditions 7C.1(a) to 7C.1(l), and (b) the revenue the Dominant Provider would have earned in the Relevant Year from providing the services listed in conditions 7C.1(a) to 7C.1(l) if it had complied with condition 7C.1;
- (e) **“Internal and External Shifts”** means the provision of the service ‘Internal and External Shifts’ (which shall be construed as having the same meaning as provided by the Dominant Provider on its website for definitions and explanations of its products) where this is reasonably necessary for the use of Local Loop Unbundling Services or VULA, as applicable;
- (f) **“MPF Special Fault Investigation 2 (SFI2) - Base module”** shall be construed as having the same meaning as ‘MPF Special Fault Investigation 2 (SFI2) - Base module’ as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (g) **“MPF Special Fault Investigation 2 (SFI2) - Coop module”** shall be construed as having the same meaning as ‘MPF Special Fault Investigation 2 (SFI2) - Coop module’ as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (h) **“MPF Special Fault Investigation 2 (SFI2) - Frame direct module”** shall be construed as having the same meaning as ‘MPF Special Fault Investigation 2 (SFI2) - Frame direct module’ as provided by the Dominant Provider on its website for definitions and explanations of its products;

- (i) **“MPF Special Fault Investigation 2 (SFI2) - Frame module”** shall be construed as having the same meaning as ‘MPF Special Fault Investigation 2 (SFI2) - Frame module’ as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (j) **“MPF Special Fault Investigation 2 (SFI2) - Internal equip module”** shall be construed as having the same meaning as ‘MPF Special Fault Investigation 2 (SFI2) - Internal equip module’ as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (k) **“MPF Special Fault Investigation 2 (SFI2) - Internal Wiring module”** shall be construed as having the same meaning as ‘MPF Special Fault Investigation 2 (SFI2) - Internal Wiring module’ as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (l) **“MPF Special Fault Investigation 2 (SFI2) - Network module”** shall be construed as having the same meaning as ‘MPF Special Fault Investigation 2 (SFI2) - Network module’ as provided by the Dominant Provider on its website for definitions and explanations of its products;
- (m) **“Non-working day”** means Sundays and public holidays or bank holidays in England and Wales, Scotland or Northern Ireland (as applicable);
- (n) **“Percentage Change”** has the meaning given to it in condition 7C.3;
- (o) **“Prior Year Weighted Average Charge”** is to be determined in accordance with the relevant formula in condition 7C.3;
- (p) **“Relevant Year Weighted Average Charge”** is to be determined in accordance with the relevant formula in condition 7C.3;
- (q) **“Special Fault Investigation – Base Module”** shall be construed as having the same meaning as MPF Special Fault Investigation 2 (SFI2) - Base module where this is reasonably necessary for the use of Local Loop Unbundling Services;

- (r) **“Special Fault Investigation – Frame Direct Module”** shall be construed as having the same meaning as MPF Special Fault Investigation 2 (SFI2) – Frame direct module where this is reasonably necessary for the use of Local Loop Unbundling Services;
- (s) **“Special Fault Investigation Service”** means any of the following services (as applicable) where such service is reasonably necessary for the use of Local Loop Unbundling Services:
- i. MPF Special Fault Investigation 2 (SFI2) - Coop module;
 - ii. MPF Special Fault Investigation 2 (SFI2) - Frame module;
 - iii. MPF Special Fault Investigation 2 (SFI2) - Internal equip module;
 - iv. MPF Special Fault Investigation 2 (SFI2) - Internal Wiring module;
 - v. MPF Special Fault Investigation 2 (SFI2) - Network module;
- (t) **“Standard Chargeable Visit”** means the provision of the service ‘Standard Chargeable Visit (Visit plus up to 1 hours work)’ (which shall be construed as having the same meaning as provided by the Dominant Provider on its website for definitions and explanations of its products) where this is reasonably necessary for the use of Local Loop Unbundling Services or VULA, as applicable;
- (u) **“Supplementary Charges (Per Hour)”** means the provision of the service ‘Supplementary charges (Per Hour or Part thereof)’ (which shall be construed as having the same meaning as provided by the Dominant Provider on its website for definitions and explanations of its products) where this is reasonably necessary for the use of Local Loop Unbundling Services or VULA, as applicable;
- (v) **“Supplementary Charges (Per Visit)”** means the provision of the service ‘Supplementary charges (Per Visit)’ (which shall be construed as having the same meaning as provided by the Dominant Provider on its website for definitions and explanations of its products) where this is

reasonably necessary for the use of Local Loop Unbundling Services or VULA, as applicable; and

- (w) **“VULA Cancel/Amend/Modify – CRD”** shall be construed as having the same meaning as ‘Cancel/Amend/Modify - CRD Amend, order notes amend, order cancellation, Care Level’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC and GEA – FTTP products;
- (x) **“VULA Cancel/Amend/Modify – Regrading”** shall be construed as having the same meaning as ‘Cancel/Amend/Modify - Regrading of existing upstream or downstream speed, both at point of sale and in-life’ as provided by the Dominant Provider on its website for definitions and explanations of its GEA – FTTC and GEA – FTTP products;
- (y) **“Working Day”** means any day other than Saturdays, Sundays, public holidays or bank holidays in England and Wales, Scotland or Northern Ireland (as applicable).

Condition 8 – Publication of a Reference Offer

- 8.1** Except in so far as Ofcom may from time to time otherwise consent in writing, the Dominant Provider must publish a Reference Offer in relation to the provision of network access pursuant to condition 1 and act in the manner set out below.
- 8.2** Subject to condition 8.10, the Dominant Provider must ensure that a Reference Offer in relation to the provision of network access pursuant to condition 1 includes, where applicable, at least the following—
- (a) a description of the network access to be provided, including technical characteristics (which shall include information on network configuration where necessary to make effective use of network access);
 - (b) the locations at which network access will be provided;
 - (c) any relevant technical standards for network access (including any usage restrictions and other security issues);
 - (d) the conditions for access to ancillary, supplementary and advanced services (including operational support systems, information systems or databases for pre-ordering, provisioning, ordering, maintenance and repair requests and billing);
 - (e) any ordering and provisioning procedures;
 - (f) relevant charges, terms of payment and billing procedures;
 - (g) details of interoperability tests;
 - (h) details of traffic and network management;
 - (i) details of maintenance and quality as follows—
 - (i) specific time scales for the acceptance or refusal of a request for supply and for completion, testing and hand-over or delivery of services and facilities, and for provision of support services (such as fault handling and repair);
 - (ii) service level commitments, namely the quality standards that each party must meet when performing its contractual obligations;

- (iii) the amount of compensation payable by one party to another for failure to perform contractual commitments;
- (iv) a definition and limitation of liability and indemnity; and
- (v) procedures in the event of alterations being proposed to the service offerings, for example, launch of new services, changes to existing services or change to prices;
- (j) details of measures to ensure compliance with requirements for network integrity;
- (k) details of any relevant intellectual property rights;
- (l) a dispute resolution procedure to be used between the parties;
- (m) details of duration and renegotiation of agreements;
- (n) provisions regarding confidentiality of the agreements;
- (o) rules of allocation between the parties when supply is limited (for example, for the purpose of co-location or location of masts); and
- (p) the standard terms and conditions for the provision of network access.

8.3 Subject to condition 8.10, the Dominant Provider must ensure that a Reference Offer in relation to the provision of Metallic Path Facilities pursuant to conditions 1 and 2 also includes at least the following:

- (a) the location of MDF Sites;
- (b) the area within which network access to Metallic Path Facilities could be made available from each of the MDF Sites listed under (a) above;
- (c) the availability of MPF Co-Location (including the options for such co-location) at each of the MDF Sites listed under (a) above;
- (d) equipment characteristics, including any restrictions on equipment for the purposes of MPF Co-Location at each of the MDF Sites listed under (a) above;

- (e) conditions for MPF Site Access at each of the MDF Sites listed under (a) above, including conditions for access for staff of those Third Parties to whom the Dominant Provider provides Local Loop Unbundling Services;
- (f) conditions for the inspection of MDF Sites at which MPF Co-Location is available or at which MPF Co-Location has been refused on grounds of lack of capacity;
- (g) safety standards;
- (h) the relevant charges (or charging formulae) for each feature, function and facility involved in the provision of Metallic Path Facilities;
- (i) anything which may reasonably be regarded as being likely to materially affect the availability of the relevant Metallic Path Facilities; and
- (j) Service Level Commitments in respect of at least the following aspects of that service:
 - (i) availability of an appointment for the provision of the service;
 - (ii) attending appointments for the provision of the service;
 - (iii) completion of the provision of the service;
 - (iv) completion of the transfer of the service;
 - (v) line working at completion of provisioning process;
 - (vi) disconnections made in error;
 - (vii) fault repair times;
 - (viii) attending fault repair appointments; and
 - (ix) availability of the relevant operational support systems by which requests for service provision, transfers and fault repair are made as applicable;

(k) Service Level Guarantees in respect of the Service Level Commitments specified in condition 8.3(j)(i) to (j)(ix) above.

8.4 Subject to condition 8.10, the Dominant Provider must ensure that a Reference Offer made in relation to the provision of Virtual Unbundled Local Access pursuant to conditions 1 and 2 includes—

(a) Service Level Commitments in respect of at least the following aspects of that service:

- (i) availability of an appointment for the provision of the service;
- (ii) attending appointments for the provision of the service;
- (iii) completion of the provision of the service;
- (iv) completion of the transfer of the service;
- (v) line working at completion of provisioning process;
- (vi) disconnections made in error;
- (vii) fault repair times;
- (viii) attending fault repair appointments; and
- (ix) availability of the relevant operational support systems by which requests for service provision, transfers and fault repair are made as applicable; and

(b) Service Level Guarantees in respect of the Service Level Commitments specified in condition 8.4(a)(i) to (a)(ix) above.

8.5 To the extent that the Dominant Provider provides to itself network access that:

(a) is the same, similar or equivalent to that provided to any Third Party; or

(b) may be used for a purpose that is the same, similar or equivalent to that provided to any Third Party;

in a manner that differs from that detailed in a Reference Offer in relation to network access provided to any Third Party, the Dominant Provider must ensure that it publishes a Reference Offer in relation to the network access that it provides to itself which includes, where relevant, at least those matters detailed in condition 8.2(a) to (p).

- 8.6** The Dominant Provider must, on the date that this condition enters into force, publish a Reference Offer in relation to any network access that it is providing as at the date that this condition enters into force.
- 8.7** The Dominant Provider must update and publish the Reference Offer in relation to any amendments or in relation to any further network access provided after the date that this condition enters into force.
- 8.8** Publication referred to above shall be effected by the Dominant Provider placing a copy of the Reference Offer on any relevant publicly accessible website operated or controlled by the Dominant Provider.
- 8.9** The Dominant Provider must send a copy of the current version of the Reference Offer to any person at that person's written request (or such parts as have been requested).
- 8.10** The Dominant Provider must make such modifications to the Reference Offer as Ofcom may direct from time to time.
- 8.11** The Dominant Provider must provide network access at the charges, terms and conditions in the relevant Reference Offer and must not depart therefrom either directly or indirectly.
- 8.12** The Dominant Provider must comply with any direction Ofcom may make from time to time under this condition.

Condition 9 – Notification of charges and terms and conditions

- 9.1** Except in so far as Ofcom may from time to time otherwise consent in writing, the Dominant Provider must publish charges, terms and conditions and act in the manner set out in this condition.
- 9.2** Where it proposes a WLA Access Change, the Dominant Provider must send to every person with whom it has entered into an Access Agreement pursuant to condition 1 or conditions 1 and 2 (as the case may be), a WLA Access Change Notice.
- 9.3** The obligation in condition 9.2 shall not apply where the WLA Access Change is directed or determined by Ofcom or is a consequence of such direction or determination (including pursuant to the setting of an SMP services condition under the power in section 45 of the Act) or required by a notification or enforcement notification issued by Ofcom under sections 96A or 96C of the Act.
- 9.4** A WLA Access Change Notice must—
- (a) in the case of a WLA Access Change involving new network access, be sent not less than 28 days before any such amendment comes into effect;
 - (b) in the case of a WLA Access Change relating solely to a reduction in the price of existing network access (including, for the avoidance of doubt, a Special Offer), be sent not less than 28 days before any such amendment comes into effect;
 - (c) in the case of a WLA Access Change relating to the end of a temporary price reduction in accordance with the terms of a Special Offer, be sent not less than 28 days before any such amendment comes into effect; and
 - (d) in the case of any other WLA Access Change involving existing network access, be sent not less than 90 days before any such amendment comes into effect.

9.5 The Dominant Provider must ensure that a WLA Access Change Notice includes—

- (a) a description of the network access in question;
- (b) a reference to the location in the Dominant Provider's current Reference Offer of the terms and conditions associated with the provision of that network access;
- (c) the current and proposed new charge and/or current and proposed new terms and conditions (as the case may be);
and
- (d) the date on which, or the period for which, the WLA Access Change will take effect (the "**effective date**").

9.6 The Dominant Provider must not apply any WLA Access Change identified in a WLA Access Change Notice before the effective date.

9.7 To the extent that the Dominant Provider provides to itself network access that—

- (a) is the same, similar or equivalent to that provided to any Third Party; or
- (b) may be used for a purpose that is the same, similar or equivalent to that provided to any Third Party,

in a manner that differs from that detailed in a WLA Access Change Notice in relation to network access provided to any Third Party, the Dominant Provider must ensure that it sends to Ofcom a notice in relation to the network access that it provides to itself which includes, where relevant, at least those matters detailed in conditions 9.5(a) to (d) and, where the Dominant Provider amends the charges, terms and conditions on which it provides itself with network access, it must ensure it sends to Ofcom a notice equivalent to a WLA Access Change Notice.

9.8 In this condition 9:

- (a) **“Access Charge Change Notice”** means a notice given by the Dominant Provider of an Access Charge Change;
- (b) **“Access Charge Change”** means any amendment to the Dominant Provider’s charges for the provision of network access or for new network access;
- (c) **“Special Offer”** means a temporary price reduction for a particular product or service, applicable to all customers on a non-discriminatory basis, which is stated to apply for a limited and predefined period and where the price immediately on expiry of that period is no higher than the price immediately before the start of that period;
- (d) **“WLA Access Change”** means any amendment to the charges, terms and conditions on which the Dominant Provider provides network access or in relation to any charges for new network access; and
- (e) **“WLA Access Change Notice”** means a notice given by the Dominant Provider of a WLA Access Change.

Condition 10 – Notification of technical information

10.1 Except in so far as Ofcom may from time to time otherwise consent in writing, where the Dominant Provider provides network access pursuant to condition 1 or conditions 1 and 2 (as the case may be) and proposes new or amended terms and conditions relating to the following—

- (a) technical characteristics (including information on network configuration, where necessary, to make effective use of the network access provided);
- (b) the locations at which network access will be provided; or
- (c) technical standards (including any usage restrictions and other security issues),

the Dominant Provider must publish a written notice (the “**Notice**”) of the new or amended terms and conditions within a reasonable time period. Other than where the new or amended terms and conditions are a consequence of new or amended technical specifications determined by NICC Standards Limited (whose registered company number is 6613589), that reasonable notice must be not less than 90 days before either the Dominant Provider enters into an Access Agreement to provide the new network access or the amended terms and conditions of an existing Access Agreement come into effect.

10.2 The obligation in condition 10.1 shall not apply where the new or amended charges or terms and conditions are directed or determined by Ofcom or is a consequence of such direction or determination (including pursuant to the setting of an SMP services condition under the power in section 45 of the Act) or are required by a notification or enforcement notification issued by Ofcom under sections 96A or 96C of the Act;

10.3 The Dominant Provider must ensure that the Notice includes—

- (a) a description of the network access in question;
- (b) a reference to the location in the Dominant Provider’s Reference Offer of the relevant terms and conditions;
- (c) the date on which or the period for which the Dominant Provider may enter into an Access Agreement to provide the new network access or any

amendments to the relevant terms and conditions will take effect (the “**effective date**”).

10.4 The Dominant Provider must not enter into an Access Agreement containing the terms and conditions identified in the Notice or apply any new relevant terms and conditions identified in the Notice before the effective date.

10.5 Publication referred to in condition 10.1 must be effected by the Dominant Provider—

(a) placing a copy of the Notice on any relevant publicly accessible website operated or controlled by the Dominant Provider;

(b) sending a copy of the Notice to Ofcom; and

(c) sending a copy of the Notice to any person at that person’s written request, and where the Notice identifies a modification to existing relevant terms and conditions, to every person with which the Dominant Provider has entered into an Access Agreement pursuant to condition 1 or conditions 1 and 2 (as the case may be). The provision of such a copy of the Notice by the Dominant Provider may be subject to a reasonable charge.

Condition 11 – Quality of service

- 11.1** The Dominant Provider must comply with all such quality of service requirements as Ofcom may from time to time direct in relation to network access provided by the Dominant Provider pursuant to conditions 1 and 2 (as applicable).

- 11.2** The Dominant Provider must publish all such information as to the quality of service in relation to network access provided by the Dominant Provider pursuant to conditions 1 and 2 (as applicable), in such manner and form, and including such content, as Ofcom may from time to time direct.

Condition 12 – Regulatory Financial Reporting

General requirements

- 12.1** The Dominant Provider must maintain a separation for accounting purposes between such different matters relating to network access to the relevant network or the availability of the relevant facilities, as required by conditions 12.3 to 12.35 including as Ofcom may from time to time direct under those conditions 12.3 to 12.35.
- 12.2** The Dominant Provider must comply with such rules made by Ofcom about the use of cost accounting systems as required by conditions 12.3 to 12.35 and must comply with such requirements about the description to be made available to the public of the cost accounting system as required by conditions 12.3 to 12.35 in each case including as Ofcom may from time to time direct under conditions 12.3 to 12.35.
- 12.3** Except in so far as Ofcom may consent otherwise in writing, the Dominant Provider shall act in the manner set out in these conditions.
- 12.4** Ofcom may from time to time make such directions as they consider appropriate in relation to the Dominant Provider's obligations under these conditions.
- 12.5** The Dominant Provider shall comply with any direction Ofcom may make from time to time under these conditions.
- 12.6** Where the Dominant Provider is required to comply with:
- (i) these conditions; and
 - (ii) the Regulatory Accounting Principles,
- and it appears to the Dominant Provider that any of these requirements conflict with each other in a particular case, the Dominant Provider must resolve such conflict by giving priority to them in the order in which they are set out above.
- 12.7** For the purpose of these conditions, publication shall be effected by:

- (i) placing a copy of the relevant information on any relevant publicly available website operated or controlled by the Dominant Provider; and
- (ii) sending a copy of the relevant information to any person at that person's written request.

Requirements relating to the preparation, audit, delivery and publication of the Regulatory Financial Statements

12.8 The Dominant Provider shall in respect of the Market, Technical Areas, Products, Network Components and Network Services (as applicable), for each Financial Year:

- (i) prepare such Regulatory Financial Statements as directed by Ofcom from time to time in accordance with these conditions, the Regulatory Accounting Principles and the Accounting Methodology Documents (the relevant Accounting Methodology Documents to be identified in the Regulatory Financial Statements by reference to their date);
- (ii) prepare a reconciliation report as set out in condition 12.23;
- (iii) secure the expression of an audit opinion upon the Regulatory Financial Statements as notified by Ofcom from time to time and on the reconciliation report as set out in condition 12.24;
- (iv) secure the approval of the Regulatory Financial Statements by the board of directors of the Dominant Provider and secure the signature of the Regulatory Financial Statements by a director of the Dominant Provider for and on behalf of the board of directors;
- (v) deliver to Ofcom copies of the Regulatory Financial Statements, the reconciliation report and any corresponding audit opinion, each and all of which shall be in the form in which they are ultimately to be published, at least two weeks before they are required to be published;

- (vi) publish the Regulatory Financial Statements, the reconciliation report and any corresponding audit opinion, within four months after the end of the Financial Year to which they relate;
- (vii) ensure that any Regulatory Financial Statement and corresponding audit opinion that it delivers to Ofcom and/or publishes are fit for such purpose (or purposes), if any, as notified by Ofcom in writing; and
- (viii) publish with the Regulatory Financial Statements any written statement made by Ofcom and provided to the Dominant Provider commenting on the figures in, the notes to or the presentation of any or all of the Regulatory Financial Statements, the reconciliation report and/or the Accounting Methodology Documents.

12.9 The Dominant Provider shall make such amendments to the form and content of the Regulatory Financial Statements as are necessary to give effect fully to the requirements of these conditions. The Dominant Provider shall provide to Ofcom particulars of any such amendment, the reasons for it and its effect, when it delivers the Regulatory Financial Statements to Ofcom.

12.10 The Dominant Provider shall prepare all Regulatory Financial Statements, explanations or other information required by virtue of these conditions on a regulatory asset value adjusted current cost basis as directed by Ofcom from time to time and shall be capable of doing so in relation to any period. Such Regulatory Financial Statements, explanations or other information shall be, in the opinion of Ofcom, meaningfully reconcilable to the Statutory Financial Statements.

12.11 Each Regulatory Financial Statement shall include Prior Year Comparatives which shall be prepared on a basis consistent with Current Year Figures. The Dominant Provider may depart from this requirement in preparing the Regulatory Financial Statements for a Financial Year if there are reasons for doing so provided that the particulars of the departure, the reasons for it and its effect are stated in a note in the

Regulatory Financial Statements in accordance with the Statutory Accounting Standards.

Requirements relating to audit of the Regulatory Financial Statements

12.12 The Regulatory Auditor that the Dominant Provider from time to time appoints shall at all times be satisfactory to Ofcom having regard to such matters as Ofcom consider appropriate. The Dominant Provider shall notify Ofcom in writing of the Regulatory Auditor appointed to secure compliance with these conditions before the Regulatory Auditor carries out any work for that purpose. The Dominant Provider shall notify Ofcom of any proposed change of Regulatory Auditor 28 days before effect is given to that change.

12.13 In the event that the Regulatory Auditor is in the opinion of Ofcom unsatisfactory, the Dominant Provider shall appoint and instruct an Alternative Regulatory Auditor that is at all times satisfactory to Ofcom having regard to such matters as Ofcom consider appropriate. The Dominant Provider shall ensure that the Alternative Regulatory Auditor:

- (i) carries out such on-going duties as are required to secure compliance with these conditions;
- (ii) carries out work or further work, in addition to that performed by the Statutory Auditor and/or by the former Regulatory Auditor, in relation to such matters connected to compliance with these conditions as are of concern to Ofcom and notified to the Dominant Provider in writing; and/or
- (iii) re-performs work previously performed by the Statutory Auditor and/or by the former Regulatory Auditor in relation to such matters connected to compliance with this condition as are of concern to Ofcom and notified to the Dominant Provider in writing.

12.14 The Dominant Provider shall extend to the Alternative Regulatory Auditor such assistance and co-operation as would be extended to the Statutory Auditor and/or to the Regulatory Auditor and, to the extent similar assistance and co-operation may be required from the Statutory Auditor

and/or from the former Regulatory Auditor, the Dominant Provider shall use its best endeavours to secure such assistance and co-operation.

12.15 The Dominant Provider's letter of engagement appointing the Regulatory Auditor or Alternative Regulatory Auditor shall include such provisions acknowledging the acceptance by the Regulatory Auditor or Alternative Regulatory Auditor of duties and responsibilities to Ofcom in respect of its audit work, audit report and audit opinion as are consistent with the ICAEW Guidance.

12.16 The Dominant Provider shall use its best endeavours to obtain from the Regulatory Auditor or Alternative Regulatory Auditor any further explanation and clarification of any audit opinion required under these conditions and any other information in respect of the matters which are the subject of that audit opinion as Ofcom shall require.

12.17 The Dominant Provider shall obtain such assurance statement in the form of the Agreed Upon Procedures in relation to the Dominant Provider's obligations under these conditions as directed by Ofcom.

Requirements relating to the Accounting Methodology Documents

12.18 The Dominant Provider must prepare, maintain and keep up-to-date the Accounting Methodology Documents in accordance with these conditions, with the Regulatory Accounting Guidelines, and with the Regulatory Accounting Principles.

12.19 The Dominant Provider must include in the Accounting Methodology Documents documentation setting out a description of each of the Attribution Methods, the Transfer Charge System Methodology, the Accounting Policies and the Long Run Incremental Cost Methodology, to the extent not covered in the Regulatory Accounting Guidelines.

12.20 The Dominant Provider must deliver an up-to-date version of the Accounting Methodology Documents to Ofcom when it delivers the Regulatory Financial Statements to Ofcom in accordance with condition 12.8 and publish such up-to-date version on or before the day of publication of the Regulatory Financial Statements which have been prepared in accordance with such version.

Requirements relating to changes to the Regulatory Accounting Methodology and the correction of Material Errors

- 12.21** The Dominant Provider must publish and deliver to Ofcom a list of each and every change to the Regulatory Accounting Methodology, by 31 March of the Financial Year in which the change to the Regulatory Accounting Methodology is to be made (the “**Change Control Notification**”). The Change Control Notification must be accompanied by a description of each of the changes, the reason for making each of the changes (including by reference to their compliance with the Regulatory Accounting Guidelines and the Regulatory Accounting Principles), and the impact of each of the changes on the figures at the level of the Markets and Technical Areas (as applicable) by setting out the figures which were presented in the previous Financial Year alongside the figures that would have been presented had such changes been made in the previous Financial Year.
- 12.22** Where in Ofcom’s opinion any change referred to in condition 12.21 does not comply with these conditions or the Regulatory Accounting Principles, the Dominant Provider shall not make such change, if so directed by Ofcom.
- 12.23** The Dominant Provider must prepare a reconciliation report as referred to in condition 12.8 and as directed by Ofcom from time to time, which sets out changes to the Regulatory Accounting Methodology and the impact of such changes on the Regulatory Financial Statements, and Material Errors corrected in the Regulatory Financial Statements and the impact of such Material Errors on the Regulatory Financial Statements.
- 12.24** The Dominant Provider must obtain an audit opinion on the reconciliation report as directed by Ofcom from time to time.

Requirements relating to the Regulatory Accounting System

- 12.25** The Dominant Provider’s Regulatory Accounting System must be able to produce the Regulatory Financial Statements as directed by Ofcom under condition 12.8 in accordance with these conditions, the Regulatory Accounting Principles and the Accounting Methodology Documents.

12.26

Where the Dominant Provider replaces the whole or part of its Regulatory Accounting System, or substantially modifies such Regulatory Accounting System, the Dominant Provider must:

- (i) notify Ofcom in a timely manner of the replacement or modification, and, where so requested by Ofcom, inform Ofcom of progress towards completion and such other information as Ofcom may reasonably request;
- (ii) ensure, to the best of its ability, that the replacement or modification does not cause the figures contained in the Regulatory Financial Statements to be different from the figures that would have been contained in the Regulatory Financial Statements had such Regulatory Financial Statements been prepared using the old or unmodified Regulatory Accounting System;
- (iii) in relation to the final Financial Year for which the Regulatory Financial Statements are prepared using the old or unmodified Regulatory Accounting System, prepare a systems reconciliation report, which must:
 - a. set out the difference between the Current Year Figures presented in the Regulatory Financial Statements and the Current Year Figures had such Regulatory Financial Statements been prepared on the basis of the new or modified Regulatory Accounting System, expressed as a percentage change; and
 - b. explain each and every Material Difference between the Current Year Figures presented in the Regulatory Financial Statements and the Current Year Figures had such Regulatory Financial Statements been prepared on the basis of the new or modified Regulatory Accounting System;
- (iv) publish and deliver the systems reconciliation report to Ofcom by 31 December of the Financial Year for which the figures will be

prepared using the new or modified Regulatory Accounting System for the first time;

- (v) obtain an assurance statement in the form of Agreed Upon Procedures on the systems reconciliation report, which must report:
 - a. whether the figures in the systems reconciliation report referred to in condition 12.26(iii)(a) have been properly extracted from the old or unmodified Regulatory Accounting System and the new or modified Regulatory Accounting System respectively;
 - b. whether each and every difference in the systems reconciliation report referred to in condition 12.26(iii)(a) has been correctly calculated; and
 - c. whether the explanation of each and every Material Difference in the systems reconciliation report referred to in condition 12.26(iii)(b) is an accurate representation of the cause of each such Material Difference.
- (vi) deliver the assurance statement in the form of the Agreed Upon Procedures to Ofcom when it delivers the systems reconciliation report to Ofcom in accordance with condition 12.26(iv).
- (vii) where the systems reconciliation report referred to in condition 12.26(iii) indicates that the replacement or modification causes the Current Year Figures contained in the Regulatory Financial Statements to be significantly different, either individually or in aggregate, from the Current Year Figures that would have been contained in the Regulatory Financial Statements had such Regulatory Financial Statements been prepared using the new or modified Regulatory Accounting System, prepare, if so directed by Ofcom, the Regulatory Financial Statements on a basis consistent with the old or unmodified Regulatory Accounting System.

Requirements relating to deficiencies in the Regulatory Financial Statements and the Accounting Methodology Documents

12.27 Where Ofcom have reasonable grounds to believe that any or all of the Regulatory Financial Statements and/or Accounting Methodology Documents are deficient, the Dominant Provider shall, where directed by Ofcom:

- (i) amend the Accounting Methodology Documents in order to remedy the deficiencies identified by Ofcom;
- (ii) restate the Regulatory Financial Statements identified by Ofcom as requiring restatement in accordance with the Accounting Methodology Documents which have, where necessary, been amended pursuant to condition 12.27(i);
- (iii) prepare a reconciliation report as set out in condition 12.23, whereby any reference to the Regulatory Financial Statements should be understood as a reference to the restated Regulatory Financial Statements;
- (iv) secure in accordance with any relevant notification of Ofcom under this condition the expression of an audit opinion on the restated Regulatory Financial Statements;
- (v) deliver to Ofcom the restated Regulatory Financial Statements, the reconciliation report and corresponding audit opinion; and
- (vi) publish the restated Regulatory Financial Statements, the reconciliation report and corresponding audit opinion.

Requirements relating to the maintenance of sufficient accounting records

12.28 The Dominant Provider shall maintain accounting records for a period of six years from the date on which each Regulatory Financial Statement is delivered to Ofcom.

- 12.29** The Dominant Provider shall maintain the accounting records in accordance with these conditions, the Regulatory Accounting Principles and the Accounting Methodology Documents.
- 12.30** The Dominant Provider shall maintain accounting records in a form which, on a historical cost basis and on a current cost basis:
- (i) separately identifies each of the Markets, Technical Areas, Products, Network Components and Network Services;
 - (ii) separately attributes the costs, revenues, assets and liabilities of each of the Markets, Technical Areas, Products, Network Components and Network Services; and
 - (iii) shows and explains the transactions underlying each of the Markets, Technical Areas, Products, Network Components and Network Services.
- 12.31** The Dominant Provider shall maintain the accounting records so that they are sufficient:
- (i) to provide an adequate explanation of each Regulatory Financial Statement;
 - (ii) to show that charges are non-discriminatory; and
 - (iii) to provide a complete justification of the Dominant Provider's charges for Network Access.

Requirement to facilitate on-demand reporting

- 12.32** The Dominant Provider shall ensure that its Regulatory Accounting System and accounting records are sufficient to enable the Dominant Provider, at all times, to be capable of preparing in relation to any specified calendar month or months a financial statement in accordance with the Accounting Methodology Documents.

Requirements relating to the preparation and maintenance of a Wholesale Catalogue

- 12.33** The Dominant Provider must prepare, maintain and keep up-to-date a Wholesale Catalogue. Such Wholesale Catalogue should separately identify and describe:
- (i) External Wholesale Services;
 - (ii) Internal Wholesale Services;
 - (iii) Wholesale Services supplied both externally and internally; and
 - (iv) Network Services and the extent to which these activities are used in the course of supplying Wholesale Services.
- 12.34** The Dominant Provider must deliver an up-to-date version of the Wholesale Catalogue to Ofcom when it delivers the Regulatory Financial Statements to Ofcom in accordance with condition 12.8 and publish such up-to-date version on or before the day of publication of the Regulatory Financial Statements which have been prepared by reference to such version.

Requirements relating to the demonstration of non-discrimination

- 12.35** The Dominant Provider shall ensure it is able to demonstrate that at any point in time:
- (i) where a Network Service or combination of Network Services is used by the Dominant Provider in providing Internal Wholesale Services, the amount applied and incorporated in the Transfer Charge for the Internal Wholesale Service in respect of the use of the Network Service or combination of Network Services is equivalent to the amount applied and incorporated for the use of the Network Services or combination of Network Services in the charge payable for an equivalent External Wholesale Service;
 - (ii) the same amount as applied and incorporated in the Transfer Charge for the Internal Wholesale Service in condition 12.35(i) in respect of the use of the Network Service or combination of Network Services is applied to the Network Service or combination of Network Services whenever it is or they are used

by the Dominant Provider in providing that same Internal Wholesale Service; and

- (iii) the same amount as applied and incorporated in the Transfer Charge for the equivalent External Wholesale Service in condition 12.35(i) in respect of the use of the Network Service or combination of Network Services is applied to the Network Service or combination of Network Services whenever it is or they are used by the Dominant Provider in providing that same External Wholesale Service;
- (iv) the amount applied and incorporated in the Transfer Charge for the Internal Wholesale Service in condition 12.32(i) in respect of the use of the Network Service or combination of Network Services shall be the cost of those Network Services unless the Network Service concerned is provided from a Market which is different from the Market which comprises the Internal Wholesale Service.

12. 37 In this condition 12:

- a) **“Accounting Methodology Documents”** means the documentation maintained by the Dominant Provider setting out in detail the rules, policies, methods, allocations, calculations, assumptions, procedures and Processes used by the Dominant Provider for the purpose of preparing Regulatory Financial Statements in accordance with the Regulatory Accounting Principles;
- b) **“Accounting Policies”** means the manner in which the Dominant Provider applies the requirements the Regulatory Accounting Principles in each of the Regulatory Financial Statements;
- c) **“Alternative Regulatory Auditor”** means any auditor not for the time being appointed as the Dominant Provider’s Regulatory Auditor;
- d) **“Agreed Upon Procedures”** means an engagement carried out in accordance with international standard (ISRS 4400) under which

the Regulatory Auditor or another independent third party performs a set of audit procedures agreed by Ofcom and based on Ofcom's specific requirements in relation to the Regulatory Financial Statements, and reports the findings of that work to Ofcom;

- e) **"Attribution Methods"** means the practices used by the Dominant Provider to attribute revenue (including appropriate Transfer Charges), costs (including appropriate Transfer Charges), assets and liabilities to activities or, insofar as those activities have been aggregated into Wholesale Segments or Retail Segments in a given Market or Technical Area (as applicable), to each Wholesale Segment or Retail Segment;
- f) **"Current Year Figures"** means, in relation to any set of Regulatory Financial Statements, the amounts relating to the Financial Year to which the statements relate;
- g) **"External Wholesale Services"** means services supplied or offered to any Communications Provider other than the Dominant Provider;
- h) **"Financial Year"** means a financial year of the Dominant Provider in respect of which the Statutory Financial Statements are required to be (or to have been) prepared and audited in accordance with the requirements of the Companies Act 2006;
- i) **"ICAEW Guidance"** means the technical release titled "Reporting to Regulators of Regulated Entities: Audit 05/03" issued by the Audit and Assurance Faculty of the Institute of Chartered Accountants in England & Wales in October 2003;
- j) **"Internal Wholesale Services"** means services supplied within the Dominant Provider;
- k) **"Long Run Incremental Cost Methodology"** means the long run incremental cost principles, procedures and Processes which form

the framework under which long run incremental costs are determined by the Dominant Provider;

- l) “**Market**” means the market to which these conditions apply;
- m) “**Material Error**” means a deviation from accuracy or correctness which meets the materiality threshold as directed by Ofcom from time to time for the purpose of these conditions;
- n) “**Material Difference**” means a difference identified in a systems reconciliation report which meets the materiality threshold as directed by Ofcom from time to time for the purpose of these conditions;
- o) “**Network Component**” means an element of the network that is used to provide Wholesale Services, and, to the extent the network components are used in the Market or Technical Area (as applicable), specified in a direction given by Ofcom from time to time for the purposes of these conditions;
- p) “**Network Services**” means those groups of Network Components used directly (or which in the absence of horizontal or vertical integration would be used directly) in the course of supplying Wholesale Services;
- q) “**Prior Year Comparatives**” means, in relation to any set of Regulatory Financial Statements, the amounts relating to the Financial Year immediately preceding the Financial Year to which the Regulatory Financial Statements relate, re-evaluated if necessary to ensure that such figures are comparable to the Current Year Figures;
- r) “**Process**” means the series of inter-related activities or actions to obtain, record or hold data or information or to carry out any operation or set of operations on the data or information, including:
 - i. organisation, storage, adaptation, or alteration of the data or information;

- ii. retrieval, consultation, computation or use of the data or information;
 - iii. disclosure of the data or information by transmission, dissemination, or otherwise making available; or
 - iv. alignment, combination, blocking, erasing or destruction of the data or information;
- s) **“Product”** means any product or service comprised in a Market or Technical Area to which these conditions apply;
- t) **“Regulatory Accounting Methodology”** means the rules, policies, methods, allocations, calculations, assumptions and procedures used by the Dominant Provider for the purpose of preparing Regulatory Financial Statements;
- u) **“Regulatory Accounting Principles”** means the principles as directed by Ofcom from time to time for the purpose of these conditions;
- v) **“Regulatory Accounting System”** means the set of computerised and manual accounting methods, procedures, Processes and controls established to determine and attribute the costs, revenues, assets and liabilities and summarise, interpret, and present the resultant financial data in an accurate and timely manner;
- w) **“Regulatory Auditor”** means the auditor for the time being appointed by the Dominant Provider in accordance with these conditions;
- x) **“Regulatory Financial Statement”** means any financial statement in respect of a Financial Year prepared or required to be prepared by the Dominant Provider in accordance with these conditions;

- y) **“Retail Products”** means services used by or offered to any End Users (including the Dominant Provider);
- z) **“Retail Segments”** means groups of Retail Products;
- aa) **“Statutory Accounting Standards”** means the accounting standards, including the requirements of the Companies Act 2006, by reference to which the Dominant Provider is required to prepare the Statutory Financial Statements;
- bb) **“Statutory Auditor”** means the auditor for the time being appointed by the Dominant Provider in accordance with the requirements of the Companies Act 2006;
- cc) **“Statutory Financial Statements”** means any annual account required to be prepared by the Dominant Provider in accordance with the requirements of the Companies Act 2006;
- dd) **“Technical Area”** means the technical area to which these conditions apply;
- ee) **“Transfer Charge”** means the charge or price that is applied, or deemed to be applied, within the Dominant Provider by one division or business unit of the Dominant Provider to another for the use or provision of an activity or group of activities. For the avoidance of doubt, such activities or group of activities include, amongst other things, Products provided from, to or within the Market or Technical Area (as applicable) and the use of Network Components in the Market or Technical Area (as applicable);
- ff) **“Transfer Charge System Methodology”** means the methodology of the system employed by the Dominant Provider which enables an activity to use a service or good from another activity and to account for it as though it had purchased that service or good from an unrelated party (including accounting for it at an appropriate amount);
- gg) **“Wholesale Catalogue”** means the documentation required to be produced by the Dominant Provider under condition 13A.33;

- hh) **“Wholesale Segments”** means groups of Wholesale Services;
and
- ii) **“Wholesale Services”** means services related to network access
on the Dominant Provider’s network used by or offered to any
Communications Provider (including the Dominant Provider).

1. Proposal for a direction relating to the terms on which BT provides network access in the form of Virtual Unbundled Local Access

PART II - NOTIFICATION OF PROPOSALS UNDER SECTIONS 49 AND 49A OF THE COMMUNICATIONS ACT 2003 AND SMP CONDITION 1 PROPOSED TO BE IMPOSED ON BT IN RELATION TO VIRTUAL UNBUNDLED LOCAL ACCESS

Background

1. On 14 March 2017 Ofcom published the consultation document accompanying this notification, entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing, among other things, to impose certain SMP conditions on BT in relation to the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area.
2. Proposed SMP service conditions 1 and 2, as set out at Annex 23 to the 2017 WLA consultation, require the provision of network access on reasonable request and specific forms of network access. Under proposed condition 1.2 such access is required to be provided on such terms, conditions and charges as Ofcom may from time to time direct. Proposed condition 1.5 provides that BT must comply with any direction Ofcom may make from time to time under condition 1. This notification relates to proposals pursuant to SMP service condition 1.2 relating to the terms on which BT provides network access (Virtual Unbundled Local Access, which it currently provides by way of its GEA product).

Proposals in this Notification

3. Ofcom is proposing, in accordance with section 49A(3) of the Act, to make the direction set out in the Schedule to this notification relating to the terms (specifically the maximum length of the minimum contract period following migrations and certain connections) on which BT provides network access in the form of Virtual Unbundled Local Access.
4. The effect of, and reasons for giving, the proposed direction are set out in the 2017 WLA consultation document, and in particular section 6.

Ofcom's duties and legal tests

5. Ofcom considers that the proposed direction referred to in paragraph 3 complies with the requirements of section 49(2) of the Act.
6. In making the proposal referred to in paragraph 3, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act and the six Community requirements in section 4 of the Act.

Making representations

7. Representations may be made to Ofcom about the proposals set out in this notification and the 2017 WLA consultation by no later than 9 June 2017.
8. In accordance with section 49C(1)(a) of the Act, a copy of the notification, together with the Schedule, has been sent to the Secretary of State.

Interpretation

9. For the purpose of interpreting this notification:
 - (a) except in so far as the context otherwise requires, words or expressions have the meaning assigned to them in paragraph 10 below, and otherwise any word or expression has the same meaning as it has in the Act;
 - (b) headings and titles shall be disregarded;
 - (c) expressions cognate with those referred to in this notification shall be construed accordingly; and
 - (d) the Interpretation Act 1978 (c. 30) shall apply as if this notification were an Act of Parliament.
10. In this notification:

- (a) **“BT”** means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 1159 of the Companies Act 2006;
- (b) **“Act”** means the Communications Act 2003 (c.21), as amended;
- (c) **“Communications Provider”** means a Third Party purchasing from BT Virtual Unbundled Local Access;
- (d) **“Hull Area”** means the area defined as the “Licensed Area” in the licence granted on 30 November 1987 by the Secretary of State under section 7 of the Telecommunications Act 1984 to Kingston upon Hull City Council and Kingston Communications (Hull) plc;
- (e) **“Local Serving Exchange”** means the site of an operational building of BT, where interconnection is made available by BT to a Third Party for Network Termination Points served by that site for the provision of Virtual Unbundled Local Access;
- (f) **“Network Termination Point”** means the physical point at which a Relevant Subscriber is provided with access to a public electronic communications network;
- (g) **“Ofcom”** means the Office of Communications as established pursuant to section 1(1) of the Office of Communications Act 2002;
- (h) **“Point of Connection”** means a point at which BT’s electronic communications network and a Third Party’s electronic communications network are connected;
- (i) **“Relevant Subscriber”** means any person who is party to a contract with a provider of public electronic communications services for the supply of such services;
- (j) **“Third Party”** means a person providing a public electronic communications service or a person providing a public electronic communications network; and
- (k) **“Virtual Unbundled Local Access”** means network access comprising of a virtual circuit between a Point of Connection at the Local Serving Exchange and a Network Termination Point, which circuit provides such specified capacity as is agreed between BT and a Third Party for the Third Party’s exclusive use.

11. The Schedule to this notification shall form part of this notification.

Signed

A handwritten signature in black ink, appearing to read 'B. Potterill', enclosed within a thin black rectangular border.

Brian Potterill

Competition Policy Director

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

31 March 2017

SCHEDULE

[Proposed] Direction under section 49 of the Communications Act 2003 and condition 1 relating to the terms on which BT provides network access (Virtual Unbundled Local Access, which it currently provides by way of its GEA product)

Background

1. On 31 March 2017, Ofcom published a consultation document entitled “*Wholesale Local Access Market Review Consultation*” (the “2017 WLA Consultation”). Ofcom consulted on proposals identifying markets, making market power determinations and setting SMP services conditions. On [date of final statement] Ofcom concluded its review of the Wholesale Local Access Market in which it identified markets, made market power determinations and set appropriate SMP conditions as set out in the notification at Annex [●] to the review, with the reasons and effect explained in the accompanying explanatory statement.
2. Ofcom determined in the review referred to in paragraph 1 above, that BT has significant market power in the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area.
3. SMP service conditions 1 and 2 (network access on reasonable request and specific forms of network access) were set in relation to, amongst others, the market referred to in paragraph 2 and this Direction concerns matters to which those conditions relate.
4. In particular, under SMP conditions 1 and 2, BT is required to provide network access by means of Virtual Unbundled Local Access. Under condition 1.2 such access is required to be provided on such terms, conditions and charges as Ofcom may from time to time direct. SMP condition 1.5 provides that BT must comply with any direction Ofcom may make from time to time under condition 1. This direction is made under condition 1.2.
5. For the reasons set out in section [●] of the explanatory statement accompanying this direction, Ofcom is satisfied that, in accordance with section 49(2) of the Act, this direction is:
 - (a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;

- (b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (c) proportionate to what it is intended to achieve; and
 - (d) in relation to what it is intended to achieve, transparent.
2. For the reasons set out in section [●] of the explanatory statement accompanying this Direction, Ofcom is satisfied that it has acted in accordance with the relevant duties set out in sections 3 and 4 of the Act.
 3. Ofcom has considered every representation about the proposed direction duly made to it and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose.
 4. The proposals set out in the 2017 WLA Consultation contained proposals of EU significance for the purposes of the Act. Therefore, after making any modifications of the proposals that appeared to Ofcom to be appropriate following domestic consultation, Ofcom sent on [●] 2017 a copy of them, and of a draft of the statement accompanying this notification setting out the reasons for them, to the European Commission, BEREC and the regulatory authorities of every other member State for EU consultation, in accordance with sections 48B(2) and 80B(2) of the Act.
 5. Ofcom received comments from the European Commission, BEREC and the regulatory authorities of every other member State on its proposals on [●] 2017, and has made such modifications to this notification and the statement accompanying this notification as it considers appropriate.

Direction

6. Ofcom hereby, pursuant to section 49 of the Act and condition 1, directs the Dominant Provider to act as prescribed in paragraphs 7 to 10 below.
7. Where the Dominant Provider enters into a contract or other agreement or arrangement to the same or similar effect with a Third Party for VULA Migration the maximum fixed

term of that contract, or other agreement or arrangement (as the case may be) must be no longer than one month.

8. Where the Dominant Provider enters into a contract or other agreement or arrangement to the same or similar effect with a Third Party for VULA Connection the maximum fixed term of that contract, or other agreement or arrangement (as the case may be) must be no longer than one month where the Virtual Unbundled Local Access consists of the provision of fibre to the cabinet.
9. BT must comply with the requirement set out in paragraph 7 on the day this direction comes into force and the requirement in paragraph 8 within 28 days of this direction coming into force.
10. The requirements set out in paragraphs 8 and 9 will apply in respect of all contracts or other agreements or arrangements to the same or similar effect for VULA Connection or VULA Migration that BT enters into on or after the date on which it complies with that requirement. For the avoidance of doubt, BT is not required under this Direction to amend the terms of any contracts for VULA Connection or VULA Migration entered into before this date.
11. In addition to the definitions set out above in this notification, in this Schedule—
 - (a) **“Dominant Provider”** means BT; and
 - (b) **“VULA Connection”** VULA Connection means the following services provided by BT: “Managed Engineer Install with CP device”, “PCP Only Install”, “Start of Stopped Line” and any future service that replicates or replaces these services.
 - (c) **“VULA Migration”** means the transfer of control of a Virtual Unbundled Local Access service between Communications Providers and the subsequent provision by BT of such network access to the Communications Provider taking over such control.

Signed

[SIGNATURE]

[NAME]

Competition Policy Director

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

[DATE]

2. Proposals for directions relating to regulatory financial reporting requirements

PART III - NOTIFICATION OF PROPOSALS UNDER SECTIONS 49 AND 49A OF THE COMMUNICATIONS ACT 2003

2.1 Proposal for a direction specifying the Regulatory Accounting Principles

Notification of proposals under sections 49 and 49A of the Communications Act 2003 and proposed SMP Services Condition 12.4 specifying the Regulatory Accounting Principles

Background

1. On 20 May 2014, Ofcom published a policy statement entitled “*Regulatory Financial Reporting – Final Statement*” (“**2014 RFR Statement**”), which set out (among other things) Ofcom’s policy conclusions, following consultation, on the regulatory financial reporting policy that Ofcom considered should be applied to BT in markets in which BT has significant market power. One of Ofcom’s policy conclusions was that in preparing the Regulatory Financial Statements, BT should be required to comply with, among others, the Regulatory Accounting Principles.
2. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
3. Under proposed Condition 12.8, set out at Annex 23 to this consultation, BT is required to comply with, among others, the Regulatory Accounting Principles.
4. Under proposed Condition 12.4 set out at Annex 23 to this consultation, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition 12.

5. This Notification sets out proposals specifying the Regulatory Accounting Principles in relation to each of the markets set out in paragraph 2 above.

Proposal to give a direction

6. Ofcom is proposing, in accordance with section 49 of the Communications Act 2003 (the “Act”), to give a direction pursuant to proposed Condition 12.4 specifying the Regulatory Accounting Principles in relation to each of the markets set out in paragraph 2.
7. The proposed direction is set out in the Schedule to this Notification.
8. The effect of and reasons for giving the proposed direction are set out in the 2017 WLA Consultation accompanying this Notification.

Ofcom’s duties and legal tests

9. For the reasons set out in the 2017 WLA Consultation, Ofcom considers that the proposed direction referred to in paragraph 7 complies with the requirements of section 49(2) of the Act.
10. In making the proposals referred to in paragraph 7 Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making Representations

11. Representations may be made to Ofcom about the proposals set out in the Notification and the 2017 WLA Consultation by no later than 9 June 2017.
12. In accordance with section 49C(1)(a) of the Act, a copy of this Notification, together with the Direction set out in the Schedule to this Notification, will be sent to the Secretary of State.

Interpretation

13. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP conditions set out at Annex 23 of the 2017 WLA Consultation. Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink, appearing to read 'B. Potterill', enclosed within a thin black rectangular border.

Brian Potterill

Competition Policy Director, Ofcom

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

31 March 2017

SCHEDULE

[DRAFT] Direction under section 49 of the Communications Act 2003 and Condition [12.4] specifying the Regulatory Accounting Principles

Background

1. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. The proposals referred to in paragraph 1 and 2 above included proposals to issue a direction specifying the Regulatory Accounting Principles. Ofcom invited responses to the 2017 WLA Consultation by 9 June 2017.
3. On [DATE], Ofcom concluded its review of the Wholesale Local Access market in which it identified markets, made market power determinations and set appropriate SMP conditions as set out in the 2017 WLA Notification.
4. Ofcom determined in the review referred to in paragraph 3 above, that BT has SMP in the market set out at paragraph 1 above.
5. Under Condition [12.8], set out in the 2017 WLA Notification, BT is required to comply with, among others, the Regulatory Accounting Principles.
6. Under Condition [12.4], set out in the 2017 WLA Notification, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition [12].
7. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;

- b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) in relation to what it is intended to achieve, transparent.
8. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that it has acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.
 9. Ofcom has considered every representation about the proposed Direction duly made to it and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for the purposes of section 49A(6)(b) of the Act.
 10. The proposals set out in the 2017 WLA Consultation contained proposals of EU significance for the purposes of the Act. Therefore, after making any modifications of the proposals that appeared to Ofcom to be appropriate following domestic consultation, Ofcom sent on [DATE] a copy of them, and of a draft of the statement accompanying this Direction setting out the reasons for them, to the European Commission, BEREC and the regulatory authorities of every other member State for EU consultation, in accordance with section 49B(2) of the Act.
 11. Ofcom received comments from the European Commission on its proposals on [DATE], and has made such modifications to this Direction and the statement accompanying this Direction as it considers appropriate.

Direction

12. Ofcom hereby, pursuant to section 49 of the Act and Condition [12.4], gives the direction to BT specifying the Regulatory Accounting Principles, as set out in the Annex to this Direction, in relation to the market set out in paragraph 1.
13. The Annex to this direction forms part of the Direction.

Interpretation

14. For the purpose of interpreting this Direction:

- a) except as otherwise defined in paragraph 15 below or in so far as the context otherwise requires, words or expressions have the meaning assigned to them in SMP conditions set out in the 2017 WLA Notification, and otherwise any word or expression has the same meaning as it has in the Act;
- b) headings and titles shall be disregarded;
- c) expressions cognate with those referred to in this Direction shall be construed accordingly; and
- d) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

15. For the purposes of interpreting this Direction the following definitions shall apply,

- a) **“2017 WLA Notification”** means the notification at Annex [X] of the statement [wholesale local access market reviews] dated [DATE]; and
- b) **“Regulatory Financial Reporting”** means the whole of the Regulatory Financial Statements, the Accounting Methodology Documents, the accounting records and the Regulatory Accounting System.

16. The Direction will take effect on [DATE].

Signed

[NAME]

[Competition Policy Director]

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

[DATE]

Annex - The Regulatory Accounting Principles

The Regulatory Accounting Principles which apply for the purposes of preparing and maintaining the Regulatory Financial Statements, the Accounting Methodology Documents, the accounting records and the Regulatory Accounting System are the following:

1. Completeness

Regulatory Financial Reporting must encompass all revenues, costs, assets and liabilities of the Markets and Technical Areas, together with residual activities (including wholesale and retail).

2. Accuracy

Regulatory Financial Reporting must maintain an adequate degree of accuracy, such that the information included in the Regulatory Financial Statements is free from material errors and double-counting. Materiality must be determined in accordance with the definition set out below.

3. Objectivity

Each element of Regulatory Financial Reporting, so far as is possible, must take account of all the available financial and operational data that is relevant to that element.

Where an element of Regulatory Financial Reporting is based on assumptions, those assumptions must be justified and supported by all available relevant empirical data. The assumptions must not be formulated in a manner which unfairly benefits BT or any other operator or entity, or creates undue bias towards any part of BT's or any other operator's business or product.

4. Consistency with regulatory decisions

Regulatory Financial Reporting must be consistent with Ofcom's regulatory decisions as directed by Ofcom.

5. Causality

Regulatory Financial Reporting must ensure that:

- a) revenues (including revenues resulting from transfer charges);
- b) costs (including costs resulting from transfer charges);
- c) assets; and
- d) liabilities

are attributed in accordance with the activities which cause the revenues to be earned, or costs to be incurred, or assets to be acquired, or liabilities to be incurred respectively.

6. Compliance with the statutory accounting standards

Regulatory Financial Reporting must comply with the accounting standards applied in BT's statutory accounts; with the exception of any departures as Ofcom may direct from time to time.

7. Consistency of the Regulatory Financial Statements as a whole and from one period to another

Regulatory Financial Reporting must be applied consistently in all the Regulatory Financial Statements relating to the same period.

Regulatory Financial Reporting must be applied consistently from one period to another.

All the changes in Regulatory Financial Reporting from one period to another must be justified by reference to the Regulatory Accounting Principles.

If there are material changes in Regulatory Financial Reporting from one period to another, BT must restate the previous period's Regulatory Financial Statements, applying the changes to the Regulatory Financial Statements for that period.

The Regulatory Accounting Principles must be applied to all material items of revenue, costs, assets and liabilities in the Regulatory Financial Statements, or material changes in those items. A material item of revenue, costs, assets or liabilities, or a material change in those items, is one which is reasonably expected by virtue of its magnitude or nature, to affect the views of any user of the Regulatory Financial Statements.

Where it appears to BT that any of the Regulatory Accounting Principles set out above conflict with each other in a particular case, BT must resolve such conflict by giving priority to them in the order in which they are set out above, with a previous principle taking precedence over a later principle.

2.2 Proposal for a direction specifying the requirements in relation to consistency with regulatory decisions and regulatory asset value

Notification of proposal under sections 49 and 49A of the Communications Act 2003 and proposed SMP Services Condition 12.4 specifying the requirements in relation to consistency with regulatory decisions and the preparation of the Regulatory Financial Statements on a regulatory asset value adjusted current costs basis

Background

1. On 20 May 2014, Ofcom published a policy statement entitled “*Regulatory Financial Reporting – Final Statement*” (“**2014 RFR Statement**”), which set out Ofcom’s conclusions on the requirements for regulatory financial reporting that Ofcom considered should be applied to BT in markets in which BT has SMP. Ofcom decided, among other things, to introduce a requirement to prepare all Regulatory Financial Statements, explanations and other required information on a regulatory asset value current cost basis.
2. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
3. Under proposed Condition 12.10, set out at Annex 23 to this consultation, BT shall prepare all Regulatory Financial Statements, explanations or other information required by virtue of proposed Condition 12 on the regulatory asset value adjusted current costs basis.
4. Under proposed Condition 12.4 set out at Annex 23 to this consultation, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under proposed Condition 12.
5. This Notification sets out proposals specifying the requirements in relation to (i) requirements required to ensure consistency with Ofcom’s regulatory decisions, and (ii)

the preparation of the Regulatory Financial Statements on a regulatory asset value adjusted current costs basis, in relation to the market set out in paragraph 2 above.

Proposal to give a direction

6. Ofcom is proposing, in accordance with section 49 of the Communications Act 2003 (the “Act”), to give a direction pursuant to proposed Condition 12.4 specifying the requirements in relation to the preparation of the Regulatory Financial Statements on a regulatory asset value adjusted current costs basis in relation to the market set out in paragraph 2.
7. The proposed direction is set out in the Schedule to this Notification.
8. The effect of and reasons for giving the proposed direction are set out in 2017 WLA Consultation accompanying this Notification.

Ofcom’s duties and legal tests

9. For the reasons set out in the 2017 WLA Consultation, Ofcom considers that the proposed direction referred to in paragraph 7 complies with the requirements of section 49(2) of the Act.
10. In making the proposals referred to in paragraph 6, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making Representations

11. Representations may be made to Ofcom about the proposals set out in the Notification and the 2017 WLA Consultation by no later than 9 June 2017.
12. In accordance with section 49C(1)(a) of the Act, a copy of this Notification, together with the Direction set out in the Schedule to this Notification, will be sent to the Secretary of State.

Interpretation

13. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP conditions set out at Annex 23 of the

2017 WLA Consultation. Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink, appearing to be 'B. Potterill', enclosed in a thin black rectangular border.

Brian Potterill
Competition Policy Director, Ofcom

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

31 March 2017

SCHEDULE

[Proposed] Direction under section 49 of the Communications Act 2003 and Condition [12.4] specifying the requirements in relation to regulatory asset value

Background

1. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. The proposals referred to in paragraph 1 included proposals to issue a direction specifying (i) requirements required to ensure consistency with Ofcom’s regulatory decisions, and (ii) the preparation of the Regulatory Financial Statements on a regulatory asset value adjusted current costs basis, in relation to the market set out in paragraph 1. Ofcom invited responses to the 2017 WLA Consultation by 9 June 2017.
3. On [DATE], Ofcom concluded its review of the Wholesale Local Access market in which it identified markets, made market power determinations and set appropriate SMP conditions as set out in the 2017 WLA Notification.
4. Ofcom determined in the review referred to in paragraph 3 above, that BT has SMP in the market set out at paragraph 1 above.
5. Under Condition [12.10], set out in the 2017 WLA Notification, BT shall prepare all Regulatory Financial Statements, explanations or other information required by virtue of proposed Condition 12 on regulatory asset value adjusted current costs basis.
6. Under Condition [12.4], set out in the 2017 WLA Notification, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition [12].
7. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that, in accordance with section 49(2) of the Act, this Direction is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) in relation to what it is intended to achieve, transparent.
8. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that it has acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.
9. Ofcom has considered every representation about the proposed Direction duly made to it and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for the purposes of section 49A(6)(b) of the Act.
10. The proposals set out in the 2017 WLA Consultation contained proposals of EU significance for the purposes of the Act. Therefore, after making any modifications of the proposals that appeared to Ofcom to be appropriate following domestic consultation, Ofcom sent on [DATE] a copy of them, and of a draft of the statement accompanying this Direction setting out the reasons for them, to the European Commission, BEREC and the regulatory authorities of every other member State for EU consultation, in accordance with section 49B(2) of the Act.
11. Ofcom received comments from the European Commission on its proposals on [DATE], and has made such modifications to this Direction and the statement accompanying this Direction as it considers appropriate.

Direction

12. Ofcom hereby, pursuant to section 49 of the Act and Condition [12.4], directs BT to act as prescribed in (i) paragraph 13 below, and (ii) the Schedule to this notification in relation to the market set out in paragraph 1.
13. In preparing the Regulatory Financial Statements, explanations and other required information on a regulatory asset value adjusted current costs basis, BT shall value the

Access Ducts capitalised prior to 1 August 1997 on the basis of the closing historical cost on 31 March 2005 which is indexed by the Retail Price Index from 31 March 2005.

Interpretation

14. For the purpose of interpreting this Direction:

- a) except as otherwise defined in paragraph 15 below or in so far as the context otherwise requires, words or expressions have the meaning assigned to them in SMP conditions set out in the 2017 WLA Notification, and otherwise any word or expression has the same meaning as it has in the Act;
- b) headings and titles shall be disregarded;
- c) expressions cognate with those referred to in this Direction shall be construed accordingly; and
- d) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

15. For the purposes of interpreting this Direction the following definitions shall apply,

- a) **“2017 WLA Notification”** means the notification at Annex [X] of the statement [wholesale local access market reviews] dated [DATE]; and
- b) **“Regulatory Financial Reporting”** means the whole of the Regulatory Financial Statements, the Accounting Methodology Documents, the accounting records and the Regulatory Accounting System.

16. The Direction will take effect on [DATE].

Signed

[NAME]

[Competition Policy Director]

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

[DATE]

Schedule to direction specifying requirements in relation to consistency with regulatory decisions and regulatory asset value

Part 1: Definitions and Interpretation

In this Direction:

- (a) **'Access Fibre Sector'** means the REFINE sector used in BT's Regulatory Financial Reporting System that contain the asset values and depreciation for Access Fibre (optical fibre cables in the access network) and Access Radio (cellular, microwave and satellite radio systems used to connect the user and the exchange);
- (b) **'ACPA'** is the Class of Work (CoW) used in BT's Regulatory Financial Reporting System to capture the costs of the construction, installation and recovery assets necessary for the operation of network equipment;
- (c) **'Class of Work' (CoW)** means activities (e.g. Maintenance & Construction) which BT use to identify the plant type or the product group/service being worked on by BT's engineers;
- (d) **'Cumulo costs'** means the non-domestic (business) rates that BT pays on its Cumulo Rateable Assets within the United Kingdom;
- (e) **'Cumulo Rateable Assets'** means the assets that make up BT's Cumulo non-domestic rating assessments in the United Kingdom as defined for England in The Central Rating List (England) Regulations 2005 (SI 2005/551), as amended by The Central Rating List (Amendment) (England) Regulations 2006 (SI 2006/495) and The Central Rating List (Amendment) (England) Regulations 2008 (SI 2008/429), and the analogous legislation that define these assets in Wales, Scotland and Northern Ireland;
- (f) **'Capitalisation Credit Relating to Self Installation Modems'**: Self-Installation costs relate to labour costs of engineers performing cabinet jumpering activity to set up the FTTC connection where the end user has installed the GEA FTTC Modem themselves. These costs are originally recorded as an operating cost, Openreach then post a manual capitalisation credit journal to record the cost as an asset;
- (g) **'Customer installations'** means wholesale services provided by Openreach to meet orders such as new provides, transfers and migrations or order types reflecting the

existence or state of any line to the premises to be served, for example, new lines, start of stopped lines and working line takeovers;

- (h) [**WLA Statement**] means the statement entitled “Wholesale Local Access Market Review 2017” which was published by Ofcom on [DATE];]
- (i) **‘Fibre To The Cabinet (FTTC)’** means an Electronic Communications Network consisting of optical fibre extending from the local access node to the street cabinet;
- (j) **‘Fibre To The Premises (FTTP)’** means an Electronic Communications Network consisting of optical fibre extending from the local access node to the customer’s premises;
- (k) **‘Fibre To The Cabinet or Premises (FTTx)’** means either FTTC or FTTP or other fibre based optical fibre network;
- (l) **‘Generic Ethernet Access’** or **‘GEA’** means the BT Wholesale non-physical service providing communications providers with access to higher speed broadband products;
- (m) **‘GEA FTTC Modem’** is a network hardware device located at the subscribers’ premises that demodulates signals to decode the digital transmitted information received from the FTTC network;
- (n) **‘Gross Replacement Cost’** or **‘GRC’** means the cost of replacing an existing tangible fixed asset with an identical or substantially similar new asset having a similar production or service capacity;
- (o) **‘Net Replacement Cost’** means the Gross Replacement Cost less accumulated depreciation based on Gross Replacement Cost;
- (p) **‘Next Generation Access’** or **‘NGA’** means the wired access networks which consist wholly or in part of optical elements and which are capable of delivering broadband access services with enhanced characteristics as compared to those provided over already existing copper networks;
- (q) **‘NGA related Cumulo costs’** means the element of BT’s Cumulo costs within the United Kingdom that is directly attributable to NGA Network Components;

- (r) **'NGA Network Components'** means the Network Components which are used solely to supply VULA services;
- (s) **'Non-NGA Network Components'** means the Network Components other than the NGA Network Components;
- (t) **'Non-NGA related Cumulo costs'** means the Cumulo costs excluding the NGA related Cumulo costs;
- (u) **'Plant Groups'** are one of the five main categories of costs BT uses in its Regulatory Financial Reporting System in the production of the RFS. Plant Groups are used to attribute onwards the costs and asset values of activities, equipment and infrastructure for the purposes of running and selling network services; and
- (v) **'Wholesale Local Access Market'** means the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area.

Part 2: [Proposed] Direction

Requirements to ensure the Regulatory Financial Statements are consistent with specified regulatory decisions made by Ofcom in the WLA Statement

BT shall prepare the Regulatory Financial Statements in accordance with the requirements set out in paragraphs 1 - 5 below. BT shall give priority to the requirements set out in paragraphs 1- 5 in the order in which they are set out below.

1. BT shall attribute the capitalisation credit relating to the self-installation costs of GEA FTTC modems to plant group PG958P (GEA FTTC Provision).

2. In the case of the Cumulo costs incurred by BT in relation to GEA services, BT shall:

2.1. attribute to GEA FTTC rentals with reference to a rateable value of £18 per connected line per annum; and

2.2. attribute to other GEA rental services with reference to a rateable value of £20 per connected line per annum.

3. BT shall attribute the following costs to GEA services as follows:

3.1 Access Fibre Sector costs should be attributed to GEA services based on the physical consumption;

3.2. where customer installation costs are contained within the same GEA network cost components as maintenance costs, they should be separately identified and attributed to separate provisioning and maintenance network cost components;

3.3. customer installation costs for GEA services should be separately identified for FTTP, FTTC and other FTTx services and attributed separately to those services in accordance with the Regulatory Accounting Principles;

3.3. BDUK funding and the costs of deployment in BDUK areas should be attributed to the separate FTTP, FTTC and other FTTx services in accordance with the Regulatory Accounting Principles.

4. In the case of profits and losses from the sales of property, BT shall:

4.1 separately identify the type of building that profit or losses from disposal relate to;
and

4.2 attribute the disposal proceeds separately to each type of building as follows:

4.2.1 the proceeds for Telereal Trillium owned buildings shall be attributed
based on annual rent payable;

4.2.2 the proceeds for BT owned buildings shall be attributed based on the
annual depreciation charge.

5. In the case of the assets within the ACPA Class of Work, BT shall attribute the asset costs to Plants Groups that takes account of the relative ages of assets used within the Plant Group.

2.3 Proposal for a direction specifying the transparency requirements for the purposes of preparing and maintaining the accounting records, the Accounting Methodology Documents and the Regulatory Financial Statements

Notification of proposal under sections 49 and 49A of the Communications Act 2003 and proposed SMP Services Condition 12.4 specifying the transparency requirements for the purposes of preparing and maintaining the accounting records, the Accounting Methodology Documents and the Regulatory Financial Statements

Background

1. On 20 May 2014, Ofcom published a policy statement entitled “*Regulatory Financial Reporting – Final Statement*” (“**2014 RFR Statement**”), which set out (among other things) Ofcom’s policy conclusions, following consultation, on the regulatory financial reporting policy that Ofcom considered should be applied to BT in markets in which BT has significant market power. One of Ofcom’s conclusions was that in preparing the Regulatory Financial Statements, BT should be required to comply with, among others, specified transparency requirements.
2. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
3. Under proposed Condition 12.4 set out at Annex 23 to this consultation, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition 12.
4. This Notification sets out proposals specifying the level of transparency required to be met by BT in preparing and maintaining the accounting records, the Accounting Methodology Documents and the Regulatory Financial Statements in relation to each of the markets set out in paragraph 2 above.

Proposal to give a direction

5. Ofcom is proposing, in accordance with section 49 of the Communications Act 2003 (the “Act”) to give a direction pursuant to proposed Condition 12.4 specifying the level of transparency required to be met by BT in preparing and maintaining the accounting records, the Accounting Methodology Documents and the Regulatory Financial Statements in relation to each of the markets set out in paragraph 2 above.
6. The proposed direction is set out in the Schedule to this Notification.
7. The effect of and reasons for giving the proposed direction are set out in 2017 WLA Consultation accompanying this Notification.

Ofcom’s duties and legal tests

8. For the reasons set out in the 2017 WLA Consultation, Ofcom considers that the proposed direction referred to in paragraph 5 complies with the requirements of section 49(2) of the Act.
9. In making the proposals referred to in paragraph 5, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making Representations

10. Representations may be made to Ofcom about the proposals set out in the Notification and the 2017 WLA Consultation by no later than 9 June 2017.
11. In accordance with section 49C(1)(a) of the Act, a copy of this Notification, together with the Direction set out in the Schedule to this Notification, will be sent to the Secretary of State.

Interpretation

12. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP conditions set out at Annex 23 of the 2017 WLA Consultation. Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink, appearing to read 'B. Potterill', enclosed within a thin black rectangular border.

Brian Potterill
Competition Policy Director, Ofcom

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

31 March 2017

SCHEDULE

[DRAFT] Direction under section 49 of the Communications Act 2003 and Condition [12.4] specifying the transparency requirements for the purposes of preparing and maintaining the accounting records, the Accounting Methodology Documents and the Regulatory Financial Statements

1. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. The proposals referred to in paragraphs 1 above, included proposals to issue a direction specifying the level of transparency required to be met by BT in preparing and maintaining the accounting records, the Accounting Methodology Documents and the Regulatory Financial Statements. Ofcom invited responses to the 2017 WLA Consultation by 9 June 2017.
3. On [DATE], Ofcom concluded its review of the narrowband markets in which it identified markets, made market power determinations and set appropriate SMP conditions as set out in the 2017 WLA Notification.
4. Ofcom determined in the review referred to in paragraph 3 above, that BT has SMP in the market set out a paragraph 1 above.
5. Under Condition [12.4], set out in the 2017 WLA Notification, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition [12].
6. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;

- b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) in relation to what it is intended to achieve, transparent.
7. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that it has acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.
 8. Ofcom has considered every representation about the proposed Direction duly made to it and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for the purposes of section 49A(6)(b) of the Act.
 9. The proposals set out in the 2017 WLA Consultation contained proposals of EU significance for the purposes of the Act. Therefore, after making any modifications of the proposals that appeared to Ofcom to be appropriate following domestic consultation, Ofcom sent on [DATE] a copy of them, and of a draft of the statement accompanying this Direction setting out the reasons for them, to the European Commission, BEREC and the regulatory authorities of every other member State for EU consultation, in accordance with section 49B(2) of the Act.
 10. Ofcom received comments from the European Commission on its proposals on [DATE], and has made such modifications to this Direction and the statement accompanying this Direction as it considers appropriate.

Direction

11. Ofcom hereby, pursuant to section 49 of the Act and Condition [12.4], directs BT to act as prescribed in paragraph 12 below in relation to the market set out in paragraph 1.
12. In preparing and maintaining the accounting records, the Accounting Methodology Documents and the Regulatory Financial Statements, BT shall ensure that any data, information, description, material or explanatory document prepared in respect of accounting and other methods used in the preparation of the accounting records and Regulatory Financial Statements shall be sufficiently transparent and prepared such that a suitably informed reader can gain a clear understanding of such data, information,

description, material or explanatory document, and, if necessary, the overall structure of BT's financial and information systems from which regulatory accounting data is derived and in particular the sequence of the processing and 'cascade' effect of the intermediate cost centres; and gain a clear understanding of all the material, methodologies and drivers (e.g. systems, Processes and procedures) applied in the preparation of regulatory accounting data.

Interpretation

13. For the purpose of interpreting this Direction:

- a) except as otherwise defined in paragraph 15 below or in so far as the context otherwise requires, words or expressions have the meaning assigned to them in SMP conditions set out in the 2017 WLA Notification, and otherwise any word or expression has the same meaning as it has in the Act;
- b) headings and titles shall be disregarded;
- c) expressions cognate with those referred to in this Direction shall be construed accordingly; and
- d) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

14. For the purposes of interpreting this Direction the following definition shall apply:

- a) **"2017 WLA Notification"** means the notification at Annex [X] of the statement [wholesale local access market reviews] dated [DATE];

15. The Direction will take effect on [DATE].

Signed

[NAME]

[Competition Policy Director]

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

[DATE]

2.4 Proposal for a direction setting the requirements in relation to audit, form of the FPIA opinion and form of PPIA opinion for Regulatory Financial Statements

Notification of proposal under sections 49 and 49A of the Communications Act 2003 and proposed SMP Services Condition 12.4 setting the requirements in relation to audit, form of the FPIA opinion and form of PPIA opinion for Regulatory Financial Statements

Background

1. On 20 May 2014, Ofcom published a policy statement entitled “*Regulatory Financial Reporting – Final Statement*” (“**2014 RFR Statement**”), which set out (among other things) Ofcom’s policy conclusions, following consultation, on the regulatory financial reporting policy that Ofcom considered should be applied to BT in markets in which BT has significant market power. One of Ofcom’s conclusions was to specify the level of audit which must, where so required by Ofcom, be secured by BT in obtaining:
 - a) an audit to “fairly presents in accordance with” (“FPIA”) standards; and
 - b) an audit to “properly prepared in accordance with” (“PPIA”) standards.
2. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
3. Under proposed Condition 12.8(iii), set out at Annex 23 to this consultation, BT is required to secure the expression of an audit opinion upon the Regulatory Financial Statements as notified by Ofcom from time to time.
4. Under proposed Condition 12.4 set out at Annex 23 to this consultation, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition 12.

5. This Notification sets out proposals setting the requirements in relation to audit, form of the FPIA opinion and form of PPIA opinion for Regulatory Financial Statements in relation to the market set out in paragraph 2 above.

Proposal to give a direction

6. Ofcom is proposing, in accordance with section 49 of the Communications Act 2003 (the “**Act**”) to give a direction pursuant to proposed Condition 12.4 setting the requirements in relation to audit, form of the FPIA opinion and form of PPIA opinion for Regulatory Financial Statements in relation to each of the market set out in paragraph 2 above. The proposed direction is set out in the Schedule to this Notification.
7. The effect of and reasons for giving the proposed direction are set out in the 2017 WLA Consultation accompanying this Notification.

Ofcom’s duties and legal tests

8. For the reasons set out in the 2017 WLA Consultation, Ofcom considers that the proposed direction referred to in paragraph 6 complies with the requirements of section 49(2) of the Act.
9. In making the proposals referred to in paragraph 6, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making Representations

10. Representations may be made to Ofcom about the proposals set out in the Notification and the 2017 WLA Consultation by no later than 9 June 2017.
11. In accordance with section 49C(1)(a) of the Act, a copy of this Notification, together with the Direction set out in the Schedule to this Notification, will be sent to the Secretary of State.

Interpretation

12. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP conditions set out at Annex 23 of the

2017 WLA Consultation. Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink, appearing to read 'B. Potterill', enclosed within a thin black rectangular border.

Brian Potterill
Competition Policy Director, Ofcom

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

31 March 2017

SCHEDULE

[DRAFT] Direction under section 49 of the Communications Act 2003 and Condition [12.4] setting the requirements in relation to audit, form of the FPIA opinion and form of PPIA opinion for Regulatory Financial Statements

1. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. The proposals referred to in paragraph 1, included proposals to issue a direction setting the requirements in relation to audit, form of the FPIA opinion and form of PPIA opinion for Regulatory Financial Statements. Ofcom invited responses to the 2017 WLA Consultation by 9 June 2017.
3. On [DATE], Ofcom concluded its review of the wholesale local access market, in which it identified markets, made market power determinations and set appropriate SMP conditions as set out in the 2017 WLA Notification.
4. Ofcom determined in the review referred to in paragraph 4 above, that BT has SMP in the markets set out in paragraph 1 above.
5. Under Condition [12.8(iii)], set out in the 2017 WLA Notification, BT is required to secure the expression of an audit opinion upon the Regulatory Financial Statements as notified by Ofcom from time to time.
6. Under Condition 12.4, set out in the 2017 WLA Notification, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition 12.
7. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;

- b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) in relation to what it is intended to achieve, transparent.
8. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that it has acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.
 9. Ofcom has considered every representation about the proposed Direction duly made to it and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for the purposes of section 49A(6)(b) of the Act.
 10. The proposals set out in the 2017 WLA Consultation contained proposals of EU significance for the purposes of the Act. Therefore, after making any modifications of the proposals that appeared to Ofcom to be appropriate following domestic consultation, Ofcom sent on [DATE] a copy of them, and of a draft of the statement accompanying this Direction setting out the reasons for them, to the European Commission, BEREC and the regulatory authorities of every other member State for EU consultation, in accordance with section 49B(2) of the Act.
 11. Ofcom received comments from the European Commission on its proposals on [DATE], and has made such modifications to this Direction and the statement accompanying this Direction as it considers appropriate.

Direction

12. Ofcom hereby, pursuant to section 49 of the Act and Condition [12.4], directs BT to act as prescribed in paragraphs 13 to 15 in relation to the market set out in paragraph 1.
13. BT shall secure, to the satisfaction of Ofcom, an appropriate audit opinion in respect of the published Regulatory Financial Statements as a whole, in respect of each Regulatory Financial Statement and in respect of groups of Regulatory Financial Statement, to either “fairly presents in accordance with” (“FPIA”) standards or “properly prepared in accordance with” (“PPIA”) standards, as specified by Ofcom and as shall be notified in writing to BT from time to time by Ofcom.

14. Where BT is required to secure the expression of an audit opinion to FPIA standards upon any Regulatory Financial Statement, BT shall ensure that the Regulatory Auditor shall state whether in his opinion:
- a. each Regulatory Financial Statement has been prepared in accordance with the applicable SMP services conditions, the Regulatory Accounting Principles and the Accounting Methodology Documents;
 - b. each Regulatory Financial Statement and corresponding audit opinion that BT delivers to Ofcom and/or publishes is fit for such purpose (or purposes), if any, as notified by Ofcom to BT in writing;
 - c. each Regulatory Financial Statement fairly presents in accordance with the Regulatory Accounting Principles, and the Accounting Methodology Documents:
 - i. in the case of the 'Performance Summary by Market or Technical Area' and the 'BT Reconciliation Statement – Consolidated Profit and Loss Account', the results in the relevant market, technical area, basket, single charge category and Network Service (as appropriate) for the relevant Financial Year and Prior Year Comparatives;
 - ii. in the case of the 'Attribution of Wholesale Current Cost Mean Capital Employed' and the 'BT Reconciliation Statement – Consolidated Mean Capital Employed', the mean capital employed in the relevant market, technical area, basket, single charge category and Network Service (as appropriate) for the relevant Financial Year and Prior Year Comparatives; and
 - iii. in the case of the other statements of revenues, costs, assets, liabilities and other quantities, the revenues, costs, assets, liabilities and other quantities incurred or employed in the relevant market, technical area, basket, single charge category and Network Service (as appropriate) for the relevant Financial Year and Prior Year Comparatives.
15. Where BT is required to secure the expression of an audit opinion to PPIA standards upon any Regulatory Financial Statement, BT shall ensure that the Regulatory Auditor shall state whether in his opinion:
- a. each Regulatory Financial Statement has been properly prepared in accordance with the applicable SMP services conditions, the Regulatory Accounting Principles, and the Accounting Methodology Documents, including the Prior Year Comparatives;

- b. each Regulatory Financial Statement and corresponding audit opinion that BT delivers to Ofcom and/or publishes is fit for such purpose (or purposes), if any, as notified by Ofcom to BT in writing; and
- c. anything has come to his attention that would lead him to conclude that the applicable SMP services conditions, the Regulatory Accounting Principles and the Accounting Methodology Documents have not been properly applied in the preparation of the relevant Regulatory Financial Statement, disclosing where practicable any adjustments he considers to be required in respect of any such matter.

Interpretation

16. For the purpose of interpreting this Direction:

- a) except as otherwise defined in paragraph 17 below or in so far as the context otherwise requires, words or expressions have the meaning assigned to them in SMP conditions set out in the Notification, and otherwise any word or expression has the same meaning as it has in the Act;
- b) headings and titles shall be disregarded;
- c) expressions cognate with those referred to in this Direction shall be construed accordingly; and
- d) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

17. For the purposes of interpreting this Direction the following definition shall apply:

- a) “**2017 WLA Notification**” means the notification at Annex [X] of the statement [wholesale local access market review] dated [DATE].

18. The Direction will take effect on [DATE].

Signed

[NAME]

[Competition Policy Director]

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

[DATE]

2.5 Proposal for a direction setting the requirements in relation to reconciliation report and accompanying audit opinion

Notification of proposal under sections 49 and 49A of the Communications Act 2003 and proposed SMP Services Condition 12.4 setting the requirements in relation to reconciliation report and accompanying audit opinion

Background

1. On 20 May 2014, Ofcom published a policy statement entitled “*Regulatory Financial Reporting – Final Statement*” (“**2014 RFR Statement**”), which set out (among other things) Ofcom’s policy conclusions, following consultation, on the regulatory financial reporting policy that Ofcom considered should be applied to BT in markets in which BT has significant market power. One of Ofcom’s conclusions was on the requirements in relation to a reconciliation report and an accompanying audit opinion.
2. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
3. Under proposed Condition 12.8(iv), set out at Annex 23 to this consultation, BT is required to prepare and publish the reconciliation report as directed by Ofcom from time to time. The reconciliation report must set out changes to the Regulatory Accounting Methodology and the impact of such changes on the Regulatory Financial Statements, and Material Errors corrected in the Regulatory Financial Statements and the impact of such Material Errors on the Regulatory Financial Statements.
4. Under proposed Condition 12.4 set out at Annex 23 to this consultation, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition 12.
5. This Notification sets out proposals setting the requirements in relation to the reconciliation report and accompanying audit opinion in relation to the market set out in paragraph 2 above.

Proposal to give a direction

6. Ofcom is proposing, in accordance with section 49 of the Communications Act 2003 (the “Act”), to give a direction pursuant to proposed Condition 12.4 setting the requirements in relation to the reconciliation report and accompanying audit opinion in relation to the market set out in paragraph 2 above.
7. The proposed direction is set out in the Schedule to this Notification.
8. The effect of and reasons for giving the proposed direction are set out in 2017 WLA Consultation accompanying this Notification.

Ofcom’s duties and legal tests

9. For the reasons set out in the 2017 WLA Consultation, Ofcom considers that the proposed direction referred to in paragraph 6 complies with the requirements of section 49(2) of the Act.
10. In making the proposals referred to in paragraph 6, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making Representations

11. Representations may be made to Ofcom about the proposals set out in the Notification and the 2017 WLA Consultation by no later than 9 June 2017.
12. In accordance with section 49C(1)(a) of the Act, a copy of this Notification, together with the Direction set out in the Schedule to this Notification, will be sent to the Secretary of State.

Interpretation

13. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP conditions set out at Annex 23 of the 2017 WLA Consultation. Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink, appearing to read 'B. Potterill', enclosed within a thin black rectangular border.

Brian Potterill
Competition Policy Director
Ofcom

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

31 March 2017

SCHEDULE

[DRAFT] Direction under section 49 of the Communications Act 2003 and Condition [12.4] setting the requirements in relation to reconciliation report and accompanying audit opinion

1. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. The proposals referred to in paragraph 1, included proposals to issue a direction setting the requirements setting the requirements in relation to reconciliation report and accompanying audit opinion. Ofcom invited responses to the 2017 WLA Consultation by 9 June 2017.
3. On [DATE], Ofcom concluded its review of the wholesale local access market in which it identified markets, made market power determinations and set appropriate SMP conditions as set out in the 2017 WLA Notification.
4. Ofcom determined in the review referred to in paragraph 3 above, that BT has SMP in the market set out a paragraph 1 above.
5. Under Condition [12.8(iv)], set out in the 2017 WLA Notification, BT is required to prepare and publish the reconciliation report as directed by Ofcom from time to time. The reconciliation report must set out changes to the Regulatory Accounting Methodology and the impact of such changes on the Regulatory Financial Statements, and Material Errors corrected in the Regulatory Financial Statements and the impact of such Material Errors on the Regulatory Financial Statements.
6. Under Condition [12.4], set out in the 2017 WLA Notification, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition [12].

7. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) in relation to what it is intended to achieve, transparent.
8. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that it has acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.
9. Ofcom has considered every representation about the proposed Direction duly made to it and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for the purposes of section 49A(6)(b) of the Act.
10. The proposals set out in the 2017 WLA Consultation contained proposals of EU significance for the purposes of the Act. Therefore, after making any modifications of the proposals that appeared to Ofcom to be appropriate following domestic consultation, Ofcom sent on [DATE] a copy of them, and of a draft of the statement accompanying this Direction setting out the reasons for them, to the European Commission, BEREC and the regulatory authorities of every other member State for EU consultation, in accordance with section 49B(2) of the Act.
11. Ofcom received comments from the European Commission on its proposals on [DATE], and has made such modifications to this Direction and the statement accompanying this Direction as it considers appropriate.

Direction

12. Ofcom hereby, pursuant to section 49 of the Act and Condition [12.4], directs BT to act as prescribed in paragraphs 13 and 14 below in relation to the market set out in paragraph 1.

13. BT must prepare a reconciliation report which sets out:

- i. In relation to changes to the Regulatory Accounting Methodology:
 - a) each and every change;
 - b) the impact of all changes on all figures presented in the Regulatory Financial Statements, by setting out, on an aggregated basis, the difference between the Current Year Figures and the Current Year Figures had such changes not been made, expressed as an absolute amount and as a percentage change;
 - c) the impact of each Material Change at the Markets and Technical Areas Level, by setting out, for each Material Change separately, the difference between the Current Year Figures and the Current Year Figures had such Material Change not been made, expressed as an absolute amount and as a percentage change;
 - d) the impact of changes which are not Material Changes at the Markets and Technical Areas Level, by setting out, on an aggregated basis, the difference between the Current Year Figures and the Current Year Figures had such changes not been made, expressed as an absolute amount and as a percentage change; and
- ii. in relation to Material Errors identified since the publication of the previous Financial Year's Regulatory Financial Statements:
 - a) for each Material Error, a description of the Material Error, the circumstances of discovery of the Material Error, the reason for the Material Error, and whether such Material Error has been corrected in the restated Prior Year Comparatives;
 - b) the impact of all Material Errors on all figures presented in the Regulatory Financial Statements for the previous Financial Year, by setting out, on an aggregated basis:
 - i. the Current Year Figures set out in the Regulatory Financial Statements for the previous Financial Year had such Material Errors been corrected in the previous Financial Year ("the Corrected Previous Year Figures"); and

- ii. the difference as an absolute amount and as a percentage change between the Current Year Figures set out in the Regulatory Financial Statements for the previous Financial Year and the Corrected Previous Year Figures.
- c) the impact of each Material Error at the Markets and Technical Areas Level, by setting out, for each Material Error, the difference as an absolute amount and as a percentage change between:
 - i. the Current Year Figures set out in the Regulatory Financial Statements for the previous Financial Year; and
 - ii. the Current Year Figures set out in the Regulatory Financial Statements for the previous Financial Year had such Material Error been corrected in the previous Financial Year.

14. BT must obtain an audit opinion on the reconciliation report which must set out:

- i. whether all Material Changes were included in the Change Control Notification. Where this is not the case, the audit opinion must report whether Material Changes other than those included in the Change Control Notification were made as a result of an audit requirement made following delivery of the Change Control Notification or otherwise;
- ii. whether the description of each of the Material Changes provided by BT in the Change Control Notification is accurate;
- iii. whether BT included each and every Material Change in the reconciliation report and correctly calculated the impact of all changes on all figures presented in the Regulatory Financial Statements in accordance with paragraph 13(i)(b) above;
- iv. whether the description of each of the Material Errors provided by BT in the reconciliation report is accurate; and
- v. whether the Corrected Previous Year Figures set out in the reconciliation report in accordance with paragraph 13(ii)(b)(i) above are properly prepared in accordance with the Accounting Methodology Documents for the previous Financial Year had these Accounting Methodology Documents not included these Material Errors.

Interpretation

15. For the purpose of interpreting this Direction:

- a) except as otherwise defined in paragraph 16 below or in so far as the context otherwise requires, words or expressions have the meaning assigned to them in SMP conditions set out in the Notification, and otherwise any word or expression has the same meaning as it has in the Act;
- b) headings and titles shall be disregarded;
- c) expressions cognate with those referred to in this Direction shall be construed accordingly; and
- d) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

16. For the purposes of interpreting this Direction the following definitions shall apply:

- a) **“2017 WLA Notification”** means the notification at Annex [X] of the statement [wholesale local access market review] dated [DATE].
- b) **“Audit and Risk Committee”** means the committee of the board of directors of BT whose principal duties include financial reporting, internal controls, risk management and audit and includes any committee or unit established from time to time by the board of directors of BT to perform such duties;
- c) **“Change Control Notification”** means a list of each and every change to the Regulatory Accounting Methodology which BT is required to publish and deliver to Ofcom by 31 March of the Financial Year in which the change to the Regulatory Accounting Methodology is to be made;
- d) **“Markets and Technical Areas Level”** means the level at which total costs, total revenue and total assets are reported for each separate Market and Technical Area to which this Direction applies;
- e) **“Material Change”** means a change in any element of the Regulatory Accounting Methodology which results in a change (be it positive or negative) in any figure in the Regulatory Financial Statements which exceeds the higher of 5% or £1 million. The percentage change in a figure shall be calculated by taking the value of the affected figure before the change in the Regulatory Accounting Methodology is applied, and

subtracting from it, the value of the same figure after the change in the Regulatory Accounting Methodology is applied, and then dividing this result by the former value;

- f) **“Material Error”** means an error which:
- i. results in a correction (be it positive or negative) in any figure in the Regulatory Financial Statements which exceeds the higher of 5% or £1 million. The percentage correction in a figure shall be calculated by taking the value of the affected figure in the Regulatory Financial Reporting before the error is corrected, and subtracting from it, the value of the same figure after the error is corrected, and then dividing this result by the former value; and
 - ii. fulfils at least one of the following conditions set out in paragraphs (ii)(a) and (ii)(b) below:
 - (a) the error has arisen within the Regulatory Attribution System;
 - (b) the error has been brought to the attention of the Audit and Risk Committee by the Regulatory Auditor;
- g) **“Regulatory Attribution System”** means the set of computerised and manual accounting methods, procedures, Processes and controls established to attribute the costs, revenues, assets and liabilities and summarise, interpret, and present the resultant financial data in an accurate and timely manner for the purposes of the whole of the Regulatory Financial Statements, the Accounting Methodology Documents, the accounting records and the Regulatory Accounting System.

17. The Direction will take effect on [DATE].

Signed

[NAME]

[Competition Policy Director]

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

[DATE]

2.6 Proposal for a direction specifying network components

Notification of proposal under sections 49 and 49A of the Communications Act 2003 and proposed SMP Services Condition 12.4 to specify network components

Background

1. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. Under proposed Condition 12 set out at Annex 23 of the 2017 WLA Consultation, network components are defined as the network components specified in a direction given by Ofcom from time to time for the purpose of that Condition.
3. Under proposed Condition 12.4, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under the conditions.
4. This Notification sets out proposals to specify network components in relation to each of the markets set out in paragraph 2 above.

Proposal to give a new direction

5. Ofcom is proposing, in accordance with section 49 of the Communications Act 2003 (the “**Act**”), to give a direction pursuant to proposed Condition 12 specifying network components in relation to each of the markets set out in paragraph 1.
6. The proposed direction is set out in the Schedule to this Notification.
7. The effect of and reasons for giving the proposed direction are set out in the 2017 WLA Consultation accompanying this Notification.

Ofcom’s duties and legal tests

8. For the reasons set out in the 2017 WLA Consultation, Ofcom considers that the proposed direction referred to in paragraph 5 complies with the requirements of section 49(2) of the Act.
9. In making the proposals referred to in paragraph 5, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making Representations

10. Representations may be made to Ofcom about the proposals set out in the Notification and the 2017 WLA Consultation by no later than 9 June 2017.
11. In accordance with section 49C(1)(a) of the Act, a copy of this Notification, together with the Direction set out in the Schedule to this Notification, will be sent to the Secretary of State.

Interpretation

12. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP conditions set out at Annex 23 of the 2017 WLA Consultation. Otherwise any word or expression shall have the same meaning as it has in the Act

Signed

A handwritten signature in black ink, appearing to read 'B. Potterill', enclosed in a thin black rectangular border.

Brian Potterill
Competition Policy Director, Ofcom

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

31 March 2017

SCHEDULE

[DRAFT] Direction under section 49 of the Communications Act 2003 and Condition [12.4] specifying network components

1. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. The proposals referred to in paragraph 1, included proposals to issue a direction specifying network components. Ofcom invited responses to the 2017 WLA Consultation by 9 June 2017.
3. On [DATE], Ofcom concluded its review of the wholesale local access market in which it identified markets, made market power determinations and set appropriate SMP conditions as set out in the 2017 WLA Notification.
4. Ofcom determined in the review referred to in paragraph 3 above, that BT has SMP in the market set out a paragraph 1 above.
5. Under Condition [12] network components are defined as the network components specified in a direction given by Ofcom from time to time for the purpose of that Condition.
6. Under Condition [12.4], set out in the 2017 WLA Notification, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition [12].
7. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;

- b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) in relation to what it is intended to achieve, transparent.
8. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that it has acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.
9. Ofcom has considered every representation about the proposed Direction duly made to it and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for the purposes of section 49A(6)(b) of the Act.
10. The proposals set out in the 2017 WLA Consultation contained proposals of EU significance for the purposes of the Act. Therefore, after making any modifications of the proposals that appeared to Ofcom to be appropriate following domestic consultation, Ofcom sent on [DATE] a copy of them, and of a draft of the statement accompanying this Direction setting out the reasons for them, to the European Commission, BEREC and the regulatory authorities of every other member State for EU consultation, in accordance with section 49B(2) of the Act.
11. Ofcom received comments from the European Commission on its proposals on [DATE], and has made such modifications to this Direction and the statement accompanying this Direction as it considers appropriate.

Direction

12. Ofcom hereby, pursuant to section 49 of the Act and Condition [12.4], directs BT that the Network Components specified for the purposes of Condition [12] in relation to the market set out in paragraph 1, are those set out in the Annex to this Direction.
13. The Annex to this direction forms part of the Direction.

Interpretation

14. For the purpose of interpreting this Direction:

- a) except as otherwise defined in paragraph 15 below or in so far as the context otherwise requires, words or expressions have the meaning assigned to them in SMP conditions set out in the 2017 WLA Notification, and otherwise any word or expression has the same meaning as it has in the Act;
- b) headings and titles shall be disregarded;
- c) expressions cognate with those referred to in this Direction shall be construed accordingly; and
- d) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

15. For the purposes of interpreting this Direction the following definition shall apply,

- a) **“2017 WLA Notification”** means the notification at Annex [X] of the statement [wholesale local access market review] dated [DATE].

16. The Direction will take effect on [DATE].

Signed

[NAME]

[Competition Policy Director]

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

[DATE]

Annex: the Network Components

The network components shall be as shown below:

1. Low TISBO 3rd Party Equipment Depn
2. Medium TISBO 3rd Party Equipment Depn
3. High TISBO 3rd Party Equipment Depn
4. TISBO Excess Construction
5. AISBO Excess Construction
6. PC rentals 2Mbit/s regional trunk
7. PC rentals 34Mbit/s regional trunk
8. PC rentals 140Mbit/s regional trunk
9. Co-mingling set up
10. Co-mingling rentals
11. WLA Tie cables
12. Local Loop Unbundling systems development
13. Wholesale Access specific
14. Routeing & records
15. MDF Hardware jumpering
16. E side copper capital
17. E side copper current
18. D side copper capital
19. D side copper current
20. Local exchanges general frames equipment
21. Local exchanges general frames maintenance
22. Analogue line test equipment
23. Dropwire capital & analogue NTE
24. Analogue line drop maintenance
25. Analogue line cards
26. OR Service Centre - Provision AISBO
27. OR Service Centre - Provision Analogue/ISDN2
28. OR Service Centre - Provision WLA
29. Service Level Guarantees
30. OR Service Centre - Assurance Ethernet
31. OR Service Centre - Assurance Analogue/ISDN2
32. OR Service Centre - Assurance WLA
33. Combi Card and MSAN Access - Voice

34. Combi Card - Broadband
35. EES and MSAN Access - Broadband
36. Core Directors - Broadband
37. Edge Ethernet ports broadband
38. Ethernet Backhaul Direct - active
39. Ethernet Backhaul Direct - passive
40. Ethernet Backhaul Direct extended reach
41. Ethernet Backhaul Direct resilience - active
42. Ethernet Backhaul Direct – resilience - passive
43. Ethernet Switch BB
44. Core/Metro (broadband)
45. Metro-core broadband transmission
46. ADSL connections
47. EVOTAM testing systems
48. MPF line testing systems
49. Broadband line testing systems
50. DSLAM support
51. DSLAM equipment
52. PC rental 2Mbit/s link per km distribution
53. PC rental 34Mbit/s link per km distribution
54. PC rental 140Mbit/s link per km distribution
55. Point of Handover electronics
56. PC rental 64kbit/s link
57. PC rental 2Mbit/s link
58. PC rental 34Mbit/s link
59. PC rental 140Mbit/s link
60. PC rental 64kbit/s link per km transmission
61. 2Mbit/s and above PC link connection cct provision
62. 64kbit/s PC link connection cct provision
63. PC rental 64kbit/s link local end
64. PC rental 34Mbit/s link local end
65. PC rental 140Mbit/s link local end
66. PC rental 2Mbit/s local end copper
67. PC rental 2Mbit/s local end fibre
68. Backhaul Extension Services Fibre

69. Wholesale Extension Services Fibre
70. OR systems & development - Ethernet
71. Ethernet Access Direct Fibre
72. Other Ethernet rentals - CCTV
73. Interconnect local end rental 2Mbit/s
74. Interconnect 2Mbit/s connection
75. Interconnect extension circuits (IEC) 2Mbit/s link
76. Customer Sited Interconnect cct (CSI) 2Mbit/s link
77. Nominated In Span I/Connect cct (ISI) transmission
78. Interconnect Extension Circuits (IEC) 2Mbit/s per km
79. Customer Sited Interconnect (CSI) 2Mbit/s per km
80. In Span Interconnect circuits (ISI) transmission
81. Intra Building Circuit (IBC) connection
82. Intra Building Circuit (IBC) rental
83. Ethernet main links
84. Ethernet Electronics
85. Other Ethernet new provides - CCTV
86. Customer support - partial private circuits
87. Customer support - interconnect
88. Customer support - broadband
89. Broadband backhaul circuits (excl Virtual Paths)
90. Openreach sales product management
91. Co-mingling power & vent
92. Revenue Receivables
93. Co-mingling electricity
94. Caller display
95. Metro BRAS and MSE
96. Openreach time related charges
97. PC rental 2Mbit/s link national trunk
98. PC rental 140Mbit/s link national trunk
99. FTTC Development
100. Service centre – provision WLR NGA
101. iNode features
102. Network Features
103. Special Fault Investigation

104.EOI Notional Payables
105.FTTP Development
106.OR Service Centre – Provision NGA
107.OR Service Centre – Assurance NGA
108.GEA DSLAM & Cabinets
109.GEA FTTC Repairs
110.GEA FTTP Repairs
111.GEA FTTP Provisions
112.GEA FTTC Provisions
113.Fibre Rollout Funding
114.Funded Fibre Rollout Spend
115.Access Duct
116.Fibre Voice Access rental
117.Fibre Voice Access connection
118.FTTP Access Fibre Spine
119.FTTP Access Distribution
120.FTTP Electronics
121.FTTP Customer Site Installation
122.FTTC Access Fibre Spine
123.FTTC Access Distribution
124.FTTC Electronics
125.FTTC Customer Site Installation
126.Project Services

2.7 Proposals for a direction specifying the requirements in relation to additional reporting of information relating to BT's adjusted financial performance

Notification of proposals under sections 49 and 49A of the Communications Act 2003 and SMP Services Condition 12.4 specifying the requirements in relation to additional reporting of information relating to BT's adjusted financial performance

Background

1. On 31 March 2017, Ofcom published a consultation entitled "*Wholesale Local Access Market Review Consultation*" ("**2017 WLA Consultation**"), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. As a result of the proposed SMP determination set out at paragraph 2 above, Ofcom is proposing to set SMP conditions in relation to the market specified in paragraph 1.
3. Under proposed Condition 12 set out at Annex 23 of the 2017 WLA Consultation, network components are defined as the network components specified in a direction given by Ofcom from time to time for the purpose of that Condition.
4. Under proposed Condition 12.4, Ofcom may from time to time make such directions as they consider appropriate in relation to BT's obligations under the conditions.
5. This Notification sets out proposals for a direction specifying requirements in relation to additional reporting of information relating to BT's adjusted financial performance.

Proposal to give a new direction

6. Ofcom is proposing, in accordance with section 49 of the Communications Act 2003 (the "**Act**"), to give a direction pursuant to proposed Condition 12 specifying requirements in relation to additional reporting of information relating to BT's adjusted financial performance. The proposed direction is set out in the Schedule to this Notification.

7. The effect of and reasons for giving the proposed direction are set out in the 2017 WLA Consultation accompanying this Notification.

Ofcom's duties and legal tests

8. For the reasons set out in the 2017 WLA Consultation, Ofcom considers that the proposed direction referred to in paragraph 6 complies with the requirements of section 49(2) of the Act.
9. In making the proposals referred to in paragraph 6, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making Representations

10. Representations may be made to Ofcom about the proposals set out in the Notification and the 2017 WLA Consultation by no later than 9 June 2017.
11. In accordance with section 49C(1)(a) of the Act, a copy of this Notification, together with the Direction set out in the Schedule to this Notification, will be sent to the Secretary of State.

Interpretation

12. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP conditions set out at Annex 23 of the 2017 WLA Consultation. Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink, appearing to read 'B. Potterill', enclosed within a thin black rectangular border.

Brian Potterill
Competition Policy Director, Ofcom

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

31 March 2017

SCHEDULE

Part 1: Definitions and Interpretation

In this Direction:

- (a) **'Accounting Book life'** means the useful life estimated lifespan of a depreciable fixed asset within BT's RFS;
- (b) **'Fibre To The Cabinet'** or **'FTTC'** means an Electronic Communications Network consisting of optical fibre extending from the local access node to the street cabinet;
- (c) **'Fibre To The Premises'** or **'FTTP'** means an Electronic Communications Network consisting of optical fibre extending from the local access node to the customer's premises;
- (d) **'Fibre To The Cabinet or Premises'** or **'FTTx'** means either FTTC or FTTP or FTTP or other fibre based optical fibre network;
- (e) **'Gross Replacement Costs'** or **'GRC'** means the cost of replacing an existing tangible fixed asset with an identical or substantially similar new asset having a similar production or service capacity;
- (f) **'Net Replacement Costs'** or **'NRC'** means Gross Replacement Costs less accumulated depreciation based on Gross Replacement Costs;
- (g) **'NRC: GRC Ratio'** means the ratio of NRC divided by GRC;
- (h) **'Property rationalisation costs'** means onerous lease provisions relating to the rationalisation of BT Group's property portfolio;
- (i) **'Restructuring costs'** means the costs associated with the group-wide restructuring programme initialled by BT as defined at page 63 in BT's 2014 Annual Report;
- (j) **'Weighted Average Cost of Capital'** or **'WACC'** means the cost of funds used for financing a business.

Part 2: [Proposed] Direction specifying the requirements in relation to additional reporting of information relating to BT's adjusted financial performance

1. BT shall prepare the "Adjusted Financial Performance at a market review level" statement and the "Adjusted Financial Performance at a market level" statement in order to show for each Financial Year the impact on the Regulatory Financial Statements of:
 - a) calculating an average of the Property Rationalisation Costs incurred in the three prior Financial Years and attributing that average to the WLA market;
 - b) calculating an average of the Restructuring Costs incurred in the three prior Financial Years and attributing that average to the WLA market.
2. BT shall calculate the net proceeds in scrap value that BT will recoup when it moves to an FTTx only network. BT should discount its calculation using its WACC.
3. BT shall set and maintain the NRC: GRC ratio at 50% and adjust the asset lives to equate to the accounting book lives to calculate the OCM depreciation for the following network components:
 - a) LLU Line testing systems;
 - b) LLU systems development;
 - c) Wholesale Local Access specific;
 - d) Local exchanges general frames capital;
 - e) Local exchanges general current;
 - f) Analogue line testing equipment;
 - g) Analogue line cards;
 - h) Co-mingling power and ventilation; and
 - i) Combi Card and MSAN Access – Voice.

2.8 Proposal for a direction setting the requirements in relation to preparation, delivery, publication, form and content of the Regulatory Financial Statements

Notification of proposal under sections 49 and 49A of the Communications Act 2003 and proposed SMP Services Condition 12.4 setting the requirements in relation to preparation, delivery, publication, form and content of the Regulatory Financial Statements

Background

1. On 20 May 2014, Ofcom published a policy statement entitled “*Regulatory Financial Reporting – Final Statement*” (“**2014 RFR Statement**”), which set out Ofcom’s conclusions on the requirements for regulatory financial reporting that Ofcom considered should be applied to BT in all markets in which BT has significant market power.
2. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
3. Under proposed Condition 12 set out at Annex 23 of the 2017 WLA Consultation, and in particular Condition 12.8(i), BT will be required to prepare, deliver to Ofcom and publish the Regulatory Financial Statements as directed by Ofcom from time to time.
4. Under proposed Condition 12.4, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under the conditions.
5. This Notification sets out proposals to set the requirements in relation to preparation, delivery, publication, form and content of the Regulatory Financial Statements in relation to each of the market set out in paragraph 2.

Proposal to give a direction

6. Ofcom is proposing, in accordance with section 49 of the Communications Act 2003 (the “Act”), to give a direction pursuant to proposed Condition 12.4 setting the requirements in relation to preparation, delivery, publication, form and content of the Regulatory Financial Statements in relation to each of the markets set out in paragraph 2 above.
7. The proposed direction is set out in the Schedule to this Notification.
8. The effect of and reasons for giving the proposed direction are set out in the 2017 WLA Consultation accompanying this Notification.

Ofcom’s duties and legal tests

9. For the reasons set out in the 2017 WLA Consultation, Ofcom considers that the proposed direction referred to in paragraph 6 complies with the requirements of section 49(2) of the Act.
10. In making the proposals referred to in paragraph 6, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making Representations

11. Representations may be made to Ofcom about the proposals set out in the Notification and the 2017 WLA Consultation by no later than 9 June 2017.
12. In accordance with section 49C(1)(a) of the Act, a copy of this Notification, together with the Direction set out in the Schedule to this Notification, will be sent to the Secretary of State.

Interpretation

13. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP conditions set out at Annex 23 of the 2017 WLA Consultation. Otherwise any word or expression shall have the same meaning as it has in the Act

Signed

A handwritten signature in black ink, appearing to read 'B. Potterill', enclosed within a thin black rectangular border.

Brian Potterill
Competition Policy Director, Ofcom

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

31 March 2017

SCHEDULE

[DRAFT] Direction under section 49 of the Communications Act 2003 and Condition [12.4] setting the requirements in relation to preparation, delivery, publication, form and content of the Regulatory Financial Statements

1. On 31 March 2017, Ofcom published a consultation entitled “*Wholesale Local Access Market Review Consultation*” (“**2017 WLA Consultation**”), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. The proposals referred to in paragraph 1, included proposals to issue a direction setting the requirements in relation to the preparation, delivery, publication, form and content of the Regulatory Financial Statements. Ofcom invited responses to the 2017 WLA Consultation by 9 June 2017.
3. On [DATE], Ofcom concluded its review of the wholesale local access markets in which it identified markets, made market power determinations and set appropriate SMP conditions as set out in the 2017 WLA Notification.
4. Ofcom determined in the review referred to in paragraph 3 above, that BT has SMP in the market set out a paragraph 1 above.
5. Under Condition [12], set out in the 2017 WLA Notification, and in particular Condition 12.8(i), BT will be required to prepare, deliver to Ofcom and publish the Regulatory Financial Statements as directed by Ofcom from time to time.
6. Under Condition [12.4], set out in the 2017 WLA Notification, Ofcom may from time to time make such directions as they consider appropriate in relation to BT’s obligations under Condition [12].
7. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;

- b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) in relation to what it is intended to achieve, transparent.
8. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that it has acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.
 9. Ofcom has considered every representation about the proposed Direction duly made to it and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for the purposes of section 49A(6)(b) of the Act.
 10. The proposals set out in the 2017 WLA Consultation contained proposals of EU significance for the purposes of the Act. Therefore, after making any modifications of the proposals that appeared to Ofcom to be appropriate following domestic consultation, Ofcom sent on [DATE] a copy of them, and of a draft of the statement accompanying this Direction setting out the reasons for them, to the European Commission, BEREC and the regulatory authorities of every other member State for EU consultation, in accordance with section 49B(2) of the Act.
 11. Ofcom received comments from the European Commission on its proposals on [DATE], and has made such modifications to this Direction and the statement accompanying this Direction as it considers appropriate.

Direction

12. Ofcom hereby, pursuant to section 49 of the Act and Condition [12.4], directs BT to act as prescribed in paragraphs 13 to 17 below in relation to the market set out in paragraph 2.
13. BT shall prepare and deliver to Ofcom the following final statements, with the exception of 13 a) i and v, two weeks before they are published:
 - a. the following statements in respect of the wholesale local access market in accordance with the obligation in paragraph 15 below:

- i. Statement by Ofcom;
- ii. Statement of Responsibility;
- iii. Regulatory Financial Review;
- iv. Notes to the Regulatory Financial Statements;
- v. Report of the Regulatory Auditor;
- vi. Performance Summary by Market or Technical Area;
- vii. Attribution of Wholesale Current Costs;
- viii. Attribution of Wholesale Current Cost Mean Capital Employed;
- ix. Market/Technical Area Summary;
- x. Market/Technical Area Calculation of FAC based on component costs and usage factors;
- xi. BT Reconciliation Statement – Consolidated Profit and Loss Account;
- xii. BT Reconciliation Statement – Consolidated Mean Capital Employed;
- xiii. Consolidated Network Activity Statement;
- xiv. Adjusted financial performance at a market review level;
- xv. Price controls in wholesale markets (Non Confidential Statements).

14. BT shall publish the statements set out in paragraph 13 of this Direction within four months after the end of the Financial Year to which they relate with the exception of:

- a. Price controls in wholesale markets (Non Confidential Statements) which must be published at the same time as the Price controls in wholesale markets (Confidential Statements), as referred to in paragraph 17(a)(xv) of this Direction, are delivered to Ofcom;

15. Except where BT is entitled to amend the form and content of the Regulatory Financial Statements, BT shall prepare the statements described in paragraph 14 above as to form and content in the manner set out in Annex A to this Direction;

16. BT shall publish the Regulatory Financial Statements in Excel spreadsheet format as well as in portable document format ("PDF").

17. BT shall prepare and deliver to Ofcom at the same time it delivers its Regulatory Financial Statements:

- a. the following additional financial information in the form and content as described in Annex B (5a) in respect of each Market:
 - i. Cost category (as used within regulatory LRIC model) analysis for network components, increments and relevant layers of common cost;
 - ii. Summarised activity analysis of components for network activities, increments and the relevant layers of common cost (LRIC basis);
 - iii. Cost category (as used within regulatory LRIC model) analysis for network components and increments;
 - iv. Summarised activity analysis for network components and increments;
 - v. Analysis, by asset category and network activities, of the depreciation charge for the year and impact of CCA valuation adjustments on costs for the year;
 - vi. CCA fixed asset movement statement;
 - vii. Total mean capital employed and detailed activity analysis for all network components;
 - viii. Detailed network activity analysis of mean capital employed for all network components;
 - ix. Graphs over time of the various raw indices, index weightings and composite indices used by BT to revalue assets onto a current cost basis;
 - x. Estimated economic useful lives, valuation and depreciation basis, survey used for valuation or index used to revalue, historical cost accounting (HCA) and current cost accounting (CCA) depreciation, gross book values (GBV) by year of acquisition, gross replacement costs (GRC) and net replacement costs (NRC) across asset categories;

- xi. Total operating costs and mean capital employed costs (and associated volumes) for each plant group and their individual exhaustion, including the disclosure of relevant usage factors, onto each network activity and/or (sub) component;
 - xii. Provision of BT 'Data File';
 - xiii. CCA information to allow Ofcom to re-calculate the regulatory asset value (RAV) for copper assets used in BT's access network;
 - xiv. BT Network Services Reconciliation;
 - xv. Price controls in wholesale markets (Confidential Statements);
 - xvi. Adjusted financial performance at a market level;
 - xvii. Provision of FAC, LRIC, DLRIC and DSAC data per service.
- b. the following additional financial information as described in Annex B (5b) in respect of the market for Wholesale Local Access services in the United Kingdom excluding the Hull Area (Confidential Statements):
- i. Time Related Charges Costs Relating to the Fixed Access Markets;
 - ii. Special Fault Investigation Costs Relating to the Fixed Access Markets;
 - iii. BDUK funding;
 - iv. BDUK Rollout component costs;
 - v. GEA allocation of government grants;
 - vi. Additional financial information for Electricity charges;
 - vii. Detailed WLA Service revenues, volumes and costs;
 - viii. Detailed WLA Service Component FACs.

18. BT shall provide to Ofcom the additional financial information in paragraph 17 above (except for 17(a)i), ii, xii and xvii at the same time it delivers its Regulatory Financial Statements. The additional financial information in paragraph 17(a)i, ii, and xvii shall be provided to when it publishes its Regulatory Financial Statements whilst the additional financial information in paragraph 17 (a) xii shall be provided to Ofcom two weeks after it publishes its Regulatory Financial Statements.

19. The Annexes to this direction form part of the Direction.

Interpretation

20. For the purpose of interpreting this Direction:

- a) except as otherwise defined in paragraph 20 below or in so far as the context otherwise requires, words or expressions have the meaning assigned to them in SMP conditions set out in the 2017 WLA Notification, and otherwise any word or expression has the same meaning as it has in the Act;
- b) headings and titles shall be disregarded;
- c) expressions cognate with those referred to in this Direction shall be construed accordingly; and
- d) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

21. For the purposes of interpreting this Direction the following definition shall apply,

- a) **“2017 WLA Notification”** means the notification at Annex [X] of the statement [wholesale local access market review] dated [DATE].

22. The Direction will take effect on [DATE].

Signed

[NAME]

[Competition Policy Director]

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

[DATE]

Annex A

Statement by Ofcom

The statement provided by Ofcom commenting on the figures in, the notes to, or the presentation of any or all of the Regulatory Financial Statements, in relation to each of the markets to which cost accounting and/or accounting separation obligations apply.

Statement of Responsibility

The statement provided by the board of directors of BT shall set out the basis of preparation of the Regulatory Financial Statements and confirm the approval of the Regulatory Financial Statements by BT's board of directors.

Regulatory Financial Review

BT shall be required to summarise the financial performance:

1. across all of the SMP markets to which cost accounting and/or accounting separation obligations apply;
2. at the market review level encompassing individual SMP markets to which cost accounting and/or accounting separation obligations apply considered as part of such market review; and
3. at the level of each individual SMP market to which cost accounting and/or accounting separation obligations apply.

The Regulatory Financial Review (RFR) shall be included in the Regulatory Financial Statements either as a separate statement or as notes to relevant other statements.

The RFR should assist the user's assessment of the Regulatory Financial Statements and provide commentary on compliance with these regulatory conditions.

The RFR should focus on those matters which are relevant to the users of the information, be clearly written and readily understandable.

The information and analysis contained within the RFR should be complete and free from bias.

Disclosure should make clear any issues of comparability that would assist the reader's understanding of the RFR. It should highlight accounting policies that are key to the understanding of performance, focusing on those which have required the particular exercise of judgement in their application and those accounting policies which have changed in the year.

When using financial and non financial measures in the RFR it is important these are defined and explained, assumptions set out and Prior Year Comparatives are disclosed on the same basis as Current Year Figures.

The RFR should explain the main factors that underlie all of the regulated activities, all of the individual SMP markets forming part of each market review and each individual SMP market. In particular, the RFR should explain those factors which have either varied in the past or are expected to change in the future. It should also set out an analysis of the effect of changes in each individual SMP market or the environment in which it operates and of developments within each individual SMP market. For example, it should include changes in the market conditions, introduction or announcement of new products and services, new and discontinued activities, other acquisitions and disposals.

The RFR should also analyse the main factors and influences that may have an effect on future performance, whether or not they were significant in the period under review. There should be a discussion of the principal risks facing all of the regulated activities, all of the individual SMP markets forming part of each market review, and each individual SMP market, with a commentary on the approach taken to manage them.

Notes to the Regulatory Financial Statements

The Regulatory Financial Statements shall contain, as a separate statement or as notes to relevant other statements, notes, modelled on statutory accounting conventions, to assist the user in the interpretation of the individual Regulatory Financial Statements.

The notes will address issues necessary to ensure the fair presentation of the Regulatory Financial Statements (where BT is required to obtain an audit to “fairly presents in accordance with” standards) and the proper preparation of the Regulatory Financial Statements (where BT is required to obtain an audit to “properly prepared in accordance with” standards). They should set out to the extent necessary the basis of accounting, accounting policies, changes for restatement, non compliance with the ICAEW Guidance and any other information that will enable users to properly understand the individual Regulatory Financial Statement.

Amongst others the necessary notes would be expected to include:

- a description of the basis on which revenue from sales to other operators arise and other related matters necessary to understand how financial performance has been measured;
- a commentary setting out how the principle of non discrimination and the calculation of usage factors have been applied in the preparation and presentation of Regulatory Financial Statements in respect of Wholesale Services.

Report of the Regulatory Auditor

The statement by the Regulatory Auditor shall set out the duties and responsibilities of BT and of the Regulatory Auditor, the basis of audit opinion in accordance with current auditing standards, to whom a duty of care is owed and their opinion in respect of each Regulatory Financial Statement.

Performance Summary by Market or Technical Area 20XX

For the year ended 31 March 20XX

	Section	Internal Revenue	External Revenue	Total Revenue	Operating Costs	Depreciation	Holding (gain)/loss	Supp. Dep.	Other CCA	Roundings	Total CCA	Return	Mean Capital Employed	Return on MCE
		£m	£m	£m	£m	£m	£m	£m	£m	£m	£m	£m	£m	%
Market Review 1														
Market/Technical Area 1	X.X	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx%
Market/Technical Area 2 etc	X.X	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx%
Total		xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx%
Market Review 2 etc														
Market/Technical Area 1	X.X	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx%
Market/Technical Area 2 etc	X.X	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx%
Total		xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx%
Total SMP Markets		xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx%
Wholesale Residual		xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx%
Retail Residual		xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx%
Total Markets		xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx%

Attribution of Wholesale Current Costs 20XX

For the year ended 31 March 20XX

	Market Review 1		Market Review 2 etc				
	Market/Technical Area 1	Market/Technical Area 2 etc	Market/Technical Area 1	Market/Technical Area 2 etc	Wholesale Residual	Roundings	Total Wholesale Markets
	£m	£m	£m	£m	£m	£m	£m
Operating Costs of Wholesale Services:							
EOI Input Prices	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Provision/Maintenance	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Network Support	xxx	xxx	xxx	xxx	xxx	xxx	xxx
General Support	xxx	xxx	xxx	xxx	xxx	xxx	xxx
General Management	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Finance and Billing	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Accommodation	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Bad Debts	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Other Costs	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Depreciation - Land & Buildings	xxx	xxx	xxx	xxx	xxx	xxx	xxx
- Access	xxx	xxx	xxx	xxx	xxx	xxx	xxx
- Switch and Transmission	xxx	xxx	xxx	xxx	xxx	xxx	xxx
- Other related	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Sub Total Depreciation	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Sub Total HCA Operating Costs	xxx	xxx	xxx	xxx	xxx	xxx	xxx
CCA Adjustments:							
Holding Loss/(Gain)	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Supplementary Depreciation	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Other CCA Adjustments	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Roundings	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Total CCA Operating Costs	xxx	xxx	xxx	xxx	xxx	xxx	xxx

Attribution of Wholesale Current Cost Mean Capital Employed 20XX

For the year ended 31 March 20XX

	Market Review 1		Market Review 2 etc				
	Market/Technical Area 1	Market/Technical Area 2 etc	Market/Technical Area 1	Market/Technical Area 2 etc	Wholesale Residual	Roundings	Total Wholesale Markets
	£m	£m	£m	£m	£m	£m	£m
Non-current Assets							
Land & Buildings	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Access - Copper	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Access - Fibre	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Access - Duct	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Switch	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Transmission	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Other	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Investments	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Total Non-current Assets	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Current Assets							
Inventories	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Receivables							
- Internal	xxx	xxx	xxx	xxx	xxx	xxx	xxx
- External	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Total Current Assets	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Current Liabilities							
- Internal	xxx	xxx	xxx	xxx	xxx	xxx	xxx
- External	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Total liabilities falling due within one year	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Net Current Assets/(Liabilities)	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Total Assets less Current Liabilities	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Provisions for Liabilities & Charges	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Roundings	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Mean Capital Employed	xxx	xxx	xxx	xxx	xxx	xxx	xxx

Market/Technical Area Summary 20XX

Summary for Market 1/Technical Area 1 etc

For the year ended 31 March 20XX

	Internal Revenue £m	External Revenue £m	Total Revenue £m	Internal Volume	External Volume	Unit(s)	Average Internal price £	Average External Price £	Internal FAC* £m	External FAC £m
Basket 1	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x
Basket 2 etc	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x
Single Charge 1 (if applicable)	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x
Single Charge 2 etc (if applicable)	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x
Specific services required to be shown seperately by Ofcom (if applicable)	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x
Other (if applicable)	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x
Total Market 1 etc	x.x	x.x	x.x						x.x	x.x
Adjustment for EOI and Internal (if appropriate)	x.x		x.x						x.x	x.x
Total Market 1 etc (excluding EOI and Internal)	x.x	x.x	x.x						x.x	x.x

Internal and External FAC as required by Ofcom

Average Prices may require more detailed analysis as required by Ofcom

* Only where Internal unit FAC is different from External unit FAC

Notes to the statement entitled “Market/Technical Area Summary”

BT shall disclose financial information shown in the “Market/Technical Area Summary” as follows:

1. In relation to the market “The supply of copper loop-based, cable-based and fibre -based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area” the information is required to be provided for:
 - a. each Basket,
 - b. each Single Charge Category; and
 - c. the following Network Services:
 - i. GEA 40/10 (FTTC) Rentals;
 - ii. GEA 40/10 Other Rentals;
 - iii. GEA Other Rentals (all other speeds except 40/10);
 - iv. GEA 40/10 (FTTC) PCP Only Install and GEA Start of a Stopped Line 40/10;
 - v. GEA 40/10 FTTP Other Connection;
 - vi. GEA Cable link 1 Gigabit;
 - vii. GEA Cable link 10 Gigabit;
 - viii. MPF Rental (SML 1);
 - ix. MPF New Provide Services;
 - x. MPF Single Migrations;
 - xi. MPF Bulk Migrations;
 - xii. Co-mingling New Provide and rental services;
 - xiii. Tie cables;
 - xiv. Hard Cease services;
 - xv. Other MPF Ancillary services;

- xvi. Special Fault Investigations;
- xvii. Time related Charges;
- xviii. Other WLA.

Section X.X.X - Market/Technical Area 1 etc calculation of FAC based on component costs and usage factors 20XX

For the year ended 31 March 20XX

			Market/Technical Area 1 etc								
			Average cost per unit (from annex XX)	Basket 1 - internal *	Basket 1 - external	Basket 2 etc - internal *	Basket 2 etc - external	Single Charge Category 1 - Internal*	Single Charge Category 1 - External	Single Charge Category 2 etc - Internal*	Single Charge Category 2 etc - External
Fully Allocated Cost (£)				£	£	£	£	£	£	£	£
Components	Unit										
Component 1	X	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX
Component 2 etc	X	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX
EOI Inputs Prices (Basket level Part 3)				X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX
Fully Allocated Costs (£)				X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX	X.XX
Volumes (unit) (where applicable)				xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Total Cost (£'m)				x.x	x.x	x.x	x.x	x.x	x.x	x.x	x.x

* Only where Internal unit FAC is different from External unit FAC

Notes to the statement entitled “Market/Technical Area Calculation of FAC based on component costs and usage factors”

BT shall disclose financial information shown in the “Market/Technical Area Summary” as follows:

2. In relation to the market “The supply of copper loop-based, cable-based and fibre -based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area” the information is required to be provided for:
 - a. each Basket,
 - b. each Single Charge Category; and
 - c. the following Network Services:
 - i. GEA 40/10 (FTTC) Rentals;
 - ii. GEA 40/10 Other Rentals;
 - iii. GEA Other Rentals (all other speeds except 40/10);
 - iv. GEA 40/10 (FTTC) PCP Only Install and GEA Start of a Stopped Line 40/10;
 - v. GEA 40/10 FTTP Other Connection;
 - vi. MPF Rental (SML 1);
 - vii. MPF New Provide Services;
 - viii. MPF Single Migrations;
 - ix. MPF Bulk Migrations;
 - x. Co-mingling New Provide and rental services;
 - xi. Tie cables;
 - xii. Hard Cease services;
 - xiii. Other MPF Ancillary services;
 - xiv. Special Fault Investigations;
 - xv. Time related Charges;
 - xvi. Other WLA.

BT Reconciliation Statement - Consolidated Profit and Loss Account 20XX

For the year ended 31 March 20XX

	External Revenue £m	Operating Costs £m	Return or Profit before taxation £m
As in the Annual Report	X	X	X
Adjustments			
Elimination of inter-market revenue and costs	X	X	X
Share of Post tax loss of associates and joint ventures	X	X	X
Loss on disposal of interest in associates and joint ventures	X	X	X
Net short term interest	X	X	X
Specific pension interest	X	X	X
Long term interest payable	X	X	X
Other adjustment(s) as required	X	X	X
Total Markets (HCA)	X	X	X
Holding (gain)/loss	X	X	X
Supplementary Depreciation	X	X	X
Other CCA adjustments	X	X	X
Roundings	X	X	X
Total Markets (CCA)	X	X	X

BT Reconciliation Statement - Consolidated Mean Capital Employed 20XX

For the year ended 31 March 20XX

	20XX £m	20XX-1 £m	Mean capital employed of BT Markets	20XX £m	20XX-1 £m
Shareholders' funds as in the 20XX Annual Report	X	X			
CCA adjustments	X	X	Market Review 1	X	X
	X	X	Market Review 2 etc	X	X
Adjustments			Sub total SMP Markets	X	X
	X	X			
Derivative financial instruments - assets	X	X	Residual activities		
Deferred tax liabilities	X	X	Wholesale residual activity	X	X
Deferred tax assets	X	X	Retail residual activity	X	X
Current tax assets	X	X			
Current tax liabilities	X	X	Sub total residual activities	X	X
Long term loans and other borrowings:					
Due in less than one year	X	X	Roundings and other adjustments		
Due in more than one year	X	X	Wholesale markets	X	X
Derivative financial instruments - liabilities	X	X	Retail markets & activities	X	X
Other liabilities	X	X			
Retirement benefit obligations	X	X	Sub total roundings and other adjustments	X	X
Other adjustment(s) as required	X	X			
			Total CCA mean capital employed	X	X
Closing CCA capital employed at 31 March	X	X			
Opening CCA capital employed at 1 April	X	X			
Total CCA mean capital employed	X	X			

Consolidated Network Activity Statement 20XX

For the year ended 31 March 20XX

Network Activity Statement - Consolidated (this is a consolidation of all markets where there are cost accounting obligations)

	Footnotes	HCA operating cost	Supplementary depreciation	Holding gain/(loss) and other CCA adjustments	Total CCA operating costs	CCA mean capital employed	Applicable rate of return on capital %	Capital costs	Total of operating costs and capital costs relating to current year	Volume (units)	Average costs per min/unit on a current cost basis relating to current year
Fully Allocated Cost (£m)											
Network Components											
Component 1		X	X	X	X	X	X	X	X	X	X
Component 2 etc		X	X	X	X	X	X	X	X	X	X
Residual components		X	X	X	X	X	X	X	X	X	X
Roundings		X	X	X	X	X	X	X	X	X	X
Total		X	X	X	X	X	X	X	X	X	X

Adjusted financial performance at a market review level 20XX

For the year ended 31 March 20XX

	As reported							Estimated impacts				Impact on return		
	Revenue	HCA Costs	CCA Adjustments	CCA Operating Costs	Return	MCE	Return on MCE	Revenue	CCA Operating Costs	Return	MCE	Revised return	Revised MCE	Return on MCE
	£m	£'m	£m	£m	£m	£m	%	£m	£m	£m	£m	£m	£m	Δ %
Market Review 1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Market Review 2 etc	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Estimated impacts													
	Revenue	CCA Operating Costs	Return	MCE										
	£'m	£m	£'m	£'m										
Adjustment a	-	-	-	-										
Adjustment b etc	-	-	-	-										
	-	-	-	-										

Price controls in wholesale markets (Non confidential Statements)

Basket 1 Total	Condition x.xx	Year	20XX/20XX+1	Notes
		RPI/CPI (as appropriate)	X.X%	
		X	X.X%	
		RPI/CPI (as appropriate) - X	X.X%	
		Changes made in prior year	X.X%	
		Control percentage	X.X%	
		Prior year Revenue	X	
		Changes made	X	
		% price change	X.X%	
		Carry-over %	X.X%	
		Complies	YES/NO	
		Sub Cap service 1	X.XX%	
		Complies	YES/NO	
	condition x.xx	Sub Cap service 1a	X.XX%	
	condition x.xx	Complies	YES/NO	
		Sub Basket 1 CP	X.X%	
	condition x.xx	Complies	YES/NO	
		% sub basket change	X.X%	
		Complies	YES/NO	
Basket 2 etc Total	Condition x.xx	Year	20XX/20XX+1	Notes
		RPI/CPI (as appropriate)	X.X%	
		X	X.X%	
		RPI/CPI (as appropriate) - X	X.X%	
		Changes made in prior year	X.X%	
		Control percentage	X.X%	
		Prior year Revenue	X	
		Changes made	X	
		% price change	X.X%	
		Carry-over %	X.X%	
		Complies	YES/NO	
		Sub Cap service 1	X.XX%	
		Complies	YES/NO	
	condition x.xx	Sub Cap service 1a	X.XX%	
	condition x.xx	Complies	YES/NO	
		Sub Basket 1 CP	X.X%	
	condition x.xx	Complies	YES/NO	
		% sub basket change	X.X%	
		Complies	YES/NO	
Single Charge Category 1 Total	Condition x.xx	Year	20XX/20XX+1	Notes
		RPI/CPI (as appropriate)	X.X%	
		X	X.X%	
		RPI/CPI (as appropriate) - X	X.X%	
		Changes made in prior year	X.X%	
		Control percentage	X.X%	
		Prior year Revenue	X	
		Changes made	X	
		% price change	X.X%	
		Carry-over %	X.X%	
		Complies	YES/NO	
Single Charge Category 2 Total	condition x.xx	Year	20XX/20XX+1	Notes
		RPI/CPI (as appropriate)	X.X%	
		X	X.X%	
		RPI/CPI (as appropriate) - X	X.X%	
		Changes made in prior year	X.X%	
		Control percentage	X.X%	
		Prior year Revenue	X	
		Changes made	X	
		% price change	X.X%	
		Carry-over %	X.X%	
		Complies	YES/NO	

Price controls in wholesale markets (Non confidential Statements) (continued)

Basket Model

Redacted

	RPI/CPI (as appropriate)	X.XX%
Basket 1	X.XX%	X.XX%
Sub-basket	X.XX%	X.XX%
Basket 2 etc	X.XX%	X.XX%
Single Charge Category 1	X.XX%	X.XX%
Single Charge Category 2 etc	X.XX%	X.XX%

Feature	Price list reference	Sub basket (if applicable)	Sub cap/inertia clause (if applicable)	Sub Cap/inertia Clause % (if applicable)	Volume metric Time of day prices	Prior Year revenue		Prices			Price Change dates			Basket Days			Sub cap compliance	Average Price		% price Change	Basket Revenue Impacts
						20XX-1/XX £	Start Price xx/xx/20XX+1 £	Change 1 xx/xx/20XX+1 £	Change 2 etc xx/xx/20XX+1 £	20XX/XX+1 Start	Change 1 20XX/XX+1 Change 2 etc (if applicable)	20XX/XX+1 Start	Change 1 20XX/XX+1 Change 2 etc (if applicable)	20XX/XX+1 Start	Change 1 20XX/XX+1 Change 2 etc (if applicable)	20XX/XX+1 Start	20XX/XX £	20XX/XX+1 £	20XX/XX+1 £	20XX/XX+1 £	20XX/XX+1 £
Basket 2																					
Basket 1 - Service 1		Yes	Yes	X.X%			X	X	X	xx/xx/xx	xx/xx/xx	xx/xx/xx	X	X	X	YES/NO				X.X%	X
Basket 1 - Service 1a		Yes	No				X	X	X	xx/xx/xx	xx/xx/xx	xx/xx/xx	X	X	X					X.X%	X
Basket 1 - Sub basket 1 sub total																				X.X%	X
Basket 1 - Service 2 etc		No	No				X	X	X	xx/xx/xx	xx/xx/xx	xx/xx/xx	X	X	X					X.X%	X
Basket 1 Total																				X.X%	X
Basket 2																					
Basket 2 etc - Service 1		No	Yes	X.X%			X	X	X	xx/xx/xx	xx/xx/xx	xx/xx/xx	X	X	X	YES/NO				X.X%	X
Basket 2 etc - Service 2		No	No				X	X	X	xx/xx/xx	xx/xx/xx	xx/xx/xx	X	X	X					X.X%	X
Basket 2 etc Total																				X.X%	X
Single Charge Category 1			No				X	X	X	xx/xx/xx	xx/xx/xx	xx/xx/xx	X	X	X					X.X%	X
Single Charge Category 2 etc			No				X	X	X	xx/xx/xx	xx/xx/xx	xx/xx/xx	X	X	X					X.X%	X

Note 1	
Note 2	

Total Revenues/Volumes	X	X	X
Revenues/Volumes per RFS	X	X	X
Difference	X	X	X
Reconciliation of difference:			
Difference 1	X	X	X
Difference 2	X	X	X
Total Difference	x	X	X
CHECK	YES/NO	YES/NO	YES/NO
BT to provide explanations for all differences listed above			

Annex B

Reference	Additional Financial Information	Description
<u>Additional Financial Information to be provided in respect of each Market and Interconnect Circuits</u>		
5(a)(i)	<p>Cost category (as used within regulatory LRIC model) analysis for network components, increments and relevant layers of common cost</p> <p>(LRIC, <u>DLRIC</u> and <u>DSAC</u> basis)</p>	<ol style="list-style-type: none"> 1. ensure the LRIC model reconciles to BT group's total cost and asset and liability base; 2. review the outputs of BT's LRIC model for the whole BT group by cost category and components, increments and layers of common costs; 3. identify all relevant layers of common costs separately within BT group; 4. enable trend analysis of this breakdown to be undertaken; 5. enable assessment of cost-volume relationships; 6. provide input into network price control reviews.
5(a)(ii)	<p>Summarised activity analysis of components for network activities, increments and the relevant layers of common cost</p> <p>(LRIC, <u>DLRIC</u> and <u>DSAC</u> basis)</p>	<ol style="list-style-type: none"> 1. review the outputs of BT's LRIC model by activity analysis for network components, increments and the layers of common costs; 2. identify all relevant layers of common costs separately for network activities; 3. enable trend analysis of this breakdown to be undertaken; 4. provide input into network price control reviews; 5. ensure LRIC model reconciles to the total cost and asset and liability base for BT's network activities.
5(a)(iii)	<p>Cost category (as used within regulatory LRIC model) analysis for network components and increments</p>	<p>Similar to "Cost category (as used within regulatory LRIC model) analysis for network components, increments and relevant layers of common cost" but on a fully allocated cost basis.</p>

Reference	Additional Financial Information	Description
5(a)(iv)	Summarised activity analysis for network components and increments	Similar to “Summarised activity analysis of components for network activities, increments and the relevant layers of common cost” but on a fully allocated cost basis.
5(a)(v)	<p>Analysis, by asset category and network activities, of the depreciation charge for the year and impact of CCA valuation adjustments on costs for the year for example:</p> <ul style="list-style-type: none"> - HCA depreciation - CCA supplementary depreciation - Holding gain - Other CCA adjustments 	<ol style="list-style-type: none"> 1. provide impact on profit and loss cost base of the application of CCA methodologies; 2. enable trend analysis of this breakdown to be undertaken; 3. provide sub-analysis (for the cost/gain line items left) of the asset movement statement in relation to network components; 4. provide input into network price control reviews.

Reference	Additional Financial Information	Description
5(a)(vi)	<p>CCA fixed asset movement statement</p> <p>a) gross replacement costs brought forward, additions/disposals/transfers, holdings gains/(loss), gross replacement costs carried forward; and</p> <p>b) gross depreciation brought forward, HCA depreciation charge, supplementary CCA depreciation, disposals/transfers/other movements, holding gains/(loss), gross depreciation carried forward)</p> <p>by asset category for BT Group</p> <p>plus reconciliation to HCA fixed assets movement statement in the group statutory accounts</p>	<ol style="list-style-type: none"> 1. review the breakdown of asset costs between principal asset categories and how such CCA asset values have moved in the year; 2. enable trend analysis of CCA asset values to be undertaken; 3. provide input into network price control reviews.
5(a)(vii)	<p>Total mean capital employed and detailed activity analysis for all network components</p>	<ol style="list-style-type: none"> 1. review network component costs; 2. enable trend analysis of these breakdowns to be undertaken; 3. provide input into price control reviews; 4. assist in dealing with investigations; 5. ensure summarised activity analysis presented elsewhere reconciles to BT's network activities cost base.

Reference	Additional Financial Information	Description
5(a)(viii)	Detailed network activity analysis of mean capital employed for all network components	<ol style="list-style-type: none"> 1. enable trend analysis of these breakdowns to be undertaken; 2. ensure summarised activity analysis reconciles to BT's network activity mean capital employed.
5(a)(ix)	Graphs over time of the various raw indices, index weightings and composite indices used by BT to revalue assets onto a current cost basis	<ol style="list-style-type: none"> 1. evaluate the price trends for composite elements of BT's asset revaluation indices; 2. evaluate the weightings within individual asset revaluation indices; 3. evaluate the trend of individual asset revaluation indices; 4. provide input into price control reviews and determinations.
5(a)(x)	Estimated economic useful lives, valuation and depreciation basis, survey used for valuation or index used to revalue, historical cost accounting (HCA) and current cost accounting (CCA) depreciation, gross book values (GBV) by year of acquisition, gross replacement costs (GRC) and net replacement costs (NRC) across asset categories	<ol style="list-style-type: none"> 1. review the nature and relative distribution of BT's asset base; 2. evaluate BT's chosen asset lives for individual asset categories; 3. review the relationship between gross HCA and CCA valuations; 4. evaluate the appropriateness of the CCA valuation basis for each asset category; 5. evaluate the appropriateness of the CCA depreciation methodology for each asset category; 6. review the impact of CCA accounting on the cost base; 7. enable trend analysis of CCA costs to be undertaken; 8. provide input into network price control reviews.

Reference	Additional Financial Information	Description
5(a)(xi)	Total operating costs and mean capital employed costs (and associated volumes) for each plant group and their individual exhaustion, including the disclosure of relevant usage factors, onto each network activity and/or (sub) component	<ol style="list-style-type: none"> 1. review the breakdown of costs to all the different components and sub-components within BT's network activities; 2. enable trend analysis of this breakdown to be undertaken; 3. provide input into network price control reviews; 4. ensure total plant group costs reconcile to the cost base for BT's network activities.

Reference	Additional Financial Information	Description
5(a)(xii)	Provision of BT 'Data File'	<p>Delivery of "data file" in prescribed format containing all records from cost attribution system. Format of file to allow for identification of sources of data, data flows (from the input sources at F8/OUC code level through to products and services) and attribution bases.</p> <p>The data would as a minimum, be able to replicate the outputs of the financial statements and include financial information (for example F8 code, OUC, finance type, and AS/WS sector) on all services and components that have received an allocation of costs in the Regulatory Financial Statements. The data would include transfer charges and CCA adjustments, and be able to identify the attribution bases to those described in the Accounting Methodology Documents. <u>The data will also include the post RFS adjustments to cost categories for LRIC reporting.</u> The basis of preparation must be consistent with BT's SMP conditions, the Regulatory Accounting Principles and the Accounting Methodology Documents.</p> <p>The information to be provided annually within 10 working days of the publication of the regulatory accounts. The outputs of the annual file would be consistent with published audited information.</p> <p>BT to maintain file in format consistent with Ofcom/third party import routine, accompanied by provision of control totals, and any technical advice which allows seamless data transfers and it should be updated where appropriate. In consultation with Ofcom, BT shall procure an appropriate audit opinion in relation to the data file.</p> <p>For the avoidance of doubt the data file will include the following information:</p> <ul style="list-style-type: none"> • revenue, volume and cost information relating to each new ISDN2 and ISDN30 rental, connection and ancillary service and cost information for related components; and • revenue, volume and cost information relating to each WCO and WCT service and cost information for related components.

Reference	Additional Financial Information	Description
5(a)(xiii)	CCA information to allow Ofcom to re-calculate the regulatory asset value (RAV) for copper assets used in BT's access network.	<ol style="list-style-type: none"> 1. Provide breakdown of the following information: <ol style="list-style-type: none"> a) Full CCA on an actual price index basis; b) Pre 1997 assets on an RPI basis; c) Post 1997 assets on an actual price index basis; 2. Enable Ofcom to re-calculate and monitor the effect of this going forward.
5(a)(xiv)	BT Network Services Reconciliation	Provide a breakdown of FAC into BT services and components and reconcile both categories to the total FAC for the year.
5(a)(xv)	Price controls in wholesale markets (Confidential Statements)	Demonstrate compliance with charge controls, including provision of revenue, price change, any relevant calculations and any other required information.
5(a)(xvi)	Adjusted financial performance at a market level	Provide revenue, cost, return and MCE at a market level adjusted for consistent application of Ofcom's price controls, including reconciliation to the numbers published in the Regulatory Financial Statements.
5(a)(xv)	Provision of FAC, LRIC, DLRIC and DSAC data per service	Provide FAC, LRIC, DLRIC and DSAC information for each regulated service.
<u>Additional Financial Information to be provided in respect of the Wholesale Fixed Analogue Exchange Line Services Market</u>		
5(b)(i)	Time Related Charges Costs Relating to the Wholesale Fixed Analogue Exchange Line Services_Markets	Provide Time Related Charges costs and billed volumes information.

5(b)(ii)	Special Fault Investigation Charges Costs Relating to the Wholesale Local Access Market	Provide Special Fault Investigation Charges costs per module.
5(b)(iii)	[applies to all markets per 5(a)(xv) above]	
5(b)(iv)	BDUK funding	Set out for each cost component the costs and revenues attributed by Finance Type (disaggregating out any transfer charges) which reconcile back to the network cost component total.
5(b)(v)	BDUK Rollout component costs	Sets out for each cost component the impact of reattributing the costs and revenues to all other network costs components. For the key GEA services this will reconcile back to the RFS totals for the BDUK components
5(b)(vi)	GEA allocation of government grants	Provide a breakdown of government grant funding (split by grants for Operating and Capital expenditure) for GEA services.
5(b)(vii)	Additional financial information for Electricity Charges	Provide information setting out the calculation of Electricity Charges which is reconciled to the published Regulatory Financial Statements.
5(b)(viii)	Detailed WLA Service revenues, volumes and costs.	<ol style="list-style-type: none"> 1. set out the revenues, volumes and FAC on a CCA basis of any other WLA service not publicly disclosed where the revenue from this service is above £5m; 2. the revenues and costs should, in total, be reconciled to the revenues and costs included within the publicly reported totals for the WLA Market.
5(b)(ix)	Detailed WLA Service Component FACs	<ol style="list-style-type: none"> 1. set out the calculation of FAC based on component costs and usage factors for all services reported in the Detailed WLA Services schedule; 2. the fully allocated service unit costs should reconcile to those given in the in the Detailed WLA Services schedule.

2.9 Proposals for a direction specifying the requirements in relation to additional reporting of information relating to reporting of information relating to BT's Attribution Methods in relation to the Electricity Charge

Notification of proposals under sections 49 and 49A of the Communications Act 2003 and SMP Services Condition 12.4 specifying the requirements in relation to reporting of information relating to BT's Attribution Methods in relation to the Electricity Charge

Background

1. On 31 March 2017, Ofcom published a consultation entitled "*Wholesale Local Access Market Review Consultation*" ("**2017 WLA Consultation**"), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. Under proposed condition 13A.20 BT set out in Annex 23 must deliver an up-to-date version of the Accounting Methodology Documents to Ofcom when it delivers the Regulatory Financial Statements to Ofcom and publish such up-to-date version on or before the day of publication of the Regulatory Financial Statements which have been prepared in accordance with such version.
3. Under proposed Condition 12.4, set out in the 2017 WLA Notification, Ofcom may from time to time make such directions as they consider appropriate in relation to BT's obligations under Condition 12.
4. This Notification sets out proposals to set the requirements in relation to the Accounting Methodology Documents that BT is required to prepare, maintain, keep up to date, deliver to Ofcom and publish, and in particular BT's Attribution Methods in relation to the Electricity Charge.

Proposal to give a direction

5. Ofcom is proposing, in accordance with section 49 of the Communications Act 2003 (the “**Act**”), to give a direction pursuant to proposed Condition 12.4 specifying Attribution Methods in relation to the Electricity Charge in relation to the market set out in paragraph 1.
6. The proposed direction is set out in the Schedule to this Notification.
7. The effect of and reasons for giving the proposed direction are set out in the 2017 WLA Consultation accompanying this Notification.

Ofcom’s duties and legal tests

8. For the reasons set out in the 2017 WLA Consultation, Ofcom considers that the proposed direction referred to in paragraph 7 complies with the requirements of section 49(2) of the Act.
9. In making the proposals referred to in paragraph 7 Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.

Making Representations

10. Representations may be made to Ofcom about the proposals set out in the Notification and the 2017 WLA Consultation by no later than 9 June 2017.
11. In accordance with section 49C(1)(a) of the Act, a copy of this Notification, together with the Direction set out in the Schedule to this Notification, will be sent to the Secretary of State.

Interpretation

12. Except as otherwise defined, words or expressions used shall have the same meaning as they have been ascribed in the proposed SMP conditions set out at Annex 23 of the 2017 WLA Consultation. Otherwise any word or expression shall have the same meaning as it has in the Act.

Signed

A handwritten signature in black ink, appearing to read 'B. Potterill', enclosed within a thin black rectangular border.

Brian Potterill
Competition Policy Director, Ofcom

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

31 March 2017

SCHEDULE

[DRAFT] Direction under sections 49 and 49A of the Communications Act 2003 and SMP Services Condition 12.4 specifying the requirements in relation to reporting of information relating to BT's Attribution Methods in relation to the Electricity Charge

Background

1. On 31 March 2017, Ofcom published a consultation entitled "*Wholesale Local Access Market Review Consultation*" ("**2017 WLA Consultation**"), on proposals identifying markets, making market power determinations and setting SMP conditions. In the 2017 WLA Consultation, Ofcom is proposing to identify the market for the supply of copper loop-based, cable-based and fibre-based wholesale local access at a fixed location in the United Kingdom excluding the Hull Area, determine that BT has significant market power in relation to such market and to impose, among other things, SMP conditions with respect to regulatory financial reporting on BT (proposed Condition 12).
2. The proposals referred to in paragraph 1 included proposals to issue a direction specifying requirements in relation to the reporting of information relating to BT's Attribution Methods in relation to the Electricity Charge. Ofcom invited responses to the 2017 WLA Consultation by 9 June 2017.
3. On [DATE], Ofcom concluded its review of the Wholesale Local Access market in which it identified markets, made market power determinations and set appropriate SMP conditions as set out in the 2017 WLA Notification.
4. Ofcom determined in the review referred to in paragraph 3 above, that BT has SMP in the market set out at paragraph 1 above.
5. Under Condition 12.4, set out in the 2017 WLA Notification, Ofcom may from time to time make such directions as they consider appropriate in relation to BT's obligations under Condition 12.
6. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;

- b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) in relation to what it is intended to achieve, transparent.
7. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom is satisfied that it has acted in accordance with its general duties set out in section 3 of the Act, the six community requirements set out in section 4 of the Act and the duty to take account of European Commission recommendations for harmonisation in section 4A of the Act.
8. Ofcom has considered every representation about the proposed Direction duly made to it and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for the purposes of section 49A(6)(b) of the Act.
9. The proposals set out in the 2017 WLA Consultation contained proposals of EU significance for the purposes of the Act. Therefore, after making any modifications of the proposals that appeared to Ofcom to be appropriate following domestic consultation, Ofcom sent on [DATE] a copy of them, and of a draft of the statement accompanying this Direction setting out the reasons for them, to the European Commission, BEREC and the regulatory authorities of every other member State for EU consultation, in accordance with section 49B(2) of the Act.
10. Ofcom received comments from the European Commission on its proposals on [DATE], and has made such modifications to this Direction and the statement accompanying this Direction as it considers appropriate.

[DRAFT] Direction

11. Ofcom hereby, pursuant to section 49 of the Act and Condition [12.4], gives the direction to BT specifying requirements in relation to the reporting of information relating to BT's Attribution Methods in relation to the Electricity Charge, as set out in the Schedule to this Direction, in relation to the market set out in paragraph 1.
12. The Schedule to this direction forms part of the Direction.

Interpretation

13. For the purpose of interpreting this Direction:

- a) except as otherwise defined in paragraph 14 below or in so far as the context otherwise requires, words or expressions have the meaning assigned to them in SMP conditions set out in the 2017 WLA Notification, and otherwise any word or expression has the same meaning as it has in the Act;
- b) headings and titles shall be disregarded;
- c) expressions cognate with those referred to in this Direction shall be construed accordingly; and
- d) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

14. For the purposes of interpreting this Direction the following definitions shall apply,

- a) **“2017 WLA Notification”** means the notification at Annex [X] of the statement [wholesale local access market reviews] dated [DATE]; and

15. The Direction will take effect on [DATE].

Signed

[NAME]

[Competition Policy Director]

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

[DATE]

SCHEDULE

Direction specifying the requirements in relation to reporting of information relating to BT's Attribution Methods in relation to the Electricity Charge

1. BT shall include in the Accounting Methodology Documents documentation setting out a description of the Attribution Methods in relation to the Electricity Charge.