

# Promoting competition and investment in fibre networks: Hull Area Review 2026–2031

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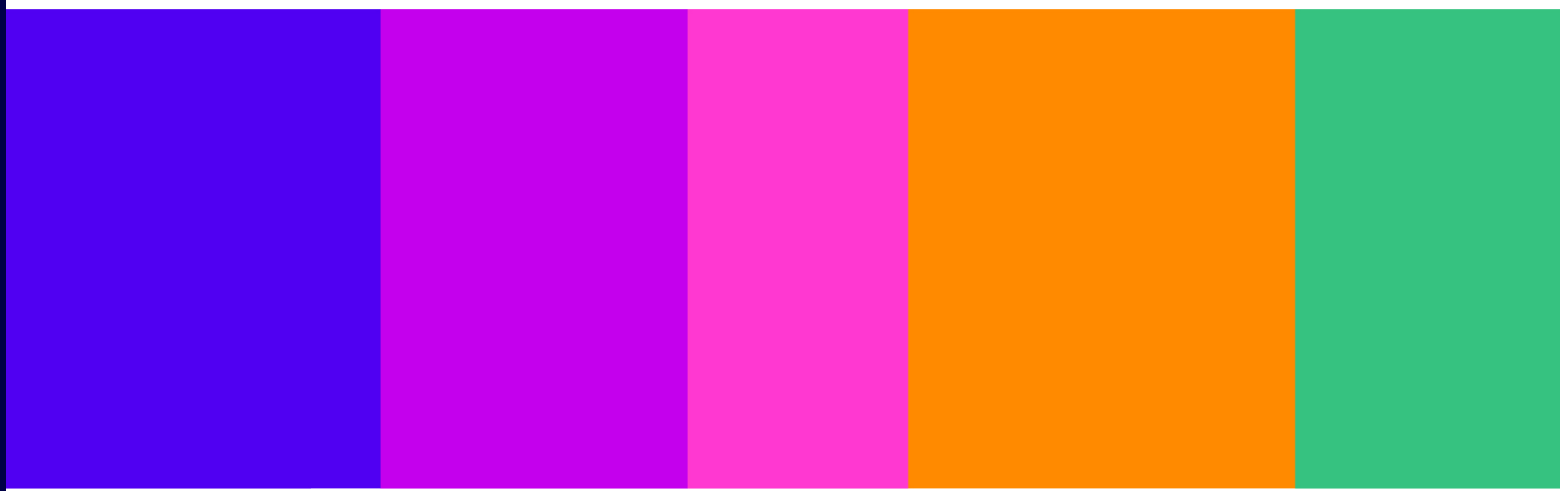
Volume 4: Regulatory financial reporting

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**Consultation**

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# Contents

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## Section

1. Introduction.....	3
2. Proposed requirements unchanged from the Hull WFTMR21 .....	8
3. Reporting requirements in relation to the preparation, audit, delivery and publication of KCOM’s RFS direction and the form and content direction .....	11
4. Legal tests.....	18

# 1. Introduction

## Regulatory framework

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- 1.1 We set out the relevant regulatory framework for market reviews and the imposition of significant market power (SMP) conditions in Volume 1 and Annex 5.
- 1.2 In relation to regulatory financial reporting, we have powers under the Communications Act 2003 (the Act) to impose SMP conditions including the following:
- a) a requirement to maintain accounting separation, including requirements about the accounting methods to be used in maintaining the separation.<sup>1</sup>
  - b) requirements to publish information for transparency purposes, with the information and the manner of publication to be directed by us.<sup>2</sup>
  - c) rules about the use of cost accounting systems for the purposes of price controls and about the recovery of costs and cost orientation.<sup>3</sup>
  - d) requirements in relation to the application of presumptions in the fixing and determination of costs for the purposes of the price controls, recovery of costs and cost orientation rules, and the cost accounting system.<sup>4</sup>
- 1.3 Where we impose cost accounting requirements, we also have a duty to set an SMP condition which requires the dominant provider to publish a description of the cost accounting system and to include in that description details of:
- a) the main categories under which costs are accounted for; and
  - b) the rules applied for the purposes of that system with respect to the allocation of costs.<sup>5</sup>

## Regulatory financial reporting

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- 1.4 We propose to impose accounting separation and cost accounting obligations in each of the proposed SMP markets. We propose to implement these obligations by way of a single SMP condition and associated directions (see Volume 5) which specify what information we require KCOM to prepare and provide for each market. Further details of the accounting separation and cost accounting obligations are set out below, with reasoning on specific aspects of them in the following sections.

## Accounting separation

- 1.5 We propose to retain an accounting separation obligation on KCOM in each of the proposed SMP markets. We consider that this obligation is necessary to monitor the overall impact and effectiveness of the remedies proposed and, in particular, to monitor KCOM's activities with regard to its no undue discrimination obligations.<sup>6</sup> The obligation is also necessary to give

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<sup>1</sup> Sections 87(7) and 87(8) of the Act.

<sup>2</sup> Section 87(6)(b) of the Act.

<sup>3</sup> Section 87(9)(b) and (c) of the Act.

<sup>4</sup> Section 87(10) of the Act.

<sup>5</sup> Section 87(11) of the Act.

<sup>6</sup> The accounting separation obligation requires KCOM to account separately for internal and external sales, which helps Ofcom and stakeholders monitor the activities of KCOM to ensure it does not discriminate unduly in favour of

transparency to stakeholders that KCOM has complied with its SMP conditions. Such transparency provides reassurance to stakeholders which promotes competition in the markets concerned and enables Ofcom to benefit from stakeholder input in monitoring compliance. Additionally, it supports the overall success of the regulatory framework by requiring robust information to be created and retained during a market review period. This provides us with an evidential base to monitor the effectiveness of the current regulation, and for designing appropriate SMP regulation for the next review period, should there be a continued need for it.

- 1.6 Requiring KCOM to produce financial statements on each regulated wholesale market, combined with an obligation to attribute costs in a fair, objective and transparent way (via the cost accounting obligation) can also help prevent unfair cross-subsidy by ensuring that costs are not inappropriately loaded onto one set of regulated products to the benefit of another set of regulated products or unregulated products. We consider that this helps ensure that competition develops fairly, which ultimately benefits consumers, and is the least onerous obligation necessary to ensure a mechanism exists to allow us and stakeholders to monitor potentially discriminatory behaviour by KCOM.
- 1.7 We consider that our proposal to impose an accounting separation obligation, together with a cost accounting obligation (see below), will help ensure the regulatory reporting objectives described above are met.

## Cost accounting

- 1.8 Cost accounting obligations require the dominant provider to maintain a cost accounting system (a set of processes and systems) to capture the costs, revenues, assets and liabilities associated with the provision of services and to attribute them in a fair, objective and transparent manner to individual services in order that the costs of individual services may be determined.
- 1.9 We propose to retain a cost accounting obligation in the proposed SMP markets to ensure that the processes and rules used by KCOM to attribute revenues and costs to individual markets and services are fair, objective and transparent. The cost accounting obligation is an important means of ensuring that:
- a) we have the necessary information to monitor and assess the effectiveness of our pricing remedies, in particular to ensure that the pricing remedies we impose continue to address the competition problems identified and to enable our timely intervention should such intervention be needed;
  - b) costs are attributed across markets (and the individual services within them) in a fair, objective, transparent and consistent manner. This mitigates the risk that costs might be unfairly loaded onto particular products or markets, promoting confidence in the market;
  - c) there is transparency (via publication of the processes and rules followed by KCOM in the DOCAS<sup>7</sup>) which allows us and stakeholder to challenge attribution processes and rules which we do not consider to be fair and objective;
  - d) publication (i.e. reporting) of cost accounting information aids transparency, providing assurance to stakeholders about compliance with SMP obligations, allowing stakeholders

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its own downstream business. In Volume 3, Section 2 we propose to apply no undue discrimination obligations on KCOM in each of the proposed SMP markets.

<sup>7</sup> KCOM's document that sets out the methodology used to prepare its regulatory financial statements (RFS) is called Description of Cost Accounting System (DOCAS) as currently required under Direction 2. The most recent version was published for the year [2023/24](#).

to support Ofcom’s monitoring of compliance and more generally promoting competition by providing reassurance that regulatory conditions are complied with; and

- e) KCOM records all information necessary for the purposes listed above at the time that relevant transactions occur, on an ongoing basis. Absent such a requirement, there is a possibility that the necessary information would not be available when it was required for monitoring and enforcement purposes, and in the necessary form and manner.
- 1.10 Absent a cost accounting requirement, our fair and reasonable charging obligation in the current regulatory period would likely be ineffective in addressing KCOM’s SMP, as stakeholders could not be confident that the controls were effective to enable them to compete against KCOM on a fair basis. Price regulation generally would be likely to be less effective because stakeholders would not have confidence that if price regulation continued to be required in the next regulatory period, the necessary information would be available for Ofcom to implement it. Finally, ongoing provision of information allows Ofcom and stakeholders to monitor, within the review period, the appropriateness of the assumptions made in setting charges and therefore enables a better ongoing understanding of the effectiveness of the remedies.

## Purpose of regulatory reporting

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- 1.11 KCOM is currently subject to regulatory financial reporting requirements across all of the wholesale fixed telecoms markets in which it is regulated. These requirements are imposed on KCOM by way of a SMP condition set in each regulated market, and directions imposed in each market pursuant to the associated SMP condition. The SMP condition sets out our general regulatory financial reporting requirements, including accounting separation and cost accounting. The directions then set out our detailed regulatory financial reporting requirements.
- 1.12 As part of these requirements, each year KCOM must prepare its regulatory financial statements (RFS) according to a defined framework and methodology. The RFS include published statements as well as information that is not published but submitted to Ofcom privately.
- 1.13 KCOM’s regulatory financial reporting obligations secure the creation and retention of the information needed for our regulation of SMP markets, particularly our fair and reasonable pricing obligations, to be, and be seen to be, effective. They provide us with the information necessary to help us make informed regulatory decisions, such as information necessary to assess the impact and effectiveness of our decisions, for example, trends in the usage and returns associated with regulated markets. They also enable us to monitor and, if necessary, enforce no undue discrimination and some price control regulations.
- 1.14 Publication of some information helps inform stakeholders so they can have confidence that KCOM is complying with its obligations and that regulation is effective and appropriate to achieve its purpose. It enables stakeholders to identify and bring issues to our attention and effectively contribute to the regulatory regime. This promotes confidence in the market, which in turn creates the conditions for effective competition.
- 1.15 We have previously said that, consistent with our duties, effective reporting should have the following attributes:<sup>8</sup>

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<sup>8</sup> See for example, Ofcom, 2021. [Hull Area Wholesale Fixed Telecoms Market Review 2021-26](#) (Hull WFTMR21), [Volume 3](#), paragraph 4.18.

- a) **Relevance.** The information needs to answer the right questions, in the right way and at the right time.
  - b) **Reliability.** The underlying data must be reliable, suitable rules for treatment of data must be chosen and those rules need to be followed.
  - c) **Transparency.** The basis of preparation should be understood by the users of the reports and the presentation of the data should be clear.
  - d) **Proportionality.** The reporting requirements should be proportionate to the benefits.
- 1.16 In the following subsections, we briefly set out the proposed SMP markets and describe the purpose of the SMP condition together with the changes to the directions we propose to impose on KCOM.

## Proposed SMP markets

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- 1.17 In Volume 2 we propose that KCOM has SMP in the following product markets:
- a) the supply of wholesale local access at a fixed location in the Hull Area (WLA); and
  - b) the supply of Leased Lines Access in the Hull Area (LLA).
- 1.18 In this volume we explain that we propose to apply regulatory financial reporting remedies on KCOM in each of these proposed SMP markets as part of our package of remedies to address the competition concerns identified in our market assessment.

## SMP condition

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- 1.19 The 'Regulatory Financial Reporting' SMP condition we propose to impose on KCOM includes general requirements for accounting separation and cost accounting. The SMP condition also requires KCOM to produce the RFS and other accounting documents as directed by Ofcom.
- 1.20 We propose to impose the same SMP condition 9 as set out in the Hull Area Wholesale Fixed Telecoms Market Review 2021 (Hull WFTMR21)<sup>9</sup> as set out in the draft legal instruments SMP condition 9 in Volume 5.
- 1.21 The purpose of this SMP condition is to ensure that sufficient and robust information is published by KCOM and provided privately to Ofcom to enable us to perform our duties and for stakeholders to have confidence that KCOM has complied with its SMP conditions. More specifically, this SMP condition serves as a basis for imposing directions on KCOM that set out detailed regulatory financial reporting requirements.

## Directions

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- 1.22 To give effect to our proposals we also propose to give the following five directions under section 49 of the Act and the Regulatory Financial Reporting SMP condition we are proposing in relation to WLA and LLA.

**Table 1.1: Regulatory reporting directions**

Proposed SMP directions	Proposal
Network Components Direction - This direction specifies the cost components to be used by KCOM to prepare the RFS.	Unchanged from 2021

<sup>9</sup> Hull WFTMR21. [Volume 4: Legal instruments.](#)

Proposed SMP directions	Proposal
Transparency Direction - This direction requires KCOM to ensure that any information, material, or explanatory document it prepares in respect of the RFS is sufficiently transparent, such that a suitably informed reader can gain a clear understanding of the information presented.	Unchanged from 2021
Form of the PPIA <sup>10</sup> Audit Opinion for the RFS Direction. This direction specifies the audit requirements on the RFS.	Unchanged from 2021
Preparation, Audit, Delivery and Publication of the RFS Direction. This direction sets out the broad scope of information that KCOM must report, for each regulated market and on a KCOM wide basis. It also sets out what should be published and what should be audited.	Retained, with amendments
Form and Content Direction. This direction sets out the format and details of the information to be published and provided to Ofcom privately.	Retained, with amendments

1.23 The Preparation, Audit, Delivery and Publication Direction and the Form and Content Direction include new proposed reporting requirements in relation to the introduction of physical infrastructure access (PIA) in the WLA and LLA markets. In relation to both markets, we propose to require some PIA service level information and information on external network adjustments in order to monitor the effectiveness of the financial limit.

## Structure of this volume

1.24 We currently require KCOM to publish information relating to the preparation of the RFS, the financial performance of regulated markets and assurance over the RFS. We also require KCOM to provide us with information privately. We discuss our proposals for each of these requirements in the following sections.

1.25 This volume is structured as follows.

- **Section 1:** Introduction (this section)
- **Section 2:** Proposed requirements unchanged from the Hull WFTMR21; This section sets out our proposed requirements for the Transparency Direction, the Network Components Direction and the Form of the PPIA Audit Opinion Direction
- **Section 3:** Proposed requirements in respect of the Preparation, Audit, Delivery and Publication of the RFS Directions and the Form and Content Directions. This section sets out our proposals for the preparation, form and content of the reports and schedules we require KCOM to publish, highlighting new requirements in relation to PIA. This section also sets out our proposals for the information KCOM is required to provide Ofcom privately, which are unchanged from current requirements.
- **Section 4:** Legal tests. This section sets out why we consider our proposals meet the relevant legal tests set out in the Act. The proposed SMP condition and associated directions are set out in Volume 5.

<sup>10</sup> Properly Prepared in Accordance With (PPIA).

## 2. Proposed requirements unchanged from the Hull WFTMR21

### Introduction

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- 2.1 We propose that the Network Components Direction, Transparency Direction and Audit of the RFS Direction are imposed in the same form as in the Hull WFTMR21.

### Proposed Network Component Direction

- 2.2 To preserve the integrity and consistency of KCOM's Regulatory Financial Reporting it is important that there is a single list of components used to attribute costs to services in regulated markets.
- 2.3 We propose a Network Components Direction in relation to KCOM in each of the proposed SMP markets as set out in Volume 5.
- 2.4 Cost accounting requires KCOM to describe how it has attributed costs to regulated markets. Cost components are fundamental building blocks of KCOM's cost accounting system and it is important that ourselves and stakeholders understand what components have been used. We therefore propose the same list of network components as set out in the Hull WFTMR21.
- 2.5 We propose the direction continues to contain the following network components:
- a) Electronics;
  - b) Field provision;
  - c) Field maintenance;
  - d) Local Loop infrastructure;
  - e) Exchange concentrator;
  - f) Exchange-exchange Transmission link;
  - g) Back-office Provision;
  - h) Back-office Maintenance;
  - i) Sales and Product Management;
  - j) PPP for narrowband call services;
  - k) Net Current Assets; and
  - l) Other.
- 2.6 Our proposed direction which specifies the list of network components ensures that the presentation and usability of the RFS continues and gives confidence to stakeholders about the absence of bias in the preparation of the RFS. It specifies no more network components than necessary to ensure we can monitor KCOM's activities.
- 2.7 The proposed direction is set out in Volume 5 (see Draft Direction 1, Schedule to the Notification).

- 2.8 In Section 4 below, we explain why the giving of this direction would satisfy the test set out in section 49 of the Act.

## Proposed Transparency Direction

- 2.9 For regulatory financial reporting to secure its objectives, it is important that Ofcom and other stakeholders can understand the information presented. It is therefore necessary that KCOM publishes a sufficiently transparent description of its regulatory cost accounting system (including attribution and valuation methodologies) such that a suitably informed reader can gain a clear understanding of the information presented in KCOM's RFS.
- 2.10 We therefore propose to impose on KCOM a Transparency Direction in each of the proposed SMP markets.
- 2.11 Our proposed Transparency Direction requires KCOM to publish documentation that describes its regulatory cost accounting system, that is, the accounting system that is used to meet KCOM's obligations on cost accounting and accounting separation.
- 2.12 KCOM's description of its cost accounting system (DOCAS) documentations sets out its organisational structure, the objectives of the accounting separation framework and how KCOM's system meets those objectives, explaining KCOM's attribution methods for revenues and costs and its methodology for valuing assets on a current cost basis (CCA). As well as providing transparency to stakeholders on KCOM's regulatory cost accounting system, the document also serves as a reference point for KCOM's auditors for their PPIA opinions (see below). The documentation is published on KCOM's website.<sup>11</sup> This information is necessary for Ofcom and other providers to understand the information presented in the RFS and enable the RFS to fulfil their function.
- 2.13 We consider that the current transparency direction requires a sufficiently transparent description of KCOM's regulatory cost accounting system (including attribution and valuation methodologies) such that a suitably informed reader can gain a clear understanding of the information presented in KCOM's RFS. Our proposed direction does not require more information than necessary to ensure that presentation of the basis of preparation is transparent for users of the RFS. On this basis, we consider that the current transparency requirement remains appropriate.
- 2.14 We note that the proposal for KCOM to provide new WLA and LLA products, i.e. PIA services (Volume 3, Section 5), will require KCOM to consider how accounting for the new services should be explained in the DOCAS. This does not require a change to the direction.
- 2.15 The proposed direction is set out in Volume 5 (see Draft Direction 2, Schedule to the Notification).
- 2.16 In Section 4 below, we explain why the giving of this direction would satisfy the test set out in section 49 of the Act.

## Proposed Form of the PPIA Audit Opinion for the RFS Direction

- 2.17 KCOM is currently required to secure from its regulatory auditor a PPIA opinion. This opinion considers whether the RFS has been prepared in accordance with the 'rules'. The 'rules' in this

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<sup>11</sup> KCOM, 23 December 2024. [Description of Cost Accounting System \(DOCAS\): Representing the Primary and Secondary Accounting Statements Together with Wholesale and Retail Catalogues](#) (KCOM 2023/24 DOCAS). Accessed on 28 October 2025.

case refer to the DOCAS prepared by KCOM, as well as the regulation surrounding the RFS. The PPIA opinion represents a view on whether the rules have been followed.

- 2.18 This direction, and the resulting PPIA opinion, gives users confidence that the information published in the RFS provides a fair reflection of KCOM's financial performance in the relevant markets, is free from material error and has been prepared following the DOCAS published by KCOM and relevant directions issued by Ofcom. To preserve the integrity and consistency of the RFS we consider that all markets should be subject to the same audit direction.
- 2.19 We propose an Audit of the RFS Direction in relation to KCOM in each of the proposed SMP markets as set out in Volume 5. The audit direction requires KCOM to secure PPIA (properly prepared in accordance with) opinions on the RFS. We consider that the audit requirements are no more than is necessary to ensure that an appropriate level of assurance is provided on the RFS.
- 2.20 In Section 4 below, we explain why the giving of this direction would satisfy the test set out in section 49 of the Act.

# 3. Reporting requirements in relation to the preparation, audit, delivery and publication of KCOM's RFS direction and the form and content direction

## Introduction

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- 3.1 The publication of financial information contributes to an open and competitive market and helps create an effective regulatory regime. We propose to make some changes to the information presented in KCOM's RFS to ensure they remain relevant throughout this five-year review period and help secure that SMP regulation is and remains effective.
- 3.2 In this section, we discuss the information that we propose KCOM must publish in relation to the WLA and LLA markets. We propose to maintain current requirements and additionally require KCOM to publish some information on PIA services and external network adjustments.

## Current directions

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- 3.3 The current Preparation, Audit, Delivery and Publication of KCOM's RFS Direction lists the financial statements that KCOM is required to either publish or provide to us privately. Some financial statements relate to KCOM as a whole, while others are market specific. The direction sets out:
  - a) the financial statements KCOM is required to either publish or provide to us privately; and
  - b) that KCOM is required to prepare, secure and publish an audit opinion in relation to the KCOM-wide schedules and the regulated markets. The form of that opinion is separately set out in the Form of the PPIA Audit Opinion for the RFS Direction described above.
- 3.4 The current Form and Content Direction sets out the format and detail of what each financial statement listed in the Preparation, Audit, Delivery and Publication of KCOM's RFS Direction should include.
- 3.5 The requirements relating to the titles of the schedules KCOM provides and publishes must be consistent with the form and content direction, which sets out the detail to be included within the schedules.
- 3.6 This preparation, audit, delivery and publication of KCOM's RFS direction also sets out that KCOM is required to prepare, secure, and publish an audit opinion in relation to the KCOM wide schedules and the regulated markets. The requirements relating to the publishing of the audit opinion must be consistent with the form of the PPIA audit opinion for the RFS direction. The effect of the preparation, audit, delivery and publication of KCOM's RFS direction (which sets out the names and descriptions of the required schedules) and the form and content direction (which sets out the detail to be contained within the schedules) is to require KCOM to produce

information on a KCOM wide and on a market basis. Some of this information is published, some provided in private. Whilst KCOM’s regulatory cost accounting system holds information on a service level, we have not previously required this to be published or provided to us in confidence.

- 3.7 Both the Preparation, Audit, Delivery and Publication of the RFS Direction and the Form and Content Directions are, in our view, necessary and appropriate to preserve the integrity and consistency of the RFS. We consider that all proposed SMP markets should be subject to appropriate reporting requirements.
- 3.8 We propose the Preparation, Audit, Delivery and Publication of the RFS Direction and the Form and Content Direction in relation to KCOM in each of the proposed SMP markets as set out in Volume 5.
- 3.9 In Section 4 below, we explain why the giving of these directions would satisfy the test set out in section 49 of the Act.

## Published information

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### KCOM wide information

- 3.10 We propose that KCOM publishes the schedules listed in Figure 3.1 in relation to KCOM-wide information.

**Figure 3.1: KCOM wide schedules to be provided and published**

Schedule– 2023/24 RFS (page reference)	Justification
Consolidated cost profit and loss (page 9) Consolidation MCE (page 10)	These schedules set out KCOM’s returns from regulated markets. This demonstrates to stakeholders the impact and effectiveness of regulation across KCOM.
Reconciliation profit and loss (pages 22) Reconciliation MCE (page 23)	These schedules reconcile KCOM’s RFS to its statutory accounts. This provides us and stakeholders with confidence that the information in the RFS is a record of KCOM’s actual costs.
Consolidated network activity statement (page 11)	This schedule provides confidence to stakeholders that KCOM is attributing costs in accordance with its cost accounting and accounting separation obligations.
PIA services and external network adjustments note (new requirement)	This schedule will i) demonstrate the impact and effectiveness of the PIA remedy across KCOM, and ii) provide confidence to us and stakeholders that the financial limit for network adjustments is working as intended whilst demonstrating that network adjustments above the financial limit are being correctly charged to external customers.

- 3.11 We consider that in respect of the preparation, audit, delivery and publication of KCOM’s RFS direction, KCOM should continue to provide and publish these schedules.

- 3.12 In respect of the form and content of the consolidation cost profit and loss and consolidation MCE schedules, we propose to require that KCOM disaggregates the current year and prior year totals into the individual SMP market and residual activities. In line with our provisional SMP findings we would expect the figures under the 'Total' to be split between 'WLA', 'LLA' and 'Residual Activities'. We also propose to require that the current year and prior year figures are disclosed on separate pages. This disaggregation does not involve the disclosure of any new information (the WLA and LLA figures would be disclosed in the relevant market statement (see below), whilst residual activities can be calculated)<sup>12</sup>. This provides transparency to stakeholders by setting out in one place the level of revenues, costs, assets and returns for each market allowing easier comparisons of markets and trends within KCOM.
- 3.13 The proposed requirements are included in the draft preparation, audit, delivery and publication of KCOM's RFS direction and draft form and content direction in Volume 5 (see Directions 3 and 4, Schedule to the Notification).

### PIA services

- 3.14 In Volume 3, Section 2 we propose KCOM benchmarks its PIA charges to those that BT charge in the rest of the UK. In Volume 3, Section 2, we also propose a no undue discrimination requirement on KCOM for PIA services and in Volume 3, Section 5, we explain how we interpret this requirement in relation to pricing for PIA rentals and ancillary charges such as network adjustments.
- 3.15 To support these remedies, we propose a new schedule to report on KCOM's PIA services. We propose to require KCOM to publish volume, average price and revenue information for PIA rentals, at an aggregated level (i.e. on a per km of duct basis or on a per pole basis). As KCOM is not required to consume PIA on an equivalent basis, we expect that KCOM reports only external purchases of PIA rentals. We set out in Volume 5, Annex 21 to Direction 4, the format of the schedule to be published, in the form of a note to the RFS.
- 3.16 PIA services could support networks in multiple markets and there are practical difficulties in identifying whether customers are buying PIA to support services in one SMP market or another. Likewise, we believe stakeholders are interested how effective the remedy is on an overall basis, rather than on a market-by-market basis. As a result, we only propose to require KCOM to report aggregate volumes and revenues for PIA services, rather than report PIA services separately in each of the WLA and LLA markets.

### Network adjustments

- 3.17 In relation to network adjustments, in Volume 3, Section 5 we propose a financial limit of £2,725 per km of spine duct. For poles, where network adjustments are required to provide capacity on a pole, or replace a defective pole, for the purposes of providing a dropwire, then we propose a network adjustment charge of zero. Where KCOM carries out network adjustments for customers above the financial limit, that customer is required to pay the incremental cost.
- 3.18 To support this remedy, we propose a new schedule to report on total network adjustments across all markets. We propose to require KCOM to publish the external volumes, average price

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<sup>12</sup> By subtracting the WLA and LLA figures from the KCOM wide figures.

and total costs for network adjustments.<sup>13</sup> As KCOM is not required to consume PIA on an equivalent basis and as the cost of internal network adjustments above the financial limit are not explicitly recovered through regulated charges, we propose that KCOM reports only external network adjustments. We set out in Volume 5, Annex 22 to Direction 4, the format of the schedule to be published as a note to the RFS.

### Justification for PIA reporting

- 3.19 We consider that publishing this information will demonstrate the impact and effectiveness of the PIA remedies we are proposing across the WLA and LLA markets to enable fair and effective competition, in particular:
- a) Publishing PIA volumes, prices and revenues provides transparency about the relative usage of PIA and indicates how take up of PIA is developing. In turn, this helps stakeholders assess the effectiveness of our remedies and contributes to an open and competitive market by allowing stakeholders to bring issues to our attention. In relation to network adjustments, it provides transparency about the relative usage of network adjustments above the financial limit and provides reasonable assurance to stakeholders that KCOM is accounting for these correctly.
  - b) Showing average PIA prices allows stakeholders to see how the average actual price compares to the benchmark prices.
- 3.20 The proposed requirements are included in the ‘Preparation, Audit, Delivery and Publication of KCOM’s RFS’ Direction and ‘Form and Content’ Direction in Volume 5 (see Draft Directions 3 and 4, Schedule to the Notification).

### Market level information

- 3.21 In general, we consider that some information should be published where KCOM has regulatory reporting obligations to allow stakeholders to have reasonable confidence that KCOM has complied with its SMP conditions, is providing the required data to Ofcom and the reporting regime overall is working as planned.
- 3.22 We propose that KCOM continues to publish Market Level information for WLA and LLA markets. This information is consistent with current requirements and is summarised in in Figure 3.2.

**Figure 3.2. Market level schedules to be provided and published**

Schedule currently provided	WLA 23/24 RFS (page)	LLA 23/24 RFS (page)	Justification
Market profit and loss summaries	14	16	Trends in market-level financial performance allow us to monitor developments in the market and are

<sup>13</sup> This will include gross network adjustments, i.e. those above and below the limit as well as those above the financial limit. The revenue/cost of those above the financial limit should include the amount of cost that was below the financial limit.

Schedule currently provided	WLA 23/24 RFS (page)	LLA 23/24 RFS (page)	Justification
Market MCE	15	17	<p>informative in the context of considering the impact and effectiveness of remedies.</p> <p>Market-level cost information also provides transparency regarding how KCOM has attributed costs between regulated markets (and between regulated and unregulated markets).</p> <p>We see this as facilitating stakeholder confidence that such costs have been attributed consistently.</p>

3.23 In respect of LLA, KCOM currently reports dark fibre services within that market. As set out in Volume 3, Section 4, we propose to deregulate dark fibre services, although KCOM will continue to provide a small number of existing circuits on a transitional basis for five years. Consistent with that proposal, we propose dark fibre services covered by the transitional arrangements should be reported within the LLA market.

## Private information

3.24 We currently require KCOM to provide us with some information privately. We require this information to make informed regulatory decisions, monitor compliance with SMP conditions and ensure that those SMP conditions continue to address the underlying competition issues.

3.25 Currently KCOM provides us with both KCOM-wide information, market level information and service level information. We propose that KCOM continues to provide us with this information in relation to the WLA and LLA markets. In respect of service level information, we propose some changes to the service level content in line with our proposed deregulation of dark fibre services. We have also proposed to amalgamate some services with relatively low volumes. The proposed requirements are set out below.

## KCOM wide information

**Figure 3.3: KCOM wide schedules to be provided in confidence**

Schedule currently provided	Justification for retention and non-publication
Residual profit and loss	<p>While this information will help demonstrate to us that KCOM is using an appropriate regulatory cost accounting system to attribute costs to markets, including residual markets. Stakeholders are already provided information on how costs are attributed to regulated markets in the DOCAS whilst both Wholesale and Retail residual market are published in aggregate in the Reconciliation Statements. Whilst we need the information to ensure the correct attribution of costs between regulated and unregulated markets, we do not consider that it is necessary to provide detailed information on non-regulated services to stakeholders.</p>
Residual MCE	

Schedule currently provided	Justification for retention and non-publication
Inter market turnover	This schedule allows us to see the retail residual revenue from each regulated market and is required by us to monitor accounting separation obligations in relation to sales made to retail residual. It is not, however, appropriate to provide to stakeholders as it relates to non-regulated services.

## Market level information

**Figure 3.4: KCOM market level schedules to be provided in confidence**

Schedule currently provided	Justification for retention and non-publication
Market network activity statements	While this information will help demonstrate to us that KCOM is using an appropriate regulatory cost accounting system to attribute costs to markets, including residual markets. Stakeholders are already provided information on how costs are attributed to regulated markets in the DOCAS.

## Service level Information

3.26 Consistent with the proposed removal of the dark fibre remedy we propose to remove the reporting of single fibre rental charges, fibre pair rental charges, single fibre connection charges, fibre pair connection charges, charge per right when tested, charge per cessation, patch panels, dark fibre excess construction charges and other dark fibre services in LLA (not specified). KCOM can amalgamate WLA and LLA services that have the same price.

**Figure 3.5: KCOM service level schedules to be provided in confidence**

Schedule currently provided	WLA services <sup>14</sup>	LLA services <sup>15</sup>	Justification for retention and non-publication
Service level volumes, prices, revenues, and FAC costs	<ul style="list-style-type: none"> <li>i. WFLLA FTTP rentals</li> <li>ii. WFLLA FTTC rentals</li> <li>iii. WFLLA End user new provide</li> </ul>	<ul style="list-style-type: none"> <li>i. ECAS 1Gbit/s rentals</li> <li>ii. EDAS 1Gbit/s rentals</li> <li>ii. Other ECAS rentals</li> <li>iii. Other EDS rentals</li> <li>iv. ECAS ECCs</li> </ul>	As explained in Volume 3, in respect of WLA and LLA services, we have proposed that an assessment of fair and reasonable pricing may include reference to Openreach's prices for equivalent bandwidth

<sup>14</sup> In relation to WLA services KCOM can amalgamate services e.g. WFLLA FTTP rentals and WFLLA FTTC rentals where the same price is charged.

<sup>15</sup> In relation to LLA active services KCOM can amalgamate services e.g. ECAS and EDAS 1 Gbit rentals where they are charged at the same price.

Schedule currently provided	WLA services <sup>14</sup>	LLA services <sup>15</sup>	Justification for retention and non-publication
Service level FAC costs by network cost component.	iv. Other WFLLA End User Connection Charges v. Other WFLLA Fixed Charges. vi. WFLLA ECCs vii. Time related charges viii. Other services in the WLA Market (not specified) <sup>16</sup>	v. EDAS ECCs iii. ECAS Connection Charges iv. EDAS Connection charges v. Other ECAS services in the LLA Market (not specified) <sup>17</sup> vi. Other EDAS services in the LLA Market (not specified) <sup>18</sup>	products and active leased lines.  Service cost information can be compared to Openreach price information to assess the effectiveness of the pricing benchmark and consider whether differences from the Openreach benchmark are fair and reasonable

3.27 The specified services in this list are the current service names as per the KCOM website<sup>19</sup> that for reasons set out in in Volume 3D are subject to fair and reasonable charging obligations. In respect of dark fibre services where we propose to no longer require any disaggregated private reporting, we propose they should be aggregated within the “Other EDAS / EDAS services in the LLA Market (not specified)” service.

## Consultation question

**Question 4.1:** Do you agree with our proposed regulatory financial reporting SMP condition and directions? Please set out your reasons and supporting evidence for your response.

<sup>16</sup> The ‘Other’ services have been specified to enable to reconcile the AFI to the published RFS, for groups of services or to the market itself.

<sup>17</sup> The ‘Other’ services have been specified to enable to reconcile the AFI to the published RFS, for groups of services or to the market itself.

<sup>18</sup> The ‘Other’ services have been specified to enable to reconcile the AFI to the published RFS, for groups of services or to the market itself.

<sup>19</sup> [KCOM WLA price list](#), [KCOM LLA \(1\) price list](#) and [LCOM LLA \(2\) price list](#). Accessed on 5 November 2025.

# 4. Legal tests

## Introduction

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- 4.1 In Sections 1 to 3 above, we set out proposals to impose regulatory financial reporting obligations on KCOM in relation to each of the markets in which we have proposed to make an SMP finding. In order to give effect to these proposals, we are proposing to set draft SMP condition 9, Volume 5.
- 4.2 Under draft SMP condition 9, Ofcom may from time to time make such directions as they consider appropriate in relation to KCOM's reporting obligations.
- 4.3 To give effect to our proposals we also propose to give five directions under section 49 of the Act and SMP condition 9 in relation to each of the proposed SMP markets. The proposed directions are set out in full in Volume 5. The proposed directions are:
- a) Network Components Direction
  - b) Transparency Direction
  - c) Form of the PPIA Audit Opinion for the RFS Direction
  - d) Preparation, Audit, Delivery and Publication of the RFS Direction
  - e) Form and Content Direction

## SMP condition

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### Accounting separation

- 4.4 Our proposed accounting separation obligation requires KCOM to account separately where appropriate for internal and external sales which allows us and stakeholders to monitor the activities of KCOM to ensure that, where relevant, it does not discriminate unduly in favour of its own downstream business and to monitor KCOM's activities in respect of non-discrimination. This, combined with the cost accounting obligation (see below), helps us to ensure that costs are not inappropriately loaded onto one set of regulated services to the benefit of KCOM, where KCOM uses primarily another set of regulated services.
- 4.5 Under sections 87(7) and 87(8) of the Act the dominant provider may be required to maintain a separation for accounting purposes between different matters relating to network access or the availability of relevant facilities. We believe this obligation is required to monitor the overall impact and effectiveness of the remedies proposed, and especially to monitor KCOM's activities with regard to its non-discrimination obligations.
- 4.6 Section 87(6)(b) of the Act provides for a dominant provider to publish information for the purpose of securing transparency in relation to matters connected with network access to or with the availability of relevant facilities. The proposed obligation is also necessary to support transparency. It provides a greater detail of information on the relevant markets than could be derived from KCOM's statutory financial statements and gives visibility, and thus reassurance, to stakeholders that KCOM has complied with its SMP conditions.
- 4.7 The specific accounting separation requirements we are proposing to impose on KCOM in these markets are set out in draft SMP condition 9 in Volume 5.

## Cost accounting

- 4.8 The imposition of a cost accounting obligation ensures that KCOM has in place a system of rules that support the attribution of revenues and costs to individual markets and services. It therefore supports the accounting separation obligation, which requires KCOM to prepare and report financial information relating to individual markets and services, by ensuring that the rules attributing revenues and costs to individual markets and services are fair, objective and transparent. The cost accounting obligation is an important means of ensuring that:
- a) Ofcom and stakeholders can have confidence in the financial information prepared and provided by KCOM since the attribution processes and rules supporting that financial information are fair, objective and transparent. Where we do not consider that the attribution process and rules are fair and objective, transparency (via publication of the processes and rules followed by KCOM) allows us to effectively challenge them.
  - b) Revenues and costs are attributed to individual markets and services in a consistent manner. This mitigates the risk that costs might be unfairly loaded onto particular services or markets.
  - c) KCOM records all information necessary for the purposes listed above at the time that relevant transactions occur, on an ongoing basis. Absent such a requirement, there is a strong possibility that the necessary information would not be available when it is required, and in the necessary form and manner.
- 4.9 Section 87(9)(c) authorises conditions imposing such rules as we may make for the purposes of matters connected with the provision of network access to the relevant network, or with the availability of relevant facilities about the use of cost accounting systems. These would include conditions enabling Ofcom to require the dominant provider to explain what assumptions it has used in determining costs and charges, for the purposes of setting price controls, rules and obligations imposed in relation to price controls, cost orientation, cost accounting systems and adjusting of prices in accordance with Directions from Ofcom. Where such conditions are imposed, section 87(11) imposes a duty on us to also set an SMP condition which imposes an obligation:
- a) to make arrangements for a description to be made available to the public of the cost accounting system used in pursuance of that condition; and
  - b) to include in that description details of:
    - i) the main categories under which costs are brought into account for the purposes of that system; and
    - ii) the rules applied for the purposes of that system with respect to the allocation of costs.
- 4.10 We consider that proposed SMP condition 9 would fulfil our duty under section 87(11) in that the cost accounting obligations require the publication of a description of the cost accounting system used and the main categories of cost and the cost allocation rules applied.
- 4.11 We believe the cost accounting obligation is necessary to ensure the processes and rules used by KCOM to attribute revenues and costs to individual markets and services are fair, objective and transparent. Therefore, we are proposing to impose a cost accounting requirement on KCOM.
- 4.12 The specific cost accounting requirements we are proposing to impose on KCOM in these markets are set out in draft SMP condition 9 in Volume 5.

## Legal tests

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### Section 47

4.13 We consider that draft SMP condition 9 satisfies the tests set out in section 47 of the Act, namely that each obligation is:

- a) objectively justifiable in relation to the networks, services or facilities 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 the condition or modification is intended to achieve; and
- d) transparent in relation to what it is intended to achieve.

#### Objectively justified

4.14 We consider that the draft SMP condition is objectively justifiable. The accounting separation and cost accounting obligations we are proposing to impose form part of a package of remedies to address the competition concerns that we have provisionally identified in our review. In particular:

- a) The proposed accounting separation requirement allows us and stakeholders to monitor the activities of KCOM to ensure that, where relevant, it does not discriminate unduly in favour of its own downstream business.
- b) The proposed cost accounting obligation is necessary to ensure the appropriate maintenance and provision of accounts in order to monitor KCOM's activities with regard to the pricing remedies we are proposing and monitor their effectiveness at addressing the competition concerns. It is also necessary to secure that information continues to be created and captured so as to secure, and to give stakeholders confidence, that pricing can continue to be appropriately regulated in future. It also relates to the need to ensure competition develops fairly, to the benefit of consumers, by providing transparency of KCOM's compliance with rules set to address the risk of exploitative or anti-competitive pricing.

#### Not such as to discriminate unduly

4.15 We consider that the draft SMP condition does not discriminate unduly against KCOM. We are proposing that it is the only telecoms provider to hold SMP in the markets that we have identified and the draft conditions seek to address that market position.

#### Proportionate

4.16 We consider that the draft SMP condition is proportionate to what that condition is intended to achieve. In each case, we are proposing an obligation on KCOM that: is effective to achieve our aim; is no more onerous than is required to achieve that aim; and does not produce adverse effects which are disproportionate to our aim. We explain above why we consider our proposals are proportionate in the context of the markets we are reviewing.

#### Transparent

4.17 We consider that the draft SMP condition is transparent in relation to what is intended to be achieved. The text of the draft condition is being published for consultation, and the operation of the condition is aided by our explanations in this document. Our final statement will set out our analysis of responses to this consultation and the basis for any final decision that we take.

## Section 88 tests

- 4.18 In setting cost accounting conditions, we must also ensure that the tests set out in section 88 of the Act are also satisfied.
- 4.19 We consider that imposing a cost accounting obligation would be consistent with section 88 of the Act and is necessary for price controls to be effective.
- 4.20 In Volume 3, Section 6 we explain why we consider our proposed pricing remedies are consistent with section 88 of the Act. We consider that the same reasoning applies equally here.

## Directions

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- 4.21 As discussed above; to give effect to our proposals we also propose to give five directions under section 49 of the Act and SMP condition 9 in relation to each of the proposed SMP markets.

## Section 49 tests

- 4.22 We consider that the proposed Regulatory Reporting Directions satisfy the tests set out in section 49(2) of the Act , namely that in each case the Direction is:
- a) Objectively justifiable because the requirements will seek to ensure that through the information to be provided, both in public and on a confidential basis, stakeholders have sufficient robust information about the products and services they purchase to provide them with reasonable confidence about KCOM's compliance with its SMP conditions and that we have sufficient information necessary to carry out our functions.
  - b) Not unduly discriminatory because it reflects KCOM's market position in the Hull Area. BT is the only other SMP provider, and also has regulatory accounting obligations, and we have explained the reasons for requiring relevant information from KCOM both publicly and on a confidential basis.
  - c) Proportionate because the requirements will be no more than is necessary to ensure the effectiveness of the regulation and ensure that Ofcom and stakeholders are provided with a sufficient level of appropriately robust information.
  - d) Transparent because it is clear that the intention of our proposed modifications is to make sure that the RFS remain fit for purpose and that Ofcom and stakeholders are provided with a sufficient level of information and assurance.

## Ofcom's duties

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- 4.23 As set out in Volume 1, we consider the package of proposed SMP conditions and related Directions both individually and together meet our duties in sections 3 and 4 of the Act.