



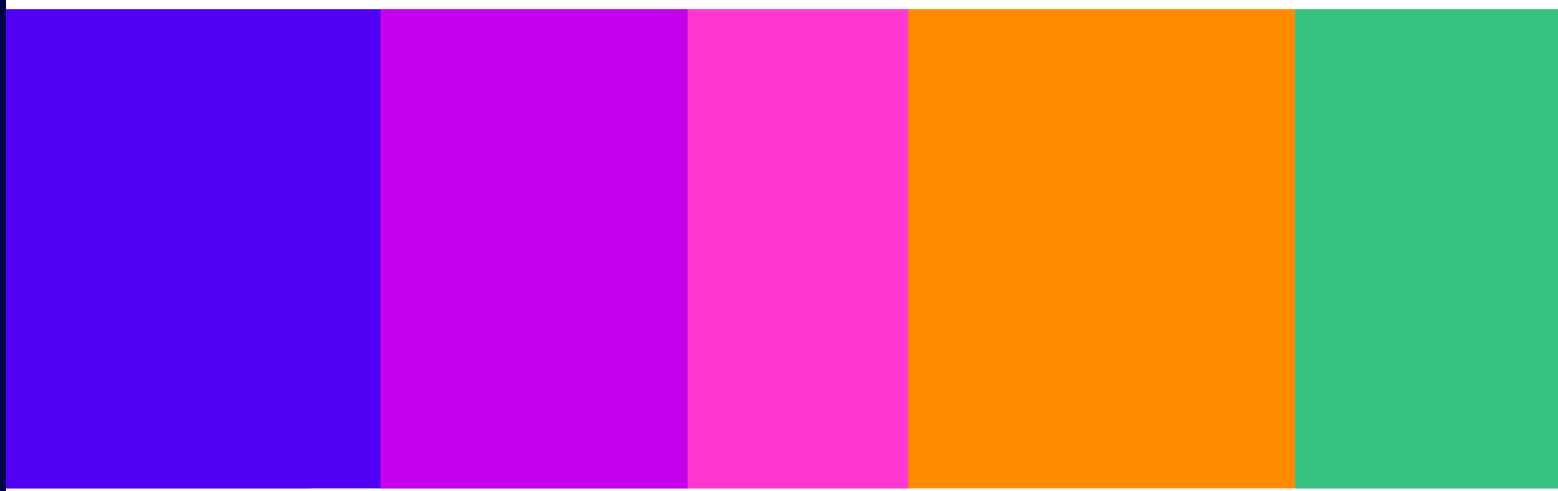
Promoting competition and investment in fibre networks: Telecoms Access Review 2026

Volume 7 Part C: Draft legal instruments
Draft Direction on electricity charges

Consultation

Published 20 March 2025

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NOTIFICATION UNDER SECTION 49 AND 49(A) OF THE COMMUNICATIONS ACT 2003

Notification of proposals under section 49 and 49A of the Communications Act 2003 and Condition 6 (Basis of charges) specifying requirements in relation to the publication of information about the basis of BT’s electricity charges (“Notification”)

Background

1. Ofcom is today publishing a consultation document titled “Promoting competition and investment in fibre networks: Telecoms Access Review 2026” (“the Consultation”) setting out Ofcom's proposals to identify markets, make market power determinations and set SMP conditions with respect to BT for the five year period from 1 April 2026 to 31 March 2031.
2. At Volume 7 of the Consultation, Ofcom proposes to impose on BT SMP services condition 6 which would impose requirements on BT in relation to the basis of certain charges. These include the requirement to demonstrate that its average charge for electricity purchased in connection with the provision of network access is reasonably derived from the cost of provision.
3. BT would also be required to comply with any direction that Ofcom may make from time to time under SMP services condition 6.

Proposals in this Notification

4. Ofcom is proposing, in accordance with section 49A(3) of the Act, to make under SMP services condition 6 the direction as set out in the Schedule to this Notification relating to the publication by BT of information about its electricity charges.
5. The effect of and reasons for giving the proposed direction are set out in the Consultation, in particular in Volume 4, Section 5.

Ofcom’s duties and legal tests

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

Making representations

8. Representations may be made to Ofcom about the proposals set out in this Notification by no later than 12 June 2025.

Notification to the Secretary of State

9. 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

10. 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 11 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.

11. In this Notification:

- a) **“Act”** means the Communications Act 2003;
- b) **“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;
- c) **“Ofcom”** means the Office of Communications as established pursuant to section 1(1) of the Office of Communications Act 2002 (2002 c. 11).

12. The Schedule to this Notification forms part of this Notification.

Signed



Ben Harries

Policy Director, Networks and Communications, Ofcom

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

20 March 2025

Schedule

[Draft] Direction under section 49 of the Act and Condition 6 in relation to the publication of information about the basis of BT's electricity charges

Background

1. On [Date] Ofcom concluded its review of the physical telecoms infrastructure markets and the wholesale markets underpinning broadband and leased line services in which it identified markets, made market power determinations and set appropriate SMP conditions (as set out in the Notification at Volume [] to the review). Ofcom determined that BT has significant market power in the markets set out in paragraph 5 below.
2. SMP services condition 6 was set in relation to markets referred to in paragraph 5 and this Direction concerns matters to which that condition relates.
3. In particular, under SMP condition 6.1, BT is required to demonstrate that its average charge for electricity purchased in connection with the provision of network access is reasonably derived from the cost of provision. SMP condition 6.3 provides that BT must comply with any direction Ofcom may make from time to time under condition 6.
4. This Direction is made under:
 - a) Section 49 of the Act; and
 - b) SMP condition 8.1.
5. This Direction applies with respect to the following markets, each of which is defined in the 2026 SMP Conditions Notification:
 - a) PI;
 - b) WLA Area 2;
 - c) WLA Area 3;
 - d) LLA HNR;
 - e) LLA Area 2;
 - f) LLA Area 3;
 - g) IEC BT Only;
 - h) IEC BT+1; and
 - i) IEC BT+2.

Direction

6. Ofcom has decided to give the Direction set out in paragraphs 7 to 8 with effect from 1 April 2026.

7. Ofcom directs BT to publish information on its website setting out a description of the costs on which it bases the calculation of the electricity charge, including a description of how it purchases the services required for the provision of power for equipment used in connection with network access. In particular, the description should include an explanation of:
 - a) the timing of BT's purchases of wholesale electricity and what impact this has, if any, on the setting of the electricity charge;
 - b) how BT takes account of its historic and expected costs when calculating the Electricity Charge; and
 - c) how the mark-ups which are included in the Electricity Charge have been estimated.
8. The information published by BT in accordance with this Direction must be accompanied by a statement from a person independent from BT providing assurance on the data. This assurance shall be in the form of Agreed Upon Procedures. The statement provided to Ofcom by the person independent from BT must set out the results of the tests carried out in order to give the Agreed Upon Procedures assurance.
9. In addition to the definitions set out above in this Notification, in this Schedule—
 - a) **“2026 SMP Conditions Notification”** means the Notification under sections 48 and 79 of the Act, which is contained in Volume [] of the document titled [];
 - b) **“Agreed Upon Procedures”** means an engagement carried out in accordance with international standard (ISRS 4400) under which a person independent from BT performs a set of audit procedures agreed by Ofcom and based on Ofcom’s specific requirements and reports the findings of that work to Ofcom;
 - c) **“Electricity Charge”** means the charge from time to time on a usage per kWh basis for electricity purchased by Third Parties to provide power equipment used in connection with network access provided by BT under Conditions 1 and 2 of the 2026 SMP Conditions Notification;
 - d) **“Third Party”** means a person providing a public electronic communications service or a person providing a public electronic communications network.