

KCOM's response to Ofcoms' consultation on its proposed guidance on protecting access to emergency organisations in the event of a power cut to a customer's premises.

Introduction

- 1.1 KCOM Group PLC ('KCOM') welcomes the opportunity to respond to Ofcom's proposed guidance on protecting access to emergency organisations when there is a power cut at a customer's premises.¹ This is an important consultation that warrants careful consideration by the industry and other stakeholders as the finalised guidance will provide an important reference for Communications Providers (CPs). Specifically, those Public Electronic Communications Network (PECN) providers that have, and are, deploying full fibre (FTTP) networks; and those Publicly Available Telephone Services (PATS)² providers offering voice over fibre solutions for customers.
- 1.2 The key issue for KCOM as both a PECN and a PATS supplier is how best to maintain an appropriate level of uninterrupted access to Emergency Organisations over a full fibre (FTTP) network when there is a mains power failure. We take the safety of our customers seriously and are keen to ensure that they have the appropriate safeguards in place as we move to a full fibre environment.
- 1.3 To date, KCOM has chosen to deploy [X] in the upgrade to our network in the Hull and East Yorkshire (HEY) area to address this issue. In this architecture, [X] if there is a local power failure those customers consuming PATS service are still able to contact emergency organisations. It is only in Greenfield deployments in the HEY where we do not deploy this [X] solution, in which case our PATS qualifying services utilises a voice over fibre solution. In addition to this, as a provider of PATS services in the rest of the UK we have a clear interest in the principles proposed by Ofcom as they apply more broadly than solely in the HEY area.
- 1.4 KCOM recognises there are a range of alternative methods that could be used by CPs to ensure compliance with General Condition 3.1(c) (and GCA3.2(b) from 1 October 2018). For the full fibre (FTTP) typology we consider the form of solution detailed below provides an effective and proportionate method of maintaining appropriate levels of protection of life services.

KCOM's position

- 1.5 For the full fibre (FTTP) typology that KCOM is deploying we consider the form of solution detailed below provides an effective and proportionate method of maintaining appropriate levels of protection of life services.

¹ Ofcom (2018), *Proposed guidance on protecting access to emergency organisations when there is a power cut at the customer's premises: Proposals for guidance on General Condition A3.2(b)*, Consultation, 24 May 2018.

² In summary, a PATS is defined with reference to a fourfold 'gating criteria' as being (i) a service to be available to the public (i.e. a Public Electronic Communications Service (PECS)) (ii) for making and receiving national and international calls and (iii) accessing emergency services (iv) through a national or international phone number on a numbering plan. The full definition is provided in Article 2(c) of the Universal Services Directive (2002/20/EC) and Ofcom's General Conditions (Schedule to the Notification under Section 48(1) of the Communications Act 2003) Part 1 para.1 and General Condition 18.

- 1.6 In the future, KCOM may choose to install an alternative technical solution for one or more of our customer groups and we welcome the technical flexibility of the Principles acknowledged by Ofcom.

Broadband-only service

- 1.7 In those instances where a CP is providing a Public Electronic Communications Network (PECN) on uses that PECN in the provision of broadband-only services then the requirements of General Condition 3.1c (and GCA3.2(b) from 1 October 2018) should not apply.
- 1.8 Where a CP is providing broadband-only services it is important to make it clear to customers that the provision of broadband-only services does not support, in and of itself, access to Emergency Organisations. However this does not prevent an alternative CP offering Voice over Fibre (VoF) services. In this case, it is for the alternative provider to ensure that where they provide PATS services that they comply with the requirements of the General Conditions and that this is backed off through the wholesale (or internal supply) arrangements.

PATS – VoF services

- 1.9 In those instances where a CP provides a PATS qualifying VoF product then there is a case for making use of a network-based Uninterrupted Power Supply (UPS) unit optional with positive 'opt in' required, and where a customer is vulnerable ('at risk') then the BBU is provided (as the chosen technological solution) by default. In particular, the customer is asked specifically whether they have a mobile and that the network coverage is good at the premise for which the VoF service is provided. In those circumstances where the customer confirms both then the limitations of a full fibre network under power outage scenarios would be explained and having done so only where a BBU was explicitly requested would it then be supplied to the customer. However, where a CP identifies a customer to be vulnerable then the BBU in these circumstances would be supplied by default.
- 1.10 In the above case, it is necessary to make the information that is relayed and recorded during the sales process, on the CP's website and in 'leave behind' the changed full fibre environment and as such the services provided to the customer by the PATS / PECN. Specifically:

Information communicated at the point of sale

- A check on the status of the customer (vulnerability check and default option as required);
- A clear an explanation of the key differences between current generation and next generation access services and the issues created with power loss;
- A customer check whether they have a mobile phone and a check on reception;

- The customer is offered the option of battery back-up (potentially chargeable); and
- The customer is provided with confirmation of the respective rights and responsibilities are set out (in a prominent position) in the contractual terms and conditions.³

Published information

- The published information for customers will need to explain the differences between current generation and next generation access services; and⁴
- The published information for our customers concerning the difference between our standard and monitored battery back-up solutions.

At contract renewal

- Contractual information provided details of the renewal date for battery switch out.

Rights and responsibilities

Amongst other things, we consider it proportionate to make it a condition of contract that customers:

- report any fault with the battery back-up unit (including the battery) to us as soon as they become aware of it and for them to provide an alternative means (e.g. a mobile phone) of contacting the Emergency Organisations until we can repair it; and
- undertake not to tamper with the battery back-up unit e.g. by removing the battery during its in-service life for any reason other than if a fault develops. (In the latter case we would expect the customer to contact the CP as above); and
- repair any in-premise power supply faults as quickly as possible to ensure continuity of mains supply to the ONT and battery back-up unit, and for them to provide an alternative means (e.g. a mobile phone) of contacting the Emergency Services until the issue is resolved.⁵

1.11 The above approach ensures that each premise that is served by full fibre deployment and that utilises a BBU where the relevant CP is providing a PATS

³ This will include a responsibility for the customer to ensure that we are given access rights to replace the batteries.

⁴ We would recommend that Ofcom work with industry and other relevant institutions to develop material to educate consumers about battery back-up power and recharging capability and the available options and having agreed it publish it as guidance.

⁵ Any issue with the functioning of the battery back-up unit found by our engineers to be caused by in-premise power supply issues will result in the visit being billed to the customer.

qualifying VoF service such that:

- the BBU installed is capable of supporting calls to Emergency Organisations for a minimum of 1 hour⁶ after a mains power supply failure;⁷
- the BBU is subject to an on-site operation test and is certified as operable at that time;
- the rechargeable batteries supplied at the point of initial installation meet the relevant Marking requirements and will be capable of providing back-up for calls to Emergency Organisations for a period of one hour when new and up to their recommended renewal period; and
- the BBU displays a prominent label confirming the date of that installation.

1.5 It would be helpful for Ofcom to confirm whether the application of the principles does not allow for opt-out in the way detailed above.

KCOM's observations on Ofcom's Principles

1.6 We have set out below our key observations on Ofcom's four principles.

1.7 **Principle 1:** Ofcom states that CP's should have at least one solution available that enables access to emergency organisations for a minimum of one hour in the event of a power outage in the premise.

At least one solution

1.7.1 We agree with Ofcom's view that for those qualifying CPs that they should have at least one solution for the purpose of providing access to emergency organisations in the event of a power outage and that the solution should be fit-for-purpose but could be offered using a range of alternative technologies. Ofcom is therefore correct to take a technologically neutral position this.

1.7.2 As noted above, it would be helpful for Ofcom to confirm that having at least one solution means that at least one type of solution must be deployed to all customers.

Minimum duration of one hour

1.7.3 Ofcom should specify the 'talk time' required of a solution that enables access to emergency organisations. In our view this should be limited to a 20 minute period in any given one hour power outage.

⁶ Within the one hour period, the battery back-up unit should be capable of supporting a medium length call (i.e. up to 20 minutes).

⁷ On FTTP based services, the Network Termination Point is the point at which the Optical Network Termination (ONT) is sited within the end user's premises. The ONT as an 'active' network component must also be within reach of a mains power supply as the primary source of power and to supply the battery back-up unit, which provides the auxiliary power supply. The battery back-up unit forms an ancillary component supporting the network termination equipment and must not be disconnected from the mains supply other than to change the batteries (or if there is otherwise a fault).

- 1.7.4 Ofcom should recognise that an UPS, such as a battery back-up unit only functions to the extent that it is placed on the requisite charging cycle. For this reason, it is important that when customer's purchase a PATS qualifying voice service that they undertake to: (i) not turn the power off to the UPS; (ii) not to unplug the UPS from the mains supply, not remove the batteries from the UPS, or otherwise not to disconnect / remove the UPS; and (iii) to immediately report any identifiable fault with the UPS.⁸
- 1.7.5 Ofcom should recognise that UK Power Networks⁹ can experience sequential power outages (whether local or potentially national) and as such it is possible that a UPS would be unable to recharge in sufficient time to provide the one hour access envisaged in these circumstances. In our view, the one hour period envisaged by Ofcom should therefore only apply to a single outage in a specified period e.g. 24 hours.
- 1.7.6 It is not clear how CPs can identify individual locations that are subject to extended (long-duration) power outages i.e. longer than 12 hours. Rather, we consider the more appropriate approach is for the individual customer to evidence to CPs that they are subject to such outages.
- 1.7.7 Ofcom makes clear the distinction between a power outage originating from an issue with the UK Power Networks¹⁰ and a localised power failure originating from an in-premise power issue that results in the UPS failing to charge. By extension, the failure to remedy an in-premise fault has the same effect of an ongoing power outage to that individual premise. For that reason, we also consider it important that customers undertake to immediately rectify any issue with the power circuit in the property such that the unit is receiving charge.

Enables access

- 1.7.8 A strict reading of Ofcom's Principle 1 implies that the 'ongoing maintenance' of a solution that utilises a UPS requires an engineer to visit a property annually. In particular, to change the rechargeable batteries on a UPS that might conceivably require very little ongoing maintenance. In our view this presents three issues:
- (i) In our experience, the rates of engagement from customers where an engineer is visiting the premise to replace the batteries in a UPS is low; and

⁸ Specific text in the contract is likely to be required in those instances where BBUs or other solutions are deployed that rely on elements that are not in the direct control of the CP i.e. it is ancillary to the ONT and relies on the actions of the customer for its operations. This presents issues for the network demarcation boundary, which is formerly the ATA.

⁹ <http://ukpower.ukpowernetworks.co.uk/power-cut-list>

¹⁰ <http://ukpower.ukpowernetworks.co.uk/power-cut-list>

- (ii) There is significant ongoing operational cost in battery replacement where that is undertaken by engineers.

1.7.9 In specific instances annual visits may be warranted. For example where the customer is considered vulnerable ('at risk'), or otherwise requests an upgraded maintenance arrangement.

1.7.10 However, we would encourage Ofcom to make explicit whether they consider some action on the part of the customer to ensure the solution continues to function includes them taking responsibility to install new rechargeable batteries in a UPS.

Access to Emergency Organisations

1.7.11 It is our clear view that the solution in question and the parameters of operation should only relate to access to emergency call services i.e. 999 and 112.

- 1.8 **Principle 2:** Ofcom states that the solution should be suitable for customers' needs and should be offered free of charge to those who are at risk as they are dependent on their landline.

We agree that CPs should offer an implement solutions appropriate to for the individual customer needs and that, at a minimum, CPs should offer the solution free to those who are at risk as they are dependent on their landline.

Suitable for customers' needs

1.8.1 It is important for Ofcom to be clear in the scope of its concept of 'at risk' customers. This appears to potentially encapsulate more than those landline-only customers, of whom Ofcom appears to be indicating should all be provided with some form of back-up solution. It is important to understand whether that is correct, and how this 'at risk' concept might be effectively contained. Specifically, Ofcom provides a detailed 'non-exhaustive' list that clearly extends to 'vulnerability'¹¹ more generally. In our view, Ofcom should be definitive and so define who is captured by Principle 2.

1.8.2 We do consider it appropriate to communicate that there may be issues with a cordless (DECT) phone in the event of power failure. (This issue presents itself equally whether the line is powered or not as the cordless phone would be the issue rather than power to the access line.)

Offered free of charge

1.8.3 It is not clear whether Ofcom considers it proportionate to expect a CP to provide a corded telephone free of charge in addition to a BBU where that

¹¹ <https://www.ofcom.org.uk/about-ofcom/what-is-ofcom/consumer-vulnerability>

solution is deployed and in the event that a customer currently only has a cordless (DECT) phone.

Consumers dependent on their landline

- 1.8.4 Ofcom's research findings are clear that mobile networks are fast becoming the platform of choice for voice services, with usage taking place both inside and outside premises. It follows therefore that for many consumers, not being able to contact Emergency Organisations via a landline in the event of a power cut is very unlikely to affect them.
- 1.8.5 We recognise Ofcom's intent to ensure that 'at risk' customers are appropriately protected and agree with the principle. We also note that as circumstances changes customers may no longer be classified as 'at risk' and as such the level of support may similarly change.
- 1.9 **Principle 3:** Ofcom states that CPs should i) take steps to identify at risk customers and ii) engage in effective communications to ensure all customers understand the risk and eligibility criteria and can request the protection solution.
- 1.9.1 We agree that CPs should take steps to identify their customers who may be reliant on their landline. In addition that CPs should engage in effective communications to ensure that full fibre customers understand:
- understand the risk of the phone not working in a power cut;
 - understand the eligibility criteria for receiving the solution free of charge; and
 - can request the solution even if they have not been identified as at risk. (In principle, we consider that this should be a chargeable solution.)
- 1.9.2 We consider the information gathering exercise to identify those customer that may be 'at risk' needs to be appropriate and proportionate. In our view, information gathering by CPs on customers should be limited to that information that is gleaned through the sales and customer support functions. It is not appropriate, or proportionate to ask engineering teams to also gather information on specific customers. Engineers are on site to install services.
- 1.10 **Principle 4:** Ofcom states that CPs should have a process to ensure that customers who move to a new house or whose circumstances change in some way are aware of the risk and protection solution.
- 1.10.1 Given the high incidence of full fibre deployments to Greenfield sites we agree that it is appropriate to put in place processes to ensure customers who move to those locations, or whose circumstances change can take

advantage of relevant solutions for their needs.

- 1.10.2 While we recognise that customers should be able to gain access to information on solutions on an ongoing basis the most appropriate solution for voice-only customers is through their ability to contact customer services teams. This information can also be made available on the CP's website in the event they have private access to those details via a relative or friend with web access, or otherwise through public access using a library or other facility.