

1. Notification of proposed designation of SMP: Telet Research (N.I.) Limited

Legal instrument

PART I – NOTIFICATION OF PROPOSALS UNDER SECTIONS 48A(3) AND 80A(3) OF THE COMMUNICATIONS ACT 2003

Proposals for identifying markets, making market power determinations and setting SMP services conditions in relation to each of the persons named in Schedule 1 to this Notification under section 45 of the Communications Act 2003

Background

- 1.1 On 17 March 2015, Ofcom published a statement concerning the provision of wholesale mobile voice call termination (the “**2015 MCT Statement**”)¹ which identified the relevant markets, made market power determinations and imposed certain significant market power (“**SMP**”) conditions. These SMP conditions included a charge control, which expires on 31 March 2018.
- 1.2 On 27 June 2017, Ofcom published a consultation setting out its proposals for regulation of the wholesale mobile call termination market for the period 1 April 2018 – 31 March 2021 (the “**June 2017 Consultation**”)². On 17 November 2017, Ofcom published a further consultation document entitled *Mobile call termination 2018-21: further consultation* setting out Ofcom’s proposals to identify further markets, make market power determinations and set SMP conditions for the period from 1 April 2018 to 31 March 2021³ (the “**Further Consultation**”).
- 1.3 In Annex 7 to the June 2017 Consultation, Ofcom set out the notification under sections 48A and 80A (the “**June 2017 MCT Notification**”) in which it proposed to:
- a) identify 80 separate markets for wholesale mobile call termination;
 - b) determine that each of the 80 persons listed in Schedule 1 to the June 2017 MCT Notification have significant market power in relation to the relevant market in which that person operates; and

¹ The 2015 MCT Statement is available here: <https://www.ofcom.org.uk/consultations-and-statements/category-1/mobile-call-termination-14>.

² https://www.ofcom.org.uk/data/assets/pdf_file/0011/103340/mobile-call-termination-consultation.pdf

³ https://www.ofcom.org.uk/data/assets/pdf_file/0028/107785/further-consultation-mct-review.pdf

c) set certain SMP conditions on each of the persons specified in that Schedule and proposed that those SMP conditions shall apply, in the case of each person on whom they are set, in respect of the relevant market in which that person operates.

1.4 Ofcom's Further Consultation related specifically to changes to the proposed list of mobile call termination providers that Ofcom proposes to designate as having significant market power in relevant markets and on whom we propose to impose SMP conditions. Annex 5 to the Further Consultation contained a notification under sections 48A and 80A of the Act relating to those matters (the "**Further Notification**"). This notification relates to similar matters.

Proposals for service market identifications and market power determinations

1.5 In total, Ofcom is now proposing to identify 80 separate markets as described below for the purpose of making a market power determination.

1.6 The markets that Ofcom is now proposing to identify are the markets for call termination services that are provided by each of those 80 persons named in Schedule 1 to this notification to another communications provider, for the termination of voice calls to UK mobile numbers⁴ allocated to that person by Ofcom in the area served by that person and for which that person is able to set the call termination charge (each a "**relevant market**").

1.7 Ofcom is proposing to make a market power determination that each of the persons set out in Schedule 1 to this notification has significant market power in relation to the relevant market in which that provider operates. As specified in Schedule 1, for each of the persons identified in that Schedule, the SMP designation holds with respect to the registered company identified 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 (or which would fall within that definition were it applied), in so far as they operate in the relevant market.

1.8 The relevant markets and market power determinations relating to the majority of the persons named in Schedule 1 were notified to those persons in the June 2017 MCT Notification (as part of the June 2017 Consultation) and the Further Notification (as part of the Further Consultation). The effect of, and Ofcom's reasons for making, the proposals for identifying the markets and making the market power determinations referred to above are set out in the June 2017 Consultation and in the Further Consultation document accompanying this notification. Ofcom is now proposing also to designate Telet Research (N.I) Limited as having significant market power. The Further Consultation document is to be read as if Telet Research (N.I) Limited had also been included in the list of additional mobile communications providers in paragraph 1.4, whom we proposed to designate as such.

⁴ For the purpose of this review, we propose to define UK mobile numbers as those numbers in the format 07xxx xxx xxx and beginning 071 to 075 and 077 to 079.

Proposals to set and revoke SMP service conditions

- 1.9 Ofcom is proposing to set SMP conditions **M1** and **M2** as set out in Schedule 2 to this notification on each person listed in Schedule 1. The majority of those persons were notified of that proposal as part of the June 2017 Consultation and the Further Consultation. The purpose of this notification is also to notify Telet Research (N.I) Limited of this proposal.
- 1.10 Ofcom is proposing that those SMP conditions shall apply, in the case of each person on whom they are set, in respect of the relevant market in which that person operates.
- 1.11 Unless otherwise stated in Schedule 1 to this notification, the SMP conditions that Ofcom is proposing shall take effect from the date of the notification under sections 48(1) and 79(4) of the Communications Act 2003 (the “**Act**”) adopting the proposals set out in this notification and shall have effect until the publication of a notification under section 48(1) of the Act revoking such conditions.
- 1.12 Ofcom is proposing to revoke the SMP conditions set out at Annex 1 to the 2015 MCT Statement with effect from the date of publication of any subsequent notification under section 48(1) of the Act adopting these proposals to revoke those conditions. Ofcom proposes that section 16 of the Interpretation Act 1978 shall apply as if this proposed revocation were a repeal of an enactment by an Act of Parliament.
- 1.13 The effect of, and Ofcom’s reasons for making, the proposals referred to above are also contained in the June 2017 Consultation and in the Further Consultation document accompanying this notification. Again, that Further Consultation document is to be read as if Telet Research (N.I) Limited had been included in the list of additional mobile communications providers in paragraph 1.4 on whom we proposed to impose the remedies explained at paragraph 1.9.

Ofcom’s duties and legal tests

- 1.14 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 the provisions of a European Union instrument, and which relate to market identification and analysis or the determination of what constitutes SMP.
- 1.15 Ofcom considers that the proposed SMP conditions set out in Schedule 2 comply with the requirements of sections 45 to 47, 87 and 88 of the Act, as appropriate and relevant to each such SMP condition, and further that the proposed revocation of the SMP conditions set out in the 2015 MCT Statement referred to above comply with the requirements of sections 45 to 47, 87 and 88 of the Act, as appropriate and relevant to them.
- 1.16 In making all of the proposals referred to in this notification, Ofcom has also considered and acted in accordance with its general duties set out in section 3 of the Act and the six

Community requirements set out 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. In doing so, pursuant to Article 3(3) of Regulation (EC) No. 1211/2009, Ofcom has also taken utmost account of any relevant opinion, recommendation, guidance advice or regulatory practice adopted by BEREC.

Making representations

1.17 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 26 February 2018.

Notification of the Secretary of State

1.18 Copies of this notification and the accompanying explanatory statement have been sent to the Secretary of State in accordance with sections 48C(1) and 81(1) of the Act.

Interpretation

1.19 For the purpose of interpreting this notification-

- a) except in so far as the context otherwise requires or as otherwise defined in this notification, words or expressions used shall have 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.
- e) The Schedules to this notification shall form part of this notification.

Signed

Brian Potterill

Competition Policy Director

A person authorised by OFCOM under paragraph 18 of the Schedule to the Office of Communications Act 2002

23 January 2018

SCHEDULE 1

For each of the persons identified below, the SMP designation holds with respect to the registered company identified 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 (or which would fall within that definition were it applied), in so far as they operate in the relevant market.

1. **(AQ) Ltd**, whose registered company number is 03663860 and registered address is 13-15 Hunslet Road, Leeds, West Yorkshire, LS10 1JQ, United Kingdom.
2. **08Direct Ltd**, whose registered company number is 06428331 and registered address is Mazhar House, 48 Bradford Road, Stanningley, Leeds, West Yorkshire, LS28 6DD, United Kingdom.
3. **24 Seven Communications Ltd**, whose registered company number is 4468566 and registered address is c/o Novis & Co Chartered Accountants, 1 Victoria Court Bank Square, Morley, Leeds, West Yorkshire, LS27 9SE, United Kingdom.
4. **Ace Call Ltd**, whose registered company number is 6729339 and registered address is 11 Hatton Garden, Liverpool, Merseyside, L3 2HA, United Kingdom.
5. **Airwave Solutions Ltd**, whose registered company number is 3985643 and registered address is Jays Close, Viables Industrial Estate, Basingstoke, Hampshire, RG22 4PD, United Kingdom.
6. **Alliance Technologies LLC**, whose registered entity number is 1616678 and registered address is 1932 Service Corp., 1301 East Ninth Street Suite, 3500 Cleveland, OH 44114, USA.
7. **Andrews & Arnold Ltd**, whose registered company number is 3342760 and registered address is Enterprise Court, Downmill Road, Bracknell, Berkshire, RG12 1QS, United Kingdom
8. **Anywhere Sim Ltd**, whose registered company number is 9615065 and registered address is Grindleton Business Centre, Grindleton, Clitheroe, BB7 4DH, United Kingdom.
9. **AQL Wholesale Ltd**, whose registered company number is 5134355 and registered address is 11-15 Hunslet Road, Leeds, LS10 1JQ, United Kingdom.
10. **Bellingham Telecommunications Ltd**, whose registered company number is 7038166 and registered address is Unit 7, 2 Exchange Court, London, WC2R 0PP, United Kingdom.
11. **BT OnePhone Ltd**, whose registered company number is 08043734 and registered address is 81 Newgate Street, London, EC1A 7AJ, United Kingdom.

12. **CFL Communications Ltd**, whose registered company number is 4419749 and registered address is Abbey House, 25 Clarendon Road, Redhill, Surrey, RH1 1QZ, United Kingdom.
13. **Citrus Telecommunications Ltd**, whose registered company number is 3517870 and registered address is Second Floor, 99 Holdenhurst Road, Bournemouth, Dorset, BH8 8DY, United Kingdom.
14. **Cloud9 Mobile Communications Ltd**, whose registered company number is 05474679 and registered address is Horizon Honey Lane, Hurley, Maidenhead, England, SL6 6RJ, United Kingdom.
15. **Compatel Ltd**, whose registered company number is 7456831 and registered address is 26-28 Bedford Row, London, WC1R 4HE, United Kingdom.
16. **Confabulate Ltd**, whose registered company number is 5605939 and registered address is 9 Market Row, Saffron Walden, Essex, CB10 1HB, United Kingdom.
17. **Core Communication Services Ltd**, whose registered company number is 5467282 and registered address is 11 York Road, London, SE1 7NX, United Kingdom.
18. **Core Telecom Ltd**, whose registered company number is 5332008 and registered address is Mazhar House, 48 Bradford Road, Stanningley, Leeds, West Yorkshire, LS28 6DD, United Kingdom.
19. **EE Ltd**, whose registered company number is 02382161 and registered address is Trident Place, Mosquito Way, Hatfield, Hertfordshire, AL10 9BW, United Kingdom.
20. **Esendex Ltd**, whose registered company number is **04217280** and registered address is 20 Wollaton Street, Nottingham, NG1 5FW, United Kingdom.
21. **Euro Thai Exchange Process Company Ltd**, whose registered company number is 10254601272 and registered address is 102/55 Floor.11, #1101 JC Tower, Soi Thonglor 25, Sukhumvit 55, Klongton NUA, Wattana, Bangkok 10110, Thailand.
22. **Flextel Ltd**, whose registered company number is 2772380 and registered address is Griffins Court, 24-32 London Road, Newbury, Berkshire, RG14 1JX, United Kingdom.
23. **Gamma Telecom Holdings Ltd**, whose registered company number is 4287779 and registered address is 5 Fleet Place, London, EC4M 7RD, United Kingdom.
24. **Global Reach Networks Ltd**, whose registered company number is 4349826 and registered address is First Floor, Telecom House, 125-135 Preston Road, Brighton, BN1 6AF, United Kingdom.

25. **Globecom International Ltd**, whose registered company number is 08825524 and registered address is 20-22 Wenlock Road, London, N1 7GU.
26. **Globetouch AB**, whose registered organisation number is 5569992-0902 and registered address is Engelbrektsgratan 9-11, 114 32 Stockholm, Sweden.
27. **Guernsey Airtel Ltd**, whose registered company number is 45232 and registered address is 45 High Street, St Peter Port, Guernsey, GY1 2JT.
28. **Hanhaa Ltd**, whose registered company number is 9097664 and registered address is Rainmaking Loft, International House, 1 St. Katharine's Way, London, E1W 1UN, United Kingdom.
29. **Hutchison 3G UK Ltd**, whose registered company number is 03885486 and registered address is Star House, 20 Grenfell Road, Maidenhead, Berkshire, SL6 1EH, United Kingdom.
30. **IPV6 Ltd**, whose registered company number is 6711525 and registered address is Berrycentre, Chiltern Drive, Surbiton, Surrey, KT5 8LS, United Kingdom.
31. **IV Response Limited**, whose registered company number is 4318927 and registered address is 57-61 Mortimer Street, London, W1W 8HS, United Kingdom.
32. **Jersey Airtel Ltd**, whose registered company number is 92186 and registered address is First Floor, Le Masurier House, La Rue Le Masurier, St Helier, Jersey, JE2 4YE.
33. **JT (Guernsey) Ltd**, whose registered company number is 39971 and registered address is PO Box 296, Sarnia House, Le Truchot, St Peter Port, Guernsey, GY1 4NA.
34. **JT (Jersey) Ltd**, whose registered company number is 83487 and registered address is No 1 The Forum, Grenville Street, St Helier, Jersey, JE4 8PB.
35. **Lanonyx Telecom Ltd**, whose registered company number is 07658086 and registered address is Office 8, 19 Lever Street, Manchester, Greater Manchester, M1 1AN.
36. **LegendTel LLC**, whose DOS ID number is 3472935 and registered address is 45 John Street, Suite 711, New York, 10038, USA.
37. **Lycamobile UK Ltd**, whose registered company number is 5903820 and registered address is 3rd Floor Walbrook Building, 195 Marsh Wall, London, E14 9SG, United Kingdom.
38. **Magrathea Telecommunications Ltd**, whose registered company number is 4260485 and registered address is Unit 5, Commerce Park, Brunel Road, Theale, Reading, RG7 4AB, United Kingdom.

39. **Manx Telecom Trading Ltd**, whose registered company number is 005629V and registered address is Isle of Man Business Park, Cooil Road, Braddan, IM99 1HX, Isle of Man.
40. **Marathon Telecom Ltd**, whose registered company number is 93007 and registered address is 28 Halkett Place, St Helier, Jersey, JE2 4WG.
41. **Mars Communications Ltd**, whose registered company number is 6478834 and registered address is Forest House, Forest Road, Ilford, Essex, IG6 3HJ, United Kingdom.
42. **Mobile FX Services Ltd**, whose registered company number is 6028074 and registered address is 49 Greek Street, London, W1D 4EG, United Kingdom.
43. **Mobiweb Telecom Ltd**, whose registered company number is 8851141 and registered address is Third Floor, 207 Regent Street, London, W1B 3HH, United Kingdom.
44. **Nationwide Telephone Assistance Ltd**, whose registered company number is 4315226 and registered address is Ivy Lodge Farm, 179 Shepherds Hill, Harold Wood, Romford, Essex, RM3 0NR, United Kingdom.
45. **Nodemax Ltd**, whose registered company number is 6127089 and registered address is 75 Springfield Road, Chelmsford, Essex, CM2 6JB, United Kingdom.
46. **Premium Routing GmbH**, whose registered company number is CHE-113.847.561 and registered address is Steinackerstrasse 2, CH-8302, Kloten, Switzerland.
47. **QX Telecom Ltd**, whose registered company number is 3820728 and registered address is 2 Glenmore Close, Thatcham, Berkshire, RG19 3XR, United Kingdom.
48. **Resilient Plc**, whose registered company number is 1403177 and registered address is 25/27 Shaftesbury Avenue, London, W1D 7EQ, United Kingdom.
49. **Secretary of State for the Foreign and Commonwealth Office in respect of the National Cyber Security Centre**, whose address is Hubble Road, Cheltenham, GL52 0EX, United Kingdom.
50. **Secretary of State for the Home Office**, whose address is 6th Floor, Fry Building, 2 Marsham Street, London, SW1P 4DF, United Kingdom.
51. **Simwood eSMS Ltd**, whose registered company number is 3379831 and registered address is c/o HW Chartered Accountants, Keepers Lane, The Wergs, Wolverhampton, WV6 8UA, United Kingdom.
52. **Sky UK Ltd**, whose registered company number is 29606991 and registered address is Grant Way, Isleworth, Middlesex, TW7 5QD, United Kingdom.

53. **Sound Advertising Ltd**, whose registered company number is 3218628 and registered address is Aston House, Cornwall Avenue, London, N3 1LF, United Kingdom.
54. **Spacetel UK Ltd**, whose registered company number is 03036383 and registered address is 790 Uxbridge Road, Hayes, Middlesex, UB4 0RS, United Kingdom.
55. **Stour Marine Ltd**, whose registered company number is 5914603 and registered address is Good Easter House, Good Easter, Chelmsford, Essex, CM1 4RS, United Kingdom.
56. **Sure (Guernsey) Ltd**, whose registered company number is 38694 and registered address is Centenary House, La Vrangue, St Peter Port, Guernsey, GY1 2EY
57. **Sure (Isle of Man) Ltd**, whose registered company number is 004621V and registered address is 33-37 Athol Street, Douglas, IM1 1LB, Isle of Man.
58. **Sure (Jersey) Ltd**, whose registered company number is 84645 and registered address is The Powerhouse, Queen's Road, St Helier, JE2 3AP, Jersey.
59. **Swiftnet Ltd**, whose registered company number is 2469394 and registered address is 1st Floor Olympia House, 1 Armitage Road, Golders Green, London, NW11 8RQ, United Kingdom.
60. **Synectiv Ltd**, whose registered company number is 3706138 and registered address is 2 Spring Villa Park, Spring Villa Road, Edgware, Middlesex, HA8 7EB, United Kingdom.
61. **TalkTalk Communications Ltd**, whose registered company number is 3849133 and registered address is 11 Evesham Street, London, W11 4AR, United Kingdom.
62. **Telecom2 Ltd**, whose registered company number is 6926334 and registered address is Cotswold Hse, 219 Marsh Wall, London, E14 9FJ, United Kingdom.
63. **Telecom 10 Ltd**, whose registered company number is 6974505 and registered address is 3a Station Road, Cippenham, Slough, SL1 6JJ, United Kingdom.
64. **Telecom Cloud Networks Ltd**, whose registered company number is 9071980 and registered address is 22 Studio F, Jordan Street, Liverpool, L1 0BP, United Kingdom.
65. **Telecom North America Mobile Inc**, whose registered entity number is C11057-1999 and registered address is Nevada Business Center, LLC, 701 S Carson Street STE 200, Carson City, NV 89701,USA.
66. **Teleena UK Ltd**, whose registered company number is 7069424 and registered address is New Derwent House, 69-73 Theobalds Road, London, WC1X 8TA, United Kingdom.
67. **Telefónica UK Ltd**, whose registered company number is 01743099 and registered address is 260 Bath Road, Slough, Berkshire, SL1 4DX, United Kingdom.

68. **Test2date B.V**, whose registered company number is 30194024 and registered address is Ypelobrink 150, 7544 CG, Enschede, The Netherlands.
69. **Telet Research (N.I.) Limited**, whose registered company number is NI642439 and registered address is Forsyth House, Cromac Square, Belfast, Antrim, Northern Ireland, BT2 8LA, United Kingdom.
70. **TGL Services (UK) Ltd**, whose registered company number is 9293520 and registered address is 33 St. James's Street, London, SW1A 1HD, United Kingdom.
71. **Tismi BV**, whose registered company number is 32081827 and registered address is Catharijnesingel 30 G, 3511 GB, Utrecht, The Netherlands.
72. **Truphone Ltd**, whose registered company number is 4187081 and registered address is 25 Canada Square, Canary Wharf, London, E14 5LQ, United Kingdom.
73. **Vectone Mobile Ltd**, whose registered company number is 4553934 and registered address is 54 Marsh Wall, London, E14 9TP, United Kingdom
74. **Virgin Mobile Telecoms Ltd**, whose registered company number is 3707664 and registered address is Media House, Bartley Wood Business Park, Hook, Hampshire, RG27 9UP, United Kingdom.
75. **Vodafone Ltd**, whose registered company number is 01471587 and registered address is Vodafone House, The Connection, Newbury, Berkshire, RG14 2FN, United Kingdom.
76. **Voicetec Systems Ltd**, whose registered company number is 03948745 and registered address is 46 West Drayton Park Avenue, West Drayton, Middlesex, UB7 7QB, United Kingdom.
77. **Voxbone SA**, whose registered establishment number is BR017510 and registered address is The Podium, 1 Evershold Street, London, NW1 2DN, United Kingdom.
78. **Wavecrest (UK) Ltd**, whose registered company number is 3042254 and registered address is 1st Floor Bishopsgate Court, 4-12 Norton Folgate, London, E1 6DB, United Kingdom.
79. **X-Mobility Ltd**, whose registered company number is 05748799 and registered address is Cumbrian House, 84 Cumbrian Gardens, Golders Green, London, NW2 1EL, United Kingdom.
80. **Ziron (UK) Ltd**, whose registered company number is 7597853 and registered address is Greyfriars Court, Paradise Square, Oxford, Oxfordshire, OX1 1BE, United Kingdom.

SCHEDULE 2

The SMP Conditions

Part 1: Commencement

1. The SMP conditions in Part 3 of this Schedule 2 apply from **1 April 2018**.

Part 2: Definitions and interpretation

1. In this Schedule -

“Call” means a voice call which originates on a public electronic communications network (whether fixed or mobile) and is terminated to a mobile number within a number range allocated to the dominant provider by Ofcom, for which the dominant provider is able to set the call termination charge;

“call termination charge” means either a fixed-to-mobile call termination charge or a mobile-to-mobile call termination charge.

“controlling percentage” means-

(i) in relation to the Second Relevant Period, the amount of change in the Consumer Prices Index in the period of 12 months ending on the 31 December immediately before the beginning of that relevant period, expressed as a percentage (rounded to one decimal place) of that Consumer Prices Index as at the beginning of that period; reduced by 4.1%; and

(ii) in relation to the Third Relevant Period, the amount of change in the Consumer Prices Index in the period of 12 months ending on the 31 December immediately before the beginning of that relevant period, expressed as a percentage (rounded to one decimal place) of that Consumer Prices Index as at the beginning of that period; reduced by 3.7%.

“Consumer Prices Index” means the index of consumer 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;

“dominant provider” means each person named in Schedule 1;

“fixed-to-mobile call” means a Call originating on a fixed public electronic communications network;

“fixed-to-mobile call termination charge” means the charge made by the dominant provider to terminate a fixed-to-mobile call;

“mobile number” means a UK telephone number that begins with 071, 072, 073, 074, 075, 077, 078 or 079;

“mobile-to-mobile call” means a Call originating on a mobile public electronic communications network of another mobile communications provider;

“mobile-to-mobile call termination charge” means the charge made by the dominant provider to terminate a mobile-to-mobile call;

“network access” means the provision of interconnection to the public electronic communications network provided by the dominant provider, together with any services, facilities or arrangements which are necessary for the provision of electronic communications services over that interconnection;

“Ofcom” means the Office of Communications;

“pence per minute” means the sum in pence charged for a minute of a Call;

“relevant period” means any of the following -

(i) the period of twelve months beginning on 1 April 2018 and ending on 31 March 2019 (the “First Relevant Period”);

(ii) the period of twelve months beginning on 1 April 2019 and ending on 31 March 2020 (the “Second Relevant Period”);

(iii) the period of twelve months beginning on 1 April 2020 and ending on 31 March 2021 (the “Third Relevant Period”);

and

“third party” means a person operating a public electronic communications network.

2. For the purpose of interpreting the conditions in Part 3 of this Schedule -

(a) except in so far as the context otherwise requires, words or expressions shall have the meaning ascribed to them in paragraph 1 of this Part above and otherwise any word or expression shall have the same meaning as it has in the Communications Act 2003;

(b) the Interpretation Act 1978 shall apply as if each of the SMP conditions were an Act of Parliament (c. 30); and

(c) headings and titles shall be disregarded.

Part 3: SMP conditions

Condition M1 – Requirement to provide network access on reasonable request

M1.1 Where a third party reasonably requests in writing network access, the dominant provider must provide that network access.

M1.2 Where condition M2 below applies, the dominant provider shall provide network access in accordance with condition M1.1 as soon as reasonably practicable and on fair and reasonable terms and

conditions and on such terms and conditions as Ofcom may from time to time direct. In relation to charges, the dominant provider must comply with condition M2.

M1.3 Where condition M2 does not apply, the dominant provider must provide network access in accordance with condition M1.1 as soon as reasonably practicable and on fair and reasonable terms, conditions and charges and on such terms, conditions and charges as Ofcom may from time to time direct.

M1.4 The dominant provider must comply with any direction Ofcom may make from time to time under this condition.

Condition M2 – Control of call termination charges

M2.1 The dominant provider must ensure that for each Call on any day, during any relevant period, the call termination charge (which shall be expressed in pence per minute) does not exceed the charge ceiling.

M2.2 The charge ceiling is –

(a) for any Call on a day in the First Relevant Period, **0.493** pence per minute;

(b) for any Call on a day in the Second Relevant Period and Third Relevant Period-

a. an amount equal to -

i. the charge ceiling, expressed in pence per minute (rounded to three decimal places), in the relevant period preceding the relevant period in which the Call was made; multiplied by,

ii. the sum of 100 per cent and the controlling percentage for the relevant period in which the Call was made, and is

b. expressed as being pence per minute and rounded to three decimal places.

M2.3 Within one month of the end of each relevant period, the dominant provider shall notify Ofcom in writing of the level of the call termination charge or charges it made to each third party during that relevant period.

M2.4 Without prejudice to Ofcom's statutory information gathering powers, the dominant provider must provide to Ofcom in writing at any time upon reasonable notice any information reasonably required by Ofcom for the dominant provider to demonstrate compliance with this condition.

M2.5 The dominant provider must comply with any direction Ofcom may make from time to time under this condition.