

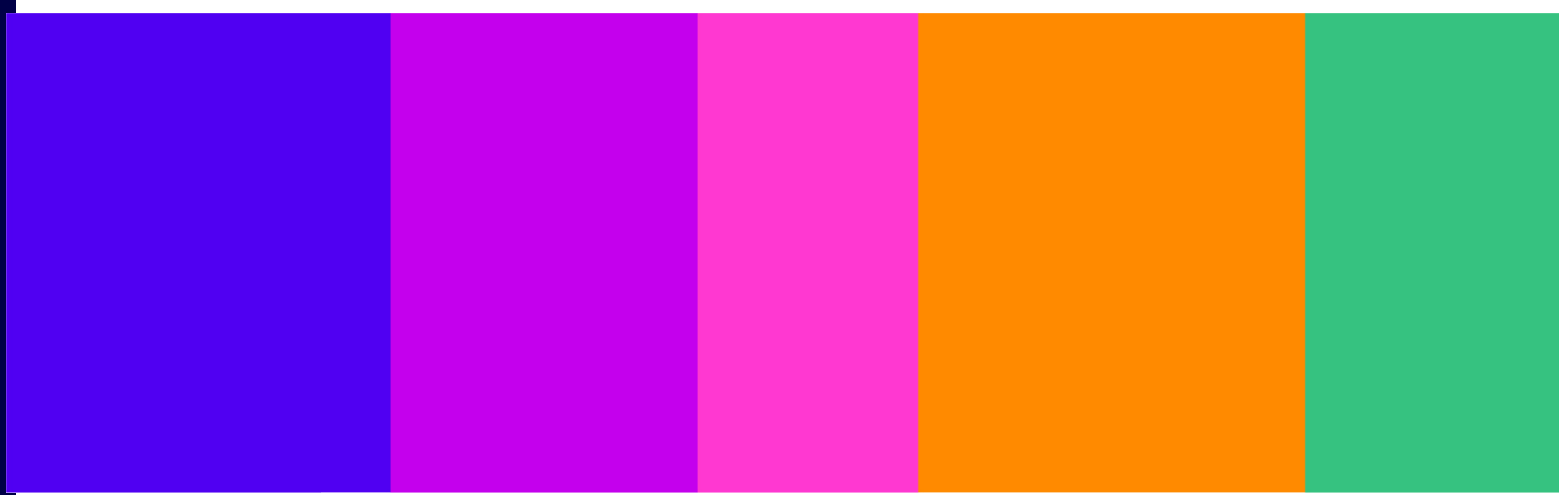
Promoting competition and investment in fibre networks: Telecoms Access Review 2026–31

Volume 7 Part C: Legal instruments
Direction on electricity charges

Statement

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NOTIFICATION UNDER SECTION 49 OF THE COMMUNICATIONS ACT 2003

Notification of the giving of a Direction under section 49 of the Communications Act 2003 and SMP Condition 6 (Basis of charges) specifying requirements for the publication of information about the basis of BT’s electricity charges (“Notification”)

Background

1. On 20 March 2025 Ofcom published a consultation document titled “Promoting competition and investment in fibre networks: Telecoms Access Review 2026-31” (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 (Part A) of the Consultation, Ofcom proposed imposing on BT SMP condition 6 which would impose requirements on BT in relation to the basis of certain charges. These included 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. Under the proposed SMP condition 6, BT would also be required to comply with any direction that Ofcom may make from time to time under the condition.
4. In accordance with section 49 and 49A(3) of the Act, Ofcom proposed making a direction under SMP condition 6 relating to the publication by BT of information about its electricity charges. The effect of, and reasons for giving, the proposed direction were set out in the Consultation, in particular Volume 4, Section 5.
5. The notification of the proposed direction was published at Volume 7 (Part C) of the Consultation and a copy was sent to the Secretary of State under section 49C(1)(a) of the Act. Ofcom invited responses to the Consultation by 12 June 2025.
6. Ofcom received two responses in relation to the proposals set out in the Consultation and it carefully considered every such representation. The Secretary of State did not notify Ofcom of any international obligation on the United Kingdom for the purposes of section 49A(6)(b) of the Act.
7. On 17 March 2026, Ofcom published a statement titled “Promoting competition and investment in fibre networks: Telecoms Access Review 2026-31” concluding the review referred to in paragraph 1 above (the “Statement”). In the Statement Ofcom identified the markets, made the market power determinations and set the SMP conditions set out in Schedule 1 to the 2026 SMP Conditions Notification.
8. The SMP conditions that are set include SMP Condition 6 (Basis of charges).

Decision to give direction

9. Ofcom has decided, in accordance with section 49 of the Act, to give the direction pursuant to SMP Condition 6 as set out in the Schedule to this Notification specifying requirements for the publication of information about the basis of BT's electricity charges (the "Direction").
10. The effect of, and reasons for giving, the Direction are set out in the Statement accompanying this Notification.
11. The Direction shall come into force on 1 April 2026.

Ofcom's duties and legal tests

12. Ofcom considers that the Direction complies with the requirements of section 49(2) of the Act for the reasons set out in the Statement.
13. In making the Direction, 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 and had regard to both the Statement of Strategic Priorities in accordance with section 2B of the Act, and the desirability of promoting economic growth in accordance with the growth duty set out in section 108 of the Deregulation Act 2015 (c. 20).
14. A copy of the Direction has been sent to the Secretary of State in accordance with section 49C(1)(b) of the Act.

Interpretation

15. 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 (i) in paragraph 16 below; (ii) otherwise, in the 2026 SMP Conditions Notification and (iii) otherwise 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.
16. In this Notification:
 - (a) "**2026 SMP Conditions Notification**" means the notification under sections 48 and 79 of the Act, which is contained in Volume 7 (Part A) of the document titled "Promoting competition and investment in fibre networks: Telecoms Access Review 2026-31" published by Ofcom on 17 March 2026;
 - (b) "**Act**" means the Communications Act 2003;
 - (c) "**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;

(d) “Ofcom” means the Office of Communications as established pursuant to section 1(1) of the Office of Communications Act 2002 (2002 c. 11); and

(e) “Statement of Strategic Priorities” means the Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services designated by the Secretary of State for Digital, Culture, Media and Sport for the purposes of section 2A of the Act on 29 October 2019.

17. The Schedule to this Notification shall form part of this Notification.

Signed

A handwritten signature in black ink, appearing to read 'Ben Harries', written in a cursive style.

Ben Harries

Policy Director, Infrastructure and Connectivity Group, Ofcom

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

17 March 2026

Schedule

Direction under section 49 of the Act and condition 6 in relation to the publication of information about the Electricity Charge

Background

1. On 17 March 2026 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 2026 SMP Conditions Notification). Ofcom determined that BT has significant market power in the markets set out in paragraph 5 below (or can be treated as such under section 46(8A) of the Act in relation to the markets at paragraph 5(k) and (l)).
2. SMP Condition 6 was set in relation to the 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 SMP Condition 6.
4. This Direction is made under:
 - (a) Section 49 of the Act; and
 - (b) SMP Condition 6.3.
5. This Direction applies with respect to the following services and markets:
 - (a) the supply of wholesale access to Telecoms Physical Infrastructure for deploying a telecoms network in the United Kingdom excluding the Hull Area;
 - (b) the supply of wholesale local access at a fixed location in WLA Area 2;
 - (c) the supply of wholesale local access at a fixed location in WLA Area 3;
 - (d) the supply of leased line access in HNR Areas;
 - (e) the supply of leased line access in LLA Area 2;
 - (f) the supply of leased line access in LLA Area 3;
 - (g) the supply of Dark Fibre Access (Existing Circuits) for leased line access in LLA Area 2 (Transitional);
 - (h) the supply of Dark Fibre Access (Existing Circuits) for leased line access in HNR (Transitional).
 - (i) the supply of interexchange connectivity in BT Only exchanges;
 - (j) the supply of interexchange connectivity in BT+1 exchanges;

- (k) the supply of Ethernet Services and WDM Services (Existing Circuits) for interexchange connectivity in BT+2 exchanges until 31 March 2027; and
- (l) the supply of Dark Fibre Access (Existing Circuits) for interexchange connectivity in IEC DF Transition exchanges until 31 March 2029.

Direction

6. Ofcom has decided to give the directions set out in paragraphs 7 to 9 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. The information required under paragraphs 7 and 8 must be published within four months after the end of the Financial Year to which they relate.
10. In addition to the definitions set out above in this Notification, in this Schedule:
 - (a) **“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;
 - (b) **“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;
 - (c) **“Financial Year”** means a financial year of the Dominant Provider in respect of which the Statutory Financial Statements are required to be (or to have been) prepared and audited in accordance with the requirements of the Companies Act 2006;
 - (d) **“Statutory Financial Statements”** means any annual account required to be prepared by the Dominant Provider in accordance with the requirements of the Companies Act 2006;

(e) “**Third Party**” means a person providing a public electronic communications service or a person providing a public electronic communications network.