

Representing the Communication Services Industry



Review of the Metering & Billing Direction Issued 14 February 2013

FCS response – 7th May 2013

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Introduction

The [Federation of Communication Services](#) represents over 350 businesses delivering products and services via wireless, copper and fibre technology. Over 50% of FCS members provide services in the fixed markets and many of these are smaller CPs or new entrants. These FCS members deliver telephony services into both the residential and business markets, but most specialise in serving business customers, a sector which is continuing to grow. This response has been prepared on behalf of the Fixed Service Providers Group within the Federation.

Background and overview

FCS welcomes the opportunity to respond to this consultation on the Ofcom Metering & Billing Direction. The ability to bill accurately and in a timely fashion is key to the success of any business – and, arguably, even more so for start up and small businesses. The majority of FCS members are service providers and resellers who depend on accurate billing data from their wholesale providers to bill their end-user customers accurately, in compliance with the requirements of General Condition 11.

The receipt of accurate and timely wholesale billing data is a perennial concern for many FCS members who dedicate considerable resource to checking and correcting wholesale bills - and members' current experience of error rates in wholesale billing demonstrates that there is a continuing need to do so. Additionally, where wholesale billing data is delayed to any significant extent, it may be impossible for the member to recover the charges. In both cases, reseller CPs can also sustain considerable reputational damage in attempting to correct errors in their own billing arising from inaccurate wholesale billing - or to bill on late charges arising from delayed wholesale data.

Based on the above, our high level response to Ofcom's current proposals is as follows:

1. Members have no major issues with leaving the requirements in respect of fixed voice and mobile services for residential and small business customers unchanged. Although some members have suggested that a review of the intentions of the Direction, perhaps leading to a reassessment of tolerance levels in some situations - would be appropriate."
2. Members are wary about making requirements for fixed and mobile data services mandatory at this stage but recognise that changing technology which is moving away from the "minutes" model and towards the provision of voice services via, for example, VoIP suggests that this may be necessary in the future.
3. Members oppose the removal of accuracy and tolerance limits for large business customers but suggest that the relaxation of the current requirements in these areas is appropriate and that measurement and accreditation of accuracy against these revised tolerances should continue to be a requirement.
4. Members strongly oppose removal of regulation on wholesale providers from the scope of the direction. Indeed, we believe that there should be clearer and more effectively enforced regulation of both the accuracy and timeliness of wholesale billing. Failure to address poor performance in this area will have an adverse impact on both reseller CPs and their end-user customers.

Specifically, we feel that market realities dictate that Ofcom's suggestion that smaller CPs can remedy or mitigate problems associated with inaccurate or late billing via contract negotiations with wholesale providers is completely unrealistic. For example, recent requests by industry as part of the WLR and LLU contract negotiations to amend the period allowed for late billing have been refused by BT.

5. We suggest that Ofcom should consider more effective enforcement of the regulation and should set out clearly as part of the revised Direction its expectations and how such enforcement will work.
6. As a general point, we think it would be useful at this stage for Ofcom to carry out a comprehensive review of the Direction – considering in particular what the regulation is trying to achieve and updating it in light of changes in the market (as opposed to amending only those parts of the document which reflect specific changes in the regulation).

Our responses to Ofcom's consultation questions are set out below:

Question 1: *Do you agree that the Direction should continue to apply fixed and mobile voice services (aside from wholesale services and services for large business) and that its requirements should remain unchanged? Please provide reasons to support your response.*

We agree that the Direction should continue to apply to fixed and mobile services but believe that it should also continue to be applied (with appropriate modifications) to both large business customers and especially wholesale services.

Question 2: *Do you agree that encouraging, but not mandating, the inclusion of data services in the Scheme represents the best way of protecting the users of those services from inaccurate billing?*

We believe that this is not currently the key area for action by Ofcom but recognise that changing technology, which is moving away from the “minutes” model and towards the provision of voice services via, for example, VoIP suggests that mandatory inclusion of data services is likely to be necessary in the future.

Question 3: *Do you agree that the provisions on data billing in Annex D of the Direction should be reviewed and updated? Please identify any issues that you believe the review should consider.*

We believe that it would be helpful to update the provisions on billing of data services as an indication of the “direction of travel” for future requirements.

Question 4: *Do you agree that the scope of the scheme should continue to apply to large businesses? Please provide evidence for your views in particular providing evidence on whether large businesses are able to and do monitor their bills more effectively than other consumers?*

Question 5: *Do you agree that with the proposal that error rates and tolerances set in the Direction should not apply in respect of business? What requirements should apply in the absence of error rates and tolerances, if any?*

We recognise the difficulties in complying with the current tolerances (and in particular the monthly overcharging threshold) where the volume of traffic and the level of billing is much higher than for residential and small business customers. However, we do not agree that such customers should be removed from the scope of the scheme. We believe that it would be more appropriate that this area should be reviewed so that appropriate tolerances and thresholds are applied.

It appears questionable that larger businesses are better able to check the accuracy of their bills as installations and service portfolios for this type of customer are often much more complex than for smaller businesses.

We also note that CPs do not generally operate separate billing systems for large and small business customers.

Question 6: *Do you agree with the suggested definition of a large business as having a communication spend in excess of £50K? Please provide reasons and any evidence for any response.*

We are unable to comment on the suitability of this threshold.

Question 7: *Do you agree with the proposal that wholesale services should be removed from the scope of the Direction? Please provide reasons for your views.*

Members very strongly disagree with this proposal. We believe that there should actually be clearer and more effectively enforced regulation of both the accuracy and timeliness of wholesale billing. Failure to address current poor performance in this area will have an adverse impact on both reseller CPs and their end-user customers.

Specifically, we would like to see a clear limit placed on late billing by wholesale providers which reflects the 3-4 month limit currently placed on retail billing.

We also note that market realities dictate that Ofcom's suggestion that smaller CPs can remedy or mitigate problems associated with inaccurate or late billing via contract negotiations with wholesale providers is completely unrealistic.

Question 8: *If wholesale services are removed from the Direction, to what extent should the relationship between retail and wholesale CPs be covered in the Direction?*

See response to question 7.

Question 9: *Do you have any further observations or evidence on the Metering and Billing Direction?*

We have provided some recent examples of the kind of problems experienced recently by FCS members as a result of wholesale billing errors. These are typical of issues experienced on a regular and repeated basis and are intended to provide a “snapshot” indication of the widespread poor performance, which clearly requires increased regulation. Examples include issues in the following areas

- Late billing
- Inaccurate billing
- No notification or late notification of changes to rates
- Missing CDRs

The detailed examples are set out in Annex 1.

We hope that the above feedback is helpful and would be happy to meet again with the Ofcom review team to discuss any of the issues raised in this FCS response in more detail.

Annex 1 - examples

Late Billing

When an FCS delegation met with Ofcom in May 2012 to discuss the then forthcoming Metering & Billing review, we referred to the major problems caused by an incident earlier in the year; Openreach had included a high volume of back dated charges for Special Phone Book Entries (SPBEs) going back several years in its January invoices.

The total bill was estimated to be well in excess of £1 million pounds with some larger CPs reporting individual charges in excess of £100,000. FCS also established that the vast majority of the retrospective charges in the January bill (typically in excess of 90%) were more than 12 months old.

This represented a significant problem for affected members who were either prevented from billing on by regulation or felt they were unable to recover the money and in many cases (to avoid damage to their own reputation) did not even wish to seek payment from their customers.

Following extensive negotiations over several months, the back billing was eventually reduced to 12 months.

Late notification of price increases

Due to a failure of communication between the relevant parts of BT no advance notification was provided of recent significant increases in the charges for Special Phone Book Entries which came into force on 1st April 2013. The change was initially only identified following checking of wholesale bills by vigilant CPs. Following representations by FCS, the change has now been notified.

This is not the only change notified at very short notice which has been reported to FCS. Even where changes are minor or represent reductions, CPs and billing bureau need adequate notice to carry out the necessary changes.

Further CP Examples

From **CP 1**, a sample list of complaints recently raised by customers, each of them due to wholesale billing errors.

- 4 test calls erroneously billed on to the customer, ref QLN-37434
- BT charged for the install and the rentals when the order was cancelled
- [Credit note no. 2957904 – CLI 01253853378 – faults, random calls](#)
- Charge raised from 24/10/12 for the start of an ISDN2e line which did not actually complete until 14/01/13
- Service ceased on 15/02/11 but BT continued to bill for the service
- Engineer visits charged when engineer made no visit.
- Customer has been billed from 12/10/12 when they should have only been billed from 30/11/12

CLIs and reference numbers for the above examples are available

From **CP2**, examples of late billing by BT of a number of charges relating to Excess Construction including Survey Fees for Non Served Premises and Site Offices, following “ongoing billing accuracy checks”,

BT has relied on section 12.9 and sections 2.2 and 2.3 of Schedule 2 of the WLR3 contract which effectively allows it to bill for services up to 12 months after the event.

Excel spreadsheet available.

From **CP3**, an example of the wholesale provider being unable to provide CDRs for the service provided which means that the CP cannot bill the end-user. This is a problem for the CP as it cannot generate the margin to cover any costs of provision. Neither does the end-user have a comprehensive understanding of the total cost of the services it is receiving.

Details of the above available on request.

From **CP4**, general feedback that it is normal to see several engineering visit charges that are 'late billed' on each monthly invoice - at a cost of £115 (ex VAT) each. The CP is unable to pass these on to retail customers due to the Metering & Billing rules which they are subject to. March 2013 was a particularly bad month for this with 10 charges for engineer visits which actually occurred in July 2012.