



Stephen Green
Ofcom Floor 2,
Content, Consumer and External Affairs
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Head Office
Inveralmond House
200 Dunkeld Road
Perth
PH1 3AQ

Telephone: 01738 456401

Our Reference:
Your Reference:

email: aileen.boyd@sse.com

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Dear Stephen

Review of the Metering and Billing Direction

SSE is pleased to provide a response to the recent consultation on the above subject. We are very concerned, in particular, about the proposal to remove wholesalers from the scope of the Direction.

More generally, the consultation highlights areas – including wholesale billing – where the current wording of the Direction is difficult to comply with and the approval bodies have had to work around this fact and apply ‘interpretative compliance solutions’. We do not agree with Ofcom that the correct response to situations where it is difficult to comply with the Direction should be to seek to remove those situations from the scope of the Direction. Instead, we believe that the aims of the Direction should be clarified, drawing on the experience of the Approval Bodies, and more realistic targets and tolerances developed for different types of communication provider (CP) and, potentially, different types of end customer.

We note that Ofcom already favours a review of the appropriate requirements for data services. If difficulties have arisen in application of the Direction to voice services, then a review of these requirements would also seem to be required. Neither of these reviews will be well founded unless the overall principles of what the Direction is seeking to achieve have been clarified first.

SSE has recently obtained its initial approval under the terms of the Direction and has valued the support and assistance of its Approval Body in developing and streamlining our metering and billing systems. The discipline of ongoing monitoring by Approval Bodies should, in our view, apply throughout the chain of CPs involved in providing services and bills to end customers, once these have reached the appropriate turnover threshold. All CPs should be striving to make their billing as accurate as possible and, unless they are monitored by an external party under a regulatory requirement, the reality is that efforts in this respect will diminish.



The matter of reliance on wholesale CPs' billing accuracy particularly affects reseller CPs, like SSE, and we do not believe that the risks to resellers and the harm to end customers has been adequately assessed in the consultation. We set out further detail on this matter in our response to the consultation questions, attached as an annex below.

Please get in touch if you have any queries on comments in this response.

Yours sincerely

Aileen Boyd
Regulation Manager

Response to Consultation Questions

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.

SSE supports the continuation of a metering and billing assurance framework for fixed and mobile voice services as it is currently constituted – by means of a General Condition, an Ofcom Direction and independent accreditation of larger CPs by Approval Bodies (ABs). However, we are disappointed that Ofcom has not proposed to take the opportunity presented by the review it has undertaken to revisit the wording and principles of the Direction itself. As a company that has recently undergone the initial approval process for fixed voice services, we have found the wording of the Direction difficult to understand with no apparent justification for the tolerances and accuracy limits currently specified within it. We consider that the principles of what the Direction is seeking to achieve in terms of control and accuracy of CP billing systems and processes should be articulated in the Direction. Within that clarified framework, different tolerances could then be devised for different billing situations.

Thus, we do not agree that the requirements should remain ‘unchanged’.

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?

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 agree with Ofcom that current trends in the provision of and complaints about data services do not warrant mandating the inclusion of data services in the metering and billing scheme at present.

We are interested to note that Ofcom’s proposed option entails a review of the parts of the Direction that relate to data services with a view to updating them. While we have no objection to this type of review, we consider that the overall intention of the Direction, as discussed above, should be reviewed more urgently. Logically, the principles on accuracy and control of billing systems that the Direction is seeking to achieve overall should be established before reviewing the specific considerations that flow from these into the separate areas that are covered at a more detailed level – for example: voice and data; large and small customers; and application to different types of CP business model.

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?

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.

SSE believes that all customers of large CPs should be treated within the same framework of metering and billing assurance such that there is no artificial threshold applied above which any customer's billing is 'outside' the framework.

With respect to question 4, therefore, we agree that the scope of the metering and billing scheme should continue to apply to any business customer. It may be that, following a review of the principles of accuracy and control of billing systems that the overall Direction is seeking to achieve, accuracy tolerances for some groups of business customers might be set slightly differently – but still within the overall principles of the refreshed Direction – than those set for 'mass market' customers.

SSE does not provide retail telecoms services to business customers and has no evidence to provide on how this market could readily be segmented into 'small' and 'large' business customers for the purposes of the Direction. However, a £50k spend per annum appears to be an arbitrary demarcation level.

Our preferred approach is for:

- **The Direction to be refreshed to articulate the principles of what it is seeking to achieve;**
- **All domestic and business end customers to fall within its scope; and**
- **Appropriate detailed approaches to billing accuracy to be developed for different retail customer segments as appropriate following review.**

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.

We strongly disagree with this proposal.

SSE has a retail 'reselling' business based on purchase of available wholesale products in order to provide retail service to its end customers. There are hundreds of suppliers in the market with a similar business model. For this group of suppliers, it is impossible to verify independently of the wholesale billing records what calls their retail customers are making. They have no control over wholesale billing; the risks associated with wholesale billing errors and delays already add to the risk that these CPs have to shoulder with respect to their own retail customer relationships and in their own Total Metering and Billing Systems – if they are large enough to fall under the scope of the Direction.

Ofcom's proposal to remove wholesale CPs from the scope of the Direction would harm end users. Wholesale CPs would no longer have any regulatory obligation to maintain quality controlled, accurate billing systems and, compared with the current situation where they are presumably at least trying to meet the accuracy tolerances of the Direction, more errors on wholesale bills would occur. As mentioned, resellers can only pass on the wholesale billing records they receive to the relevant end users in retail bills. Thus, a direct consequence of removing wholesale CPs from the scope of the Direction is that end customers of resellers (and potentially of other CPs) would receive more inaccurate bills. To the extent that end customers

notice any issues and raise them with retail CPs, Ofcom's proposal would leave the following risks with reselling retail CPs:

- Providing more bills that are inaccurate and disadvantage customers;
- The costs and reputational damage of receiving and dealing with more complaints on billing-related issues;
- Greater risks of loss of revenue through resolving complaints (as customers are not likely to raise issues with inaccurate bills that favour them) and being further exposed to late billing from wholesalers; and
- Ultimately, of losing their own accreditation under the Direction.

We also consider that there is likely to be an adverse impact on competition from resellers if wholesale billing is removed from the scope of the Direction due to the increased risks outlined above. Wholesale CPs, by contrast, would have all risks associated with billing to resellers removed from them under this proposal.

It is unrealistic to assert that reselling CPs have enough scale and influence over wholesale CPs to unilaterally impose 'service level agreements and penalties/remedies' on them, as suggested in paragraph 3.144 of the consultation. This sector looks to the regulatory framework to maintain a discipline for supervised accuracy in billing by wholesale CPs. It is also unrealistic for smaller CPs to contemplate incurring the cost and expense of raising disputes with Ofcom. Thus, in response to the content of paragraphs 3.144 and 3.145 in the consultation, we categorically do not consider that retail CPs could rely on much assurance from wholesale agreements to protect their position and would be interested in more detail of the evidence that Ofcom has gathered about the ability of retail CPs to verify wholesale bills.

Further to all the concerns noted above, we have the following additional comments on specific statements made in section 3 of the consultation.

- In paragraph 3.151, it is suggested that retail CPs have the incentive to monitor wholesale bills even more effectively than large business customers. As noted above, retail CPs have access to no independent means to verify wholesale billing records as they are serving a base of customers independent from themselves. Business customers, if they wish, could at least monitor in some manner what calls they think they have made in any billing period.
- In paragraph 3.152, it is noted that CPs concerned about the removal of wholesale services from the scope of the Direction did not provide any evidence to support their case. Given the background on the lack of a means for retail CPs to independently verify wholesale bills, we are unsure what type of evidence Ofcom expects could be provided. Looking at the evidence question from a different angle, what evidence does Ofcom have that removing wholesale services from the scope of the Direction would not result in the issues, including consumer harm, that we have outlined above?
- The second bullet of paragraph 3.156 suggests that the inclusion of wholesale services within the scope of the Direction appears anomalous due to the fact that wholesale services do not fall within the scope of the first paragraph of

GC11. Given the central place of wholesale billing in the chain of services affecting end customers' bills and the issues we have outlined above, we believe it would be more appropriate for Ofcom's review to consider if it is not anomalous that the first paragraph of GC11 does not also cover wholesale services.

- **In paragraph 3.157, it states that Ofcom does not consider the proposed modifications to the Direction to be unduly discriminatory against any particular class of persons. On the contrary, as discussed above, SSE considers that the proposal to remove wholesale billing from the scope of the Direction will significantly increase the risks facing resellers such as ourselves while removing incentives from wholesalers to seek to ensure that their billing is timely and accurate. There has been no adequate justification for this proposal that recognises the reality of the relative market power between wholesaler and reseller CPs.**

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?

The fact that Ofcom is inviting comments on this issue suggests that Ofcom does see the need for wholesale services to continue to be covered in some manner in the Direction. If application of parts of the Direction to wholesale services is acknowledged not to be working properly, then it would be a retrograde step to remove wholesale services from the formal scope of the Direction and then attempt to resolve issues by means of informal guidance. A better approach, as we have outlined above, would be to review and articulate within the Direction itself the principles of what it is seeking to achieve in terms of control and accuracy of billing systems throughout the industry. Then the detail of application of those principles in various detailed areas – such as wholesale billing – can be addressed such that clear and workable requirements are developed appropriate to each area of billing.

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

The wording of the Direction is difficult to understand in places and appears to be based on accuracy thresholds derived from a period of time when the fixed line telephony market was very different from today. Technologies and retail products have changed significantly since the pre-Ofcom origin of the Direction and this factor also suggests that a review of its overall aims and principles, together with the scope of retail CPs that should be included, would be timely.