



Changes to BT and KCOM's regulatory and financial reporting 2010/11 update

Explanatory statement and
notification

Statement

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Section 1

Executive Summary

Background

- 1.1 Relevant, reliable and timely regulatory financial information informs many of our decisions. We require this information in order to monitor and enforce various obligations that are placed on dominant providers in markets where they are found to have significant market power ("SMP").
- 1.2 In this statement we set out various changes to enhance the presentation and improve the quality of BT's regulatory financial statements ("RFS") reflecting developments over the last 12 months in the regulatory, technological and competitive environment, our ongoing analysis and use of the RFS, comments from users of the RFS and discussions with BT.
- 1.3 We set out our proposals in our consultation published on 16th February 2011 (the "February Consultation"). We consulted on 7 changes which were concerned with:
- i) Implementing decisions from our recent Wholesale Broadband Access Market review (the "WBA" market review)¹, the Fixed Narrowband Wholesale Services Market review² (impacting the Local Tandem Conveyance and Transit markets) and the Further statement (the "Fixed Narrowband Further Statement")³ (impacting the Single Transit market);
 - ii) Introducing the reporting of services in relation to the Number Translation Service ("NTS") Retail Charge Control and Premium Rate Service ("PRS") Bad Debt Surcharge following the proposals in the NTS and PRS Bad Debt Surcharge Consultation⁴ (the "NTS and PRS Consultation"); and
 - iii) Improving the presentation of the statements including, for example, the aggregation of services in the Alternative Interface Symmetric Broadband Origination ("AISBO") market, and amending the charge control statement to focus on BT's compliance data.
- 1.4 The regulatory financial reporting regime is also applicable to KCOM. This year, however, we have identified no reporting changes relating to KCOM which require consultation⁵.

¹ The review of Wholesale Broadband Access Markets, published in December 2010:

<http://stakeholders.ofcom.org.uk/consultations/wba/wba-statement/>

² The review of the fixed narrowband services wholesale markets Statement, published September 2009:

http://stakeholders.ofcom.org.uk/consultations/wnmr_statement_consultation/summary

³ Fixed Narrowband Wholesale Services Market review, Further statement on wholesale transit markets and remedies in the wholesale call termination market, published February 2010:

http://stakeholders.ofcom.org.uk/binaries/consultations/wnmr_statement_consultation/statement/statement.pdf

⁴ The NTS and PRS Bad Debt Surcharge Consultation, published in February 2011:

<http://stakeholders.ofcom.org.uk/consultations/nts-retail-uplift/>

⁵ Though see Section 4 for formal changes to KCOM's SMP Conditions arising out of the WBA market review.

Scope of this document and Final Decisions

- 1.5 This statement sets out our final decisions in respect of the proposals in the February Consultation.
- 1.6 The tables below summarise the issues and objectives we address in this statement and our final decisions taking full account of the responses to the February Consultation.

A) ITEMS FOR CONSULTATION (Section 3)

<i>Proposal</i>	<i>Decision: BT to...</i>
<p>1) Improved disclosure of AISBO Services</p> <p>We proposed to amalgamate certain low revenue services within this market.</p>	<p>Amalgamate the reporting of the Backhaul Extension Services (BES) and Backhaul Network Services (BNS) services but not Ethernet Backhaul Direct (EBD).</p>
<p>2) Improved disclosure of NTS Retail and PRS Bad Debt Services in the Call Origination Market</p> <p>We proposed that BT provides Additional Financial Information ("AFI") which discloses all material services in the market.</p> <p>BT will also provide a description of the basis of preparation of this AFI.</p>	<p>Report the following services (internal and external) in a published AFI for 2010/11: Chargeable NTS Retail Uplift, Freephone NTS Retail Uplift, PRS Bad Debt Surcharge.</p> <p>The AFI will detail revenues, costs and volumes prepared on a basis consistent with base year information used by Ofcom to develop the NTS charge control proposals.</p>
<p>3) Changes to the presentation of the RFS</p> <p>We proposed three changes to the RFS which change the form and content of the RFS. This included a significant change to the summary of the price control statement.</p>	<p>Make all three changes to the presentation of the RFS.</p>

B) OUTCOMES FROM MARKET REVIEWS (Section 4)

<i>Proposal</i>	<i>Decision: BT to...</i>
<p>1) Implementation of Wholesale Broadband Access Market Review</p> <p>We proposed to implement the outcome of the market review by making relevant SMP conditions and directing BT to report Market 1 and 2 separately and disclose service level information consistent with other markets with cost accounting and accounting separation obligations.</p>	<p>Report in Markets 1 and 2 relevant information including revenues, fully allocated costs (FAC), and incremental costs (LRIC) for the whole of 2010/11.</p> <p>Upstream Openreach inputs will be reported on an Equivalence of Input (EOI) basis (e.g. at tariff rates).</p>
<p>2) Implementation of Fixed Narrowband Wholesale Services Market Review</p> <p>i) We proposed to implement the outcome of the market review by removing accounting separation and cost accounting obligations in the Local Tandem Conveyance and Transit market.</p> <p>ii) We proposed to implement the outcome of the market review by removing cost accounting obligations in the Single Transit market. Accounting separation obligations, however, will remain.</p>	<p>i) No longer report any information for the Local Tandem Conveyance and Transit market from 10/11.</p> <p>ii) No longer report any cost orientation information for the Single Transit market from 10/11. BT will continue to report accounting separation information in this market.</p>

Section 2

Introduction

Background

- 2.1 Relevant, reliable and timely regulatory financial information is required to inform many of our decisions. It is essential therefore that the regulatory reporting framework is kept up to date and fit for purpose.
- 2.2 Under sections 87 to 92 of the Communications Act 2003 (the “Act”) there are a range of remedies that can be implemented by Ofcom once it has been determined that an undertaking has SMP in an identified services market. These include obligations:
- to offer cost-oriented charges;
 - not to discriminate unduly; and
 - to cap charges, i.e. charge controls.
- 2.3 When setting SMP conditions, Ofcom is exercising its duties under sections 3 and 4 of the Act⁶. These include the duty to further the interests of consumers in relevant markets by promoting competition and to act in accordance with the six Community requirements, the first of which is to promote competition. Where these obligations have been imposed it is essential that they are monitored and enforced effectively through, in part, an effective regulatory financial reporting framework.
- 2.4 Regulatory financial information is normally prepared either on a regular (e.g. annual) basis for ongoing monitoring purposes or on request, for example in connection with investigations.
- 2.5 BT’s RFS, like any form of business information, evolve over time to reflect a range of internally and externally driven factors. These include changes to accounting policies and standards, improved understanding or knowledge of cost drivers, changes in technologies and business processes and changes in the regulatory environment.

The February Consultation

- 2.6 The February Consultation included proposals for several improvements that Ofcom believed were justified in order to maintain a fit for purpose reporting framework.
- 2.7 Responses to the February Consultation were received from BT, UKCTA, and Cable & Wireless plc (C&W). Collectively UKCTA, and Cable & Wireless plc (C&W) will be referred to as the other communications providers (OCPs) in the rest of this document. We also received one response from Virtual Universe which solely addressed our proposals in relation to NTS Retail and PRS Bad Debt Surcharge Reporting.

⁶ And, as far as applicable, after 26 May 2011, Section 4A of the Act.

- 2.8 We also received confirmation from the European Commission that it has examined the notification (i.e. the February Consultation) and has no comments⁷.
- 2.9 We have taken these responses fully into account in making our decisions on the changes to the RFS set out in this statement.

Structure of the Document

- 2.10 In the February Consultation we invited comments on our proposals by way of questions. This statement sets out these questions as they appeared in the February Consultation, considers the responses received and sets out our final decision.
- 2.11 The statement has been split into two main subject sections as set out below.
- 2.12 In Section 3 we set out our decisions on the proposals raised in the February Consultation for BT to make improvements to the RFS and in relation to which formal consultation was required.
- 2.13 In Section 4 we set our decisions on the proposals raised to implement the conclusions of the Wholesale Broadband Access and Fixed Narrowband Wholesale market reviews.
- 2.14 The reporting changes that we present in this document impact solely on BT. There are no reporting changes which impact KCOM⁸.

Legal tests

- 2.15 All legal tests relating to Ofcom's considerations and conclusions are set out in Annex 1.
- 2.16 Annex 1 sets out Ofcom's reasons as to why it considers that the relevant legal tests under the Act are met for the SMP Service Conditions we have set out and the modifications we have made to Directions 3, 4 and the FA10 Direction. This Annex should be read in the light of relevant considerations and Ofcom's conclusions as set out in this statement.

⁷ Link to the European Commission decision on 16 February 2011:
http://circa.europa.eu/Public/irc/info/ecctf/library?l=/commissionsdecisions/uk-2011-1183_endate/ EN 1.0 &a=d

⁸ Though see section 4 in relation to the WBA market review.

Section 3

Changes which we formally consulted on

Introduction

- 3.1 In the February Consultation we proposed three reporting changes which required formal consultation. These changes relate solely to BT. We present our conclusions below having fully taken into account respondents views on these proposals.

Disclosure of AISBO Services

Question 1: Do you agree Ofcom's proposed amalgamation of certain low revenue disclosed services in the AISBO market?

Proposed Change

- 3.2 In our February Consultation we proposed to amalgamate some of the services reported separately in 2009/10 with low revenues and costs within this market.
- 3.3 These changes impacted the Backhaul Extension Services (BES), Backhaul Network Services (BNS) and Ethernet Backhaul Direct (EBD) services.
- 3.4 The purpose of this proposal was to ensure the RFS focus on the main regulated services produced by BT and these are not obscured by the reporting of many small services. It is also to ensure that the presentation of this market is consistent with our approach to reporting in other markets.

OCP Response

- 3.5 OCP Respondents agree with the proposed amalgamation of the BES (Connection and Rental) and BNS (Connection and Rental) services.
- 3.6 OCP respondents argued against the amalgamation of EBD (Connection) services as EBD is an important product group and volumes are expected to grow significantly in the coming years.
- 3.7 OCP respondents also made two other comments in relation to reporting in this market. Although these comments are outside the scope of the specific consultation question we believe it is still appropriate to consider these.
- 3.8 Firstly OCP respondents argued that it is now appropriate for BT to increase the granularity of reporting of EAD services as these are important and growing services. These are currently reported as 'EAD connection' and 'EAD rental' (2 service categories). OCPs now want to see these split into by the following bandwidth: 10M/bits, 100M/bits and 1G (6 service categories), with a separate breakout of 'Local Access' where it is supplied.
- 3.9 Secondly OCPs questioned why there was no proposal to report internal use of EBD separately. OCP respondents argued that it is important to assess BT's compliance with non-discrimination obligations.

BT Response

- 3.10 BT agrees with our proposals in the February Consultation. We have also engaged in further discussions with BT as follows.
- 3.11 The OCP's requests for increased reporting (described above) went beyond the proposals set out in the Consultation. However, in light of these comments, we asked BT to provide 2010/11 revenue estimates for EAD Connection and Rental for the following bandwidths: 10M/bits, 100M/bits and 1G (6 service categories).
- 3.12 BT has informed us that the forecast internal revenues in 10/11 for 4 of these 6 service categories are estimated to be between £10m to £20m. As explained below, these are greater than our £10m guidance reporting threshold we would expect BT to report these services separately.
- 3.13 BT has, however, explained that these revenues grew faster than they anticipated in 2010/11. BT has explained that, for this reason, the necessary reporting systems were not established for the 2010/11 year end. It has further argued that imposing a reporting requirement on these extra service categories for 2010/11 at this stage risked delaying the publication of the RFS.
- 3.14 In respect of EBD internal services, BT has stated that these are only used as an input to Wholesale products and are therefore reported as part of their costs.

Decision

- 3.15 We have decided to adopt the proposal in part. Specifically, we have decided to adopt the proposals relating to the amalgamation of BES services and BNS services.
- 3.16 However, having considered respondents' views we have decided to modify our proposals so as not to adopt the proposal to amalgamate the reporting of EBD (Connection) services. As this is an important product group and volumes are expected to grow quickly in the coming years it is important to have visibility of data at different bandwidths. We make this modification of our proposal under Section 49(9) of the Act.
- 3.17 The proforma statement showing the services to amalgamate in the RFS is in Annex 5 of this document. Services which will have other services amalgamated into them are highlighted in pink, and those which will be amalgamated into other services are highlighted in green.
- 3.18 The requirement to implement these changes is contained in Annex A to Direction 4 at Annex 5 of this statement.
- 3.19 We have considered BT's response in relation to EAD reporting. We have previously set out our policy on the reporting of new and growing services in the Changes to BT and KCOM's regulatory financial reporting 2008/09 Statement⁹ (the "08/09 Statement"). In it we explained that where a service's revenues and/or associated costs exceed the £10m guidance threshold they should be reported separately. Furthermore during the Consultation¹⁰ to the 08/09 Statement BT explained that it would continue to review new services and endeavour to report these separately where revenue generated exceeds the £10m guidance threshold. Had BT reviewed

⁹ See paragraph 5.10 of the 08/09 Statement, published on 15 June 2009

¹⁰ Changes to BT and KCOM's regulatory financial reporting 2008/09 Consultation, published 20 March 2009 (see paragraph 5.15)

the forecast revenue of EAD services at an earlier stage in 2010/11, it could have taken steps to ensure that it was able to provide an appropriate level of financial reporting. It is therefore disappointing that BT did not do this and does not have the systems in place to enable it to provide an appropriate level of disclosure.

- 3.20 For the purpose of the 2010/11 RFS, we do not think that this issue should be allowed to delay publication of the statements, and, therefore, will not direct BT to increase EAD reporting in 2010/11.
- 3.21 For an issue such as this, we are to a significant extent reliant on the cooperation of BT to keep us informed of market developments in time to reflect them in the proposed reporting requirements. We therefore expect BT to ensure that it could provide the necessary reporting granularity for the EAD services in 2011/12 and take steps to ensure that it does not overlook other rapidly growing services when planning its year-end reporting procedures.
- 3.22 With this in mind, we reiterate our guidance that BT should inform us during any year when new services are forecast to exceed £10m in the year and would expect these to be reported in the RFS.

NTS Retail and PRS Bad Debt Surcharge Reporting

Question 2: Do you agree with Ofcom's proposal to direct BT to prepare and publish further information on the services in the Call Origination market controlled by the NTS retail uplift charge and the PRS bad debt surcharge in the form of an AFI?

Proposed Change

- 3.23 In our February Consultation we proposed that BT should prepare and publish Additional Financial Information ("AFI"), additional to the main RFS document, that will report on the services controlled by the NTS Retail Uplift charge and PRS Bad Debt Surcharge.
- 3.24 We proposed that the AFI should disclose all main services in the market. BT should also provide a description of the basis of preparation of information.
- 3.25 We also proposed that, at Ofcom's request, the information provided in this AFI could be reviewed and reported on by the independent auditors using the "Agreed upon Procedures" process.

OCP Response

- 3.26 OCP respondents agree with the proposal.
- 3.27 OCP respondents expressed concerns around the lack of information provided by BT in relation these services and call for BT to provide more detailed information.
- 3.28 Virtual Universe explained that whilst the level of bad debt may seem small to BT it is significant to the industry.
- 3.29 OCP respondents explained that the AFI will help industry monitor returns BT is making in these markets and also provide some level of comfort over the formulation of the charges and their relationship with the corresponding charge controls.

- 3.30 Virtual Universe asked for a general management explanation of bad debt movements and in particular PRS movements.

BT Response

- 3.31 BT agrees partially with this proposal but argued against the proposal for reporting PRS bad debt costs.
- 3.32 In respect of the PRS Bad Debt Surcharge reporting BT agrees with reporting the bad debt surcharge. However, BT disagrees with reporting the actual associated bad debt costs. BT argues that this proposal is disproportionate for the following reasons;
- The bad debt costs are relatively low (less than £5m in 09/10); and
 - The preparation of this information is labour intensive and time consuming. BT argues that the level of work required is not proportionate to the value derived by stakeholders from publishing this information.
- 3.33 In light of BT's comments we asked BT to propose a simpler basis for reporting PRS bad debt costs that would still achieve the objectives of our proposals. BT replied that it could not identify a simpler basis.

Decision

- 3.34 We have decided to adopt the proposal.
- 3.35 Having considered respondents' views we remain of the opinion that it is important, for the reasons set out in the February Consultation, that BT reports these services to enable us to assess BT's compliance with its obligations in the relevant market. None of the consultation responses provide a basis for us to change this view. This is reinforced by our experience of preparing the NTS and PRS consultation when we discovered errors in parts of the information provided to us by BT.¹¹
- 3.36 We also note that although the level of bad debt costs may be low for BT, these do represent a significant charge for industry. Furthermore, through the bad debt surcharge BT is withholding PRS revenue from PRS service providers.
- 3.37 We also continue to believe it is proportionate to require BT to report the actual bad debt costs associated with this PRS revenue. BT has argued that this information would be time consuming to prepare. We have taken account of this point, however, Ofcom has taken the view that the reporting of this information is necessary. BT has been unable to identify a simpler basis for its provision.
- 3.38 We have decided that it is not necessary for BT to provide a general management explanation of bad debt movements. Our decision, as set out above, should make the data provided sufficiently clear and transparent to enable Ofcom and stakeholders monitor BT's compliance with its obligations.
- 3.39 The requirement to produce and provide this information is contained in Annex 4 to Directions 3 and 4 at Annex 5 of this statement.

Detail of reporting in the AFI

- 3.40 We set out below the detail of the reporting in the AFI. BT will report the following services in the AFI for 2010/11:

¹¹ See 3.17 in our February Consultation.

- Chargeable NTS Retail Uplift (internal and external)
 - Freephone NTS Retail Uplift (internal and external)
 - PRS Bad Debt Surcharge (internal and external)
- 3.41 The AFI will detail revenues, costs and volumes prepared on a basis consistent with base year information used by Ofcom to develop the NTS charge control proposals.
- 3.42 In the case of the NTS Retail Uplift these costs, revenues and volumes will be prepared on a basis consistent with our treatment of costs within our proposed charge control model, as set out in the NTS and PRS Consultation. For example, they will relate to all NTS traffic BT retails, both that terminating on its own network and on other CPs' networks and they will:
- Report separately for the chargeable and freephone NTS Retail Uplifts
 - Attribute generic sales and marketing costs on the basis of net revenue
 - Attribute an appropriate proportion of support costs not causally attributable on the basis of net revenue
 - Include freephone call minutes in the volume of call minutes used to determine the per minute cost of NTS calls (excluding bad debt)
 - Exclude freephone call minutes from the volume of call minutes used to determine the per minute cost of bad debt for NTS calls
- 3.43 In the case of the PRS Bad Debt Surcharge BT will report the cost of the Surcharge as a percentage of revenue to assess its actual level in 2010/11.
- 3.44 BT will provide a description of the basis of preparation of the information provided in the AFI schedule. This basis of preparation will be consistent with the primary accounting documents which include, for example, the regulatory accounting principles of cost causality and objectivity.
- 3.45 Further detail of the information to be disclosed in the AFI schedule is in Annexes 4 and 5 of this document.
- 3.46 At Ofcom's request, information provided by BT could be reviewed and reported on by the independent auditors under the "Agreed Upon Procedures" process established between Ofcom, BT and BT's external auditor under the "Tripartite" agreement.

Presentational Changes

Question 3: Do you agree with the proposed changes to the presentation of the RFS?

Question 4: Do you agree with the proposed change to the presentation of the Charge Control Statement in the RFS?

Proposed Changes

3.47 In our February Consultation we presented a small number of presentational changes to the RFS which BT had proposed. These changes alter the form and content of the RFS.

BT Response

3.48 BT agrees with all the proposed presentational changes.

OCP Response

3.49 OCP respondents agree with the proposed changes to the Price Control Statement and relating to the deletion of the Roundings Column.

3.50 Respondents do not agree with the proposed deletion of the Internal and External Sales information. Respondents argue that this change will decrease the usability of the RFS.

Objective of Change

3.51 We have decided to adopt all the proposed changes.

3.52 Having considered OCP respondents' views concerning the proposed deletion of the Internal and External Sales information we remain of the view that this change will improve the presentation of the accounts. The columns that are no longer required would duplicate information disclosed elsewhere in the RFS and we consider that their deletion will simplify the RFS.

3.53 The requirement to implement these changes is contained in Annex A to Direction 4 and the Former FA10 Form and Content Direction under SMP condition OA2¹², at Annex 5 to this Statement.

¹² The "Former FA10 Form and Content Direction" is the Direction given under SMP services condition FA10.2 at Schedule 5 of Annex 2 of the *Review of the wholesale local access market, dated 16 December 2004*, as subsequently modified. It related to BT's obligations in that it set out the form and content to be applied by BT in respect of preparing certain Regulatory Financial Statements required by virtue of condition FA10.5 and the FA10 Preparation, audit and delivery Direction. By virtue of the modification of SMP services condition OA2 at Schedule 3 of Annex 2 of the *Review of the Wholesale Local Access Market, dated 7 October 2010*, this Direction continues to have force under SMP services condition OA2 as if it was given under that condition and is to be read accordingly.

Section 4

Outcomes of market reviews concluded in 2010

Introduction

- 4.1 There are two specific market reviews which trigger changes to BT's RFS: the Fixed Narrowband Wholesale Services Market Review, which was published in February 2010, and the WBA market review which was published in December 2010.
- 4.2 This statement is the device by which we implement these changes to BT's and regulatory reporting requirements.
- 4.3 The tables which set out the service markets against which BT is required to prepare RFS have been amended to reflect relevant market reviews and can be found in Annex 2 of this document.
- 4.4 It should be noted that this year there are no regulatory reporting changes which relate to KCOM's RFS. However, one outcome of the WBA market review is a formal amendment to the SMP conditions that apply to KCOM in the WBA market in the Hull area. But, the effect is to impose the same remedies on KCOM as had previously been imposed on it and in relation to which relevant Directions previously made by Ofcom continue to apply.

Wholesale Broadband Access Market Review

Question 5: Do you think we have fairly reflected the decisions of the relevant market reviews in the proposed SMP conditions?

Description

- 4.5 The main outcome of the WBA market review in respect of regulatory financial reporting is that BT has significant market power (SMP) in Markets 1 and 2. As a result, we decided that cost accounting and accounting separation obligations should be imposed in these markets. The aggregate national WBA market data, including market 3, will no longer be reported.
- 4.6 In our February Consultation we proposed to make relevant SMP Conditions to implement the remedies imposed on BT and KCOM as a result of the WBA market review. We also proposed that for markets 1 and 2 BT should now report relevant market information including revenues, fully allocated costs (FAC), and incremental costs (LRIC) for the whole of 2010/11. This should follow the form and content of other markets. There should be a full attribution of relevant costs to Markets 1 and 2. The geographic aspect of cost attribution should be described by BT in its supporting documentation, such as the DAM.
- 4.7 We further proposed that the form and content of the WBA statement in the RFS should also include the upstream Openreach inputs on an Equivalence of Input (EOI) basis (e.g. at tariff rates).

- 4.8 We set out that for markets 1 and 2 BT had indicated to us that the preparation of FAC and LRIC service cost data may be carried out using offline analysis. We explained that we would regard this as acceptable provided BT meets its obligations created by the relevant SMP conditions and the relevant Directions.
- 4.9 We explained that the presentation of the WBA markets on an EOI basis would impact some of the other statements in the RFS, and also impact how the regulatory accounts in total could be reconciled with BT's Annual Report. We particularly welcomed stakeholders' comments on this aspect of the proposal.
- 4.10 The WBA market review also imposed accounting separation obligations on KCOM in the WBA market in the Hull area (in which market we determined that KCOM has SMP) (see above). We did, however, propose no changes to KCOM's regulatory reporting as the effect of the market review is to impose the same remedies on KCOM as had previously been imposed on it and in relation to which relevant Directions previously made by Ofcom continue to apply.

OCP Responses

- 4.11 OCP respondents agree that we have fairly reflected the decisions in the market reviews.
- 4.12 OCP respondents also expressed the view that it is important that BT fairly and appropriately apportions common costs across relevant products.

BT Response

- 4.13 BT agrees that we have fairly reflected the decision. BT has proposed the three following minor modifications to the WBA template (Annex 11 of the RFS) we proposed in our February Consultation:
- Average Prices: The split between the EOI input and the WBA element that we had proposed should not be reported as these elements are not sold separately. Therefore only a total average price for each service should be reported.
 - LRIC floor and ceiling: Data for the EOI input should be reported and this will be shown at price.
 - Ancillary services: This category includes a wide range of different services with varying costs. It is not meaningful to report amalgamated average volume and cost data and therefore it should not be reported.
- 4.14 In relation to the Wholesale Market Summary template (Annex 8 of the RFS) in our February Consultation we proposed that 2009/10 WBA data should be restated into WBA markets 1 and 2. BT has proposed that this 2009/10 data should remain in the format disclosed in the 2009/10 RFS which shows the data on an aggregated WBA market basis.
- 4.15 BT has also provided proposals as to how the EOI input can be reflected across other statements in the RFS. These modifications to the RFS attempt to ensure that the regulatory accounts can be reconciled with BT's Annual Report.
- 4.16 We show BT's proposed modifications to the other statements in the RFS below. These include an illustrative note at the bottom of each statement.

Section 5 - Summary of Financial Performance

Section 5.1 - Consolidated Performance Summary (Annex 3)

	Turnover £m	CCA operating costs inc EOI £m	CCA return before taxation inc EOI £m	MCE £m	Return on MCE %	CCA return before taxation excl. reval. adj. (h) £m	Return on MCE excl. reval. adj. (h) %	Supporting information
For the year ended 31 March 2010								
Markets								
Access Markets								Section 7
Other Wholesale Markets		J						Section 8
Residual Activities								
Wholesale residual activities		K						
Retail residual activities								
Adjustments								
Total Markets & Activities								
Re-presented for the year ended 31 March 2009								
Markets								
Access Markets								Section 7
Other Wholesale Markets								Section 8
Residual Activities								
Wholesale residual activities								
Retail residual activities								
Adjustments								
Total Markets & Activities								

(h) See Section 4 - Basis of Preparation for the CCA Revaluation Adjustment.

*WBA markets, included in 'Other Wholesale Markets' (J) now include an EOI charge for internal WLA services. Corresponding costs for these WLA services have been removed from these markets. In order to ensure that the overall Wholesale position is neutral as a result of introducing EOI charges, the EOI charges have been removed from the 'Wholesale residual activities' (K), and the corresponding costs associated with the WLA service have been added back to that number.

Section 8 - Review of Other Wholesale Markets

Section 8.1 - Financial Performance in Other Wholesale Markets (Annex 8)

	Internal Turnover £m	External Turnover £m	Roundings £m	Total Turnover £m	HCA Costs inc £m	CCA Adjustment s £m	Roundings £m	Total CCA Operating costs inc EOI £m	Return £m	MCE inc EOI £m	Return on MCE inc EOI %
For the year ended 31 March 2010											
Call origination on FPN networks											
Local-tandem conveyance and transit on FPN networks											
Single transit on FPN networks											
Technical areas (Interconnect Circuits)											
Fixed call termination											
Wholesale trunk segments											
Technical areas (Point of Handover)											
Wholesale Broadband Access - Market 1*						D		H			
Wholesale Broadband Access - Market 2*						E		I			
Total Other Wholesale Markets											
For the year ended 31 March 2009											
Call origination on FPN networks											
Local-tandem conveyance and transit on FPN networks											
Single transit on FPN networks											
Technical areas (Interconnect Circuits)											
Fixed call termination											
Wholesale trunk segments											
Technical areas (Point of Handover)											
Wholesale Broadband Access											
Total Other Wholesale Markets											

(h) See Section 4 - Basis of Preparation for the CCA Revaluation Adjustment.

*WBA market costs (D, E, H & I) now include an EOI charge for internal WLA services.

Calculation of FAC based on component costs and usage factors (Annex 16)

Calculation of FAC based on component costs and usage factors 2010

For the year ended 31 March 2010

		Traditional interface symmetric broadband origination (up to and including 8Mbit/s)																	WBA Market 1		WBA Market 2		
		Average cost per unit (from annex 15)	Partial and Private Circuits 64Kbit/s - connection	Partial and Private Circuits 64Kbit/s - link	Partial and Private Circuits 64Kbit/s - distribution	Partial and Private Circuits 64Kbit/s - trunk	Partial and Private Circuits 64Kbit/s - internal local end	Partial and Private Circuits 64Kbit/s - external local end	Radio Backhaul Service - sub 2 Mbit/s connection	Radio Backhaul Service - sub 2 Mbit/s rentals	Partial and Private Circuits 2Mbit/s - connection	Partial and Private Circuits 2Mbit/s - link	Partial and Private Circuits 2Mbit/s - distribution	Partial and Private Circuits 2Mbit/s - local end	Radio Backhaul Service - 2 Mbit/s connection	Radio Backhaul Service - 2 Mbit/s rentals	Nextstream 16 LL 2Mbit/s connection	SDSL	£	£	£	£	
Fully Allocated Cost (£) (h)	Unit (d)	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	
Components																							
E side copper capital	£/line																						
E side copper current	£/line																						
D side copper capital	£/line																						
D side copper current	£/line																						
Local exchanges general frames capital	£/line																						
Local exchanges general frames current	£/line																						
Dropwire capital & PSTN NTE	£/line																						
Residential PSTN drop maintenance	£/line																						
Routing & records	£/line																						
MDF Hardware jumpering	£/line																						
Software jumpering	£/line																						
64Kbit PC link connection cct provision (y)	£/circuit																						
PC rental 64Kbit link	£/link																						
PC rental 64Kbit link per km transmission	£/km																						
PC rental 64Kbit link local end	£/le																						
2Mbit and above PC link connection cct provision	£/circuit																						
PC rental 2Mbit link	£/link																						
PC rental 2Mbit link per km distribution	£/km																						
PC rental 2Mbit local end copper	£/le																						
PC rental 2Mbit local end fibre	£/le																						
PC rental 2Mbit link per km trunk	£/km																						
Broadband line testing systems	£/line																						
DSLAM capital/maintenance	£/line																						
SDSL connections	£/conn																						
Combi Card broadband	£/line																						
Service Centres - Provision (q)	%																						
Sales product management (q)	%																						
Service Centres - Assurance (q)	%																						
SG & A private circuits (q)	%																						
SG & A partial private circuits (q)	%																						
SG & A other access (q)	%																						
MSAN-METRO Connectivity Link (q)	%																						
Core/Metro connectivity (q)	%																						
Edge Ethernet ports (q)	%																						
WBA Components*																				X	X	X	X
WBA Components*																				X	X	X	X
Fully Allocated Costs (£)																				X	X	X	X

*WBA service FACs exclude EOJ charges and the costs underlying those charges. The components shown against WBA are WBA-only costs.

Annex 17

BT Network Services Reconciliation 2010 (Annex 17)

For the year ended 31 March 2010

Consolidation Statement (a summary of all wholesale markets where there are cost accounting obligations)

Fully Allocated Cost (£m) (h)	Total (from annex 15)	Wholesale analogue exchange line services	Wholesale ISDN2 exchange line services	Wholesale local access	WBA Market 1	WBA Market 2	Non cost accounting, roundings and residual
					1	2	3
Components							
E side copper capital							
E side copper current							
D side copper capital							
D side copper current							
Local exchanges general frames capital							
Local exchanges general frames current							
PSTN line test equipment							
Dropwire capital & PSTN NTE							
Business PSTN drop maintenance							
Residential PSTN drop maintenance							
PSTN line cards							
Pair gain							
Routeing & records							
MDF Hardware jumpering							
Software jumpering							
ADSL connections							
Wholesale Access specific							
ISDN2 drop maintenance							
ISDN2 line cards							
ISDN2 NTE							
Directories							
Service assurance Retail							
Service assurance Global services							
Service Centres - Provision							
Sales product management							
Service Centres - Assurance							
External WLR SG & A							
Internal WLR SG & A							
Broadband line testing systems							
DSLAM capital/maintenance							
Local Loop Unbundling room build							
Local Loop Unbundling hostel rentals							
Local Loop Unbundling hostel rentals power & vent							
Local Loop Unbundling tie cables							
Local Loop Unbundling systems development							
Combi Card voice							
EOI PXQ charges					A	B	
Components used by WBA input services					X	X	
Components used by EOI services							X
Access Cards (ISDN2 services)							

*WBA markets (columns 1 & 2) now include an EOI charge (A & B) for internal WLA services. Corresponding costs for these WLA services have not been included in columns 1& 2, WBA-only components have been included in these numbers. In order to ensure that the overall Wholesale position is neutral as a result of introducing EOI charges, the EOI charges have been removed from the residual column (3).

BT Reconciliation Statement (Annex 19)

Consolidated profit and loss account For the year ended 31 March 2010

Markets	Turnover £m	Operating Costs £m	HCA Return or Profit before taxation inc EOI £m	Holding gain/(loss) and other adjustments £m	Supplem- entary depreciation £m	CCA Return or Profit before Taxation £m	CCA adj. excl. reval. adj. (h) £m	CCA Return or Profit before Taxation excl. reval. adj. (h) £m
Access markets								
Other Wholesale markets		F						
Sub total markets								
Residual activities								
Wholesale residual activities		G						
Retail residual activities								
Sub total residual activities								
Adjustments								
Access								
Wholesale								
Retail								
Sub total adjustments								
Total BT Markets								
Adjustments								
Elimination of inter-market turnover and costs								
Other Operating Income								
Profits on disposal of property, plant and equipment								
Share of post tax profits of associates and joint ventures								
Loss on disposal of associate								
Net short term interest								
Long term interest payable								
As In the Annual Report								

(h) See Section 4 - Basis of Preparation for the CCA Revaluation Adjustment.

*WBA markets, included in 'Other Wholesale Markets' (F) now include an EOI charge for internal WLA services. Corresponding costs for these WLA services have been removed from these markets. In order to ensure that the overall Wholesale position is neutral as a result of introducing EOI charges, the EOI charges have been removed from the 'Wholesale residual activities' (G), and the corresponding costs associated with the WLA service have been added back to that number.

- 4.17 We believe that BT's proposed modifications to both the WBA specific statement and to other statements in the RFS are a reasonable way to reflect the EOI input.

Decision

- 4.18 We have decided to adopt our proposals, which incorporate BT's modifications to the WBA statement, the wholesale market summary, and the other statements in the RFS. As far as they amount to modifications to our proposals, we make these modifications under section 49 (9) of the Act.
- 4.19 The legal instrument making relevant SMP conditions, in relation to both BT and KCOM, is at Annex 2 to this document. Our changes for the relevant Directions, to BT¹³ are in Annexes 4 and 5.

Review of Local Tandem Conveyance and Single Transit on fixed public narrowband networks

Question 6: Do you think we have fairly reflected the decisions of the relevant market reviews in the scope, form and content of the RFS?

Description

- 4.20 The main outcomes in respect of regulatory financial reporting from the Fixed Narrowband Wholesale Services market review and Fixed Narrowband Further Statement are that from 2010/11:
- In the Local Tandem Conveyance and Transit market BT will no longer be subject to accounting separation and cost accounting obligations.
 - In the Single Transit market will no longer be subject to cost accounting obligations. Accounting separation obligations will however remain.

OCP Responses

- 4.21 OCP respondents agree that we have fairly reflected the decisions in the market reviews.
- 4.22 OCP respondents also expressed the view that it is important that BT fairly and appropriately apportions common costs across relevant products.

BT Response

- 4.23 BT agrees that we have fairly reflected the decisions in the market reviews.
- 4.24 BT has also pointed out that in the proposed changes we made to Direction 3 in Annex 9 of the February Consultation we should have fully crossed out all references to the Local Tandem Conveyance market. We have discussed this with BT and in the process discovered that, in addition, Annex 9 of the February Consultation did not

¹³ As we say above, no regulatory reporting changes relating to KCOM's RFS are necessary to give effect to the formal amendment to the SMP conditions that apply to KCOM in the WBA market in the Hull area. Relevant Directions made by Ofcom already exist and continue to apply.

properly reflect the requirements for the Single Transit market in relation to the publication of AFI.

- 4.25 We have therefore made the necessary modifications to Direction 3 in this statement. We do not consider that these modifications substantively change our proposals. But, to any extent that they do, that modification is made under Section 49(9) of the Act.

Our Decision

- 4.26 We have decided to adopt our proposals, which will incorporate the modifications we have detailed above.
- 4.27 BT will therefore:
- No longer report any information for the Local Tandem Conveyance and Transit market from 10/11; and
 - No longer report any cost orientation information for the Single Transit market from 10/11. BT will continue to report accounting separation information in this market.
- 4.28 The changes to Directions 3 and 4 which take account of the decisions in the market reviews are at Annexes 4 and 5.

Annex 1

Legal Tests

Introduction

- A1.1 This annex sets out how Ofcom has satisfied the legal tests¹⁴ for its proposals to amend the regulatory financial accounting obligations applying to BT¹⁵.
- A1.2 For each item which relates to modifying Directions we show how our duties have been met under Sections 3, 4, and 49(2) of the Act. Where we make SMP Conditions¹⁶ we show how our duties have been met under Sections 3, 4, and 47(2) of the Act. What we say as to the latter should be read together with the conclusions set out in the statement Ofcom made in the WBA market review.

Section 3 and 4 – general duties & the six Community requirements

- A1.3 Section 3 of the Act sets out Ofcom's duties in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.
- A1.4 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition, efficient investment and innovation, and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers¹⁷.

Section 47(2) tests

- A1.5 Ofcom can set or modify SMP services conditions under section 45 of the Act but only where it is satisfied that the tests under section 47(2) have been met. The tests are that the condition or modification is:
- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - b) not unduly discriminatory against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) transparent in relation to what it is intended to achieve.

¹⁴ Changes to relevant provisions of the Act that took effect on 26 May 2011 do not apply because Ofcom published notification of our proposals before that date.

¹⁵ And, as far as appropriate, in relation to the WBA market review, KCOM.

¹⁶ In relation to the WBA market review

¹⁷ With effect from 26 May 2011. Ofcom also has a duty to take account of certain applicable European Commission recommendations under Section 4A of the Act.

Section 49(2) tests

- A1.6 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) have been met. The tests are that the modification of the direction is:
- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - b) not unduly discriminatory against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) transparent in relation to what it is intended to achieve.

1) Disclosure of AISBO Services

Legal tests

- A1.7 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Direction 4 under SMP condition OA2 as set out in paragraphs 3.2 to 3.10 and Annex 10 are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this statement.

Section 3 and 4

- A1.8 As part of the relevant EU market review process Ofcom has imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews determined that these regulatory accounting obligations met the tests outlined in Sections 3 and 4 of the Act¹⁸. The changes to Direction 4 under SMP condition OA2 are designed to enable BT to more effectively and efficiently fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and non-discrimination) by disclosing AISBO services in a way that aligns with the charges levied by BT on the other communication providers. In consequence Ofcom believes the amendments to Direction 4 under SMP condition meet the tests in Sections 3 and 4¹⁹.

Section 49(2) tests

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

- A1.9 Ofcom considers that modifying Direction 4 under SMP condition OA2 in the manner described in paragraphs 3.2 to 3.10 and Annex 10 is objectively justifiable. We are amalgamating the reporting of certain low revenue services. This is because revenues do not appear to be growing at the rates expected and the reporting of many small revenue services may obscure the focus on the main

¹⁸ And they also considered applicable recommendations issued by the European Commission under A.19(1) of the framework Directive.

¹⁹ And, as far as applicable, after 26 May 2011, in Section 4A of the Act.

services reported in the RFS. But, we are retaining the requirement to report separately EBD (Connection) services. As this is an important product group and volumes are expected to grow quickly in the coming years it is important to have visibility of data at different bandwidths. The modification will therefore allow us better to monitor that BT is complying with its non-discrimination and cost orientation obligations in this particular market, and is necessary for that purpose.

Not unduly discriminatory against particular persons or against a particular description of services

A1.10 Ofcom considers that modifying Direction 4 under SMP condition OA2 in the manner described in paragraphs 3.2 to 3.22 and Annex 5 is not unduly discriminatory. BT is the only communications provider with SMP in the AISBO market which provides the relevant (or similar) services externally. KCOM, the only other communications provider with similar obligations, does not provide these or similar services externally.

Proportionate to what it is intended to achieve

A1.11 Ofcom considers that modifying Direction 4 under SMP condition OA2 in the manner described in paragraph 3.2 to 3.22 and Annex 5 is proportionate. By amalgamating the reporting of certain low revenue services, we are modifying BT's regulatory obligations so that the reporting of many low revenue services does not obscure the focus on the main reported services. But, we are also retaining BT's regulatory obligations where doing so (in relation to EBD (Connection) services) is necessary to give us visibility of relevant data.

A1.12 The extent of BT's obligations will therefore correspond with the purpose and effect of the RFS: to allow us to monitor that BT is complying with its non-discrimination and cost orientation obligations in the relevant market. The modification is, accordingly, no more than necessary for BT to demonstrate compliance with its obligations in the AISBO market as well as providing assurance to market participants that products and services are not being provided on discriminatory terms.

Transparent in relation to what it is intended to achieve

A1.13 Ofcom considers that modifying Direction 4 under SMP condition OA2 in the manner described in paragraph 3.2 to 3.22 and Annex 5 is transparent. Ofcom has explained and consulted on this change and has provided background explanatory material and evidence from other projects.

2) NTS Retail and PRS Bad Debt Surcharge Reporting

Legal tests

A1.14 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Directions 3 and 4 under SMP condition OA2 as proposed in paragraphs 3.23 to 3.46 and Annex 4 and 5 are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this statement.

Section 3 and 4

A1.15 As part of the relevant EU market review process Ofcom has imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews determined that these regulatory accounting obligations met the tests outlined in Sections 3 and 4 of the Act²⁰. The changes to Directions 3 and 4 under SMP condition OA2 are designed to enable BT to more effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and non-discrimination) by disclosing costs and revenues in the call origination market in a way that shows that BT has complied with its relevant obligations. In consequence Ofcom believes the amendments to Directions 3 and 4 under SMP condition meet the tests in Sections 3 and 4²¹.

Section 49(2) tests

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

A1.16 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.23 to 3.46 and Annexes 4 and 5 is objectively justifiable. Ofcom needs to be able to monitor that BT is complying with its non-discrimination and cost orientation obligations in the call origination market. To do so, BT must report in some form on the relevant services in that market.

Not unduly discriminatory against particular persons or against a particular description of services

A1.17 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.23 to 3.46 and Annexes 4 and 5 is not unduly discriminatory. BT is the only communications provider with SMP in the call origination market which provides the relevant (or similar) services externally. KCOM, the only other communications provider with similar obligations, does not provide these or similar services externally.

Proportionate to what it is intended to achieve

A1.18 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.23 to 3.46 and Annexes 4 and 5 is proportionate. It is necessary for BT to report information on the relevant services in the relevant market, as set out above. But, because of the relatively low level of revenues for these services in this market and the large amount of work required to produce the information, Ofcom proposes and has decided that limits be placed on the extent of BT's obligations as set out in paragraphs 3.27 – 3.32 of the February Consultation. With those limits in place, the modifications to the Directions are no more than necessary for BT to demonstrate to Ofcom compliance with its obligations in the call origination market. In reaching this view we take account of the fact that we have given BT the opportunity to identify a simpler and less burdensome way of reporting some of the relevant information. BT has been unable to do so.

²⁰ And they also considered applicable recommendations issued by the European Commission under A.19(1) of the framework Directive.

²¹ And, as far as applicable, after 26 May 2011, in Section 4A of the Act.

Transparent in relation to what it is intended to achieve

- A1.19 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.23 to 3.46 and Annexes 4 and 5 is transparent. Ofcom has explained and consulted on this change and has provided background explanatory material and evidence from other projects.

3) Presentational Changes**Legal tests**

- A1.20 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Direction 4 and the Former FA10 Form and content Direction under SMP condition OA2²² as set out in paragraphs 3.47 to 3.53 and Annex 5 are met. As far as the changes relate to simplifying the form and content of the market level profit and loss statements, BT will be required to do less reporting as a result of the modification to the relevant Directions. In relation to the changes to the Price Control Statement, BT's obligations will change but we do not consider that the overall reporting burden would be increased. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this statement.

Section 3 and 4

- A1.21 As part of the relevant EU market review process Ofcom has imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews determined that these regulatory accounting obligations met the tests outlined in Sections 3 and 4 of the Act²³. In this case Ofcom believes the changes improve the presentation and usefulness of the RFS and in consequence Ofcom believes the amendments meet the tests in Sections 3 and 4²⁴.

Section 49(2) testsObjectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

- A1.22 Ofcom considers that modifying Direction 4 and the Former FA10 Form and content Direction in the manner described in paragraph 3.47 to 3.53 and Annex 5 is objectively justifiable. The form and content of the market level profit and loss statements should be no more complex than necessary. Wherever possible, they should be simplified, provided they still fulfil the purpose of demonstrating BT's compliance with its obligations. The changes achieve that, including by removing information duplicated in the RFS. The charge control statement should be as useful and effective as possible as a means of demonstrating BT's compliance with its charge controls in the year. The changes will improve this usefulness and effectiveness (and see also A1.25 and A1.26 below as to this).

²² The latter Direction originally made under SMP condition FA10.2 but now read as if it was given under SMP condition OA2.

²³ And they also considered applicable recommendations issued by the European Commission under A.19(1) of the framework Directive.

²⁴ And, as far as applicable, after 26 May 2011, in Section 4A of the Act.

Not unduly discriminatory against particular persons or against a particular description of services

A1.23 Ofcom considers that modifying Direction 4 and the Former FA10 Form and content Direction in the manner described in paragraph 3.47 to 3.53 and Annex 5 is not unduly discriminatory. KCOM, the only other communications provider with similar obligations, does not have such extensive or detailed reporting requirements (and is not subject to the changes in this statement).

Proportionate to what it is intended to achieve

A1.24 Ofcom considers that modifying Direction 4 and the Former FA10 Form and content Direction in the manner described in paragraph 3.47 to 3.53 and Annex 5 is proportionate. The changes to the form and content of the market level profit and loss statements simplify it, so that BT's obligations do not extend beyond those necessary to demonstrate compliance with its obligations. The changes to the charge control statement will ensure that the extent and nature of BT's obligations reflect what is required for it to show compliance with its charge control obligations.

A1.25 As to the latter, BT is currently required to summarise the charge control cap and changes in average prices over the financial year. This means the RFS does not achieve its main objective of showing how BT has demonstrated compliance with its charge controls in the year because in monitoring charge controls a specified formula is used which is not necessarily consistent with the basis of preparation used for the information within the RFS.

A1.26 By showing a summary of the charge control data submitted to Ofcom by BT in the reporting year this objective will be better achieved because the information used has been extracted from compliance statements submitted by BT as required by the charge control conditions. The data within these statements has been prepared using the specified formula set out in the charge control. In addition this will not require BT to perform any additional reporting. (This is also relevant to the assessment of objective justification in A1.22 above).

Transparent in relation to what it is intended to achieve

A1.27 Ofcom considers that modifying Direction 4 and the Former FA10 Form and content Direction in the manner described in paragraph 3.47 to 3.53 and Annex 5 is transparent. Ofcom has explained and consulted on this change and has provided background explanatory material and evidence from other projects.

4) Wholesale Broadband Access Market Review

Legal tests

A1.28 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for setting the SMP conditions as set out in paragraphs 4.5 to 4.19 and Annex 2, and the modification of Directions 3 and 4 under SMP condition OA2 as proposed in paragraphs 4.5 to 4.19 and Annexes 4 and 5, are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this statement and in the WBA market review statement.

A1.29 Ofcom is also satisfied, as required by section 86 of the Act, that there has been no material change since the market power determinations set out in the WBA Market

Review Statement. Ofcom takes that view in light of the short time since it made those determinations

Section 3 and 4

A1.30 As part of the relevant EU market review process Ofcom decided wholesale cost accounting and accounting separation obligations (conditions and directions) should be imposed on BT and, in some cases, KCOM, in specific identified markets as appropriate remedies to their SMP in these markets. The relevant individual market reviews determined that these regulatory accounting obligations met the tests outlined in Sections 3 and 4 of the Act²⁵. This is set out, in particular, in paragraphs 5.282 – 5.285 (in respect of BT's cost accounting obligations in Market 1), 5.319 – 5.322 (BT's cost accounting obligations in Market 2) and 5.254 – 5.259 (BT's accounting separation obligations in Markets 1 and 2 and KCOM's in the Hull area) of the WBA market review statement. The changes to Directions 3 and 4 under SMP condition OA2 are designed to enable BT to effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and non-discrimination). In consequence Ofcom believes the amendments to Directions 3 and 4 under SMP condition OA2 meet the tests in Sections 3 and 4²⁶.

Section 47(2) tests in respect of BT's cost accounting obligations in WBA Market 1

A1.31 As we set out in paragraph 5.280 of the WBA market review statement, in particular, Ofcom considers that the imposition of a cost accounting obligation on BT in this market, as described in paragraph 4.5 to 4.19 and Annex 3 to this Statement is objectively justifiable to ensure the basis of charges and charge control obligations are met. The obligation does not discriminate unduly between providers, as it is imposed on BT and BT only in markets where it has been found to have SMP. It is proportionate because without such an obligation, it would not be clear that BT is meeting its obligations and it is transparent since its aims and effects described in the WBA market review statement are clear and the specific terms are made clear as a result of the February Consultation and this statement on BT's regulatory reporting obligations.

Section 47(2) tests in respect of BT's cost accounting obligations in WBA Market 2

A1.32 As set out in paragraph 5.317 of the WBA market review statement, in particular, we consider that the imposition of a cost accounting obligation on BT in this market, as described in paragraph 4.5 to 4.19 and Annex 3 above is objectively justifiable to ensure BT's basis of charges and charge control obligations are met. The obligation does not discriminate unduly between providers, as it is imposed on BT and BT is the only provider with SMP in Market 2. It is proportionate because without such an obligation, it would not be clear that BT is meeting its obligations and it is transparent since its aims and effects described in the WBA market review statement are clear and the specific terms are made clear in the February Consultation and this statement on BT's regulatory reporting obligations.

²⁵ And they also considered applicable recommendations issued by the European Commission under A.19(1) of the framework Directive.

²⁶ And, as far as applicable, after 26 May 2011, in Section 4A of the Act.

Section 47(2) tests in respect of BT's accounting separation obligations in WBA Market 1 and 2 and KCOM's in the Hull area

- A1.33 As set out in paragraph 5.255 of the WBA market review statement, in particular, Ofcom believes that, given the importance of non-discrimination in these markets, the imposition of an accounting separation obligation on BT and KCOM in these markets, as described in paragraph 4.5 to 4.19 and Annex 3 above, is objectively justifiable. That is, in order to ensure that the obligation not to discriminate unduly is met and the benefits thereof are realised, it is essential that Ofcom and competitors to BT and KCOM are able to monitor the obligations via an accounting separation obligation.
- A1.34 As we went on to say in the WBA market review statement, the obligation does not discriminate unduly between providers, as it is imposed on BT and KCOM only in markets where they have been found to have SMP, and they are the only operators with SMP in these markets. It is proportionate as it is necessary as a mechanism to allow Ofcom and third parties to monitor for discriminatory behaviour by BT and KCOM, whilst not being more intrusive than necessary with respect to their business to achieve its purpose effectively. It is transparent as it is clear that the intention is to allow Ofcom and third parties to monitor compliance with specific remedies (in particular the obligation not to unduly discriminate) imposed to address BT's SMP in Market 1 and Market 2 and KCOM's SMP in the Hull Area.
- A1.35 And, as we also said in paragraph 5.257 of the WBA market review statement, in particular, the imposition of an accounting separation obligation is specifically justifiable and proportionate in order to ensure the provision of Network Access by BT and KCOM on a non-discriminatory basis in order to promote competition in relation to the provision of electronic communications networks and services for the maximum benefit of the persons who are customers of CPs. This is because the imposition of an accounting separation obligation will ensure that obligations designed to curb potentially damaging leverage of market power can be effectively monitored and enforced. This is particularly important where there are adjacent geographic markets with different competitive conditions, as in this case. This is because the SMP operator could try to recover some of the cost incurred in these adjacent markets in the market where it holds SMP, thus undermining the prospects of competition in the adjacent markets. The accounting separation obligation will allow Ofcom to monitor the profitability of the SMP provider in the market in which it has SMP.

Section 49(2) tests

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

- A1.36 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 4.5 to 4.19 and Annexes 4 and 5 is objectively justifiable. The changes are necessary to reflect our findings that BT has SMP in Markets 1 and 2, and for it to demonstrate compliance with the obligations imposed on it in consequence of those findings. BT will report relevant market information including revenues, fully allocated costs (FAC), and incremental costs (LRIC). This will follow the form and content applicable in other markets (save in so far as information will be presented on an EOI basis).

Not unduly discriminatory against particular persons or against a particular description of services

A1.37 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 4.5 to 4.19 and Annexes 4 and 5 is not unduly discriminatory. BT is the only communications provider with SMP in WBA Markets 1 and 2, and the only provider whose reporting obligations need amending in light of the WBA market review. In relation to KCOM, the only other communications provider with similar obligations, its reporting requirements are not affected by the changes resulting from the WBA market review (as set out elsewhere in this statement).

Proportionate to what it is intended to achieve

A1.38 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 4.5 to 4.19 and Annexes 4 and 5 is proportionate because it is the minimum necessary to ensure the RFS remains fit for purpose and adequately reflects the outcome of the relevant market review.

A1.39 That is, we have considered that Ofcom's decisions that BT has SMP in the relevant markets, and that cost accounting and accounting separation obligations should be imposed, were made in the second half of the 2010-2011 reporting year. We have therefore also considered whether the Directions relating to the RFS should relate only to part of that reporting year. We do not consider that they should, and that obligations relating to the full reporting year (and any future reporting years) are proportionate for the following reasons.

A1.40 It is necessary to ensure that BT reports on the relevant services in the relevant markets, so Ofcom can in turn ensure BT is complying with its SMP obligations. To verify that it is doing so even for the second half of the 2010-2011 reporting year would, it appears to Ofcom, require the provision of information for the whole year. It would be necessary to have that information so as to provide a reconciliation with the information for a more limited period, because verification would be needed to ensure the part year data has been properly extracted from BT's accounting systems.

A1.41 Further, it appears to us that separating out relevant information for only the second part of the 2010 – 2011 reporting year would require at least the same, if not a greater amount of, work as providing information for the whole year. This is because additional assumptions and data capture would be necessary for a part year representation of the costs, revenues and mean capital employed of these services. And, in any event, the extent, form and content of BT's obligations (reporting relevant market information including revenues, fully allocated costs (FAC), and incremental costs (LRIC)) will only follow, not go beyond, that applicable in other markets.

A1.42 In addition, we take account of the fact that the relevant obligations would likely continue in place for the whole 2011 – 2012 reporting year, and possibly future years. The obligations imposed by the Directions also reflect what would be the extent of BT's future obligations. And, information in the RFS for the whole year 2010 – 2011 would provide a useful reference point for the level of charges that BT will be using in the 2011 – 2012 reporting year.

A1.43 Nonetheless, we take account of what BT has told us (see paragraphs 4.15 and 4.16 of the February Consultation). We accept that, for the two relevant WBA

markets, the preparation of FAC and LRIC service cost data may be prepared using offline analysis, and that where this is the case, BT will indicate in a note to the RFS that further costing analysis has been carried out and cross refer to supporting documentation that will explain how this has been done. We regard this as acceptable provided BT meets its obligations created by the relevant SMP conditions and the relevant Directions. Similarly, BT will present certain information on a less onerous EOI basis.

Transparent in relation to what it is intended to achieve

A1.44 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 4.5 to 4.19 and Annexes 4 and 5 is transparent. Ofcom has explained and consulted on this change and has provided background explanatory material and evidence from other projects.

5) Review of Local Tandem Conveyance and Single Transit on fixed public narrowband networks

Legal tests

A1.45 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Directions 3 and 4 under SMP condition OA2, as set out in paragraphs 4.20 to 4.28 and Annexes 4 and 5, are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this statement.

Section 3 and 4

A1.46 As part of a relevant EU market review process (the Fixed Narrowband Wholesale Services market review) Ofcom revoked wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in the Local Tandem conveyance and transit market. As part of another relevant EU market review process (the Fixed Narrowband Further Statement) Ofcom revoked wholesale cost accounting obligations (conditions and directions) on BT in the Single Transit market, but decided that accounting separation obligations (conditions and directions) on BT should remain in that market. The relevant individual market reviews determined that these steps met the tests outlined in Sections 3 and 4 of the Act²⁷. The changes to Directions 3 and 4 under SMP condition OA2 are designed to ensure BT does not have to demonstrate compliance with obligations that justifiably no longer exist, but also to enable BT to more effectively fulfil the purpose for which the remaining obligations were imposed (i.e. demonstrate non-discrimination). In consequence, Ofcom believes the amendments to Directions 3 and 4 under SMP condition meet the tests in Sections 3 and 4²⁸.

Section 49(2) tests

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

A1.47 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 4.20 to 4.28 and Annexes 4 and 5 is objectively

²⁷ And they also considered applicable recommendations issued by the European Commission under A.19(1) of the framework Directive.

²⁸ And, as far as applicable, after 26 May 2011, in Section 4A of the Act.

justifiable. The changes are necessary to reflect our findings in the Fixed Narrowband Wholesale market review and Fixed Narrowband Further Statement: to remove obligations that should no longer exist as a result of both and for BT to demonstrate compliance with the obligations that remain on it as a result of the latter.

Not unduly discriminatory against particular persons or against a particular description of services

A1.48 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 4.20 to 4.28 and Annexes 4 and 5 is not unduly discriminatory. BT is the only communications provider which has, or had, SMP obligations that are affected by the changes resulting from the Fixed Narrowband Wholesale market review and Fixed Narrowband Further Statement.

Proportionate to what it is intended to achieve

A1.49 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 4.20 to 4.28 and Annexes 4 and 5 is proportionate. The changes will ensure that BT's obligations require no more of it than is necessary for it to show compliance with the remaining accounting obligations, and do not extend beyond the obligations that remain in place. The changes are necessary to ensure the RFS remains fit for purpose and adequately reflect the market review.

Transparent in relation to what it is intended to achieve

A1.50 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 4.20 to 4.28 and Annexes 4 and 5 is transparent. Ofcom has explained and consulted on this change and has provided background explanatory material and evidence from other projects.

Annex 2

SMP Service Market Tables

For ease of reference we have reproduced a current consolidated version of the tables setting out the markets for which BT and KCOM are required to prepare regulatory financial reports and the respective regulatory reporting rules that apply to those markets.²⁹

These markets were first identified in the notifications set out in Annex 2 and Annex 3 of “The regulatory financial reporting obligations on BT and Kingston Communications Final statement and notification”, issued on 22 July 2004 (the “July 2004 Notification”).

However, the July 2004 Notification has been amended on a number of occasions, in particular as a result of a number of further market reviews we have completed since July 2004, most particularly:

- The review of wholesale international services markets
Statement of 7 July 2006 available at <http://www.ofcom.org.uk/consult/condocs/wsidd/statement/statement.pdf>
Please refer to the notification at page 14
- The review of the wholesale broadband access markets
Statement of 21 May 2008 available at <http://www.ofcom.org.uk/consult/condocs/wbamr07/statement/statement.pdf>
Please refer to the notification at page 55
- The business connectivity market review
Statements of 8 December 2008 and 13 February 2009 available at <http://www.ofcom.org.uk/consult/condocs/bcmr08/bcmr08.pdf>
<http://www.ofcom.org.uk/consult/condocs/bcmr08/statement/statement.pdf>
Please refer to the notification at page 364 of the 8 December 2008 statement
- The review of the fixed narrowband services wholesale markets
Statement of 15 September 2009 and 5 February 2010 available at http://www.ofcom.org.uk/consult/condocs/wnmr_statement_consultation/main.pdf
http://www.ofcom.org.uk/consult/condocs/wnmr_statement_consultation/statement
Please refer to the notification at page 235 of the 15 September 2009 Statement and the notification at page 65 of the 5 February 2010 Statement
- The review of the fixed narrowband retail services markets
Statement of 15 September 2009 available at http://www.ofcom.org.uk/consult/condocs/retail_markets/statement/statement.pdf
Please refer to the notification at page 96

²⁹ It is recommended that you consult the relevant notification(s) for the SMP services conditions as these contain an explanation of the reasons for the decision to amend and the specific modifications that have been made. While every reasonable effort is made to ensure that the information provided in the tables is accurate, no guarantees for the currency or accuracy of information are made. The original notification and the subsequent modifying notifications are signed by an authorised person, and the definitive version is that which has been so signed and which is the original printed version held by Ofcom. For the avoidance of doubt, in the case of any difference between texts, the signed version held by Ofcom shall take precedence over the electronic or printed version.

- The review of the wholesale local access market, statement of 7 October 2010 available at http://stakeholders.ofcom.org.uk/binaries/consultations/wla/statement/WLA_statement.pdf
Please refer to the notification at page 199

It should be noted that the July 2004 Notification is also further be amended by the Notification at Annex [] to this document arising out of the review of wholesale broadband access markets, statement of 3 December 2010 available at <http://stakeholders.ofcom.org.uk/consultations/wba/wba-statement/>. The July 2004 Notification may also be amended as well as by future market reviews.

BT

- BT's regulatory financial reporting obligations are as follows:
 - (a) in respect of the wholesale markets:
 - (i) numbered 1, 4, 6, 7, 9, 10, 12,13 and 14 to 17 and 17a set out in Table 1 below SMP services conditions as set out in Schedule 2 of the July 2004 Notification, excluding conditions OA29 to OA31 and OA34;
 - (ii) numbered 5 set out in the Table 1 below, SMP services conditions as set out in Schedule 2 of the July 2004 Notification, excluding subparagraphs (a) to (c) and (f) of condition OA23, conditions OA29 to OA31, and condition OA34; and
 - (b) in respect of the retail market set out in Table 2 below, SMP services conditions as set out in Schedule 2 to the July 2004 Notification, excluding subparagraphs (b), (d) and (e) of condition OA23, conditions OA26 to OA28 and conditions OA32 to OA33.

Table 1: Wholesale Markets

Market identified and in which BT found to have SMP in previous Notification pursuant to section 79 of the Act	Date
1. Wholesale analogue exchange line services in the UK excluding the Hull Area	15.09.09 ³⁰
2.	
3.	
4. Wholesale ISDN2 exchange line services in the UK excluding the Hull Area	As above
5. Wholesale ISDN30 exchange line services in the UK excluding the Hull Area	As above ³¹
6. Wholesale call origination on a fixed narrowband network, in the UK excluding the Hull Area	As above ³²
7. Local-tandem conveyance and transit on fixed public telephone networks in the UK excluding the Hull Area (SMP conditions in Schedule 2 to be revoked from 31.07.10 for this market)	18.08.05
8.	
9. Single transit on fixed public narrowband networks in the UK excluding the Hull Area	5.02.10
10. Wholesale fixed geographic call termination on each individual network provided by BT	15.09.09
11.	
12. Wholesale Broadband Access in Market 1 as defined in OFCOM's Notification published on 3 December 2010	3.12.10
13. Wholesale Broadband Access in Market 2 as defined in OFCOM's Notification published on 3 December 2010	As above
14. Provision of traditional interface symmetric broadband origination with a bandwidth capacity up to and including eight megabits per second within the United Kingdom but not including the Hull Area	8.12.08
15. Provision of traditional interface symmetric broadband origination with a bandwidth capacity above eight megabits per second and up to and including forty five megabits per second within the UK but not including the Hull Area and the Central East London Area (as defined in OFCOM's notification published on 8 December 2008)	8.12.08
16. Provision of alternative interface symmetric broadband origination with a bandwidth capacity up to and including one gigabit per second within the United Kingdom but not including the Hull Area	8.12.08
17. Provision of wholesale trunk segments at all bandwidths within the UK	8.12.08
17a. Provision of traditional interface symmetric broadband origination with a bandwidth capacity above forty five megabits per second and up to and including one hundred and fifty five megabits per second within the United Kingdom but not including the Hull Area and the Central and East London Area (as defined in OFCOM's notification published on 8 December 2008)	8.12.08
18. Wholesale local access services within the UK, but not including the Hull Area	7.10.10

³⁰ Ofcom made a new market power determination in respect of this market on 20.12.10, but there was no amendment to this table. See the accompanying notification for the relevant SMP services conditions.

³¹ This should read "28.11.03." But, note that Ofcom made a new market power determination in respect of this market on 20.08.10, but there was no amendment to this table. See the accompanying notification for the relevant SMP services conditions.

³² This should read "15.09.09"

Table 2: Retail Markets

Market identified and in which BT found to have SMP in previous Notification pursuant to section 79 of the Act	Date
18.	
19.	
20.	
21.	
22.	
23.	
24.	
25. Provision of traditional interface retail leased lines up to and including a bandwidth capacity of eight megabits per second within the UK but not including the Hull Area	8.12.08

KCOM

KCOM's regulatory financial reporting obligations are as follows:

in respect of the wholesale markets:

- (i) numbered 1, 4, 6, and 7 set out in Table 1 below, SMP services conditions as set out in the July 2004 Notification, excluding conditions OB28 to OB30 and condition OB33;
- (ii) numbered 9 to 12 set out in Table 1 below, SMP services conditions as set out in the July 2004 Notification, excluding conditions (d) and (e) of condition OB23, conditions OB28 to OB31 and condition OB33; and
- (iii) numbered 5 and 8 set out in Table 1 below, SMP services conditions as set out in the July 2004 Notification, excluding (a) to (c) and (f) of condition OB23, conditions OB28 to OB30 and condition OB33.

Table 1: Wholesale Markets

Market identified and in which Kingston found to have SMP in previous Notification pursuant to section 79 of the Act	Date
1. Wholesale analogue exchange line services in the Hull Area	15.9.09 ³³
2.	
3.	
4. Wholesale ISDN2 exchange line services in the Hull Area	As above
5. Wholesale ISDN30 exchange line services in the Hull Area	As above ³⁴
6. Wholesale call origination on a fixed narrowband network, in Hull Area	As above ³⁵
7. Wholesale fixed geographic call termination on each individual network provided by KCOM ³⁶	15.9.09
8. Wholesale Broadband Access in the Hull Area	3.12.10
9. Provision of traditional interface symmetric broadband origination with a bandwidth capacity up to and including eight megabits per second within the Hull Area	8.12.08
10. Provision of traditional interface symmetric broadband origination with a bandwidth capacity above eight megabits per second and up to and including forty five megabits per second within the Hull Area	8.12.08
11. Provision of traditional interface symmetric broadband origination with a bandwidth capacity above forty five megabits per second and up to and including one hundred and fifty five megabits per second within the Hull Area	8.12.08
12. Provision of alternative interface symmetric broadband origination with a bandwidth capacity of up to and including one gigabit per second within the Hull Area	8.12.08

³³ Ofcom made a new market power determination in respect of this market on 20.12.10, but there was no amendment to this table. See the accompanying notification for the relevant SMP services conditions.

³⁴ This should read "28.11.03". But, note that Ofcom made a new market power determination in respect of this market on 20.08.10, but there was no amendment to this table. See the accompanying notification for the relevant SMP services conditions.

³⁵ This should read "15.09.09"

³⁶ Note that the obligation to prepare RFS only relates to Wholesale fixed geographic call termination on each individual network provided by KCOM in the Hull Area.

Table 2: Retail Markets

None

Annex 3

Notification to BT and KCOM

Notification under section 48(1) and 86 of the Communications Act 2003

Setting of SMP services conditions on BT and KCOM under section 45 of the Communications Act 2003 in relation to their regulatory accounting obligations in respect of various markets

Background

1. On 3 December 2010, the Office of Communications (“OFCOM”) published a statement entitled *Review of the wholesale broadband access markets - Statement on market definition, market power determinations and remedies* (the “2010 WBA Statement”) identifying a number of markets for the purpose of making market power determinations and setting SMP services conditions.
2. At Annex 1 of the 2010 WBA Statement OFCOM published a notification identifying, in accordance with section 79 of the Communications Act 2003 (the “Act”), certain services markets including “wholesale broadband access provided in Market 1” and “wholesale broadband access provided in Market 2” in relation to both of which OFCOM determined that BT has significant market power, and “wholesale broadband access provided in the Hull area” in relation to which OFCOM determined that KCOM has significant market power.
3. As a result of these market power determinations, in accordance with section 48(1) of the Act, OFCOM set on BT and KCOM the SMP services conditions set out in Schedules 1 to 3 to Annex 1 of the 2010 WBA Statement.
4. In the 2010 WBA Statement, OFCOM also decided to impose a cost accounting and accounting separation obligation on BT, both in relation to the “wholesale broadband access provided in Market 1” and the “wholesale broadband access provided in Market 2” markets, and an accounting separation obligation on KCOM in relation to the “wholesale broadband access provided in the Hull area” market, and set out the reasons for doing so.
5. On 22 July 2004, Ofcom published a statement entitled *The Regulatory Financial Reporting Obligations on BT and Kingston Communications – Final Statement and Notification* (the “2004 Regulatory Accounting Notification”), which imposed various regulatory financial reporting obligations on BT and KCOM, and which has subsequently been amended on various occasions.
6. In the 2010 WBA Statement, OFCOM explained that the legal instrument for imposing the cost accounting and accounting separation conditions (referred to in paragraph 4 above) would be notified in the consultation *Changes to BT and KCOM's regulatory and financial reporting – 2010/2011 update* (the “2010/2011 reporting consultation”) which would propose to further amend the 2004 Regulatory Accounting Notification and would be published on the same day.

7. On 16 February 2011 Ofcom published the 2010/2011 reporting consultation. In Annex 8 of that document, OFCOM made, in accordance with section 48(2) of the Act, the following proposal to modify:
 - i. The Notification to BT dated 22 July 2004 setting SMP services conditions on BT in relation to regulatory accounting in various markets (as modified); and
 - ii. The Notification to KCOM dated 22 July 2004 setting SMP services conditions on KCOM in relation to regulatory accounting in various markets (as modified).
8. By proposing to modify the notifications referred to in paragraph 7 above, OFCOM was proposing to set SMP services conditions on BT and KCOM by a notification which does not also make the market power determination by reference to which the conditions are set. Ofcom set out the 2010/2011 reporting consultation that, in accordance with section 86(1) of the Act, it was satisfied that there had been no material change in the markets referred to in paragraph 2 since the market power determinations referred to in the same paragraph were made.
9. The proposed modifications to the 22 July 2004 Notifications to BT and KCOM were set out in Annexes A and B to Annex 8 of the 2010/2011 reporting consultation (which were in the same terms as Annexes A and B to this Notification).
10. The effect of the proposal, and the reasons for making it, were (and are) set out in the 2010/2011 reporting consultation and in the 2010 WBA Statement.
11. In accordance with section 50 of the Act, Ofcom sent copies of the notification of the proposal to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State.
12. On 31 March 2011 the consultation period for the 2010/2011 reporting consultation closed. Ofcom received responses from communications providers and other stakeholders and a response from the European Commission to the notification of the proposal to it. The Secretary of State has not notified OFCOM of any relevant international obligation of the United Kingdom. Ofcom has carefully considered all responses received.

Decisions

13. OFCOM hereby makes, in accordance with sections 48(1) and 86 of the Act, the following decisions for the setting of SMP services conditions.
14. Ofcom sets with effect from the date of this Notification SMP conditions on BT and KCOM by way of the modifications to the 22 July 2004 Notifications to BT and KCOM set out in Annexes A and B to this Notification.
15. The effect of the decisions, and Ofcom's reasons for making them, were (and are) set out in the 2010/2011 reporting consultation, in the 2010 WBA Statement and in the explanatory statement accompanying this Notification.

Ofcom's duties and legal tests

16. Ofcom considers that the SMP services conditions referred to in paragraphs 13 and 14 above comply with the requirements of sections 45 to 50 and sections 78 to 92 of the Act, as appropriate and relevant to each such SMP services condition.

17. In making the decisions referred to in paragraphs 13 and 14 of this Notification OFCOM has considered and acted in accordance with its general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.
18. In addition, in making the decisions set out in the 2010 WBA Statement, Ofcom took due account of all applicable recommendations issued by the European Commission. Accordingly, in making the decisions to set the relevant SMP Conditions Ofcom has, so far as applicable after 26 May 2011, considered and acted in accordance with the requirements of section 4A of the Act.
19. In accordance with section 50 of the Act, copies of this Notification have been sent to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State.

Interpretation

20. In this Notification:
 - i. "BT" means British Telecommunications plc whose registered company number is 1800000, and any British Telecommunications plc subsidiary or holding company, or 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; and
 - ii. "KCOM" means KCOM Group plc whose registered company number is 2150618, and including 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.
21. For the purpose of interpreting this Notification:
 - iii. headings and titles shall be disregarded; and
 - iv. the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.
22. The Schedules to this Notification shall form part of this Notification.

Craig Lonie
Director of Competition Finance, Ofcom
A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002
2 June 2011

Annex A

The Notification to BT dated 22 July 2004 setting SMP services conditions on BT in relation to regulatory accounting in various markets as modified is hereby amended as follows:

1. In paragraph 4.a.i of the Notification, insert “12, 13” after the words “numbered 1, 4, 6, 7, 9, 10,”;
2. In paragraph 4.a.ii of the Notification, remove “,12 and 13” after the words “numbered 5”;
3. In Part 1 of Schedule 1 to the Notification, remove the reference in column 1 of paragraph 12 to “Wholesale Broadband Access in Market 1 as defined in OFCOM's Notification published on 21 May 2008” and replace it with “Wholesale Broadband Access in Market 1 as defined in OFCOM's Notification published on 3 December 2010” and remove the reference in column 2 of paragraph 12 to “21.05.08” and replace it with “3.12.10”; and
4. In Part 1 of Schedule 1 to the Notification, remove the reference in column 1 of paragraph 13 to “Wholesale Broadband Access in Market 2 as defined in OFCOM's Notification published on 21 May 2008” and replace it with “Wholesale Broadband Access in Market 2 as defined in OFCOM's Notification published on 3 December 2010”.

Annex B

The Notification to KCOM dated 22 July 2004 setting SMP services conditions on KCOM in relation to regulatory accounting in various markets as modified is hereby amended as follows:

1. In Part 1 of Schedule 1 to the Notification, remove the reference in column 2 of paragraph 8 to "21.05.08" and replace it with "3.12.10"

Annex 4

Notification of Modifications to Direction 3 (BT)

Notification under section 49 of the Communications Act 2003

Direction modifying a Direction under section 49 of the Communications Act 2003 and SMP services conditions OA2 specifying requirements for the preparation, audit and delivery of regulatory financial statements in respect of wholesale cost accounting, accounting separation and retail cost accounting

WHEREAS:

(A) as a result of a market analysis carried out by the Director General of Telecommunications (the 'Director') and OFCOM in accordance with section 79 of the Act, BT has been designated as having SMP in respect of certain identified markets in accordance with section 79 of the Act;

(B) as a result of such SMP designations, BT has been subjected to various SMP services conditions in accordance with sections 45 and 86 to 92 of the Act, including conditions OA1 to OA34 and FA10 imposing obligations on BT in respect of wholesale cost accounting, accounting separation and retail cost accounting in relation to BT's activities in those markets where BT has been designated as having SMP;

(C) the FA10 SMP services conditions have now been revoked in accordance with section 48 of the Act, but BT remains subject to the OA SMP services conditions;

(D) in complying with the OA SMP services conditions referred to in paragraphs B and C above, and in particular condition OA5, BT is required, amongst other things, to:

- a) prepare;
- b) secure an audit opinion in respect of;
- c) deliver to OFCOM (with the corresponding audit opinion); and
- d) publish (with the corresponding audit opinion),

the regulatory financial statements as directed by OFCOM from time to time.

(E) by virtue of the Transitional Provisions, references to the Director in any of those SMP services conditions should be read as references to OFCOM;

(F) condition OA2 includes, and FA10.2 included, in accordance with section 45(10) of the Act, the ability for OFCOM to make such directions as they consider appropriate from time to time in relation to BT's obligations under conditions OA1 to OA34 and FA10;

(G) Ofcom has made such directions under conditions OA2 and FA10.2 in relation to BT's obligations under conditions OA1 – OA 34 and FA10, although those made under condition FA10.2 now have force as if made under condition OA2 and are to be read accordingly;

(H) this modified Direction modifies Direction 3 which relates to BT's obligations under SMP services conditions OA1 to OA34, in that it sets out amendments to the regulatory financial statements which are required to be prepared, audited (including the level of audit), delivered to OFCOM and/or published by BT under condition OA5.

(I) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM are satisfied that, in accordance with section 49(2) of the Act, this Direction is:

- i. objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- ii. not such as to discriminate unduly against particular persons or against a particular description of persons;
- iii. proportionate to what it is intended to achieve; and
- iv. in relation to what it is intended to achieve, transparent;

(J) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM have considered and acted in accordance with the six Community requirements set out in section 4 of the Act and (to the extent applicable) that in section of 4A of the Act and their duties in section 3 of the Act;

(K) on 16 February 2011, OFCOM published a notification of the proposed modified Direction in accordance with section 49 of the Act (the 'First Notification');

(L) a copy of the First Notification was sent to the Secretary of State, the European Commission and the regulatory authorities at every other Member State in accordance with section 50 of the Act;

(M) in the First Notification and accompanying explanatory statement OFCOM invited representations about any of the proposals therein by 5pm on 31 March 2011;

(N) by virtue of section 49(9) of the Act, OFCOM may give effect to the proposal set out in the First Notification, with or without modification, only if:

- i. they have considered every representation about the proposal that is made to them within the period specified in the First Notification; and
- ii. they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;

(O) OFCOM has considered every representation about the proposed modified Direction duly made to them and these representations and any modification made to the proposal in the First Notification are discussed in the statement accompanying this modified Direction; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

NOW, therefore, pursuant to section 49 of the Act and services condition OA2, OFCOM hereby gives the following modification to Direction 3:

1. Direction 3 shall be modified as set out in Annex A to this modified Direction.
2. For the purpose of interpreting this modified Direction, the following definitions shall apply:
 - a) "Act" means the Communications Act 2003 (c. 21);
 - b) "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;
 - c) "Direction 3" means the Original Direction 3 and the following modifying Directions: at Annex 2 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 3 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 4 of *BT's regulatory financial reporting requirements dated 30 May 2007*; at Annex 4 of *Changes to BT's 2007/08 regulatory financial statement, dated 26 June 2008*; at Annex 4 of *Changes to BT and KCOM's regulatory financial reporting – 2008/09 update, dated 15 June 2009*; and at Annex 3 of *Changes to BT and KCOM's regulatory financial reporting – 2009/10 update, dated 4 June 2010*, which relates to BT's obligations under SMP services conditions OA1 to OA34, in that it sets out requirements for the preparation, audit and delivery of regulatory financial statements in respect of wholesale cost accounting, accounting separation and retail cost accounting;
 - d) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - e) "Notification" means the notifications which set in place the obligations on BT referred to in recital (B) of this modified Direction above;
 - f) "Original Direction 3" means the Direction given under SMP services condition OA2 at Annex 4 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*;
 - g) "OFCOM" means the Office of Communications;
 - h) "Transitional Provisions" means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003, and the Office of Communications Act 2002 (Commencement No. 3) and Communications Act 2003 (Commencement No. 2) Order 2003.
3. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this notification and otherwise any word or expression shall have the same meaning as it has in the Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
4. For the purpose of interpreting this modified Direction:
 - a) headings and titles shall be disregarded; and
 - b) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

5. This Direction shall take effect on the day it is published.
6. The Annexes to this modified Direction shall form part of this modified Direction.

Craig Lonie
Director of Competition Finance, Ofcom
A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of
Communications Act 2002
2 June 2011

Annex A

Direction 3 is modified as shown below in that the words underlined are inserted and the words struck through are deleted.

		Call origination on fixed public narrowband networks	WS Call originating local exchange segment PSTN and ISDN (excluding Operator Assistance)	WS Call originating local exchange segment (incl Operator Assistance)	WS Call originating local exchange segment ISDN (including Operator Assistance)	WS Call originating local exchange segment PSTN and ISDN (incl Operator Assistance)	WS Call origination local exchange Stick	WS Call origination local exchange Stick (ISDN)	WS local exchange Call origination circuit excluding FRIACO port	Local tandem conveyance and transit on fixed public narrowband networks	WS local tandem conveyance segment	WS local tandem conveyance segment (ISDN)	WS LTI Stick	WS LTI Stick (ISDN)	Single transit on fixed public narrowband networks	WS Single transit segment PSTN and ISDN
Annex 1	Statement by Ofcom	P								P					P	
Annex 2	Statement of responsibility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Annex 3	Consolidated performance summary	P								P					P	
Annex 4	Regulatory financial review	P								P					P	
Annex 5A	Attribution of Wholesale current costs	P	N	N	N	N	N	N	N	P	N	N	N	N	P	N
Annex 6A	Attribution of Wholesale Current Cost Mean Capital Employed	P	N	N	N	N	N	N	N	P	N	N	N	N	P	N
Annex 7	Financial performance in Access markets															
Annex 8	Financial performance in other wholesale SMP markets	P								P					P	
Annex 10	Market Group Financial Review	P								P					P	
Annex 11	Market summary															
Annex 12	Market summary														P	
Annex 13	Market summary (ToD)	P								P					P	
Annex 14	Market Level Financial Review	P								P					P	
Annex 15	Network Activity Statement	P								P					P	
Annex 16	Calculation of FAC based on component costs and usage factors	P								P					P	
Annex 17	BT Network Services Reconciliation	P								P					P	
Annex 19	BT Reconciliation Statement - P&L	P								P					P	
Annex 20	BT Reconciliation statement -MCE	P								P					P	
Annex 22	Notes to the Financial Statements	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Annex 23	Report of the Regulatory Auditors	P								P					P	
Annex 24	Price controls in wholesale markets	P								P					P	
Annex 25	Price controls in wholesale markets	P								P					P	

Note "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes a statement to be produced and provided to Ofcom but need not be published.

Note "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes a statement to be produced and provided to Ofcom but need not be published.		Technical areas	Point of Handover	Wholesale Broadband Access Market 1	WS service A	WS service B	Wholesale Broadband Access Market 2	WS service A	WS service B	Wholesale local access market	Wholesale service A	Wholesale service B etc	Wholesale business ISDN30 exchange line services	Wholesale service A
Annex 1	Statement by Ofcom	P		P			P			P			P	
Annex 2	Statement of responsibility	P	P	P	P	P	P	P	P	P	P	P	P	P
Annex 3	Consolidated performance summary	P		P			P			P			P	
Annex 4	Regulatory financial review	P		P			P			P			P	
Annex 5A	Attribution of wholesale current costs	P	N	P	N	N	P	N	N	P	N	N	P	N
Annex 6A	Attribution of wholesale current cost mean capital employed	P	N	P	N	N	P	N	N	P	N	N	P	N
Annex 7	Financial performance in Access markets	P		P			P			P			P	
Annex 8	Financial performance in other wholesale SMP markets													
Annex 10	Market Group Financial Review	P		P			P			P			P	
Annex 11	Market summary	P								P				
Annex 12	Market summary			P			P						P	
Annex 13	Market summary (ToD)													
Annex 14	Market Level Financial Review	P		P			P			P			P	
Annex 15	Network Activity Statement	P		P			P			P			P	
Annex 16	Calculation of FAC based on component costs and usage factors	P		P			P			P			P	
Annex 17	BT Network Services Reconciliation	P		P			P			P			P	
Annex 19	BT Reconciliation Statement - P&L	P		P			P			P			P	
Annex 20	BT Reconciliation statement -MCE	P		P			P			P			P	
Annex 22	Notes to the Financial Statements	P	P	P	P	P	P	P	P	P	P	P	P	P
Annex 23	Report of the Regulatory Auditors	P		P			P			P			P	
Annex 24	Price controls in wholesale markets	P		P			P			P			P	
Annex 25	Price controls in wholesale markets	P		P			P			P			P	

Note:"P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.	Alternative interface symmetric broadband origination in the UK excluding the Hull Area (up to and including 1Gbit)	WS service A	WS service B	WES/LES	BES	Technical areas	Point of Handover	Wholesale Broadband Access Market 1	wholesale service A	wholesale service B	Wholesale Broadband Access Market 2	wholesale service A	wholesale service B	Wholesale local access market	wholesale service A	wholesale service B etc
Annex 26 Additional Information by way of notes																
AI-1 Cost category analysis for network components, increments and common cost		N	N	N	N		N								N	N
AI-2 Summarised activity analysis of components		N	N	N	N		N								N	N
AI-3 Cost category analysis for network components and increments		N	N	N	N		N								N	N
AI-4 Summarised activity analysis for network components and increments		N	N	N	N		N								N	N
AI-5 Analysis by asset category and network activities		N	N	N	N		N								N	N
AI-6 CCA fixed asset movement statement		N	N	N	N		N								N	N
AI-7 Total mean capital employed and detailed activity analysis		N	N	N	N		N								N	N
AI-9 Detailed Network activity analysis of mean capital employed		N	N	N	N		N								N	N
AI-10 Graphs over time of the various raw indices, index weightings & composite indices	N						N								N	
AI-11 Estimated economic useful lives, valuation and depreciation basis etc	N						N								N	
AI-13 Total operating costs & mean capital employed costs for each plant group	N	N	N	N	N		N								N	N
AI-14 CPS set up costs and their recovery over time on a discounted cash flow basis																
AI-15 Provision of BT 'Data File'	N	N	N	N	N		N		N					N	N	N
AI-20 CCA information to allow Ofcom to re-calculate the RAV for copper assets	N	N	N	N	N		N							N	N	N
AI-21 Comprehensive analysis of the transfer charges	N	N	N	N	N		N		N					N	N	N
AI-22 Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue							N									
AI-23 Cost data for plant group to service for the PPC services and technical areas							P	P								
AI-24 Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis							N		N							
AI-25 Analysis of input costs from the business connectivity markets to downstream (retail) activities	N	N	N	N	N		N									
AI-26 Analysis of adjustments required to match costs and revenues and the separate identification of ECC and third party equipment and infrastructure costs where the revenues are required to be reported separately	P	P	P	P	P		P	P						P	P	P
AI-27 Analysis of adjustments to costs required to match costs and revenues and the separate identification of ECC and third party equipment and infrastructure costs where the revenues are required to be reported separately - ONLY TO BE PRODUCED IF AI-26 IS PREPARED BY ADJUSTING THE REVENUES	N	N	N	N	N		N							N	N	N
AI-28 Disclosure of NTS Retail and PRS Bad Debt Service information																

Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.		Call origination on fixed public narrowband networks	WS Call originating local exchange segment PSTN and ISDN (excluding Operator Assistance)	WS Call originating local exchange segment (incl Operator Assistance)	WS Call originating local exchange segment ISDN (including Operator Assistance)	WS Call originating local exchange segment PSTN and ISDN (incl Operator Assistance)	WS Call origination local exchange Stick	WS Call origination local exchange Stick (SDN)	WS local exchange Call origination circuit excluding FRIACO port	WS FRIACO port at the local exchange	WS PPP for FRIACO
		Annex 26	Additional Information by way of notes								
AI-1	Cost category analysis for network components, increments and common cost		N	N	N	N	N	N	N	N	N
AI-2	Summarised activity analysis of components		N	N	N	N	N	N	N	N	N
AI-3	Cost category analysis for network components and increments		N	N	N	N	N	N	N	N	N
AI-4	Summarised activity analysis for network components and increments		N	N	N	N	N	N	N	N	N
AI-5	Analysis by asset category and network activities		N	N	N	N	N	N	N	N	N
AI-6	CCA fixed asset movement statement		N	N	N	N	N	N	N	N	N
AI-7	Total mean capital employed and detailed activity analysis		N	N	N	N	N	N	N	N	N
AI-9	Detailed Network activity analysis of mean capital employed		N	N	N	N	N	N	N	N	N
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N									
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N									
AI-13	Total operating costs & mean capital employed costs for each plant group	N	N	N	N	N	N	N	N	N	N
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis										
AI-15	Provision of BT 'Data File'	N	N	N	N	N	N	N	N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets										
AI-21	Comprehensive analysis of the transfer charges	N	N	N	N	N	N	N	N	N	N
AI-22	Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue										
AI-23	Cost data for plant group to service for the PPC services and technical areas										
AI-24	Wholesale broadband access geographical analysis of costs and assets on a cost accounting and EOI basis										
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities										
AI-26	Analysis of adjustments required to match costs and revenues and the separate identification of ECC and third party equipment and infrastructure costs where the revenues are required to be reported separately										
AI-27	Analysis of adjustments to costs required to match costs and revenues and the separate identification of ECC and third party equipment and infrastructure costs where the revenues are required to be reported separately - ONLY TO BE PRODUCED IF AI-26 IS PREPARED BY ADJUSTING THE REVENUES										
AI-28	Disclosure of NTS Retail and PRS Bad Debt Service information	N P									

Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.		Local-tandem conveyance and transit on fixed public narrowband networks	WS-local-tandem conveyance segment	WS-local-tandem conveyance segment (SDN)	WS-LTT-Steek	WS-LTT-Steek (SDN)	Single transit on fixed public narrowband networks	WS Single transit segment PSTN and ISDN
Annex 26	Additional Information by way of notes							
AI-1	Cost category analysis for network components, increments and common cost	N	N	N	N	N		N
AI-2	Summarised activity analysis of components		N	N	N	N		N
AI-3	Cost category analysis for network components and increments		N	N	N	N		N
AI-4	Summarised activity analysis for network components and increments		N	N	N	N		N
AI-5	Analysis by asset category and network activities		N	N	N	N		N
AI-6	CCA fixed asset movement statement		N	N	N	N		N
AI-7	Total mean capital employed and detailed activity analysis		N	N	N	N		N
AI-9	Detailed Network activity analysis of mean capital employed		N	N	N	N		N
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N					N	
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N					N	
AI-13	Total operating costs & mean capital employed costs for each plant group	N	N	N	N	N	N	N
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis							
AI-15	Provision of BT 'Data File'	N	N	N	N	N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets							
AI-21	Comprehensive analysis of the transfer charges	N	N	N	N	N	N	N
AI-22	Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue							
AI-23	Cost data for plant group to service for the PPC services and technical areas							
AI-24	Wholesale broadband access geographical analysis of costs and assets on a cost accounting and EOI basis							
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities							
AI-26	Analysis of adjustments required to match costs and revenues and the separate identification of ECC and third party equipment and infrastructure costs where the revenues are required to be reported separately							
AI-27	Analysis of adjustments to costs required to match costs and revenues and the separate identification of ECC and third party equipment and infrastructure costs where the revenues are required to be reported separately - ONLY TO BE PRODUCED IF AI-26 IS PREPARED BY ADJUSTING THE REVENUES							
AI-28	Disclosure of NTS Retail and PRS Bad Debt Service information							

Annex 5

Notification of Modifications to Direction 4 and the Former FA10 Form and Content Direction (BT)

Notification under section 49 of the Communications Act 2003

Direction modifying Directions under section 49 of the Communications Act 2003 and SMP services condition OA2 specifying requirements for the form and content of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting

WHEREAS:

(A) as a result of a market analysis carried out by the Director General of Telecommunications (the 'Director') and OFCOM in accordance with section 79 of the Act, BT has been designated as having SMP in respect of certain identified markets in accordance with section 79 of the Act;

(B) as a result of such SMP designations, BT has been subject to various SMP services conditions in accordance with sections 45 and 86 to 92 of the Act, including conditions OA1 to OA34 and FA10 imposing obligations on BT in respect of wholesale cost accounting, accounting separation and retail cost accounting in relation to BT's activities in those markets where BT has been designated as having SMP;

(C) the FA10 SMP services conditions have now been revoked in accordance with section 48 of the Act, but BT remains subject to the OA SMP services conditions;

(D) in complying with the OA SMP services conditions referred to in paragraphs B and C above, and in particular condition OA5, BT is required to prepare such Regulatory Financial Statements as directed by OFCOM from time to time;

(E) by virtue of the Transitional Provisions, references to the Director in any of those SMP services conditions should be read as references to OFCOM;

(F) condition OA2 includes, and FA10.2 included, in accordance with section 45(10) of the Act, the ability for OFCOM to make such directions as they consider appropriate from time to time in relation to BT's obligations under conditions OA1 to OA34 and FA10;

(G) Ofcom has made such directions under conditions OA2 and FA10.2 in relation to BT's obligations under conditions OA1 – OA 34 and FA10, although those made under condition FA10.2 now have force as if made under condition OA2 and are to be read accordingly;

(H) this modified Direction modifies:

- i. Direction 4 which relates to BT's obligations under SMP services conditions OA1 to OA34, in that it sets out the form and content to be applied by BT in preparing certain

Regulatory Financial Statements required by virtue of condition OA5 and Direction 3;
and

- ii. the Former FA10 Form and Content Direction, in that it sets out the form and content to be applied by BT in preparing certain Regulatory Financial Statements that were required by virtue of condition FA10.5 and the FA10 Preparation, audit and delivery Direction, and are now required by condition OA5 and the Former FA10 Preparation, audit and delivery Direction;

(I) BT is entitled to depart from the form and content set out in this Direction in certain circumstances in accordance with conditions OA7 and OA21;

(J) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM are satisfied that, in accordance with section 49(2) of the Act, this Direction is:

- i. objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- ii. not such as to discriminate unduly against particular persons or against a particular description of persons;
- iii. proportionate to what it is intended to achieve; and
- iv. in relation to what it is intended to achieve, transparent;

(K) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM have considered and acted in accordance with the six Community requirements set out in section 4 of the Act and (to the extent applicable) that in section of 4A of the Act and their duties in section 3 of the Act;

(L) on 16 February 2011, OFCOM published a notification of the proposed modified Direction in accordance with section 49 of the Act (the 'First Notification');

(M) a copy of the First Notification was sent to the Secretary of State, the European Commission and the regulatory authorities at every other Member State in accordance with section 50 of the Act;

(N) in the First Notification and accompanying explanatory statement OFCOM invited representations about any of the proposals therein by 5pm on 31 March 2011;

(O) by virtue of section 49(9) of the Act, OFCOM may give effect to the proposal set out in the First Notification, with or without modification, only if:

- i. they have considered every representation about the proposal that is made to them within the period specified in the First Notification; and
- ii. they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;

(P) OFCOM has considered every representation about the proposed modified Direction duly made to them and these representations and any modification made to the proposal in the First Notification are discussed in the statement accompanying this modified Direction; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

NOW, therefore, pursuant to section 49 of the Act and condition OA2, OFCOM hereby gives the following modification to Direction 4 and the Former FA 10 Form and Content Direction:

1. The form and content of the Regulatory Financial Statements set out in Direction 4 shall be amended as follows in Annexes A and C to this modified Direction.
2. The form and content of the Regulatory Financial Statements set out in the Former FA10 Form and Content Direction shall be amended as follows in Annex B to this modified Direction.
3. For the purpose of interpreting this modified Direction, the following definitions shall apply:
 - a) "Act" means the Communications Act 2003 (c. 21);
 - b) "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;
 - c) "Direction 3" means the Original Direction 3 and the following modifying Directions: at Annex 2 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 3 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 4 of *BT's regulatory financial reporting requirements dated 30 May 2007*; at Annex 4 of *Changes to BT's 2007/08 Regulatory Financial Statement, dated 26 June 2008*; at Annex 4 of *Changes to BT and KCOM's regulatory financial reporting – 2008/09 update, dated 15 June 2009*; and at Annex 3 of *Changes to BT and KCOM's regulatory financial reporting – 2009/10 update, dated 4 June 2010*, which relates to BT's obligations under SMP services conditions OA1 to OA34, in that it sets out requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting;
 - d) "Direction 4" means the Original Direction 4 and the following modifying Directions: at Annex 3 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 4 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 5 of *BT's regulatory financial reporting requirements dated 30 May 2007*; at Annex 5 of *Changes to BT's 2007/08 Regulatory Financial Statement, dated 26 June 2008*; at Annex 5 of *Changes to BT and KCOM's regulatory financial reporting – 2008/09 update, dated 15 June 2009*; and at Annex 4 of *Changes to BT and KCOM's regulatory financial reporting – 2009/10 update, dated 4 June 2010*, which relates to BT's obligations in that it sets out the form and content to be applied by BT in preparing certain Regulatory Financial Statements required by virtue of condition OA5 and Direction 3;
 - e) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - f) "FA10 Form and Content Direction" means the Original FA10 Form and Content Direction and the following modifying Directions: at Annex 3 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 4 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 5 of *BT's regulatory financial reporting requirements dated 30 May 2007*; at Annex 5 of *Changes to BT's 2007/08 Regulatory Financial Statement, dated 26 June 2008*; at Annex 5 of *Changes to BT and KCOM's regulatory financial reporting – 2008/09 update, dated 15 June 2009*; and at Annex 4 of *Changes to BT*

and KCOM's regulatory financial reporting – 2009/10 update, dated 4 June 2010, which related to BT's obligations in that it set out the form and content to be applied by BT in respect of preparing certain Regulatory Financial Statements required by virtue of condition FA10.5 and the FA10 Direction Preparation, audit and delivery Direction;

- g) "Former FA10 Form and Content Direction" means the FA10 Form and Content Direction which, by virtue of the modification of SMP services condition OA2 at Schedule 3 of Annex 2 of the *Review of the Wholesale Local Access Market, dated 7 October 2010*, continues to have force under SMP services condition OA2 as if it was given under that condition and is to be read accordingly;
- h) "FA10 Preparation, audit and delivery Direction" means the Original FA10 Preparation, audit and delivery Direction and the following modifying Directions: at Annex 2 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 3 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 4 of *BT's regulatory financial reporting requirements dated 30 May 2007*; at Annex 4 of *Changes to BT's 2007/08 Regulatory Financial Statements, dated 26 June 2008*; at Annex 4 of *Changes to BT and KCOM's regulatory financial reporting – 2008/09 update, dated 15 June 2009*; and at Annex 3 of *Changes to BT and KCOM's regulatory financial reporting – 2009/10 update, dated 4 June 2010*, which related to BT's obligations under SMP services conditions FA10, in that it set out requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting;
- i) "Former FA10 Preparation, audit and delivery Direction" means the FA10 Preparation, audit and delivery Direction which, by virtue of the modification of SMP services condition OA2 at Schedule 3 of Annex 2 of the *Review of the Wholesale Local Access Market, dated 7 October 2010*, continues to have force under SMP services condition OA2 as if it was given under that condition and is to be read accordingly;
- j) "Notification" means the notifications which set in place the obligations on BT referred to in recital (B) of this modified Direction above;
- k) "Original Direction 3" means the Direction given under SMP services condition OA2 at Annex 4 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*;
- l) "Original Direction 4" means Direction 4 given under SMP services condition OA2 at Annex 4 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*;
- m) "Original FA10 Form and content Direction" means the Direction given under SMP services condition FA10.2 at Schedule 5 of Annex 2 of the *Review of the wholesale local access market, dated 16 December 2004*;
- n) "Original FA10 Preparation, audit and delivery Direction" means the Direction given under SMP services condition FA10.2 at Schedule 4 of Annex 2 of the *Review of the wholesale local access market, dated 16 December 2004*;
- o) "OFCOM" means the Office of Communications;

p) "Transitional Provisions" means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003, and the Office of Communications Act 2002 (Commencement No. 3) and Communications Act 2003 (Commencement No. 2) Order 2003.

4. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this notification and otherwise any word or expression shall have the same meaning as it has in the Notification and otherwise any word or expression shall have the same meaning as it has in the Act.

5. For the purpose of interpreting this modified Direction:

- a) headings and titles shall be disregarded; and
- b) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

6. This Direction shall take effect on the day it is published.

7. The Annexes to this modified Direction shall form part of this modified Direction.

Craig Lonie

Director of Competition Finance, Ofcom

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

2 June 2011

Annex A

The form and content of the Regulatory Financial Statements set out in Direction 4 shall be amended as shown below in that the words underlined are inserted, the words struck through are deleted and the services highlighted pink and green shall be amalgamated as indicated.

Annex 8

Financial performance in other wholesale SMP markets

Purpose of statement: to provide summary of financial performance in regulated wholesale markets, other than access markets

for the year ended 31 March 200x

	Turnover			HCA costs	CCA adjustments	Total CCA operating costs	Return	Return on turnover	Mean Capital Employed	Return on MCE
	Internal	External	Total							
Call origination on FPN networks	£	£	£	£	£	£	£	%	£	%
Local tandem conveyance and transit on FPN network	£	£	£	£	£	£	£	%	£	%
Single transit on FPN networks	£	£	£	£	£	£	£	%	£	%
Technical areas (interconnect circuits)	£	£	£	£	£	£	£	%	£	%
Fixed call termination	£	£	£	£	£	£	£	%	£	%
Wholesale trunk segments	£	£	£	£	£	£	£	%	£	%
Wholesale IDD to category B	£	£	£	£	£	£	£	%	£	%
Asymmetric Broadband origination	£	£	£	£	£	£	£	%	£	%
Technical areas (point of handover)	£	£	£	£	£	£	£	%	£	%
<u>Wholesale Broadband Access (Market 1)</u>	<u>£</u>	<u>£</u>	<u>£</u>	<u>£</u>	<u>£</u>	<u>£</u>	<u>£</u>	<u>%</u>	<u>£</u>	<u>%</u>
<u>Wholesale Broadband Access (Market 2)</u>	<u>£</u>	<u>£</u>	<u>£</u>	<u>£</u>	<u>£</u>	<u>£</u>	<u>£</u>	<u>%</u>	<u>£</u>	<u>%</u>
	£	£	£	£	£	£	£	%	£	%

for the year ended 31 March 200y

	Turnover			HCA costs	CCA adjustments	Total CCA operating costs	Return	Return on turnover	Mean Capital Employed	Return on MCE
	Internal	External	Total							
Call origination on FPN networks	£	£	£	£	£	£	£	%	£	%
Local tandem conveyance and transit on FPN network	£	£	£	£	£	£	£	%	£	%
Single transit on FPN networks	£	£	£	£	£	£	£	%	£	%
Technical areas (interconnect circuits)	£	£	£	£	£	£	£	%	£	%
Fixed call termination	£	£	£	£	£	£	£	%	£	%
Wholesale trunk segments	£	£	£	£	£	£	£	%	£	%
Wholesale IDD to category B	£	£	£	£	£	£	£	%	£	%
Asymmetric Broadband origination	£	£	£	£	£	£	£	%	£	%
Technical areas (point of handover)	£	£	£	£	£	£	£	%	£	%
Wholesale Broadband Access	£	£	£	£	£	£	£	%	£	%
	£	£	£	£	£	£	£	%	£	%

Annex 11

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Summary

	Internal Sales £m	External Sales £m	Rounding £m	Turnover (see note 1) £m	Operating costs £m	HCA Depreciation £m	Holding (gain)/loss £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

	Non-discrimination				Cost orientation				
	Internal Sales £m	External Sales £m	Turnover £m	Volume Unit	Average price £	FAC (see Section 5) £	Indicative LRIC floors & ceilings as multiple of FAC	Average price/FAC	
for the year ended 31 March 200x									
Service									
Service 1 Internal	£		£	x	£	£	x.xx	x.xx	
Service 1 External		£	£	x	£	£	x.xx	x.xx	
Service 2 Internal	£		£	x	£	£	x.xx	x.xx	
Service 2 External etc									
Provisions and other accounting adjustments	£	£	£						
Unidentified immaterial services	£	£	£						
Impact of differences between calculated and ledgered volumes	£	£	£						
Other	£	£	£						
for the year ended 31 March 200y									
Service									
Service 1 Internal	£		£	x	£	£	x.xx	x.xx	
Service 1 External		£	£	x	£	£	x.xx	x.xx	
Service 2 Internal	£		£	x	£	£	x.xx	x.xx	
Service 2 External etc									
Provisions and other accounting adjustments	£	£	£						
Unidentified immaterial services	£	£	£						
Impact of differences between calculated and ledgered volumes	£	£	£						
Other	£	£	£						

Annex 11

Wholesale Broadband Access - Market 1

(BT is the only operator)

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Statement view based on EOI services purchased from Openreach

Summary

	Internal Sales £m	External Sales £m	Turnover (see note 1) £m	HCA Operating costs inc EOI £m	HCA Depreciation £m	Holding (gain)/loss £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs inc EOI £m	Return inc EOI £m	Mean capital employed £m	Return on mean capital employed
2011		£	£	£	£	£	£	£	£	£	£	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

	Non-discrimination				Cost orientation			
	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudite d LRIC Floor	Unaudited LRIC Ceiling	Average price/FAC
for the year ended 31 March 2011								
Service								
<u>Internal End user access connection</u>								
- EOI					£ (a)	£ (a)	£ (a)	
- WBA Input					£	x.xx	x.xx	
	£	x	conns	£	£	x.xx	x.xx	x.xx
<u>External user access connection</u>								
- EOI					£ (a)	£ (a)	£ (a)	
- WBA Input					£	x.xx	x.xx	
	£	x	conns	£	£	x.xx	x.xx	x.xx
<u>External Datastream End user access Rental</u>								
- EOI					£ (a)	£ (a)	£ (a)	
- WBA Input					£	x.xx	x.xx	
	£	x	rentals	£	£	x.xx	x.xx	x.xx
<u>Internal IPstream Connect End user access Rental</u>								
- EOI					£ (a)	£ (a)	£ (a)	
- WBA Input					£	x.xx	x.xx	
	£	x	rentals	£	£	x.xx	x.xx	x.xx
<u>External IPstream Connect End user access Rental</u>								
- EOI					£ (a)	£ (a)	£ (a)	
- WBA Input					£	x.xx	x.xx	
	£	x	rentals	£	£	x.xx	x.xx	x.xx
<u>External Datastream Virtual Paths</u>								
- EOI					£ (a)	£ (a)	£ (a)	
- WBA Input					£	x.xx	x.xx	
	£	x	x	£	£	x.xx	x.xx	x.xx

(a) EOI cost inputs relate to the purchase of EOI services from Openreach.

Annex 11

Wholesale Broadband Access - Market 1 (continued)

(BT is the only operator)

Statement view based on EOI services purchased from Openreach

	←		↔		→				
	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudited LRIC Floor	Unaudited LRIC Ceiling	Average price/FAC	
for the year ended 31 March 2011									
Service									
<u>Internal IPstream Connect Bandwidth</u>									
- EOI					£ (a)	£ (a)	£ (a)		
- WBA Input					£	x.xx	x.xx		
	£	x	Gbit	£	£	x.xx	x.xx	x.xx	
<u>External IPstream Connect Bandwidth</u>									
- EOI					£ (a)	£ (a)	£ (a)		
- WBA Input					£	x.xx	x.xx		
	£	x	Gbit	£	£	x.xx	x.xx	x.xx	
<u>Internal Ancillary and Other Charges</u>									
- EOI									
- WBA Input	£				(b)				
<u>External Ancillary and Other Charges</u>									
- EOI									
- WBA Input	£				(b)				
	£								
	£								

(a) EOI cost inputs relate to the purchase of EOI services from Openreach.
 (b) This service comprises a number of individual prices and volumetrics.

Annex 11

AISBO Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Alternative interface symmetric broadband origination (up to and including 1Gbit)

Summary

	Internal Sales £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	HCA Depreciation £m	Holding (gain)/loss £m	Supplementar y depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

	Non-discrimination			Cost orientation				
	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC
for the year ended 31 March 200x								
Service								
Wholesale Extension Services (WES)								
<u>Rental</u>								
Internal WES 10 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
External WES 10 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
			y					
Internal WES 100 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
External WES 100 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
			y					
Internal WES 1000 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
External WES 1000 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
			y					
Internal WES other bandwidth	£		y x	£	£	x.xx	x.xx	x.xx
External WES other bandwidth	£		y x	£	£	x.xx	x.xx	x.xx
			y					
<u>Connection</u>								
Internal WES 10 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
External WES 10 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
			y					
Internal WES 100 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
External WES 100 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
			y					
Internal WES 1000 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
External WES 1000 Mbits	£		y x	£	£	x.xx	x.xx	x.xx
			y					
Internal WES other bandwidth	£		y x	£	£	x.xx	x.xx	x.xx
External WES other bandwidth	£		y x	£	£	x.xx	x.xx	x.xx
			y					
Backhaul Extension Services (BES)								
<u>Rental</u>								
External BES 100 Mbit/s	£		y x	£	£	x.xx	x.xx	x.xx
External BES 1000 Mbit/s	£		y x	£	£	x.xx	x.xx	x.xx
External BES other bandwidth	£		y x	£	£	x.xx	x.xx	x.xx
<u>Connection</u>								
External BES	£		y x	£	£	x.xx	x.xx	x.xx
External BES 100 Mbit/s	£		y x	£	£	x.xx	x.xx	x.xx
External BES 1000 Mbit/s	£		y x	£	£	x.xx	x.xx	x.xx
External BES other bandwidth	£		y x	£	£	x.xx	x.xx	x.xx

BT and KCOM's regulatory financial reporting

Ethernet Backhaul Direct (EBD)

Rental

External EBD all bandwidths	£	y x	£	£	x.xx	x.xx	x.xx
-----------------------------	---	-----	---	---	------	------	------

Connection

External EBD all bandwidths	£	y x	£	£	x.xx	x.xx	x.xx
-----------------------------	---	-----	---	---	------	------	------

Ethernet Access Direct (EAD)

Rental

Internal EAD all bandwidth	£	y x	£	£	x.xx	x.xx	x.xx
----------------------------	---	-----	---	---	------	------	------

External EAD all bandwidth	£	y x	£	£	x.xx	x.xx	x.xx
----------------------------	---	-----	---	---	------	------	------

Connection

Internal EAD all bandwidth	£	y x	£	£	x.xx	x.xx	x.xx
----------------------------	---	-----	---	---	------	------	------

External EAD all bandwidth	£	y x	£	£	x.xx	x.xx	x.xx
----------------------------	---	-----	---	---	------	------	------

Main Link

Rental

Internal Main Link charges	£	y x	£	£	x.xx	x.xx	x.xx
----------------------------	---	-----	---	---	------	------	------

External Main Link charges	£	<u>y x</u>	£	£	x.xx	x.xx	x.xx
		y					

Backhaul Network Services (BNS)

Rental

External BNS all bandwidth	£	y x	£	£	x.xx	x.xx	x.xx
----------------------------	---	-----	---	---	-----------------	-----------------	-----------------

Connection

External BNS all bandwidth	£	y x	£	£	x.xx	x.xx	x.xx
----------------------------	---	-----	---	---	-----------------	-----------------	-----------------

Other Ethernet

Rental

Internal other ethernet all bandwidth	£	(ux)	(sx)	£	x.xx	x.xx	x.xx
---------------------------------------	---	------	------	---	------	------	------

External other ethernet all bandwidth	£	<u>(ux)</u>	<u>(sx)</u>	£	<u>x.xx</u>	<u>x.xx</u>	<u>x.xx</u>
---------------------------------------	---	-------------	-------------	---	-------------	-------------	-------------

Connection

Internal other ethernet all bandwidth	£	(ux)	(sx)	£	x.xx	x.xx	x.xx
---------------------------------------	---	------	------	---	------	------	------

External other ethernet all bandwidth	£	<u>(ux)</u>	<u>(sx)</u>	£	<u>x.xx</u>	<u>x.xx</u>	<u>x.xx</u>
---------------------------------------	---	-------------	-------------	---	-------------	-------------	-------------

Excess Construction Charges

Internal Excess Construction Charges	£	(ux)	(sx)	£	x.xx	x.xx	x.xx
--------------------------------------	---	------	------	---	------	------	------

External Excess Construction Charges	£	(ux)	(sx)	£	x.xx	x.xx	x.xx
--------------------------------------	---	------	------	---	------	------	------

Other Services

Service 1 Internal	£	y x	£	£	x.xx	x.xx	x.xx
--------------------	---	-----	---	---	------	------	------

Service 1 External	£	<u>y x</u>	£	£	x.xx	x.xx	x.xx
		y					

Service 2 Internal	£	y x	£	£	x.xx	x.xx	x.xx
--------------------	---	-----	---	---	------	------	------

Service 2 External	£	<u>y x</u>	£	£	x.xx	x.xx	x.xx
		y					

£

(sx) This service comprises a number of individual prices as indicated by the value of x
 (ux) This service comprises a number of individual volumetrics as indicated by the value of x

Key

Service which has amalgamated other services
 Service which has been amalgamated into other services
 New services reported in the year



underlined

Annex 11

Wholesale local access market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Summary

	Internal Sales £m	External Sales £m	Rounding £m	Turnover (see note 1) £m	Operating costs £m	HCA Depreciation £m	Holding (gain)/loss £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

	Non-discrimination				Cost orientation				
	Internal Sales £m	External Sales £m	Turnover £m	Volume Unit	Average price £	FAC (see Section 5) £	Indicative LRIC floors & ceilings as multiple of FAC	Average price/FAC	
for the year ended 31 March 200x									
Service									
Service 1 Internal	£		£	x	£	£	x.xx	x.xx	
Service 1 External		£	£	x	£	£	x.xx	x.xx	
Service 2 Internal	£		£	x	£	£	x.xx	x.xx	
Service 2 External									
etc									
Provisions and other accounting adjustments	£	£	£						
Unidentified immaterial services	£	£	£						
Impact of differences between calculated and ledgered volumes	£	£	£						
Other	£	£	£						
for the year ended 31 March 200y									
Service									
Service 1 Internal	£		£	x	£	£	x.xx	x.xx	
Service 1 External		£	£	x	£	£	x.xx	x.xx	
Service 2 Internal	£		£	x	£	£	x.xx	x.xx	
Service 2 External									
etc									
Provisions and other accounting adjustments	£	£	£						
Unidentified immaterial services	£	£	£						
Impact of differences between calculated and ledgered volumes	£	£	£						
Other	£	£	£						

**Annex 12
Market summary**

Summary

	Internal Sales £m	External Sales £m	Rounding £m	Turnover (see note 1) £m	Operating costs £m	HCA Depreciation £m	Holding (gain)/loss £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	£	%

Note 1: Comparison of average internal and external charges with each other

Non-discrimination

for the year ended 31 March 200x

Service

Service 1 Internal
Service 1 External

Service 2 Internal
Service 2 External
etc

Provisions and other accounting adjustments
Unidentified immaterial services
Impact of differences between calculated and ledgered volumes
Other

Internal Sales £m	External Sales £m	Turnover £m	Volume	Unit	Average price £
£	£	£		x	£
	£	£		x	£
				-	
£		£		x	£
£	£	£			
£	£	£			
£	£	£			
£	£	£			
£	£	£			

for the year ended 31 March 200y

Service

Service 1 Internal
Service 1 External

Service 2 Internal
Service 2 External
etc

Provisions and other accounting adjustments
Unidentified immaterial services
Impact of differences between calculated and ledgered volumes
Other

Internal Sales £m	External Sales £m	Turnover £m	Volume	Unit	Average price £
£	£	£		x	£
	£	£		x	£
				-	
£		£		x	£
£	£	£			
£	£	£			
£	£	£			
£	£	£			
£	£	£			

Annex 13

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Summary

	Internal Sales £m	External Sales £m	Rounding	Turnover (see note 1) £m	Operating costs £m	HCA Depreciation £m	Holding (gain)/loss £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

					Non-discrimination				Cost orientation				Indicative floors & ceilings as multiple of FAC	Average price/FAC	
	Internal Sales £m	External Sales £m	Turnover £m		NCC traffic minutes (mm)				Average NCC rates (ppm)						
					Day	Evening	Weekend	24 hours	Day	Evening	Weekend	Weighted Average			FAC
for the year ended 31 March 200x															
Service															
Service 1	£	£	£		m	m	m	m	p	p	p	p p		x-y	x.xx
Service 1	£	£	£		m	m	m	m	p	p	p	p p		x-y	x.xx
Service 2	£	£	£		m	m	m	m	p	p	p	p p		x-y	x.xx
Service 2	£	£	£		m	m	m	m	p	p	p	p p		x-y	x.xx
	£	£	£												
for the year ended 31 March 200y															
Service															
Service 1	£	£	£		m	m	m	m	p	p	p	p p		x-y	x.xx
Service 1	£	£	£		m	m	m	m	p	p	p	p p		x-y	x.xx
Service 2	£	£	£		m	m	m	m	p	p	p	p p		x-y	x.xx
Service 2	£	£	£		m	m	m	m	p	p	p	p p		x-y	x.xx
	£	£	£												

Annex 13

Local tandem conveyance and transit on fixed public narrowband networks

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Summary

	Internal Sales £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	HCA Depreciation £m	Holding (gain)/loss £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

		Non-discrimination						Cost orientation					
		NCC traffic minutes (mm)				Average NCC rates (ppm)					Indicative floors & ceilings as multiple of FAC	Average price/FAC	
		Turnover £m	Day	Evening	Weekend	24 hours	Day ppm	Evening ppm	Weekend ppm	Weighted-Average ppm			FAC ppm
for the year ended 31 March 200x													
Service													
Service 1	£	m	m	m	m	m	p	p	p	p	p	x-y	x.xx
Service 1	£	m	m	m	m	m	p	p	p	p	p	x-y	x.xx
Service 2	£	-m	-m	-m	-m	-m	p	p	p	p	p	x-y	x.xx
Service 2	£	-m	-m	-m	-m	-m	p	p	p	p	p	x-y	x.xx
		£											
for the year ended 31 March 200y													
Service													
Service 1	£	m	m	m	m	m	p	p	p	p	p	x-y	x.xx
Service 1	£	m	m	m	m	m	p	p	p	p	p	x-y	x.xx
Service 2	£	-m	-m	-m	-m	-m	p	p	p	p	p	x-y	x.xx
Service 2	£	-m	-m	-m	-m	-m	p	p	p	p	p	x-y	x.xx
		£											

Appendix 2 - Price Control Statements

This Appendix shows an extract from the most recent price control submissions to Ofcom to meet BT's price control obligations

Appendix 2.1 - Price Controls in Wholesale Markets (Annex24) (Unaudited)

Price Control summary of calls information submitted to Ofcom for the [year] basket yield submission to set [year] prices

Basket	RPI between June [year] & June [year]	Charge Control	Controlling %	Actual Basket Yield
Call Termination				
Call Origination				
Single Transit				
Interconnect Specific				
PPP Basket				
Local Tandem Conveyance				

Price Control summary of PPC information submitted to Ofcom for the [year] basket yield submission to set [year] prices

Basket	RPI between June [year] & June [year]	Charge Control	Controlling %	Actual Basket Yield
Low Bandwidth				
High Bandwidth				
Equipment				

Price Control summary of WLR information submitted to Ofcom for the [year] financial Year

Cap	Fixed Ceiling	Actual Price
WLR Basic Rental		
WLR Transfer		
WLR Connection		

Price Control summary of Wholesale Local Access information submitted to Ofcom for the [year] financial Year

Cap	Fixed Ceiling	Actual Price
MPF Rental		
SMPF Rental		

Basket	Controlling %	Price Change
MPF Ancillary		
SMPF Ancillary		
Co-Mingling		

Sub Cap	Fixed Ceiling	Actual Price
MPF Transfer		
MPF New Provides		
SMPF Connection		

Sub Cap	Controlling %	Price Change
MPF Cease		
SMPF Cease		

Annex B

The form and content of the Regulatory Financial Statements set out in the Former FA10 Form and Content Direction shall be amended as shown below in that the words struck through are deleted.

Annex 11

Wholesale local access market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Summary

	Internal Sales £m	External Sales £m	Rounding £m	Turnover (see note 1) £m	Operating costs £m	HCA Depreciation £m	Holding (gain)/loss £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

	Non-discrimination				Cost orientation				
	Internal Sales £m	External Sales £m	Turnover £m	Volume Unit	Average price £	FAC (see Section 5) £	Indicative LRIC floors & ceilings as multiple of FAC	Average price/FAC	
for the year ended 31 March 200x									
Service									
Service 1 Internal	£		£	x	£	£	x.xx	x.xx	x.xx
Service 1 External		£	£	x	£	£	x.xx	x.xx	x.xx
Service 2 Internal	£		£	x	£	£	x.xx	x.xx	x.xx
Service 2 External etc									
Provisions and other accounting adjustments	£	£	£						
Unidentified immaterial services	£	£	£						
Impact of differences between calculated and ledgered volumes	£	£	£						
Other	£	£	£						
for the year ended 31 March 200y									
Service									
Service 1 Internal	£		£	x	£	£	x.xx	x.xx	x.xx
Service 1 External		£	£	x	£	£	x.xx	x.xx	x.xx
Service 2 Internal	£		£	x	£	£	x.xx	x.xx	x.xx
Service 2 External etc									
Provisions and other accounting adjustments	£	£	£						
Unidentified immaterial services	£	£	£						
Impact of differences between calculated and ledgered volumes	£	£	£						
Other	£	£	£						

Annex C

The Additional Information set out in Annex 26 to Direction 4 shall be amended in such a way that the words underlined are added and describe further additional financial information BT must provide.

Annex 26

Additional information by way of notes

Reference	Additional Financial Information	Description	Purpose (AS, CA or Reconciliation)
<u>AI - 28</u>	<p><u>Disclosure of NTS Retail Uplift and PRS Bad Debt Surcharge service information in the form of an AFI Schedule</u></p> <p><u>The Basis of Preparation will also be provided.</u></p> <p><u>The information is to be published at the same time as BT's RFS.</u></p>	<p><u>1) AFI Schedule</u></p> <p><u>The schedule will detail volumes (internal and external), turnover and cost information consistent with the proposed basis of preparation of base year information used by Ofcom to set the NTS Retail uplift charge control. This will be publically available.</u></p> <p><u>2) Description of basis of preparation</u></p> <p><u>This basis of preparation will be consistent with the primary accounting documents which include, for example, the regulatory accounting principles of cost causality and objectivity.</u></p> <p><u>3) Audit Review: "Agreed upon Procedures"</u></p> <p><u>If requested by Ofcom, BT will procure a report from its independent auditors under the "Agreed upon Procedures" process as set out in the Tripartite Agreement.</u></p>	<u>AS & CA</u>