



Modifications to the Ofcom Metering & Billing Direction 2008

Statement on modifications to the Ofcom Metering &
Billing Direction 2008 and modifications to General
Condition 11

Statement

Publication date: 11 January 2011

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Section 1

Summary

Introduction

- 1.1 General Condition 11 (GC11) of the General Conditions of Entitlement¹ requires providers of Publicly Available Telephone Services (PATs) with a relevant annual turnover in excess of £40m, to seek and obtain approval of their Total Metering and Billing System (TMBS)² from an Approval Body (AB).
- 1.2 The TMBS is currently approved when it complies with either the requirements of the Oftel Metering and Billing Direction 2003³ (Oftel Direction) or the Ofcom Metering and Billing Direction 2008⁴ (Ofcom Direction). From 1 January 2011, the Ofcom Direction will be the only applicable Direction.
- 1.3 The Ofcom Direction includes billing accuracy standards that apply to interworking arrangements between communications providers (CPs), ie where wholesale contracts exist between two or more CPs. Under the Ofcom Direction, in these circumstances overall responsibility until now has rested with the CP that holds the contract with the end-user to ensure that the overall service meets the accuracy standards for the TMBS⁵.
- 1.4 Since 2008 ABs and CPs have been working to meet the requirements of the Ofcom Direction. In doing this they have found practical difficulties in applying the rules on interworking. In particular, they have found that one party in the TMBS may use up most or all of the permitted errors (the tolerance level) under the Ofcom Direction, which has the effect of not allowing any scope for error by the other parties in the TMBS. In addition, for commercial reasons, some wholesale providers will not release information on their tolerance level to the retail provider, making it impossible for the retail provider to assess the overall tolerance level. Also, where a wholesale provider supplies more than one CP, the wholesale provider will often be unable practically to provide accurate error rate information on calls passed to a particular CP.
- 1.5 Members of the industry, including the ABs, put forward a proposal that the existing tolerances within the Ofcom Direction should relate individually to each CP and their sub-contractors involved in the TMBS.
- 1.6 We agreed that the interworking arrangements in the Ofcom Direction could not be practically applied (for the reasons summarised in paragraph 1.4) and on 17 September 2010 we consulted on a proposed amendment to the Ofcom Direction so that, in the case of interworking arrangements, the tolerance level applies separately to all CPs within the TMBS rather than just to the CP with the end user contract (the

¹ <http://stakeholders.ofcom.org.uk/telecoms/ga-scheme/>

² A TMBS incorporates all processing steps from the original recording of a chargeable event to its readiness for presentation on a Bill to the End-User, whether performed by one or more service providers.

³ http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/mb_direction030722meter0703.pdf

⁴ <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/ofcommb.pdf>

⁵ See section A3.4.5 of the Ofcom Direction – ‘Interworking between Communications Providers’

Consultation). We explained that we do not believe that this will materially change the level of protection for consumers that the Ofcom Direction provides.⁶

- 1.7 Having reviewed responses, we have decided to proceed with the proposed change.
- 1.8 In the Consultation we proposed that approvals made under the Oftel Direction should remain valid for a further 6 months until 30 June 2011 with regard to interworking arrangements. In light of responses received, which pointed out that interworking was inextricably linked to other sections of the Ofcom Direction, we have concluded that the extension of validity of approvals under the Oftel Direction to 30 June 2011 should apply to the whole of that direction.

Amendment to the Ofcom Direction

- 1.9 Paragraph A3.4.5 is the only part of the Ofcom Direction which relates to interworking, so we have amended this paragraph only to reflect the proposal summarised in paragraph 1.6. The modifications are being adopted on 11 January 2011. The Notification of the modifications to the Ofcom Direction are at Annex 2 of this Statement.

Amendment to GC11

- 1.10 GC11.6 and GC11.7(a) currently specify that approvals under the Oftel Direction remain valid until 31 December 2010. As such, we have amended GC11.6 and GC11.7(a) to reflect the extended validity of approvals made under the Oftel Direction until 30 June 2011. The modified condition is being adopted on 11 January 2011. The Notification of the modifications to GC11 is at Annex 3 of this Statement.

⁶ <http://stakeholders.ofcom.org.uk/consultations/metering-billing-direction/>

Section 2

Introduction and background

Ofcom requirements in respect of metering and billing

- 2.1 A key feature of electronic communications services is that customers are not readily able to quantify their usage of those services or to verify their bills with any degree of confidence or accuracy. Unlike in gas and electricity usage, for example, there is no domestic meter to enable customers to monitor their volume of usage. In practice, the sheer volume of services used and the complexity of billing due to the nature of the bundled packages purchased by a consumer can make it extremely difficult for a consumer to check that their bill is correct.
- 2.2 Although customers may be able to identify major errors, to a large extent many take the bills they receive on trust. It is therefore important for Ofcom to ensure where it can that such trust is justified, that customers are not overcharged and that consumer confidence in the accuracy of bills is maintained.
- 2.3 Ofcom requires CPs to provide consumers with a basic level of itemised billing to allow the subscriber to verify and control the charges incurred and adequately monitor usage and expenditure.⁷ However, due to the very large sums involved, Ofcom considers that CPs with a relevant turnover⁸ in excess of £40m should have robust billing systems in place to ensure consumers can have confidence in the accuracy of the bills they receive.

The regulatory framework

- 2.4 Ofcom regulates the accuracy of bills issued by providers of electronic communications services. It does this through GC11.1 which imposes an obligation on all CPs for billing accuracy.
- 2.5 GC11 also requires providers of PATS with a relevant annual turnover in excess of £40m, to seek and obtain approval of their TMBS from third-party assessors against a prescribed standard.⁹ This complex of approval arrangements represents the Ofcom Metering and Billing Approval Scheme.
- 2.6 ABs – the third-party assessors that providers of PATS seek and obtain approval from - are appointed by Ofcom and are identified within GC11.7(b).
- 2.7 A CP's TMBS is approved when it complies with either the requirements of the Oftel Direction¹⁰ or the Ofcom Direction¹¹ whichever is relevant. The Oftel/Ofcom Directions are in essence a technical standard intended to ensure that compliant systems will deliver accurate bills, in turn maintaining end-user confidence in the bills that they receive.

⁷ As required under GC12.1

⁸ "Relevant Turnover" means annual turnover attributable to the provision of PATS after the deduction of sales rebates, value added tax and other taxes directly related to turnover

⁹ As required under GC11.3 to 11.7

¹⁰ http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/mb_direction030722meter0703.pdf

¹¹ <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/ofcommmb.pdf>

- 2.8 Under GC11, approvals made under the Oftel Direction currently only remain valid until 31 December 2010. Therefore, CPs and ABs have been working towards approval to the Ofcom Direction.

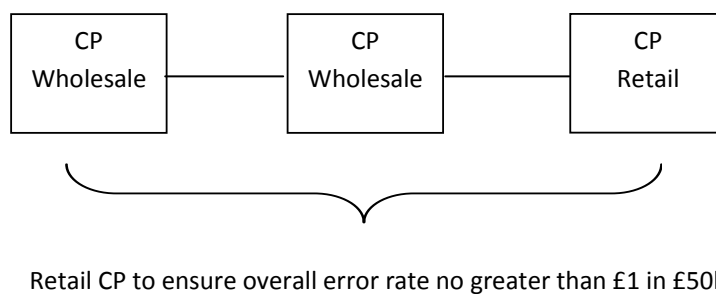
Consideration of interworking measurement accuracy

- 2.9 The Ofcom Experts Working Group (OEWG) was originally convened in 2006 to propose improvements to the Oftel Direction and they contributed significantly to the existing Ofcom Direction. Members of the OEWG were invited to join based on their general expertise about billing issues and their knowledge of particular segments of the electronic communications market. The OEWG original terms of reference are available on Ofcom's website at <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/tor.pdf>.
- 2.10 On 26 February 2010, when the potential problems described above surrounding interworking in the Ofcom Direction were identified and raised at the Metering and Billing Approval Bodies Forum, Ofcom reconvened the OEWG to consider the interworking issue and propose appropriate modifications which reflects the current market.
- 2.11 The OEWG met several times between March and June 2010. Members consisted of representatives from ABIS, BT, Lifecycle, Sky, TalkTalk, Three, Virgin Media, Vodafone and the ABs – BABT and BSi.
- 2.12 The proposal put forward by the OEWG, and our consideration of this is set out in the Consultation.
- 2.13 The Consultation proposed modifications to the Ofcom Direction and GC11.
- 2.14 We received 13 responses to the Consultation (see Annex 1).
- 2.15 This Statement summarises and analyses the responses and sets out our conclusion. The modifications to the Ofcom Direction are set out in Annex 2 and the modifications to GC11 are set out in Annex 3.

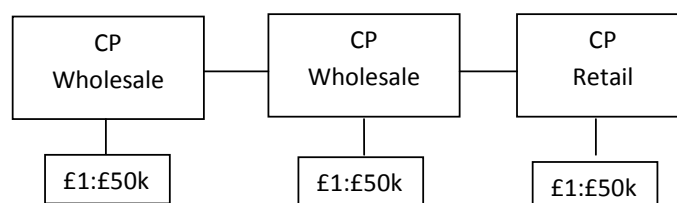
Section 3

The modifications

- 3.1 The OEWG advised Ofcom that the interworking provisions in section A3.4.5 of the Ofcom Direction have been found to be unworkable.
- 3.2 Currently under the Ofcom Direction product specific tolerances set the maximum inaccuracy limit permitted. For example, the inaccuracy limit for fixed PATS is £1:£50k. So in this case where there are CPs in addition to the retail CP involved in the supply chain, the retail CP is responsible for ensuring that the error rate for the whole chain does not exceed £1:£50k overall:



- 3.3 The OEWG advised this presented a number of potential difficulties, which are set out below:
- In circumstances where there are multiple wholesale CPs within the TMBS, full disclosure of billing errors is necessary to ensure the permitted tolerance levels are not exceeded. Such information could be considered commercially confidential and therefore CPs are reluctant to share this information, especially where they are involved in multiple TMBS'.
 - Wholesale providers are able to measure tolerances against the total amount of traffic generated. Apportioning that traffic to individual providers and then applying the appropriate tolerance levels is likely to require a disproportionate amount of resources, especially for providers who belong to numerous TMBSs.
 - It could be the case that one party within the TMBS chain uses up most or all of the permitted tolerance levels, therefore not allowing any scope for error to the other parties within the TMBS chain. Ofcom accepts that within a TMBS it is not reasonable to expect any individual party to operate their element of the TMBS without an error margin.
- 3.4 To address this problem the OEWG suggested amending the Ofcom Direction to require each CP in the TMBS to meet the permitted tolerance levels set out in the Direction. Under the proposal put forward by OEWG, each CP will only have responsibility for its part of the TMBS. For example, for fixed PATS the inaccuracy limit for usage events would apply for each part of the TMBS:



Each CP to ensure they each have an error rate no greater than £1 in £50k

- 3.5 OEWG told us that this would effectively maintain the interworking provisions that currently apply in the Ofel Direction.

Ofcom's analysis of the OEWG proposal

- 3.6 In the Consultation, Ofcom said that it agreed that the previous interworking tolerance levels were unworkable as they could not be practically applied or enforced in today's market of multi-party TMBSs for the reasons set out in paragraph 3.3 above.
- 3.7 In addition to making sure that the amendment is fit for today's market of multi-party TMBS's, we also needed to ensure that the proposal put forward by the OEWG did not reduce the level of protection afforded to consumers and set out our analysis in the Consultation.
- 3.8 We set out a view that although the amendment could increase the overall tolerance level because the overall effect on end users could be the accumulation of a set of tolerance levels rather than one total tolerance level, the requirements would remain sufficiently tight for the reasons below that we do not feel that any resulting increase would be material in practice. For these reasons as well we did not consider it necessary to consider a change to the tolerance levels.
- 3.9 In the case of fixed PATS, the inaccuracy limit for usage events is £1:£50k (0.002%) and this tolerance level was previously shared by all entities making up a TMBS. Following the amendment, the tolerance level now applies to each party within the TMBS. So, if there are five parties in the TMBS chain and a £1:£50k (0.002%) overcharge error is caused by each, the resultant error will be £1:£10k (0.01%).
- 3.10 Based on 2009 Ofcom figures¹², the average household spend on fixed voice telecommunications services was £21.53 per month. Using this information, and the figures set out in the paragraph above:
- If an end user generated a bill for £21.53 and was subject to an overcharge error of £1:£50k (0.002%), the bill would be increased to £21.53043. The bill would be rounded to the original figure of £21.53.
 - If the same end user generated a bill for £21.53 but was subject to an overcharge error of £1:£10k (0.01%), the bill would be increased to £21.532153. Again, the bill would be rounded to the original figure of £21.53.

¹² <http://stakeholders.ofcom.org.uk/binaries/research/cmr/753567/UK-context.pdf>

- 3.11 Looking at a considerably higher monthly bill of £107.65 – five times the average household spend:
- If an end user generated a bill for £107.65 and was subject to an overcharge error of £1:£50k (0.002%), the bill would be increased to £107.652153. The bill would be rounded to the original figure of £107.65.
 - If the same end user generated a bill for £107.65 but was subject to an overcharge error of £1:£10k (0.01%), the bill would be increased to £107.660765. In this case the bill would be rounded to £107.66.
- 3.12 In this latter example the rounding would result in a difference of £0.01 which, given the size of bill, suggests that the modifications would not significantly affect customers' bills.
- 3.13 Moreover, these examples given in the Consultation are based on an extreme case TMBS in which there are five parties within the chain. Most TMBS chains comprise fewer than five parties, resulting in a lower maximum error margin. However, we consider it would be unlikely that, even in this situation, the consumer would be subjected to the overcharge error rate of £1:£10k (0.01%). This is because it is likely that some errors caused within the chain would be identified by the subsequent party in the chain or the relevant AB for that portion of the TMBS.
- 3.14 In addition to being fit for purpose in today's market, in the Consultation we set out our view the amendment does not produce a significant material change to the protection of consumers.
- 3.15 The Oftel Direction, under which the majority of CPs currently have received approval of their TMBS, provides that each CP is responsible for its own billing accuracy. Accordingly, the amendment to the Ofcom Direction would reflect the level of protection currently in place.
- 3.16 The Ofcom Direction is written on the basis of an average performance across all bills, so there remains the possibility that all of the errors could be added to a single bill. This would result in a significant error and result in a large bill for the end user.
- 3.17 However, the Ofcom Direction introduced an additional consumer protection measure to protect against a significant number of errors all appearing on one bill. Paragraph A3.4.8.3 of the Ofcom Direction requires each CP to be able to satisfy their AB that they have appropriate mechanisms in place to prevent bills containing significant errors reaching end users. Although the precise nature of this mechanism will vary from one TMBS to another, Ofcom has specified the types of issues that should be included. One example is the need to detect any bill which differs by a settable percentage from historical bills for that particular End-User.
- 3.18 The Ofcom Direction also states that all business and technical processes that can impact the TMBS are to be included within the scope of a process management system for approval purposes, including those of related third parties or sub-contractors¹³.

¹³ <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/ofcommb.pdf> (section A3.4.3 Process Management)

- 3.19 There are also provisions within the Ofcom Direction that ensure CPs deal with billing complaints from end users and make timely bill adjustments. The CP must employ processes for receiving, identifying, investigating and dealing with incorrect charges, including processes whereby end users can readily question the accuracy of charges.¹⁴
- 3.20 The ABs have advised us that they will work with each CP in the end-to-end TMBS to ensure the removal of systematic sources of error, which will reduce the potential impact on end users. They will also ensure that the data sent and received over the interfaces of the supply chain are accurate and measured.
- 3.21 In the Consultation we set out our view that we expected the amendment would be straightforward for CPs and ABs to implement as it effectively continues the interworking arrangements that apply under the Oftel Direction.

¹⁴ <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/ofcommb.pdf> (section A3.4.8 Individual Bill Accuracy)

Section 4

Analysis of responses

Summary of responses

- 4.1 In the Consultation we asked whether respondents agreed with our proposals to amend the interworking section of the Ofcom Direction (Question 1) and extend the validity of approvals made under the Oftel Direction, in relation to interworking, until 30 June 2011 (Question 2).
- 4.2 Respondents generally agreed with our proposals to amend the interworking section of the Ofcom Direction. Only two respondents disagreed.
- 4.3 Respondents generally agreed with our proposals to extend the validity of approvals made under the Oftel Direction, in relation to interworking, until 30 June 2011. However, some expressed the view that the extension of Approvals under the Oftel Direction should be applied on a blanket basis to the whole of that direction and not limited to interworking as they were all linked. Two respondents disagreed as they did not support the change to the interworking.
- 4.4 Two respondents questioned whether the Ofcom Direction should apply to wholesale providers.

Proposed modifications to the interworking section (question 1)

Responses

- 4.5 BT, Scottish & Southern Energy, BABT, Everything Everywhere, Virgin Media, Telecom Plus, Opal, Talk Talk and Sky agreed with the proposal to allow the permitted tolerance levels in the Ofcom Direction to be applied to each CP separately rather than apportioned between a chain of CPs involved in providing service to the end retail customer. They felt that the modifications would be the correct solution to the problems they had encountered in implementing the interworking section.
- 4.6 Raiim Ltd disagreed with the proposal believing instead that the interworking section should be omitted entirely from the Ofcom Direction. In Raiim's view once an event is metered, the details are fixed and the level of accuracy should not decrease with more CPs in the chain.
- 4.7 Another respondent, who asked for their response to remain confidential, believed that the Ofcom Direction - including the proposed modifications - should not apply to wholesale providers as the provisions of the Ofcom Direction were framed around the data provided on an End-User's bill. The respondent stated that key information relevant to a commercial 'interconnect' relationship was a much narrower set of metering and billing data than that required to ensure the accuracy of an End-User's bill.

Our view

- 4.8 We welcome the fact that most responses confirm that Ofcom's proposal is an appropriate solution to the problems identified by industry. With regard to Raiim's comments, it is a fundamental part of our approach to this area that in metering and billing complex processes some errors will occur but that these should be within certain set accuracy levels. Interworking is a significant feature of the metering and billing complex process and we believe that it is important that the Ofcom Direction addresses this area.
- 4.9 It was not within the scope of the Consultation to review whether the requirements of the Ofcom Direction should apply to wholesale providers. This much broader issue has been part of earlier consultations and Ofcom does not intend to revisit it at this time¹⁵.
- 4.10 The issue of wholesale providers and the requirements that should apply to them would however be appropriate to be raised as part of our next substantive review of the Ofcom Direction. In the meantime, we have asked the ABs to discuss their approach to approvals of wholesale providers to ensure that there is an appropriate level of consistency.
- 4.11 As a point of clarification, 'interworking' and 'interconnection' are separately defined terms in the Ofcom Direction¹⁶. Section A.3.5.5 applies to 'interworking'.

Extension of the Oftel Direction to 30 June 2011 (question 2)

Responses

- 4.12 Currently, approvals made under the Oftel Direction will expire on 31 December 2010. Due to the amendment to paragraph A3.4.5 of the Ofcom Direction, we also proposed to extend the validity of approvals made under the Oftel Direction, in relation to this modification only, to ensure continuing protection for consumers.
- 4.13 Most responses agreed with Ofcom's proposal that the provisions of the Oftel Direction relating to interworking should continue until 30 June 2011. They supported our view that this was an appropriate timescale to enable CPs, working with ABs, to implement the amended provisions of the interworking section of the Ofcom Direction.
- 4.14 In addition BT, Virgin Media, Telecom Plus, BABT and a respondent which wished to remain anonymous stated that the proposed extension to 30 June 2011 should apply to the entire Oftel Direction and not be limited only to the interworking section. They argued that the interworking section was linked to other sections of the Ofcom Direction. In particular they stated that extracting interworking data from other metering and billing data for monitoring and approval purposes could require substantial time and resource. In addition BABT argued that issuing and withdrawing a part-certificate and reissuing a new certificate would be complex and costly without bringing any significant benefits to end users or CPs.

¹⁵ Section A6 of the consultation 'The Ofcom Metering and Billing Scheme'
http://stakeholders.ofcom.org.uk/binaries/consultations/metering_billing/summary/metering.pdf

¹⁶ p49 of the Ofcom Direction <http://stakeholders.ofcom.org.uk/binaries/telecoms/metering/ofcommmb.pdf>

- 4.15 Raiim Ltd and a respondent, who asked for their response to remain confidential, raised wider concerns about the section, as described paragraph 4.7 above, and disagreed with the proposed extension for those reasons.

Our view

- 4.16 We welcome the fact that most respondents agreed with our proposal to extend the validity of approvals under the Oftel Direction in respect of interworking arrangements to 30 June 2011.
- 4.17 We have considered the comments made in respect of extending approvals in respect of the entire Oftel Direction to 30 June 2011 and have discussed these with the ABs. We are satisfied that this would be an appropriate measure given the arguments the set out in responses, described in paragraph 4.12, in particular the potential difficulties of separating interworking data from other data and complexities around certification.

Section 5

Conclusion

- 5.1 On the basis of the responses received and of our analysis set out in sections 3 and 4 - in particular for the reasons set out in paragraph 3.3 and taking account of the measures in place to protect consumers set out in paragraphs 3.14 to 3.20 - we believe the modifications to the interworking section of the Ofcom Direction are appropriate.
- 5.2 The Ofcom Direction sets 'allowable tolerances' - essentially the maximum billing error levels permitted. The effect of our modifications to that direction is that where there is a chain of wholesale and retail CPs, the allowable tolerances apply separately to each individual CP in the chain rather than as a single tolerance to the overall chain.
- 5.3 We are making one drafting change to text proposed in the Consultation, amending the proposed first sentence of section A3.4.5:
- "Where wholesale service contracts exist between two or more Communications Providers, it shall be for each Communications Provider to satisfy themselves that the services they offer or receive meet the requirements of this Direction and comply with the accuracy standards. "
- by deleting
- "and comply with accuracy standards" as this is superfluous text which is covered by the preceding text 'the requirements of this Direction.
- 5.4 The Ofcom Direction is in force 1 January 2011. We proposed in the Consultation an extension to the interworking section of six months. However, in the light of responses to the Consultation, we consider that the Oftel Direction should be re-applied for the six month period.

Application of section 49 tests

- 5.5 Under section 49(2) of the Act, a person may not modify a Direction unless satisfied that the modifications are:
- objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - not such as to discriminate unduly against particular persons or against a particular description of persons;
 - proportionate to what it is intended to achieve; and
 - transparent in relation to what it is intended to achieve.
- 5.6 Ofcom is satisfied that these tests have been met. The modifications to the Ofcom Direction are objectively justifiable as feedback from the industry and ABs has been that the section on interworking is no longer practical or enforceable in today's market of multi-party TMBSs.

- 5.7 The modifications to the Ofcom Direction do not discriminate against particular persons or against a particular description of persons. The modifications will apply equally to those CPs to whom GC11 applies.
- 5.8 The modifications to the Ofcom Direction are proportionate to what they are intended to achieve, being a solution to the problem identified which can be easily implemented by CPs and ABs and has little or no impact on levels of consumer protection. The modifications were carefully considered by a representative group of industry experts, are fit for purpose in today's market whilst continuing to protect the interests of consumers.
- 5.9 Finally, the modifications to the Ofcom Direction are transparent as we consulted with stakeholders and draft modifications were set out in Annex 5 of the Consultation.

Application of section 47 tests

- 5.10 In accordance with section 47(2) of the Act, any proposed modification to GC11 must be:
- objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - not such as to discriminate unduly against particular persons or against a particular description of persons;
 - proportionate to what it is intended to achieve; and
 - transparent in relation to what it is intended to achieve.
- 5.11 Subject to consultation, Ofcom is satisfied that these tests have been met. The modifications to GC11.6 and GC11.7(a) are objectively justifiable as due to the modifications to the interworking section of the Ofcom Direction, CPs may require a longer period to meet the new requirements. The extension will allow the collection of over six months' data for approval purposes.
- 5.12 The modifications to GC11.6 and GC11.7(a) do not discriminate. The modifications will apply equally to those CPs to whom GC11 applies.
- 5.13 The modifications to GC11.6 and GC11.7(a) are proportionate as the extended deadline will ensure the continuation of protection for consumers and will provide sufficient time for the CPs and ABs to implement the change.
- 5.14 Finally, the modifications to GC11.6 and GC11.7(a) are transparent as we consulted stakeholders and draft modifications were set out in Annex 6 of the Consultation.

Impact Assessment and Equality Impact Assessment

- 5.15 The analysis presented in this Statement as a whole represents an impact assessment, as defined in section 7 of the Act.¹⁷
- 5.16 We have considered whether we are required to undertake a full equality impact assessment (EIA). On the basis of our initial EIA screening, we consider that this is not required. The amendment to the interworking section of the Ofcom Direction does

¹⁷ www.opsi.gov.uk/acts/acts2003/pdf/ukpga_20030021_en.pdf.

not raise specific equality issues; it will affect consumers equally, regardless of race, disability, gender or any other relevant equality strand.

Annex 1

Names of respondents to the Consultation

A1.1 The following stakeholders responded to our Consultation:

- BT
- Everything Everywhere Ltd
- Virgin Media
- BABT
- Telecom Plus
- Raiim Ltd
- Opal
- Kingston Communications
- Scottish & Southern Energy
- Talk Talk
- Sky

A1.2 We received two further responses to the Consultation from organisations which requested to remain anonymous.

A1.3 Copies of the eleven non-confidential responses were published on our website alongside the Consultation.

Annex 2

Notification on modifications to the Ofcom Metering and Billing Direction 2008

Notification of modifications under section 49(4) of the Communications Act 2003

The Ofcom Metering and Billing Direction 2008

- A2.1 Ofcom in accordance with section 49(4) of the Act hereby makes the following modifications of the Ofcom Metering and Billing Direction 2008 published on 15 July 2008;
- A2.2 The modifications to the Direction are set out in the Schedule to this Notification;
- A2.3 The effect of, and Ofcom's reasons for making, the modifications referred to in paragraph 1 above is set out in the accompanying explanatory Statement;
- A2.4 Ofcom considers that the modifications referred to in paragraph A2.1 above comply with the requirements of sections 45 to 50 of the Act, as appropriate and relevant;
- A2.5 In making this Notification, Ofcom has considered and acted in accordance with their general duties in section 3 of the Act and the six community requirements in section 4 of the Act;
- A2.6 The modified Direction shall enter into force on the date of publication of this Notification;
- A2.7 Copies of this Notification and the accompanying Statement have been sent to the Secretary of State in accordance with section 50(1)(c) of the Act;
- A2.8 In this Notification:
- a. **"the Act"** means the Communications Act 2003;
 - b. **"Ofcom"** means the Office of Communications;
- A2.9 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 Act.
- A2.10 For the purpose of interpreting this Notification:
- a. headings and titles shall be disregarded; and
 - b. the Interpretation Act 1978 shall apply as if this Act were an Act of Parliament.
- A2.11 The Schedule to this Notification shall form part of this Notification.

Lynn Parker
Director of Consumer Protection

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

11 January 2011

The Schedule

Section A3.4.5 of the Ofcom Metering and Billing Direction 2008 is modified as set out below:

For ease of reference any deleted text has been struck through and new additional text has been underlined and highlighted in yellow:

A3.4.5 Interworking between CPs

Where wholesale service contracts exist between two or more Communications Providers, it shall be for each Communications Provider to satisfy themselves that the services they offer or receive meet the requirements of this Direction. ~~Primary responsibility shall rest with the Communications Provider that holds the contract with the End-User (deemed to be the overall Total Metering and Billing System owner) to ensure that the overall service meets the accuracy standards within this Direction. Evidence of an agreed Measurement Strategy shall be a key feature and shall be regarded as a minimum requirement.~~

Such contractual agreements shall not expect any individual party to operate their Total Metering and Billing System free from error nor allow an accumulation of errors to exceed the required overall performance standard laid down in this Direction.

Approval Bodies will work with each Communications Provider in the end-to-end Total Metering and Billing System to ensure the removal of systematic sources of error, and that data sent and received over the interfaces of the supply chain is accurate and measured.

Where issues arise that cannot be resolved between Communications Providers in a reasonable timeframe, escalation shall be first to the appropriate Approval Body (or Bodies) concerned, who shall seek to resolve differences, and then to Ofcom if a resolution cannot be achieved.

~~Figures 1, 2 and 3 in this section highlight the Total Metering and Billing System variations that can exist. The figures indicate how the Direction should be applied in each set of circumstances.~~

Where a Communications Provider owns part (or all) of the overall Total Metering and Billing System and receives a service from a non-Approved source, either from another Communications Provider or via a sub-contractor, they shall ensure the quality of that service either by direct reference to compliance with the Direction or by including explicit requirements that would result in such compliance.

Annex 3

Notification on General Condition 11 on Metering and Billing

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

Modifications to General Condition 11 on Metering and Billing

1. Ofcom in accordance with section 48(1) of the Act hereby makes the following modifications to General Condition 11 on Metering and Billing, as set by the General Condition Notification;
2. The modifications are set out in the Schedule to this Notification;
3. The effect of, and Ofcom's reasons for making, the modifications referred to in paragraph 1 above is set out in the accompanying explanatory Statement;
4. Ofcom considers that the modifications referred to in paragraph 1 above comply with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to each of the modifications;
5. In making the modifications set out in this Notification, Ofcom has considered and acted in accordance with their general duties in section 3 and of the Act and the six Community requirements in section 4 of the Act;
6. The modifications shall enter into force on the date of publication of this Notification;
7. Copies of this Notification and the accompanying Statement have been sent to the Secretary of State in accordance with section 50(1)(a) of the Act;
8. In this Notification:
 - a) **"the Act"** means the Communications Act 2003;
 - b) **"General Condition Notification"** means the notification setting General Conditions under section 45 of the Act, issued by the Director General of Telecommunications on 22 July 2003, as subsequently amended;
 - c) **"Ofcom"** means the Office of Communications;
9. 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 Act.
10. For the purpose of interpreting this Notification:
 - a) headings and titles shall be disregarded; and
 - b) the Interpretation Act 1978 shall apply as if this Act were an Act of Parliament.

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

Lynn Parker
Director of Consumer Protection

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

11 January 2011

Schedule

General Condition 11.6 and 11.7(a) shall be modified as set out below. For ease of reference any deleted text has been struck through and new additional text has been underlined and highlighted in yellow:

11.6

Where the Communications Provider holds an approval under the Oftel Metering and Billing Direction or has made an Oftel Approval Application, such approval or application shall be deemed to be an Approval or application for Approval of the Communications Provider's Total Metering and Billing System **until 30 June 2011.**

11.7(a)

"Approval" means an approval granted by an Approval Body where a Communications Provider's Total Metering and Billing System is compliant with the Ofcom Metering and Billing Direction, **or until 30 June 2011, the Oftel Metering and Billing Direction.**

Annex 4

Glossary

AB	Approval Body
BABT	British Approvals Board of Telecommunications
BSi	British Standards Institution
CP	Communications Provider
GC	General Condition
GC11	General Condition 11 on Metering and Billing
OEWG	Ofcom Experts Working Group
Ofcom	Office of Communications
Of tel	Office of Telecommunications
PATS	Publicly Available Telephone Service
PECS	Public Electronic Communications Service
TMBS	Total Metering and Billing System