



# Changes to BT and KCOM's regulatory financial reporting – 2008/09 update

Explanatory statement and notification

Statement

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## Section 1

# Executive Summary

## Background

- 1.1 Relevant, reliable and timely financial information is fundamental to the effective economic regulation of the electronic communications sector. It provides the data and evidence that 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 As a result of changes in the regulatory, technological and competitive environment, our ongoing review and use of the regulatory financial statements (RFS) and discussions with BT we identified a number of areas where we proposed to enhance the presentation and improve the quality of BT's RFS.
- 1.3 Our proposals were set out in a consultation document published on 20 March 2009<sup>1</sup> (the "March Consultation") and fell broadly into three categories:
  - Changes to aspects of the preparation of the RFS;
  - Improvements to reporting in the markets reviewed during 2008 in the Business Connectivity Market Review<sup>2</sup> (the "BCMR"), the replicability review<sup>3</sup> and the Leased Lines Charge Control<sup>4</sup> (the "LLCC"); and
  - Implementation of the changes set out in the recent wholesale broadband access statement (the "WBA statement")<sup>5</sup> and the business connectivity market review statement (the "BCMR statement")<sup>6</sup>.
- 1.4 The current regulatory financial reporting regime is also applicable to KCOM (previously Kingston Communications plc) but prior to our March Consultation no changes had been proposed to KCOM's reporting requirements since they were set in July 2004. This time we set out two minor proposals that affect KCOM to implement changes to market names and definitions in the business connectivity and wholesale broadband access markets.

## Scope of this document and final decisions

- 1.5 This statement sets out our final decisions in respect of the March Consultation.
- 1.6 The table below summarises the objectives addressed in this statement and our final decisions taking full account of the responses to the March consultation.

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<sup>1</sup> <http://www.ofcom.org.uk/consult/condocs/btkcom09/>

<sup>2</sup> <http://www.ofcom.org.uk/consult/condocs/bcmr08/bcmr08.pdf>

<sup>3</sup> The purpose of the review was to determine whether other Communications Providers were able to replicate, technically and commercially, the retail services provide by BT. The report highlighted a number of issues in terms of accounting and reporting in the regulatory financial statements. This review is at Annex 13 to the Business Connectivity Market Review Consultation <http://www.ofcom.org.uk/consult/condocs/bcmr/>

<sup>4</sup> <http://www.ofcom.org.uk/consult/condocs/llcc/leasedlines.pdf>

<sup>5</sup> <http://www.ofcom.org.uk/consult/condocs/wbamr07/statement/statement.pdf>

<sup>6</sup> See footnote [2]

<i>Objective/Issue</i>	<i>Decision: BT to...</i>
<p>1) Change to ensure consistent recognition of costs and revenues</p> <p>We have found examples where BT sells equipment, either externally or internally, and recognises the revenue upfront and capitalises the costs and depreciates them over the life of the equipment. This hinders the users' ability to properly understand service costs and revenue</p>	<p>Separately prepare and publish information for the relevant markets providing the extra disclosure that allows the reader to see adjusted market and service costs, and profitability. BT to publish this information no later than six months after publication of the 2008/09 RFS.</p> <p>In addition and for Ofcom only, BT to prepare additional financial information comparing unit sales with the costs of provision on a matched basis (conditional on the basis of preparation used for the published statement)</p>
<p>2) Improvements to reporting in business connectivity markets</p> <p>We have identified areas for improvement through the replicability review, the LLCC and the BCMR. These are necessary to aid the monitoring of BT's cost orientation and no undue discrimination obligations.</p>	<p>Separately identify and report the costs of resilience in the RFS. Then no later than six months after the publication of the RFS, BT to separately identify and publish the costs of excess construction charges (ECCs) and equipment and infrastructure charges. From 2009/10 BT to report these costs in the published RFS.</p> <p>Prepare gross margin statements for the downstream product groups covered by the business connectivity markets (for Ofcom only).</p> <p>Report local end internal and external unit costs to better reflect, where relevant, the point of handover element in the external costs.</p> <p>Publish the cost stack analysis underlying partial private circuit (PPC) services and technical areas.</p> <p>Prepare a reconciliation, for Ofcom only, showing the difference between the total revenues in BT's general ledger and the calculated service by service revenue for the markets covered by the replicability review (grouped where necessary).</p> <p>Change the reported units, where necessary, in the AISBO market, so that they are consistent with the basis on which these services are sold in BT's price list.</p>
<p>3) Implementation of changes set out in recent market review statements</p> <p>Two market reviews were concluded in 2008; for wholesale broadband access (WBA) and business connectivity markets. These reviews made changes to existing market definitions and introduced geographic markets. These changes need to be reflected in the regulatory reporting for BT and KCOM.</p> <p>Geographic reporting in the relevant business connectivity markets will not be implemented until 2009/10 therefore the national market will continue to be reported.</p>	<p>Make changes to the form and content to implement geographic reporting in WBA markets and any changes to market definitions. This will include publication of information on the national markets (and therefore limited disclosure of non-SMP market 3).</p> <p>Provide complete information for all three WBA markets to Ofcom only, on a cost accounting and Equivalence of Input (EOI) basis.</p> <p>Make changes to the form and content of the statements to take account of any new market definitions in the business connectivity area*.</p>
<p>4) Removal of reporting for markets that account for less than £10m revenue</p>	<p>No longer report the wholesale residential ISDN2, retail operated assisted calls in the UK and retail residential IDD calls category B.</p>

\*Applies to both BT and KCOM

- 1.7 In the March Consultation we also highlighted two issues identified in “A New Pricing Framework for Openreach<sup>7</sup>” consultation (the “Openreach Consultation”). One was an issue of cost allocation, where Ofcom identified that some of the non-regulated Openreach services do not appear to pick up an appropriate share of costs. Subsequently, the Openreach Statement<sup>8</sup> concluded that - in determining regulated prices- some costs should be reallocated from the Core Rental Services in each year of the price control. We will discuss with BT changes to its cost attribution methodology in the next year to reflect the implications of this adjustment from 2009/10 onwards. However, due to the timing of the Openreach statement, it is not practicable to require any changes to be made in the 2008/09 RFS.
- 1.8 The second issue concerns the allocation of Low User Scheme (LUS) costs to Openreach. This is being considered by the Equality of Access Office (EAO) in relation to paragraph 5.31 of the Undertakings. We will review any further steps we need to take after the findings of the EAO are known.
- 1.9 Separate to the decisions in this statement which deal with ongoing improvements and modifications to the existing reporting regime we will be undertaking a “clean sheet” reassessment of the regulatory reporting framework. This reassessment will ask fundamental questions about the information required to demonstrate compliance with obligations or provide reliable evidence for other regulatory purposes such as investigations or the establishment of price controls. Our intention is that we will formulate options and proposals that underpin new arrangements for the ongoing provision of regulatory financial information for consultation in the summer.

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<sup>7</sup> <http://www.ofcom.org.uk/consult/condocs/openreachframework/>

<sup>8</sup> <http://www.ofcom.org.uk/consult/condocs/openreachframework/statement/>

## Section 2

# Introduction

## Background

- 2.1 Relevant, reliable and timely regulatory financial information is fundamental to the effective economic regulation of the electronic communications sector. It provides the data and evidence that informs many of our decisions.
- 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 prices, i.e. price controls.
- 2.3 These obligations are designed to exercise Ofcom’s duties under sections 3 and 4 of the Act. This includes 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. Therefore, it is necessary to have appropriate regulatory financial reporting.
- 2.4 This information can be either on a regular (e.g. annual) basis for ongoing monitoring purposes or on-request, for example in connection with investigations.
- 2.5 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.

## Reassessment of the reporting framework

- 2.6 Separate to the decisions in this statement which deal with ongoing improvements and modifications to the existing reporting regime we will be undertaking a “clean sheet” reassessment of the regulatory reporting framework. This reassessment will ask fundamental questions about the information required to demonstrate compliance with obligations or provide reliable evidence for other regulatory purposes such as investigations or the establishment of price controls. Our intention is that we will formulate options and proposals that underpin new arrangements for the ongoing provision of regulatory financial information for consultation in the summer.

## The March Consultation

- 2.7 The March Consultation included proposals for several improvements that Ofcom believes are justified in order to maintain a fit for purpose reporting framework.
- 2.8 Responses to the March Consultation were received from BT, UKCTA, Cable & Wireless plc (C&W) and two confidential respondents (the last four will be referred to

collectively as the other communications providers (OCPs) in the rest of this document). We also received confirmation from the European Commission that it has examined the notification (i.e. the March Consultation) and has no comments.

- 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 March Consultation we invited comments on our proposals by way of questions. This statement sets out these questions as they appeared in the March Consultation, considers the responses received and states our final decision taking these responses into full account.
- 2.11 The statement has been split into three main subject sections as set out below.
- 2.12 Section 3 sets out our decisions on the specific proposals raised in the March Consultation for BT to make improvements to the RFS. Most of these proposals were derived from our work connected with market reviews and the replicability project.
- 2.13 Section 4 sets out our decisions on the proposals raised to implement the changes required to the reporting as a result of the conclusions of the WBA statement and the BCMR statement. These include geographic reporting and changes to market definitions in the wholesale broadband access markets and changes to market definitions in the markets covered by the BCMR. This is the one area that applies to KCOM as well as BT. This section also sets out our decision on BT's proposal to remove reporting for markets that account for less than £10m of revenue.
- 2.14 Section 5 sets out the areas where we want to flag general reporting requirements that were established in past reporting statements, as they are seen to be potentially relevant to the 2008/09 RFS. We also provide an update on our progress with the issue regarding the attribution of LUS costs to Openreach markets and the cost allocation issue highlighted in the Openreach Consultation, as it has now concluded.

## 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 modifications we have made to Directions 3, 4 and the FA10 Direction for BT and Directions 3 and 4 for KCOM. This Annex should be read in the light of relevant considerations and Ofcom's conclusions as set out in this statement.

## Section 3

# Improvements to reporting in the regulatory financial statements

## Introduction

- 3.1 In the March Consultation we proposed a number of improvements to the RFS that have been highlighted via other projects such as the BCMR, the LLCC and the replicability review and through our ongoing use of the RFS. The questions we asked in the March Consultation as to the suitability of these proposals are discussed and concluded below in light of any responses.

## Stakeholder responses and Ofcom's decisions

**Question 1: Do you think change is required to match costs and revenues? If so, which option do you think best meets our objectives and why:**

***Option 1: BT prepares and discloses the adjustments necessary to match costs and revenues to show undistorted returns, MCE, FAC and LRIC numbers; or***

***Option 2: BT changes its regulatory accounting treatment so that costs and revenues are matched.***

- 3.2 All OCP respondents agree with this proposal and their preference is option 1.
- 3.3 In the March Consultation we recognised that under both options BT may not be able to provide wholly reliable data at this time and that we would accept reasonable estimates for 2008/09, such as those made as part of the LLCC project. In its response BT states that the calculation process to arrive at the adjustments provided for the LLCC is complex, time consuming and reliant on the availability of certain information from the audited and published RFS for certain markets, e.g. TISBO. This makes it difficult to derive estimates in advance of the availability of RFS data. BT states that it cannot agree to publish or disclose such information in the RFS given that it will raise further questions on the integrity of the rest of the information in the financial statements.
- 3.4 Although there is strong support for costs and revenues to be better matched in the RFS, how and when this can be achieved appears to raise difficult implementation issues for BT.

## Our decision

- 3.5 Taking account of BT's concerns and so that it can continue to meet its obligations with respect to delivery and publication of the RFS; we have decided to require BT to prepare the information as proposed in option 1 of the March Consultation with some minor modifications. The information will now be in the form of a separately published reporting requirement (an AFI) deferred for up to 6 months from the publication of the RFS to allow sufficient time for BT to prepare or estimate the data. As with all the AFIs that we require BT to prepare, this information will not be audited.
- 3.6 In our March Consultation we set out our view that adjusting costs to match revenues recognised in year would meet our objectives of eliminating potential distortions



caused by different accounting treatments and provide more reliable service level data for monitoring cost orientation obligations. Alternative approaches, such as deferring revenues to match the amortised costs of provision, would provide better information on a matched basis but would still be unsatisfactory at a service level for effectively monitoring cost orientation.

- 3.7 Recognising the practical implementation issues raised by BT, we have decided not to stipulate which methodology BT shall use to meet our reporting objectives. If however BT prepare and publish the additional information we require by recalculating revenues on a deferred basis, then we will also require BT to prepare (for Ofcom only) additional information estimating the adjustments to costs consistent with the methodology we believe best meets all of our objectives. This would be an interim stage in the development of a fit for purpose reporting framework for these services and we will continue to discuss with BT how further improvements can be implemented for 2009/10.
- 3.8 Under both methods BT will be required to fully describe the adjustments they have made, including any significant price or other variances that affect the information presented. We will work with BT to ensure that the presentation of this data for publication (and if necessary for us) is to our satisfaction.
- 3.9 This is also an issue that will be further considered in the wider, "clean-sheet" review, where we will be considering the application of statutory accounting policies to the RFS and the information required to demonstrate and monitor compliance with cost orientation and other obligations.
- 3.10 We consider these modifications to our original proposal still achieve our primary objective to improve the matching of costs and revenues, but take account of BT's concerns with our original proposal. However they require further minor modifications to Directions 3, 4, the FA10 Preparation, audit and delivery Direction and the FA10 Form and content Direction to require BT to prepare the information as an AFI rather than including it within the RFS.
- 3.11 The requirement for BT to produce and publish this information is contained in Annexes A and B to Direction 3 and the FA10 Preparation, audit and delivery Direction at Annex 4 of this document, and the descriptions of the information and the format in which it is to be presented is at Annex I to Direction 4 and the FA10 Form and content Direction at Annex 5 of this document.

**Question 2: Do you agree with Ofcom's proposal for BT to separately identify and report the costs of OSPs, resilience and third party equipment charges?**

- 3.12 Overall all the respondents agree with this proposal.
- 3.13 BT are able to separately identify and report the costs for resilience, but explain that due to the complexities in effectively identifying costs relating to OSPs (i.e. ECCs) and third party equipment in its internal systems, it is not possible to separately identify these in the 2008/09 accounts and propose to defer the reporting of this data until 2010.
- 3.14 In the March Consultation we recognised that BT may not be able to provide wholly reliable cost data at this time and that we would accept reasonable estimates for 2008/09, such as those made as part of the LLCC project. Again BT explains that they are not comfortable in publishing or disclosing this information in the RFS.

- 3.15 BT states that OSPs consist of many different variants that make up the revenue reported in the RFS. Costs are made up of many constituent parts and the amount of work required to derive these costs or to come up with an estimate is extremely onerous. Third party equipment costs are also difficult to identify at this stage.

### **Our decision**

- 3.16 As a result of the responses we remain of the view that this information needs to be separately reported to aid the user in monitoring BT's compliance with its cost orientation for both those services that currently include the costs of excess construction (ECCs) and third party equipment charges and also for the separately reported services of ECCs and third party equipment charges.
- 3.17 Taking account of BT's concerns and so that it can continue to meet its obligations with respect to delivery and publication of the RFS; we have decided to require BT to separately identify the costs of ECCs and third party equipment charges as proposed in the March Consultation. However, this will be in the form of a separately published reporting requirement (an AFI) deferred for up to 6 months from the publication of the RFS to allow sufficient time for BT to prepare or estimate the data. As with all the AFIs that we require BT to prepare, this information will not be audited. We will work with BT to ensure that the data they intend to provide meets our objectives and that the presentation of this data for publication is to our satisfaction.
- 3.18 This change requires further minor modifications to Directions 3 and 4 to require BT to prepare an AFI rather than including the information within the RFS. The requirement for BT to produce and publish this information is contained in Annex A to Direction 3 at Annex 4 of this document and the description of the information and the format in which it is to be presented is at Annex I to Direction 4 at Annex 5 of this document. Please note this will form part of the same AFI as the previous question (3.5 to 3.11) as the markets where this is relevant also need to be adjusted to match costs and revenues.
- 3.19 Our proposal in the March Consultation remains the same for resilience and BT are required to separately identify and report these costs in the 2008/09 published RFS.
- 3.20 We require BT to separately identify and report the costs for ECCs and third party equipment charges in the published RFS in 2009/10.
- 3.21 The changes to the proformas for the relevant markets are at Annexes C to H to Direction 4 at Annex 5 of this document.

### **Question 3: Do you agree with Ofcom's proposal for BT just to account for the point of handover costs in external local end service rentals?**

- 3.22 In principle all respondents agree with this proposal.
- 3.23 BT explains in its response that due to the complexities in identifying the associated costs relating specifically to the point of handover for local end services it will not be possible to report an accurate cost in relation to the point of handover in the 2008/09 RFS. However, BT will be changing the weightings of the costs apportioned between internal and external circuits (based on the adjustment made to internal and external local end prices) in the RFS to reflect a more appropriate comparison of costs against revenue for internal and external local end services.

- 3.24 Whilst UKCTA and C&W recognise that change is required they have concerns over the accuracy of the cost information for points of handover and the appropriateness of any allocation of that cost to all external local ends. They highlight that the best approach would be to ensure that these costs are identified and reported in the technical area – point of handover market.

#### **Our decision**

- 3.25 The point raised in 3.24 is currently the subject of a proposal in the LLCC project and therefore will be dealt with in that statement. We accept BT's proposal as an interim solution to improve the current situation and we will reflect the findings of the LLCC statement in the 2009/10 accounts.

#### **Question 4: Do you agree with Ofcom's proposal for BT to produce and publish online, details of the cost stacks underlying PPC services and technical areas?**

- 3.26 All respondents agree with this proposal.
- 3.27 One confidential respondent has expressed concern that BT will be unable to provide the cost stacks underlying third party equipment charges and ECCs. We appreciate this point, but believe that at this stage it is important that BT identify the costs as a whole for these items in 2008/09 (as set out in paragraphs 3.16 to 3.21). From 2009/10 when BT will include the costs of ECCs and third party equipment and infrastructure charges in the RFS, it will also be required to publish the cost stacks underlying ECCs and third party equipment charges.

#### **Our decision**

- 3.28 There are no changes to this proposal and the requirement to produce and publish this information is at Annex A to Direction 3 at Annex 4 of this document and the description is at Annex I to Direction 4 at Annex 5 of this document.

#### **Question 5: Do you agree with Ofcom's proposal to continue to require BT to produce the information to support the no undue discrimination and cost orientation obligations of the services covered by the business connectivity market review and that we formalise this reporting requirement?**

- 3.29 All OCP respondents agree with this proposal. One confidential respondent would like to see this statement published, or if this is not possible, that we publish a statement to explain that we have reviewed the data provided by BT and that we find the data acceptable.
- 3.30 BT does not agree with this proposal as we agreed with BT that this was to be provided on a one-off voluntary basis in 2007/08. As we did not raise any issues as a result of the information, BT remains unconvinced as to why we want to formalise this as an ongoing reporting requirement.

#### **Our decision**

- 3.31 Having considered the responses we remain of the position that due to ongoing changes in reporting and revenue methodologies in respect of business connectivity markets, it is important to maintain reporting that assists our monitoring of BT's no undue discrimination obligations.

- 3.32 We do not believe that BT should publish or we should publish a statement in relation to the information, as the confidential respondent is proposing. This AFI contains information on BT's unregulated downstream (retail) activities and we consider it would be disproportionate for this AFI to be published.
- 3.33 Therefore we have decided to adopt this proposal with no changes and the requirement to produce and publish this information is contained in Annex A to Direction 3 at Annex 4 of this document and the description is at Annex I to Direction 4 at Annex 5 of this document.

**Question 6: Do you agree with Ofcom's proposal that BT continues to provide an AFI that explains the difference between the revenue reported in the RFS compared to the revenue recognised in BT's general ledger for 2008/09 for the markets covered by the replicability review?**

- 3.34 BT accept that they need to provide greater transparency to us to enable us to get a better understanding of the key reasons for the differences between revenue shown in the regulatory accounts and revenue reported in the ledgers. This is also an important check of the price (p) x quantity (q) calculation used to derive revenues in the regulatory accounts.
- 3.35 BT has agreed to provide this on a market by market basis to the extent that the detail is available in their general ledger which was set out in the March Consultation. The markets or market groupings for which a reconciliation between the revenue reported in the RFS at market level and the revenue in the general ledger will be produced are:
- Traditional interface symmetric broadband origination (up to and including 8Mbit/s and wholesale trunk segments combined;
  - Traditional interface symmetric broadband origination (above 8Mbit/s up to and including 45Mbit/s) and wholesale trunk segments combined;
  - Traditional interface symmetric broadband origination (above 45Mbit/s and up to and including 155Mbit/s) and wholesale trunk segments combined; and
  - Technical areas (Point of handover)
- 3.36 All the OCP respondents agree with this proposal, however, C&W and UKCTA do not believe it goes far enough and argue that the reconciliation should also be published. They believe stakeholders need to see this information and by not requiring it to be published we are limiting the value of the RFS as only BT and ourselves will know why the numbers in the RFS are deficient/inaccurate.

**Our decision**

- 3.37 We note that BT and OCPs recognise the importance of effective reconciliations to support the preparation of the RFS. This specific requirement is only part of the checks and controls built into the process and therefore we do not believe it is appropriate in this context for this AFI to be published.
- 3.38 The description of this AFI is intended to ensure that BT separately identify and fully describe each of the differences between the revenue reported in the general ledger and the revenue reported in the RFS for the market/market groupings identified in 3.35.

- 3.39 There are no changes to this proposal and the requirement to produce and publish this information is at Annex A to Direction 3 at Annex 4 of this document and the description is at Annex I to Direction 4 at Annex 5 of this document.

**Question 7: Do you agree with Ofcom's proposal that, as far as possible, for each service reported in the RFS the units should be consistent with the units by which that service is sold in BT's price list?**

- 3.40 All respondents agree with this proposal.
- 3.41 BT state that they will continue to review the units reported in the RFS and will endeavour to report consistent units to that listed in its price list. Due to a number of other changes we are requiring BT to make, they state that it may take time to completely align all the units in the RFS to those in the price list. Therefore they are only able to make adjustments to units in the AISBO market for 2008/09.

**Our decision**

- 3.42 Therefore our decision is that BT will align the units in the AISBO market for 2008/09 and complete this for the remaining services that require this change in 2009/10.

## Section 4

# Reporting changes as a result of market reviews and removal of reporting in small markets

## Introduction

- 4.1 Two market reviews which require specific changes to the RFS of BT and KCOM have concluded since the publication of our 2008 statement, "Changes to BT's 2007/08 Regulatory Financial Statements"<sup>9</sup> (the "2008 statement") and BT's 2007/08 RFS. These are the wholesale broadband access and business connectivity market reviews.
- 4.2 Both reviews identified geographic markets which have regulatory reporting obligations and made some changes to market definitions. This statement is the mechanism by which we implement these changes to BT and KCOM's regulatory reporting requirements through the RFS, to the extent that the two reviews have not already applied the reporting obligations.
- 4.3 As a consequence of these reviews we set out a number of proposals in the March Consultation as to how these changes to the reporting requirements should be implemented. The questions we asked in the March Consultation as to the suitability of these proposals are discussed and concluded below in light of any responses.
- 4.4 As we explained in the March Consultation stakeholders should note that the only change we will not be requiring BT to implement is geographic reporting in the business connectivity markets in time for the publication of the 2008/09 RFS. This is because of the timing of the publication of the BCMR statement in December 2008. We intend to consult on the form and content of geographic reporting in these markets for implementation in 2009/10.
- 4.5 In the March Consultation we also set out a proposal from BT to remove reporting for markets that account for less than £10m of revenue. The question we asked in the March Consultation as to the suitability of this proposal is discussed and concluded below in light of any responses.

## Stakeholder responses and Ofcom's decisions

### Question 8: Do you agree with Ofcom's proposals for geographic reporting in the wholesale broadband access markets for BT?

- 4.6 All OCP respondents agree with our proposals as an approach in the short term. UKCTA and C&W highlight that a more long-term strategic approach is required to deal with cost allocation between regulated and unregulated services, particularly where common resources are shared. They believe this issue should be considered as part of our wider, "clean sheet" review (see paragraphs 1.9 and 2.6).
- 4.7 BT agrees with our proposals.

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<sup>9</sup> <http://www.ofcom.org.uk/consult/condocs/btregs08/statement/>

## Our decision

- 4.8 There are no changes to our original proposal and the relevant changes to the form and content are Annexes 5A, 6A, 8, 12 and 21 at Annexes A and B to Direction 4 and the FA10 Form and content Direction at Annex 5 of this document. The changes to the FA10 Form and content Direction for Annexes 5A and 6A are required to maintain consistency with the market definitions modified in Direction 4. BT is not required to do any additional reporting as a result of the proposed modification to the FA10 Form and content Direction. Annexes 8 and 12 are solely a modification to Direction 4. Annex A to Direction 3 is also modified at Annex 4 to take account of the new market names and definitions.
- 4.9 The requirement to produce and publish the additional information (AFI) is at Annex A to Direction 3 at Annex 4 of this document and the description is at Annex I to Direction 4 at Annex 5 of this document.

### **Question 9: Do you agree with Ofcom's proposal for changes to reporting in the wholesale broadband access market for KCOM?**

- 4.10 C&W agrees with this proposal and all the other respondents have no comments in relation to this proposal. KCOM did not formally respond to the consultation but confirmed to Ofcom that it had no comments with regards to our proposals.
- 4.11 There are no changes to this proposal. The changes to Directions 3 and 4 to take account of the revised market definitions are at Annexes 6 and 7.

### **Question 10: Do you agree with Ofcom's proposals for changes to reporting for BT as a result of the findings in the BCMR statement?**

- 4.12 All the OCP respondents agree with our proposals. They highlight similar points as we set out in 4.6 with regards to the allocation of costs (particularly common costs) across geographic markets. BT will not be implementing geographic reporting in the BCMR markets in 2008/09 due to the timing of the BCMR statement. We will be working with BT to implement this in time for the 2009/10 RFS, where we will take into consideration the points raised by the OCPs. Again we will also consider our more long-term approach to cost allocation between regulated and unregulated services as part of our wider, "clean sheet" review.
- 4.13 BT accepts our proposals to report revised market definitions following the BCMR statement. However, BT does not agree with our guidance regarding the reporting for Netstream. Our guidance was simply reiterating and clarifying the conclusion in the BCMR statement that Netstream sales to mobile network operators (MNOs) are wholesale services and therefore they need to be separately reported in the relevant wholesale market. BT states that Netstream is a downstream product that is available to both business users and to MNOs as part of bundled managed services contracts and from its perspective as a downstream product that utilises PPC inputs, it is more appropriate to report external revenue associated with the provision of Netstream within the retail residual business and wholesale PPC inputs to provide Netstream as internal revenue in the relevant BCMR markets.
- 4.14 We accept that sales of Netstream products to business users should be treated as retail sales, however the BCMR statement is clear on the point about sales to MNOs. In our BCMR statement we state "Although some MNOs have purchased circuits

from BT on ostensibly retail “Netstream” tariffs in preference to wholesale RBS terms, we regard all MNOs’ purchases as wholesale services.<sup>10</sup>”

### **Our decision**

- 4.15 Therefore our position with regards to the reporting of Netstream sales to MNOs in the RFS is unchanged. For clarification, these sales should be treated as wholesale sales from the relevant SMP markets and reported as such in the RFS.
- 4.16 There are no changes to our reporting proposals. The notification in Annex 8 of the BCMR statement amended the original 2004 Notification to BT setting the regulatory reporting obligations so as to reflect the new market definitions and apply regulatory reporting obligations to the revised market definitions. The BCMR notification omitted to apply the relevant regulatory reporting obligations with respect to the revised market that was identified in the BCMR (market 17a). The notification to amend the 2004 Notification to BT to apply the regulatory reporting obligations to this additional market is set out in Annex 2. The reasoning is set out in the BCMR statement so we do not propose to repeat it here and we are satisfied there has been no material change in that market since the market power determination in December 2008.
- 4.17 The updated table setting out the identified SMP markets for which RFS are required is reproduced in Annex 3 for ease of reference.
- 4.18 The changes to Directions 3 and 4 are set out in Annex A to Direction 3 and in Annex A to Direction 4 at Annexes 4 and 5, respectively, of this document.

### **Question 11: Do you agree with Ofcom’s proposals for changes to reporting for KCOM as a result of the findings in the BCMR statement?**

- 4.19 C&W agrees with this proposal and all the other respondents have no comments in relation to this proposal. KCOM did not formally respond to the consultation but confirmed to Ofcom that it had no comments with regards to our proposals.
- 4.20 There are no changes to this proposal. The notification in Annex 8 of the BCMR statement amended the original 2004 Notification to KCOM setting the regulatory reporting obligations so as to reflect the new market definitions and apply regulatory reporting obligations to the revised market definitions. The BCMR notification omitted to apply the relevant regulatory reporting obligations with respect to the revised market that was identified in the BCMR (market 12). The notification to amend the 2004 Notification to KCOM to apply the regulatory reporting obligations to this additional market is set out in Annex 2. The reasoning is set out in the BCMR statement so we do not propose to repeat it here and we are satisfied there has been no material change in that market since the market power determination in December 2008.
- 4.21 The updated table setting out the identified SMP markets for which RFS are required is reproduced in Annex 3 for ease of reference.
- 4.22 The changes to take account of the revised market definitions are at Annexes A and C to Direction 3 at Annex 6 of this document and Annex A to Direction 4 at Annex 7 of this document.

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<sup>10</sup> Page 87 of the BCMR statement <http://www.ofcom.org.uk/consult/condocs/bcmr08/>



**Question 12: Do you agree with BT's proposal and Ofcom's position with regards to removing reporting for the markets that account for less than £10m revenue?**

- 4.23 UKCTA and C&W are in agreement with BT's proposal and our position for the removal of reporting of the wholesale residential ISDN2 and retail residential IDD calls category B markets. However they object to the removal of reporting of Technical Areas – Point of Handover and retail operator assisted calls.
- 4.24 For point of handover we are in agreement with UKCTA and C&W as we set out in the March Consultation. For retail operator assisted calls they state that as a result of the NTS regime alternative providers are compelled to contribute to BT's operator assistance costs through BT's NTS call origination charges and full visibility of these costs is still required.
- 4.25 We do not agree that the OCPs need the retail reporting of operator assisted calls to meet their objective. The element of cost that they contribute to is reported in the wholesale markets, specifically, the call origination on fixed public narrowband networks market. The service, wholesale call originating local exchange segment includes the operator assistance costs, the breakdown of which can be seen in the calculation of the FAC from component costs within the RFS.
- 4.26 BT does not agree with our position to maintain the reporting obligation relating to Technical areas (Point of Handover). They claim it is insignificant when compared to wholesale SMP markets turnover in 2007/08 and on this basis it would appear disproportionate on them to report the results for this market. However, the OCPs most strongly object to the removal of reporting for this market, as this is will in many cases be material to them, even if it is not material to BT.
- 4.27 A confidential respondent is concerned about a £10m revenue threshold. They believe it will set a precedent. In particular they are concerned that BT could escape a reporting requirement in a growing market below the £10m threshold and by the time it exceeds that level it will have such a position of SMP that other CPs cannot compete effectively.
- 4.28 With regard to the individual markets, these are defined by the individual market reviews. If a new market is identified with reporting obligations we will direct BT to implement reporting in this area through a consultation and statement process such as this one, regardless of its size, therefore if the market is growing BT will be required to report this. If over time the revenue falls below £10m, and BT wish to remove reporting, we will consult on removing the reporting obligation. As we demonstrate in paragraph 4.26 and 4.29 we have not allowed the removal of reporting in a market that is currently below £10m revenue (technical areas – point of handover), but whose reporting is important to external stakeholders.

**Our decision**

- 4.29 As a result of these responses our position remains that BT need no longer report wholesale residential ISDN2, retail operator assisted calls in the UK and retail residential IDD calls category B. However they must continue to report technical areas – point of handover. The relevant modifications to Directions 3 and 4 are set out at Annexes 4 and 5 of this document.

## Section 5

# Other items for information

- 5.1 This section sets out a numbers of areas where we did not propose formal changes in the March Consultation, but we want to update stakeholders on the progress of these issues. Additionally there are some areas where we are just highlighting general reporting requirements that we have put in place in past reporting statements as they may be relevant to the 2008/09 RFS.

### Regulatory accounting treatment of BT's LUS transfer charge

- 5.2 As discussed in the March Consultation BT is required to comply with the financial reporting obligations in the BT Undertakings and prepare the financial results of Openreach as presented in the RFS on the same basis as the RFS. However it does not currently appear to do this because it attributes the cost of the LUS to services in the Openreach reporting, but as a result of a Direction in our 2008 statement, no longer reports these costs in the SMP markets in the RFS.
- 5.3 We therefore presented the proposal to BT to exclude the costs of the LUS from the accounts of the Openreach regulatory entity published with the RFS.
- 5.4 This matter is being considered by the Equality of Access Office (EAO) in relation to paragraph 5.31 of the Undertakings. We will review any further steps we need to take after the findings of the EAO are known.
- 5.5 This is supported by the OCP respondents.

### Issue identified in the Openreach pricing framework consultation

- 5.6 In the March Consultation we highlighted an issue of cost allocation, where Ofcom identified that some of the non-regulated Openreach services do not appear to pick up an appropriate share of costs.
- 5.7 Subsequently, the Openreach Statement concluded that - in determining regulated prices- some costs should be reallocated from the Core Rental Services in each year of the price control. We will discuss with BT changes to its cost attribution methodology in the next year to reflect the implications of this adjustment from 2009/10 onwards. However, due to the timing of the Openreach statement, it is not practicable to require any changes to be made in the 2008/09 RFS.
- 5.8 In their responses the OCPs highlight a more general point around the allocation of costs between regulated and unregulated services and that cost allocation and the incentives associated with it need to be considered in our wider, "clean sheet" review as set out in paragraph 1.9 and 2.6.

### Reporting of new services

- 5.9 In the March Consultation we highlighted the requirement for BT to separately report all new and current services whose revenues and/or associated costs exceed £10m.
- 5.10 Even if a service's revenues and/or associated costs are below £10m they should still be reported within the relevant market, however they are not required to be reported separately. If a service's revenues and/or associated costs do exceed the £10m

threshold they should be reported separately. If the stage in the year at which the threshold is reached means it is difficult for BT to set up them up in the regulatory systems appropriately then they should discuss this with us as there are some services that are significant that we would want BT to report in full from 2008/09.

- 5.11 In the response from UKCTA they highlighted that where BT misses the deadline to include separate reporting for inclusion in the RFS, they should be required to publish a separate, comprehensive standalone report for the product within 60 days.
- 5.12 We believe the application of a 'de minimus' limit (currently £10m) is an effective mechanism to limit the reporting of services with relatively low turnover. We expect to consider levels of materiality and levels of reporting in our wider, 'clean sheet' review.

### **Term discount reporting**

- 5.13 As discussed in the March Consultation BT currently reports revenues net of discounts. In the 31 August 2005 statement, "Changes to BT's regulatory reporting framework", we stated that BT are required to disclose discounts which represent 5% or above of gross revenues. We are highlighting this as it may become important as BT offers term discounts for some Ethernet services. Should the value of these discounts exceed the 5% threshold then we would expect BT to separately identify and report discount information in the relevant markets statements (Annexes 11, 12 or 13) split between internal and external sales.

### **Comparative information**

- 5.14 We are requiring a number of changes to the form and content of the RFS (Direction 4 and the FA10 form and content direction at Annex 5 for BT and Direction 4 at Annex 7 for KCOM) and this has implications on the comparative information.
- 5.15 How BT should prepare comparative information is clearly set out in Condition OA9 in the 2004 statement, "The regulatory financial reporting obligations on BT and Kingston Communications"<sup>11</sup> which explains the requirement for restatements. This Condition does also provide for not restating – "BT may depart from this requirement in preparing the Regulatory Financial Statements for a Financial Year if there are reasons for doing so provided that the particulars of the departure, the reasons for it and its effect are stated in a note in the Regulatory Financial Statements".

### **Change to the order of the RFS**

- 5.16 In the March Consultation we set out a proposal from BT for a change to the order of the statements in the RFS for 2008/09 onwards.
- 5.17 All the same information will be there, it will just be in a different order which more closely reflects the order of statements in a set of statutory accounts.
- 5.18 No comments were received on this item.
- 5.19 For stakeholders' information we set out again the previous and revised order in the table below so they are aware of this when the accounts are published.

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<sup>11</sup>[http://www.ofcom.org.uk/consult/condocs/fin\\_reporting/fin\\_report\\_statement/finance\\_report.pdf](http://www.ofcom.org.uk/consult/condocs/fin_reporting/fin_report_statement/finance_report.pdf)

Revised structure	2007/08 section location
1 Introduction	
1.1 Purpose and content of current cost financial statements	
The regulatory regime	1.1
SMP markets summary	1.1
Openreach	1.1
1.2 Regulatory financial review covering:	
Regulatory changes impacting the current year markets	1.1 & 2.2
BT Undertakings under the Enterprise Act	2.2
Future developments	
2 Statement of responsibility (links to basis of preparation)	10
3 Audit report	10
4 Basis of preparation to include:	
Basis of preparation	1.1
Accounting policies	8
Impact of 21CN cost allocation methodology	2.2
Accounting documents	1.1
BT accounting records	1.1
Restatement of prior year comparatives	1.1, 2.2 & 8
Cost allocation bases if required	
5 Consolidated performance summary - with overview commentary if required	2.1
6 Attribution of wholesale current cost and mean capital employed	2.3 - 2.6
7 Review of access markets	3
8 Review of other wholesale markets	4
9 Review of retail markets	5
10 Reconciliation statements	7
11 Openreach information	11
12 Accounting documents and other documentation	12
Appendix 1 Other information	6
Appendix 2 Price control statements	9

## Annex 1

# Legal tests

## Introduction

- A1.1 This annex sets out how Ofcom has satisfied the legal tests to amend BT and KCOM's regulatory financial accounting obligations, as set out earlier in this statement.

## Changes relating to BT

### 1) Change to ensure consistent recognition of costs and revenues (Question 1)

- A1.2 In paragraphs 3.2 to 3.35 of the March Consultation we discussed two options (and set out legal tests for both options) for BT to ensure consistent recognition of costs and revenues. In paragraphs 3.5 to 3.11 of this statement we set out that we have decided to implement option 1 with some minor modifications, so that BT will have one or two separate reporting requirements (one of which will be published) deferred for up to 6 months to allow sufficient time for BT to prepare or estimate the data. Two statements are only required if BT prepares the statement that it publishes by adjusting the revenues to match costs and revenues. Below we set out how we satisfy the legal tests, for the option we have chosen, to amend the relevant parts of BT's regulatory financial accounting obligations to direct BT to produce this information.

## Legal tests

- A1.3 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, Directions 4, the FA10 Preparation, audit and delivery Direction and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 as set out in paragraphs 3.5 to 3.11 and Annexes 4 and 5 of this statement. These following paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out in this statement.

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

- A1.4 Section 3 of the Act sets out the duties of Ofcom 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.
- A1.5 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 and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A1.6 As part of the EU market review process Ofcom 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 have already assessed whether these regulatory accounting obligations met the tests outlined in sections 3 and 4 of the Act. The

changes to Directions 3, 4, the FA10 Preparation, audit and delivery Direction and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 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). In consequence Ofcom believes the amendments to Directions 3, 4, the FA10 Preparation, audit and delivery Direction and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 meet the tests in sections 3 and 4 of the Act.

## **Section 49(2) tests**

A1.7 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) has 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.

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

A1.8 Ofcom considers that modifying Directions 3, 4 the FA10 Preparation, audit and delivery Direction and the FA10 Form and content Direction in the manner described in paragraph 3.5 to 3.11 and set out in Annexes 4 and 5 is objectively justifiable because these changes will better ensure BT are able to demonstrate their obligation to ensure charges are matched to costs of provision to the users of the accounts and to show returns that are undistorted. This is part of ensuring the accounts are fit for purpose.

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

A1.9 Ofcom considers that modifying Directions 3, 4, the FA10 Preparation, audit and delivery Direction and the FA10 Form and content Direction in the manner described in paragraphs 3.5 to 3.11 and set out in Annexes 4 and 5 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, adopts a treatment in its RFS which ensures consistent treatment of costs and revenues.

### Proportionate to what it is intended to achieve

A1.10 Ofcom considers that modifying Directions 3, 4, the FA10 Preparation, audit and delivery Direction and the FA10 Form and content Direction in the manner described in paragraph 3.5 to 3.11 and set out in Annexes 4 and 5 is proportionate because it is important that BT are able to demonstrate their obligation to ensure charges are matched to costs of provision to users of the RFS and to show returns that are undistorted. We have acknowledged that estimates may need to be made to reduce the level of burden in the first instance and as a result of BT's response to

the March Consultation have given them the extra time they require to prepare the data.

### Transparent in relation to what it is intended to achieve

- A1.11 Ofcom considers that modifying Directions 3, 4, the FA10 Preparation, audit and delivery Direction and the FA10 Form and content Direction in the manner described in paragraph 3.5 to 3.11 and set out in Annexes 4 and 5 is transparent because Ofcom is explaining and has consulted on the nature of this change and has provided background explanatory material and evidence.

## **2) Separate identification and reporting of costs in respect of other single payments (OSPs), resilience and third party equipment and infrastructure charges (Question 2)**

### **Legal tests**

- A1.12 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 3.16 to 3.21 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 – general duties & the six Community requirements**

- A1.13 Section 3 of the Act sets out the duties of Ofcom 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.
- A1.14 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 and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A1.15 As part of the EU market review process Ofcom 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 have already assessed whether these regulatory accounting obligations met the tests outlined in sections 3 and 4 of the Act. 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). In consequence Ofcom believes the amendments to Directions 3 and 4 under SMP condition OA2 meets the tests in sections 3 and 4 of the Act.

### **Section 49(2) tests**

- A1.16 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) has 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.

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

A1.17 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.16 to 3.21 and Annexes 4 and 5 is objectively justifiable because BT has a cost orientation obligation at the service level in the markets in which these services sit. Therefore they need to be able to demonstrate their compliance with this obligation through the RFS.

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

A1.18 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.16 to 3.21 and Annexes 4 and 5 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, does not have such extensive or detailed reporting requirements and is not subject to the majority of the changes set out in this statement.

Proportionate 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 3.16 to 3.21 and Annexes 4 and 5 is proportionate because it is reasonable for us to expect that the costs of these services should be separately disclosed as part of BT demonstrating compliance with their cost orientation obligation.

Transparent in relation to what it is intended to achieve

A1.20 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.16 to 3.21 and Annexes 4 and 5 is transparent because Ofcom is explaining and has consulted on the nature of this change and has provided background explanatory material and evidence.

**3) Requirement to publish detailed cost stack analysis underlying PPC services and technical areas (Question 4)**

**Legal tests**

A1.21 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modifications of Directions 3 and 4 under SMP condition OA2 as set out in paragraph 3.28 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 – general duties & the six Community requirements

- A1.22 Section 3 of the Act sets out the duties of Ofcom 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.
- A1.23 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 and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A1.24 As part of the EU market review process Ofcom 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 have already assessed whether these regulatory accounting obligations met the tests outlined in Sections 3 and 4 of the Communications Act. 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). In consequence Ofcom believes the amendments to Directions 3 and 4 under SMP condition OA2 meet the tests in Sections 3 and 4 of the Act.

## Section 49(2) tests

- A1.25 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) has 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.

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

- A1.26 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.28 and Annexes 4 and 5 is objectively justifiable because currently we believe that the components in these markets do not fulfil all of the characteristics of a component and therefore this change aims to rectify this and allow all of these characteristics to be met.

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

- A1.27 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.28 and Annexes 4 and 5 is not unduly discriminatory because KCOM, the only other communications provider with similar

obligations, does not have such extensive or detailed reporting requirements and is not subject to the majority of the changes set out in this statement.

#### Proportionate to what it is intended to achieve

- A1.28 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.28 and Annexes 4 and 5 is proportionate as BT has a transparency obligation with regards to cost accounting and the current reporting of the underlying cost stack for the PPC markets and technical areas does not meet this obligation.

#### Transparent in relation to what it is intended to achieve

- A1.29 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.28 and Annexes 4 and 5 is transparent because Ofcom is explaining and has consulted on this change and has provided background explanatory material and evidence from other projects.

### **4) Reporting of downstream gross margin information to support BT's no undue discrimination obligation in the business connectivity markets (Question 5)**

#### **Legal tests**

- A1.30 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 3.31 to 3.33 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 – general duties & the six Community requirements**

- A1.31 Section 3 of the Act sets out the duties of Ofcom 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.
- A1.32 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 and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A1.33 As part of the EU market review process Ofcom 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 have determined that these regulatory accounting obligations meet the tests outlined in Sections 3 and 4 of the Act. 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). In consequence Ofcom believes the amendments to Directions 3 and 4 under SMP condition OA2 meet the tests in Sections 3 and 4 of the Act.

## Section 49(2) tests

A1.34 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) has 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.

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

A1.35 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.31 to 3.33 and Annexes 4 and 5 is objectively justifiable because of our concerns about the effective operation of the no undue discrimination obligation in the business connectivity markets. This piece of information allows us to further monitor this obligation and alleviate our original concerns

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

A1.36 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.31 to 3.33 and Annexes 4 and 5 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, does not have such extensive or detailed reporting requirements and is not subject to the majority of the changes set out in this statement.

### Proportionate to what it is intended to achieve

A1.37 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.31 to 3.33 and Annexes 4 and 5 is proportionate as this covers an area where there is particular interest due to the recent market review and the setting of a new charge control. We are also not requiring BT to publish information due to the confidential nature of the data.

### Transparent in relation 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 paragraphs 3.31 to 3.33 and Annexes 4 and 5 is transparent because Ofcom is explaining and has consulted on this change and has provided background explanatory material and evidence from other projects.

## **5) External revenue reported in the RFS to be reconciled against general ledger (Question 6)**

### **Legal tests**

- A1.39 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 3.37 to 3.39 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 in this statement.

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

- A1.40 Section 3 of the Act sets out the duties of Ofcom 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.
- A1.41 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 and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A1.42 As part of the EU market review process Ofcom 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 meet the tests outlined in Sections 3 and 4 of the Act. 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 no undue discrimination). In consequence Ofcom believes the amendments to Directions 3 and 4 under SMP condition OA2 meet the tests in Sections 3 and 4 of the Act.

### **Section 49(2) tests**

- A1.43 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) has 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.

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

- A1.44 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.37 to 3.39 and Annexes 4 and 5 is objectively justifiable because it is not currently possible to determine if the revenues in the RFS represent those reported in BT's statutory accounts. If the revenues are different then the return at market level will be different.

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

- A1.45 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.37 to 3.39 and Annexes 4 and 5 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, does not have such extensive or detailed reporting requirements and is not subject to the majority of changes set out in this statement.

Proportionate to what it is intended to achieve

- A1.46 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.37 to 3.39 and Annexes 4 and 5 is proportionate because we are only asking for this information as an AFI which is for Ofcom only and confined to the markets covered by the BCMR in order to monitor the effectiveness of the revised calculation of internal and external revenues.

Transparent in relation to what it is intended to achieve

- A1.47 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraphs 3.37 to 3.39 and Annexes 4 and 5 is transparent because Ofcom is explaining and has consulted on this change and has provided background explanatory material and evidence from other projects.

**6) Geographic reporting in wholesale broadband access markets – BT (Question 8)**

**Legal tests**

- A1.48 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 and the FA10 Form and content Direction under SMP condition OA2 and FA10.2 as set out in paragraphs 4.8 to 4.9 and Annexes 4 and 5 are met. The changes to the FA10 form and content Direction are required to maintain consistency with the market definitions modified in Directions 3 and 4. BT is not required to do any additional reporting as a result of the modification to the FA10 Form and content Direction. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out in this statement.

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

- A1.49 Section 3 of the Act sets out the duties of Ofcom 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.

- A1.50 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 and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A1.51 As part of the EU market review process Ofcom 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 Act. The changes to Directions 3 and 4 under SMP condition OA2 and to the FA10 Form and content Direction under SMP condition FA10.2 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). In consequence Ofcom believes the amendments to Directions 3 and 4 under SMP condition OA2 and to the FA10 Form and content Direction under SMP condition FA10.2 meet the tests in Sections 3 and 4 of the Act.

### **Section 49(2) tests**

- A1.52 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) has 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.

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

- A1.53 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraphs 4.8 to 4.9 and Annexes 4 and 5 is objectively justifiable because the changes are necessary to meet BT's new SMP conditions as a result of the most recent market review. The publication of some information for a non-SMP market is justifiable to the extent that it is required to provide a complete picture of markets 1 and 2 – the markets with SMP – as the majority of costs cannot be allocated on a geographic basis.

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

- A1.54 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraphs 4.8 to 4.9 and Annexes 4 and 5 is not unduly discriminatory because we have proposed and concluded on the relevant changes for KCOM, the only

other communications provider with similar obligations, imposed by the most recent market review.

#### Proportionate to what it is intended to achieve

- A1.55 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraphs 4.8 to 4.9 and Annexes 4 and 5 is proportionate because it is the minimum necessary to satisfy the new SMP conditions imposed by the most recent market review and the publication of some information for a non-SMP market is necessary to provide a complete picture of markets 1 and 2 as the majority of costs cannot be allocated on a geographic basis.

#### Transparent in relation to what it is intended to achieve

- A1.56 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraphs 4.8 to 4.9 and Annexes 4 and 5 is transparent because Ofcom is explaining and has consulted on this change and has provided background explanatory material and evidence from other projects.

### **7) Changes to reporting in the business connectivity markets – BT (Question 10)**

#### **Legal tests**

- A1.57 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of the original notification dated 22 July 2004, Directions 3 and 4 and the FA10 Form and content Direction under SMP condition OA2 and FA10.2 as set out in paragraphs 4.15 to 4.18 and Annexes 2, 4 and 5 are met. As explained in paragraph 4.16 Ofcom is making a minor change to the original July 2004 notification to ensure the existing reporting obligations apply to the new market 17a defined in the BCMR. The reasons for modifying the notification were consulted on in the BCMR consultations in January 2008 and July 2008. The changes to the FA10 form and content Direction are required to maintain consistency with the market definitions altered in Direction 4. BT is not required to do any additional reporting as a result of the modification to the FA10 Form and content Direction. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out in this statement.

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

- A1.58 Section 3 of the Act sets out the duties of Ofcom 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.
- A1.59 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 and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A1.60 As part of the EU market review process Ofcom 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 meet the tests outlined in Sections 3 and 4 of the Act. The changes to Directions 3 and 4 under SMP condition OA2 and to the FA10 Form and content Direction under SMP condition FA10.2 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). In consequence Ofcom believes the amendments to the notification, Directions 3 and 4 under SMP condition OA2 and a direction under SMP condition FA10.2 meet the tests in Sections 3 and 4.

## **Section 49(2) tests**

A1.61 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) has 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.

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

A1.62 Ofcom considers that modifying the notification, Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraphs 4.15 to 4.18 and Annexes 2, 4 and 5 is objectively justifiable because the changes are necessary to meet BT's new SMP conditions as a result of the most recent market review.

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

A1.63 Ofcom considers that modifying the notification, Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraphs 4.15 to 4.18 and Annexes 2, 4 and 5 is not unduly discriminatory because we have proposed and concluded on the relevant changes for KCOM, the only other communications provider with similar obligations, as per the most recent market review.

### Proportionate to what it is intended to achieve

A1.64 Ofcom considers that modifying the notification, Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraphs 4.15 to 4.18 and Annexes 2, 4 and 5 is proportionate because it is the minimum necessary to satisfy the new SMP conditions as per the most recent market review.



Transparent in relation to what it is intended to achieve

- A1.65 Ofcom considers that modifying the notification, Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraphs 4.15 to 4.18 and Annexes 2, 4 and 5 is transparent because Ofcom is explaining and has consulted on this change and has provided background explanatory material and evidence from other projects.

## **8) BT's proposal to remove reporting for market that account for less than £10m of revenue (Question 12)**

### **Legal tests**

- A1.66 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 and the FA10 Form and content Direction under SMP condition OA2 and FA10.2 as set out in paragraph 4.29 and Annexes 4 and 5, respectively, are met. The changes to the FA10 form and content Direction are required to maintain consistency with the markets deleted in Directions 3 and 4. BT is not required to do any additional reporting as a result of the modification to the FA10 Form and content Direction. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out in this statement.

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

- A1.67 Section 3 of the Act sets out the duties of Ofcom 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.
- A1.68 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 and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A1.69 As part of the EU market review process Ofcom 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 have already determined that these regulatory accounting obligations meet the tests outlined in Sections 3 and 4 of the Act. However, Ofcom has a duty to regularly review regulatory burdens and consider whether it would be appropriate to remove or reduce regulatory burdens it has imposed. In this case Ofcom believes the three identified markets are no longer material enough to warrant individual reporting and should therefore be reported in the residual markets in the RFS.

### **Section 49(2) tests**

- A1.70 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) has 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.

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

A1.71 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.29 and Annexes 4 and 5 is objectively justifiable because at the service-level BT can apply the £10m de minimus limit which allows them to merge low value services within similar product families to reduce the reporting burden. These markets will now be merged and reported in the residual markets. We are making changes and bringing in additional obligations in other more material areas and therefore it is appropriate for us to relax obligations, as appropriate, in these less material areas.

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

A1.72 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.29 and Annexes 4 and 5 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, does not have such extensive or detailed reporting requirements and is not subject to the majority of the changes set out in this statement.

Proportionate to what it is intended to achieve

A1.73 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.29 and Annexes 4 and 5 is proportionate as it is a removal of certain reporting requirements and should reduce the quantity of reporting by BT.

Transparent in relation to what it is intended to achieve

A1.74 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.29 and Annexes 4 and 5 is transparent because Ofcom is explaining and has consulted on this change and has provided background explanatory material and evidence from other projects.

## Proposals relating to KCOM

### 9) Changes to reporting in wholesale broadband access markets – KCOM (Question 9)

#### Legal tests

- A1.75 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 OB2 as set out in paragraphs 4.10 to 4.11 and Annexes 6 and 7 are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out in this statement.

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

- A1.76 Section 3 of the Act sets out the duties of Ofcom 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.
- A1.77 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 and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A1.78 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on KCOM in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews determined that these regulatory accounting obligations meet the tests outlined in Sections 3 and 4 of the Act. The changes to Directions 3 and 4 under SMP condition OB2 are designed to enable KCOM to more 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 OB2 meet the tests in Sections 3 and 4 of the Act.

#### Section 49(2) tests

- A1.79 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) has 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.

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

- A1.80 Ofcom considers that modifying Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.10 to 4.11 and Annexes 6 and 7 is objectively justifiable because the changes are necessary to meet KCOM's new SMP conditions as a result of the most recent market review.

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

- A1.81 Ofcom considers that modifying Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.10 to 4.11 and Annexes 6 and 7 is not unduly discriminatory because we have proposed and concluded on the relevant changes for BT, the only other communications provider with similar obligations, as per the most recent market review.

Proportionate to what it is intended to achieve

- A1.82 Ofcom considers that modifying Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.10 to 4.11 and Annexes 6 and 7 is proportionate because it is the minimum necessary to satisfy the new SMP conditions as per the most recent market review.

Transparent in relation to what it is intended to achieve

- A1.83 Ofcom considers that modifying Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.10 to 4.11 and Annexes 6 and 7 is transparent because Ofcom is explaining and has consulted on this change and has provided background explanatory material and evidence from other projects.

**10) Changes to reporting in the business connectivity markets – KCOM (Question 11)**

**Legal tests**

- A1.84 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 OB2 as set out in paragraphs 4.19 to 4.22 and Annexes 2, 6 and 7 are met. As explained in paragraph 4.20, Ofcom is making a minor change to the original July 2004 notification to ensure the existing reporting obligations apply to the new market 12 defined in the BCMR. The reasons for modifying the notification were consulted on in the BCMR consultations in January and July 2008. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out in this statement.

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

- A1.85 Section 3 of the Act sets out the duties of Ofcom 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.
- A1.86 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 and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.

- A1.87 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on KCOM in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews have already determined that these regulatory accounting obligations meet the tests outlined in Sections 3 and 4 of the Act. The changes to Directions 3 and 4 under SMP condition OB2 are designed to enable KCOM to more 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 OB2 meets the tests in Sections 3 and 4 of the Act.

### **Section 49(2) tests**

- A1.88 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) has 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.

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

- A1.89 Ofcom considers that modifying the notification, Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.19 to 4.22 and Annexes 2, 6 and 7 is objectively justifiable because the changes are necessary to meet KCOM's new SMP conditions as a result of the most recent market review.

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

- A1.90 Ofcom considers that modifying the notification, Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.19 to 4.22 and Annexes 2, 6 and 7 is not unduly discriminatory because we have proposed and concluded on the relevant changes for BT, the only other communications provider with similar obligations, as per the most recent market review.

#### Proportionate to what it is intended to achieve

- A1.91 Ofcom considers that modifying the notification, Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.19 to 4.22 and Annexes 2, 6 and 7 is proportionate because it is the minimum necessary to satisfy the new SMP conditions as per the most recent market review.

Transparent in relation to what it is intended to achieve

- A1.92 Ofcom considers that modifying the notification, Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.19 to 4.22 and Annexes 2, 6 and 7 is transparent because Ofcom is explaining and has consulted on this change and has provided background explanatory material and evidence from other projects.

## Annex 2

# Notification to BT and KCOM

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

### Setting SMP services conditions on BT and KCOM in relation to their regulatory accounting obligations in respect of various markets

#### WHEREAS:

(A) on 20 March 2009, OFCOM issued a notification pursuant to sections 48(2) and 86 of the Act setting out their proposals for the setting of SMP services conditions as a result of a market analysis carried out by OFCOM in accordance with section 79 of the Act, whereby BT and KCOM have been designated as having SMP in respect of certain identified markets in accordance with section 79 of the Act (the “**First Notification**”);

(B) a copy of the First Notification was sent to the Secretary of State in accordance with section 50(1)(a),

(C) in the First Notification and accompanying explanatory statement, OFCOM invited representations about any of the proposals set out therein by 1 May 2009;

(D) by virtue of section 48(5) of the Act OFCOM may give effect to any proposals to set SMP services conditions as set out in the First Notification, with or without modification where:

- i. They have considered every representation about the proposals made to them within the time 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;

(E) OFCOM received responses to the First Notification and have considered every such representation made to them in respect of the proposals set out in the First Notification and the accompanying explanatory statement; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

#### Background

1. On 8 December 2008, the Office of Communications (“OFCOM”) published a statement entitled Business Connectivity Market Review, review of the retail leased lines, wholesale symmetric broadband origination and wholesale trunk segments markets (the “BCMR”) identifying a number of markets for the purpose of making market power determinations and setting SMP services conditions.
2. At Annex 8 of the BCMR OFCOM published a notification (the “2008 BCMR Notification”) identifying, in accordance with section 79 of the Communications Act 2003 (the “Act”), various services markets including the services market 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)”, in which OFCOM determined that, for the purposes

of making a market power determination under the Act, BT has significant market power. As a result of that market power determination, in accordance with section 48(1) of the Act, OFCOM set on BT pursuant to section 45 of the Act the SMP services conditions set out in Schedules 1 to 6 of the 2008 BCMR Notification.

3. In the 2008 BCMR Notification OFCOM identified in accordance with section 79 of the Act, various services markets including the services market 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" in which Ofcom determined that, for the purposes of making a market power determination under the Act, KCOM has significant market power. As a result of that market power determination, in accordance with section 48(1) of the Act, OFCOM set on KCOM pursuant to section 45 of the Act the SMP services conditions set out in Schedules 7 to 10 of the 2008 BCMR Notification.
4. In the 2008 BCMR Notification OFCOM also amended Part 1 of Schedule 1 to the Notifications dated 22 July 2004 thereby setting further SMP services conditions on BT and KCOM in relation to regulatory accounting obligations applying in respect of the markets identified in paragraphs 2 and 3 above. The tables in Part 1 of Schedule 1 of the Notifications dated 22 July 2004 to BT and KCOM were amended to include reference to the newly identified markets 17a and 12, however, a required amendment to reference markets 17a and 12 in paragraph 4 of the same Schedule was omitted. A further modification to the Notifications dated 22 July 2004 is therefore required to ensure the obligations for the preparation of regulatory accounting statements apply to markets 17a and 12 for BT and KCOM respectively.

#### **NOW, therefore**

5. OFCOM hereby modifies:
  - 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) as set out in Annex A to this notification; 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) as set out in Annex B to this notification.
6. By making the modification in paragraph 5(i) above OFCOM sets in accordance with section 86(1)(b) of the Act further SMP services conditions on BT in respect of the wholesale market numbered 17a set out in Part 1 of Schedule 1 to the Notification dated 22 July 2004 (as modified), the SMP services conditions as set out in Schedule 2 to the Notification dated 22 July 2004, excluding conditions OA29 to OA31 and OA34, as OFCOM is satisfied there has been no material change in market 17a since the market power determination was made.
7. By making the modification in paragraph 5(ii) above OFCOM sets in accordance with section 86(1)(b) of the Act further SMP services conditions on KCOM in respect of the wholesale market numbered 12 set out in Part 1 of Schedule 1 to the Notification dated 22 July 2004 (as modified), the SMP services conditions as set out in Schedule 2 to the Notification dated 22 July 2004, excluding conditions (d) and (e) of OB23, conditions OB28 to OB31 and condition OB33, as OFCOM is satisfied there has been no material change in market 12 since the market power determination was made.



8. The effect of the modifications, and the reasons for making the modifications, are set out in the accompanying explanatory statement and the business connectivity market review consultation notifications published on 17 January 2008 and 10 July 2008.
9. OFCOM consider that the SMP services conditions referred to in paragraphs 6 and 7 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.
10. In making the modification referred to in paragraph 5 of 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.
11. 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.
12. In this notification:
  - a) "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 736 of the Companies Act 1985, as amended by the Companies Act 1989;
  - b) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
  - c) "KCOM" means KCOM Group plc, whose registered company number is 2150618, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;
  - d) "Notification" means the notification which set in place the obligations on BT referred to in paragraph 5i of this notification above and the obligations on KCOM referred to in paragraph 5ii of this notification above; and
  - e) "OFCOM" means the Office of Communications.
13. The Annexes 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**

**15 June 2009**

## **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 “, and 17a” after the words “numbered 1, 3, 4, 6 to 10, and 14 to 17”.

## **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 paragraph 4.a.ii. of the Notification replace “11” with “12” and insert “and” at the end of the paragraph.
2. In paragraph 4.a.iii. of the Notification delete “OB33; and” and replace with “OB33.”
3. Delete paragraph 4.b of the Notification in its entirety.

## Annex 3

# SMP Services markets

For ease of reference we have reproduced a current consolidated version of the services markets against which BT and KCOM are required to prepare RFS<sup>12</sup>.

These tables were recently amended by notifications in the business connectivity market review and the review of the wholesale broadband access markets which resulted in changes to the markets in which BT and KCOM have been found to have SMP.

Ofcom has consulted on its market reviews of the fixed narrowband services wholesale market and the fixed narrowband retail services market and has proposed several different market definitions for BT and KCOM. The market definitions which relate to these wholesale and retail markets may therefore be amended at the conclusion of these market reviews.

The consolidated table in Part 1 of Schedule 1 to the July 2004 Notification to BT is shown below.

### Part 1: Wholesale Markets

Market identified and in which BT found to have SMP in previous Notifications pursuant to section 79 of the Act	Date
1. Wholesale residential analogue exchange line services in the UK excluding the Hull Area	28.11.03
2. Wholesale residential ISDN2 exchange line services in the UK excluding the Hull Area	As above
3. Wholesale business analogue exchange line services in the UK excluding the Hull Area	As above
4. Wholesale business 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
6. Call origination on fixed public narrowband networks in the UK excluding the Hull Area	As above
7. Local-tandem conveyance and transit on fixed public narrowband networks in the UK excluding the Hull Area	18.08.05 <sup>13</sup>
<del>8. Inter-tandem conveyance and transit on fixed public telephone networks in the UK excluding the Hull Area</del>	As above <sup>14</sup>
9. Single transit on fixed public narrowband networks in the UK	As above

<sup>12</sup> 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.

<sup>13</sup> See the notification in Annex 3 of the Review of BT's network charge controls, dated 18 August 2005, <http://www.ofcom.org.uk/consult/condocs/charge/statement/annex3.pdf>

<sup>14</sup> See footnote 13 above

<b>Market identified and in which BT found to have SMP in previous Notifications pursuant to section 79 of the Act</b>	<b>Date</b>
excluding the Hull Area	
10. Fixed geographic call termination provided by BT	28.11.03
11. Wholesale international call conveyance from the United Kingdom to each of the countries, territories or satellite services set out in Category B at Part 3 of this Schedule on a route by route basis such that each route from the United Kingdom to one of those countries, territories or satellite services constitutes a separate market	18.11.03
12. Wholesale Broadband Access in Market 1 as defined in OFCOM's Notification published on 21 May 2008	21.05.08 <sup>15</sup>
13. Wholesale Broadband Access in Market 2 as defined in OFCOM's Notification published on 21 May 2008	As above <sup>16</sup>
14. Provision of traditional interface symmetric broadband origination with a bandwidth capacity up to and including eight megabits per second within the UK but not including the Hull Area	08.12.08 <sup>17</sup>
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 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) <sup>18</sup> ;	As above <sup>18</sup>
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	As above <sup>19</sup>
17. Provision of wholesale trunk segments at all bandwidths within the UK	As above <sup>20</sup>
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)	As above <sup>21</sup>

The consolidated table in Part 2 of Schedule 1 to the July 2004 Notification to BT is shown below.

## Part 2: Retail Markets

<sup>15</sup> See the Notification in Annex 1 of the review of the wholesale broadband access markets statement dated 21 May 2008, <http://www.ofcom.org.uk/consult/condocs/wbamr07/statement/statement.pdf>

<sup>16</sup> See footnote 15 above

<sup>17</sup> See the Notification in Annex 8 of the business connectivity market review statement dated 8 December 2008, <http://www.ofcom.org.uk/consult/condocs/bcmr08/bcmr08.pdf>

<sup>18</sup> See footnote 17 above

<sup>19</sup> See footnote 17 above

<sup>20</sup> See footnote 17 above

<sup>21</sup> See footnote 17 above

<b>Market identified and in which BT found to have SMP in previous Notifications pursuant to section 79 of the Act</b>	<b>Date</b>
18. Residential analogue exchange line services in the UK excluding the Hull Area	28.11.03
19. Residential local calls in the UK excluding the Hull Area	As above
20. Residential national calls in the UK excluding the Hull Area	As above
21. Residential calls to mobiles in the UK excluding the Hull Area	As above
22. Residential operator assisted calls in the UK excluding the Hull Area	As above
23. Residential IDD Category A calls in the UK excluding the Hull Area	As above
24. Residential IDD Category B calls (on a route by route basis) in the UK excluding the Hull Area	As above
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	08.12.08 <sup>22</sup>

The market identified in Schedule 4 of Annex 2 of the 16 December 2004 Notification to BT is shown below

<b>Market identified and in which BT found to have SMP in previous Notifications pursuant to section 79 of the Act</b>	<b>Date</b>
Wholesale local access market excluding the Hull area	16.12.04 <sup>23</sup>

The consolidated table in Part 1 of Schedule 1 to the July 2004 Notification to KCOM is shown below.

#### **Part 1: Wholesale Markets**

<b>Market identified and in which KCOM found to have SMP in previous Notifications pursuant to section 79 of the Act</b>	<b>Date</b>
1. Wholesale residential analogue exchange line services in the Hull Area	28.11.03
2. Wholesale residential ISDN2 exchange line services in the Hull Area	As above
3. Wholesale business analogue exchange line services in the Hull Area	As above
4. Wholesale business ISDN2 exchange line services in the Hull Area	As above
5. Wholesale ISDN30 exchange line services in the Hull Area	As above
6. Call origination on fixed public narrowband networks in the Hull Area	As above
7. Fixed geographic call termination provided by Kingston	28.11.03
8. Wholesale Broadband Access in the Hull Area	21.05.08 <sup>24</sup>

<sup>22</sup> See footnote 17 above

<sup>23</sup> See the Notification in Schedule 4 of Annex 2 of the review of the wholesale local access market statement dated 16 December 2004, <http://www.ofcom.org.uk/consult/condocs/rwlam/statement/rwlam161204.pdf>

<sup>24</sup> See the Notification in Annex 1 of the review of the wholesale broadband access markets statement dated 21 May 2008, <http://www.ofcom.org.uk/consult/condocs/wbamr07/statement/statement.pdf>

<b>Market identified and in which KCOM found to have SMP in previous Notifications pursuant to section 79 of the Act</b>	<b>Date</b>
9. Provision of traditional interface symmetric broadband origination with a bandwidth capacity up to and including eight megabits per second within the Hull Area	08.12.08 <sup>25</sup>
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	As above <sup>26</sup>
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	As above <sup>27</sup>
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	As above <sup>28</sup>

The consolidated table in Part 2 of Schedule 1 to the July 2004 Notification to KCOM is shown below.

## **Part 2: Retail Markets**

None <sup>29</sup>	
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<sup>25</sup> See the Notification in Annex 8 of the business connectivity market review statement dated 8 December 2008, <http://www.ofcom.org.uk/consult/condocs/bcmr08/bcmr08.pdf>

<sup>26</sup> See footnote 25 above

<sup>27</sup> See footnote 25 above

<sup>28</sup> See footnote 25 above

<sup>29</sup> See footnote 25 above

## Annex 4

# Notification of modification to Direction 3 and the FA10 Direction (BT)

## Notification under section 49 of the Communications Act 2003

### **Modification of a Direction under section 49 of the Communications Act 2003 and SMP Services Conditions OA2 and FA10.2 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) in complying with the SMP services conditions referred to in recital B above, and in particular condition OA5 and FA10.5, BT is required to, amongst other things:

- 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.

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

(E) conditions OA2 and FA10.2 include, 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;

(F) this notification modifies:

- i) Direction 3 which relates to BT's obligations under SMP services conditions OA1 to OA34, in that it sets out an amendment 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; and
- ii) The FA10 Preparation, audit and delivery Direction, in that it sets out an amendment 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 FA10.5;

(G) 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;

(H) 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 their duties in section 3 of the Act;

(I) on 20 March 2009, 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 1 May 2009;

(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:

- a) they have considered every representation about the proposal that is made to them within the period specified in the First Notification; and
- b) 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 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 3:**

1. Direction 3 shall be modified as set out in Annex A to this modified Direction.
2. The FA10 Preparation, audit and delivery Direction shall be modified as set out 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 736 of the Companies Act 1985, as amended by the Companies Act 1989;
- 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*; and at Annex 4 of *Changes to BT's 2007/08 regulatory financial statements, dated 26 June 2008*, which relates to BT's obligations under SMP services conditions OA1 to OA34, specifying requirements for the preparation, audit and delivery of regulatory financial statements in respect of wholesale cost accounting, accounting separation and retail cost accounting delivered to OFCOM and/or published by BT under condition OA5;
- d) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
- e) "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*; and at Annex 4 of *Changes to BT's 2007/08 RFS, dated 26 June 2008*, which relates to BT's obligations under SMP services conditions FA10, specifying requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting delivered to OFCOM and/or published by BT under condition FA10.5;
- f) "Notification" means the notifications which set in place the obligations on BT referred to in recital (B) of this modified Direction above;
- g) "OFCOM" means the Office of Communications;
- h) "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*;
- i) "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*, which relates to BT's obligations under SMP services conditions FA10, specifying requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting delivered to OFCOM and/or published by BT under condition FA10.5; and
- j) "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 notification 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**

**15 June 2009**

## **Annex A**

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

	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.	Traditional interface-symmetric broadband-origination (above 140/155mbit/s up to and including 155Mbit/s)	Traditional interface-symmetric broadband-origination in the UK, excluding the Hull area and the Central and East London Area (above 8Mbit/s and up to and incl. 155Mbit/s)	wholesale service A	wholesale service B	Partial and Private Circuits 34/45mbit/s - link	Partial and Private Circuits 34/45mbit/s - distribution	Partial and Private Circuits 34/45mbit/s - local end	Traditional interface-symmetric broadband-origination in the UK, excluding the Hull Area, and the Central and East London Area (above 45 Mbit/s and up to and incl. 155Mbit/s)	WS service A	WS service B	Partial and Private Circuits 140/155mbit/s link	Partial and Private Circuits 140/155mbit/s distribution	Partial and Private Circuits 140/155mbit/s local end	Alternative interface-symmetric broadband-origination (all bandwidths)	Alternative interface-symmetric broadband-origination in the UK, excluding the Hull Area (up to and including 16Mbit/s)	WS service A	WS service B	WESLES	BES
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	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	P	N	N	N	N	N	P	N	N	N	N	N	P	P	N	N	N	N
Annex 5B	Attribution of Retail current costs																			
Annex 6A	Attribution of Wholesale Current Cost Mean Capital Employed	P	P	N	N	N	N	N	P	N	N	N	N	N	P	P	N	N	N	N
Annex 6B	Attribution of Retail Current Cost Mean Capital Employed																			
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						P						P	P				
Annex 12	Market summary																			
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 21	BT Inter-market turnover reconciliation	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	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				

	<b>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.</b>	<b>Technical areas</b>	<b>Point of Handover</b>	<b>Asymmetric broadband- origination in the UK- excluding the Hull area</b>	<b>Wholesale Broadband Access</b>	<b>WS service A</b>	<b>WS service B</b>	<b>Wholesale local access market</b>	<b>wholesale service A</b>	<b>wholesale service B etc</b>	<b>Wholesale residential- ISDN2 exchange line- services</b>	<b>Residential- ISDN2- internal- service- connections</b>	<b>Residential- ISDN2- internal- service- rental</b>	<b>Residential- ISDN2- external- service- rental</b>	<b>Wholesale business ISDN30 exchange line services</b>	<b>wholesale service A</b>
Annex 1	Statement by Ofcom	P		P	P			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			P			P				P	
Annex 4	Regulatory financial review	P		P	P			P			P				P	
Annex 5A	Attribution of wholesale current costs	P	N	P	P	N	N	P	N	N	P	N	N	N	P	N
Annex 5B	Attribution of retail current costs															
Annex 6A	Attribution of wholesale current cost mean capital employed	P	N	P	P	N	N	P	N	N	P	N	N	N	P	N
Annex 6B	Attribution of retail current cost mean capital employed															
Annex 7	Financial performance in Access markets	P		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				P	
Annex 11	Market summary	P						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				P	
Annex 15	Network Activity Statement	P		P	P			P			P				P	
Annex 16	Calculation of FAC based on component costs and usage factors	P		P	P			P			P				P	
Annex 17	BT Network Services Reconciliation	P		P	P			P			P				P	
Annex 19	BT Reconciliation Statement - P&L	P		P	P			P			P				P	
Annex 20	BT Reconciliation statement -MCE	P		P	P			P			P				P	
Annex 21	BT Inter-market turnover reconciliation	P		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	P	P
Annex 23	Report of the Regulatory Auditors	P		P	P			P			P				P	
Annex 24	Price controls in wholesale markets	P		P	P			P			P				P	
Annex 25	Price controls in wholesale markets	P		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.	Broadband conveyance in the UK	WS-ATM Interconnection	Wholesale trunk segments (including Kingston upon Hull)	WS service A	WS service B	Partial and Private circuits 2mbit/s trunk	Partial and Private circuits 34/45mbit/s trunk	Partial and Private circuits 140/155mbit/s trunk	Partial and Private circuits 622mbit/s trunk	Fixed geographic call termination	WS Call termination local exchange segment	WS Call termination local exchange segment (ISDN)	WS Call termination local exchange Stick	WS Call termination local exchange Stick (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
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	P	N	N	N	N	N	N	P	N	N	N	N
Annex 5B	Attribution of Retail current costs														
Annex 6A	Attribution of Wholesale Current Cost Mean Capital Employed	P	N	P	N	N	N	N	N	N	P	N	N	N	N
Annex 6B	Attribution of Retail Current Cost Mean Capital Employed														
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			P							P				
Annex 12	Market summary	P													
Annex 13	Market summary (ToD)														
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 21	BT Inter-market turnover reconciliation	P		P							P				
Annex 22	Notes to the Financial Statements	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				

	<b>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.</b>	<b>Retail IDD-calls to category-B routes (retail IDD routes which are not competitive at WS) in the UK</b>	<b>Retail segments</b>	<b>Residential calls to mobiles in the UK</b>	<b>Retail segments</b>	<b>Residential operator-assisted-calls in the UK</b>	<b>Retail segments</b>
Annex 1	Statement by Ofcom	P		P		P	
Annex 2	Statement of responsibility	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						
Annex 5B	Attribution of retail current costs	P	N	P	N	P	N
Annex 6A	Attribution of Wholesale Current Cost Mean Capital Employed						
Annex 6B	Attribution of Retail Current Cost Mean Capital Employed	P	N	P	N	P	N
Annex 7	Financial performance in Access markets						
Annex 8	Financial performance in other wholesale SMP markets						
Annex 10	Market Group Financial Review	P		P		P	
Annex 11	Market summary						
Annex 12	Market summary						
Annex 13	Market summary (ToD)						
Annex 14	Market Level Financial Review						
Annex 15	Network Activity Statement						
Annex 16	Calculation of FAC based on component costs and usage factors						
Annex 17	BT Network Services Reconciliation						
Annex 19	BT Reconciliation Statement - P&L	P		P		P	
Annex 20	BT Reconciliation statement -MCE	P		P		P	
Annex 21	BT Inter-market turnover reconciliation	P		P		P	
Annex 22	Notes to the Financial Statements	P	P	P	P	P	P
Annex 23	Report of the Regulatory Auditors	P		P		P	
Annex 24	Price controls in wholesale markets						
Annex 25	Price controls in wholesale markets						



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.		Wholesale residential analogue exchange line services	wholesale service A	wholesale service B ...	Wholesale business analogue exchange line services	wholesale service A	wholesale service B ...	Wholesale business ISDN2 exchange line services	wholesale service A	wholesale service B
Annex 26	<b>Additional Information by way of notes</b>									
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	N
AI-3	Cost category analysis for network components and increments		N	N		N	N		N	N
AI-4	Summarised activity analysis for network components and increments		N	N		N	N		N	N
AI-5	Analysis by asset category and network activities		N	N		N	N		N	N
AI-6	CCA fixed asset movement statement		N	N		N	N		N	N
AI-7	Total mean capital employed and detailed activity analysis		N	N		N	N		N	N
AI-8	Analysis by type of product group and by type of OLO									
AI-9	Detailed Network activity analysis of mean capital employed		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	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
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
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 an 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									

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.		Traditional interface symmetric broadband origination (up to and including 8Mbit/s);	WS service A	WS service B	Partial and Private Circuits 64kbit/s connection	Partial and Private Circuits 64kbit/s link	Partial and Private Circuits 64kbit/s transmission	Partial and Private Circuits 64kbit/s local end	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	RBS Backhaul sub 2mb rental	RBS Backhaul sub 2mb connection	RBS Backhaul 2mb rental	RBS Backhaul 2mb connection	SDSL
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	N	N	N	N	N	N
AI-2	Summarised activity analysis of components		N	N	N	N	N	N	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	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	N	N	N	N	N	N
AI-5	Analysis by asset category and network activities		N	N	N	N	N	N	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	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	N	N	N	N	N	N
AI-8	Analysis by type of product group and by type of OLO		N	N	N	N	N	N	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	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	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	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	N	N	N	N	N	N
AI-21	Comprehensive analysis of the transfer charges		N	N	N	N	N	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	P	P	P	P	P	P	P	P	P	P	P	P	P	P
AI-24	Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis																
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities	N	N	N	N	N	N	N	N	N	N	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	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	N	N	N	N	N	N	N

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.		Traditional interface symmetric broadband origination (above 8Mbit/s up to and including 455Mbit/s)	Traditional interface symmetric broadband origination in the UK excluding the Hull area and the Central and East London Area (above 8Mbit/s and up to and incl. 155Mbit/s)	WS service A	WS service B	Partial and Private Circuits 34/45mbit/s link	Partial and Private Circuits 34/45mbit/s distribution	Partial and Private Circuits 34/45mbit/s - local end	Traditional interface symmetric broadband origination in the UK excluding the Hull Area and the Central and East London Area (above 45 Mbit/s and up to and incl. 155Mbit/s)	WS service A	WS service B	Partial and Private Circuits 140/155mbit/s link	Partial and Private Circuits 140/155mbit/s distribution	Partial and Private Circuits 140/155mbit/s local end
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-8	Analysis by type of product group and by type of OLO													
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					
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis													
AI-15	Provision of BT 'Data File'													
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets	N	N	N	N	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	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	N	N	N	N	N	N	N	N	N	N	N	N
AI-23	Cost data for plant group to service for the PPC services and technical areas	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-24	Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EQI basis			P	P	P	P	P	P	P	P	P	P	P
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			P	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	N	N

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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-8	Analysis by type of product group and by type of OLO															
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					N		
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N	N						N					N		
AI-13	Total operating costs & mean capital employed costs for each plant group	N	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			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	N			N	N	N
AI-21	Comprehensive analysis of the transfer charges	N	N	N	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					
AI-25 Analysis of input costs from the business connectivity markets to downstream (retail) activities			N	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
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

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Annex 26	<b>Additional Information by way of notes</b>						
AI-1	Cost category analysis for network components, increments and common cost		N	N	N		N
AI-2	Summarised activity analysis of components		N	N	N		N
AI-3	Cost category analysis for network components and increments		N	N	N		N
AI-4	Summarised activity analysis for network components and increments		N	N	N		N
AI-5	Analysis by asset category and network activities		N	N	N		N
AI-6	CCA fixed asset movement statement		N	N	N		N
AI-7	Total mean capital employed and detailed activity analysis		N	N	N		N
AI-8	Analysis by type of product group and by type of OLO						
AI-9	Detailed Network activity analysis of mean capital employed		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
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
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets	N	N	N	N	N	N
AI-21	Comprehensive analysis of the transfer charges	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 an 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						

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Annex 26	<b>Additional Information by way of notes</b>										
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-8	Analysis by type of product group and by type of OLO										
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 an 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										

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Annex 26	<b>Additional Information by way of notes</b>							
AI-1	Cost category analysis for network components, increments and common cost		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-8	Analysis by type of product group and by type of OLO							
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 an 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							

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		WS standard CSI connection	WS standard CSI rental fixed	WS standard CSI rental per km	WS ISI connection	WS ISI rental per 100m	WS IEC connection	WS IEC rental fixed	WS IEC rental per km	WS intra-building circuits connection	WS intra-building circuits rental	WS rearrangements	WS Connection (£ per 2Mbit/s per year)	WS Rental fixed (£ per 2Mbit/s per year)	WS Rental per km (£ per 2Mbit/s per year)	DA4WS Re-arrangements (£ per occasion)	
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	N	N	N	N	N	N	
AI-2 Summarised activity analysis of components		N	N	N	N	N	N	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	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	N	N	N	N	N	N	
AI-5 Analysis by asset category and network activities		N	N	N	N	N	N	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	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	N	N	N	N	N	N	
AI-8 Analysis by type of product group and by type of OLO																	
AI-9 Detailed Network activity analysis of mean capital employed		N	N	N	N	N	N	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	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	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	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		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
AI-24 Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOJ basis																	
AI-25 Analysis of input costs from the business connectivity markets to downstream (retail) activities		N	N	N	N	N	N	N	N	N	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	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	N	N	N	N	N	N	



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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-8	Analysis by type of product group and by type of OLO									
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						
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	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
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
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	P	P	P	P	P
AI-24	Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis									
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities			N	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									
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									

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Annex 26	Additional Information by way of notes					
AI-1	Cost category analysis for network components, increments and common cost		N	N	N	N
AI-2	Summarised activity analysis of components		N	N	N	N
AI-3	Cost category analysis for network components and increments		N	N	N	N
AI-4	Summarised activity analysis for network components and increments		N	N	N	N
AI-5	Analysis by asset category and network activities		N	N	N	N
AI-6	CCA fixed asset movement statement		N	N	N	N
AI-7	Total mean capital employed and detailed activity analysis		N	N	N	N
AI-8	Analysis by type of product group and by type of OLO					
AI-9	Detailed Network activity analysis of mean capital employed		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
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
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
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 an 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					

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.		Residential analogue exchange line services in the UK	Retail Segments	Residential local calls in the UK	Retail Segments	Residential national calls in the UK	Retail Segments	Residential IDD calls category A routes (retail IDD routes which are competitive at WS) in the UK	Retail Segments
Annex 26	Additional Information by way of notes								
AI-1	Cost category analysis for network components, increments and common cost								
AI-2	Summarised activity analysis of components								
AI-3	Cost category analysis for network components and increments								
AI-4	Summarised activity analysis for network components and increments								
AI-5	Analysis by asset category and network activities								
AI-6	CCA fixed asset movement statement								
AI-7	Total mean capital employed and detailed activity analysis								
AI-8	Analysis by type of product group and by type of OLO	N	N	N		N		N	
AI-9	Detailed Network activity analysis of mean capital employed								
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N		N		N		N	
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N		N		N		N	
AI-13	Total operating costs & mean capital employed costs for each plant group								
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
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets								
AI-21	Comprehensive analysis of the transfer charges								
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 an 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								

<b>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.</b>		<b>Retail IDD calls to category B routes (retail IDD routes which are not competitive at WS) in the UK</b>	<b>Retail Segments</b>	<b>Residential calls to mobiles in the UK</b>	<b>Retail Segments</b>	<b>Residential operator assisted calls in the UK</b>	<b>Retail Segments</b>
Annex 26	<b>Additional Information by way of notes</b>						
AI-1	Cost category analysis for network components, increments and common cost						
AI-2	Summarised activity analysis of components						
AI-3	Cost category analysis for network components and increments						
AI-4	Summarised activity analysis for network components and increments						
AI-5	Analysis by asset category and network activities						
AI-6	CCA fixed asset movement statement						
AI-7	Total mean capital employed and detailed activity analysis						
AI-8	Analysis by type of product group and by type of OLO	N		N	N	N	N
AI-9	Detailed Network activity analysis of mean capital employed						
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						
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
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets						
AI-21	Comprehensive analysis of the transfer charges						
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 geographic analysis of costs and assets on an 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						

## **Annex B**

The FA10 Preparation, audit and delivery Direction is modified as shown below in that the words underlined are inserted and the words struck through are deleted.

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.		Wholesale local access market	wholesale service A	wholesale service B etc
Annex 26	<b>Additional Information by way of notes</b>			
AI-1	Cost category analysis for network components, increments and common cost		N	N
AI-2	Summarised activity analysis of components		N	N
AI-3	Cost category analysis for network components and increments		N	N
AI-4	Summarised activity analysis for network components and increments		N	N
AI-5	Analysis by asset category and network activities		N	N
AI-6	CCA fixed asset movement statement		N	N
AI-7	Total mean capital employed and detailed activity analysis		N	N
AI-8	Analysis by type of product group and by type of OLO			
AI-9	Detailed Network activity analysis of mean capital employed		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
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
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets	N	N	N
AI-21	Comprehensive analysis of the transfer charges	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 an 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	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

## Annex 5

# Notification of modifications to Direction 4 and the FA10 Direction (BT)

### Notification under section 49 of the Communications Act 2003

#### **Modification of Directions under section 49 of the Communications Act 2003 and SMP Services Conditions OA2 and FA10.2 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 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) in complying with the SMP services conditions referred to in recital B above, and in particular conditions OA5 and FA10.5, BT is required to prepare such Regulatory Financial Statements as directed by OFCOM from time to time;

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

(E) conditions OA2 and FA10.2 include, 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;

(F) this notification 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 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 required by virtue of condition FA10.5 and the FA10 Preparation, audit and delivery Direction;

(G) 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 and FA10.7 and FA10.21;

(H) 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;

(I) 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 their duties in section 3 of the Act;

(J) on 20 March 2009, OFCOM published a notification of the proposed modified Direction in accordance with section 49 of the Act (the “**First Notification**”);

(K) 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;

(L) in the First Notification and accompanying explanatory statement OFCOM invited representations about any of the proposals therein by 5pm on 1 May 2009;

(M) 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:

- a) they have considered every representation about the proposal that is made to them within the period specified in the First Notification; and
- b) 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;

(N) OFCOM has considered every representation about the proposed modified Direction duly made to them and these representations 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 ConditionsOA2 and FA10.2, OFCOM hereby gives the following modification to Direction 4 and the FA 10 Form and content Direction:**

1. The form and content of the Regulatory Financial Statements set out in the Direction 4 and the FA10 form and content Direction shall be amended as follows in Annex A to this modified Direction.



2. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 12 and 13 as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex B to this modified Direction.
3. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 14 as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex C to this modified Direction.
4. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 15 as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex D to this modified Direction.
5. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 16 as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex E to this modified Direction.
6. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 17 as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex F to this modified Direction.
7. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Technical Areas shall be amended as follows in Annex G to this modified Direction.
8. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 17a as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex H to this modified Direction.
9. The Additional Information set out in Annex 26 to Direction 4 shall be amended as follows in Annex I to this modified Direction.
10. 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 736 of the Companies Act 1985, as amended by the Companies Act 1989;
  - c) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
  - d) "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 RFS, dated 26 June 2008 and at Annex 4 of this document, which relates to BT's obligations under SMP services conditions OA1 to OA34, specifying requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting delivered to OFCOM and/or published by BT under condition OA5;*

e) "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*; and at Annex 5 of *Changes to BT's 2007/08 RFS, dated 26 June 2008*, 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;

f) "FA10 Form and content Direction" means the Original Direction at Schedule 5 to the FA10 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*; and at Annex 5 of *Changes to BT's 2007/08 RFS, dated 26 June 2008*, which relates to BT's obligations in that it sets 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) "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*; and at Annex 4 of *Changes to BT's 2007/08 RFS, dated 26 June 2008*, which relates to BT's obligations under SMP services conditions FA10, specifying requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting delivered to OFCOM and/or published by BT under condition FA10.5;

h) "Notification" means the notifications which set in place the obligations on BT referred to in recital (B) of this modified Direction above;

i) "OFCOM" means the Office of Communications;

j) "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*;

k) "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*;

l) "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*, which sets out the form and content to be applied by BT in preparing certain Regulatory Financial Statements required by virtue of condition FA10.5 and the Original FA10 Preparation, audit and delivery Direction;

m) "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*, which relates to BT's obligations under SMP services conditions FA10, specifying requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting delivered to OFCOM and/or published by BT under condition FA10.5;

n) '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.

11. 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.

12. 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.

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

14. The Annexes to this notification 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**

**15 June 2009**

## **Annex A**

The form and content of the Regulatory Financial Statements set out in Direction 4 and the FA10 Form and content Direction are modified as shown below in that the words underlined are inserted and the words struck through are deleted.

### Annex 5A

#### Attribution of wholesale current costs

Purpose of statement: to provide an understanding of how costs have been allocated to each market

for the year ended 31 March 200x

[illegible]

<sup>1</sup>Due to the timing of the BCMR statement we are reporting the national market for 2008/09 and the CELA is not excluded. Geographic reporting will be implemented in 2009/10

**Notes:**

**Cost categories to allow for sensible attribution of costs between Wholesale and Retail markets**

Repeat analysis for prior year

For each category of costs, include a note summarising:

1: the nature of the costs involved

2: the key drivers behind the allocation of costs to the markets

### 3: significant changes in allocation bases during the year

Annex 5B

**Financial performance & attribution  
of retail current costs**

Purpose of statement: to provide an understanding of how costs have been allocated to each market

for the year ended 31 March 200x

	Residential analogue exchange line services in the UK £m	Residential local calls in the UK £m	Residential national calls in the UK £m	Residential IDD calls category A routes £m	Residential IDD calls- category B routes £m	Residential calls to mobiles in the UK £m	Residential operator- assisted calls in UK £m	BT Retail Markets consolidation £m	Retail Residual £m	Total Retail Markets & Activities £m
<b>Turnover</b>	£	£	£	£	£	£	£	£	£	£
<b>HCA Operating Costs of Retail Markets</b>										
Charges from Wholesale Markets	£	£	£	£	£	£	£	£	£	£
Outpayments	£	£	£	£	£	£	£	£	£	£
Marketing and Sales	£	£	£	£	£	£	£	£	£	£
Finance and Billing	£	£	£	£	£	£	£	£	£	£
Computing	£	£	£	£	£	£	£	£	£	£
Customer Service	£	£	£	£	£	£	£	£	£	£
General Management	£	£	£	£	£	£	£	£	£	£
Messaging Payments	£	£	£	£	£	£	£	£	£	£
Bad Debts	£	£	£	£	£	£	£	£	£	£
Other Costs	£	£	£	£	£	£	£	£	£	£
<b>Sub total HCA Operating Costs</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>CCA adjustments:</b>										
Holding (gain)/loss	£	£	£	£	£	£	£	£	£	£
Supplementary depreciation	£	£	£	£	£	£	£	£	£	£
Other adjustments	£	£	£	£	£	£	£	£	£	£
Roundings	£	£	£	£	£	£	£	£	£	£
<b>Total CCA Operating Costs</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>Return</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>Return on Mean Capital Employed</b>	%	%	%	%	%	%	%	%	%	%
<b>Return on Turnover</b>	%	%	%	%	%	%	%	%	%	%

## Annex 6A

## Allocation of Wholesale Current Cost Mean Capital Employed

Purpose of statement: to provide an understanding of how assets have been allocated to each market

for the year ended 31 March 200x

	Residential analogue exchange line services £m	Business analogue exchange line services £m	Business (ISDN2) exchange line services £m	TISNO (up to and incl. 8Mbit/s) £m	TISNO (above 8Mbit/s and up to and incl. 155Mbit/s) £m	ASISCO (all bandwidth) £m	TISNO (above 8Mbit/s and up to and incl. 45Mbit/s) £m	TISNO (above 45 Mbit/s and up to and incl. 155Mbit/s) £m	ASISCO (up to and including 155Mbit/s) £m	Residential ISDN2 exchange line services £m	Business (ISDN2) exchange line services £m	Wholesale local access £m	Total Access markets £m	Call origination on fixed public narrowband networks £m	Local tandem conveyance and transit on fixed public narrowband networks £m	Single transit on fixed public narrowband networks £m	Technical areas (Interconnect Circuits) £m	Fixed call termination £m	Wholesale trunk segments £m	Technical areas (Point of Handover) £m	ASISCO – all bandwidth £m	Residential conveyance in the UK £m	Total other wholesale SMP markets £m	Sub-total Other Wholesale & SMP National Markets £m	VBA Market 1 £m	VBA Market 2 £m	VBA Non-Geographical MCE £m	Sub-total Other Wholesale & SMP Geographic Markets £m	Total Other Wholesale & SMP Markets £m	Wholesale residual markets £m	Total wholesale £m	
Fixed assets																																
Land & Buildings	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Access - Copper	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Access - Fibre	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Access Duct	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Switch	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Transmission	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Other	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Investments	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Total Fixed Assets	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Current assets																																
Stocks	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Debtors	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Internal	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
External	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Total current assets	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Creditors falling due within one year																																
Other creditors	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Internal	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
External	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Total Creditors falling due within one year	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Net current assets	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Total assets less current liabilities	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Provisions for liabilities & charges & roundings	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Roundings	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
Mean Capital Employed	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£

\*Due to the timing of the BCMR statement we are reporting the national market for 2008/09 and the CELA is not excluded. Geographic reporting will be implemented in 2009/10

## Notes:

## Repeat analysis for prior year

For each category of fixed asset include a note summarising the nature of the assets involved

For all categories of asset and liability include a note summarising:

1: the key drivers behind the allocation of MCE to the markets

2: significant changes in allocation bases during the year

Annex 6B

**Allocation of Retail Current Cost Mean Capital Employed**

Purpose of statement: to provide an understanding of how assets have been allocated to each market

for the year ended 31 March 200x

	Residential analogue exchange line services in the UK £m	Residential local calls in the UK £m	Residential national calls in the UK £m	Residential IDD calls category A routes £m	Residential IDD calls category B- routes £m	Residential calls to mobiles in the UK £m	Residential operator-assisted- calls in UK £m	BT Retail Markets consolidation £m	Retail Residual £m	Total Retail Markets & Activities £m
<b>Fixed assets</b>										
Accommodation Land & Buildings	£	£	£	£	£	£	£	£	£	£
Motor Transport	£	£	£	£	£	£	£	£	£	£
General Computers	£	£	£	£	£	£	£	£	£	£
Software	£	£	£	£	£	£	£	£	£	£
International Transmission	£	£	£	£	£	£	£	£	£	£
Other	£	£	£	£	£	£	£	£	£	£
Investments	£	£	£	£	£	£	£	£	£	£
<b>Total Fixed Assets</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>Current assets</b>										
Stocks	£	£	£	£	£	£	£	£	£	£
Debtors	£	£	£	£	£	£	£	£	£	£
Internal	£	£	£	£	£	£	£	£	£	£
External	£	£	£	£	£	£	£	£	£	£
<b>Total current assets</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>Creditors falling due within one year</b>										
Other creditors	£	£	£	£	£	£	£	£	£	£
Internal	£	£	£	£	£	£	£	£	£	£
External	£	£	£	£	£	£	£	£	£	£
<b>Total Creditors falling due within one year</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>Net current assets</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>Total assets less current liabilities</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
Provisions for liabilities & charges & roundings	£	£	£	£	£	£	£	£	£	£
Roundings	£	£	£	£	£	£	£	£	£	£
<b>Mean Capital Employed</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>



## Annex 7

## Financial performance in Access markets

Purpose of statement: to provide summary of financial performance in Access markets

for the year ended 31 March 200x

	Turnover				HCA costs	CCA		Total CCA operating costs	Return	Return on turnover	Mean Capital Employed	Return on MCE
	Internal	External	Roundings	Total		adjustments	Roundings					
Wholesale residential analogue exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business analogue exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business ISDN2 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale residential ISDN2 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business ISDN30 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (up to and including 8Mbits)	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (above 8Mbits and up to and including 8Mbits)	£	£	£	£	£	£	£	£	£	%	£	%
AISBO (all bandwidths)	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (above 8 Mbits and up to and including 45 Mbits) <sup>1</sup>	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (above 45 Mbits and up to and including 155 Mbits) <sup>1</sup>	£	£	£	£	£	£	£	£	£	%	£	%
AISBO (up to and including 1 Gbit)	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale local access	£	£	£	£	£	£	£	£	£	%	£	%
	£	£	£	£	£	£	£	£	£	%	£	%

for the year ended 31 March 200y

	Turnover				HCA costs	CCA		Total CCA operating costs	Return	Return on turnover	Mean Capital Employed	Return on MCE
	Internal	External	Roundings	Total		adjustments	Roundings					
Wholesale residential analogue exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business analogue exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business ISDN2 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale residential ISDN2 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business ISDN30 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (up to and including 8Mbits)	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (above 8Mbits and up to and including 8Mbits)	£	£	£	£	£	£	£	£	£	%	£	%
AISBO (all bandwidths)	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (above 8Mbits and up to and including 45Mbits) <sup>1</sup>	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (above 45Mbits and up to and including 155Mbits) <sup>1</sup>	£	£	£	£	£	£	£	£	£	%	£	%
AISBO (up to and including 1Gbit)	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale local access	£	£	£	£	£	£	£	£	£	%	£	%
	£	£	£	£	£	£	£	£	£	%	£	%

<sup>1</sup>Due to the timing of the BCMR statement we are reporting the national market for 2008/09 and the CELA is not excluded. Geographic reporting will be implemented in 2009/10

## 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)	£	£	£	£	£	£	£	%	£	%
Asymmetric Broadband origination	£	£	£	£	£	£	£	%	£	%
Broadband conveyance in the UK	£	£	£	£	£	£	£	%	£	%
Wholesale Broadband Access (markets 1, 2 & 3)	£	£	£	£	£	£	£	%	£	%
	£	£	£	£	£	£	£	%	£	%

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)	£	£	£	£	£	£	£	%	£	%
Asymmetric Broadband origination	£	£	£	£	£	£	£	%	£	%
Broadband conveyance in the UK	£	£	£	£	£	£	£	%	£	%
Wholesale Broadband Access (markets 1, 2 & 3)	£	£	£	£	£	£	£	%	£	%
	£	£	£	£	£	£	£	%	£	%

Annex 21

**BT Inter-market turnover reconciliation**  
 for year ended 31st March 200x

Charges from Wholesale residual to Retail markets are not shown on the face of the Retail market P&L account as charges from Wholesale markets	Other wholesale services (combined) £m	Residential analogue exchange line services in the UK £m	Residential local calls in the UK £m	Residential national calls in the UK £m	Residential IDD calls category A routes (retail IDD routes which are competitive) in the UK £m	Residential-IDD calls category B routes (retail-IDD routes which are not competitive) in the UK £m	Residential calls to mobiles in the UK £m	Residential-operator-assisted calls in the UK £m	Retail residual £m	Total 200x £m
Turnover originating in:										
Wholesale residential analogue exchange line services										
Wholesale business analogue exchange line services										
Wholesale business ISDN2 exchange line services										
Call origination on fixed public narrowband networks										
Local-tandem conveyance and transit on fixed public telephone networks										
Single transit on fixed public narrowband networks										
Technical areas (Interconnect Circuits)										
Fixed call termination										
Traditional interface symmetric broadband origination (up to and including 8Mbit/s)										
Traditional interface symmetric broadband origination (above 8Mbit/s up to and including 155Mbit/s)										
Alternative interface symmetric broadband origination (all bandwidths)										
Traditional interface symmetric broadband origination (above 8Mbit/s and up to and including 45Mbit/s) <sup>1</sup>										
Traditional interface symmetric broadband origination (above 45Mbit/s and up to and including 155Mbit/s) <sup>1</sup>										
Alternative interface symmetric broadband origination (up to and including 1Gbit/s)										
Wholesale trunk segments										
Technical areas (Point of Handover)										
Asymmetric broadband origination in the UK										
Broadband conveyance in the UK										
Wholesale Broadband Access (markets 1, 2 & 3)										
Wholesale residential ISDN2 exchange line services										
Wholesale business ISDN30 exchange line services										
Wholesale local access										
Wholesale residual										
Residential analogue exchange line services in the UK										
Residential local calls in the UK										
Residential national calls in the UK										
Residential IDD calls category A routes (retail IDD routes which are competitive) in the UK										
Residential-IDD calls category B routes (retail-IDD routes which are not competitive) in the UK										
Residential calls to mobiles in the UK										
Residential-operator-assisted calls in the UK										
Retail residual										
Total 200x										

<sup>1</sup>Due to the timing of the BCMR statement we are reporting the national market for 2008/09 and the CELA is not excluded. Geographic reporting will be implemented in 2009/10

## **Annex B**

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Markets 12 & 13 is specified as set out below. This replaces the form and content as specified for Market 12 in the 26 June 2008 statement, Changes to BT's 2007/08 Regulatory Financial Statements.

## Section 4.X - Wholesale Broadband Access (Annex 12)

## Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with non discrimination obligations (Annex 12)

Wholesale Broadband Access<sup>1</sup>

## Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (note 1) £m	Operating costs £m	Depreciation £m	Holding (gain)/loss £m	Supplementary depreciation £m	Other adjustments £m	Total CCA operating costs £m	Return £m	Return on turnover	Mean capital employed £m	Return on mean capital employed
200X	X	X	X	X	X	X	X	X	X	X	X	X%	X	X%
200Y	X	X	X	X	X	X	X	X	X	X	X	X%	X	X%

## Market 1

Market 1	Non-discrimination								
	Internal Sales - services also provided externally	Internal Sales - services only provided internally	External Sales	Roundings	Turnover	Volume	Unit	Average price	
for the year ended 31 March 200X	£m	£m	£m	£m	£m			£	
Service									
Internal IPstream end user access - connection	X	X	X	X	X	X	X	X	
External IPstream end user access - connection	X	X	X	X	X	X	X	X	
Internal IPstream end user access - rental	X	X	X	X	X	X	X	X	
External IPstream end user access - rental	X	X	X	X	X	X	X	X	
Internal Datastream end user access - connection	X	X	X	X	X	X	X	X	
External Datastream end user access - connection	X	X	X	X	X	X	X	X	
Internal Datastream end user access - rental	X	X	X	X	X	X	X	X	
External Datastream end user access - rental	X	X	X	X	X	X	X	X	
Internal Backhaul circuits (excluding Virtual Paths)	X	X	X	X	X	X	X	X	
External Backhaul circuits (excluding Virtual Paths)	X	X	X	X	X	X	X	X	
	X	X	X	X	X				

## Market 2

Market 2	Internal Sales - Internal Sales - services also provided externally £m		Internal Sales - services only provided internally £m	External Sales £m	Roundings £m	Turnover £m	Volume	Unit	Average price £
for the year ended 31 March 200X									
Service									
Internal IPstream end user access - connection	X	X	X	X	X	X	X	X	X
External IPstream end user access - connection	X	X	X	X	X	X	X	X	X
Internal IPstream end user access - rental	X	X	X	X	X	X	X	X	X
External IPstream end user access - rental	X	X	X	X	X	X	X	X	X
Internal Datastream end user access - connection	X	X	X	X	X	X	X	X	X
External Datastream end user access - connection	X	X	X	X	X	X	X	X	X
Internal Datastream end user access - rental	X	X	X	X	X	X	X	X	X
External Datastream end user access - rental	X	X	X	X	X	X	X	X	X
Internal Backhaul circuits (excluding Virtual Paths)	X	X	X	X	X	X	X	X	X
External Backhaul circuits (excluding Virtual Paths)	X	X	X	X	X	X	X	X	X
	X	X	X	X	X	X			

## Market 3 &amp; Non Geographically split turnover

Market 3 & Non Geographically split turnover	Turnover £m				
for the year ended 31 March 200X					
Internal Virtual Paths handover	x	x	x	x	x
External Virtual Paths handover	x	x	x	x	x
Ancillary charges (migration, cessation, re-grades)	x	x	x	x	x
Internal Broadband conveyance in the UK	x	x	x	x	x
External Broadband conveyance in the UK	x	x	x	x	x
Market 3 (excluding non-geographical)				x	
	x	x	x	x	x

<sup>1</sup> The market summary for the Wholesale Broadband Access market includes geographical markets 1.2 & 3.

## **Annex C**

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 14 is amended in that the words underlined are inserted into and those struck through are deleted from the Regulatory Financial Statements.

**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

TISBO (up to and including 8Mbit/s)

**Summary**

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	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

	Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC
<b>for the year ended 31 March 200x</b>															
<b>Service</b>															
<b>CLZ Service 1 Internal</b>															
Service 1 Internal							£								
Additional associated services e.g. enhanced maintenance							£								
Total Internal CLZ	£			£	y	x	£								
<b>Non-CLZ Service 1 Internal</b>															
Service 1 Internal							£								
Additional associated services e.g. enhanced maintenance							£								
Total internal non-CLZ	£			£	y	x	£								
<b>CLZ Service 1 External</b>															
Service 1 External							£								
Additional associated services e.g. enhanced maintenance							£								
Total external CLZ			£	£	y	x	£								
<b>Non-CLZ Service 1 External</b>															
Service 1 External							£								
Additional associated services e.g. enhanced maintenance							£								
Total external non-CLZ			£	£	y	x	£								
Weighted average price for CLZ/non-CLZ // Nationally averaged cost							£	£	x.xx	x.xx	x.xx				
Service 2 Internal	£			£	y	x	£	£	x.xx	x.xx	x.xx				
Service 2 External			£	£	y	x	£	£	x.xx	x.xx	x.xx				
etc					y										
Service 3 Internal		£		£	y	x	£	£	x.xx	x.xx	x.xx				
etc															
<b>Support Activity</b>															
Internal Third Party Customer Infrastructure	£			£	(ux)		(sx)	£²	x.xx²	x.xx²	x.xx²				
External Third Party Customer Infrastructure			£	£	(ux)		(sx)	£²	x.xx²	x.xx²	x.xx²				
Internal Protected Path Variants and Resilience	£			£	(ux)		(sx)	£	x.xx	x.xx	x.xx				
External Protected Path Variants and Resilience			£	£	(ux)		(sx)	£	x.xx	x.xx	x.xx				
Internal Excess Construction charges	£			£	(ux)		(sx)	£²	x.xx²	x.xx²	x.xx²				
External Excess Construction charges			£	£	(ux)		(sx)	£²	x.xx²	x.xx²	x.xx²				
	£	£	£	£											

(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

Note 1 - Whilst the cost orientation obligation applies to these services the fact that each line is made up of a number of individual prices and volumetrics means that it is not possible to show this cost orientation data in this format

² These costs will not be reported separately in the RFS for 2008/09, but will be in a separate published statement and will be in the RFS from 2009/10 onwards

## **Annex D**

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 15 (as referred to in Annex 8 of this document) is specified as shown below with the specified services underlined.



## 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

TISBO (above 8Mbit/s up to and including 45Mbit/s)

## Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	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

Note 1: Comparison of Average internal and external charges with each other and with FAC											
<div>← Non-discrimination → Cost orientation →</div>											
	Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	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											
Service 1 Internal	£			£	y	x	£	£	x.xx	x.xx	x.xx
Service 1 External			£	£	y	x	£	£	x.xx	x.xx	x.xx
etc					y						
Service 2 Internal		£		£	y	x	£	£	x.xx	x.xx	x.xx
etc											
Support Activity											
Internal Third Party Customer Infrastructure	£			£	(ux)		(sx)	£ <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>
External Third Party Customer Infrastructure			£	£	(ux)		(sx)	£ <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>
Internal Protected Path Variants and Resilience	£			£	(ux)		(sx)	£	x.xx	x.xx	x.xx
External Protected Path Variants and Resilience			£	£	(ux)		(sx)	£	x.xx	x.xx	x.xx
Internal Excess Construction charges	£			£	(ux)		(sx)	£ <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>
External Excess Construction charges			£	£	(ux)		(sx)	£ <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>
	£	£	£	£							

(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

<sup>2</sup> These costs will not be reported separately in the RFS for 2008/09, but will be in a separate published statement and will be in the RFS from 2009/10 onwards

## **Annex E**

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 16 (as referred to in Annex 8 of this document) is specified as shown below with the specified services underlined.

## 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

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

## Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	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

	Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC
<b>for the year ended 31 March 200x</b>											
<b>Service</b>											
Service 1 Internal	£			£	y	x	£	£	x.xx	x.xx	x.xx
Service 1 External			£	£	y	x	£	£	x.xx	x.xx	x.xx
etc					y						
Service 2 Internal			£	£	y	x	£	£	x.xx	x.xx	x.xx
etc											
<u>Internal main link rental charges</u>	£			£	y	x	£	£	x.xx	x.xx	x.xx
<u>External main link rental charges</u>			£	£	y	x	£	£	x.xx	x.xx	x.xx
					-						
<u>External BNS all bandwidth rental</u>			£	£	y	x	£	£	x.xx	x.xx	x.xx
<u>External BNS all bandwidth connection</u>			£	£	y	x	£	£	x.xx	x.xx	x.xx
<u>Internal Excess Construction Charges</u>	£			£	(ux)		(sx)	£ <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>
<u>External Excess Construction Charges</u>			£	£	(ux)		(sx)	£ <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>	x.xx <sup>2</sup>
	£	£	£	£							

(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

<sup>2</sup> These costs will not be reported separately in the RFS for 2008/09, but will be in a separate published statement and will be in the RFS from 2009/10 onwards

## **Annex F**

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 17 is amended in that the words underlined are inserted into and those struck through are deleted from the Regulatory Financial Statements.

## Annex 11

## Market summary

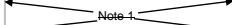
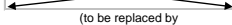
Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

## Wholesale Trunk Segments

## Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	Mean capital employed £m	Return on mean capital employed %
2008	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
2007	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%

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

	Internal Sales - Internal Sales services also provided externally		- services only provided internally		External Sales	Turnover	Volume	Unit	FAC (see Section 5)		Unaudited LRIC Floor	Unaudited LRIC Ceiling	Average price/FAC	FAC (see Section 5)	Unaudited LRIC Floor	Unaudited LRIC Ceiling	Average price/FAC	
for the year ended 31 March 2008	£m	£m	£m	£m	£m	£m			Average price	£	£	£	£	£	£	£	£	
Service																		
Service 1 Internal	£				£	£	y	x	£	£	x.xx	x.xx	x.xx					
Service 1 External					£	£	y	x	£	£	x.xx	x.xx	x.xx					
etc							y											
Service 2 Internal			£		£	£	y	x	£	£	x.xx	x.xx	x.xx					
etc																		
Support Activity																		
Internal Protected Path Variants and Resilience	£				£	£	(ux)		(sx)						£	x.xx	x.xx	x.xx
External Protected Path Variants and Resilience							(ux)		(sx)						£	x.xx	x.xx	x.xx
	£	£	£	£	£	£					(to be replaced by cost information as shown adjacent to this)							

## **Annex G**

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Technical Areas (Point of Handover) is amended in that the words underlined are inserted into and those struck through are deleted from the Regulatory Financial Statements.

## 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

## Technical Areas (Point of Handover)

## Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	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

Note 1: Comparison of Average internal and external charges with each other and with FAC															
	Non-discrimination						Cost orientation				Cost orientation				
	Internal Sales - services also provided externally	Internal Sales - services only provided internally	External Sales	Turnover	Volume	Unit	Average price	FAC (see Section 5)	Unaudited LRIC Floor	Unaudited LRIC Ceiling	Average price/FAC	FAC (see Section 5)	Unaudited LRIC Floor	Unaudited LRIC Ceiling	Average price/FAC
	£m	£m	£m	£m			£	£	£	£					
for the year ended 31 March 200x															
Service															
External Customer Sited Handover connection			£	£	y	x	£	£	x.xx	x.xx	x.xx				
External Customer Sited Handover rental			£	£	y	x	£	£	x.xx	x.xx	x.xx				
External In Span Handover connection			£	£	y	x	£	£	x.xx	x.xx	x.xx				
External In Span Handover rental			£	£	y	x	£	£	x.xx	x.xx	x.xx				
Service 1 Internal	£			£	y	x	£	£	x.xx	x.xx	x.xx				
Service 1 External			£	£	y	x	£	£	x.xx	x.xx	x.xx				
etc					y										
Service 2 Internal		£		£	y	x	£	£	x.xx	x.xx	x.xx				
etc															
Support Services															
Internal Excess Construction Charges	£			£	(ux)		(sx)					£²	x.xx²	x.xx²	x.xx²
External Excess Construction Charges			£	£	(ux)		(sx)					£²	x.xx²	x.xx²	x.xx²
	£	£	£	£											

Note 1

(to be replaced by cost information)

(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

Note 1 – Whilst the cost orientation obligation applies to these services the fact that each line is made up of a number of individual prices and volumetrics means that it is not possible to show this cost orientation data in this format

2 These costs will not be reported separately in the RFS for 2008/09, but will be in a separate published statement and will be in the RFS from 2009/10 onwards

Note 1

(to be replaced by cost information as shown adjacent to this)

## **Annex H**

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 17a (as referred to in Annex 8 to this document) is specified as shown below with the specified services underlined.



## 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

TISBO (above 45Mbit/s up to and including 155Mbit/s)

## Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	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

Note 1: Comparison of Average internal and external charges with each other and with FAC											
	Non-discrimination						Cost orientation				
	Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	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											
Service 1 Internal	£			£	y	x	£	£	x.xx	x.xx	x.xx
Service 1 External			£	£	y	x	£	£	x.xx	x.xx	x.xx
etc					y						
Service 2 Internal		£		£	y	x	£	£	x.xx	x.xx	x.xx
etc											
Support Activity											
Internal Third Party Customer Infrastructure	£			£	(ux)		(sx)	£²	X.XX <sup>c</sup>	X.XX <sup>c</sup>	X.XX²
External Third Party Customer Infrastructure			£	£	(ux)		(sx)	£²	X.XX <sup>c</sup>	X.XX <sup>c</sup>	X.XX²
Internal Protected Path Variants and Resilience	£			£	(ux)		(sx)	£	X.XX	X.XX	X.XX
External Protected Path Variants and Resilience			£	£	(ux)		(sx)	£	X.XX	X.XX	X.XX
Internal Excess Construction charges	£			£	(ux)		(sx)	£²	X.XX <sup>c</sup>	X.XX <sup>c</sup>	X.XX²
External Excess Construction charges			£	£	(ux)		(sx)	£²	X.XX <sup>c</sup>	X.XX <sup>c</sup>	X.XX²
	£	£	£	£							

(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

<sup>2</sup> These costs will not be reported separately in the RFS for 2008/09, but will be in a separate published statement and will be in the RFS from 2009/10 onwards

## **Annex I**

The Additional Information set out in Annex 26 to Direction 4 shall be amended in that the words underlined are additional AFIs.

## Annex 26

Additional information by way of notes

<b>Reference</b>	<b>Additional Financial Information</b>	<b>Description</b>	<b>Purpose (AS, CA or reconciliation)</b>
<b><u>AI-22</u></b>	<ul style="list-style-type: none"> <li><u>Statements for the markets covered by the replicability review that explain the difference between the revenue by market reported in the RFS compared to the revenue recognised in BT's general ledger.</u></li> </ul> <p><u>Differences identified in the following categories: provisions, other immaterial unidentified services, impact of differences between calculated and ledgered volumes and other. This is the minimum disclosure and it should not restrict BT if they identify other types of differences.</u></p>	<u>The format will be similar to the relevant market statements (annexes 11, 12 &amp; 13) in the RFS with the additional lines added.</u>	<u>reconciliation, AS &amp; CA</u>
<b><u>AI-23</u></b>	<ul style="list-style-type: none"> <li><u>Information showing the underlying cost stack analysis behind the PPC and technical area services using the plant groups to replace the current components</u></li> </ul>	<u>The format for this AFI is similar to the statements within the current format of the RFS that explicitly disclose component information. To be published online alongside the RFS after they have been published.</u>	<u>CA</u>

<b>Reference</b>	<b>Additional Financial Information</b>	<b>Description</b>	<b>Purpose (AS, CA or reconciliation)</b>
<b><u>AI-24</u></b>	<u>Wholesale broadband access geographical analysis of costs and assets on a cost accounting and EOI basis</u>	<u>There will be a P&amp;L and MCE statement on a cost accounting basis and an equivalence of input basis for the 3 geographical markets for wholesale broadband access. These will be in a format similar to annex 5A for the P&amp;L and 6A for the MCE statement. Revenues, costs and assets for markets 1, 2 and 3 will be shown on a geographical basis where possible. Where they cannot be split geographically the entire wholesale broadband access market results will be reported.</u>	<u>AS</u>
<b><u>AI-25</u></b>	<u>Analysis of input costs from the business connectivity markets to downstream (retail) markets</u>	<u>The statement will show the gross margin made by each of the retail product groupings that use services covered by the business connectivity market review as inputs. The gross margin is split down into the turnover of the product grouping and the value of the business connectivity charges plus the remaining charges from other SMP markets and other network charges grouped together.</u>	<u>CA &amp; AS</u>
<b><u>AI-26</u></b>	<b><u>Purpose</u></b> – to allow users to compare service costs, revenues and prices on a 'matched' basis and mitigate against variances in the reported returns caused by unmatched costs and revenues in the relevant business connectivity markets.	1) <u>For the relevant markets produce and publish statements that show the separately reported cost information (FAC and LRIC) against the revenues for ECCs and third party equipment and infrastructure and revised cost</u>	<u>AS, CA</u>

	<p><u>technical areas and wholesale local access market</u></p> <p><u>Information required to meet this purpose:</u></p> <ol style="list-style-type: none"> <li>1) <u>Separate identification of costs for ECCs and third party equipment and infrastructure charges in the relevant business connectivity markets.</u></li> <li>2) <u>Additional disclosure of the adjustments required to the published RFS to show matched costs and revenues. This is required for the business connectivity markets, technical areas and local access markets.</u></li> </ol>	<p><u>information (FAC and LRIC) for the services where these costs were previously reported.</u></p> <ol style="list-style-type: none"> <li>2) <u>For the relevant markets and services where costs and revenues aren't matched produce and publish statements that show:</u> <ul style="list-style-type: none"> <li>• <u>the published numbers;</u></li> <li>• <u>the adjustments required to these numbers to match costs and revenues; and</u></li> <li>• <u>the final numbers resulting from these adjustments.</u></li> </ul> </li> </ol> <p><u>The basis of preparation of these numbers, any assumptions made and any significant variances that affect the information presented should be explained in this AFI following the principles of transparency as set out in Direction 2 of the regulatory financial reporting obligations.</u></p> <p><u>The detailed form and content is to be satisfactory to Ofcom and will follow a layout similar to and contain all of the information disclosed in the RFS that is necessary to meet the purpose of this AFI.</u></p>	
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<b><u>AI-27</u></b>	<p><b><u>Purpose</u></b> – to allow users to compare service costs and revenues on a ‘matched’ basis and mitigate against variances in the reported returns and mean capital employed (MCE) caused by unmatched costs and revenues in the business connectivity markets, technical areas and wholesale local access market through analysis and disclosure of a different recognition of certain costs.</p> <p><b><u>NOTE – this AFI only needs to be prepared if the information in AI26 has been prepared by deferring the revenues to match them to the costs.</u></b></p> <p>Information required to meet this purpose:</p> <ol style="list-style-type: none"> <li>3) <u>Separate identification of costs for ECCs and third party equipment and infrastructure charges in the relevant business connectivity markets.</u></li> <li>4) <u>Additional disclosure of the adjustments required to the published RFS to show matched</u></li> </ol>	<ol style="list-style-type: none"> <li>1) <u>For the relevant markets produce statements that show the separately reported cost information (FAC and LRIC) against the revenues for ECCs and third party equipment and infrastructure and revised cost information (FAC and LRIC) for the services where these costs were previously reported.</u></li> <li>2) <u>For the relevant markets and services where costs and revenues aren’t matched produce statements that show:</u> <ul style="list-style-type: none"> <li>• <u>the published numbers;</u></li> <li>• <u>the adjustments required to these numbers to match costs and revenues; and</u></li> <li>• <u>the final numbers resulting from these adjustments.</u></li> </ul> </li> </ol> <p><u>The following example relates to 2). Where necessary 1) must also be completed.</u></p> <p><u>For example, for third party equipment and infrastructure where revenue is received upfront and the policy in the RFS is to</u></p>	<u>AS, CA</u>

	<p><u>costs and revenues. This is required for the business connectivity markets, technical areas and local access markets.</u></p>	<p><u>capitalise the costs and depreciate them over the life of the asset, the following adjustments should be made:</u></p> <p><b><u>P&amp;L</u></b></p> <ul style="list-style-type: none"> <li>a) <u>include the full costs of sales made in the year</u></li> <li>b) <u>exclude costs relating to the sale of equipment (including CCA adjustments and capital costs) in previous years.</u></li> </ul> <p><b><u>MCE</u></b></p> <ul style="list-style-type: none"> <li>a) <u>exclude all capitalised costs relating to sales made in previous years.</u></li> <li>b) <u>exclude all capitalised costs relating to sales made in the year.</u></li> </ul> <p><u>This is not an exhaustive list of the adjustments required and BT should make any other adjustments necessary to meet our purpose.</u></p> <p><u>The basis of preparation of these numbers, any assumptions made and any significant variances that affect the information presented should be explained in this AFI following the principles of transparency as set out in Direction 2 of the regulatory</u></p>	
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		<p><u>financial reporting obligations.</u></p> <p><u>The detailed form and content is to be satisfactory to Ofcom and will follow a layout similar to and contain all of the information disclosed in the RFS that is necessary to meet the purpose of this AFI.</u></p>	
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## Annex 6

# Notification of modifications to Direction 3 (KCOM)

### Notification under section 49 of the Communications Act 2003

#### **Modification of a Direction under section 49 of the Communications Act 2003 and SMP Services Condition OB2 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, KCOM 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, KCOM has been subjected to various SMP Services Conditions in accordance with sections 45 and 86 to 92 of the Act, including conditions OB1 to OA33 imposing obligations on KCOM in respect of wholesale cost accounting, accounting separation and retail cost accounting in relation to KCOM's activities in those markets where KCOM has been designated as having SMP;

(C) in complying with the SMP services conditions referred to in recital B above, and in particular conditions OB5, KCOM is required to, amongst other things:

- 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.

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

(E) condition OB2 includes, 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 OB1 to OB33;

(F) this notification modifies Direction 3 which relates to KCOM's obligations under SMP services conditions OB1 to OB33, in that it sets out an amendment to the Regulatory Financial Statements which are required to be prepared, audited (including the level of audit), delivered to OFCOM and/or published by KCOM under condition OB5.

(G) 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:

- iii. objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- iv. 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;

(H) 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 their duties in section 3 of the Act;

(I) on 20 March 2009, OFCOM published a notification of the proposed modified Direction in accordance with section 49 of the Act (the "**First Notification**");

(J) 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;

(K) in the First Notification and accompanying explanatory statement OFCOM invited representations about any of the proposals therein by 5 pm on 1 May 2009;

(L) 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:

- a) they have considered every representation about the proposal that is made to them within the period specified in the First Notification; and
- b) 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;

(M) OFCOM has considered every representation about the proposed modified Direction duly made to them and these representations 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 OB2, OFCOM hereby gives the following modification to Direction 3.**

1. Direction 3 shall be modified as set out in Annexes A to C 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) "KCOM" means KCOM Group plc, whose registered company number is 2150618, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;

c) "Direction 3" means Direction 3 given under SMP Services Condition OB2 at Annex 5 of *The Regulatory Financial Reporting Obligations on BT and Kingston Communications statement, dated 22 July 2004*; which relates to KCOM's obligations under SMP Services Conditions OB1 to OB33, in that it sets out the Regulatory Financial Statements which are required to be prepared, audited (including the level of audit), delivered to OFCOM and/or published by KCOM under condition OB5;

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 KCOM referred to in recital (B) of this modified Direction above;

f) "OFCOM" means the Office of Communications; and

g) "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 notification 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**

**15 June 2009**

## **Annex A**

Annex A to Direction 3 is amended in that the words underlined are inserted and the words struck through are deleted.

### *Wholesale Cost Accounting Financial Statements*

For the purposes of this annex the following abbreviations are used, the scope of these statements is set out in the matrix of obligations that follows; references to annexes are to the form and content direction attached at Schedule 4 to the Notification dated 8 April 2004. In the table below, X means that the financial statement set out at the head of the column is required for the market or service on that row. Please note, the separation of the tables into Parts A to C is purely for presentational purposes.

- CCPS = 'current cost primary statements', current cost profit and loss statement (CC P&L) and statement of current cost mean capital employed (CC MCE), as set out in Annexes 13 & 14 in relation to wholesale services, Annexes 11 & 12 in relation to wholesale segments (when designated) and Annexes 9 & 10 in relation to individual wholesale markets;
- RTW = 'reconciliation to wholesale', reconciliation of CC P&L and CC MCE to wholesale level - consolidation across group of markets covered by review (as set out in Annexes 7 & 8 for wholesale markets), followed by consolidation of these consolidations, to give consolidated CC P&L and CC MCE for wholesale markets subject to cost accounting (as set out in annex 5 & 6);
- RTSA = 'reconciliation to statutory accounts', reconciliation of consolidated CC P&L and CC MCE for wholesale markets subject to cost accounting to the profit and loss account and balance sheet of the operator shown in their statutory financial statements (as set out in annexes 23 & 24, supported by annexes 25, 26, 27 & 28);
- SoCC Ext = statement of costs and charges for wholesale service supplied in the market, other than those which are only Internal Wholesale Services (as set out in annex 30);
- SoCC Int = statement of costs and charges for wholesale service supplied in the market, which are only Internal Wholesale Services (as set out in annex 31);
- SoAC FA = statement of activity costs on a current fully allocated cost basis for the market (as set out in Annexes 34), supported by consolidated statement of activity costs on a current fully allocated cost basis (as set out in Annexes 33);
- NCR FA = attribution of activity costs on a current fully allocated cost basis for the market (as set out in annex 36), supported by consolidated attribution of activity costs on a current fully allocated cost basis (as set out in annex 35);
- RFR – regulatory financial review, as set out in annex 2 [NB – no audit opinion is required for the RFR];
- SDR – statement of responsibility, as set out in annex 3 [NB – no audit opinion is required for the SDR];
- FPIA – Audit Opinion required for required statements, for inclusion in audit report as set out in annex 4;
- PPIA – Audit opinion required for required statements, for inclusion in audit report as set out in annex 4;
- Notes – notes to the financial statements, as set out in annex 19;
- RMP – retail markets purchase statement, as set out in annex 22;
- SPS – summary, for reconciliation purposes, of profitability by wholesale service (as set out in annex 32) [NB – the SPS should not be published].

*Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets*

	Financial statements					Audit		Published
	CCPS	RTW	RTSA	SoCC Ext	SoCC Int	FPIA	PPIA	
Wholesale markets and illustrative services								
Traditional interface symmetric broadband origination (up to and including 8Mbit/s);	X	X	X			X		X
<del>Traditional interface symmetric broadband origination (above 8Mbit/s up to and including 155Mbit/s)</del>	<del>X</del>	<del>X</del>	<del>X</del>	<del></del>	<del></del>	<del>X</del>	<del></del>	<del>X</del>
<u>Traditional interface symmetric broadband origination in the Hull Area (above 8Mbit/s and up to and incl. 45Mbit/s)</u>								
<u>Traditional interface symmetric broadband origination in the Hull Area (over 45 Mbit/s and up to and incl. 155Mbit/s)</u>	X	X	X			X		X
<del>Alternative interface symmetric broadband origination (all bandwidths);</del>	<del>X</del>	<del>X</del>	<del>X</del>	<del></del>	<del></del>	<del>X</del>	<del></del>	<del>X</del>
<u>Alternative interface symmetric broadband origination (up to and including 1Gbit/s)</u>								
Technical areas (as necessary)	X	X	X			X		X

*Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets*

	Financial statements					Audit		Published
	SoAC FA	NCR FA	SoAC IC	RFR	SDR	FPIA	PPIA	
Wholesale markets and illustrative services								
Traditional interface symmetric broadband origination (up to and including 8Mbit/s);	X	X	X	X	X	X		X
<del>Traditional interface symmetric broadband origination (above 8Mbit/s up to and including 155Mbit/s)</del>	<del>X</del>	<del>X</del>	<del>X</del>	<del>X</del>	<del>X</del>	<del>X</del>		<del>X</del>
<u>Traditional interface symmetric broadband origination in the Hull Area (above 8Mbit/s and up to and incl. 45Mbit/s)</u>	X	X	X	X	X	X		X
<u>Traditional interface symmetric broadband origination in the Hull Area (over 45 Mbit/s and up to and incl. 155Mbit/s)</u>	X	X	X	X	X	X		X
<del>Alternative interface symmetric broadband origination (all bandwidths);</del>	<del>X</del>	<del>X</del>	<del>X</del>	<del>X</del>	<del>X</del>	<del>X</del>		<del>X</del>
<u>Alternative interface symmetric broadband origination (up to and including 1Gbit/s)</u>	X	X	X	X	X	X		X
Technical areas (as necessary)	X	X	X	X	X	X		X

*Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets*

	Financial statements					Audit		Published
	Notes	RMP	SPS			FPIA	PPIA	
<b>Wholesale markets and illustrative services</b>								
<b>Traditional interface symmetric broadband origination (up to and including 8Mbit/s);</b>	X		X				X	X
<del>Traditional interface symmetric broadband origination (above 8Mbit/s up to and including 155Mbit/s)</del>								
<u>Traditional interface symmetric broadband origination in the Hull Area (above 8Mbit/s and up to and incl. 45Mbit/s)</u>	X		X				X	X
<u>Traditional interface symmetric broadband origination in the Hull Area (over 45 Mbit/s and up to and incl. 155Mbit/s)</u>	X		X				X	X
<del>Alternative interface symmetric broadband origination (all bandwidths);</del>								
<u>Alternative interface symmetric broadband origination (up to and including 1Gbit/s)</u>	X		X				X	X
<b>Technical areas (as necessary)</b>	X		X				X	X



## **Annex B**

Annex B to Direction 3 is amended in that the words underlined are inserted and the words struck through are deleted.

### *Accounting Separation Financial Statements*

For the purposes of this annex the following abbreviations are used, the scope of these statements is set out in the matrix of obligations that follows; references to annexes are to the form and content direction attached at Schedule 4 to the Notification dated 8 April 2004. In the table below, X means that the financial statement set out at the head of the column is required for the market or service on that row. Please note, the separation of the tables into Parts A to B is purely for presentational purposes.

- TS – turnover statements: sales of External Wholesale Services (as set out in annex 20) and sales of Internal Wholesale Services (as set out in annex 21);
- SOS – notes to the financial statements (as set out in annex 19) in relation to sufficiency of separation, in particular assurance that activities to which accounting separation applies have been sufficiently separated from each other and from activities to which separation does not apply;
- IMT - Inter-market turnover, reconciliation of the source and destination of inter market turnover, to verify that transfer charges are self cancelling overall (as set out in annex 29);
- RFR – regulatory financial review, as set out in annex 2 [NB – no audit opinion is required for the RFR];
- SDR – statement of responsibility, as set out in annex 3 [NB – no audit opinion is required for the SDR];
- FPIA – Audit Opinion required for required statements, for inclusion in audit report as set out in annex 4;
- PPIA – Audit opinion required for required statements, for inclusion in audit report as set out in annex 4;
- CCPS = 'current cost primary statements', to demonstrate sufficiency of separation where CCPS not required for cost accounting purposes - current cost profit and loss statement and statement of current cost mean capital employed, as set out in Annexes 13 & 14 in relation to wholesale services, Annexes 11 & 12 in relation to wholesale segments (when designated) and Annexes 9 & 10 in relation to individual wholesale markets;
- RTW = 'reconciliation to wholesale', reconciliation of CC P&L and CC MCE to wholesale level, to demonstrate sufficiency of separation where RTW not required for cost accounting purposes - consolidation across group of markets covered by review (as set out in Annexes 7 & 8 for wholesale markets), followed by consolidation of these consolidations, to give consolidated CC P&L and CC MCE for wholesale markets subject to cost accounting (as set out in annex 5 & 6);
- RTSA = 'reconciliation to statutory accounts', reconciliation of consolidated CC P&L and CC MCE for wholesale markets subject to accounting separation to the profit and loss account and balance sheet of the operator shown in their statutory financial statements (as set out in annexes 23 & 24 supported by annexes 25, 26, 27 & 28), to demonstrate sufficiency of separation where RTSA not required for cost accounting purposes.

*Review of the wholesale broadband access market*

	Financial statements			Audit		Published
Wholesale markets and illustrative services	TS	SOS	IMT	FPIA	PPIA	
<del>Asymmetric broadband origination in the Hull area</del>	X	X	X	X		X
<u>Wholesale Broadband Access in the Hull Area</u>						

*Review of the wholesale broadband access market*

	Financial statements			Audit		Published
Wholesale markets and illustrative services	RFR	SDR	CCPS, RTW & RTSA	FPIA	PPIA	
<del>Asymmetric broadband origination in the Hull area</del>						
<u>Wholesale Broadband Access in the Hull Area</u>	X	X	X	X		X

## **Annex C**

Annex C to Direction 3 is amended in that the words underlined are inserted and the words struck through are deleted.

### *Retail Cost Accounting Financial Statements*

For the purposes of this annex the following abbreviations are used, the scope of these statements is set out in the matrix of obligations that follows; references to annexes are to the form and content direction attached at Schedule 4 to the Notification dated 8 April 2004. In the table below, X means that the financial statement set out at the head of the column is required for the market or service on that row. Please note, the separation of the tables into Parts A to C is purely for presentational purposes.

- CCPS = 'current cost primary statements', current cost profit and loss statement (CC P&L) and statement of current cost mean capital employed (CC MCE), as set out in Annexes 17 & 18 in relation to retail product segments, Annexes 15 & 16 in relation to individual retail markets;
- RTR = 'reconciliation to retail', reconciliation of CC P&L and CC MCE to wholesale or retail level – not required as there is only one retail market that has cost accounting obligations proposed;
- RTSA = 'reconciliation to statutory accounts', reconciliation of consolidated CC P&L and CC MCE for retail markets subject to cost accounting to the profit and loss account and balance sheet of the operator shown in their statutory financial statements (as set out in annexes 23 & 24, supported by annexes 25, 26, 27, & 28);
- SoCC Ext = statement of costs and charges for wholesale service supplied in the market, other than those which are only Internal Wholesale Services (as set out in annex 30);
- SoCC Int = statement of costs and charges for wholesale service supplied in the market, which are only Internal Wholesale Services (as set out in annex 31);
- SoAC FA = statement of activity costs on a current fully allocated cost basis for the market (as set out in Annexes 34), supported by consolidated statement of activity costs on a current fully allocated cost basis (as set out in Annexes 33);
- NCR FA = attribution of activity costs on a current fully allocated cost basis for the market (as set out in annex 36), supported by consolidated attribution of activity costs on a current fully allocated cost basis (as set out in annex 35);
- RFR – regulatory financial review, as set out in annex 2 [NB – no audit opinion is required for the RFR];
- SDR – statement of responsibility, as set out in annex 3 [NB – no audit opinion is required for the SDR];
- FPIA – Audit Opinion required for required statements, for inclusion in audit report as set out in annex 4;
- PPIA – Audit opinion required for required statements, for inclusion in audit report as set out in annex 4;
- Notes – notes to the financial statements, as set out in annex 19;
- RMP – retail markets purchase statement, as set out in annex 22;
- SPS – summary, for reconciliation purposes, of profitability by wholesale service (as set out in annex 32) [NB – the SPS should not be published].

*Part A**Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets*

	Financial statements					Audit		Published
Retail market and illustrative services	CCPS	RTR	RTSA	SoCC Ext	SoCC Int	FPIA	PPIA	
<b>Traditional interface retail leased lines (up to and including 8Mbit/s);</b>	×	×	×			×		×

*Part B**Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets*

	Financial statements					Audit		Published
Wholesale markets, retail market and illustrative services	SoAC FA	NCR FA	SoAC IC	RFR	SDR	FPIA	PPIA	
<b>Traditional interface retail leased lines (up to and including 8Mbit/s);</b>				×	×	×		×

*Part C**Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets*

	Financial statements					Audit		Published
Wholesale markets, retail market and illustrative services	Notes	RMP	SPS			FPIA	PPIA	
<b>Traditional interface retail leased lines (up to and including 8Mbit/s);</b>	×					×		×

## Annex 7

# Notification of modification to Direction 4 (KCOM)

## Notification under section 49 of the Communications Act 2003

### **Modification of a Direction under section 49 of the Communications Act 2003 and SMP Services Condition OB2 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, KCOM 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, KCOM has been subjected to various SMP services conditions in accordance with sections 45 and 86 to 92 of the Act, including conditions OB1 to OB33 imposing obligations on KCOM in respect of wholesale cost accounting, accounting separation and retail cost accounting in relation to KCOM's activities in those markets where KCOM has been designated as having SMP;
- (C) in complying with the SMP services conditions referred to in recital B above, and in particular condition OB5, KCOM is required to prepare such Regulatory Financial Statements as directed by OFCOM from time to time;
- (D) by virtue of the Transitional Provisions, references to the Director in any of those SMP services conditions should be read as references to OFCOM;
- (E) condition OB2 includes, 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 KCOM's obligations under conditions OB1 to OB33;
- (F) this notification modifies Direction 4 given under SMP Services Condition OB2 at Annex 5 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004* which relates to KCOM's obligations under SMP services conditions OB1 to OB33, in that it sets out the form and content to be applied by KCOM in preparing certain Regulatory Financial Statements required by virtue of condition OB5 and Direction 3 (as modified);
- (G) KCOM is entitled to depart from the form and content set out in this Direction in certain circumstances in accordance with conditions OB7 and OB20;
- (H) 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:



- (ii) 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;

(I) 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 their duties in section 3 of the Act;

(J) on 20 March 2009, OFCOM published a notification of the proposed modified Direction in accordance with section 49 of the Act (the "**First Notification**");

(K) 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;

(L) in the First Notification and accompanying explanatory statement OFCOM invited representations about any of the proposals therein by 5pm on 1 May 2009;

(M) 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:

- a) they have considered every representation about the proposal that is made to them within the period specified in the First Notification; and
- b) 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;

(N) OFCOM has considered every representation about the proposed modified Direction duly made to them and these representations 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 OB2, OFCOM hereby gives the following modification to Direction 4:**

1. Direction 4 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) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
- c) "Direction 3" means Direction 3 given under SMP Services Condition OB2 at Annex 5 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*, as modified by the notification in Annex X of this document, which relates to KCOM's obligations under SMP Services Conditions OB1 to OB33, in that it sets out the Regulatory Financial Statements

which are required to be prepared, audited (including the level of audit), delivered to OFCOM and/or published by KCOM under condition OB5;

d) "KCOM" means KCOM Group plc, whose registered company number is 2150618, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;

e) "Direction 4" means Direction 4 given under SMP Services Condition OB2 at Annex 5 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*; which relates to KCOM's obligations under SMP Services Conditions OB1 to OB33, in that it sets out the form and content to be applied by KCOM in respect of preparing certain Regulatory Financial Statements under condition OB5;

f) "Notification" means the notifications which set in place the obligations on KCOM referred to in recital (B) of this modified Direction above;

g) "OFCOM" means the Office of Communications; and

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 Annex to this notification 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**

**15 June 2009**

## **Annex A**

The form and content of the Regulatory Financial Statements set out in the Direction 4 are modified as shown below in that the words underlined are inserted and the words struck through are deleted.

Annex 29

KCOM Inter Market Turnover (Reconciliation)  
for year ended 31st March 2024

	Wholesale residential analogue exchange line services in the Hull Area	Wholesale residential ISDN2 exchange line services in the Hull Area	Wholesale business analogue exchange line services in the Hull Area	Wholesale business ISDN2 exchange line services in the Hull Area	Wholesale ISDN30 exchange line services in the Hull Area	Call origination on fixed public narrowband networks in the Hull Area	Fixed geographic call termination provided by KCOM	Wholesale unreserved narrowband internet termination	Asymmetric broadband origination in the Hull Area	Wholesale Broadband Access in the Hull Area	Provision of traditional interface symmetric broadband origination with a bandwidth capacity up to and including 8 megabits	Provision of traditional interface symmetric broadband origination with a bandwidth capacity above 8 megabits up to and including 45 megabits	Provision of traditional interface symmetric broadband origination (above 45 megabits up to and including 155 megabits)	Provision of alternative interface symmetric broadband origination at all bandwidths within the Hull Area	Alternative interface symmetric broadband origination (up to and including 150Mbps)	Residential analogue exchange line services in the Hull Area	Residential ISDN2 exchange line services in the Hull Area	Business analogue exchange line services in the Hull Area	Business ISDN2 exchange line services in the Hull Area	Business ISDN30 exchange line services in the Hull Area	Business local calls in the Hull Area	Residential national calls originating in the Hull Area	Residential international calls originating in the Hull Area	Residential calls to mobiles originating in the Hull Area	Residential operator assisted calls originating in the Hull Area	Residential IDD Category A calls originating in the Hull Area	Residential IDD Category B calls (on a route by route basis) originating in the Hull Area	Business local calls in the Hull Area	Business national calls originating in the Hull Area	Business international calls originating in the Hull Area	Business operator assisted calls originating in the Hull Area	Business IDD Category A calls originating in the Hull Area	Business IDD Category B calls (on a route by route basis) originating in the Hull Area	Including a bandwidth capacity of 8 megabits	Any other market for which cost accounting and/or accounting separation obligations apply	Residual Wholesale	Residual Retail	Total 2024				
Turnover originating in:																																										
Wholesale residential analogue exchange line services in the Hull Area																																										
Wholesale residential ISDN2 exchange line services in the Hull Area																																										
Wholesale business analogue exchange line services in the Hull Area																																										
Wholesale business ISDN2 exchange line services in the Hull Area																																										
Wholesale ISDN30 exchange line services in the Hull Area																																										
Call origination on fixed public narrowband networks in the Hull Area																																										
Fixed geographic call termination provided by KCOM																																										
Wholesale unreserved narrowband internet termination																																										
Asymmetric broadband origination in the Hull Area																																										
Wholesale Broadband Access in the Hull Area																																										
Provision of traditional interface symmetric broadband origination with a bandwidth capacity up to and including 8 megabits																																										
Provision of traditional interface symmetric broadband origination with a bandwidth capacity above 8 megabits up to and including 45 megabits																																										
Provision of traditional interface symmetric broadband origination (above 45 megabits up to and including 155 megabits)																																										
Provision of alternative interface symmetric broadband origination at all bandwidths within the Hull Area																																										
Alternative interface symmetric broadband origination (up to and including 150Mbps)																																										
Residential analogue exchange line services in the Hull Area																																										
Residential ISDN2 exchange line services in the Hull Area																																										
Business analogue exchange line services in the Hull Area																																										
Business ISDN2 exchange line services in the Hull Area																																										
Business ISDN30 exchange line services in the Hull Area																																										
Business local calls in the Hull Area																																										
Residential national calls originating in the Hull Area																																										
Residential international calls originating in the Hull Area																																										
Residential calls to mobiles originating in the Hull Area																																										
Residential operator assisted calls originating in the Hull Area																																										
Residential IDD Category A calls originating in the Hull Area																																										
Residential IDD Category B calls (on a route by route basis) originating in the Hull Area																																										
Business local calls in the Hull Area																																										
Business national calls originating in the Hull Area																																										
Business international calls originating in the Hull Area																																										
Business operator assisted calls originating in the Hull Area																																										
Business IDD Category A calls originating in the Hull Area																																										