

A11. Annex Notification of proposals to modify existing General Conditions

Notification of Ofcom's proposals to modify existing General Conditions under sections 48(1) and 48A(3) of the Communications Act 2003

1. Ofcom, in accordance with sections 48(1) and 48A(3) of the Act, hereby makes the following proposals for:
 - a) modifying General Conditions A1, A2, A3, A4, B2, B4, C1, C2, C3, C4, C5, C6, C7 and C8; and
 - b) removing definitions from, modifying definitions in and adding a new definition to those set out in the Definitions section of the General Conditions.
2. The proposed modifications referred to in paragraph 1 are set out in Schedules 1, 2 and 3 to this Notification.
3. Ofcom's reasons for making each of the proposals, and the effect of the proposals, are set out in section 15 of the document accompanying this Notification.
4. Ofcom considers that these proposals comply with the requirements of sections 45 to 49C of the Act, insofar as they are applicable.
5. Ofcom considers that these proposals are not of EU significance pursuant to section 150A(2) of the Act.
6. In making these proposals, Ofcom has considered and acted in accordance with its general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act.
7. Representations may be made to Ofcom about the proposals set out in this Notification by **30 November 2020 (5pm)**.
8. If implemented, the proposed modifications:
 - a) set out in Schedule 1 shall enter into force on IP completion day; and
 - b) set out in Schedule 2 and 3 shall enter into force on the date/s specified in the final Notification.
9. A copy of this Notification and the accompanying consultation document have been sent to the Secretary of State in accordance with section 48C(1) of the Act.
10. In this Notification:
 - a) "**the Act**" means the Communications Act 2003;

- b) “**General Conditions of Entitlement**” or “**General Conditions**” means the general conditions set by Ofcom under section 45 of the Act on 19 September 2017, as amended or replaced from time to time;
 - c) “**IP completion day**” has the meaning specified in the European Union (Withdrawal Agreement) Act 2020; and
 - d) “**Ofcom**” means the Office of Communications.
11. Words or expressions shall have the meaning assigned to them in this Notification, and otherwise any word or expression shall have the same meaning as it has in the Act.
12. For the purposes of interpreting this Notification: (i) headings and titles shall be disregarded; and (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
13. The Schedules to this Notification shall form part of this Notification.

Signed by



Selina Chadha

Director of Connectivity

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

27 October 2020

Schedule 1: Proposed modifications to the General Conditions of Entitlement A1 and B4

The modifications that Ofcom proposes to make to General Conditions A1 and B4 are shown in highlighted underlined text as against the current version of the General Conditions.

1. Proposed modifications to General Condition A1:

A1.2 Any Regulated Provider shall, to the extent requested by any other provider of a Public Electronic Communications Network in any part of the United Kingdom or European Union, negotiate with that provider with a view to concluding an agreement for Interconnection (or an amendment to an existing agreement for Interconnection) within a reasonable period.

2. Proposed modifications to General Condition B4:

B4.2 Regulated Providers shall ensure, where technically and economically feasible and subject to Condition C6.6, that End-Users in any part of the United Kingdom or European Union are able to:

- (a) access and use those Non-Geographic Numbers which the Regulated Provider Adopts; and
- (b) access all Telephone Numbers provided in the United Kingdom or European Union, regardless of the technological devices used by the operator, including those in the National Telephone Numbering Plan and Universal International Freephone Numbers (UIFN).

Schedule 2: Proposed modifications to the General Conditions of Entitlement A2, A3, A4, B2, C1 to C8

The modifications that Ofcom proposes to make to General Conditions A2, A3, A4, B2, C1 to C8 are shown in highlighted underlined and strikethrough text as against the wording of the relevant General Conditions as they will apply following the modifications we are making as set out in Annex 5 to the accompanying statement to this Notification:

1. Proposed modifications to GC A2:

A2.2 Communications Providers must comply with any relevant compulsory standards and/or specifications listed in the Official Journal of the European Union for the provision of services, technical interfaces and/or network functions pursuant to Article 17 of the Framework Directive and/or Article 39 of the EECC Directive.

2. Proposed modifications to GC A3:

A3.1 The provisions of this Condition apply as follows: ...

(b) Conditions A3.3 and A3.6(c) apply to any provider of a VoIP Outbound Call Service to Consumers, Microenterprise or Small Enterprise Customers or Not-For-Profit Customers (such customers being 'Relevant Customers' for the purposes of these provisions);

A3.3 Regulated Providers must inform their ~~Domestic and Small Business~~ Relevant Customers in plain English and in an easily accessible manner that access to Emergency Organisations using VoIP Outbound Call Services may cease if there is a power cut or power failure, or a failure of the internet connection on which the service relies. This information must be provided during the sales process, within the terms and conditions of use, and in any user guide issued by the Regulated Provider.

A3.6 In order to make accurate and reliable Caller Location Information available to the Emergency Organisations handling the calls to "112" and "999", a Regulated Provider must comply with the following requirements:

(a) where it provides an Electronic Communications Service at a fixed location, the Caller Location Information must, at least, accurately reflect the fixed location of the End-User's terminal equipment including the full postal address;

(b) where it provides a Mobile Communications Service, the Caller Location Information must include, at least, the Cell Identification of the cell from which the call is being made and, where available, an indication of the radius of coverage of the cell. In exceptional circumstances, where the Cell Identification is temporarily unavailable for technical reasons, the Caller Location Information must include the Zone Code; and

(c) where it provides a VoIP Outbound Call Service:

- (i) it must, where its VoIP Outbound Call Service is to be used principally at a single fixed location, recommend its ~~Domestic and Small Business Customers~~ **Relevant Customers** to register with it the address of the place where the VoIP Outbound Call Service is to be used prior to its activation and update that address information if there is any change; and
 - (ii) where it has a reasonable expectation that, or has been informed that, its VoIP Outbound Call Service is to be accessed from multiple locations, it must recommend that its ~~Domestic and Small Business Customers~~ **Relevant Customers** register and update the location information associated with it, whenever accessing the VoIP Outbound Call Service from a new location; and
- (d) in all circumstances where available, a Regulated Provider must provide handset-derived Caller Location Information.

3. Proposed modifications to GC A4:

A4.1 This Condition applies to any Communications Provider who provides a ~~Publicly Available Telephone Service~~ **Voice Communications Service** and/or a Public Electronic Communications Network over which a ~~Publicly Available Telephone Service~~ **Voice Communications Service** is provided, each of whom is a 'Regulated Provider' for the purposes of this Condition.

4. Proposed modifications to GC B2:

B2.1 This Condition applies to all providers of ~~Publicly Available Telephone Services~~ **Number-based Interpersonal Communications Services** which assign Telephone Numbers to Subscribers, each of whom is a 'Regulated Provider' for the purposes of this Condition.

5. Proposed modifications to GC C1:

C1.1 The provisions of this Condition C1 apply as follows: ...

- (b) Conditions C1.8 to C1.11 apply to providers of Public Electronic Communications Services when they provide these services to the following:

...

- (iii) in relation to Condition C1.10, ~~Domestic and Small Business Customers~~ **Consumers, Microenterprise or Small Enterprise Customers or Not-For-Profit Customers;**

...

C1.15 Without limiting the extent of Condition C1.14, an increase in the Core Subscription Price payable at any point in the **Commitment Period** is a contractual modification likely to be of material detriment to a **Consumer or Microenterprise or Small Enterprise Customer**

or Not-For-Profit Customer for the purposes of Condition C1.14(a) unless it falls within Condition C1.17.¹

6. Proposed modifications to GC C2:

C2.10 Where a Regulated Provider applies different tariffs for ~~Small Business Customers~~ Microenterprise or Small Enterprise Customers or Not-For-Profit Customers to those it applies to Consumers, it must ensure that its pricing for ~~Small Business Customers~~ Microenterprise or Small Enterprise Customers or Not-For-Profit Customers is transparent and inform such ~~Small Business Customers~~ Microenterprise or Small Enterprise Customers or Not-For-Profit Customers where the tariff is a business tariff.

...

C2.11 In relation to Controlled Premium Rate Services ('CPRS'), Regulated Providers shall provide on request and free of charge the following information and advice to ~~Domestic and Small Business Customers~~ Consumers, Microenterprise or Small Enterprise Customers or Not-For-Profit Customers:

- (a) information about the CPRS mechanisms in the UK market, such as operator billing, premium rate Short Message Service (PSMS) payments, Service Charges for CPRS numbers, and voice shortcode charges, and how they are applied to the Customer's phone bill; and
- (b) information about the role of Regulated Providers in relation to:
 - (i) general CPRS enquiries and requests for number checks via the number-checker facilities provided by the Phone-paid Services Authority on its website; and
 - (ii) dealing with formal complaints about abuses of service content, non-compliance with the Phone-paid Services Authority's code of practice and other alleged unlawful operation of services and numbers.

7. Proposed modifications to GC C3:

C3.1 The provisions of this Condition apply as follows: ...

- (b) Conditions C3.4 to C3.6 apply to any provider of ~~Publicly Available Telephone Services~~ Voice Communications Services and/or ~~Publicly Available~~ Internet Access Services (including any wholesale provider) in respect of:
 - (i) the billing of End-Users; and

¹ This General Condition is currently numbered C1.7. As set out in the document accompanying this Notification, Ofcom have decided to make other modifications to the General Conditions, which they intend to take effect from December 2021, June 2022 and December 2022. As a result of those modifications, Condition C1.7 will be renumbered C1.15. The proposed modification would apply from December 2021 until June 2022, when this Condition C1.15 would be revoked and replaced. See further Annex 5, Table 2 to the accompanying document.

- (ii) the provision of information to be used by another Communications Provider for billing End-Users,

except that Conditions C3.4 to C3.6 do not apply to any such provider if its Relevant Turnover in its most recent complete financial year is less than £55 million;

- (c) Condition C3.7 applies to any person who provides Number-based Interpersonal Communications Services and/or ~~Publicly Available~~ **Internet Access Services**;
- (d) Conditions C3.8 to C3.12 apply to any person who provides ~~Publicly Available Telephone Services~~ **Voice Communications Services** and/or ~~Publicly Available~~ **Internet Access Services** to a Subscriber;
- (e) Conditions C3.13 and C3.14 apply to any person who provides Number-based Interpersonal Communications Services and/or ~~Publicly Available~~ **Internet Access Services** when they provide such services to Subscribers who are:
 - (i) Consumers; and/or
 - (ii) Microenterprise or Small Enterprise Customers or Not-For-Profit Customers, unless they have expressly agreed otherwise;

such Subscribers being 'Relevant Customers' for the purposes of those provisions;

and each person to whom a provision applies is a 'Regulated Provider' for the purposes of that provision.

...

C3.5 Regulated Providers shall:

- (a) apply to an Approval Body for Approval of any Total Metering and Billing System they use in respect of the ~~Publicly Available Telephone Services~~ **Voice Communications Services** and/or ~~Publicly Available~~ **Internet Access Services** they provide, in accordance with the process specified by Ofcom in a direction issued under Condition C3.4;
- (b) obtain Approval for these services as soon as is practicable; and
- (c) comply with any directions made by the Approval Body in respect of such Approval.

...

C3.11 Where a Subscriber has not paid a Regulated Provider all or part of a Bill for ~~Publicly Available Telephone Services~~ **Voice Communications Services** and/or ~~Publicly Available~~ **Internet Access Services** provided by the Regulated Provider, the Regulated Provider shall ensure that any measures it takes to effect payment or disconnection:

- (a) are proportionate and not unduly discriminatory;

- (b) include giving due warning to the Subscriber beforehand of any consequent service interruption or disconnection; and
- (c) except in cases of fraud, persistent late payment or non-payment, confine any service interruption to the service concerned, as far as technically feasible.

8. Proposed modifications to GC C4:

C4.1 This Condition applies to any Communications Provider who provides Public Electronic Communications Services to ~~Domestic and Small Business Customers~~ **Consumers, Microenterprise or Small Enterprise Customers or Not-For-Profit Customers**. For the purposes of this Condition:

- (a) any such Communications Provider is a 'Regulated Provider'; and
- (b) ~~Domestic and Small Business Customers~~ **Consumers, Microenterprise or Small Enterprise Customers or Not-For-Profit Customers** are 'Relevant Customers'.

9. Proposed modifications to GC C5:

C5.7 Regulated Providers must ensure that any End-User of the ~~Publicly Available Telephone Services~~ **Number-based Interpersonal Communications Services** it provides who is unable to easily use a printed Directory due to visual impairment or other disabilities, can access, free of charge, Directory Information and Directory Enquiry Facilities in a form which is appropriate to meet their needs. Regulated Providers must ensure that such Directory Enquiry Facilities are capable of connecting such an End-User to a requested Telephone Number at the request of that End-User.

C5.8 Regulated Providers must ensure that any End-User of the ~~Publicly Available Telephone Services~~ **Voice Communications Services** it provides who, because of his or her disabilities, needs to make or receive calls in which some or all of the call is made or received in text format, can access and use a Relay Service which has been approved by Ofcom.

10. Proposed modifications to GC C6:

C6.1 This Condition applies to all providers of ~~Publicly Available Telephone Services~~ **Number-based Interpersonal Communications Services** and Public Electronic Communications Networks over which ~~Publicly Available Telephone Services~~ **Number-based Interpersonal Communications Services** are provided, each of whom is a 'Regulated Provider' for the purposes of this Condition.

11. Proposed modifications to GC C7²:

C7.7 The Regulated Provider that is the Losing Provider must:

² We have decided to make further changes to GC C7.61 and the numbering in C7 for the reasons set out in section 9 of the accompanying document.

- (a) where technically feasible, continue to provide the Relevant Communications Service(s) or Bundle on the same terms until the Communications Provider Migration is completed;
- (b) ensure that its contract with the Switching Customer is automatically terminated on the Working Day on which the Communications Provider Migration has been completed;
- (c) ensure that in the case of failure of the Porting Process, the number and Relevant Communications Services of the Switching Customer are reactivated until the Porting Process is completed successfully;

...

C7.61 Where compensation is payable in accordance with Condition C7.60 to a Switching Customer that is a Consumer, compensation must be paid no later than:

- (a) where compensation is due for delays in completing the Communications Provider Migration, 30 calendar days after the date on which the delayed Communications Provider Migration is completed or the Switching Customer or Regulated Provider terminates or cancels the Relevant Communications Service(s) intended to be transferred; or
- (b) where compensation is due for a missed service or installation appointment, 30 calendar days after the date of the missed appointment.

(c) C7.61(a) shall not apply to delays in completing the Porting Process.

12. Proposed modifications to GC C8:

C8.1 This Condition applies to any Communications Provider which provides a Mobile Communications Service to ~~Domestic and Small Business Customers~~ Consumers, Microenterprise or Small Enterprise Customers or Not-For-Profit Customers, including any SMS service sold as part of the package, except that Conditions C8.4(b)(iii), C8.5 and C8.7 to C8.11 do not apply to Prepaid Mobile Services and SIM Only Contracts. For the purposes of this Condition:

- (a) each of these Communications Providers is a 'Regulated Provider';
- (b) any such Mobile Communications Services are 'Relevant Mobile Services'; and
- (c) any such ~~Domestic and Small Business Customers~~ Consumers, Microenterprise or Small Enterprise Customers or Not-For-Profit Customers are 'Relevant Customers'.

...

C8.5 Regulated Providers must use reasonable endeavours to ensure that before entering into or amending a contract for a Relevant Mobile Service, a Relevant Customer:

- (a) is authorised to do so;
- (b) intends to enter into this contract; and
- (c) is provided with the information set out below in a clear, comprehensible and accurate manner in a Durable Medium which is available or accessible to the Relevant Customer or, where the Relevant Customer enters into or amends the contract during a sales call, by telephone:
 - (i) the identity of the legal entity the Relevant Customer is contracting with; its address and telephone, fax and/or e-mail contact details; and
 - (ii) a description of the Relevant Mobile Service; the key charges; payment terms; the existence of any termination right, including termination procedures; the likely date the Relevant Mobile Service will be provided, in case the provision of the Relevant Mobile Service is not immediate; and any ~~Fixed~~ Commitment Period. For the purposes of this provision, key charges include minimum contract charges, any Early Termination Charges and, if the Relevant Customer is a Consumer, the Access Charge to be applied by the Regulated Provider for the purpose of calculating the amounts payable by that Relevant Customer for calls to Unbundled Tariff Numbers in accordance with Condition B1.

Where the Relevant Customer enters into a contract during a sales call, in addition to the oral provision of this information the Regulated Provider must use reasonable endeavours to ensure that this information is sent to the Relevant Customer in good time following the call in a Durable Medium.

Schedule 3: Proposed modifications to Definitions in the General Conditions of Entitlement

The modifications that Ofcom proposes to make to the Definitions in the General Conditions are set out below.

1. In the 'Definitions' section of the General Conditions, the following definitions shall be omitted:
 - The definition of 'Domestic or Small Business Customer';
 - The definition of 'Publicly Available Telephone Service';
 - The definition of 'Publicly Available Internet Access Service';
 - The definition of 'Small Business Customer'.
2. In the 'Definitions' section of the General Conditions, the following new definition shall be inserted in the appropriate alphabetical place:

“**EECC Directive**’ means Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code³,”

3. Proposed modifications to the 'Definitions' section of the General Conditions are shown below in highlighted underlined and strikethrough text as against the wording of the relevant General Conditions as they will apply following the modifications we are making as set out in Annex 5 to the accompanying statement to this Notification:

'Alternative Dispute Resolution (ADR) Scheme' means any dispute procedures approved by Ofcom under section 54 of the Act for the resolution of disputes in relation to any Complaints between a Communications Provider and its ~~Domestic and Small Business Customers~~ Customers who are Consumers, Microenterprise or Small Enterprise Customers or Not-For-Profit Customers;

'Carrier Pre-Selection' or 'CPS' means a facility which allows a Customer of a ~~Publicly Available Telephone Service~~ Voice Communications Service to select a provider designated in advance to apply on every occasion where no other providers have been pre-selected for the use of a Telephone Number;

'Complainant' means a ~~Domestic and Small Business Customer~~ Customer who is a Consumer, Microenterprise or Small Enterprise Customer or Not-For-Profit Customer and who makes a Complaint to a Communications Provider;

'Complaint' means:

- (a) an expression of dissatisfaction made by a ~~Domestic and Small Business Customer~~ Customer who is a Consumer, Microenterprise or Small Enterprise Customer or Not-For-Profit Customer to a Communications Provider related to either:

³ See [Directive \(EU\) 2018/1972](#)

- (i) the Communications Provider's provision of Public Electronic Communications Services to that Domestic and Small Business Customer **Customer**;
 - (ii) the complaint-handling process itself; or
 - (iii) the level of customer service experienced by the Domestic and Small Business Customer **that Customer**; and
- (b) where a response or resolution is explicitly or implicitly expected;

'Customer Complaints Code' means a code of practice containing relevant information about how Complaints from Domestic and Small Business Customers **Customers who are Consumers, Microenterprise or Small Enterprise Customers or Not-For-Profit Customers** are handled and how, and when, Complainants can take their unresolved Complaints to an ADR Scheme;

'Directory' means a printed document containing Directory Information on Subscribers of Publicly Available Telephone Services **Number-based Interpersonal Communications Services** in the United Kingdom which is made available to members of the public;

'Directory Information' means, in the case of a Directory, the name and address of the Subscriber and the Telephone Number assigned to the Subscriber for their use of Publicly Available Telephone Services **Number-based Interpersonal Communications Services** and, in the case of a Directory Enquiry Facility, shall be either such a Telephone Number of the Subscriber or information that such a Telephone Number of the Subscriber may not be supplied;

'Mobile Service Retailer' means any person who sells or markets a Mobile Communications Service directly to a Domestic and Small Business Customer **Consumer, Microenterprise or Small Enterprise Customer or Not-For-Profit Customer**;

'Network Termination Point' means the physical point at which a Subscriber **an End-User** is provided with access to a Public Electronic Communications Network and, where it concerns Electronic Communications Networks involving switching or routing, that physical point is identified by means of a specific network address, which may be linked to the Telephone Number or name of a Subscriber **an End-User**. A Network Termination Point provided at a fixed position on Served Premises shall be within an item of Network Termination and Testing Apparatus;

'Porting Process' means **the a** process set out in Condition C7.21 to C7.44 enabling a Subscriber to switch from one Communications Provider which provides Mobile Communications Services to another such Communications Provider, and to retain their Mobile Number(s); **by which Number Portability is carried out pursuant to Condition C7**. This process includes activation by the Communications Provider to whom the Subscriber **Switching Customer or Mobile Switching Customer** has switched; **of the Telephone Number(s) and/or** Mobile Number(s) that has(have) been ported;

'Relay Service' means any service which:

- (a) provides facilities for the receipt and translation of voice communications into text and the conveyance of that text to the terminal of End-Users of any provider of Publicly Available Telephone Services **Voice Communications Services** and vice versa;

- (b) provides facilities for the receipt and transmission of voice communications in parallel with text communications, allowing both channels to work in tandem to deliver near synchronous voice and text;
- (c) is capable of being accessed by End-Users of the service from readily available compatible terminal equipment, including textphones, Braille readers, personal computers and mobile telephones;
- (d) provides facilities to allow End-Users, who because of their disabilities need to make calls using a Relay Service, to receive incoming calls via the Relay Service, without the calling party needing to dial a prefix;
- (e) insofar as reasonably practicable, allows for communication between End-Users of the service at speeds equivalent to voice communications;
- (f) provides call progress voice announcements in a suitable form;
- (g) provides facilities for access to Emergency Organisations; and
- (h) provides access to operator assistance services and a Directory Enquiry Facility using short code numbers;

‘Relevant Data Protection Legislation’ means ~~the Data Protection Act 1998~~ the General Data Protection Regulation (EU) 2016/697⁴, the Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003;

‘Relevant Turnover’ means annual turnover attributable to the provision (including any wholesale provision) of ~~Publicly Available Telephone Services~~ Voice Communications Services and/or ~~Publicly Available Internet Access Services~~ Internet Access Services after the deduction of sales rebates, value added tax and other taxes directly related to turnover;

⁴ [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/45/EC \(General Data Protection Regulation\)](#)