

**CONSOLIDATED VERSION OF GENERAL CONDITIONS**  
**AS AT 30 July 2010 (including annotations)<sup>1</sup>**

**SCHEDULE TO THE NOTIFICATION UNDER SECTION 48(1) OF THE**  
**COMMUNICATIONS ACT 2003**

**PART 1:**

**DEFINITIONS AND INTERPRETATION**  
**RELATING TO THE CONDITIONS IN THIS SCHEDULE**

Definitions

1. In this Schedule, except in so far as the context otherwise requires—

“Act” means the Communications Act 2003;

“Adoption” means doing any of the following by a Communications Provider in relation to an Allocated Telephone Number (whether or not such Allocation is to that Communications Provider)-

- (a) assigning or transferring that number to a particular Customer or piece of Apparatus;
- (b) using that Telephone Number for identifying a service or route used by that Communications Provider or by any of his Customers;
- (c) using that Telephone Number for identifying a communication as one to be transmitted by that Communications Provider;
- (d) designating that Telephone Number for use in selecting a service or the required elements or characteristics of a service; or
- (e) authorising the use of that Telephone Number by others for any of the following purposes:

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<sup>1</sup> This consolidated version of the General Conditions is published by Ofcom for ease of reference. There have been a number of modifications to the General Conditions since 22 July 2003, which Ofcom makes by way of notification under section 48(1). Footnotes provide a reference to the title of the Ofcom publication notifying the relevant modification and where appropriate, an explanation of the modification. It is recommended that you consult the relevant notification(s) for the General 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 this document is accurate, no guarantees for the currency or accuracy of information are made. The original notification and the subsequent notifications modifying the General Conditions 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.  
You are advised to seek your own legal advice on the operation of the General Conditions.

- (i) identifying the destination for, or recipient of, an Electronic Communication;
- (ii) identifying the origin, or sender, of an Electronic Communication;
- (iii) identifying the route for an Electronic Communication;
- (iv) identifying the source from which an Electronic Communication or Electronic Communications Service may be obtained or accessed;
- (v) selecting the service that is to be obtained or accessed, or required elements or characteristics of that service; or
- (vi) identifying the Communications Provider by means of whose network or service an Electronic Communication is to be transmitted, or treated as transmitted;

“Allocation”, in relation to a Telephone Number, means allocation by the Director;

“Apparatus” includes any equipment, machinery or device and any wire or cable and the casing or coating for any wire or cable;

“Approved Apparatus” means, in relation to any network, Apparatus which meets the appropriate essential requirements of regulation 4 of the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000<sup>2</sup>;

“Associated Facility” means any facility which—

- (a) is available for use in association with the use of an Electronic Communications Network or Electronic Communications Service (whether or not one provided by the person making the facility available); and
- (b) is so available for the purpose of—
  - (i) making the provision of that network or service possible;
  - (ii) making possible the provision of other services provided by means of that network or service; or
  - (iii) supporting the provision of such other services;

“Communications Provider” means, unless the contrary intention appears, a person who provides an Electronic Communications Network or provides an Electronic Communications Service;

“Condition” means a condition in this Schedule;

“Consumer Panel” means the body of persons established pursuant to section 16 of the Act;

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<sup>2</sup> S.I. 2000/730.

“Content Service” means so much of any service as consists in one or both of the following-

- (a) the provision of material with a view to its being comprised in Signals conveyed by means of an Electronic Communications Network;
- (b) the exercise of editorial control over the contents of Signals conveyed by means of a such a network;

“Customers”, in relation to a Communications Provider, means the following (including any of them whose use or potential use of the network or service is for the purposes of, or in connection with, a business):

- (a) the persons to whom the network or service is provided in the course of any business carried on as such by the Communications Provider;
- (b) the persons to whom the Communications Provider is seeking to secure that the network or service is so provided;
- (c) the persons who wish to be so provided with the network or service, or who are likely to seek to become persons to whom the network or service is so provided;

“Director” means the Director General of Telecommunications appointed under section 1 of the Telecommunications Act 1984<sup>3</sup>;

“Directory” means a printed document containing Directory Information on Subscribers of Publicly Available Telephone 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 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;

“Directory Enquiry Facility” means Directory Information provided by means of a Public Telephone Network;

“Electronic Communication” means a communication for transmission by means of an Electronic Communications Network;

“Electronic Communications Network” means-

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<sup>3</sup> 1984 c. 12.

- (a) a transmission system for the conveyance, by the use of electrical, magnetic or electro-magnetic energy, of Signals of any description; and
- (b) such of the following as are used, by the person providing the system and in association with it, for the conveyance of the Signals—
  - (i) apparatus comprised in the system;
  - (ii) apparatus used for the switching or routing of the Signals; and
  - (iii) software and stored data;

“Electronic Communications Service” means any service consisting in, or having as its principal feature, the conveyance by means of an Electronic Communications Network of Signals, except in so far as it is a Content Service;

“Emergency Organisation” means in respect of any locality:

- (a) the relevant public police, fire, ambulance and coastguard services for that locality; and
- (b) any other organisation, as directed from time to time by the Director as providing a vital service relating to the safety of life in emergencies;

“End-User”, in relation to a Public Electronic Communications Service, means:

- (a) a person who, otherwise than as a Communications Provider is a Customer of the provider of that service;
- (b) a person who makes use of the service otherwise than as a Communications Provider; or
- (a) a person who may be authorised, by a person falling within paragraph (a), so to make use of the service;

“the Framework Directive” means Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services;<sup>4</sup>

“Interconnection” means the linking (whether directly or indirectly by physical or logical means, or by a combination of physical and logical means) of one Public Electronic Communications Network to another for the purpose of enabling the persons using one of them to be able:

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<sup>4</sup> Number Portability and technology neutrality, Statement, 30 March 2006, removed definition of “Geographic Number”.

- (a) to communicate with users of the other one; or
- (b) to make use of services provided by means of the other one (whether by the provider of that network or by another person);

“National Telephone Numbering Plan” means a document published by the Director from time to time pursuant to section 56 of the Act;

“Network Termination Point” means the physical point at which a Subscriber 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. A Network Termination Point provided at a fixed position on Served Premises shall be within an item of Network Termination and Testing Apparatus;

“Network Termination and Testing Apparatus” means an item of Apparatus comprised in an Electronic Communications Network installed in a fixed position on Served Premises which enables:

- (a) Approved Apparatus to be readily connected to, and disconnected from, the network;
- (b) the conveyance of Signals between such Approved Apparatus and the network; and
- (c) the due functioning of the network to be tested,

but the only other functions of which, if any, are:

- (i) to supply energy between such Approved Apparatus and the network;
- (ii) to protect the safety or security of the operation of the network; or
- (iii) to enable other operations exclusively related to the running of the network to be performed or the due functioning of any system to which the network is or is to be connected to be tested (separately or together with the network);

“Non-geographic Number” means a Telephone Number from a range of numbers in the National Telephone Numbering Plan designated for assignment to End-Users, the digit structure of which contains no geographic significance for routing calls;

“Public Electronic Communications Network” means an Electronic Communications Network provided wholly or mainly for the purpose of making Electronic Communications Services available to members of the public;

“Public Electronic Communications Service” means any Electronic Communications Service that is provided so as to be available for use by members of the public;

“Publicly Available Telephone Service” means a service available to the public for originating and receiving national and international calls and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance services, Directory Enquiry Facilities, Directories, provision of Public Pay Telephones, provision of service under special terms, provision of specific facilities for End-Users with disabilities or with special social needs and/or the provision of non-geographic services;

“Public Pay Telephone” means a telephone available to the general public, for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes;

“Public Telephone Network” means an Electronic Communications Network which is used to provide Publicly Available Telephone Services; it supports the transfer between Network Termination Points of speech communications, and also other forms of communication, such as facsimile and data;

“Relevant Data Protection Legislation”<sup>5</sup> means the Data Protection Act 1998<sup>6</sup> and the Privacy and Electronic Communications (EC Directive) Regulations 2003;<sup>7</sup>

“Served Premises” means a single set of premises in single occupation where Apparatus has been installed for the purpose of the provision of Electronic Communications Services by means of an Electronic Communications Network at those premises;

“Signal” includes-

- (a) anything comprising speech, music, sounds, visual images or communications or data of any description; and
- (b) signals serving for the impartation of anything between

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<sup>5</sup> Notification of modification to the definition of "Relevant Data Protection Legislation" in (1) the general conditions of entitlement and (2) the designation of universal service providers, 11 December 2003.

<sup>6</sup> 1998 c. 29.

<sup>7</sup> SI 2003/2426.

persons, between a person and a thing or between things, or for the actuation or control of any apparatus;

“Subscriber” means any person who is party to a contract with a provider of Public Electronic Communications Services for the supply of such services;

“Telephone Number” means, subject to any order of the Secretary of State pursuant to section 56(7) of the Act, any number, including data of any description, that is used (whether or not in connection with telephony) for any one or more of the following purposes:

- (a) identifying the destination for, or recipient of, an Electronic Communication;
- (b) identifying the origin, or sender, of an Electronic Communication;
- (c) identifying the route for an Electronic Communication;
- (d) identifying the source from which an Electronic Communication or Electronic Communications Service may be obtained or accessed;
- (e) selecting the service that is to be obtained or accessed, or required elements or characteristics of that service; or
- (f) identifying the Communications Provider by means of whose network or service an Electronic Communication is to be transmitted, or treated as transmitted;

“Wireless Telegraphy” has the same meaning as in section 54 of the Wireless Telegraphy Act 1949.

### Interpretation

2. For the purpose of interpreting the Conditions in this Schedule:
  - (a) except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in the Schedule and otherwise any word or expression shall have the same meaning as it has in the Act;
  - (b) headings and titles shall be disregarded;
  - (c) expressions cognate with those referred to in this Schedule shall be construed accordingly; and
  - (d) the Interpretation Act 1978 shall apply as if each of the Conditions in this Schedule were an Act of Parliament.

## PART 2:

### GENERAL CONDITIONS

#### 1. GENERAL ACCESS AND INTERCONNECTION OBLIGATIONS

##### Obligation to Negotiate Interconnection

- 1.1 The Communications Provider shall, to the extent requested by another Communications Provider in any part of the European Community, negotiate with that Communications Provider with a view to concluding an agreement (or an amendment to an existing agreement) for Interconnection within a reasonable period.

##### Information Obtained During Negotiations for Network Access

- 1.2 Where the Communications Provider acquires information from another Communications Provider before, during or after the process of negotiating Network Access and where such information is acquired in confidence, in connection with and solely for the purpose of such negotiations or arrangements, the Communications Provider shall use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored. Such information shall not be passed on to any other party (in particular other departments, subsidiaries or partners) for whom such information could provide a competitive advantage.
- 1.3 Paragraph 1.2 above does not apply to the passing of information to the Director, where the Director requires that information in order to carry out his functions.
- 1.4 For the purposes of this Condition,
- (a) "Communications Provider" means
    - (i) in paragraph 1.1, a person who provides a Public Electronic Communications Network,
    - (ii) otherwise, a person who provides an Electronic Communications Network or provides an Electronic Communications Service;
  - (b) "Network Access" means
    - (i) Interconnection of Public Electronic Communications Networks; or
    - (ii) any services, facilities or arrangements which-

- (A) are not comprised in Interconnection; but
- (B) are services, facilities or arrangements by means of which a Communications Provider or person making available Associated Facilities is able, for the purposes of the provision of Electronic Communications Services (whether by him or another), to make use of anything mentioned in sub-paragraph (c);

and references to providing Network Access include references to providing any such services, making available any such facilities or entering into any such arrangements;

- (c) the things referred to in (b)(ii)(B) above are-
  - (i) any Electronic Communications Network or Electronic Communications Service provided by another Communications Provider;
  - (ii) any apparatus comprised in such a network or used for the purposes of such a network or service;
  - (iii) any facilities made available by another that are Associated Facilities by reference to any network or service (whether one provided by that provider or another);
  - (iv) any other services or facilities which are provided or made available by another person and are capable of being used for the provision of an Electronic Communications Service.

## 2. STANDARDISATION AND SPECIFIED INTERFACES

- 2.1 The Communications Provider shall comply with any relevant compulsory standards and/or specifications as are listed in the Official Journal of the European Communities for the provision of services, technical interfaces and/or network functions pursuant to Article 17 of the Framework Directive. Where no compulsory standards or specifications have been so published, the Communications Provider shall take full account of any relevant voluntary standards and/or specifications so published, and any relevant standards and/or specifications adopted by the European Standards Organisations.
- 2.2 In the absence of such standards and/or specifications referred to in paragraph 2.1 above, the Communications Provider shall take full account of international standards or recommendations adopted by the International Telecommunication Union (ITU), the International Organisation for Standardisation (ISO) or the International Electrotechnical Committee (IEC).
- 2.3 In the absence of such standards and/or specifications referred to in paragraphs 2.1 and 2.2 above, the Communications Provider shall take full account of any other standard specified by the Director in a direction under this Condition for the purposes of service interoperability and Interconnection, provided that the Director shall not make such a direction if an appropriate European or other international standard is expected to be promulgated within a reasonable time.
- 2.4 The Director may from time to time issue a direction under this Condition requiring a specified Network Interconnection Interface to be compliant with a specified standard. Any such direction shall be to ensure End to End Connectivity and interoperability, and shall only require compliance with a relevant standard in existence as referred to in paragraphs 2.1 to 2.3 above.
- 2.5 Subject to paragraph 2.6 below, the Communications Provider shall ensure that:
- (a) any Network Interconnection Interface provided by it which is specified in any direction under paragraph 2.4 above is compliant with the specified standard in that direction, and
  - (b) the relevant Network Interconnection Interface is available, upon reasonable request, to other providers of Public Electronic Communications Networks.
- 2.6 The Communications Provider shall not be required to comply with paragraph 2.5 above where:
- (a) any other provider of a Public Electronic Communications Network seeking Interconnection with the Communication

Provider's Network at the relevant Network Interconnection Point does not require it to do so; or

- (b) to do so would require the Communications Provider to incur any cost, or resolve any technical difficulty, disproportionate to the benefits to be gained from implementing the specified standard, provided that the Communications Provider takes reasonable steps to incorporate the specified standard in its plans for network development.

2.7 For the purposes of this Condition,

- (a) "Communications Provider" means a person who provides an Electronic Communications Network or provides an Electronic Communications Service;
- (b) "End to End Connectivity" means the facility –
  - (i) for different End-Users of the same Electronic Communications Network or Electronic Communications Service to be able to communicate with each other; and
  - (ii) for the End-Users of different such networks or services to be able, each using the network or service of which he is the End User, to communicate with each other;
- (c) "European Standards Organisations" means the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC), and the European Telecommunications Standards Institute (ETSI);
- (d) "Network Interconnection Interface" means the Technical Characteristics of each interface at any Network Interconnection Point;
- (e) "Network Interconnection Point" means the physical location at which Interconnection between different Public Electronic Communications Networks takes place;
- (f) "Technical Characteristics" means the physical, electrical and other relevant characteristics and the network interworking and service management protocols.

### 3. PROPER AND EFFECTIVE FUNCTIONING OF THE NETWORK

- 3.1 The Communications Provider shall take all reasonably practicable steps to maintain, to the greatest extent possible:
- (a) the proper and effective functioning of the Public Telephone Network provided by it at fixed locations at all times, and
  - (b) in the event of catastrophic network breakdown or in cases of *force majeure* the availability of the Public Telephone Network and Publicly Available Telephone Services provided by it at fixed locations, and
  - (c) uninterrupted access to Emergency Organisations as part of any Publicly Available Telephone Services offered at fixed locations.
- 3.2 The Communications Provider shall ensure that any restrictions imposed by it on access to and use of a Public Telephone Network provided by it at a fixed location on the grounds of ensuring compliance with paragraph 3.1 above are proportionate, non-discriminatory and based on objective criteria identified in advance.
- 3.3 For the purposes of this Condition, “Communications Provider” means a person who provides a Public Telephone Network at a fixed location and/or provides Publicly Available Telephone Services at a fixed location.

#### 4. EMERGENCY CALL NUMBERS

- 4.1 The Communications Provider shall ensure that any End-User can access Emergency Organisations by using the emergency call numbers “112” and “999” at no charge and, in the case of a Pay Telephone, without having to use coins or cards.
- 4.2 The Communications Provider shall, to the extent technically feasible, make Caller Location Information for all calls to the emergency call numbers “112” and “999” available to the Emergency Organisations handling those calls.
- 4.3 For the purposes of this Condition,
- (a) “Caller Location Information” means any data or information processed in an Electronic Communications Network indicating the geographic position of the terminal equipment of a person initiating a call;
  - (b) “Communications Provider” means:
    - (i) in paragraph 4.1, a person who provides a Service, or provides access to such Service by means of a Pay Telephone<sup>8</sup>;
    - (ii) in paragraph 4.2, a person who provides a Public Telephone Network;
  - (c) “Pay Telephone” means a telephone for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes. For the avoidance of any doubt, references to a Pay Telephone include references to a Public Pay Telephone<sup>9</sup>.
  - (d) “Service” means a Public Electronic Communications Service enabling origination of calls to numbers in the National Telephone Numbering Plan but shall exclude any Click to Call Service;
  - (e) “Click to Call Service” means a service which may be selected on a web-site or other application by an End-User and which connects the End-User only to a number or a limited set of

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<sup>8</sup> Regulation of VoIP Services: Access to the Emergency Services - Statement and publication of a statutory notification under section 48(1) of the Communications Act 2003 modifying General Condition 4 (5 December 2007) – replaced “in paragraph 4.1, a person who provides Publicly Available Telephone Services, or provides access to such Publicly Available Telephone Services by means of a Pay Telephone” with effect from 8 September 2008.

<sup>9</sup> Regulation of VoIP Services: Access to the Emergency Services - Statement and publication of a statutory notification under section 48(1) of the Communications Act 2003 modifying General Condition 4 (5 December 2007) – added in (d) and (e) with effect from 8 September 2008.

numbers pre-selected by the Communications Provider or an End-User”.

## 5. EMERGENCY PLANNING

5.1 Subject to paragraph 5.3, the Communications Provider shall, on the request of and in consultation with:

- (a) the authorities responsible for Emergency Organisations; and
- (b) such departments of central and local government as the Director may from time to time direct for the purposes of this Condition,

make arrangements for the provision or rapid restoration of such communications services as are practicable and may reasonably be required in Disasters.

5.2 Subject to paragraph 5.3, the Communications Provider shall, on request by any person as is designated for the purpose in any such arrangements, implement those arrangements in so far as is reasonable and practicable to do so.

5.3 Nothing in this Condition precludes the Communications Provider from:

- (a) recovering the costs incurred in making or implementing any such arrangements; or
- (b) making the implementation of any such arrangements conditional upon being indemnified by the person for whom the arrangements are to be implemented for all costs incurred as a consequence of the implementation.

5.4 For the purposes of this Condition:

- (a) "Communications Provider" means a person who provides a Public Telephone Network and/or provides Publicly Available Telephone Services; and
- (b) "Disaster" includes any major incident having a significant effect on the general public; and for this purpose a major incident includes any incident of contamination involving radioactive substances or other toxic materials.

## 6. PUBLIC PAY TELEPHONES

6.1 The Communications Provider shall ensure that any End-User can access:

- (a) operator assistance services; and
- (b) a Directory Enquiry Facility;

from the Public Pay Telephone, except where:

- (i) the Public Pay Telephone in question is not a Public Call Box; and
- (ii) such services or facilities have been rendered inaccessible by the Communications Provider for the purposes of debt management.

6.2 The Communications Provider shall display and take all reasonable steps to keep displayed prominently on or around the Public Pay Telephone a notice specifying:

- (a) the minimum charge payable for connection of a call;
- (b) the means by which the charge may be paid;
- (c) the location of the Public Pay Telephone sufficient to enable it to be located as swiftly as possible by the Emergency Organisations;
- (d) that calls to Emergency Organisations using the numbers “112” and “999” may be made from the Public Pay Telephone free of charge and without having to use coins or cards; and
- (e) whether or not the Public Pay Telephone is available to receive a call, and if so, the Telephone Number of the Public Pay Telephone.

6.3 Where the Communications Provider provides Public Call Boxes, the Communications Provider shall also:

- (a) ensure that:
  - (i) where it provides Public Call Boxes anywhere in the United Kingdom except the Hull Area, at least 75% of those Public Call Boxes are accessible by reasonable means to End-Users in wheelchairs;

- (ii) where it provides Public Call Boxes in the Hull Area, at least 50% of those Public Call Boxes are accessible by reasonable means to End-Users in wheelchairs; and
  - (iii) at least 70% of its Public Call Boxes incorporate additional receiving amplification;
- (b) consult the Director from time to time on all future material changes to the design of its Public Call Boxes where the interests of disabled persons are likely to be affected to ensure that the needs and interests of disabled persons are fully taken into account in the development and provision of such telephones;
  - (c) consult the Director from time to time and in any event as the Director may request to ensure adequate provision, in terms of numbers and locations, of its Public Call Boxes incorporating textphone facilities. Where the Director is satisfied, following due investigation and discussions with the Communications Provider, that such provision is inadequate, he may direct a Communications Provider to provide Public Call Box textphone facilities as he deems appropriate in terms of numbers and location; and
  - (d) only be entitled to cease to provide or to cease to secure the provision of Publicly Available Telephone Services to and from a Public Call Box if it has installed prominently on or around that Public Call Box (and has taken all reasonable steps to keep so displayed for the period mentioned below) a notice specifying:
    - (i) that the Communications Provider is proposing that such services shall cease to be provided at such Public Call Box on the expiration of the period set out in the notice (being not being less than 42 days, commencing with the day on which the notice is first displayed), and
    - (ii) the name and address of the Communications Provider,
 and such period has expired.

6.4 For the purposes of this Condition,

- (a) "Communications Provider" means a person who provides a Public Pay Telephone;
- (b) "Hull Area" means the area defined as the 'Licensed Area' in the licence granted on 30 November 1987 by the Secretary of State under section 7 of the Telecommunications Act 1984 to Kingston upon Hull City Council and Kingston Communications (Hull) plc;

- (c) “Public Call Box” means a Public Pay Telephone which is permanently installed on public land and to which the public has access at all times.

## 7. MUST-CARRY OBLIGATIONS

- 7.1 The Communications Provider shall, on a direction of the Director made from time to time for the purposes of this Condition, broadcast or otherwise transmit any service specified in that direction which is also set out in section 64(3) of the Act as modified from time to time by the Secretary of State pursuant to section 64 of the Act.
- 7.2 The Communications Provider shall comply with any order made by the Secretary of State from time to time under section 64(11) of the Act with respect to the terms on which such services must be broadcast or otherwise transmitted.
- 7.3 In this Condition,
- (a) “Appropriate Network” shall have the meaning ascribed to it by section 272(7) of the Act; and
  - (b) “Communications Provider” means a person who provides an Appropriate Network.

## 8. OPERATOR ASSISTANCE, DIRECTORIES AND DIRECTORY ENQUIRY FACILITIES

- 8.1 The Communications Provider shall ensure that any End-User can access:
- (a) operator assistance services; and
  - (b) a Directory Enquiry Facility containing Directory Information on all Subscribers in the United Kingdom who have been assigned Telephone Numbers by any Communications Provider, except those Subscribers who have exercised their right to have their Directory Information removed,
- except where such services or facilities have been rendered inaccessible to a particular End-User by the Communications Provider at the End-User's request or for the purposes of debt management.
- 8.2 Where the Communications Provider assigns Telephone Numbers to Subscribers, it shall ensure that each of those Subscribers is, on request, supplied with a Directory containing Directory Information on all Subscribers who have been assigned Telephone Numbers in the Subscriber's local area. Directories containing Directory Information for all other Subscribers outside the local area who have been assigned Telephone Numbers by any Communications Provider must be supplied to the Subscriber on request. Any Directories supplied shall not contain Directory Information for those Subscribers who have exercised their right to have their Directory Information removed.
- 8.3 A Directory may be produced by the Communications Provider, or by another person. Where a Directory is produced by the Communications Provider, the Communications Provider shall ensure that it is updated on a regular basis (at least once a year). The Director may from time to time direct that a Directory is available in a particular form.
- 8.4 The Communications Provider may charge End-Users a reasonable fee for making available a Directory Enquiry Facility, local Directory and any additional Directories, and may charge its Subscribers a reasonable fee for inclusion of Directory Information in a Directory or as part of a Directory Enquiry Facility.
- 8.5 This Condition applies subject to the requirements of Relevant Data Protection Legislation.
- 8.6 For the purposes of this Condition, "Communications Provider" means a person who provides Publicly Available Telephone Services (except Public Pay Telephones).

## 9. REQUIREMENT TO OFFER CONTRACTS WITH MINIMUM TERMS

- 9.1 The Communications Provider shall, in offering to provide, or providing, Public Electronic Communications Services to a Consumer, and on the request of that Consumer, offer to enter into a contract or vary an existing contract with that Consumer which complies with paragraph 9.2.
- 9.2 Any contract between the Communications Provider and a Consumer shall specify the following minimum requirements:
- (a) the identity and address of the Communications Provider;
  - (b) the services provided, details of the service quality levels offered and the time for initial connection;
  - (c) details of maintenance services offered;
  - (d) particulars of prices and tariffs, and the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;
  - (e) the duration of the contract, the conditions for renewal and termination of services and of the contract;
  - (f) any applicable compensation and/or refund arrangements which will apply if contracted quality service levels are not met; and
  - (g) the method of initiating procedures for settlement of disputes in respect of the contract.
- 9.3 Where the Communications Provider intends to modify a condition in a contract with a Consumer which is likely to be of material detriment to the Consumer, the Communications Provider shall:
- (a) provide the Consumer with at least one month's notice of its intention detailing the proposed modification; and
  - (b) inform the Consumer of the ability to terminate the contract without penalty if the proposed modification is not acceptable to the Consumer.
- 9.4 For the purposes of this Condition,
- (a) "Communications Provider" means a person who provides Public Electronic Communications Services, excluding any service which is a broadcast of television programmes for general reception in, or in any area in, the United Kingdom, where every member of the intended audience of such a service

is able to receive that service in an intelligible form and free of charge;

- (b) “Consumer” means any natural person who uses or requests a Public Electronic Communications Service for purposes which are outside his or her trade, business or profession.

## 10. TRANSPARENCY AND PUBLICATION OF INFORMATION

10.1 The Communications Provider shall ensure that clear and up to date information on its applicable prices and tariffs (which for the avoidance of doubt shall not include bespoke or individual prices and tariffs), and on its standard terms and conditions, in respect of access to and use of Publicly Available Telephone Services by End-Users is published, in accordance with paragraphs 10.2 and 10.3.

10.2 The information published shall include at least the following:

- (a) the Communications Provider's name and Major Office address;
- (b) a description of the Publicly Available Telephone Services offered;
- (c) where the Communications Provider renders any subscription charge or periodic rental charge, details of which Publicly Available Telephone Services are included within such charge;
- (d) the Communications Provider's standard tariffs, including details of standard discounts and special and targeted tariff schemes, with regard to:
  - (i) access;
  - (ii) all types of usage charges; and
  - (iii) any maintenance services;
- (e) any compensation and/or refund policy, including specific details of any compensation and/or refund schemes offered;
- (f) any types of maintenance service offered;
- (g) the standard contract conditions offered, including any relevant minimum contractual period; and
- (h) any available dispute resolution mechanisms, including those developed by the Communications Provider.

10.3 Publication of the information shall be effected by:

- (a) sending a copy of such information or any appropriate parts of it to any End-User who may reasonably request such a copy; and
- (b) placing a copy of such information on any relevant website operated or controlled by the Communications Provider, or, where no such website exists, placing a copy of such information in every Major Office of the Communications

Provider such that it is readily available for inspection free of charge by members of the general public during normal office hours.

10.4 For the purposes of this Condition:

- (a) “Communications Provider” means a person who provides End-Users with access to and use of Publicly Available Telephone Services, except Public Pay Telephones;
- (b) “Major Office” means a Communications Provider’s registered office and such other of its offices as the Director may from time to time direct.

## 11. METERING AND BILLING<sup>10</sup>

- 11.1 The Communications Provider shall not render any Bill to an End-User in respect of the provision of any Public Electronic Communications Services unless every amount stated in that Bill represents and does not exceed the true extent of any such service actually provided to the End-User in question.
- 11.2 The Communications Provider shall retain such Records as may be necessary, or as Ofcom may from time to time direct are necessary, for the purpose of establishing its compliance with paragraph 11.1 above. Subject to the following, Ofcom may from time to time direct the minimum period for retention of necessary Records by the Communications Provider. This paragraph (and any direction by Ofcom made under it) applies subject to the requirements of Relevant Data Protection Legislation, and shall not require the Communications Provider to retain any Records for the purposes of this Condition for more than 15 months from the date on which they were created.
- 11.3 Paragraphs 11.4 to 11.5 shall only apply to a Communications Provider where:
- (a) it is a provider of Publicly Available Telephone Services; and
  - (b) it has a Relevant Turnover in its most recent complete financial year exceeding £40 million.
- 11.4 Subject to paragraph 11.3, the Communications Provider shall apply to an Approval Body for Approval of its Total Metering and Billing System, in respect of the Publicly Available Telephone Services it provides and any other Electronic Communications Services it provides as shall be agreed between the Communications Provider and the Approval Body. The Communications Provider shall obtain Approval for these services as soon as is practicable. The Communications Provider shall comply with any directions made by the Approval Body in respect of such Approval. For the avoidance of doubt, this obligation applies in respect of any Total Metering and Billing System, whether already in use or newly installed.
- 11.5 Where an Approval Body does not grant or withdraws Approval from all or part of a Communications Provider's Total Metering and Billing System, that Communications Provider shall, as soon as is reasonably practicable either:
- (a) inform Ofcom of the action to be taken by the Communications Provider to remedy the absence of Approval and the anticipated date of such Approval; or

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<sup>10</sup> The Ofcom Metering and Billing Scheme, Statement, 15 July 2008

- (b) inform Ofcom that the Communications Provider intends to cease use of that Total Metering and Billing System (or that part of it) in accordance with a timetable for its withdrawal which the Communications Provider shall provide to Ofcom on request.

11.6 Where the Communications Provider holds an approval under the Oftel Metering and Billing Direction or has made an Oftel Approval Application, such approval or application shall be deemed to be an Approval or application for Approval of the Communications Provider's Total Metering and Billing System until 31 December 2010.

11.7 In this Condition,

- (a) "Approval" means an approval granted by an Approval Body where a Communications Provider's Total Metering and Billing System is compliant with the Ofcom Metering and Billing Direction, or until 31 December 2010, the Oftel Metering and Billing Direction;
- (b) "Approval Body" means the British Approval Board for Telecommunications (BABT), the British Standards Institution (BSI) and Enigma QPM<sup>11</sup>;
- (c) "Bill" means the information issued by a Communications Provider to an End-User of the charges levied and due for payment or the information retained by a Communications Provider for the purpose of recording and enabling debits and credits to be applied to an End-User's account;
- (d) "Communications Provider" means a person who provides Public Electronic Communications Services;
- (e) "Oftel Metering and Billing Direction" means a direction made by the Director on 22 July 2003 under this Condition setting out various requirements relating to metering and billing accuracy;
- (f) "Ofcom Metering and Billing Direction" means the direction made by Ofcom on 15 July 2008 under this Condition setting out various requirements relating to metering and billing accuracy;
- (g) "Oftel Approval Application" means an application made to an Approval Body for Approval of a Communication Provider's Total Metering and Billing System prior to the date the Ofcom Metering and Billing Direction is made;

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<sup>11</sup> Metering and Billing, Statement, 30 July 2010, inserted 'Enigma QPM' in the definition of "Approval Body" with effect from 30 July 2010.

- (h) “Records” means data or information showing the extent of any network or service actually provided to an End-User and any data or information used in the creation of a Bill for an End-User;
- (i) “Relevant Turnover” means annual turnover attributable to the provision of Publicly Available Telephone Services after the deduction of sales rebates, value added tax and other taxes directly related to turnover;
- (j) “Total Metering and Billing System” means the totality of all equipment, data, procedures and activities used to determine the charges to be sought for provision and usage of Electronic Communications Services, and/or to present these charges on End-User’s Bills. For purposes of clarity, a Total Metering and Billing System incorporates all processing steps from the original recording of a chargeable event to its readiness for presentation on a Bill to the End-User whether performed by one or more Communications Providers.

## 12. ITEMISED BILLS

- 12.1 The Communications Provider shall provide to each of its Subscribers, on request, and either at no extra charge or for a reasonable fee, a basic level of itemised billing. The Communications Provider shall ensure that each itemised bill shows a sufficient level of detail to allow the Subscriber to:
- (a) verify and control the charges incurred by the Subscriber in using a Public Telephone Network and/or related Publicly Available Telephone Services; and
  - (b) adequately monitor the Subscriber's usage and expenditure and thereby exercise a reasonable degree of control over their bills.
- 12.2 The Director may from time to time direct the minimum level of itemisation to be provided by the Communications Provider under paragraph 12.1.
- 12.3 The Communications Provider shall ensure that calls which are made from a Subscriber's telephone which are free of charge to that Subscriber, including calls to helplines, shall not be identified in the Subscriber's itemised bill.
- 12.4 The Communications Provider shall not be subject to this Condition in respect of any Subscriber where:
- (a) it provides Publicly Available Telephone Services to the Subscriber on a pre-paid basis; and
  - (b) the Subscriber has an alternative means, free of charge, of adequately monitoring the Subscriber's usage and expenditure.
- 12.5 For the purposes of this Condition:
- (a) "Communications Provider" means a person who provides Publicly Available Telephone Services;
  - (b) "Subscriber" means an End-User who is party to a contract with the Communications Provider for the provision of Publicly Available Telephone Services.

### 13. NON-PAYMENT OF BILLS

13.1 Where the Communications Provider's Subscriber has not paid the Communications Provider all or part of a bill for Publicly Available Telephone Services provided by the Communications Provider, any measures taken by the Communications Provider to effect payment or disconnection shall:

- (a) be proportionate and not unduly discriminatory;
- (b) give 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.

13.2 The Communications Provider shall publish details of measures it may take to effect payment or disconnection in accordance with paragraph 13.1 above by:

- (a) sending a copy of such information or any appropriate parts of it to any Subscriber who may request such a copy; and
- (b) placing a copy of such information on any relevant website operated or controlled by the Communications Provider.

13.3 For the purposes of this Condition:

- (a) "Communications Provider" means a person who provides Publicly Available Telephone Services at a fixed location;
- (b) "Subscriber" means an End-User who is party to a contract with the Communications Provider for the provision of Publicly Available Telephone Services.

## 14. CODES OF PRACTICE AND DISPUTE RESOLUTION

### Basic Code of Practice regarding provision of Public Electronic Communications Services

14.1 The Communications Provider shall produce a basic Code of Practice for its Domestic and Small Business Customers which sets out at least where such customers may avail themselves of the information required to be published under Condition 10.2, as relevant to the provision of Public Electronic Communications Services. The Code of Practice shall be drafted in plain English which is easy to understand, and copies of the Code of Practice shall be provided on request and free of charge to any Domestic and Small Business Customer.

### Codes of Practice for Premium Rate Services, NTS Calls,<sup>12</sup> calls to 0870 numbers<sup>13</sup> and calls to Personal Numbers<sup>14</sup>

- 14.2 Within two months of this Condition entering into force, all Originating Communications Providers who provide Premium Rate Services, NTS calls, calls to 0870 numbers or calls to Personal Numbers, as appropriate shall:
- (a) establish and thereafter maintain a Code of Practice for the provision of information relating to Premium Rate Services for its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex 1 to this Condition;
  - (b) establish and thereafter maintain a Code of Practice for NTS Calls, calls to 0870 calls and calls to Personal Numbers for its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex 2 to this Condition; and
  - (c) comply with the provisions of the Codes of Practice referred to at 14.2 (a) and (b) above.
- 14.3 The codes of practice referred to in Condition 14.2 shall be drafted in plain English which is easy to understand, and copies of the codes of practice shall be provided on request and free of charge to any Domestic and Small Business Customer.

### Codes of Practice for Complaints

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<sup>12</sup> Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services, Statement and notification, 19 April 2006.

<sup>13</sup> Changes to 0870, Statement and notification, 23 April 2009, replacing condition 14.2 with effect from 1 August 2009.

<sup>14</sup> Review of the 070 personal numbering range, Statement and notification (and correction), 27 February 2009, references to calls to Personal Numbers inserted with effect from 28 August 2009.

14.4 [The Communications Provider shall have and comply with procedures that conform to the Ofcom Approved Code of Practice for Complaints Handling when handling Complaints made by Domestic and Small Business Customers about its Public Electronic Communications Services<sup>15</sup>].

#### Dispute Resolution<sup>16</sup>

14.5 The Communications Provider shall implement and comply with a Dispute Resolution Scheme, including any final decision of the Dispute Resolution Body made in accordance with that Scheme, for the resolution of disputes between the Communications Provider and its Domestic and Small Business Customers in relation to the provision of Public Electronic Communications Services.

#### Code on the provision by Service Providers of consumer protection information for the provision of Services<sup>17</sup>

14.6 Within two months of this Condition entering into force, all Service Providers shall:

(a) comply with the requirements set out in the Code at Annex 4.

14.7 In this Condition<sup>18</sup>:

(a) “**Communications Provider**” means a person who provides Public Electronic Communication Services to Domestic and Small Business Customers;

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<sup>15</sup>A Review of Consumer Complaints Procedures, Statement and notification, 22 July 2010- deleted the former 14.4 and replaced with new 14.4 – to enter into force 22 January 2011

<sup>16</sup> Protecting consumers from mis-selling of fixed line telecommunications. Notification 18 December 2009 - deleted the former 14.5 and 14.6 on Codes of practice for sales and marketing.

<sup>17</sup> Regulation of VoIP Services, Notification, 29 March 2007, obligations in Annex 4 in force from 29 May 2007.

<sup>18</sup> Protecting citizens and consumers from mis-selling of fixed-line telecommunications services, Notification, 13 April 2005 – applies to insertion of definitions (a), (d), (h), (j), (m) – (p), and (s) – (v), Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services, Statement and notification, 19 April 2006 – applies to insertion of definitions (i), (k) and (l), Regulation of VoIP Services, Notification, 29 March 2007 - applies to insertion of definitions (q) and (r), Protecting consumers from mis-selling of telecommunications services, Notification, 22 May 2007 – applies to insertion of definitions (a) “Cable Network” and (j) “Narrowband”, modification of definition (h) “Fixed-line Telecommunications Services” and deletion of definitions (a) “Carrier Pre-selection”, (j) “Indirect Access”, (o) “Pre-selected Provider”, (p) “Relevant Period”, (s) “Subscriber”, (t) “Wholesale Calls”, (u) “Wholesale Inputs”, (v) “Wholesale Line Rental”.

Review of the 070 personal numbering range, Statement and notification (and correction), 27 February 2009 – applies to insertion of (k) “Mobile Number”, (n) “Personal Number”, (o) “Personal Numbering Service”, (p) “Personal Numbering Service Provider”. Protecting consumers from mis-selling of fixed line telecommunications. Notification 18 December 2009 – deleted definitions of (a) “Cable Network”, (d) “Code of Practice for Sales and Marketing”, (h) “Fixed Line Telecommunications Services, (j) Narrowband.

- (b) [**“Complaint”** means
- a) an expression of dissatisfaction made by a customer to a Communications Provider related to either:
    - i) the Communications Provider’s provision of Public Electronic Communications Services to that customer; or
    - ii) the complaint-handling process itself; and
  - b) where a response or resolution is explicitly or implicitly expected]<sup>19</sup>.

~~[**“Code of Practice for Complaints”** means a Code of Practice approved from time to time by the Director for the purpose of this Condition in accordance with sections 52 and 53 of the Act;]<sup>20</sup>~~

- (c) **“Dispute Resolution Body”** means the body of persons responsible for administering a relevant Dispute Resolution Scheme;
- (d) **“Dispute Resolution Scheme”** means procedures approved or established from time to time by the Director for the purpose of this Condition in accordance with sections 52, 54 or 55 of the Act;
- (e) **“Domestic and Small Business Customer”** means, in relation to a Communications Provider, a Customer of that Provider who is neither-
  - (i) himself a Communications Provider; nor
  - (ii) a person who is such a Customer in respect of an undertaking carried on by him for which more than ten individuals work (whether as employees or volunteers or otherwise);
- (f) **“Guidelines”** mean the guidelines as set out in either Annex 1, 2 or 3 to this Condition;
- (g) **“Mobile Number”** means a Telephone Number, from a range of numbers in the National Telephone Numbering Plan, that is Adopted or otherwise used to identify Apparatus designed or adapted to be capable of being used while in motion;

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<sup>19</sup> A Review of Consumer Complaints Procedures, Statement and notification, 22 July 2010- new definition inserted as 14.7(b) – to enter into force 22 January 2011

<sup>20</sup> A Review of Consumer Complaints Procedures, Statement and notification, 22 July 2010- deleted the former 14.7(b) – to enter into force 22 January 2011

- (h) **“NTS Calls”** means calls to numbers identified in the National Telephone Numbering Plan as Special Services operating on the 08 number range and including calls to 0500 freephone numbers, but excluding calls to 0844 04 numbers for Surftime internet access services, calls to 0808 99 numbers for flat rate internet access call origination and calls to 0870 numbers<sup>21</sup>;
- (i) **“Ofcom Approved Code of Practice for Complaints Handling”** means the code of practice set out in Annex 4 to this General Condition 14.<sup>22</sup>
- (j) **“Originating Communications Provider”** means any Communications Provider that provides call origination services to Domestic and Small Business Customers but excluding Payphone Service Providers;<sup>23</sup>
- (k) **“Personal Number”** means a Telephone Number, from a range of numbers in the National Telephone Numbering Plan, assigned by a Personal Numbering Service Provider, which allows a Subscriber to receive calls or other communications at almost any Telephone Number, including a Mobile Number;
- (l) **“Personal Numbering Service”** means a service based on number translation that enables End-Users to be called or otherwise contacted, using a single Personal Number, and to receive those calls or other communications at almost any Telephone Number, including Mobile Numbers;
- (m) **“Personal Numbering Service Provider”** means a provider of Personal Numbering Services;<sup>24</sup>
- (n) **“Publicly Available Telephone Services”** means a service available to the public for originating and receiving national and international calls and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance services, Directory Enquiry Facilities, Directories, provision of Public Pay Telephones, provision of service under special terms, provision of specific facilities for End-Users with disabilities or with special social needs and/or the provision of non-geographic services;

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<sup>21</sup> Changes to 0870, Statement and notification, 23 April 2009, with effect from 1 August 2009, inserting the last 5 words to end of the definition of NTS calls.

<sup>22</sup> A Review of Consumer Complaints Procedures, Statement and notification, 22 July 2010- new definition inserted as 14.7(i) – to enter into force 22 January 2011

<sup>23</sup> Changes to 0870, Statement and notification, 23 April 2009, with effect from 1 August 2009, inserting new definition of Originating Communications Provider.

<sup>24</sup> Review of the 070 personal numbering range, Statement and notification (and correction), 27 February 2009, with effect from 28 August 2009.

- (o) **“Public Telephone Network”** means an Electronic Communications Network which is used to provide Publicly Available Telephone Services; it supports the transfer between Network Termination Points of speech communications, and also other forms of communication, such as facsimile and data;
- (p) **“Service”** means a Public Electronic Communication Service, but only to the extent it comprises the conveyance of speech, music or sounds;
- (q) **“Service Provider”** means a provider of a Service.

## **Annex 1 to General Condition 14<sup>25</sup>**

### **Guidelines for codes of practice for handling customer enquiries and complaints about Premium Rate Services**

#### **1. Introduction and overview**

- 1.1 The key objective of these Guidelines is to ensure that Originating Communications Providers provide their domestic and small business customers with readily accessible and accurate information relating to Premium Rate Service (“PRS”) calls;
- 1.2 These Guidelines seek to ensure that there is a clear framework within which Originating Communications Providers should be working, providing reassurance to customers and consumer representatives as to what constitutes good practice in the provision of information to customers in relation to complaints and enquiries about PRS calls.

#### **2. Status of code**

- 2.1 All Originating Communications Providers who provide PRS are required under General Condition 14.2 to establish a Code of Practice for PRS Calls for their domestic and small business customers (the “Code”), which conforms with these Guidelines, and to comply with the provisions of the Code.
- 2.2 Compliance with the Code does not guarantee compliance with any other legal requirements.
- 2.3 Non-compliance with the Code does not affect the validity of any contract between the company and the consumer, unless otherwise provided by law.

#### **3. Customer information and advice**

- 3.1 The Originating Communications Provider that is responsible for the retail billing of PRS Calls to the end-user shall publish the usage charges required to be published under General Condition 10.2(d)(ii) for PRS Calls on its website.<sup>26</sup>
- 3.2 Originating Communications Providers shall provide the following information and advice to their customers:
  - (i) information about the role of Originating Communications Providers in relation to:
    - a. general PRS enquiries and requests for number checks via the number-checker facilities provided by PhonepayPlus<sup>27</sup> on the PhonepayPlus website ([www.phonepayplus.org.uk](http://www.phonepayplus.org.uk));

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<sup>25</sup> Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services, Statement and notification, 19 April 2006.

<sup>26</sup> Changes to 0870, Statement and notification, 23 April 2009, with effect from 1 August 2009, inserting new paragraph 3.1.

<sup>27</sup> Changes to 0870, Statement and notification, 23 April 2009, with effect from 1 August 2009, replacing all references to the Independent Committee for the Supervision of Telephone Information Services or ICSTIS in paragraphs 3.2 and 3.3 with PhonepayPlus.

- b. dealing with formal complaints about abuses of service content, the PhonepayPlus Code of Practice and alleged scams.

3.3 In so doing Originating Communications Providers shall provide:

- (i) information about the role and remit of PhonepayPlus in dealing with complaints and how to go about making a formal complaint to PhonepayPlus via the website, helpline or by in writing;
- (ii) information about the tariffs that apply on their network for calls to any PRS number range;
- (iii) basic information about how PRS services work including whether the call(s) in question were routed to service providers (SPs) hosted on the Originating Communications Provider's own network or on the network of a Terminating Communications Provider (TCP), together with a basic explanation of how revenue sharing with SPs operates;
- (iv) information about how consumers can bar access from their telephone to all or specific PRS number ranges for reasons of cost or content;
- (v) information about the purpose of the Telephone Preference Service ("TPS") and Fax Preference Service ("FPS") and how to go about registering with such services;
- (vi) information about how internet diallers operate and how consumers can identify and take action, such as improving their computer's security, to avoid further instances of these or similar scams;
- (vii) in the case of mobiles, in addition to the above, information about how premium rate SMS/MMS/WAP billed services operate and how consumers can unsubscribe from these;
- (viii) information on the role of the Telecoms Ombudsman schemes in resolving disputes concerning PRS calls;
- (ix) information on other options available to consumers for seeking refunds in cases of abuse or scams involving PRS calls;
- (x) contact details of individual SPs or the TCPs which host them; and where available – typically via PhonepayPlus's website at ([www.phonepayplus.org.uk](http://www.phonepayplus.org.uk));
- (xi) SPs customer service contact details where consumers can obtain further information about services provided on the PRS numbers found on their bills.

#### 4. **Processes and Procedures**

4.1 Procedures should be in place for Originating Communications Providers' enquiry and helpdesk staff to know of the existence and content of the Code in order for them to be able respond to complaints and enquiries about PRS calls and to monitor their compliance with the Code.

- 4.2 There should be fully documented procedures in place to make customers and advice agencies aware of the existence and content of the Code, for example by referring to the Code in sales and marketing literature and by making the Code available through Originating Communications Providers' websites.
- 4.3 The Code shall be drafted in plain English, which is easy to understand, and copies of the Code are to be provided on request, and free of charge, to customers.
- 4.4 The Code shall include the name and contact details (including e-mail address) of the Originating Communications Provider's representative who is responsible for the Originating Communications Provider's compliance with the Code.
5. **Terms used in these Guidelines**
- 5.1 Terms used in these Guidelines shall have the same meaning, if any, as set out in Condition 14.

## Annex 2 to General Condition 14<sup>28</sup>

### **Guidelines for codes of practice for the publication of prices of calls to Number Translation Services, 0870 calls<sup>29</sup> and Personal Numbers<sup>30</sup>**

- 1.1 The key objective of these Guidelines is to ensure that Originating Communications Providers provide their Domestic and Small Business Customers with readily accessible and accurate information relating to the usage charges for NTS Calls, 0870 calls and calls to Personal Numbers on their networks.
- 1.2 These Guidelines seek to ensure that there is a clear framework within which Originating Communications Providers should be operating in relation to the publication and provision of information to domestic and small business customers about usage charges for NTS Calls, 0870 calls and calls to Personal Numbers.
2. **Status of code**
  - 2.1 All Originating Communications Providers who provide NTS Calls, 0870 calls and calls to Personal Numbers are required under General Condition 14.2 to establish a Code of Practice for their domestic and small business customers (the “Code”), which conforms with these Guidelines and to comply with the provisions of the Code.
  - 2.2 Compliance with the Code does not guarantee compliance with any other legal requirements.
  - 2.3 Non-compliance with the Code does not affect the validity of any contract between the company and the consumer, unless otherwise provided by law.
3. **Customer information and advice: published price lists and websites**
  - 3.1 The Originating Communications Provider that is responsible for the retail billing of NTS Calls, 0870 calls and calls to Personal Numbers to the end-user shall publish the usage charges required to be published under General Condition 10.2(d)(ii) for NTS Calls, 0870 calls and calls to Personal Numbers on its website and in published price lists in a way that gives those charges the same prominence in terms of location and format given to charges for geographic calls, calls to mobiles and call packages, including bundles.

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<sup>28</sup> Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services, Statement and notification, 19 April 2006. Review of the 070 personal numbering range, Statement and notification (and correction), 27 February 2009 – added reference to “calls to Personal numbers”, paragraph 3.2(iv) on usage charges for calls to Personal Numbers – with effect from 28 August 2009.

<sup>29</sup> Changes to 0870, Statement and notification, 23 April 2009, with effect from 1 August 2009 – added reference to 0870 calls in paragraphs 1.1, 1.2, 2.1, 3.1 and 4.1 – 4.2 and 5.1, and new publication requirements in paragraphs 3.2(iii), 4.3 and 4.4.

<sup>30</sup> Review of the 070 personal numbering range, Statement and notification (and correction), 27 February 2009, with effect from 28 August 2009 – added reference to “calls to Personal numbers” in paragraphs 1.1, 1.2, 2.1, 3.1 4.1 – 4.3 and 5.1, and new publication requirement in paragraph 3.2(iv) on usage charges for calls to Personal Numbers.

- 3.2 Without prejudice to the generality of paragraph 3.1, Originating Communications Providers shall give prominence to the following, in particular:
- (i) any usage charges that apply for calls to freephone numbers including details of when those charges will apply;
  - (ii) usage charges for NTS Calls which include variations by time of day. For example, “08xx calls are charged at x pence per minute or per call during weekday evenings inclusive of value added tax”;
  - (iii) except where these are charged at the Originating Communications Provider’s geographic price including discounts and packages, usage charges for 0870 calls which include variations by time of day. For example, “0870 calls are charged at x pence per minute or per call during weekday evenings inclusive of value added tax”;
  - (iv) usage charges for calls to Personal Numbers which include variations by time of day. For example, “070 calls are charged at x pence per minute or per call during weekday evenings inclusive of value added tax”;
  - (v) whether or not any special offers, discount schemes or call bundling arrangements apply to NTS Calls, 0870 calls and calls to Personal Numbers, including details of which of those arrangements apply to which number range;

4. **Customer information and advice: advertising, promotional material and new customers**

- 4.1 Originating Communications providers shall publish in their advertising and promotional material which refer to call pricing, alongside maximum prices applying to NTS Calls, calls to 0870 numbers and calls to Personal Numbers, a clear reference as to where on websites and published price lists the complete set of charges, as specified in paragraph 3.2, can be found.
- 4.2 When a new customer signs up for the provider’s service, Originating Communications Providers shall provide, alongside maximum prices applying to NTS Calls, calls to 0870 numbers and calls to Personal Numbers in the relevant correspondence, a clear reference as to where on websites and published price lists the complete set of NTS Call, 0870 call and Personal Numbers call charges, as specified in paragraph 3.2, can be found.
- 4.3 Wherever an Originating Communications Provider states in their advertising or promotional material a price for a call package or bundle which includes geographic calls the Originating Communications Provider must include in that advertising or promotional material a prominent statement indicating whether or not this price includes 0870 calls and calls to Personal Numbers.
- 4.4 Originating Communications Providers should only describe calls to 0870 numbers as national calls or priced at the national rate in advertising, promotional material and consumers’ retail bills, where their prices for calls to 0870 numbers are the same as their prices for geographic calls.

5. **Processes and Procedures**

- 5.1 Procedures should be in place for Originating Communications Providers' enquiry and helpdesk staff to know of the existence and content of the Code in order for them to be able respond to complaints and enquiries about NTS<sup>31</sup> calls, calls to 0870 numbers and calls to Personal Numbers and to monitor their compliance with the Code.
  - 5.2 There should be fully documented procedures in place to make customers and advice agencies aware of the existence and content of the Code, for example by referring to the Code in sales and marketing literature and by making the Code available through Originating Communications Providers' websites.
  - 5.3 The Code shall be drafted in plain English, which is easy to understand, and copies of the Code are to be provided on request, and free of charge, to customers.
  - 5.4 The Code shall include the name and contact details (including e-mail address) of the Originating Communications Provider's representative who is responsible for the Originating Communications Provider's compliance with the Code.
6. **Terms used in these Guidelines**
- 6.1 Terms used in these Guidelines shall have the same meaning, if any, as set out in Condition 14.

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<sup>31</sup> Changes to 0870, Statement and modification, 23 April 2009, correction of original text.



## **Annex 3 to General Condition 14**<sup>32</sup>

### **Code on the provision by Service Providers of consumer information to Domestic and Small Business Customers for the provision of Services**

#### **Provision**

1. This code (the 'Code') sets out the minimum requirements for all Service Providers to ensure that their Domestic and Small Business Customers are provided with information about any feature and/or limitation in that Service Provider's Service that differs from a Publicly Available Telephony Service provided over the Public Telephone Network, in the ways set out in paragraph 4 below.
2. Different sections of the Code may be applicable to different Service Providers, depending on what Services the Service Provider is providing.
3. These requirements are in addition to the information required to be made available by the Service Provider under the General Conditions of Entitlement and any Codes of Practice set under the General Conditions of Entitlement.

#### **Scope**

4. The Code requires the Service Provider to provide information to its Domestic and Small Business Customers on:
  - a) service reliability;
  - b) Emergency Calls;
  - c) the ability to Port Numbers; and,
  - d) Other information for Domestic and Small Business Customers.

#### **Service Reliability**

5. Each Service Provider shall provide to its Domestic and Small Business Customers clear and readily accessible information regarding whether its Service may cease to function if there is a power cut or power failure, or a failure of the Broadband Connection.
6. The information in paragraph 5 above shall be provided during the Sales Process, within the Terms and Conditions of Use, and in any User Guide issued by the Service Provider.
7. The following text is an indicative example of the information to be provided in paragraph 5 above, that can be adapted to the specific requirements of Service Providers:

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<sup>32</sup> Regulation of VoIP Services, Notification, 29 March 2007. Protecting consumers from mis-selling of fixed line telecommunications. Notification 18 December 2009 – deleted the former annex 3 on "Guidelines for sales and marketing codes of practice for Fixed-Line Telecommunications Services"

“IMPORTANT INFORMATION: If your Broadband Connection fails, your voice service will also fail. Your service may cease to function if there is a power cut or failure. These failures may be caused by reasons outside our control.”

### **Emergency Calls**

8. Some Services may not offer any access to Emergency Calls or access to Emergency Calls may be offered by the Service Provider over its Service but the reliability of this access may be affected by a power cut or power failure, or by failure of the Customer’s Broadband Connection.
9. This section is intended to ensure that Service Providers provide their Domestic and Small Business Customers with relevant information about their ability to make Emergency Calls.

### **No Access to Emergency Calls**

10. Where the Service provided by the Service Provider does not provide access to Emergency Calls, the Service Provider shall:
  - a) provide the Domestic and Small Business Customers, clear and readily accessible information at the Point of Signature, in the Terms and Conditions of Use and in any User Guide; that its Service does not provide access to Emergency Calls. The same information must also be provided to prospective Domestic and Small Business Customers as part of the Sales Process;
  - b) take reasonable steps to ensure that Domestic and Small Business Customers acknowledge in the form of a signature (or online equivalent), at the Point of Signature, that they understand that the Service will not provide any access to Emergency Calls, (the following text is an example of the wording that could be used):

“I understand that this service does not allow calls to the emergency services numbers 999 and 112.”

- c) provide evidence to Ofcom of the acknowledgement in paragraph 10 (b) above, within five working days; following a written request from Ofcom;
- d) as part of the Terms and Conditions of Use, supply its Domestic and Small Business Customer with a clear and readily accessible printed statement, or an on-screen statement that the Domestic and Small Business Customer is encouraged to print out, that Emergency Calls cannot be made using the Service;
- e) during the Sales Process, give the Domestic and Small Business Customer the choice whether to receive Labels (at no charge, other than reasonable postage and packaging if applicable) which state that Emergency Calls cannot be made using the Service, and recommend that the Domestic and Small Business Customer use these Labels on or near the relevant Service Access Terminal;

- where a screen or display is used with the Service, a Label could be an on-screen message or display using a clear and readily accessible graphic, words or icon that Emergency Calls cannot be made using the Service; or
  - in these and other circumstances a Label could be (at the Customer's choice) either a piece of paper to be attached to the Service Access Terminal or software facilities for producing such labels (e.g. a PDF file).
- f) if Emergency Calls are made from the Service Access Terminal, provide a network announcement stating (for example):

"Calls to Emergency Services cannot be made from this handset; please hang up and call from an alternative telephone service such as a traditional landline or mobile phone."

- g) This announcement shall be interspersed with a Number Unavailable Tone for the benefit of hearing-impaired users.

### **Reliability of Access to Emergency Calls**

11. Where the Service Provider provides access to Emergency Calls but the Service may cease to function if there is a power cut or failure or a failure of the Broadband Connection the Service Provider shall:
- a) provide its Domestic and Small Business Customers with clear and readily accessible information, during the Sales Process, in the Terms and Conditions of Use and in any User Guide; that, although access to Emergency Calls is provided, the Service may cease to function if there is a power cut or failure, or a failure of the Broadband Connection;
  - b) take reasonable steps to ensure that Domestic and Small Business Customers acknowledge in the form of a signature (or online equivalent), at the Point of Signature, that they understand that Emergency Calls will fail if there is a power cut or failure, or a failure of the Broadband Connection, (the following text is an example of the wording that could be used):

"I understand that this service allows calls to the emergency services numbers 999 and 112. However I understand that calls will fail if there is a power cut or my broadband connection fails."

- c) provide evidence to Ofcom of the acknowledgement in paragraph 11 (b) above, within five working days; following a written request from Ofcom;
- d) during the sales process, give the Domestic and Small Business Customer the choice whether to receive (at no charge other than reasonable postage and packaging if applicable), Labels which state that Emergency Calls may fail:
  - where a screen or display is used with the Service, a Label would normally be an on-screen message or display using a clear and readily

accessible graphic, words or icon that Emergency Calls cannot be made using the Service; and

- in other circumstances a Label would normally be (at the Customer's choice) either a piece of paper to be attached to the Service Access Terminal or software facilities for producing such labels (e.g. a PDF file).

### **Emergency Location Information**

12. In respect of Emergency Location Information:

- a) where the Service provided by the Service Provider does provide access to Emergency Calls and the Service is to be used principally at a single fixed location, the Service Provider shall require its Domestic and Small Business Customers to register with it the address of the place where the Service is going to be used prior to activation of the Service (the location information), so that up-to-date location information can be used for Emergency Location Information;
- b) where the Service Provider has reasonable expectation that, or has been informed that, the service is to be accessed from several locations, the Service Provider shall recommend that its Domestic and Small Business Customers register and update the location information with it, whenever accessing the Service from a new location, so that up-to-date information can be used for Emergency Location Information;
- c) the Service Provider shall advise its Domestic and Small Business Customer at the Point of Signature, in any User Guide, and in any Terms and Conditions of Use of any limitations on the location information that will be provided to the Emergency Services as Emergency Location Information, if the location information they have provided is not up-to-date. This advice shall be clear and readily accessible;
- d) where the Service Provider does not provide Emergency Location Information, it shall provide clear and easily accessible information to this effect to all Domestic and Small Business Customers at the Point of Signature, in any User Guide, and in any Terms and Conditions of Use. The same information shall also be made available to prospective Domestic and Small Business Customers as part of the Sales Process.

### **Ability to Port Numbers**

13. Where the Service Provider does not offer Number Portability, the Service Provider shall provide clear and readily accessible information to its Domestic and Small Business Customers in any User Guide and the Terms and Conditions of Use to this effect. The same information shall also be provided to prospective Domestic and Small Business Customers as part of the Sales Process.

### **Other information for Customers**

14. In addition to the requirements set out above, the information describing the Service made available by a Service Provider to a prospective Domestic and Small Business Customer shall make it clear and readily accessible as part of

the Sales Process if any of the following facilities or features are not available by means of the Service:

- access to a Directory Enquiry Facility;
- access to operator assistance services (as described in General Condition 8.1);
- Calling Line Identification Facilities;
- provision of a Directory on request;
- special measures for end users with disabilities (as described in General Condition 15); and
- the non-itemisation of calls which are made from a Subscriber's telephone which are free of charge.

15. The Service Provider shall also make clear and readily accessible, any restrictions on the Number Ranges or Country Codes that may be called using the Service. Where such numbers cannot be dialled, it is recommended that dialling such numbers should produce the standard Number Unavailable Tone.

## DEFINITIONS

For the purposes of the Code, the definition of the following terms is:

**'Broadband Connection'** means the Domestic or Small Business Customer's broadband service which provides speeds which are higher than those attainable over a dial up connection which are 56kbit/s over an analogue line; 64kbit/s over an ISDN2 digital channel and 128kbit/s over the two bonded channels of an ISDN2 line;

**'Calling Line Identification Facilities'** means facilities by which the Telephone Number of a calling party is presented to the called party prior to the call being established;

**'Country Codes'** means the international dialling code e.g. 44 for the UK;

**'Emergency Calls'** means calls to 999 or 112 or its equivalent;

**'Emergency Location Information'** means information concerning the location from where a call to the Emergency Organisations can be made, that is provided by Service Providers to Emergency Organisation's Operators as part of the handling of such a call;

**'Internet Protocol'** means the method by which data is sent over the internet or intranet;

**'Label'** means a mechanism for annotating a Service Access Terminal with a brief message. A Label can consist of an electronic notice that is displayed whenever the Service is used or (at the Customer's choice) either a piece of paper to be attached to the Service Access Terminal or software facilities for producing such labels (e.g. a PDF file);

**'Number Portability'** the facility by which a Domestic and Small Business Customer can transfer their Telephone Number when switching between Service Providers;

**'Number Ranges'** means a set of contiguous numbers of a specified or unspecified size;

**'Number Unavailable Tone'** means a continuous tone which differs from dial tone and indicates a dialled number is unavailable or out of service;

**'Point of Signature'** means the point in the process of concluding a contract immediately before the Domestic and Small Business Customer indicates his/her agreement to enter into the contract;

**'Port Numbers'** means the process to transfer Telephone Numbers to a new Service Provider;

**'Sales Process'** means the process of providing information to the prospective Domestic and Small Business Customer about the Service and of establishing the Domestic and Small Business Customer's requirements for the Service before the making of the contract to provide that Service. This includes leaflets and marketing material. It does not include advertisements;

**'Service Access Terminal'** means the equipment used to access the Service;

**'Terms and Conditions of Use'** means the contract agreed by the Domestic and Small Business Customer for the provision of the Service;

**'User Guide'** means the document giving the Domestic and Small Business Customer information about how to use the Service. This does not include any document concerned solely with the operation of a Service Access Terminal.

## [Annex 4 to General Condition 14<sup>33</sup>

### The Ofcom Approved Code of Practice for Complaints Handling

This Ofcom Approved Code of Practice for Complaints Handling (the 'Ofcom Code') sets out the minimum standards that Ofcom has set for Communications Providers (CPs) in the handling of Complaints made by Domestic and Small Business Customers (as those terms are defined in General Condition 14.7) about the provision of Public Electronic Communications Services (as defined in the General Conditions of Entitlement).

A list of further definitions can be found on the page following the specific obligations. Explanatory guidance can be found on the Ofcom website.

A CP must have complaints handling procedures that:

- 1) **Are transparent:**
  - a) A CP must have in place a written code for handling complaints ('Customer Complaints Code') made by their Domestic and Small Business Customers. A CP must comply with its Customer Complaints Code in relation to each Complaint it receives.
  - b) The Customer Complaints Code must be concise, easy to understand and only contain relevant information about complaints handling procedures.
  - c) The Customer Complaints Code must be kept up to date and as a minimum include information about:
    - i) the process for making a Complaint;
    - ii) the steps the CP will take to investigate with a view to resolving a Complaint;
    - iii) the timeframes in which the CP will endeavour to resolve the Complaint, including when the CP is likely to notify the Complainant about the progress or resolution of a Complaint;
    - iv) the contact details for making a Complaint to the CP, including providing details about the low-cost points of contact required in clause 2(c) below; and
    - v) the contact details for the CP's Alternative Dispute Resolution scheme, with details on when a Complainant will be able to access the service (with reference to the requirements on a CP in both clause 4(c) and 4(d) below).
- 2) **Are accessible:**
  - a) The Customer Complaints Code must be well publicised and readily available, including:

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<sup>33</sup> A Review of Consumer Complaints Procedures, Statement and notification, 22 July 2010- new Annex 4 – to enter into force 22 January 2011 with exception of clause 4 (see below)

- i) being easily accessible on a webpage, with either:
    - 1. a weblink to the Customer Complaints Code being clearly visible on a CP's primary webpage for existing customers (i.e. '1 click' access); or
    - 2. a weblink to the Customer Complaints Code being clearly visible on a 'how to complain' or 'contact us' page, which is directly accessible from a primary webpage for existing customers (i.e. '2 click' access).
  - ii) ensuring the relevant terms and conditions for a product and/or service refer to the existence of the Customer Complaints Code and should signpost consumers to how they can access a copy; and
  - iii) being provided free of charge to Complainants upon reasonable request in hard copy or other format as agreed with the Complainant.
- b) Complaints handling procedures must be sufficiently accessible to enable consumers with disabilities to lodge and progress a Complaint.
- c) The means by which a CP accepts Complaints should not unduly deter consumers from making a complaint. A CP must have in place at least two of the following three low-cost options for consumers to lodge a Complaint:
- i) a 'free to call' number or a phone number charged at the equivalent of a geographic call rate;
  - ii) a UK postal address; or
  - iii) an email address or internet web page form.
- 3) **Are effective:**
- a) A CP must ensure the fair and timely resolution of Complaints.
  - b) There must be clearly established timeframes and a clear and reasonable escalation process for dealing with Complaints.
- 4) **[Facilitate appropriate access to Alternative Dispute Resolution<sup>34</sup>:**
- a) A CP must ensure front-line staff are fully informed of the right of consumers to use Alternative Dispute Resolution.
  - b) Every paper bill provided to domestic customers must include, in a reasonably prominent manner, relevant text regarding the right of consumers to take unresolved complaints to Alternative Dispute Resolution. Such text will:
    - i) provide the name of the Alternative Dispute Resolution scheme;

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<sup>34</sup> Clause 4 in bold square brackets to enter into force 22 July 2011

- ii) make reference to the fact that the scheme offers dispute resolution, which is independent of the CP;
  - iii) make reference to the fact that the scheme can only be accessed eight weeks after a Complaint was first made to the CP; and
  - iv) make reference to the fact that consumers can utilise the scheme at no cost to themselves.
- c) A CP must promptly issue a written Deadlock Letter when requested by a Complainant, unless:
  - i) the CP has genuine and reasonable grounds for considering that the Complaint will be resolved in a timely manner and subsequently takes active steps to do so; or
  - ii) it is reasonable to consider the Complaint to be vexatious; or
  - iii) the subject-matter of the Complaint is outside the jurisdiction of the CP's Alternative Dispute Resolution scheme.
- d) A CP must ensure Complainants receive prompt Written Notification of their right to go to Alternative Dispute Resolution eight weeks after the Complaint is first brought to the attention of the CP, unless:
  - i) it is reasonable to consider the Complaint has been resolved; or
  - ii) it is reasonable to consider the Complaint to be vexatious: or
  - iii) the subject-matter of the Complaint is outside the jurisdiction of the CP's Alternative Dispute Resolution scheme.】
- 5) Retain appropriate **records** of contact with Complainants:
  - a) A CP must retain written records collected through the complaints handling process for a period of at least six months including, as a minimum, written correspondence and notes on its customer record management systems.

## Definitions for the Ofcom Code

The following definitions should be used for interpreting this Code of Practice:

**‘Alternative Dispute Resolution’** means any dispute procedures approved by Ofcom under section 54 of the Communications Act 2003.

**‘Complaint’** means:

- a) an expression of dissatisfaction made by a customer to a Communications Provider related to either:
  - i) the Communications Provider’s provision of Public Electronic Communications Services to that customer; or
  - ii) the complaint-handling process itself; and
- b) where a response or resolution is explicitly or implicitly expected.

**‘Complainant’** means a Domestic or Small Business Customer who makes a Complaint to a Communications Provider.

**‘Deadlock Letter’** means a letter or email from a Communications Provider to a Complainant agreeing that the Complaint can be referred to the relevant Alternative Dispute Resolution scheme.

**‘Written Notification’** means a written notification sent to a Complainant that:

- a) is in plain English;
- b) is solely about the relevant Complaint;
- c) informs the Complainant of the availability of dispute resolution, which is independent of the CP;
- d) provides the name and appropriate contact details for the relevant Alternative Dispute Resolution scheme; and
- e) informs the Complainant that they can utilise the scheme at no cost to themselves.]

## 15. SPECIAL MEASURES FOR END-USERS WITH DISABILITIES

- 15.1 The Communications Provider shall from time to time consult the Consumer Panel to ensure that the requirements and interests of disabled End-Users are fully taken into account in the development and provision of its services.
- 15.2 Subject to paragraph 15.9, the Communications Provider shall ensure that any End-User of its services who is so visually impaired or otherwise disabled as to be unable to use a printed Directory, can access, free of charge, Directory Information and Directory Enquiry Facilities in a form which is appropriate to meet their needs. The Communications Provider shall ensure that such a Directory Enquiry Facility is capable of connecting such an End-User to a requested Telephone Number at the request of that End-User.
- 15.3 Subject to paragraph 15.9, the Communications Provider shall ensure that such of its Subscribers who, because of their disabilities, need to make calls in which some or all of the call is made or received in text format, are able to access a Relay Service. Such Subscribers shall be charged for the conveyance of messages to which a Relay Service applies at no more than the equivalent price as if that conveyance had been made directly between the caller and the called person without use of a Relay Service:
- (a) except that the calling person may be charged standard local prices for the call made to a Relay Service provider in order to make a call irrespective of whether the call is successful; and
  - (b) applying a special tariff scheme designed to compensate Subscribers who need to make calls to which a Relay Service applies for the additional time to make telephone calls using a Relay Service.
- 15.4 Subject to paragraph 15.9, the Communications Provider shall ensure that any End-Users of its services who need to make calls to which a Relay Service applies:
- (a) have access to Emergency Organisations, operator assistance services and a Directory Enquiry Facility using short code numbers; and
  - (b) are able to receive call progress voice announcements in a suitable form.
- 15.5 Subject to paragraph 15.9, the Communications Provider shall provide a priority Fault Repair Service as swiftly as practicable to any Subscriber with disabilities who has a genuine need for an urgent repair. Charges for a priority Fault Repair Service shall not exceed the Communications Provider's standard charge for a Fault Repair Service.

- 15.6 Subject to paragraph 15.9, the Communications Provider shall ensure that such of its Subscribers who are so disabled such that they are dependent on the telephone are able to participate in a scheme to safeguard telephone services to such Subscribers. The scheme shall:
- (a) enable such Subscribers to give prior notification to the Communications Provider of a nominee to whom-
    - (i) that Subscriber's telephone bill shall initially be sent; or
    - (ii) any enquiry to establish why a telephone bill has not been paid shall be made;
  - (b) permit the nominee to pay that Subscriber's bill on their behalf;
  - (c) require the nominee to give prior consent to the Communications Provider to act in such capacity;
  - (d) not require the nominee to accept liability to pay the telephone bills of that Subscriber; and
  - (e) be provided at no cost to such a Subscriber.
- 15.7 Subject to paragraph 15.9, the Communications Provider shall make available, free of charge, and in a format reasonably acceptable to any Subscriber who is blind or whose vision is impaired, upon their request:
- (a) any contract (or any subsequent variation) with that Subscriber for the provision of Publicly Available Telephone Services, including any publicly available terms or conditions referred to in that contract or variation;
  - (b) any bill rendered in respect of those services.

An acceptable format would, for these purposes, consist of print large enough for such Subscriber to read, Braille or electronic format appropriate to the reasonable needs of the Subscriber.

- 15.8 Subject to paragraph 15.9, the Communications Provider shall take all reasonable steps to ensure that the services which it provides in order to comply with the obligations contained in paragraphs 15.1 to 15.7 above are widely publicised, taking into consideration the need to disseminate information in appropriate formats through appropriate channels for disabled End-Users.
- 15.9 Where, prior to the entry into force of this Condition, the Communications Provider was not required, by virtue of any condition to a licence granted under section 7 of the Telecommunications Act 1984, to provide equivalent services and facilities to those required by

paragraphs 15.2 to 15.8 above, that Communications Provider shall comply with those paragraphs no later than 31 December 2003.

15.10 For the purposes of this Condition:

- (a) “Communications Provider” means a person who provides Publicly Available Telephone Services;
- (b) “Fault Repair Service” means a service consisting of such repair, maintenance, adjustment or replacement of any part of the Communications Provider’s Electronic Communications Network, or such repair or adjustment of any connected or connectable network, or such repair or replacement for any Apparatus for which the Communication Provider has undertaken the responsibility for repair and maintenance, as is necessary to restore and maintain a sufficient service;
- (c) “Relay Service” means any service which:
  - (i) provides facilities for the receipt and translation of voice messages into text and the conveyance of that text to the terminal of customers of any provider of Publicly Available Telephone Services and vice versa, and
  - (ii) has been approved by the Director to be a text relay service for the purposes of this Condition;
- (d) “Subscriber” means an End-User who is party to a contract with the Communications Provider for the provision of Publicly Available Telephone Services.

## 16. PROVISION OF ADDITIONAL FACILITIES

16.1 The Communications Provider shall, subject to technical feasibility and economic viability, provide:

- (a) tone dialling or dual-tone multi frequency operation, such that the network supports the use of DTMF Tones for end-to-end signalling throughout the network; and
- (b) Calling Line Identification Facilities, in accordance with the requirements of Relevant Data Protection Legislation.

16.2 This Condition shall not apply to the extent that the Director directs that it shall not apply to Communications Providers in all or part of the United Kingdom on the basis that there is already sufficient access to these facilities in the relevant areas.

16.3 In this Condition,

- (a) “Calling Line Identification Facilities” means facilities by which the Telephone Number of a calling party is presented to the called party prior to the call being established;
- (b) “Communications Provider” means a person who provides a Public Telephone Network;
- (c) “DTMF Tones” means DTMF tones as defined in European Technical Standards Institute (ETSI) European Technical Report 207 (published September 1995).

## 17. ALLOCATION, ADOPTION AND USE OF TELEPHONE NUMBERS

### General Prohibitions on Adoption and Use

- 17.1 A Communications Provider shall not Adopt Telephone Numbers from the National Telephone Numbering Plan unless:
- (a) the Telephone Numbers have been Allocated to the Communications Provider; or
  - (b) the Communications Provider has been authorised (either directly or indirectly) to Adopt those Telephone Numbers by the person Allocated those Telephone Numbers.
- 17.2 The Communications Provider may only use a Telephone Number from the National Telephone Numbering Plan where that Telephone Number has been Allocated to a person, unless the use in question is for the purposes of indicating that the Telephone Number has not been Allocated.
- 17.3 The Communications Provider may only use (or, where specified, Adopt) a Telephone Number listed in the Annex to this Condition where such use or Adoption is in accordance with the designation attributed to that Telephone Number in the Annex.

### Requirements in Connection with the Adoption of Telephone Numbers

- 17.4 The Communications Provider shall have a Numbering Plan for such Telephone Numbers as the Director may Allocate to it from time to time. Except where the Director otherwise consents in writing, such Numbering Plan shall be consistent with the National Telephone Numbering Plan. When applying for Telephone Numbers, the Communications Provider shall provide such details of its Numbering Plan to the Director as are relevant to the application.
- 17.5 The Communications Provider shall install, maintain and adjust its Public Electronic Communications Network so that it routes Signals and otherwise operates in accordance with the National Telephone Numbering Plan and any Allocation of Telephone Numbers made by the Director from time to time.
- 17.6 Where Telephone Numbers have been Allocated to the Communications Provider, that provider shall secure that such Telephone Numbers are Adopted or otherwise used effectively and efficiently.
- 17.7 The Communications Provider shall not unduly discriminate against another Communications Provider in relation to its Adoption or use of Telephone Numbers for purposes connected with the use by that other

Communications Provider, or its Customers, of any Electronic Communications Network or Electronic Communications Service.

- 17.8 The Communications Provider shall take all reasonably practicable steps to secure that its Customers, in using Telephone Numbers, comply with the provisions of this Condition, where applicable, and the provisions of the National Telephone Numbering Plan.

#### Application for Allocation or Reservation of Telephone Numbers

- 17.9 When applying for an Allocation or reservation of Telephone Numbers, the Communications Provider shall:
- (a) use an appropriate application form as directed by the Director from time to time as he thinks fit;
  - (b) provide such information as is required by such application form; and
  - (c) provide to the Director, on request, any other information considered by the Director to be relevant to the application, and the supply of which does not place an undue burden on the Communications Provider.
- 17.10 The Director will determine, taking into account the provisions of the National Telephone Numbering Plan, any application for Telephone Numbers by the end of the period of three weeks after the date of the receipt by him of the completed application form. Where the Director has required any additional information under paragraph 17.9(c) in relation to any application, the Director will determine the application by the end of the period of three weeks after the date of the receipt by him of that additional information.

#### Withdrawal of a Number Allocation

- 17.11 It is hereby declared that the Director may withdraw an Allocation of Telephone Numbers from a Communications Provider where:
- (a) the Communications Provider has not Adopted those Telephone Numbers within six months, or such other period as the Director may from time to time direct, from the date on which the Telephone Numbers were Allocated, or
  - (b) in relation to an Allocation of a series of Telephone Numbers, the Communications Provider has not Adopted those Telephone Numbers to any significant extent within six months, or such other period as the Director may from time to time direct, from the date on which the series of Telephone Numbers was Allocated.

Requirements in connection with the use of telephone numbers<sup>35</sup>

17.12 Where Customers of a Communications Provider are making calls to UK-wide Numbers (03)<sup>36</sup>, Harmonised numbers for harmonised services of social value (116XXX numbers)<sup>37</sup> or Non-Geographic Numbers starting 0870<sup>38</sup>, the Communications Provider shall comply with the designations for those numbers in the National Telephone Numbering Plan.

17.13 For the purposes of this Condition,

- (a) “Communications Provider” means a person who provides an Electronic Communications Network or an Electronic Communications Service;
- (b) “Numbering Plan” means a plan describing the method used or to be used for the Adoption of a Telephone Number by the Communications Provider.

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<sup>35</sup> Raising confidence in telephone numbers: amending General Condition 17, Notification, 31 May 2007 - inserted new condition 17.12 and renumbering 17.12 to condition 17.13.

<sup>36</sup> Review of the 070 personal numbering range, Statement and notification (and correction), 27 February 2009 – deleted “or Personal Numbering Service (070) numbers”.

<sup>37</sup> Statement on Harmonised European numbers for services of social value – Allocation and charging arrangements for 116 numbers in the UK including modification to General Condition 17 – deleted the word “either” and added the words “or Harmonised numbers for harmonised services of social value (116XXX numbers)” into 17.12.

<sup>38</sup> Changes to 0870, Statement and notification of 23 April 2009, with effect from 1 August 2009, amending condition 17.12, replacing the word “or” before “Harmonised” with “,” and inserting “or Non-Geographic Numbers starting 0870” after “(116XXX numbers)”.

## Annex to Condition 17

List of Telephone Numbers available for use, or, where specified, Adoption, only in accordance with designation, under paragraph 17.3 of Condition 17: Allocation, Adoption and Use of Telephone Numbers

<b>1: Public Telephone Network Numbers</b>	
<b>Numbers beginning or in entirety where marked *</b>	<b>Designation</b>
<b>0 (unless specified elsewhere in this Annex OR in Part A of the National Telephone Numbering Plan)</b>	Access to a number unobtainable tone or equivalent message
<b>1 (unless specified elsewhere in this Annex OR in Part A of the National Telephone Numbering Plan)</b>	Access to a number unobtainable tone or equivalent message
<b>00</b>	Access to International Telephone Numbers
<b>100*</b>	Access to Operator Assistance (Type A Access Code)
<b>101*</b>	Access to Non-Emergency Service (Type A Access Code) <sup>39</sup>
<b>111*</b>	Access to NHS Non-Emergency Healthcare Services (Type A Access Code) <sup>40</sup>
<b>112*</b>	Access to Emergency Services (Type A Access Code)
<b>123*</b>	Access to Speaking Clock (Type A Access Code)
<b>141*</b>	Access to Withhold Calling Line Identification ('CLI') (Type A Access Code)
<b>1470*</b>	Access to Per Call Release of CLI (Type A Access Code)
<b>1471*</b>	Access to Call Return (Type A Access Code)
<b>1472* to 1474*, 1476*, 1478*, and 1479*</b>	Access to CLI Services (Type A Access Code)
<b>1475*</b>	Access to 1471 Erasure (Type A Access Code)
<b>1477*</b>	Access to Automatic Call Trace (Type A Access Code)
<b>153*</b>	Access to International Directory Enquiry Facilities until 12.01am 24 August 2003 (Type A Access Code). From 24 August 2003 until 12.01am 20 June 2004, access to a network message only, advising that Directory Enquiry Facility numbers have changed to 6-digit numbers starting with 118 and advising where the caller may obtain information about the new 118 International Directory Enquiry Facility numbers. This advice must be a freephone number open to all 118 service providers where the caller is given at least one appropriate 118 number on a fair and impartial basis. A specific 118 number may not be provided. The network message must be free-to-caller. (Type A Access Code). Deleted after 12.01am 20 June 2004.
<b>155*</b>	Access to International Assistance Operator (Type A Access Code)
<b>18000* to 18009*</b>	Access to Voice Text Services for the Deaf (Type A Access Codes)
<b>192*</b>	Access to National Directory Enquiry Facilities until 12.01am 24 August 2003 (Type A Access Code). From 24 August 2003 until 12.01am 20 June 2004, access to a network message only, advising that Directory Enquiry Facility numbers have

<sup>39</sup> National Single Non-Emergency Number, Statement, 8 March 2006.

<sup>40</sup> A Three-digit Number for Non-Emergency Healthcare Services, Designating number "111", Statement, 18 December 2009.

	changed to 6-digit numbers starting with 118 and advising where the caller may obtain information about the new 118 National Directory Enquiry Facility numbers. This advice must be a freephone number open to all 118 service providers where the caller is given at least one appropriate 118 number on a fair and impartial basis. A specific 118 number may not be provided. The network message must be free-to-caller. (Type A Access Code). Deleted after 12.01am 20 June 2004.
<b>195*</b>	Access to Blind & Disabled Directory Enquiry Facilities (Type A Access Code)
<b>999*</b>	Access to Emergency Services
<b>120 to 122, 142, 150 to 152, 154, 156 to 159, 170 to 179, 190, 191, 193, 194, and 196 to 198</b>	Access to Network Services (Type C Access Codes)

<b>2: X25 Data Network Numbers</b>	
<b>Number(s)</b>	<b>Designation</b>
<b>Any ten (10) digit number</b>	X25 Data Network Numbering

<b>3: Network Codes</b>	
<b>Numbers beginning or in entirety where marked *</b>	<b>Designation</b>
<b>08990 to 08992</b>	Internal Routing Codes
<b>1024* to 12287* inclusive</b>	National Signalling Point Codes for routing within networks
<b>504900* to 504999* and 505900* to 505999*</b>	Internal Network Portability Codes
<b>8890* to 8899* inclusive</b>	Carrier Pre-Selection codes for routing within networks

<b>4: Administrative Codes</b>	
<b>Number(s)</b>	<b>Designation</b>
<b>AAA</b>	Default Reseller Identification Code

<b>5: Public Telephone Network Numbers not available for Allocation but which can be Adopted where already Allocated</b>	
<b>Numbers beginning</b>	<b>Designation</b>
<b>0500</b>	No charge to Caller
<b>07624</b>	Radiopaging and Mobile Services (Isle of Man Communications Commission)
<b>0800 (plus 6-digits)</b>	Special Services - No charge to caller (except where charges shall be notified to callers at the start of the call)
<b>0908 and 0909<sup>41</sup></b>	<i>From 9 November 2007</i> Sexual Entertainment Services at a Premium Rate

In this Annex, any word or expression shall have the same meaning as it has in the National Telephone Numbering Plan. Additionally,

- (a) **'1471 Erasure'** means a facility that enables the record of the last call received (where accessible through dialling 1471) to be removed so as to no longer be available on dialling 1471;

<sup>41</sup> Sexual Entertainment Services (SES) Statement, 8 March 2007: Introduction of new range ('098') into NTNP designated for new Allocation of SES, thus moving entry for 0908 and 0909 from NTNP to Part 5 of Annex to GC 17. This change will take effect as of 9 November 2007, to allow for eight months migration period.

- (b) **'Automatic Call Trace'** means a facility that can, where practicable, trace the origin of an incoming call;
- (c) **'Call Return'** means a facility, based on the accessibility of Calling Line Identification, which enables identification of the number from which a call is being made or to which a return call could be made;
- (d) **'Calling Line Identification'** ('CLI') means a facility that enables identification of the number from which a call is being made or to which a return call could be made;
- (e) **'Default Reseller Identification Codes'** means the Reseller Identification Code ('RID') 'AAA' which can be used on any network where no individual RID is selected;
- (f) **'Internal Network Portability Code'** means a Telephone Number which is used to ensure that Number Portability is effective within a Network;
- (g) **'Internal Routing Code'** means a Telephone Number which is used for routing purposes within a Communications Provider's Network;
- (h) **'Per Call Release of CLI'** means the ability to release the identity of the Caller in accordance with normal Calling Line Identification;
- (i) **'Withhold CLI'** means an ability to not supply the identity of the Caller in accordance with normal Calling Line Identification.

## 18. NUMBER PORTABILITY<sup>42</sup>

18.1 The Communications Provider shall provide Number Portability as soon as it is reasonably practicable on reasonable terms, including charges, to any of its Subscribers who so requests.

18.2<sup>43</sup> [In the case of Mobile Number Portability, where the request is for porting a total of fewer than 25 Mobile Numbers, the Donor Provider shall:

- (a) allow Subscribers to request a PAC over the phone; and
- (b) where a Subscriber contacts the Donor Provider by phone, provide the PAC immediately over the phone where possible or by SMS within two hours of the request or by another reasonable mechanism if requested by the Subscriber and consented to by the Donor Provider.

18.3 In the case of Mobile Number Portability, where the request is for porting a total of fewer than 25 Mobile Numbers, porting of these numbers and their subsequent activation shall be completed within one business day from the receipt by the Recipient Provider of the Subscriber Request to Port from its new Subscriber.

18.4 Subject to paragraph 18.3, the Recipient Provider shall request porting from the Donor Provider as soon as it is reasonably practicable after receiving the Subscriber Request to Port from its new Subscriber].

18.5 The Communications Provider shall, pursuant to a request from another Communications Provider, provide Portability (other than Paging Portability) as soon as is reasonably practicable in relation to that request on reasonable terms<sup>44</sup>. ~~In the case of Mobile Portability,~~

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<sup>42</sup> On 22 July 2003, Ofcom published a document, "Changes to the number portability functional specification to meet the new regime published by Ofcom on 22 July 2003",

[http://www.ofcom.org.uk/static/archive/ofcom/publications/numbering/2003/fun\\_final0703.pdf](http://www.ofcom.org.uk/static/archive/ofcom/publications/numbering/2003/fun_final0703.pdf). This statement set out the number portability functional specification Issue No. 5 at Annex B (also known as the "Functional Specification" for the purposes of General Condition 18).

<sup>43</sup> ['Changes to the Mobile Number Porting Process', Statement, dated 8 July 2010, with effect from 11 April 2011, inserted Conditions 18.2, 18.3 and 18.4, and renumbered the following Conditions. See also the first footnote to Condition 18.5 below.]

<sup>44</sup> Number Portability and technology neutrality, Statement, 30 March 2006, removed wording "and in accordance with the Functional Specification".

["Arrangements for porting phone numbers when customers switch supplier, a review of General Condition 18", Statement and Further Consultation, 17 July 2007, inserted into Condition 18.5 after "reasonable terms" the following wording: "In the case of Mobile Portability, where the request is for porting a total of less than 25 Telephone Numbers, the total period for providing Portability in respect of those Telephone Numbers shall not exceed two business days" with effect from 31 March 2008.

"Telephone number portability for consumers switching suppliers", Statement, 29 November 2007 replaced "two business days" with "two hours" with effect from 1 September 2009. As a result of the Competition Appeal Tribunal's judgment in Vodafone v Ofcom, of 18 September 2008, the modifications made to General Condition 18 of Part 2 of the General Conditions of Entitlement by Ofcom's concluding statement entitled "Telephone number portability for

~~where the request is for porting a total of less than 25 Telephone Numbers, the total period for providing Portability in respect of those Telephone Numbers shall not exceed two business days<sup>45</sup>. Any charges for the provision of such Portability shall be made in accordance with the following principles:~~

- (a) subject always to the requirement of reasonableness, charges shall be cost oriented and based on the incremental costs of providing Portability unless:
  - (i) the Donor Provider and the Recipient Provider have agreed another basis for the charges, or
  - (ii) the ~~Director~~ [Office of Communications<sup>46</sup>] has directed that another basis for charges should be used;
- (b) the Donor Provider shall make no charge in relation to System Set-Up Costs or Additional Conveyance Costs;
- (c) in respect of Mobile Portability, the Donor Provider shall make no charge or annual fee for ongoing costs relating to registration of a ported Telephone Number or a Subscriber;
- (d) charges levied by the Donor Provider shall be based on the reasonable costs incurred by it in providing Portability with respect to each Telephone Number.

18.6 Where the Communications Provider provides Portability in accordance with paragraph 18.5:

- (a) the Recipient Provider; and

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consumers switching suppliers” dated 29 November 2007 have been set aside (see <http://www.ofcom.org.uk/consult/condocs/gc18review/updateoct08/>).

‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, replaced the modifications made on 17 July 2007 with Condition 18.3 above.]

[<sup>45</sup> “Arrangements for porting phone numbers when customers switch supplier, a review of General Condition 18”, Statement and Further Consultation, 17 July 2007 inserted “In the case of Mobile Portability, where the request is for porting a total of less than 25 Telephone Numbers, the total period for providing Portability in respect of those Telephone Numbers shall not exceed two business days” with effect from 31 March 2008; “Telephone number portability for consumers switching suppliers”, Statement, 29 November 2007 replaced “two business days” with “two hours” with effect from 1 September 2009.

As a result of the Competition Appeal Tribunal’s judgment in *Vodafone v Ofcom*, of 18 September 2008, the modifications made to General Condition 18 of Part 2 of the General Conditions of Entitlement by Ofcom’s concluding statement entitled “Telephone number portability for consumers switching suppliers” dated 29 November 2007 have been set aside. <http://www.ofcom.org.uk/consult/condocs/gc18review/updateoct08/>]

<sup>46</sup> [‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, replaced references to “the Director” with “the Office of Communications” in Conditions 18.5 and 18.7.]

(b) the Transit Provider,

shall, as appropriate, provide Portability (other than Paging Portability) on reasonable terms<sup>47</sup>.

18.7<sup>48</sup> The Communications Provider shall, on the written request of the ~~Director~~ [Office of Communications], provide the ~~Director~~ [Office of Communications] with a record of each Telephone Number in relation to which it is providing Portability, specifying the relevant Recipient Provider in each case.

18.8 For the purposes of this Condition:

(a) “Additional Conveyance Costs” mean any costs incurred by the Donor Provider associated with resources used in:

- (i) effecting the switch-processing required to set up each ported call; and
- (ii) providing the switch and transmission capacity for any part of the duration of each ported call,

additional to the costs of conveyance of non-ported calls from the Donor Provider’s network to the Recipient Provider’s network;

(b) “Communications Provider” means a person who provides an Electronic Communications Network or an Electronic Communications Service;

(c) “Donor Provider” means a Communications Provider whose Subscriber Numbers are in the process of being, or have been passed or ported to a Recipient Provider<sup>49</sup>;

(d) “Mobile Communications Service” means any Publicly Available Telephone Service consisting in the conveyance of Signals by means of a Public Telephone Network where every Signal that has been conveyed thereby has been, or is to be, conveyed through the agency of Wireless Telegraphy to or from a Public

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<sup>47</sup> Number Portability and technology neutrality, Statement, 30 March 2006, removed wording “and in accordance with the Functional Specification”.

<sup>48</sup> ~~Telephone number portability for consumers switching suppliers, Statement, 29 November 2007 inserted new Conditions 18.4, 18.5, 18.6 and renumbered previous Conditions 18.4 and 18.5 as 18.7 and 18.8.~~

~~As a result of the Competition Appeal Tribunal’s judgment in Vodafone v Ofcom, of 18 September 2008, the modifications made to General Condition 18 of Part 2 of the General Conditions of Entitlement by Ofcom’s concluding statement entitled “Telephone number portability for consumers switching suppliers” dated 29 November 2007 have been set aside.~~  
<http://www.ofcom.org.uk/consult/condocs/gc18review/updateoct08/>

<sup>49</sup> Number Portability and technology neutrality, Statement, 30 March 2006, removed definition “Functional Specification”.

Telephone Network which is designed or adapted to be capable of being used in motion;

- (e)<sup>50</sup> [“Mobile Number” means a Telephone Number, from a range of numbers in the National Telephone Numbering Plan, that is Adopted or otherwise used to identify Apparatus designed or adapted to be capable of being used while in motion;]
- (f)<sup>51</sup> [“Mobile Number Portability” means Number Portability relating to Mobile Numbers];
- (g) “Mobile Portability” means Portability relating to Telephone Numbers Allocated for use with Mobile Communications Services;<sup>52</sup>
- (h) “Number Portability” means a facility whereby Subscribers who so request can retain their Telephone Number on a Public Telephone Network, independently of the person providing the service at the Network Termination Point of a Subscriber<sup>53</sup> provided that such retention of a Telephone Number is in accordance with the National Telephone Numbering Plan;
- (i)<sup>54</sup> [“PAC” means Porting Authorisation Code, which is a unique code used to signify the Donor Provider’s consent to the Subscriber being entitled to request and have their Mobile Number ported to another Communications Provider;]
- (j) “Paging Portability” means Portability relating to Telephone Numbers Allocated for use with Radiopaging Services;
- (k) “Point of Connection” means a point at which one Public Telephone Network is connected to another;
- (l) “Portability” means any facility which may be provided by a Communications Provider to another [Communications Provider<sup>55</sup>] enabling any Subscriber who requests Number Portability to continue to be provided with any Publicly Available

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<sup>50</sup> [‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted the definition of “Mobile Number” and renumbered the following definitions.]

<sup>51</sup> [‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted the definition of “Mobile Number Portability”.]

<sup>52</sup> Number Portability and technology neutrality, Statement, 30 March 2006, removed definition “Non-geographic Number”.

<sup>53</sup> Number Portability and technology neutrality, Statement, 30 March 2006, removed wording “in the case of Geographic Numbers, at a specific location” and “in the case of Non-geographic Numbers, at any location”.

<sup>54</sup> [‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted the definition of “PAC”.]

<sup>55</sup> [‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted “Communications Provider” after the words “to another”.]

Telephone Service by reference to the same Telephone Number irrespective of the identity of the person providing such a service;

(m) “Publicly Available Telephone Service”:<sup>56</sup>

(a) in relation to a service to be used with a Telephone Number for receiving calls only under the contract between the person and the provider in question, means a Public Electronic Communications Service for only receiving national and international telephone calls through a number or numbers in a national or international telephone numbering plan;

(b) in relation to a service to be used with a Telephone Number for originating and receiving calls and access to Emergency Organisations under the contract between the person and the provider in question, has the meaning ascribed to it under paragraph 1 of Part 1 of this Schedule;

(n) “Radiopaging Service” means Electronic Communications Services consisting in the conveyance of Signals by means of Wireless Telegraphy where every Signal, apart from simple acknowledgement, is ultimately transmitted from a station for Wireless Telegraphy comprised in the Communications Provider’s Electronic Communications Network to a station for Wireless Telegraphy or Wireless Telegraphy Apparatus that is not comprised in that network;

(o) “Recipient Provider” means a Communications Provider to whom Subscriber Number(s) are in the process of being, or have been passed or ported from a Donor Provider;

(p)<sup>57</sup> [“SMS” means Short Message Service, which is a text message delivered to a Subscriber’s handset or, if SMS is superseded or withdrawn, an equivalent text communication sent directly to the Subscriber’s handset;]

(q) “Subscriber” means any person who is party to a contract with the provider of Publicly Available Telephone Services for the supply of such services in the United Kingdom;

(r) “Subscriber Number” means the Telephone Number (or Telephone Numbers) which any Communications Provider’s Public Telephone Network recognises as relating to a particular Subscriber of that Communications Provider;

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<sup>56</sup> Regulation of VoIP Services, Notification, 29 March 2007, substituted the previous definition of PATS for this new one.

<sup>57</sup> [‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted the definition of “SMS”.]

- (s)<sup>58</sup> [“Subscriber Request to Port” means the request by a Subscriber to transfer their Mobile Number which occurs when the Subscriber submits their PAC to the Recipient Provider;]
- (t) “System Set-Up Costs” mean costs of the Donor Provider incurred—
- (i) in the course of making network and system modifications, configuration and reconfiguration, including adapting or replacing software;
  - (ii) in the course of testing functionality within that provider’s network and in conjunction with any Recipient Provider’s network,
  - (iii) thereby establishing the technical and administrative capability to provide Portability;
- (u) “Transit Provider” means a Communications Provider providing, by agreement, Interconnection between a Donor Provider and Recipient Provider via Points of Connection with both Communications Providers.<sup>59</sup>

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<sup>58</sup> [‘Changes to the Mobile Number Porting Process’, Statement, dated 8 July 2010, with effect from 11 April 2011, inserted the definition of “Subscriber Request to Port”.]

<sup>59</sup> ~~Telephone number portability for consumers switching suppliers, Statement, 29 November 2007, inserted new definitions (g) to (t).~~

~~As a result of the Competition Appeal Tribunal’s judgment in Vodafone v Ofcom, of 18 September 2008, the modifications made to General Condition 18 of Part 2 of the General Conditions of Entitlement by Ofcom’s concluding statement entitled “Telephone number portability for consumers switching suppliers” dated 29 November 2007 have been set aside.~~  
~~<http://www.ofcom.org.uk/consult/condocs/gc18review/updateoct08/>~~

## 19. PROVISION OF DIRECTORY INFORMATION

19.1 Where the Communications Provider has been Allocated Telephone Numbers in accordance with Condition 17, it shall meet all reasonable requests from any person to make available the Directory Information of:

- (a) its Subscribers who have been assigned those Telephone Numbers; and
- (b) any other End-User assigned a Telephone Number originally Allocated to the Communications Provider,

for the purposes of the provision of Directories and Directory Enquiry Facilities.

19.2 Where the Communications Provider has been authorised (either directly or indirectly) to use Telephone Numbers Allocated to another person, it shall on request supply to:

- (a) the person who was originally Allocated such Telephone Numbers; or
- (b) if different from the above, the person who authorised the use of such Telephone Numbers by it,

the Directory Information of the Communications Provider's Subscribers and of any other End-User assigned a Telephone Number from such Telephone Numbers.

19.3 Where the Communications Provider is requested to supply Directory Information in accordance with paragraphs 19.1 or 19.2, it shall do so on terms which are fair, cost-oriented and non-discriminatory, and in a format which is agreed between the Communications Provider and the person requesting the information. The Communications Provider shall comply with any direction made by the Director from time to time with respect to the format to be applied to the information.

19.4 This Condition applies subject to the requirements of Relevant Data Protection Legislation.

19.5 For the purposes of this Condition, "Communications Provider" means a person who provides an Electronic Communications Network or an Electronic Communications Service.

## 20. NON-GEOGRAPHIC NUMBERS

- 20.1 Where the Communications Provider Adopts Non-geographic Numbers, it shall ensure, where technically and economically feasible, that End-Users in any part of the European Community outside of the United Kingdom are able to access those Non-geographic Numbers.
- 20.2 The Communications Provider shall limit access by calling End-Users located in specific geographical areas to Non-geographic Numbers assigned to a Subscriber where that Subscriber has chosen for commercial reasons to limit such access.
- 20.3 For the purposes of this Condition, “Communications Provider” means a person who provides an Electronic Communications Network or an Electronic Communications Service.

## 21. QUALITY OF SERVICE

- 21.1 The Communications Provider shall, on the direction of the Director, publish comparable, adequate and up to date information for End-Users on the quality of its services.
- 21.2 Subject to paragraph 21.3, where the Director makes a direction under paragraph 21.1 he may amongst other things direct:
- (a) the quality of service parameters to be measured;
  - (b) the content and form of the information to be published, and how the comparability of the information is to be validated. For the purposes of validation, the Director may require independent audit of the specified information;
  - (c) the manner of publication of the information;
  - (d) the timing of publication of the information; and/or
  - (e) that the Communications Provider shall provide the Director with a copy of the information to be published well in advance of the publication as agreed by the Director.
- 21.3 The Director shall only make such a direction where the Communications Provider has been providing the Public Electronic Communication Services in question for at least 18 months prior to the direction being made.
- 21.4 For the purposes of this Condition, "Communications Provider" means a person who provides Public Electronic Communications Services.

## 22. SERVICE MIGRATIONS<sup>60</sup>

### Broadband Migrations

22.1 All Communications Providers pursuant to a request by an End-User, a Customer or another Communications Provider to migrate (or where applicable, connect) a Broadband Service, shall:

- (a) comply with the provisions of the MAC Broadband Migrations Process set out at Annex 1 to this Condition; and
- (b) where the provisions of the MAC Broadband Migrations Process do not apply to the Communications Provider in relation to the Broadband Service, comply with the provisions referred to in Conditions 22.2.

22.2 The Communications Provider shall:

- (a) facilitate the migration (or where applicable, connection) of the Broadband Service in a manner that is fair and reasonable;
- (b) ensure that the migration (or where applicable, connection) of the Broadband Service is carried out within a reasonable period;
- (c) ensure that the migration (or where applicable, connection) of the Broadband Service is carried out with minimal loss of the Broadband Service; and
- (d) assist with, and facilitate requests for, the migration (or where applicable, connection) of a Broadband Service provided by another Communications Provider, in instances where the other Communications Provider has failed to, or refused to, comply with the MAC Broadband Migrations Process, in a manner that is fair and reasonable.

22.3 In this Condition:

- (a) “**Account holder**” means a person, other than a Communications Provider, who is party to a contract with the Communications Provider for the provision of Broadband Services.
- (b) “**Broadband Migration**” means one or more of the following processes by which:
  - (i) the Communications Provider transfers from one Broadband Service to another Broadband Service;

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<sup>60</sup> Broadband migrations: enabling consumer choice, Statement and notification, 13 December 2006.

- (ii) an End-User or Customer transfers from one Broadband Service to another Broadband Service;
  - (iii) an End-User or Customer transfers from a Broadband Service supplied by a Communications Provider to a Broadband Service supplied by another Communications Provider;
  - (iv) an End-User or Customer transfers from a Broadband Service supplied by a Communications Provider at one location to a Broadband Service supplied by the same Communications Provider at a different location.
- (c) **“Broadband Services”** means all high speed DSL services that allow for the transfer of high volumes of data at high speeds.
- (d) **“Broadband Network Communications Provider”** means a Communications Provider that provides Broadband Network Services.
- (e) **“Broadband Network Services”** means services that:
- (i) generate a MAC in relation to a Broadband Service provided by the Communications Provider to an End-User or to another Communications Provider;
  - (ii) effect a transfer of a Broadband Service from one Communications Provider to another Communications Provider using the MAC issued in relation to that Broadband Service; and
  - (iii) effect the cease of a Broadband Service from the Communications Provider at the request of the Communications Provider.
- (f) **“Cease Request”** means a direction given by a Communications Provider to a Broadband Network Communications Provider in relation to a Broadband Service, with the intention being to terminate provision of that Broadband Service.
- (g) **“Communications Provider”** means a person who provides Broadband Services.
- (h) **“Customer”** means a person who is an End-User of a Broadband Service provided by a different Communications Provider or a person who is seeking to become an End-User of a Communications Provider.
- (i) **“Default Migration Date”** means five Working Days after the MAC is provided by a Communications Provider to a Broadband Network Communications Provider.

- (j) “**DSL (Digital Subscriber Line)**” means a family of technologies generically referred to as DSL, or xDSL, capable of transforming ordinary phone lines (also known as “twisted copper pairs”) into high speed digital lines
- (k) “**End-User**” means:
- (i) an Account holder; or
  - (ii) a person who may be authorised, by a person falling within paragraph (i) above, so as to transfer the Broadband Service;
- who is not a person who is acquiring the Broadband Service in respect of an undertaking carried on by him for which more than ten individuals work (whether as an employee or volunteer or otherwise).
- (l) “**Fixed-line Telephone Services**” means narrowband calls and lines services provided to an End-User or Customer that allow for the transfer of speech communications, and other forms of communications such as facsimile and data.
- (m) “**MAC**” means Migration Authorisation Code, which is a unique code used to identify a Broadband Service that is intended to be transferred from one Communications Provider to another Communications Provider.
- (n) “**MAC Broadband Migrations Process**” means the obligations and processes set out in Annex 1 to this Condition.
- (o) “**MAC validity period**” means a period extending up to 17.00 on the thirtieth calendar day from issue (either verbally or in writing, whichever is first) by the Communications Provider.
- (p) “**Migration Date**” means the date on which the transfer of the Broadband Service will be effected, at which point the End-User’s Broadband Service will commence being provided to the End-User by a different Communications Provider.
- (q) “**Working Day**” means the hours between 09.00 – 17.00 on Monday to Friday, with the exception of Bank Holidays.

## **Annex 1 to General Condition 22**

### **Migrations Authorisation Code (MAC) Broadband Migrations Process**

- A1.1 The Communications Provider shall, at the request of:
- (a) an End-User of the Communications Provider; or
  - (b) another Communications Provider who acquires a Broadband Service from the Communications Provider
- issue a MAC for a Broadband Service where the Broadband Service is a service to which the MAC Broadband Migrations Process applies.
- A1.2 The MAC Broadband Migrations Process applies to the supply by the Communications Provider of all DSL services, with the exception of those DSL services that are required to be migrated by means of a process that relates to the supply of a Fixed Line Telephone Service supplied in conjunction with the DSL service.
- A1.3 The Communications Provider shall take reasonable steps to validate the identify of an End-User who has contacted the Communications Provider to request a MAC for a Broadband Service, before issuing a MAC to the End-User.
- A1.4 The Communications Provider shall provide its End-Users with two or more of the following contact methods:
- (a) telephone numbers;
  - (b) e-mail address; and
  - (c) postal address,
- for the purposes of an End-User contacting the Communications Provider to obtain a MAC.

### **Issuing MACs to End-Users**

- A1.5 The Communications Provider shall communicate the MAC to the End-User in writing by letter and/or by e-mail within five working days of receipt of the End-User's request save for A1.6.
- A1.6 Where the Communications Provider has issued the MAC to the End-User over the telephone (including details about the MAC validity period and expiry date and the Broadband Service to which the MAC relates), the Communications Provider is not required to communicate the MAC to the End-User in writing.
- A1.7 The written response (e-mail or letter) to the End-User containing the MAC shall clearly indicate:
- (a) the MAC (or MACs);
  - (b) the MAC validity period and expiry date; and

- (c) the Broadband Service(s) to which the MAC(s) applies.
- A1.8 At any time prior to the expiry of the MAC validity period, the Communications Provider shall remind the End-User of the MAC if requested by the End-User.
- A1.9 Where a MAC has already been requested and provided, the Communications Provider shall not impose any limits on the number of additional times an End-User may request the provision of a new MAC in relation to the Broadband Service, following the expiry of any other MACs.
- A1.10 The Communications Provider shall issue a MAC to the End-User free of charge.

### **Refusal to issue a MAC**

- A1.11 The Communications Provider shall only refuse to issue a MAC to their End-User if:
- (a) the Communications Provider has, by taking reasonable steps, been unable to validate the identity of the person requesting the MAC as the End-User;
  - (b) the Broadband Service contract has already been terminated;
  - (c) a MAC which is still within its MAC validity period has already been requested and issued by the Communications Provider in relation to the Broadband Service; and
  - (d) the Communications Provider has already submitted a Cease Request for the Broadband Service; and
  - (e) the Communications Provider is unable to obtain a MAC from a Broadband Network Communications Provider.
- A1.12 Where the Communications Provider is unable to, or refuses to, provide a MAC to the End-User, the Communications Provider shall provide the End-User with a clear explanation of why the MAC has not been provided.

### **Cease requests and notice to terminate a Broadband Service**

- A1.13 The Communications Provider shall not issue a Cease Request for the Broadband Service unless the Communications Provider has established that the End-User does not wish to transfer the Broadband Service to another Communications Provider.
- A1.14 The Communications Provider shall, when issuing a MAC, confirm to the End-User that any previous termination by the End-User has been revoked, and shall ensure that any current or pending termination actions are cancelled.

### **MAC validity and migration dates**

- A1.15 The Communications Provider shall not terminate the Broadband Service on account of the MAC validity period expiring unless the Communications

Provider has received notification that the End-User's Broadband Service has been migrated to another Communications Provider.

- A1.16 Where a Customer provides a MAC within its validity period, together with a request to effect a transfer of the Broadband Service to the Communications Provider, the Communications Provider shall proceed with the migration and inform the Customer of the Default Migration Date.
- A1.17 The Communications Provider shall, at the request of a Customer up until one Working Day prior to the Default Migration Date:
- (a) accept a request to extend the Default Migration Date to a later Migration Date ("Requested Migration Date"), provided the MAC validity period has not expired within five days of the Requested Migration Date; or
  - (b) cancel the Default Migration Date or Requested Migration Date.

### **Erroneous MAC migrations**

- A1.18 The Communications Provider shall provide a recovery process so that in the event of an erroneous migration effected by way of a MAC, the End-User's Broadband Service can be restored to the original Communications Provider with minimum disruption.

### **Information about the MAC Broadband Migrations Process**

- A1.19 The Communications Provider shall publicise the availability of the MAC Broadband Migrations Process to End-Users, including providing the following information:
- (a) an explanation of how the MAC is used to facilitate the transfer of a Broadband Service to another Communications Provider;
  - (b) details of how an End-User may request a MAC from the Communications Provider, such as telephone, email and postal contact details;
  - (c) reasons why the Communications Provider may not be able to issue a MAC;
  - (d) details of the complaints handling process for complaints about a failure by the Communications Provider to issue a MAC;
  - (e) alternative migration options for an End-User if the Communications Provider cannot issue a MAC for the Broadband Service;
  - (f) the default Migration Date that applies when a MAC is provided to the Communications Provider by a Customer for the purposes of transferring the Broadband Service to the Communications Provider; and
  - (g) any options available to the End-User to request a Migration Date later than the Default Migration Date.

A1.20 Publication of the information set out in 1.19 above shall be effected by publishing the information on the Communications Provider's website, and by sending a copy of the information if so requested by an End-User.

### **Complaints about the MAC Broadband Migrations Process**

A1.21 The Communications Provider shall handle complaints from End-Users in relation to a decision to refuse, or a failure by, the Communications Provider to issue a MAC, as part of its existing complaints handling processes.

### **Broadband Network Services**

A1.22 Where the Communications Provider provides Broadband Network Services, the Communications Provider shall also ensure that it:

- (a) effects the transfer of a Broadband Service on the Default Migration Date, unless a later Migration Date has been requested by the Communications Provider for the transfer to be effected;
- (b) notifies the Communications Provider who formerly provided the Broadband Service of the date that the transfer has been effected to another Communications Provider; and
- (c) has a process that enables an erroneous service migration effected using a MAC to be reversed, so that the Broadband Service can be restored to the original Communications Provider who requested the MAC.

## 23. SALES AND MARKETING OF MOBILE TELEPHONY SERVICES<sup>61</sup>

### **Scope**

- 23.1 A Mobile Service Provider must comply with this General Condition with respect to a Customer of its Mobile Telephony Services, except that clauses 23.4(b)(iv) and 23.5 – 23.10 do not apply to Prepaid Mobile Telephony Services and SIM Only Contracts.

### **Mis-selling prohibition**

- 23.2 When selling or marketing Mobile Telephony Services, the Mobile Service Provider must not:
- (a) engage in dishonest, misleading or deceptive conduct;
  - (b) engage in aggressive conduct; or
  - (c) contact the Customer in an inappropriate manner.

### **Publication of relevant obligations**

- 23.3 The Mobile Service Provider must:
- (a) publish a comprehensive summary of its obligations under this General Condition 23 in an easily accessible and reasonably prominent manner on its website or, where there is no such website, by making it available in its registered office during normal office hours for inspection free of charge by members of the general public; and
  - (b) provide a copy of this General Condition to a Customer free of charge upon reasonable request.

### **Obligation with regards to Mobile Service Retailers**

- 23.4 Where the Mobile Service Provider contracts with or appoints a Mobile Service Retailer directly in order to sell or market the Mobile Service Provider's Mobile Telephony Services it must ensure, and where a third party acting on behalf of the Mobile Service Provider contracts with or appoints a Mobile Service Retailer in order to sell or market the Mobile Service Provider's Mobile Telephony Services the Mobile Service Provider must use reasonable endeavours to ensure, that:
- (a) the Mobile Service Retailer is aware of this General Condition;
  - (b) provisions are in place which require the Mobile Service Retailer:

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<sup>61</sup> Protecting consumers from mis-selling of mobile telecommunications services, Statement and notification, 16 March 2009.

- (i) not to engage in dishonest, misleading or deceptive conduct;
  - (ii) not to engage in aggressive conduct;
  - (iii) not to contact a Customer in an inappropriate manner; and
  - (iv) to create and keep records about the sale of the Mobile Service Provider's Mobile Telephony Services for a period of not less than six months and, where applicable, about a related sales incentive as referred to in General Condition 23.10, for a period of not less than ninety days after the date by which this sales incentive has to be fully redeemed, but not less than six months.
- (c) the Mobile Service Provider monitors the Mobile Service Retailer's compliance with the provisions referred to in General Condition 23.4 (b); and
  - (d) non-compliance by the Mobile Service Retailer with the provisions referred to in General Condition 23.4 (b) is appropriately sanctioned by the Mobile Service Provider.

### **Mobile Service – Information at Point of Sale**

23.5 The Mobile Service Provider must use reasonable endeavours to ensure that before entering into or amending a contract for a Mobile Telephony Service the 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 paper or another Durable Medium which is available or accessible to the Customer or, where the Customer enters into or amends the contract during a sales call, by telephone:
  - (i) the identity of the legal entity the Customer is contracting with; its address and telephone, fax and/or e-mail contact details;
  - (ii) a description of the Mobile Telephony Service; the key charges (including minimum contract charges and any early termination charges, if applicable); payment terms; the existence of any termination right, including termination procedures; the likely date the Mobile Telephony Service will be provided, in case the provision of the Mobile Telephony Service is not immediate; and any minimum period of contract.

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

## **Records retention**

- 23.6 Where the Mobile Service Provider acts as a Mobile Service Retailer, it must create and keep records about the sale of its Mobile Telephony Services for a period of not less than six months and, where applicable, about a related sales incentive as referred to in General Condition 23.10, for a period of not less than ninety days after the date by which this sales incentive has to be fully redeemed, but not less than six months. Such records must include the date of the sale, the means through which the contract was entered into and the place where the contract was entered into, where applicable.

## **Training**

- 23.7 The Mobile Service Provider must use reasonable endeavours to ensure that processes are in place which assure that a Mobile Service Retailer is appropriately trained to comply with this General Condition.

## **Due diligence**

- 23.8 Where the Mobile Service Provider contracts with or appoints a Mobile Service Retailer directly in order to sell or market the Mobile Service Provider's Mobile Telephony Services it must ensure that, and where a third party acting on behalf of the Mobile Service Provider contracts with or appoints a Mobile Service Retailer in order to sell or market the Mobile Service Provider's Mobile Telephony Services the Mobile Service Provider must use reasonable endeavours to ensure that, it, or a person acting on its behalf, carries out and retains a record of the following minimum procedures with regards to any Mobile Service Retailer, contracted or appointed to sell or market the Mobile Service Provider's Mobile Telephony Services:
- (a) a credit reference search and check that the Mobile Service Retailer does not have a history of failing to meet its financial undertakings to creditors;
  - (b) a check that any director of a Mobile Service Retailer concerned has not been a director of a third party that has filed for bankruptcy or gone into administration; and
  - (c) appropriate checks to ensure that any due diligence information referred to in this General Condition 23.8 remains up-to-date and relevant.

These procedures must be carried out before contracting with or appointing the Mobile Service Retailer.

## **Use of information for the purpose of monitoring compliance**

- 23.9 Where a Mobile Service Provider acquires information from a Mobile Service Retailer for the purpose of monitoring compliance with this General Condition, the Mobile Service Provider shall use that information solely for the purpose for which it was supplied and keep the information confidential. For the avoidance of doubt, the Mobile Service Provider shall not pass the

information on to any other party (including its subsidiaries or partners) for whom such information could provide a competitive advantage.

### **Sales Incentives – Information at Point of Sale**

- 23.10 The Mobile Service Provider must use reasonable endeavours to ensure that where a Mobile Service Retailer offers to a Customer a sales incentive, from which the Customer does not benefit immediately and which the Customer is entitled to receive after entering into the contract for the Mobile Telephony Service, the terms and conditions of such an offer are not unduly restrictive and that a Customer is provided with the following information in a clear, comprehensible and accurate manner in paper or another Durable Medium, or, where the sales incentive offer is made during a sales call, by telephone:
- (a) the identity of the legal entity which makes the sales incentive offer and undertakes to meet the obligation(s) tied to this offer; its address; and telephone, fax and/or e-mail contact details;
  - (b) a description of the sales incentive itself; and
  - (c) the terms and conditions of the sales incentive, including a detailed and clear explanation as to the process the Customer has to follow to obtain the sales incentive.

Where the sales incentive offer is made during a sales call, in addition to the oral provision of this information, the Mobile Service Provider must use reasonable endeavours to ensure that this information is sent to the Customer in good time following the call in paper or another Durable Medium.

### **Definitions**

- 23.11 For the purpose of this Condition:
- (a) "Customer" means Domestic and Small Business Customer as defined in section 52 (6) of the Act;
  - (b) "Durable Medium" means a medium on which a Customer can store and retrieve unaltered information for a period of time adequate for the purposes of the information;
  - (c) "Mobile Service" means a service consisting in the conveyance of signals, by means of a mobile Public Electronic Communications Network, through the agency of Wireless Telegraphy to or from Apparatus designed or adapted to be capable of being used while in motion;
  - (d) "Mobile Telephony Service" means a Publicly Available Telephone Service that is a Mobile Service (and includes any SMS service sold as part of the package);

- (e) “Prepaid Mobile Telephony Service” means a Mobile Telephony Service for which the Customer pays charges in advance of the service being provided;
- (f) “Mobile Service Provider” means the provider of a Mobile Telephony Service;
- (g) “Mobile Service Retailer” means any person who sells or markets a Mobile Telephony Service directly to a Domestic or Small Business Customer; and
- (h) “SIM Only Contract” means a contract for a Mobile Telephony Service where the Customer only obtains a Subscriber Identity Module (‘SIM’) card from the Mobile Service Provider and the notice period for cancelling this contract does not exceed one calendar month.

## 24. SALES AND MARKETING OF FIXED-LINE TELECOMMUNICATIONS SERVICES<sup>62</sup>

### **Scope**

- 24.1 A Communications Provider who provides a Fixed-Line Telecommunications Service to Domestic and Small Business Customers ('the Customer') must comply with this General Condition with respect to such Customers.
- 24.2 This General Condition is only applicable where the Customer is transferring a Fixed-Line Telecommunications Service between Communication Providers.

### **Mis-selling prohibition**

- 24.3 When selling or marketing Fixed-Line Telecommunications Services, the Gaining Communications Provider must not:
- (a) engage in dishonest, misleading or deceptive conduct;
  - (b) engage in aggressive conduct;
  - (c) contact the Customer in an inappropriate manner; or
  - (d) engage in Slamming.

### **Responsibility**

- 24.4 Where the Communications Provider engages representatives, such as any sales agency, to act on its behalf in the sale and marketing of Fixed-Line Telecommunications Services, the Communications Provider shall procure that such representatives comply with the requirements of this General Condition.

### **Publication of relevant obligations**

- 24.5 The Communications Provider must:
- a) publish a copy of this General Condition, or a link to a copy of this General Condition, published on Ofcom's website, in an easily accessible and reasonably prominent manner on its website or, where there is no such website, by making it available in its registered office during normal office hours for inspection free of charge by members of the general public; and
  - b) provide a copy of this General Condition to a Customer free of charge upon reasonable request.

### **Information at Point of sale**

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<sup>62</sup> Protecting consumers from mis-selling of fixed line telecommunications. Notification 18 December 2009 inserting new general condition 24

24.6 The Gaining Communications Provider must take all reasonable steps to ensure that before entering into a contract for a Fixed-Line Telecommunications Service the Customer who is transferring the line: is authorised to do so;

intends to enter into the contract; and

is provided with the information set out below in a clear, comprehensible, prominent and accurate manner, in paper or another Durable Medium which is available or accessible to the Customer or, where the Customer enters into the contract during a sales call, by telephone:

- (i) the identity of the legal entity the Customer is contracting with and its telephone, website and/or e-mail contact details;
- (ii) a description of the Fixed-Line Telecommunications Service requested; the key charges, including minimum contract charges, and any early termination charges, if applicable; payment terms; the existence of any termination right, termination procedures and the Customer's right to cancel at no cost from the point of sale to the completion of the Transfer Period; the arrangements for provision of the service, including the order process and, as accurately as possible, the likely date of provision of the service and any minimum period of contract.

### **Post-sales information**

24.6 Where the Customer enters into a contract for a Fixed-Line Telecommunications Service, the Gaining Communications Provider and the Losing Communications Provider must each send the Customer a letter, in accordance with the industry-agreed process, stating that the Customer is transferring their Fixed-Line Telecommunications Service, in paper or another Durable Medium, which clearly sets out, as appropriate:

- (i) the date of the letter;
- (ii) the Calling Line Identification of all Electronic Communications Services which are affected;
- (iii) the list of services affected/unaffected;
- (iv) the proposed switchover date;
- (v) relevant contact details; and
- (vi) the right to terminate the contract, the means by which the right to terminate from the point of sale to the completion of the Transfer Period can be exercised and the date by which the right to terminate must be exercised;

24.8 The letter must be sent by normal post, unless the Customer has explicitly agreed to receive correspondence electronically, such as through verbal consent in a call or through electronic confirmation when ordering online.

### **Customer's termination rights**

- 24.9 When the Customer enters into a contract to transfer a Fixed Line Telecommunications Service the Gaining Communications Provider must allow the Customer to terminate the contract from the point of sale to the completion of the Transfer Period without charge or any other form of compensation being required to be given by the Customer to the Gaining Communications Provider.
- 24.10 The Gaining Communications Provider must have procedures in place to enable the Customer to exercise their right to terminate their contract pursuant to General Condition 24.9 without unreasonable effort. These procedures must include the ability to contact the Gaining Communications Provider to terminate the contract by any of the following contact methods:
- (i) telephone;
  - (ii) e-mail; and
  - (iii) post.

### **Records retention**

- 24.11 The Gaining Communications Provider must use reasonable endeavours to create and keep all records regarding the sale of its Fixed-Line Telecommunications Service, for a period of not less than six months. Such records must include the date and approximate time of the contact with the Customer, the means through which the Contract was entered into, the place where the Contract was entered into, where relevant, and be such as to allow subsequent identification of the salesperson(s) involved and to assist in dealing with any complaint or query.

### **Training**

- 24.12 The Communications Provider must ensure that all its staff or any representatives of any sales agency engaged by it, involved in direct contact with Customers for the purpose of sales and marketing activity and/or Cancel Other are appropriately trained to comply with this General Condition.

### **Monitoring**

- 24.13 The Communications Provider must monitor, including conducting regular audits, its compliance with this General Condition, including compliance on its behalf by any representatives or sales agency engaged by it, and take appropriate steps to prevent the recurrence of any problem(s) identified.

### **Cancel Other process**

- 24.14 The Losing Communications Provider shall only be permitted to use Cancel Other in the following circumstances:
- (a) where Slamming has occurred;
  - (b) at the Customer's request, where the Gaining Communications Provider has failed to cancel the request after being directed by the Customer to do so ("Failure to Cancel");
  - (c) where the telephone line is or will be, ceased during the Transfer Period ("Line Cease");
  - (d) for other specified reasons not related to a Customer's request to cancel a transfer, and agreed by the relevant industry forum and approved by Ofcom; and
  - (e) in such other circumstances as defined by Ofcom.

- 24.15 Before using Cancel Other in cases of Slamming and/or Failure to Cancel, the Losing Communications Provider shall take reasonable steps to establish that Slamming and/or Failure to Cancel has actually taken place.
- 24.16 After using Cancel Other, the Losing Communications Provider shall confirm the cancellation of the order by Durable Medium to the Customer, unless this is not possible or appropriate, including where the customer is deceased.
- 24.17 The Losing Communications Provider shall record its reasons for using Cancel Other in each case, selecting the appropriate reason code from a list corresponding to permitted use of Cancel Other and consistent with GC24.19(m)(i) to (iv), as agreed by the industry, and approved by Ofcom.
- 24.18 Where the Losing Communications Provider communicates with the Customer in order to comply with this General Condition, it must not make any marketing statements or representations in the communication which may induce the Customer to terminate their contract with the Gaining Communications Provider and/or remain in a contract with the Losing Communications Provider.

## Definitions

24.19 For the purpose of this Condition:

**“Cable Network”** means a hybrid fibre-coax Electronic Communications Network that uses a combination of optical fibres and coaxial cable;

**“Cancel Other”** means the industry term for a functionality that enables the Losing Communications Provider to cancel wholesale orders (during the Transfer Period) placed by the Gaining Communications Provider which can only be used in the circumstances set out in 24.14;

**“Communications Provider”** means the provider of an Electronic Communications Network and/or Electronic Communications Service, both as defined in section 32 of the Act;

**“CPS”** means Carrier Pre-Selection, a facility which allows a customer of a Publicly Available Telephone 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;

**“Domestic and Small Business Customer”** has the meaning set out in section 52 (6) of the Act;

**“Durable Medium”** means any instrument which enables the Customer to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

**“Failure to Cancel”** means where the Gaining Communications Provider has not cancelled a transfer, after a request from the Customer during the Transfer Period;

**“Fixed-Line Telecommunications Services”** means Narrowband call and/or line rental services provided to Domestic and Small Business Customer;

**“Gaining Communications Provider”** means the Communications Provider to whom the customer is transferring;

**“LLU”** means Local Loop Unbundling, the process by which a dominant provider’s local loops are physically disconnected from its network and connected to a competing provider’s network.

**“Losing Communications Provider”** means the Communications Provider from whom the customer is transferring;

**“Narrowband”** means services provided over a traditional Public Telephone Network, excluding services provided over a Cable Network;

**“Slamming”** means where a request for CPS, WLR and/or LLU has been made without the Customer’s express knowledge and/or consent; that is in the following circumstances:

- (i) where the Customer has never been contacted by the Gaining Communications Provider;
- (ii) where the Customer has been contacted by the Gaining Communications Provider, but has not given the Gaining Communications Provider authorisation to transfer some or all of their telephone calls and/or line rental to the Gaining Communications Provider;
- (iii) where the Customer has agreed to purchase a product or service from the Gaining Communications Provider and the Gaining Communications Provider has submitted a request for a different product or service which the Customer has not agreed to purchase; or
- (iv) where the Customer has agreed to transfer some or all of their telephone calls and/or line rental to the Gaining Communications Provider having understood, as a result of a deliberate attempt by the Gaining Communications Provider to mislead, that they are making an agreement with a different Communications Provider;

**“Transfer Period”** means the period of 10 Working Days from before a customer’s order can be activated;

**“WLR”** means Wholesale Line Rental, a facility which BT provides other CPs with the ability to offer monthly line rental and associated services (such as fault repair) on the BT line; and

**“Working Days”** means the hours between 09.00 – 17.00 on Monday to Friday with the exception of bank holidays.

