

# Review of the Metering and Billing Direction

## A further consultation on the revisions to the Metering and Billing Direction

### Introduction and summary

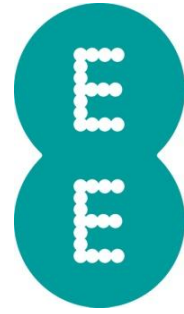
EE is very supportive of reasonable consumer-protection activities that are intended to provide assurance to customers and demonstrate that there is a robust end to end total metering and billing system (“TMBS”) in place. It is important that changes to regulations in general are proportionate, are of actual benefit to consumers and do not unnecessarily increase compliance costs. Providers should be allowed to continue to innovate and to compete in the marketplace. It is in every provider’s interest to ensure that customers are billed accurately and not overcharged.

The fixed and mobile markets have changed significantly since the revised Ofcom Metering & Billing Direction (“Direction”) came into force, notably the growth in all inclusive packages with fixed monthly rental fees and fixed broadband services. It is crucial that the Direction remains sufficiently flexible and adaptable to further changes in the market. It is just as important for the Approval Bodies (“ABs”) to keep abreast of changes in the market and continue to work closely with providers.

EE believes that the existing Direction is operating effectively and brings benefits to consumers and providers. However, we also acknowledge that the proposed Direction is an improvement to the existing one but that there is scope for further improvement.

We summarise our view as follows: -

- Consumer protection for fixed and mobile voice should be retained.
- The Direction should be consistent in its application.
- The Direction should be light-touch and changes should not result in an increase in compliance costs for providers.
- Ofcom should move away from rigid performance thresholds to a more high-level principled-based approach; target-based elements should be removed.
- The Direction should be as future-proof as is possible.
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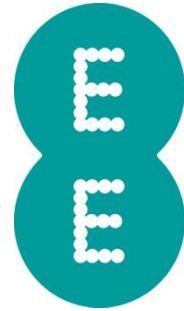
- The language and terminology of the Direction should be simplified to make it easier to interpret.
- The inclusion of retail voice services in the Direction should remain mandatory.
- The inclusion of fixed broadband and mobile data services in the Direction should remain voluntary.
- Large businesses, corporate customers and wholesale services should be out of scope (or voluntary).
- The text of the Direction should contain only the requirements; all other text, explanations and examples about application should be included in accompanying guidance.
- Proposed timeframes for implementation for existing providers are too tight and should allow for a transition period.

## Specific points on the proposed Direction

### 1. Large businesses/Corporates

EE has sympathy with Ofcom's argument that corporate customers, and particularly small businesses, are just as entitled as individual consumers to expect and receive accurate bills. We agree that smaller businesses are unlikely to have the resources to be able to verify the accuracy of the bills which they receive. However, we believe that a distinction does need to be made when considering larger corporate organisations.

The B2B arrangements that EE has consist of two companies agreeing to contract with each other on mutually agreed and negotiated terms. In a fiercely competitive market, the larger customers have significant 'buyer power' and are able to negotiate all of the terms of the contract, including handset type and cost, tariff and call charges. Large contracts are usually subject to a tender process on terms set by the business customer. When the contract is due for renewal, the customer will have the opportunity to negotiate even better terms or to go elsewhere if it is unhappy with any aspect of the service, including the accuracy of its bills.



EE believes that in these situations, there is no need for one party to the contract to be protected by regulation being imposed on the other party to the contract, especially when the customer may actually be a larger organisation than the provider of the service. Furthermore, EE receives far fewer complaints from large businesses and corporate customers already receive a large amount of billing information so they are able to protect themselves in the absence of a regulatory obligation on EE.

## 2. Wholesale services

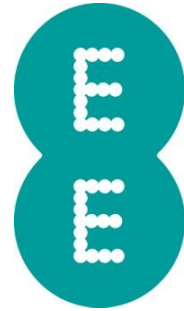
Wholesale providers have found it difficult to apply the existing accuracy standards to interworking arrangements. For this reason EE's preference is for wholesale services to be included on a voluntary basis in the Direction. Large wholesalers will already be subject to the approval scheme in their own right (by virtue of exceeding the £40 million revenue threshold) so the Direction should already apply to their processes, procedures and controls frameworks.

## Ofcom's questions

*Q1. We invite stakeholders' views on the proposed removal of target-based requirements across all retail services and evidence to support their views.*

Broadly, EE is satisfied with the current Direction, which we feel is effective both in protecting consumers' interests and incentivising and assisting operators in achieving that aim. EE's only real concern is that the current Direction is focused too much on the detail of measurement (targets and thresholds) and not enough on maintaining an adequate control environment.

In practice, this means that operators that maintain the highest standards of control environment are most likely to identify billing errors, because they have the best systems and processes in place in order to be able to recognise, escalate and report them, if necessary. Conversely, operators that do not maintain the same high standards, do not invest in the systems and do not have the same rigorous processes in place, may simply not be aware of some billing errors, or if they are, they may be resolved by customer services in the form of a refund without being referred to revenue assurance or metering and billing managers. This means that providers able to detect a greater number of billing errors would be penalised for maintaining higher standards of control environment, by appearing as if



they actually generate a greater number of billing errors. Clearly, this would have an adverse effect on their ability to receive and maintain approval.

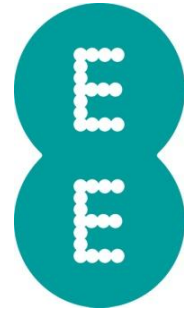
For this reason, EE supports Ofcom's proposal to remove target-based requirements. The process and control-based requirements will ensure that providers focus on billing errors, root cause analysis and corrective action to prevent re-occurrence, rather than seeking to achieve targets which may be unworkable or which may mask the actual problems.

*Q2. We invite stakeholders' views and evidence on the practicality of the proposed new timeframe for approval as set out in paragraph 5.1 of the draft new Direction.*

3.3.2 of the proposed Direction states that providers in the process of gaining approval under the previous version of the Direction but who have not yet achieved approval, shall apply for transfer of their approval process and submit the application within 3 months of the new Direction coming into force. That provider is required to gain approval under the new Direction within 12 months from application. This means that they would have a maximum of 15 months of this new Direction coming into force to achieve compliance. This may be appropriate for applications for approval that are well underway, however in the circumstance of a recent application under the current Direction, this could mean that the total period allowed to gain approval may be shorter than the 24 months proposed for a wholly new application under the new Direction. Ofcom should ensure that the ABs allow some flexibility for such a cases.

*Q3 We invite stakeholders' views on whether the proposed revised definition of EPF would be workable. We also welcome any alternative suggestions for the definition.*

EE is unsure about the definition as currently proposed “any clear spike in errors detected or reported or movement away from monitored performance” and how ABs will apply this in practice. EE welcomes the proposal by Ofcom to meet regularly with the ABs to discuss the implementation of the Direction, but we believe that initially the meeting should be more frequent as there are likely to be more questions and feedback on whether changes to the Direction are necessary or whether the issues are better addressed through appropriate guidance to be shared with other providers.



EE also specifically recommends that the EPF definition include the situation when the spike is manifested by a sharp decrease in errors detected which may indicate a failure of the TMBS measurement system itself.

*Q4 We invite stakeholders' views on the proposed timeframe for delivery of CDRs as set out in paragraphs 7.1 of the Direction. If you do not agree, please provide evidence to support an alternative approach or timeframe.*

The proposed Direction states that providers will have 60 days for call data records to be delivered by wholesalers to the provider that has the relationship with the end user. Where this is current practice it is unlikely to have any significant impact. However, this does not take into account more complex chains where there are more than two providers - in some cases as many as five providers can be in a chain. Wholesale arrangements are not transparent to most customers whose only resort is to the contracted retail provider. As supply chains grow more complex, it will be very difficult to deliver CDRs within the 60 day timescale.

*Q5 We invite stakeholders' views on the proposed non-material changes to the Direction?*

The text of the Direction should contain only the requirements; all other text, explanations and examples about application should be included in accompanying guidance – which we have noted has not yet been drafted.

The proposed Direction should also explicitly state whether references to Kb (Kilobytes) of data indicate the binary Kilobyte (1,024 bytes) or the decimal Kilobyte (1,000 bytes) now increasingly in use.

*Q6 We invite suggestions on these and other ways in which awareness of the Scheme can be promoted.*

EE agrees that some providers may choose to promote the approval of their TMBS to their own customers in a way to differentiate themselves from those providers whose TMBSs have not received approval. We support Ofcom's proposal to improve and make changes to its website in order to promote and explain the revised Direction and explain to customers.