

Openreach's response to Ofcom's consultation

“Proposed guidance on protecting access to emergency organisations when there is a power cut at the customer's premises: Proposals for guidance on General Condition A3.2(b)”

NON-CONFIDENTIAL VERSION

5 July 2018

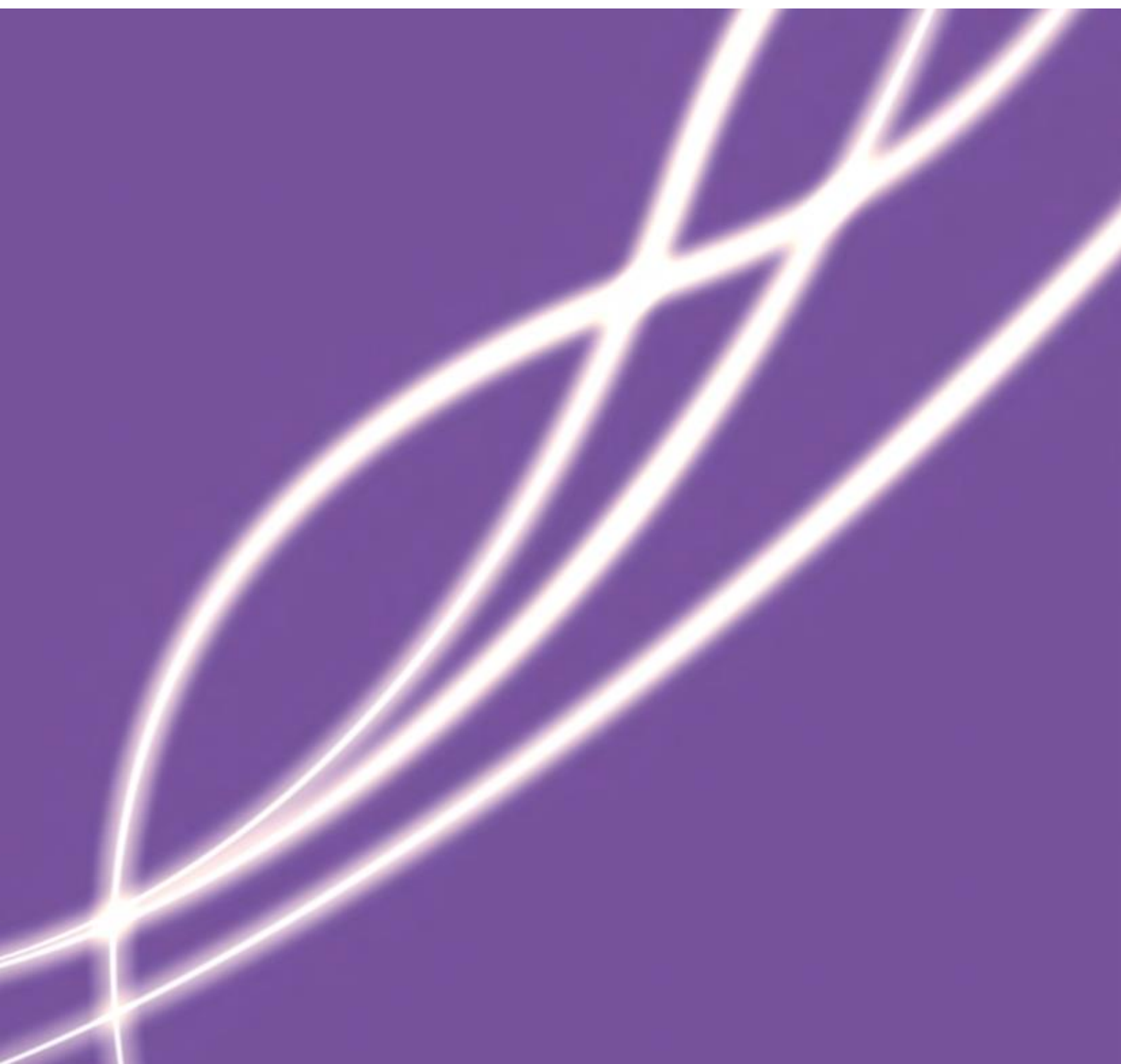


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Foreword

On 24 May 2018, Ofcom published its consultation on “Proposed guidance on protecting access to emergency organisations when there is a power cut at the customer’s premises: Proposals for guidance on General Condition A3.2 (b)”.

This response is provided by Openreach, a legally and functionally separate line of business within British Telecommunications plc (“BT”),¹ in response to proposals related to Openreach’s business.

Any comments on this response should be sent to Mark Shurmer, Managing Director Regulatory Affairs, Openreach, at mark.2.shurmer@openreach.co.uk.

¹ As part of BT’s implementation of its formal notification dated 10 March 2017 under section 89C of the Communications Act 2003 (“the Act”), the Openreach business will be operated by Openreach Limited, which was incorporated as a separate legal entity on 24 March 2017, following the fulfilment of certain conditions set out in the notification.

1 Executive Summary

1. Ofcom's consultation on the proposed guidance for new General Condition A3.2(b) (Consultation) primarily focuses on the principles that customer facing voice service providers (CPs) should follow. Therefore we anticipate they will be the key respondents to the Consultation. However, we do have some selected comments to make on elements of the proposals which are relevant to Openreach as a Public Electronic Communications Network provider, and potentially other wholesale network providers. We also note that the Consultation is focussed on the impact of power cuts to a customer's premises² and not wider issues related to General Condition 3 (GC3)³. Therefore we have restricted our comments below to that element of the regulation.
2. We agree with Ofcom's view that over the next few years broadband-based voice calls will become more common, and therefore that the time is right to consider how the responsibilities associated with GCA3.2(b) may need to change. We also fully support Ofcom's view that a key function of telephone networks is to allow citizens, particularly those needing special protection, to contact the emergency services. However, as Ofcom notes, it is also important to encourage investment and innovation in the telecommunications sector.
3. In particular, we agree with Ofcom's position⁴ that for those communications providers (CPs) who offer only the network element of the voice service (such as Openreach), it may not be possible and/or proportionate to take account of all the measures set out in Ofcom's proposed principles to meet the obligations of GCA3.2(b).
4. As Ofcom recognises in its consultation⁵, the end-customer facing CP (or retail provider) understands the service they have sold to their customer and are best placed to assess their customer's needs. Additionally, they also understand the range of technical options they have available to them to support power outages, as well as being responsible for any communications and/or educational materials provided to their customer. This is in contrast to a network provider which has little knowledge of the end-customer and none at all of the relationship between the CP and end-customer, the service provided, or the associated contracts and communications.
5. As part of our regular CP customer engagement and prior to Ofcom's consultation, we had already explored some of the potential impacts of new technology on General Condition 3 (GC3)⁶, and this exercise also identified that the key relationship underpinning the provision of a voice service was that between the CP and its end-customer. Recognising this evolving environment, Openreach has recently communicated its position to industry at both the April and May 2018 Copper and Fibre Products Commercial Groups (CFPCG) that we will no longer be providing battery back-up (BBU) units for FTTP based services as standard from 1 April 2019.
6. In light of this, and Ofcom's proposals, we look forward to working with our CP customers to support their requirements and implement Ofcom's guidance in this area as it develops. In particular, we will continue to work with them on potential network solutions, such as optional home BBU units.
7. It is important to us and our customers that a workable and pragmatic framework is developed for all parties which can support clear guidance for industry and proportionate levels of protection for end-customers. Openreach would be pleased to discuss any of the points we make in more detail with Ofcom following submission of this response.
8. Our response to Ofcom's consultation question is provided in Section 2 below.

² See Consultation paragraph 1.10.

³ From October 2018 General Condition 3 will become General Condition A3, and the subject of this consultation GC3.1(c) will become GCA3.2(b).

⁴ See Consultation paragraph 2.33.

⁵ See Ofcom's discussion in Consultation paragraphs 3.19 to 3.22, and 3.37 to 3.61. The relationship between the end-customer and its retail provider will be key in establishing the required information, processes and communications to meet a customer's needs.

⁶ From October 2018 this will be General Condition A3.

2 Responses to questions in Ofcom's consultation document: "Proposed guidance on protecting access to emergency organisations when there is a power cut at the customer's premises: Proposals for guidance on General Condition A3.2(b)"

Question: Do you agree with the four proposed principles? If not, please give reasons. Please set out your comments on each of the principles separately.

Openreach response

9. As we noted in the Executive Summary, we see this question as being primarily aimed at end-customer facing communications providers (CPs). However, we do have some selected comments to make which are relevant to Openreach as a Public Electronic Communications Network provider, and potentially other wholesale network providers. We also note that Ofcom's consultation is focussed on the impact of power cuts to an end-customer's premises and not wider issues related to General Condition 3 (GC3). Therefore we have restricted our comments below to that element of the regulation.
10. In its consultation, Ofcom sets out how the underlying functionality of the traditional landline network differs from Voice over Internet Protocol (VoIP) technology, and therefore that it is necessary to find a pragmatic and proportionate approach to achieving end-customer protection objectives.
11. As Ofcom note, communications technology is in a period of rapid change and the reliance of access to emergency services in a power outage on the exchange line powering capability of the Public Switched Telephone Network (PSTN), although a very beneficial legacy function, is now diminishing in importance. In this respect, Ofcom notes that CPs have indicated their intentions to retire these networks over the next few years⁷.
12. In particular, the extent to which mobile phones and VoIP are now used for primary voice services and emergency calls, plus the ubiquitous presence of cordless phones now significantly limits the ability of any individual user being able to rely on this line powering feature of the PSTN in a power outage⁸.
13. As Ofcom is aware⁹, Openreach has also recently published its industry consultation on the withdrawal of its Wholesale Line Rental (WLR) service¹⁰, which is a further step towards the withdrawal of PSTN based voice services. Hence, this will over time further reduce the likelihood of any individual user being able to utilise exchange line powering to support access to emergency calls. Therefore we agree with Ofcom that the time is right to consider how the responsibilities associated with GCA3.2(b) may need to change.
14. Taking each of Ofcom's proposed principles in turn:
 - (i) *CPs should have at least one solution available that enables access to emergency organisations for a minimum of one hour in the event of a power outage in the premises.*
 - We note that Ofcom do not specify the technical solution that an end-customer facing CP should use to enable access to emergency calls in the event of a power outage. We support this position as it will enable voice providers to be innovative in their approach, to work with their end-customers to tailor any solutions to their needs and to explore efficient and cost

⁷ See Consultation paragraph 2.20.

⁸ See Ofcom's discussion in Consultation paragraphs 2.16 to 2.24.

⁹ See Consultation paragraph 1.2 and as Ofcom also refer to in Footnote 20, CPs across the world with PSTN infrastructure are in a similar position.

¹⁰ Please see - <https://www.openreach.co.uk/orig/home/updates/briefings/generalbriefings/generalbriefingsarticles/gen02118.do>

effective options to meet Ofcom's proposed guidance¹¹. We also agree that one hour is a reasonable minimum period for back-up given the statistics presented by Ofcom in Annex A1.

- We note Ofcom's acknowledgement¹² that for those CPs who offer only the network element of the voice service (such as Openreach), it may not be possible and/or proportionate to take account of all the measures set out in Ofcom's proposed principles to meet the obligations of GCA3.2(b). We support this view and agree that it is the end-customer facing CP that has the relevant customer relationship to be able to gather the required information and the ability to apply Ofcom's proposed principles and not the provider of the network element¹³.
 - On our part, we consult regularly with our CP customers in relation to Openreach product developments and prior to this consultation we had already explored the practicalities of how General Condition 3 (GC3) might be impacted by new technology. Recognising this evolving environment, Openreach has recently communicated its position to industry at both the April and May 2018 Copper and Fibre Products Commercial Groups (CFPCG) that we will no longer be providing battery back-up (BBU) units for FTTP based services as standard from 1 April 2019. We have been discussing possible options for how Openreach could support them in providing an optional BBU unit where it is required (for example for vulnerable customers). In light of Ofcom's proposals, we look forward to working with our CP customers to support their requirements and implement Ofcom's guidance where relevant as it develops. We have not included extensive details of these ongoing discussions in this submission but would be more than pleased to discuss further with Ofcom if required.
- (ii) *The solution should be suitable for customers' needs and should be offered free of charge to those who are at risk as they are dependent on their landline.*
- Ofcom's guidance on this point is primarily focussed on the end-customer facing CP (the retail provider) and we agree that the key relationship underpinning the provision of a voice service is between the retail CP and its end-customer. The retail CP understands the service they have sold to their customer and are best placed to assess the customer's needs.
 - We do not comment on the viability of the retail provision of the solution as being free of charge; however we note for the record that Openreach would expect to receive at minimum its reasonably and efficiently incurred costs for the provision and/or maintenance of any optional solution (in line with standard approaches to pricing wholesale services).
- (iii) *CPs should i) take steps to identify at risk customers and ii) engage in effective communications to ensure all customers understand the risk and eligibility criteria and can request the protection solution.*
- Ofcom's guidance on this point is primarily focussed on the end-customer facing CPs (the retail providers) and we have no further comments to make.

¹¹ As Ofcom refer to in paragraph 2.15, Directive 2009/136/EC, which amended the Universal Service Directive, recognises that there may be differences in customer needs and technologies, and includes a number of recitals relevant to new voice services provided over IP, including recital 35 which states that:

"In future IP networks, where provision of a service may be separated from provision of the network, Member States should determine the most appropriate steps to be taken to ensure the availability of publicly available telephone services provided using public communications networks and uninterrupted access to emergency services in the event of catastrophic network breakdown or in cases of force majeure, taking into account the priorities of different types of subscriber and technical limitations". Underlining added to ease reference.

¹² See Consultation paragraph 2.33.

¹³ The key issue being that it would be highly inefficient and disproportionate for Openreach to install BBU on all lines. For example if a customer chooses to use a cordless phone then any BBU will be redundant and provide a false sense of security. Ofcom's discussion in Consultation paragraphs 2.34 to 2.38 and 3.2 outlines the complexity in the various relationships. We also agree with Ofcom that approaches may vary between voice providers, and that some action may be required by the end-customers themselves to ensure the solution (when required) continues to work (Consultation paragraph 3.14).

(iv) *CPs should have a process to ensure that customers who move to a new house or whose circumstances change in some other way are aware of the risk and protection solution available.*

- Ofcom's guidance on this point is primarily focussed on the end-customer facing CPs (the retail providers) and we have no further comments to make.

15. In summary, we support Ofcom's objectives, the timing of this consultation, and the recognition that as communications technologies evolve so will the responsibilities of voice service providers and wholesale network operators. We look forward to continuing to support our CP customers as required and in line with the Statement of Requirements process.