



# Consultation Response

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## 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)

#### Introduction

As a long-established retail VoIP service provider, Voipfone has given due **consideration to Ofcom's proposals** for guidance on the revised General Condition A3.2(b) and, hereby, provide our consultation response.

#### Consultation 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.

As we do not fully agree with the four proposed principles, our reasons are presented below.

**CPs should have at least one solution that enables access to emergency organisations for a minimum of one hour in the event of a power outage in the premises**

Voipfone will be a '**Regulated Provider**' when GC A3.2(b) comes into force, and will continue to take all necessary measures to ensure uninterrupted access to Emergency Organisations. However, as our business model predominantly employs **Voice over Broadband**, it would be disproportionate to impose a requirement on us, as an over-the-top (OTT) service provider, to maintain the broadband access during a power outage.

Our End-Users employ Internet Service Providers (ISPs) to provide their desired access to the Internet, with our VoIP service being one of many services that are running over-the-top of their broadband service. If continuing access to the Internet, during a power outage, is required, then surely the requirement should be imposed upon the ISP, and not the OTT service provider.

The current requirement [GC 3.1(c)] to take all necessary measures to maintain, to the greatest extent possible, uninterrupted access to Emergency Organisations, does not impose any access burden upon us. Instead, Annex 3 to GC 14 requires us, as a VoIP provider to domestic and small business customers, to ensure that our End-Users are aware that Emergency Calls may cease to function if there is a power cut or a failure of the Broadband Connection.

The above requirement has, quite rightly, been retained within the forthcoming revised General Conditions:

**A3.3 Regulated Providers must inform their Domestic and Small Business Customers** in plain English and in an easily accessible manner that access to



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**Emergency Organisations using VoIP Outbound Call Services** may cease if there is a power cut or power failure, or a failure of the internet connection on which the service relies. This information must be provided during the sales process, within the terms and conditions of use, and in any user guide issued by the **Regulated Provider**.

We would argue, therefore, that any requirement imposed upon Regulated Providers of VoIP, through Ofcom's proposed guidance, would be contradictory to the more-than-sufficient requirements imposed by revised Condition A3.3, as well as the summary information provided at the beginning of revised Condition A3, itself:

## **A3 Availability of services and access to emergency services**

*This condition aims to ensure the fullest possible availability of public communications services at all times, including in the event of a disaster or catastrophic network failure, and uninterrupted access to emergency organisations. It requires providers of call services to ensure that calls can be made to emergency organisations free of charge and to make caller location information available to emergency organisations where technically feasible. It also includes specific rules relating to providers of VoIP outbound call services which aim to ensure that users of those services are aware of any potential limitations on making calls to emergency organisations and that accurate and up-to-date caller location information can be provided to the emergency organisations where possible.*

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

Leaving aside the argument that the access provider, i.e. the ISP, rather than the OTT service provider, should bear the responsibility of having at least one solution available, we are of the opinion that there is no need for **any** solution to be offered to (non-'at risk') **customers**.

Ofcom's 2011 *Guidelines on the use of battery back-up to protect lifeline services delivered using fibre optic technology* stated that:

- **The probability that an emergency call would be made at the same time as a domestic power failure can be extremely small (of the order of many millions to one).**

Taking cognisance of the above, we would argue that it is disproportionate to mandate that CPs need to offer a solution to every customer.

Sufficient information, via effective communications, as required through revised Condition A3.3, is, in our opinion, the best way to proceed; as it removes any potential for a 'responsibility gap' occurring between the ISP and the OTT service provider.



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Very few existing customers of WLR services actually benefit from the (unintentional) provision of power-fed POTS during a power cut; as the majority of those users have an expectation that their telephone line will cease to operate.

**Turning to the ‘at risk’ customers that are dependent upon their landline, we agree that special provision should be made for those particular End-Users. However, once again, we would argue that it is disproportionate that the burden be applied to the OTT service providers.**

**At present, in addition to the incumbent’s WLR products, the LLU and SLU providers have the capability to provide power-fed POTS from their MSANs. As it is the incumbent’s decision to close their portion of the PSTN – which involves switching off their System X (RCU) and AXE 10 (RSS) concentrators – we believe that it is incumbent upon BT to provide a replacement product for those ‘at risk’ customers that require to retain a power-fed landline service.**

We would like to remind the regulator that BT have been deploying MSANs at their exchange locations; and that those MSANs were originally, as part of the 21CN Voice project, designed to be able to provide power-fed POTS across the local loop. We would go further and ask the regulator to consider applying a Universal Service Obligation upon the incumbent to continue to provide a power-fed POTS service, upon request.

**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**

We believe that whilst meeting revised Condition A3.3, i.e. by engaging in effective communications to ensure all customers understand that access to Emergency Organisations using VoIP Outbound Call Services may cease if there is a power cut or power failure, or a failure of the Internet connection on which the service relies, that any customer that is not content with that limitation can be: **treated as ‘at risk’**; duly advised that a **Voice over Broadband** service will not meet their needs; and can be referred to a Regulated Provider that **does** offer a power-fed POTS solution.

**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.**

Similar to our previous response, we believe that revised Condition A3.3 would be effective in identifying an **‘at risk’ customer, where the provision of a Voice over Broadband** service would not meet their needs. Again, in such circumstances, rather than imposing an undue burden on the OTT service provider, it would be prudent (and, arguably safer) to refer that End-User to a Regulated Provider that offers a power-fed POTS solution.



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## Summary

**We would ask the regulator to avoid the potential for a 'responsibility gap' being created, by removing the necessity for VoIP (OTT) service providers to offer a solution that pertains to the Internet access provided by an ISP.**

Furthermore, **we would argue that as Ofcom's own statement demonstrates the extremely low probability (of the order of many millions to one) that an Emergency Call would be made at the same time as a domestic power failure, that sufficient information, via effective communications, would be a proportionate way forward; and, is already covered by revised Condition A3.3.**

**In relation to 'at risk' customers, we would ask the regulator to consider either obligating the incumbent [via a Universal Service Obligation], or looking to the market for a Regulated Provider to become a Universal Service Provider, and that would be able to offer specific **products to meet those customers'** particular needs, e.g. power-fed POTS.**