



Metering and Billing

Consultation on the appointment of Enigma QPM Ltd as an Approval Body and a modification to General Condition 11

Consultation

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Section 1

Summary

Introduction

1.1 Ofcom regulates the accuracy of bills issued by providers of electronic communications services. We do this through General Condition 11 (GC11) of the General Conditions of Entitlement¹. The condition requires providers of publicly available telephone services (PATS) with a relevant annual turnover in excess of £40m to seek and obtain approval of their metering and billing systems from third-party assessors against a prescribed standard.

Approval Bodies

1.2 The third-party assessors that providers of PATS seek and obtain approval from are appointed by Ofcom and are known as Approval Bodies. They are identified in GC11.7(b).

1.3 There are currently two Approval Bodies:

- the British Approvals Board of Telecommunications (BABT); and
- the British Standards Institution (BSI).

1.4 Ofcom has received a request from a third organisation, Enigma QPM Ltd. (Enigma), seeking to become an Approval Body. We have assessed Enigma's eligibility against set criteria and consider, subject to consultation, that they have met the required standard. We are therefore consulting on our proposal to appoint Enigma as an Approval Body.

Proposed modification of GC11

1.5 GC11.7(b) lists the Approval Bodies, so to implement our proposal to appoint Enigma, we are proposing to modify GC11.7(b) by adding Enigma to the list of Approval Bodies. It is intended that the proposed modified condition will be adopted on the same date as the post-consultation Statement is published, subject to consultation. The Notification of the proposed modification to GC11 is at Annex 8 of this document.

1.6 We are inviting views on the proposal by **11 June 2010**.

¹ http://www.ofcom.org.uk/telecoms/ioi/g_a_regime

Section 2

Introduction and background

The need for consumer protection

- 2.1 A key feature of electronic communications services is that customers are not readily able to quantify their use or verify their bills with any degree of confidence or accuracy. Unlike in gas and electricity usage, for example, there is no domestic meter to enable customers to monitor their volume of usage. In practice, the sheer volume of services used and the complexity of billing due to the nature of the bundled packages purchased by a consumer can make it extremely difficult for a consumer to check that their bill is correct.
- 2.2 Therefore, although customers may be able to identify major errors, to a large extent many take the bills they receive on trust. It is therefore important for Ofcom to ensure where it can that such trust is justified, that customers are not overcharged and that consumer confidence in the accuracy of bills is maintained.
- 2.3 Ofcom has required communications providers to provide consumers with a basic level of itemised billing to allow the subscriber to verify and control the charges incurred and adequately monitor usage and expenditure.² However, due to the very large sums involved, Ofcom considers that communications providers with a relevant turnover in excess of £40m should have robust billing systems in place to ensure consumers can have confidence in the accuracy of the bills they receive.

The regulations

- 2.4 Ofcom regulates the accuracy of bills issued by providers of electronic communications services. It does this through GC11.1 which imposes an obligation on all Communications Providers for billing accuracy.
- 2.5 GC11 also requires providers of PATS with a relevant annual turnover in excess of £40m, to seek and obtain approval of their metering and billing systems from third-party assessors against a prescribed standard.³ This complex of approval arrangements represents the Ofcom Metering and Billing Approval Scheme (the Scheme).
- 2.6 This requirement does not preclude voluntary applications from Communications Providers who are below the £40m threshold that wish to benefit from approval and the associated disciplines of good practice, which lie at the heart of the Scheme.
- 2.7 A Communications Provider's metering and billing system is approved when it complies with either the requirements of the Oftel Metering and Billing Direction 2003 (Oftel Direction) or the Ofcom Metering and Billing Direction 2008 (Ofcom Direction). However, approvals made under the Oftel Direction will only remain valid until 31 December 2010. From 1 January 2011, the Ofcom Direction will be the only applicable Direction. The Oftel/Ofcom Directions are in essence a technical standard intended to ensure that compliant systems will deliver accurate bills, in turn enhancing end-user confidence in the bills that they receive.

² As required under GC12.1

³ As required under GC11.3 to 11.7

- 2.8 The third-party assessors that providers of PATS seek and obtain approval from are appointed by Ofcom and are known as Approval Bodies. They are identified within GC11.7(b).
- 2.9 There are currently two Approval Bodies:
- BAPT; and
 - BSI.

The purpose of this consultation

- 2.10 Enigma QPM Ltd⁴ (Enigma), has submitted a formal proposal to Ofcom to become an Approval Body. The proposal includes an outline of its business case and marketing approach and its proposed metering and billing audit process.
- 2.11 Enigma has experience of Quality of Standard (QoS) measurements and audits previously required by the TopComm Direction⁵ and they currently provide support for customer service, quality and environmental management systems.
- 2.12 The regulatory framework does not allow us to restrict the number of Approval Bodies and the existing Approval Bodies have not been granted exclusive rights. Therefore we must consider Enigma's request in full.
- 2.13 For Enigma to become an Approval Body, we would need to modify GC11.7(b), pursuant to our powers under sections 45 and 48 of the Communications Act 2003 (the Act) and in accordance with the legal tests set out in section 47 of the Act.

Our assessment of Enigma's request

- 2.14 The criteria against which a new Approval Body is assessed are set out in Chapter 4 of the Total Metering and Billing Systems Approval Scheme Guide (Approval Scheme Guide), June 2005⁶. We have used these criteria to assess Enigma's request and proposal to become an Approval Body. Section 3 sets out the individual requirements and why we consider that Enigma meets them.
- 2.15 To assist our consideration of the proposal submitted to Ofcom by Enigma, we commissioned the consultancy firm Total Reporting and Quality Solutions Limited (TRAQS) to advise Ofcom whether it considers Enigma meets the identified criteria. TRAQS' assessment included a review of Enigma's proposal to become an Approval Body and a site visit. TRAQS has provided Ofcom with a report of their findings and this can be found at Annex 6.
- 2.16 TRAQS has previously provided consultancy services to Ofcom, including recommendations on complaint handling standards. They have also worked with UK communications providers, including providing them with TopComm QoS measurements and audits.
- 2.17 It is important to point out that the final decision on whether to propose that Enigma should be appointed as an Approval Body rests with Ofcom. The report of TRAQS' findings is only one element of our consideration of Enigma's request. Ofcom has carried out its own full assessment of Enigma's request against the criteria which is set out in full at section 3.

⁴ Company number 03589193

⁵ <http://www.ofcom.org.uk/consult/condocs/topcomm/statement/>

⁶ http://www.ofcom.org.uk/telecoms/groups/mandb/docs/schem_guide_third_ed.pdf

Section 3

Our assessment of Enigma's request

Assessment against the criteria

3.1 Below we have set out the various requirements set out in Chapter 4 of the Approval Scheme Guide and our assessment of Enigma against these.

Accreditation or action plan to achieve accreditation within two years

- 3.2 The assessment criteria state that the applicant must have accreditation from a European Accreditation Body (EAB) to standard EN 45011 to carry out the Metering and Billing approval process, as defined in Ofcom Metering and Billing Direction. The EAB will be the United Kingdom Accreditation Service (UKAS) or an appropriate alternative agreed with Ofcom⁷.
- 3.3 If not accredited, the applicant must have an action plan for achieving accreditation within two years of appointment, with progress reports being made to Ofcom at agreed intervals⁸.
- 3.4 Enigma does not currently hold accreditation to the international standard EN 45011 to carry out the metering and billing approval process.
- 3.5 In its proposal to Ofcom, Enigma has stated that it is committed to the implementation of a quality management system that is structured to meet the requirements of EN 45011.
- 3.6 In their report, TRAQS state that Enigma has put in place processes and supporting documentation in order to gain accreditation within two years should they be appointed as an Approval Body. TRAQS also felt that Enigma has a good understanding of the UKAS accreditation process and timescales.
- 3.7 Enigma has provided Ofcom with its action plan for accreditation and a copy of this can be found at Annex 7. The action plan sets out the steps that Enigma will need to follow in order to gain the accreditation within two years, should they be appointed as an Approval Body.
- 3.8 According to the action plan, if Enigma is appointed as an Approval Body they will contact UKAS without delay to initiate the accreditation process. The UKAS accreditation process cannot commence before Enigma is appointed as an Approval Body. This is because it is dependant upon Enigma having at least one client who is seeking approval of their metering and billing scheme, and providing evidence of completed audits as part of that approval process.
- 3.9 Based on the above, Ofcom is satisfied that Enigma has a credible action plan for achieving accreditation within two years of appointment. The plan clearly identifies the steps involved and shows an understanding of the timescales for each of these steps to be completed. Should Ofcom appoint Enigma as an Approval Body, Enigma has agreed to provide Ofcom with reports on their progress towards achieving UKAS accreditation at regular intervals of no less than quarterly.

⁷ See § 4.1.2 of the Approval Scheme Guide

⁸ See § 4.1.3 of the Approval Scheme Guide

- 3.10 Should Enigma be appointed as an Approval Body and initiate contact with UKAS, Enigma has agreed that it will submit a more detailed action plan and timetable following an initial meeting and discussion with UKAS. Should any of the timelines on the action plan vary depending on any non-conformities that are identified by UKAS during their initial assessment, and the time taken to correct any problems identified, Enigma has agreed that any such amendments to the plan will be reported to Ofcom as part of the regular progress reports mentioned previously.

Independence

- 3.11 The assessment criteria require that the applicant, its Director and the staff responsible for carrying out the tasks for which the applicant requests to be appointed as an Approval Body must not be a designer, manufacturer, supplier or installer of electronic communications networks or of communications metering and/or billing solutions.
- 3.12 They must also be independent of Communications Providers and avoid direct involvement in the design, construction, operation or maintenance of electronic communications networks or communications metering and/or billing solutions. They shall not represent parties engaged in these activities.
- 3.13 These restrictions do not, however, preclude the possibility of exchanges of technical information, including discussion of the means of meeting the requirements, between such organisations and the applicant requesting to be appointed as an Approval Body⁹.
- 3.14 Enigma is primarily an audit business focussing on customer service, quality and environmental management systems. The Director of Enigma has confirmed to Ofcom that neither he, nor Enigma, have had any involvement with suppliers or designers of billing systems.
- 3.15 Enigma's proposal states that all contracts with employees will specify the requirements to comply with relevant rules and avoid conflicts of interest. Enigma also commits not to provide any products or advice that compromises the independence of the certification process. Enigma will measure this through internal management review with independent verification.
- 3.16 During TRAQS visit to Enigma, discussions took place around independence and confidentiality of its staff. Following these discussions, Enigma introduced a Confidentiality and Independence Declaration form, which its Director has completed and submitted to Ofcom. Any person contracted to Enigma will be required to complete this form as part of a review process aimed to prevent potential conflicts of interest. Any declared interests will be carefully reviewed and managed to uphold independence and confidentiality.
- 3.17 For the reasons set out above, Ofcom considers that Enigma has a credible process in place to ensure that, if appointed, it will be able to ensure the independence of its staff.
- 3.18 Staffing requirements, including independence, also form an integral part of the UKAS accreditation process. All of the standards to which UKAS accredit bodies have core requirements in relation to the staff and organisation being assessed. Any failure to meet these requirements by Enigma would result in UKAS raising non-

⁹ See § 4.2 of the Approval Scheme Guide

conformities and accreditation would not be awarded until these issues had been satisfactorily addressed.

- 3.19 In addition to the regular progress reports that Enigma is required to provide Ofcom in relation to UKAS accreditation, we have agreed that, should they be appointed as an Approval Body, Enigma will also provide us with regular updates about their staffing requirements in connection with metering and billing audit work.

Professional integrity and technical competence

- 3.20 The assessment criteria state that the applicant and its staff must carry out the tasks for which the Approval Body has been accredited with the highest degree of professional integrity and technical competence¹⁰.
- 3.21 The proposal submitted by Enigma says that they will employ staff who are experienced and qualified, to whom they will clearly clarify their roles and responsibilities.
- 3.22 Enigma requires that their audit staff must be educated to degree level and be IRCA¹¹ qualified auditors. They should have experience of working with telecommunications companies and have knowledge of the end to end business processes. They must also have well developed technical, process and relationship skills.
- 3.23 Enigma will measure the ability and competence of their staff through annual staff development and feedback gained from clients/stakeholders about staff performance. This will help to identify areas where training may be required. Enigma has in place a Training Appraisal form and a Client Feedback Tool to assist and document this process.
- 3.24 The report provided to Ofcom by TRAQS says that Enigma has adequately identified the technical requirements for individuals performing tasks associated with the duties of an Approval Body.
- 3.25 Ofcom considers that Enigma has taken reasonable steps to ensure that, if appointed, it will be able to ensure that the requirements around professional integrity and technical competence will be met. In addition, as explained above at 3.20, should Ofcom appoint Enigma as an Approval Body, they will be required to provide us with regular updates on the various staffing requirements.
- 3.26 As mentioned previously, staffing requirements also form an integral part of the UKAS accreditation process. All of the standards to which UKAS accredit bodies have core requirements in relation to the staff and organisation being assessed. These standards cover requirements in relation to integrity and technical competence. Any failure to meet these requirements by Enigma would result in UKAS raising non-conformities and accreditation would not be awarded until these issues had been satisfactorily addressed.
- 3.27 In addition, any body applying for UKAS accreditation must sign the 'UKAS Agreement'. This contains specific requirements regarding integrity, the main one being that the body will not undertake any activity which could bring accreditation into disrepute.

¹⁰ See § 4.3 of the Approval Scheme Guide

¹¹ International Register of Certified Auditors (www.irca.org)

Freedom from pressures and inducements

- 3.28 The assessment criteria require that the applicant and its staff must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of any assessment, especially from persons or groups of persons with an interest in such results¹².
- 3.29 Enigma's proposal to Ofcom anticipates that the Metering and Billing services would not constitute Enigma's core business, thus safeguarding against commercial pressure arising from this activity.
- 3.30 Enigma's process documentation also indicates an internal secondary stage before any metering and billing certification is granted. The final decision whether to grant certification is made by someone independent of the initial auditor.
- 3.31 During their visit to Enigma, TRAQS inspected their documented review process set up to safeguard against pressures and inducements. TRAQS felt that this was satisfactory.
- 3.32 For the reasons set out above, Ofcom considers that Enigma has a credible process in place to ensure that, if appointed, it will be able to ensure freedom from pressures and inducements.

Necessary staff and facilities

- 3.33 The assessment criteria state that the applicant must have at its disposal the necessary staff and facilities to enable it to perform properly the administrative and technical work associated with the tasks for which it requests to be appointed. In particular, the staff responsible for assessments must have:
- sound professional and technical qualifications;
 - a satisfactory knowledge of the evaluations required to be carried out and adequate experience of such assessments;
 - the ability to draw up the certificates, records and reports required to authenticate the performance of the assessments¹³.
- 3.34 Enigma's proposal noted individuals with relevant skills and experience who could be engaged if their application to become an Approval Body was successful. However, these individual are not currently employed by Enigma. TRAQS' report specified that, due to commercial reasons, Enigma is unlikely to confirm contractual links to these individuals prior to gaining status as an Approval Body.
- 3.35 As the individuals identified in Enigma's proposal are not currently employed by Enigma, there is a risk that if Enigma were successful in their application to become an Approval Body, that they may not have the necessary staff to perform the administrative and technical work associated with the requirements of the Scheme. Resourcing will be dependent on Enigma having at least one audit client, which they are not likely to secure until such time as they are appointed as an Approval Body. The size of the clients' operations and the timing of the audit activities will also directly impact resources.

¹² See § 4.3 of the Approval Scheme Guide

¹³ See § 4.4 and 4.5 of the Approval Scheme Guide

- 3.36 Enigma has stated that they are committed to fulfilling all the staffing requirements and they appreciate the importance of being able to assure possible future clients that they can provide reliable and professional audit service.
- 3.37 Enigma's proposal recognises that effective auditing is based on a professional service and allocating an audit team with the appropriate independence, skills and experience. They have a principle in place to employ sufficient and suitable staff, with a specific objective to have three suitable auditors, two suitable client managers and two technical specialists available.
- 3.38 For an individual audit, Enigma would plan to allocate a team to each client comprising of a principal auditor, second auditor (depending on the client circumstances) and a client manager who would act as an independent point of contact and administrator. Enigma also plans to have technical experts available for advice, industry groups and audits where necessary.
- 3.39 In their proposal, Enigma states that associates may be contracted to carry out roles within audits teams. Enigma will take full responsibility for the work of sub-contracted associates and ensure that clients are aware of the contractual relationship. The selection of any such sub-contractors will be based on skills, experience, knowledge, integrity and availability. All staff will be subject to periodic, documented development reviews.
- 3.40 As set out above at 3.21, Enigma requires that their audit staff must be educated to degree level and be IRCA qualified auditors. They should have experience of working with telecommunications companies and have knowledge of the end to end business processes. They must also have well developed technical, process and relationship skills.
- 3.41 TRAQS felt that Enigma satisfactorily demonstrated their understanding of the professional and technical requirements required. TRAQS also confirmed that Enigma has the ability to create certificates, records and reports. TRAQS feel that Enigma's previous involvement with the Quality of Service TopComm scheme indicates that they have a satisfactory understanding of the requirements to perform detailed assessments.
- 3.42 Ofcom considers that Enigma has taken reasonable steps to ensure that, if appointed, it will be able to ensure that the requirements around having in place the necessary staff and facilities will be met. In addition, as explained above at 3.20, should Ofcom appoint Enigma as an Approval Body, they will be required to provide us with regular updates on all of the various staffing requirements, including resources.
- 3.43 As mentioned previously, staffing requirements also form an integral part of the UKAS accreditation process. All of the standards to which UKAS accredit bodies have core requirements in relation to the staff and organisation being assessed. These standards cover requirements in relation to resources and competence. Any failure to meet these requirements by Enigma would result in UKAS raising non-conformities and accreditation would not be awarded until these issues had been satisfactorily addressed.

Impartial inspections

- 3.44 The assessment criteria require that the impartiality of inspection staff must be guaranteed. Their remuneration must not depend on the number of assessments

carried out or on the results of such assessments. The applicant is similarly expected to ensure the impartiality of any contract staff¹⁴.

- 3.45 In its proposal to Ofcom, Enigma has set out an objective to ensure that certification activities are free from commercial pressures. They state that no individual will be incentivised on the basis of certification decisions and that they will carry out all certification activities with integrity and independence.
- 3.46 Enigma plans to appoint an independent consultant to conduct an annual review to confirm that certification activities are being carried out with professional and commercial integrity.
- 3.47 In light of the above information, read alongside the information set out in paragraphs 3.30 to 3.32, Ofcom feels that Enigma has demonstrated that they have processes in place to safeguard the impartiality of their inspection staff.
- 3.48 As mentioned previously, staffing requirements also form an integral part of the UKAS accreditation process. All of the standards to which UKAS accredit bodies have core requirements in relation to the staff and organisation being assessed. These standards cover requirements in relation to impartiality. Any failure to meet these requirements by Enigma would result in UKAS raising non-conformities and accreditation would not be awarded until these issues had been satisfactorily addressed.
- 3.49 As explained above at 3.20, should Ofcom appoint Enigma as an Approval Body, they will be required to provide us with regular updates on the various staffing requirements.

Professional secrecy

- 3.50 The assessment criteria state that the applicant is bound to observe professional secrecy with regard to all information gained in carrying out its tasks, although this does not preclude proportionate information-sharing with Ofcom¹⁵.
- 3.51 In its proposal to Ofcom, Enigma states an understanding that in the performance of its duties it will obtain commercially sensitive and confidential data. Enigma agrees to restrict this information to the performance of its duties. Enigma states that information obtained in the course of certification activities about a product or service shall not be disclosed to a third-party without the written consent of the supplier.
- 3.52 Ofcom is satisfied that Enigma fully understands the obligations in relation to professional secrecy and the importance of handling confidential information that may be commercial sensitive.

Post-designation requirements

- 3.53 Some of the criteria set out in Chapter 4 of the Approval Scheme Guide are not pre-designation requirements, but relate to requirements to uphold the status of an Approval Body. Therefore, we cannot consider such requirements in order to assess whether Enigma is fit for purpose for being designated as an Approval Body. However, in this section we outline what these requirements are and Enigma's understanding of these.

¹⁴ See § 4.6 of the Approval Scheme Guide

¹⁵ See § 4.7 of the Approval Scheme Guide

Requirement	Enigma's understanding
<p>Once appointed, an Approval Body is required to assess Communication Providers' Total Metering and Billing Systems (TMBS) and approve compliant Communication Providers TMBS(s) in accordance with the Direction (see § 4.1.4 of the Approval Scheme Guide).</p>	<p>Ofcom considers that Enigma has a good understanding of the Direction and its requirements. TRAQS shares this view and has stated that Enigma understands the process required in order to make a full assessment of a Communications Providers TMBS. This requirement will also feed into the assessments carried out by UKAS for Enigma to achieve accreditation within 2 years, should they be appointed as an Approval Body.</p>
<p>Once appointed, an Approval Body is required to maintain their status in accordance with GC11, the Direction and the Scheme (see § 4.1.5 of the Approval Scheme Guide).</p>	<p>Enigma recognises the requirement for maintaining the required status. However, compliance with this requirement can only be assessed post-designation, should Enigma be appointed as an Approval Body.</p>
<p>If Enigma is appointed as an Approval Body, they will be required to publish their decisions in accordance with the various requirements of the Act, GC11 and Direction (see § 4.1.6 of the Approval Scheme Guide).</p>	<p>As part of TRAQS review, it was established that Enigma has their own company website which, following slight modification, can incorporate sections related to metering and billing. Enigma has the functionality available to be able to add and amend documentation on their website. Supporting documentation was presented to TRAQS relating to the security and hosting of Enigma's website which appeared satisfactory.</p>
<p>Under the assessment criteria, once appointed, Approval Bodies will promptly submit their implementation documentation for the Scheme to Ofcom, including reference copies of proprietary Scheme documentation (see § 4.8 of the Approval Scheme Guide).</p>	<p>Should Ofcom appoint Enigma as an Approval Body, they will need to submit to us documentation which defines their audit and assessment approach, and also their commercial terms.</p>
<p>The assessment criteria state that Approval Bodies will be expected to contribute information for, and participate in, the Approval Body Forum (ABF) to strive for fair and consistent application of the Scheme to Communication Providers. The ABF will employ electronic communication and meet as appropriate (see § 4.9 of the Approval Scheme Guide).</p>	<p>Enigma is aware of its responsibility to attend and participate at the ABF. They are aware that the function of the ABF is to share and discuss issues surrounding the Scheme. In its proposal to Ofcom, Enigma has highlighted an individual/role who would attend the ABF on their behalf.</p>
<p>The assessment criteria require that Approval Bodies appointed under the Scheme are expected to recognise each</p>	<p>Should they be appointed as an Approval Body, Enigma is aware of its responsibility to co-operate with the other</p>

<p>other's Approval activities and to co-operate in the Approval of TMBS(s) spanning multiple Communications Providers. In particular, where the TMBS for a particular service involves multiple Communications Providers, then it is expected that an Approval Body already assessing a second party Communication Provider's systems will also assess those parts on which other third party Communication Providers are dependant (see § 4.10 and 4.11 of the Approval Scheme Guide).</p>	<p>Approval Bodies. Enigma is aware how the ABF would be useful in discussing and agreeing any issues that may arise.</p>
<p>The assessment criteria set out that Approval Bodies should note that under CG11.4, they may make directions with which the Communications Provider must comply. In the vast majority of situations this process will be manifested as a mutual agreement of the appropriate interpretations to be placed upon Scheme documentation in the particular circumstances. However, in the event of a failure ultimately to agree, an Approval Body may invoke this power and will inform Ofcom, who may wish to advise the Approval Body upon the appropriateness of their action (see § 4.12 of the Approval Scheme Guide).</p>	<p>Enigma is aware of the responsibility that an Approval Body holds and its commercial connection to Communications Providers as clients. During TRAQS visit to Enigma, the escalation of issues to Ofcom was discussed. Although this is seen as a last resort, Enigma showed an understanding that this formed part of the overall process.</p>

Conclusions

- 3.54 We have considered Enigma's request against the criteria set out in the Approval Scheme Guide. In order to assess whether Enigma meets these assessment criteria, we have taken into account the following elements: (i) Enigma's proposal, (ii) the findings set out in TRAQS' report (Annex 6), further information provided by Enigma, as well as its action plan (Annex 7).
- 3.55 The report provided to Ofcom by TRAQS states that their "*findings did not uncover any significant issues relating to EnigmaQPM's proposal to be considered as a Metering and Billing Approval Body and therefore confirm that in the main EnigmaQPM meet the criteria set out in Chapter 4 of the Total Metering and Billing Systems Approval Scheme Guide, June 2005*".
- 3.56 Ofcom is satisfied that Enigma has taken reasonable steps, and has a credible action plan, to meet all of the relevant requirements. We consider that Enigma has systems and supporting documentation in place to achieve the outstanding UKAS accreditation and the various staffing requirements set out in the Approval Scheme Guide. Should Enigma be appointed as an Approval Body, progress against these requirements will be measured through the UKAS accreditation process and regular progress reports being made to Ofcom.

- 3.57 Therefore, we consider that, subject to consultation, Enigma may be appointed as an Approval Body because it fulfils the relevant requirements.
- 3.58 We are seeking views on our proposal to appoint Enigma as an Approval Body and the amendment to GC11.7(b) to reflect this.
- 3.59 Once appointed, Approval Bodies are subject to all of the post-designation requirements set out in Chapter 4 of the Approval Scheme Guide. Ofcom considers that Enigma has a good understanding of these post-designation requirements. Any non-compliance with these requirements may result in Ofcom withdrawing the status of an Approval Body.

Application of section 47 tests

- 3.60 In accordance with section 47(2) of the Act, any proposed modification to GC11.7(b) must be:
- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what the condition or modification is intended to achieve; and
 - d) transparent in relation to what it is intended to achieve.
- 3.61 Subject to consultation, Ofcom is satisfied that these tests have been met. The proposed modification to GC11.7(b) is objectively justifiable as it will ultimately increase the number of metering and billing Approval Bodies.
- 3.62 The proposed modification to GC11.7(b) does not discriminate. The criteria that we have used to assess Enigma's proposal applies equally to all existing and potential Approval Bodies.
- 3.63 The proposed modification to GC11.7(b) is proportionate as we apply the same criteria to ensure that applicants are fit for purpose for assessing the metering and billing systems of Communications Providers, without requiring them to meet any additional condition.
- 3.64 Finally, the proposed modification to GC11.7(b) is transparent as we are consulting stakeholders. If we do appoint Enigma as an Approval Body, this will be clearly set out in a concluding Statement and the revised GC11.7(b).

Impact Assessment and Equality Impact Assessment

- 3.65 The analysis presented in Annex 5 is an impact assessment, as defined in section 7 of the Act.
- 3.66 We also considered whether we were required to undertake a full equality impact assessment (EIA). On the basis of our initial EIA screening, we determined that this was not required. The proposed appointment of Enigma as an Approval Body does not raise specific equality issues; it will affect consumers equally, regardless of race, disability, gender or any other relevant equality strand.

Consultation question

Q1. Do you agree with our proposal to appoint Enigma as an Approval Body? If not, please provide your reasons.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 11 June 2010**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://www.ofcom.org.uk/consult/condocs/enigma/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email meteringandbilling@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Rachel Bennett
Floor 6
Consumer Affairs Team
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3406
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the question asked in this document, which is listed at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and question raised in this consultation, or need advice on the appropriate form of response, please contact Rachel Bennett on 020 7783 4482.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether

all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement later during summer 2010.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email vicki.nash@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals. We are consulting for 6 weeks on the proposal to appoint Enigma, which we are treating as a 'category 2 consultation' i.e. whilst containing important policy proposals is of interest to a limited number of stakeholders who will be aware of the issues.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Consultation question

Q1. Do you agree with our proposal to appoint Enigma as an Approval Body? If not, please provide your reasons.

Annex 5

Impact Assessment

Introduction

- A5.1 The analysis presented in this annex represents an impact assessment, as defined in section 7 of the Communications Act 2003 (the Act).
- A5.2 You should send any comments on this impact assessment to us by the closing date for this consultation. We will consider all comments before deciding whether to implement our proposals.
- A5.3 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on our website:
http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf

The citizen and/or consumer interest

- A5.4 A key feature of electronic communications services is that customers are not readily able to quantify their use or verify their bills with any degree of confidence or accuracy. Unlike in gas and electricity usage, for example, there is no domestic meter to enable customers to monitor their volume of usage. The sheer volume of services used and the complexity of billing due to the nature of the bundled packages purchased by a consumer, make it extremely difficult for a consumer to check that their bill is correct.
- A5.5 As a result, although customers may be able to identify major errors, to a large extent they have to take the bills they receive on trust. It is therefore important for Ofcom to ensure that such trust is justified, that customers are not overcharged and that consumer confidence in the accuracy of bills is maintained.

Ofcom's policy objectives

- A5.6 There is a general case for ensuring that customers are correctly charged for their use of communications services. Although the price of communication services continues to fall, it can still represent a significant proportion of customers' outgoings. As has been argued above, the case for regulation is in part justified by the lack of transparency associated with the billing process. Customers are not able to oversee the metering process in action in the way that they can look at their utility meters to assess current use on a regular basis. For this reason, bill payers have to trust that their use has been accurately recorded and charged for.
- A5.7 Even though itemised billing has improved the quality and range of information available to customers wishing to verify their bills, it is not sufficient as a stand-

alone measure. Few residential subscribers are able to maintain detailed call logs in the same way that corporate users do. There are also some services – the obvious example is mobile pre-pay services – which are not billed for at all in the conventional way. In addition, call discounts and the effect of free minutes associated with some telephony packages make verification extremely difficult.

A5.8 As a result Ofcom has two objectives associated with the metering and billing approval scheme:

- to ensure that customers are not overcharged; and
- to maintain customer confidence of their bills.

The issue and the options

A5.9 Providers of PATS must seek and obtain approval of their metering and billing systems when their relevant annual turnover exceeds £40m. This is a requirement of GC11.

A5.10 The third-party assessors that providers of PATS seek and obtain approval from are known as Approval Bodies. They are appointed by Ofcom and are identified within GC11.7(b).

A5.11 There are currently two appointed Approval Bodies identified within GC11.7(b). Ofcom has received a request from a third organisation, Enigma, to be appointed as an Approval Body.

A5.12 The issue is whether Ofcom should grant Enigma status as an Approval Body. The two existing Approval Bodies have not been granted exclusive rights and the regulatory framework does not allow Ofcom to restrict the number of Approval Bodies. Therefore we have considered Enigma's request in full.

Our assessment of Enigma's request

A5.13 The criteria against which a new Approval Body is assessed is set out in Chapter 4 of the Approval Scheme Guide. We have used these criteria when assessing the formal proposal that Enigma has submitted to Ofcom.

A5.14 In addition to our own assessment of Enigma against the criteria, we also commissioned a consultancy firm, TRAQS, to advise whether it considers Enigma meets the requirements of an Approval Body. TRAQS' assessment included a review of Enigma's proposal and a site visit. TRAQS has provided us with a report of their findings, a copy of which can be found at Annex 6.

A5.15 Ofcom's assessment of Enigma's request against the assessment criteria, and our conclusion, are set out in paragraphs 3.2 to 3.59 above.

Impact of our proposal on consumers and stakeholders

A5.16 Our proposal to appoint Enigma as an Approval Body will not alter the continuity of current regulations and the current level of consumer protection and confidence will be maintained.

A5.17 Although Communications Providers incur approval costs under the Metering and Billing Direction, our proposal will not impose additional costs or burdens. The

requirement under GC11, namely that providers of PATS must seek and obtain approval of their metering and billing systems if their relevant annual turnover exceeds £40m, remains unchanged.

- A5.18 The introduction of Enigma as a third Approval Body will provide greater choice to Communications Providers when seeking approval of their metering and billing systems. Increased competition in the Approval Body Market could in turn lead to more competitive rates for Communications Providers. Should this be the case, any savings made by Communications Providers may result in lower prices being passed on to consumers.
- A5.19 Additionally, if increased competition in the Approval Body market was to lead to lower rates for Communications Providers seeking approval, it may be the case that more providers are able to afford to seek voluntary approval.
- A5.20 Therefore, it could be the case that a number of Communications Providers that are currently below the £40m threshold seek voluntary approval of their metering and billing systems. If this were to happen, more consumers would be protected under the Scheme, in turn resulting in raised consumer confidence in the accuracy of bills.
- A5.21 Of course there remains a risk that we could appoint Enigma as an Approval Body and they fail to carry out the duties required of it. As mentioned previously, any non-compliance with the various requirements set out in Chapter 4 of the Approval Scheme Guide, may result in Ofcom withdrawing the status of an Approval Body.
- A5.22 If this was to happen and we had to withdraw the Approval Body status from Enigma, this would not alter or reduce the current level of consumer protection. Any clients that Enigma may have secured in their time as an Approval Body would have the option of switching to one of the other two existing Approval Bodies.

Equality Impact Assessment (EIA)

- A5.23 We also considered whether we were required to undertake a full EIA for this review. On the basis of our initial EIA screening, we determined that this was not required. The appointment of Enigma as an Approval Body does not raise specific equality issues; it will affect consumers equally, regardless of race, disability, gender or any other specific equality strand.

Annex 6

TRAQS Report

Background

The Ofcom Metering and Billing Systems Approval Scheme aims to enhance end-user confidence in the accuracy of charges from Communications Providers, by the testing and certification of the systems and processes involved in creating those charges and generating bills and prepay debits. Some Communications Providers are required to enter the Scheme under the General Conditions of Entitlement and others have voluntarily chosen to obtain approval as a demonstration of best practice.

General Conditions of Entitlement 11, paragraph 4, require Communications Providers to apply to an Approval Body for Approval of its Total Metering and Billing System. Currently, there are two Approval Bodies who are eligible to make assessments for Communications Providers. Ofcom have received a request from EnigmaQPM to be considered as an Approval Body and therefore have requested TRAQ-Solutions to provide recommendations on whether EnigmaQPM meet the criteria set out in Chapter 4 of the Total Metering and Billing Systems Approval Scheme Guide, June 2005.

Review Findings

The following paragraphs identify the specific clauses from Chapter 4 of the Total Metering and Billing Systems Approval Scheme Guide, June 2005 and our findings and recommendations related to compliance by EnigmaQPM.

Approval Bodies

4.1 Approval Bodies are subject to the following requirements:

4.1.1 They are appointed by Ofcom and identified in the Condition.

4.1.2 They have accreditation from a European Accreditation Body (EA) to the international standard EN 45011 to carry out the Metering and Billing Approval process as defined in the Direction. The EA will be the United Kingdom Accreditation Service (UKAS) or an appropriate alternative EA agreed between the Approval Body and Ofcom.

4.1.3 If not accredited, as described above in article 4.1.2 of this Guide, they have an action plan for achieving accreditation within two years of appointment, with progress reports being made to Ofcom at agreed intervals.

EnigmaQPM do not currently possess accreditation to the international standard EN 45011 to carry out the Metering and Billing Approval process. However, under the schemes guidance, EnigmaQPM have put in place processes and supporting documentation in order to gain accreditation within two years of being appointed as a Metering and Billing Approval Body. EnigmaQPM have stated that they will initiate the accreditation process with UKAS pending acceptance on their request to Ofcom for becoming an Approval Body as the UKAS accreditation process cannot be started before this. EnigmaQPM have a good understanding of the UKAS accreditation process and timescales.

4.1.4 They will assess Communication Providers' TMBS(s) and approve compliant Communication Providers TMBS(s) in accordance with the Direction.

Discussions with EnigmaQPM's director (Ray Murphy) confirmed a good understanding of the Directions requirements with respect to the Total Metering and Billing Scheme and the likely process required in order to make a full assessment of a Communications Provider.

4.1.5 They maintain their status in accordance with the Condition, the Direction and this Scheme.

EnigmaQPM have confirmed a commercial interest in being acknowledged as an Approval Body for the Metering and Billing scheme and recognise the requirement for maintaining the required status. However, ongoing status compliance can only be assessed via further reviews and could not be confirmed during this single assessment.

4.1.6 Their decisions are published in accordance with the various requirements of the Act, Condition and Direction.

EnigmaQPM have their own company website which will require slight modification to insert sections related to the Metering and Billing scheme. It was confirmed that EnigmaQPM have the functionality to add and amend documentation on their website, although at the time of the review the security aspect of the website was unclear. Following a further request EnigmaQPM have provided supporting documentation relating to the security and hosting of the website which appears to be satisfactory.

4.1.7 Their details are displayed on Ofcom's Metering and Billing web-pages.

This will need to be implemented by Ofcom and therefore was not part of this review.

4.2 The Approval Body, its director and the staff responsible for carrying out the tasks for which the Approval Body has been appointed must not be a designer, manufacturer, supplier or installer of electronic communications networks or of communications metering and / or billing solutions. They must be independent of Communications Providers and avoid direct involvement in the design, construction, operation or maintenance of electronic communications networks or communications metering and / or billing solutions. They shall not represent parties engaged in these activities. These restrictions do not, however, preclude the possibility of exchanges of technical information, including discussion of the means of meeting the requirements, between such organisations and the Approval Body.

EnigmaQPM's proposal to Ofcom noted individuals who could be engaged if their application for Metering and Billing Approval Body status was deemed successful. It was confirmed that these individuals are not currently employed by EnigmaQPM. There is a potential risk therefore, that if EnigmaQPM were successful in their application and became an official Approval Body, that there may be insufficient staff to comply with their process and the scheme's requirements. EnigmaQPM are unlikely to confirm contractual links to these individuals prior to Ofcom's approval, due to commercial reasons.

EnigmaQPM agreed with this potential risk but also stated that due to their network within the industry they may also have an advantage over other Approval Bodies in such that they are not restricted to employed personnel but are free to select best available candidates

within the industry. This led to further discussions around independence and confidentiality which also highlighted a further potential risk with individuals having designer, manufacturer, supplier, installer or commercial links to Communication Providers. Since this review, EnigmaQPM have introduced a process and declaration form to check and safeguard against these potential conflicts of interest.

A review of the EnigmaQPM website identifies the company as primarily being a supplier of audit services and does not suggest any links to designing, manufacturing, supplying or installing electronic communications networks or of metering and / or billing solutions. This was later confirmed by its company Director, DR Ray Murphy, who also does not have any involvement with communications providers which conflict with the TMBS guidelines.

4.4 The Approval Body and its staff must carry out the tasks for which the Approval Body has been accredited with the highest degree of professional integrity and technical competence. They must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of any assessment, especially from persons or groups of persons with an interest in such results.

EnigmaQPM's proposal documentation adequately identifies the technical requirements for individuals performing tasks associated with the Approval Body duties. As with clause 4.2, EnigmaQPM have a documented review process to safeguard against any pressures and inducements, and upon inspection appeared to be satisfactory. It is anticipated by EnigmaQPM that the overall financial impact from the Metering and Billing scheme would not be sufficient to influence decisions or results. EnigmaQPM's approval process documentation indicates an internal secondary stage where the assessor must also justify their decision from a Metering and Billing assessment to an impartial committee.

4.4 The Approval Body must have at its disposal the necessary staff and facilities to enable it to perform properly the administrative and technical work associated with the tasks for which it has been appointed

As with clause 4.2 we see this as a potential risk as EnigmaQPM do not currently employ the necessary staff to perform the administrative and technical work associated with the scheme's requirements. However, we understand that commercially it is not viable to initiate recruitment or contracts until Approval Body status is confirmed, and possibly even delayed further until potential clients are engaged. It is not expected for EnigmaQPM to make a sufficient immediate impact on Communication Providers as to require staff and facilities from the point of Ofcom's decision, but nevertheless, this needs to be considered.

4.5 The staff responsible for assessments must have:

- *Sound professional and technical qualifications;*
- *A satisfactory knowledge of the evaluations required to be carried out and adequate experience of such assessments; and*
- *The ability to draw up the certificates, records and reports required to authenticate the performance of the assessments.*

As with earlier clauses, EnigmaQPM have satisfactorily demonstrated their understanding of the professional and technical requirements and also have the ability to create certificates, records and reports. EnigmaQPM's previous involvement in a similar Ofcom scheme "Quality of Service" confirmed a satisfactory understanding of the requirements to perform detailed assessments.

4.6 The impartiality of inspection staff must be guaranteed. Their remuneration must not depend on the number of assessments carried out or on the results of such assessments. The Approval Body is similarly expected to ensure the impartiality of any contract staff.

See findings from clauses 4.2 & 4.3

4.7 The staff of the Approval Body are bound to observe professional secrecy with regard to all information gained in carrying out its tasks, although this does not preclude proportionate information-sharing with Ofcom.

EnigmaQPM have introduced a process and declaration form to check and safeguard against these potential conflicts of interest.

4.8 Approval Bodies will promptly submit their implementation documentation for the Scheme to Ofcom, including reference copies of proprietary Scheme documentation.

We understand that EnigmaQPM have submitted implementation documentation to Ofcom and this has already been partially reviewed.

4.9 Approval Bodies will be expected to contribute information for, and participate in, the ABF to strive for fair and consistent application of the Scheme to Communication Providers. The ABF will employ electronic communication and meet as appropriate.

EnigmaQPM are aware of the responsibility to attend and participate with the industry forum ABF and the requirements to responsibly share and discuss issues surrounding the scheme. EnigmaQPM 's proposal documentation highlights an individual role who would attend these forums on their behalf.

4.10 Approval Bodies appointed under this Scheme are expected to recognise each other's Approval activities and to co-operate in the Approval of TMBS(s) spanning multiple Communications Providers. Inter-provider dependencies may result in one Approval Body finding evidence to suggest Non-Compliance or similar of a Communications Provider approved by another Approval Body. This should be brought to the attention of the latter Approval Body for investigation and if unresolved, referred to the ABF for peer review.

4.11 In particular, where the TMBS for a particular service involves multiple Communications Providers, then it is expected that an Approval Body already assessing a second party Communication Provider's systems will also assess those parts on which other third party Communication Providers are dependant. Each Communication Provider is expected to be responsible for the costs of its Approval Body. Article 5.4 of this Guide also refers.

EnigmaQPM are aware of the responsibility to co-operate with other Approval Bodies and how the ABF would be useful in discussing and agreeing issues, should they occur.

4.12 Approval Bodies should note that under paragraph 11.4 of the Condition, they may make directions with which the Communications Provider must comply. In the vast majority of situations this process will be manifested as a mutual agreement of the appropriate interpretations to be placed upon Scheme documentation in the particular circumstances. However, in the event of a failure ultimately to agree, an Approval Body may invoke this power and will inform Ofcom, who may wish to advise the Approval Body upon the appropriateness of their action.

EnigmaQPM are aware of the responsibility as an Approval Body and its commercial connection to Communication Providers as clients. The escalation of issues to Ofcom was discussed and although seen as a last resort, EnigmaQPM understood this as part of the overall process.

Review Summary and Recommendations

Overall, our findings did not uncover any significant issues relating to EnigmaQPM's proposal to be considered as a Metering and Billing Approval Body and therefore confirm that in the main EnigmaQPM meet the criteria set out in Chapter 4 of the Total Metering and Billing Systems Approval Scheme Guide, June 2005 in the main met.

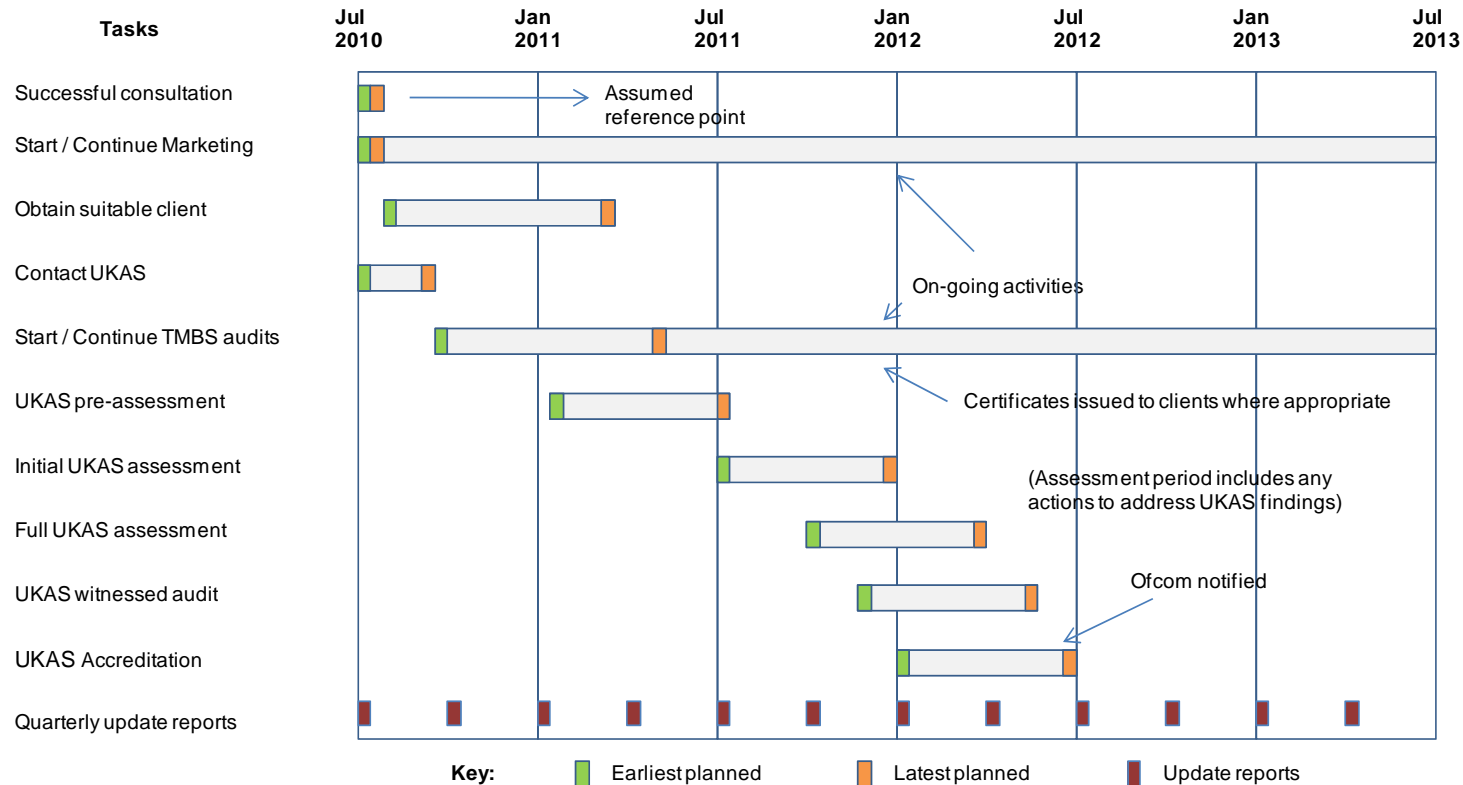
Two factors were highlighted which require action, but it is understood that these will only be attended if Ofcom accept EnigmaQPM as an Approval Body. These two factors relate to a) ensuring sufficient staff/resources are available to complete the tasks associated with the Metering and Billing requirements, and b) obtaining accreditation to the international standard 45011 to carry out the Metering and Billing assessments. It is expected however, that any new Approval Body would have to develop the necessary resources and couldn't obtain the necessary UKAS approval until they had obtained clients and carried out Metering and Billing audits.

Annex 7

Enigma's Action Plan on achieving UKAS accreditation



UKAS Accreditation Plan for TMBS Audit Body



Comments on Plan

Key activities:

- The plan anticipates a range within which key activities are likely to take place
- The plan assumes a start point based on successful completion of the Ofcom consultation
- Once initiated, auditing and marketing are on-going activities
- UKAS will be contacted prior to commencing audits to discuss accreditation
- The plan will be subject to change as agreed with UKAS and relevant clients
- A quality system will be in place prior to the start of TMBS audit activities
- Quarterly updates of staffing and UKAS progress will be provided to Ofcom

Annex 8

Notification on General Condition 11 on Metering and Billing

Notification of a proposed modification under section 48(2) of the Communications Act 2003

Proposal for a modification to General Condition 11 on Metering and Billing

1. Ofcom in accordance with section 48(2) of the Act hereby makes the following proposals for a modification of General Condition 11 on Metering and Billing, as set by the General Condition Notification;
2. The draft modification is set out in the Schedule to this Notification;
3. The effect of, and Ofcom's reasons for making, the proposals referred to in paragraph 1 above is set out in the accompanying explanatory statement;
4. Ofcom considers that the modification referred to in paragraph 1 above complies with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to each of the proposed modifications;
5. In making the proposals set out in this Notification, Ofcom has considered and acted in accordance with their general duties in section 3 and of the Act and the six Community requirements in section 4 of the Act;
6. Representations may be made to Ofcom about the proposals set out in this Notification by **5pm on 11 June 2010**;
7. The modification shall enter into force on the date of publication of the final Notification;
8. Copies of this Notification and the accompanying statement have been sent to the Secretary of State in accordance with section 50(1)(a) of the Act;
9. In this Notification:
 - a) "**the Act**" means the Communications Act 2003;
 - b) "**General Condition Notification**" means the notification setting General Conditions under section 45 of the Act, issued by the Director General of Telecommunications on 22 July 2003, as subsequently amended;
 - c) "**Ofcom**" means the Office of Communications;
10. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
11. For the purpose of interpreting this Notification:

- d) headings and titles shall be disregarded; and
- e) the Interpretation Act 1978 shall apply as if this Act were an Act of Parliament.

12. The Schedule to this Notification shall form part of this Notification.



Claudio Pollack
Director of Consumer Affairs

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

30 April 2010

Schedule

The definition of “Approval Body” set out in General Condition 11.7(b) shall be modified as set out below:

- (i) the word ‘and’ between ‘British Approval Board for Telecommunications (BABT)’ and ‘the British Standards Institution (BSI)’ shall be deleted and replaced with a comma and;
- (ii) the words ‘and Enigma QPM’ shall be added to the sentence after the word ‘(BSI)’.

For ease of reference the deleted text has been struck through and the added text underlined and highlighted in yellow:

11.7(b)

“Approval Body” means the British Approval Board for Telecommunications (BABT), ~~and~~ the British Standards Institution (BSI) and Enigma QPM.

Annex 9

Glossary

BABT	British Approvals Board of Telecommunications
BSI	British Standards Institution
EAB	European Accreditation Body
Enigma	Enigma QPM Ltd
GC	General Condition
GC11	General Condition 11 on Metering and Billing
IRCA	International Register of Certified Auditors
Ofcom	Office of Communications
Oftel	Office of Telecommunications
PATS	Publicly Available Telephone Service
PECS	Public Electronic Communications Service
QoS	Quality of Service
TMBS	Total Metering and Billing System
TRAQS	Total Reporting and Quality Solutions Ltd (TRAQS)
UKAS	United Kingdom Accreditation Service