



Changes to BT and KCOM's regulatory financial reporting 2008/09 update

Consultation

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Contents

Section		Page
1	Executive Summary	2
2	Introduction	5
3	Improvements to reporting in the RFS	8
4	Implementation of reporting changes as a result of market reviews concluded in 2008	23
5	Other items for information	32
Annex		Page
1	Responding to this consultation	39
2	Ofcom's consultation principles	41
3	Consultation response cover sheet	42
4	Consultation questions	44
5	Impact Assessment	45
6	Legal Tests	47
7	Proposed Notification to BT and KCOM	65
8	Annex – SMP Services markets	70
9	Notification of Proposed Amendments to Direction 3	74
10	Notification of Proposed Amendments to Direction 4 and the FA10 Direction (BT)	95
11	Notification of Proposed Amendments to Direction 3 (KCOM)	132
12	Notification of Proposed Amendments to Direction 4 (KCOM)	148
13	Notification of a proposal to make Directions under OA22 and FA10.22	154

Section 1

Executive Summary

Background

- 1.1 Relevant, reliable and timely financial information is fundamental to the effective economic regulation of the electronic communications sector. It provides the data and evidence that informs many of our decisions. We require this information in order to monitor and enforce various obligations that are placed on dominant providers in markets where they are found to have significant market power (“SMP”).
- 1.2 As a result of changes in the regulatory, technological and competitive environment, our ongoing review and use of the regulatory financial statements (RFS) and discussions with BT we have identified a number of areas where we propose to enhance the presentation and improve the quality of BT's RFS.
- 1.3 Our proposals fall broadly into three categories:
 - Changes to aspects of the preparation of the RFS;
 - Improvements to reporting in the markets reviewed during 2008 in the Business Connectivity Market Review¹ (the “BCMR”), the replicability review² and the Leased Lines Charge Control³ (the “LLCC”); and
 - Implementation of the changes set out in the recent wholesale broadband access statement (“the WBA statement”)⁴ and the business connectivity market review statement (“the BCMR statement”)⁵.
- 1.4 The current regulatory financial reporting regime is also applicable to KCOM (previously Kingston Communications plc). This time we have one minor proposal that will also affect KCOM. This implements changes to market names and definitions in the business connectivity and wholesale broadband access markets.
- 1.5 The table below summarises the objectives we address in this consultation and our proposals on each.

¹ <http://www.ofcom.org.uk/consult/condocs/bcmr08/bcmr08.pdf>

² The purpose of the review was to determine whether other Communications Providers were able to replicate, technically and commercially, the retail services provide by BT. The report highlighted a number of issues in terms of accounting and reporting in the regulatory financial statements. This review is at Annex 13 to the Business Connectivity Market Review Consultation <http://www.ofcom.org.uk/consult/condocs/bcmr/>

³ <http://www.ofcom.org.uk/consult/condocs/llcc/leasedlines.pdf>

⁴ <http://www.ofcom.org.uk/consult/condocs/wbamr07/statement/statement.pdf>

⁵ See footnote [1]

<i>Objective/Issue</i>	<i>Proposal</i>	<i>Location in consultation</i>
<p>1) Change to ensure consistent recognition of costs and revenues</p> <p>We have found examples where BT sells equipment either externally or internally and recognises the revenue upfront and capitalises the costs and depreciates them over the life of the equipment. This hinders the users' ability to properly understand service costs and revenues.</p>	<p>BT addresses the non-matching of costs and revenues in relevant markets and services by either amending their regulatory accounting treatment or by providing extra disclosure that allows the reader to see adjusted market and service costs and profitability.</p>	<p>Section 3, paragraphs 3.2 – 3.35</p>
<p>2) Improvements to reporting in business connectivity markets</p> <p>We have identified areas for improvement through the replicability review, the LLCC and the BCMR. These are necessary to aid the monitoring of BT's cost orientation and no undue discrimination obligations.</p>	<p>Separate identification and reporting of costs for ancillary services such as equipment and infrastructure charges, ECCs and resilience.</p> <p>Formal requirement for the preparation, for Ofcom only, of gross margin statements for the downstream product groups covered by the business connectivity markets.</p> <p>Report local end internal and external unit costs to reflect, where relevant, the point of handover element in the external costs only.</p> <p>Publication of cost stack analysis underlying partial private circuit (PPC) services and technical areas, online after the publication of the RFS (This additional financial information (AFI) was provided to Ofcom only in 2007/08).</p> <p>Prepare a reconciliation, for Ofcom only, showing the difference between the total revenue in BT's general ledger and the calculated service by service revenue for each of the markets covered by the replicability review.</p> <p>Ensure that, for each service, the reported unit is consistent with the basis on which that service is sold in BT's price list.</p>	<p>Section 3, paragraphs 3.36 – 3.46</p> <p>Section 3, paragraphs 3.64 – 3.71</p> <p>Section 3, paragraphs 3.47 – 3.54</p> <p>Section 3, paragraphs 3.55 – 3.63</p> <p>Section 3, paragraphs 3.72 – 3.81</p> <p>Section 3, paragraphs 3.82 – 3.87</p>
<p>3) Implementation of changes set out in recent market review statements</p> <p>Two market reviews were concluded in 2008; for wholesale broadband access (WBA) and business connectivity markets. These reviews made changes to existing market definitions and introduced geographic markets. These changes need to be reflected in the regulatory reporting for BT and KCOM.</p> <p>Geographic reporting in the relevant business connectivity markets will not be implemented until 2009/10 therefore the national market will continue to be reported.</p>	<p>Changes to the form and content to implement geographic reporting in WBA markets and any changes to market definitions. Includes publication of information on the national market (and therefore limited disclosure of non-SMP market 3).</p> <p>Provision of complete information for all three WBA markets to Ofcom only, on a cost accounting and EOI basis.</p> <p>Changes to some of the form and content of the statements to take account of any new market definitions in the business connectivity area</p>	<p>Section 4, paragraphs 4.4 – 4.24</p> <p>Section 4, paragraphs 4.18 – 4.19</p> <p>Section 4, paragraphs 4.25 – 4.48</p>
<p>4) Removal of reporting for markets that account for less than £10m revenue</p>	<p>BT have proposed – on the basis of materiality – that they do not report wholesale technical areas (point of handover), wholesale residential ISDN2, retail operator assisted calls in the UK and retail residential IDD calls category B.</p> <p>We are minded to agree except in the case of the point of handovers technical area. We set out our justification in section 4.</p>	<p>Section 4, paragraphs 4.49 – 4.56</p>

- 1.6 There are other items for stakeholders' information in section 5, which in general highlight reporting principles and some items from our consultation on "A new Pricing Framework for Openreach" ("the Openreach consultation")⁶. These are set out in the table below.

<p>Issues identified in "A New Pricing Framework for Openreach" consultation</p> <p>These relate to the reporting of Low User Scheme (LUS) costs in Openreach and the potential over-allocation of costs to regulated services.</p>	<p>Remove costs of the low user scheme (LUS) from the Openreach entity as reported in the RFS, which are required by the financial reporting obligations in the BT Undertakings⁷.</p> <p>Subject to the outcome of the Openreach consultation, BT to amend the allocation bases for the regulated Openreach services to ensure that non-regulated services are picking up an appropriate share of costs.</p>
<p>Other items</p> <p>These are items for stakeholders' information and require no specific changes to the existing legal Conditions.</p>	<p>All new services should be reported and those that have revenue and/or operating costs above £10m should be separately and fully reported within the relevant markets</p> <p>BT should disclose discounts which represent 5% or more of gross revenues in a market.</p> <p>Change to the order of the accounts with no loss of information.</p>

- 1.7 Separate to this consultation, which deals with ongoing improvements and modifications to the existing reporting regime, we also intend to undertake a "clean sheet" reassessment of the reporting framework. This reassessment will ask fundamental questions about the information required to ensure compliance with obligations or provide reliable evidence for other regulatory purposes such as investigations. Our intention is that we will formulate options and proposals that underpin new arrangements for the ongoing provision of regulatory financial information for consultation in the summer.
- 1.8 The closing date for responses to the consultation as set out in this document is 5pm on 1 May 2009.

⁶ <http://www.ofcom.org.uk/consult/condocs/openreachframework/off.pdf>

⁷ In June 2005, British Telecommunications plc ('BT') offered Ofcom a set of undertakings in lieu of Ofcom making a reference to the Competition Commission under the Enterprise Act 2002. In September 2005, we accepted those undertakings. A consolidated version of the BT Undertakings that includes subsequent variations can be found at <http://www.ofcom.org.uk/telecoms/btundertakings/consolidated.pdf>.

Section 2

Introduction

Background

- 2.1 Relevant, reliable and timely regulatory financial information is fundamental to the effective economic regulation of the electronic communications sector. It provides the data and evidence that informs many of our decisions.
- 2.2 Under sections 87 to 92 of the Communications Act 2003 (the “Act”) there are a range of remedies that can be implemented by Ofcom once it has been determined that an undertaking has SMP in an identified services market. These include obligations:
- to offer cost-oriented charges;
 - not to discriminate unduly; and
 - to cap prices, i.e. price controls.
- 2.3 These obligations are designed to exercise Ofcom’s duties under sections 3 and 4 of the Act. This includes the duty to further the interests of consumers in relevant markets by promoting competition and to act in accordance with the six Community requirements, the first of which is to promote competition. Where these obligations have been imposed it is essential that they are monitored and enforced effectively. Therefore, it is necessary to have appropriate regulatory financial reporting.
- 2.4 This information can be either on a regular (e.g. annual) basis for ongoing monitoring purposes or on-request, for example in connection with investigations.
- 2.5 RFS, like any form of business information, evolve over time to reflect a range of internally and externally driven factors. These include changes to accounting policies and standards, improved understanding or knowledge of cost drivers, changes in technologies and business processes and changes in the regulatory environment.

Reassessment of the reporting framework

- 2.6 Separate to this consultation which deals with ongoing improvements and modifications to the existing reporting regime we also intend to undertake a “clean sheet” reassessment of the reporting framework. This reassessment will ask fundamental questions about the information required to ensure compliance with obligations or provide reliable evidence for other regulatory purposes such as investigations or the establishment of price controls. Our intention is that we will formulate options and proposals that underpin new arrangements for the ongoing provision of regulatory financial information for consultation in the summer.

Structure of the document

- 2.7 Section 3 sets out the specific proposals for BT to make improvements to the RFS. Most of these proposals are derived from our work connected with market reviews and the replicability project.

- 2.8 Subject to the outcome of this consultation, we expect these proposed changes to be implemented in time to apply to BT's 2008/09 reporting obligations.
- 2.9 Section 4 sets out the proposed changes required to the reporting as a result of the conclusions of the WBA statement and the BCMR statement. These include geographic reporting and changes to market definitions in the wholesale broadband access markets and changes to market definitions in the markets covered by the BCMR. This is the one area that applies to KCOM as well as BT. This section also includes a proposal from BT to remove reporting for markets that account for less than £10m of revenue.
- 2.10 Section 5 sets out the areas where we want to flag general reporting requirements that we have put in place in past reporting statements, as they are seen to be potentially relevant to 2008/09. We have also highlighted areas identified through other projects - which have not yet been concluded - to bring to BT's attention any other changes that may need to be made.
- 2.11 In addition there is an area that relates to the attribution of LUS costs to Openreach markets. The Openreach reporting is not subject to the SMP conditions we use to make changes to the way in which the RFS are prepared. We discuss this further in section 5.

Business connectivity markets

- 2.12 A number of the proposals in this document just apply to the markets covered by the BCMR or those covered in the replicability review. These markets for clarification purposes are:
- Wholesale low bandwidth traditional interface symmetric broadband origination (up to and including 8Mbit/s)
 - Wholesale high bandwidth traditional interface symmetric broadband origination (above 8 Mbit/s up to and including 45Mbit/s)
 - Wholesale very high bandwidth traditional interface symmetric broadband origination (above 45Mbit/s up to and including 155Mbit/s)
 - Wholesale alternative interface symmetric broadband origination (up to and including 1Gbit) (AISBO)*
 - Wholesale trunk segments at all bandwidths (including Kingston upon Hull)
 - Technical areas (Point of Handover)
 - Technical areas (Interconnect Circuits)*

*denotes a market not included in the replicability review

Costs and benefits of proposed changes

- 2.13 In preparing this consultation we have discussed our proposals with BT and KCOM in order to understand the likely impact of them and appreciate any difficulties that are likely to arise.

- 2.14 We have taken into account the burden on BT in implementing all the proposed changes. We have weighed this against the benefits of more relevant, reliable and understandable reporting. In some cases it may be preferable, for estimates to be prepared in the short term, for example, rather than delay implementation until more robust systemised processes are in place. We will work closely with BT to ensure the implementation of the final requirements is carried out as efficiently as possible. Similarly we have taken account of the burden on KCOM to implement the proposals and the benefits from updated and relevant reporting.
- 2.15 Responses to the consultation and the questions raised in sections 3 and 4 are due by 5pm on 1 May 2009. We also welcome stakeholders' views on the issues in section 5.

Section 3

Improvements to reporting in the RFS

Introduction

- 3.1 In this section we propose a number of improvements to the RFS that have been highlighted via other projects such as the BCMR, the LLCC and the replicability review and through our ongoing use of the RFS.

Change to ensure consistent recognition of costs and revenues

Proposed change

- 3.2 We propose that BT addresses the non-matching of costs and revenues in relevant markets and services by either amending its regulatory accounting treatment or by providing extra disclosure that allows the reader to understand the resulting costs and returns once adjustments to match costs and revenues are made. This change would aid the monitoring of BT's cost orientation obligations for the relevant services.
- 3.3 These proposals do not change BT's own accounting treatment for statutory reporting purposes.

Objective of change

- 3.4 We have found examples where BT sells equipment and infrastructure either externally or internally where it recognises the revenue upfront and capitalises the costs and depreciates them over the life of the equipment.
- 3.5 These non-matched items may give rise to variances in the reported returns and mean capital employed (MCE) of some markets (such as alternative interface symmetric broadband origination, traditional interface symmetric broadband origination, wholesale local access and technical areas). In such cases the user's ability to compare service costs and revenues is impaired when revenues and costs are not matched. It is also unclear how BT is meeting its obligation to ensure charges are related to the costs of provision.
- 3.6 It should also be noted that in a proposal later on in the document (3.36 to 3.46) we highlight that local end equipment and infrastructure costs are incorrectly costed to local end services. These costs should be removed from the local end services and adjusted (as per this proposal) to match them to the equipment and infrastructure revenues and finally costed against these revenues. The value, as estimated in the LLCC consultation, of equipment and infrastructure costs that have been incorrectly charged against local end services is £60m (including capital costs)⁸. This figure does not reflect an adjustment to costs to address the non-matching issue discussed here.
- 3.7 In our 2008 statement, "Changes to BT's 2007/08 Regulatory Financial Statements" ("the 2008 statement")⁹ we concluded that BT should disclose the value of non-matched revenues and costs in total where this distortion was likely to be most

⁸ Annex 8 to the leased lines charge control consultation

<http://www.ofcom.org.uk/consult/condocs/llcc/>

⁹ <http://www.ofcom.org.uk/consult/condocs/btregs08/statement/>

significant (in the wholesale local access and business connectivity markets). We believed this would allow users to eliminate the effect of non-matching and view undistorted returns.

- 3.8 BT did provide information in the Access Markets Review and the Review of Other Wholesale Markets in the 2007/08 RFS disclosing the net value of profit or loss relating to non-matched items for each relevant market. The value of the profits were £60m in wholesale local access, £43m in alternative interface symmetric broadband origination, £83m in traditional interface symmetric broadband origination and £1m in Technical Areas (Point of Handover) and the value of the loss was £37m in the Technical Areas (Interconnect Circuits). This note referred to the overall market profitability as opposed to the service level where the cost orientation obligation applies.
- 3.9 We could continue with BT providing the information on the same basis as last year, however, a number of issues have been identified with the integrity of the data in the RFS, including those that led to the restatement of the 2006/07 numbers. In addition as stated in paragraph 3.5, the user's ability to compare service costs and revenues is impaired when revenues and costs are not matched and it is unclear how BT is meeting its obligation to ensure charges are related to the costs of provision.
- 3.10 This has led us to reconsider our position to ensure the numbers are as useful to users of the RFS as they can be and this is one significant area where this can be achieved.

BT's position

- 3.11 BT has expressed concerns about applying a different accounting treatment in the RFS to the statutory accounts. BT state that they have considered the accounting treatment of equipment costs relating to the provision of partial private circuit products and are satisfied that the accounting treatment of costs and revenues complies with International Financial Reporting Standards (IFRS).
- 3.12 Whilst BT recognises that an alternative treatment of the revenues may also be acceptable under IFRS, management are required to prepare both the statutory financial statements and RFS in accordance with GAAP which in turn requires the application of management's view of the most appropriate accounting policies. BT also states that with regard to the particular requirements of the RFS they are required to be prepared in accordance with BT's accounting policies unless superseded by the Regulatory Accounting Principles. In BT's view there does not appear to be any aspect of these principles that would warrant a divergence from UK GAAP in respect of the treatment of connection charges and equipment costs associated with partial private circuits.
- 3.13 Additionally BT state that its auditors may conclude that a qualification or additional explanation is required in their "fairly presents in accordance with...." opinion where a divergence from BT's accounting policies is adopted in the preparation of the RFS.
- 3.14 BT has also explained the complexities in identifying the relevant assets and costs from the source accounting data in order to follow the matching principle which is different to the treatment in the statutory financial statements. BT explained that a change in accounting policy is not straightforward to implement and presents significant practical problems to BT.

Ofcom's position

- 3.15 This situation raises a fundamental issue regarding the preparation of the RFS. Should the regulatory accounting policies be, as far as possible, the same as the IFRS Standards BT applies in preparing their statutory financial statements? There are clearly benefits in keeping the accounting policies consistent and avoiding the creation of regulatory reconciliation items and further complexity. On the other hand the RFS have a different set of uses and objectives that may best be served with bespoke accounting policies. We set out our position below.
- 3.16 One of our primary objectives is to ensure that the RFS are fit for purpose. That purpose is different to those of the statutory financial statements so it seems reasonable that in some cases different methods of preparation are required. The primary accounting documents include a section on regulatory accounting policies that set the rules by which the RFS are prepared. These policies can be amended to reflect different regulatory objectives.
- 3.17 The regulatory accounting principle, "Use of UK GAAP" states that "Unless expressly provided for, generally accepted accounting principles and practices in the United Kingdom are to be followed". In this case we are expressly proposing a differing accounting treatment in order to ensure that the RFS are fit for purpose. In many of the SMP markets BT has an obligation to ensure charges are related to the costs of provision and when costs and revenues are not matched the ability of the user of the accounts to monitor compliance with this obligation is impaired. We also make adjustments in our price control work to match costs and revenues and therefore it is important that the RFS which are used in some cases to monitor and enforce price controls are prepared on the same basis.
- 3.18 We acknowledge BT's view that a different accounting treatment in the RFS to the statutory financial statements may raise issues with the audit opinion. It is however not clear to us that this should be an issue within the current audit framework where the basis of preparation is set out in the accounting documents.
- 3.19 However in order to address our primary objective of ensuring that the accounting treatment of these costs and revenues does not mislead users of the RFS we are proposing two possible options (set out below), one of which provides appropriate disclosure to meet our objectives, but does not require a change in accounting treatment.
- 3.20 For clarification our proposals apply to all markets and services where costs and revenues are not matched, not just partial private circuits as stated in BT's position.
- 3.21 We would appreciate stakeholders' views to assist us in evaluating which of the options is preferable. Under options 1 and 2 we acknowledge that BT may not be able to prepare wholly reliable data at this time. However we consider that BT should be able to make reasonable estimates for 2008/09 which would enhance the integrity of data shown for these markets and services. Such estimates have been made as part of the LLCC project (see Adjustment 4 in Table A8.6 at Annex 8 of the LLCC consultation).

Option 1

- 3.22 We propose that BT prepare the market statements (Annexes 11, 12 or 13 of the RFS) for the markets that need to be adjusted to match costs and revenues so that users are provided with data that presents undistorted returns, MCE, fully allocated

cost (FAC) and long run incremental cost (LRIC) numbers. These statements would show the adjustments necessary to the numbers recognised on a statutory financial statements basis and give the results of making the adjustments to the returns, MCE, FAC and LRIC numbers. We would expect this additional information to be covered by the audit.

- 3.23 This would allow BT to continue to recognise costs and revenues in the same way it does in the statutory financial statements, but would provide extra disclosure for the readers to see the effect of the non-matching issue and the results of adjusting in order to match costs and revenues.
- 3.24 In the case of equipment and infrastructure where revenue is received upfront and the costs are capitalised and depreciated over the life of the asset, we propose that these costs should be fully expensed in the year of sale. This would mean that any assets recognised in previous years, as a result of capitalised costs, should be eliminated and any depreciation coming through from these assets should not be recognised.
- 3.25 This option would avoid creating differences between the statutory financial statements and RFS overall, whilst still achieving our objectives of allowing users to see undistorted market returns and costs to aid the monitoring of the cost orientation obligation.
- 3.26 The proposed changes to Annexes 11, 12 and 13 that provide for the additional disclosure are at Annex A to Direction 4 and the FA10 Direction at Annex 10 of this document. These additional adjustment lines are only necessary where costs and revenues need to be matched.
- 3.27 The format we have proposed for the statement is one option but we are open to suggestions for how the adjustments and the resulting returns, MCE, FAC and LRIC numbers can be presented in the RFS.

Legal Tests

- 3.28 If, having considered stakeholder responses, it appears that option 1 would be the most appropriate option Ofcom will have to modify Direction 4 under SMP condition OA2 and the FA10 Form and content Direction under SMP Condition FA10.2. We have set out how we satisfied the legal tests under sections 3, 4 and 49(2) of the Act to implement these proposed changes at Annex 6.

Option 2

- 3.29 We propose that BT apply amended regulatory accounting policies that achieve a matching of costs and revenues that would be different from the approach used in BT's statutory financial statements. As a result we propose to require amendments to the accounting documents and RFS under subparagraphs (a) and (b) of SMP conditions OA22 and FA10.22 to reflect a regulatory accounting treatment that ensures all revenues and costs in the RFS are matched. The proposal will apply for the 2008/09 RFS for which we propose BT change their accounting policy and it will also require restatement by BT of the prior year comparatives (2007/08).
- 3.30 The reason for requiring restatement of the prior year comparatives is due to this being a change to accounting policy (in the RFS only), which under the relevant accounting standards, requires restatement of the prior year comparatives to reflect the change in policy. SMP Conditions OA9 and FA10.9 of BT's reporting obligations

also state that "BT shall ensure that Accounting Policies shall be applied consistently within the same RFS for the same Financial Year....Each Regulatory Financial Statement shall include Prior Year Comparatives which shall be prepared on a basis consistent with Current Year Figures".

- 3.31 This will mean that where assets were recognised in previous years, as a result of capitalised costs, these would not be reported in 2007/08 and 2008/09 and any depreciation coming through from these assets should not be expensed. For 2007/08 and 2008/09 onwards all costs relating to equipment sold in the particular year should be expensed in the year of the sale.
- 3.32 Paragraphs (c), (d) and (e) of SMP Conditions OA22 and FA10.22 will be enacted by BT under the normal process of audit, delivery and publication of the 2008/09 RFS and therefore will not be directed here.
- 3.33 We are only proposing that BT change its basis of preparation for the RFS. We therefore expect that there will be an additional reconciling item between the statutory financial statements and the RFS.
- 3.34 The proposed OA22 and FA10.22 Directions are at Annex 13. The additional reconciling item between the statutory financial statements and the RFS is inserted via a change to Direction 4 and the FA10 Direction to Annexes 19 and 20 (these are set out once for the purposes of both Direction 4 and the FA10 Direction) of the RFS. This can be found at Annex A to Direction 4 at Annex 10 of this document.

Legal Tests

- 3.35 If, having considered stakeholder responses, it appears that option 2 would be the most appropriate option Ofcom will have to make directions under SMP conditions OA22 and FA10.22 and a consequential amendment to Direction 4 and the FA10 Form and content Direction under SMP Conditions OA2 and FA10.2 respectively. We have set out how we believe we have satisfied the legal tests under sections 3, 4 and 49(2) of the Act to implement these proposed changes at Annex 6.

Question 1: Do you think change is required to match costs and revenues? If so which option do you think best meets our objectives and why:

Option 1: BT prepares and discloses the adjustments necessary to match costs and revenues to show undistorted returns, MCE, FAC and LRIC numbers; or

Option 2: BT changes its regulatory accounting treatment so that costs and revenues are matched.

Separate identification and reporting of costs in respect of other single payments (OSPs), resilience and the third party equipment and infrastructure charges

Proposed changes

- 3.36 We propose that BT separately identifies and reports the costs of OSPs, resilience and third party equipment and infrastructure charges.

Objective of change

- 3.37 The replicability review found that BT omits OSPs (including excess construction charges), resilience and third party equipment charges from the internal revenue reported in the RFS.
- 3.38 In the 2008 statement we concluded that BT should report the revenues of these services separately but as BT stated in the notes to the 2007/08 RFS, "It has not been possible to disclose the costs associated with the increased disaggregation of turnover due to the lack of readily available information from BT's internal data capture systems to allow effective attribution and presentation of associated costs, as agreed with Ofcom". Therefore the costs of these services were charged against other services in the relevant business connectivity markets.
- 3.39 This affects the user's ability to monitor BT's compliance with its cost orientation obligation for those services that include the costs of excess construction etc. and also for the separately reported services, such as excess construction charges.
- 3.40 The value, as estimated in the LLCC consultation, of equipment and infrastructure costs that have been incorrectly costed against local end services is £60m (including capital costs)¹⁰. This figure does not reflect an adjustment to costs to address the non-matching issue discussed in 3.2 to 3.34.
- 3.41 For last year we did not feel it was practical for BT to separately identify the costs as well as the revenues in the relatively short time available before the RFS were due to be published.
- 3.42 However we now consider that BT has had sufficient time to identify these costs separately and therefore it is proportionate to propose this improvement.

BT's position

- 3.43 BT agrees that it should identify and report these costs separately, but has explained to us that the complexities in effectively identifying these costs in BT's internal systems will result in the reporting of certain costs to be deferred. They are proposing to identify and separately report the costs of protected path variants and resilience, deferring the reporting of third party equipment and infrastructure and excess construction charges to 2009/10.

Ofcom's position

- 3.44 We acknowledge that BT may not be able to prepare wholly reliable cost data for all these services at this time. However we consider that BT should be able to make reasonable estimates for 2008/09 which would enhance the integrity of data shown

¹⁰ Table A8.3 in Annex 8 to the leased lines charge control consultation
<http://www.ofcom.org.uk/consult/condocs/llcc/>

for these services and those where the costs are incorrectly attributed. Such estimates have been made as part of the LLCC project.

- 3.45 The changes to the proformas for the relevant markets that we directed last year can be found at Annexes C to H to Direction 4 at Annex 10 of this document. Should we also proceed with Option 1 as set out in 3.22 to 3.27 (and at Annex A to Direction 4 and the FA10 Direction), the adjustment lines will be relevant to the markets at annexes C to H where costs and revenues need to be matched, and would be added to the proformas in the forthcoming statement to this consultation.

Legal Tests

- 3.46 In order to implement these changes Ofcom will have to modify Direction 4 under SMP condition OA2. We have set out how we satisfied the legal tests under sections 3, 4 and 49(2) of the Act to implement these proposed changes at Annex 6.

Question 2: Do you agree with Ofcom's proposal for BT to separately identify and report the costs of OSPs, resilience and third party equipment charges?

Logical reporting of internal and external unit costs for local end services

Proposed change

- 3.47 We propose that BT identifies the Point of Handover costs that are included within the local end services rentals and attributes them to external sales of these services only. The result would be that the unit costs for internal and external sales will show the appropriate attribution of relevant costs.

Objective of change

- 3.48 The price for External Local End rentals includes an uplift of around 30% to recover BT's costs of providing Partial Private Circuits Point of Handover. This method of cost recovery was introduced by Oftel in December 2002¹¹.
- 3.49 The external local end rental service also reflects certain point of handover activities for migrated PPCs which are not relevant to internal services. Therefore BT should only match the relevant point of handover costs to external services. There is a more detailed discussion of this issue in Annex 7 of the LLCC consultation.
- 3.50 The impact of the current treatment of these costs is to disclose an averaged cost of internal and external services against the separate prices for these services.
- 3.51 Stakeholders who purchase these local ends do not have sufficient transparency of these costs in the RFS and it affects the user's ability to monitor BT's compliance with their cost orientation obligation.

BT's position

- 3.52 BT have explained the complications in identifying these costs in order to reattribute them between internal and external services; that this will require a rebuild of the cost bases and that it will take time to make such changes to the underlying systems to accurately reflect the flow through of costs.

Ofcom position

- 3.53 We acknowledge that BT may not be able to prepare wholly reliable cost data at this time. However we consider that BT should be able to make reasonable estimates for 2008/09 which would enhance the integrity of data shown for these services and those where the costs are incorrectly attributed.
- 3.54 An estimate of the costs associated with the point of handover link has been made for the purposes of the LLCC¹². For the purposes of the LLCC these are eliminated, however for the RFS we are proposing at this stage that they are attributed solely to the relevant rental services where the price currently still includes point of handover.

Question 3: Do you agree with Ofcom's proposal for BT just to account for the point of handover costs in external local end service rentals?

¹¹ *Partial private circuits: phase 2, A direction to resolve a dispute concerning the provision of partial private circuits.*, **Oftel, 23 December 2002** - Paragraphs 3.43 to 3.48 ,

¹² See adjustment 2 in table A8.2 of the leased lines charge control consultation at <http://www.ofcom.org.uk/consult/condocs/llcc/leasedlines.pdf>

Requirement to publish detailed cost stack analysis underlying PPC services and technical areas

Proposed change

- 3.55 We propose that BT prepare and publish online, the detailed cost stack analysis underlying all published services for PPCs and technical areas after the publication of its RFS.

Objective of change

- 3.56 In our 2008 consultation on BT's regulatory reporting, "Changes to BT's regulatory reporting" ("the 2008 consultation") we highlighted the importance of improving the visibility of the cost stack underlying regulated leased lines services in the relevant markets. The components underlying the PPC services and technical areas do not fulfil the characteristics of a component as set out in the 2005 consultation, "Proposed changes to BT's regulatory financial reporting framework"¹³.
- 3.57 In 2008 we therefore proposed BT provide Ofcom with an AFI that showed the underlying cost stack behind all the PPC services and technical areas using the plant groups to replace the current components as it provides a more useful representation of the components underlying these services.
- 3.58 We also said that it was our intention to propose a more meaningful set of components for these services for this year. However, on further investigation, we believe that as the network is fundamentally changing over the next few years with the introduction of BT's next generation network (21CN), it would be disproportionate to devise an entirely new set of PPC and technical area components based on the legacy infrastructure.

BT's position

- 3.59 BT has offered to prepare and publish this information online to aid transparency of the PPC services and technical areas.
- 3.60 However, BT has informed us that the systems used to produce this information will not be able to go to this level of granularity for the ancillary services that fall into these markets such as Excess Construction Charges and Third Party Equipment and Infrastructure if they are based on estimates (as we have set out in 3.44).

Ofcom's position

- 3.61 We continue to believe visibility of the costs underpinning leased lines services is important to stakeholders and propose to formalise this in a published AFI. We appreciate that the services for which the costs are likely to be estimated in 2008/09 will not contain the level of detail required to be presented in this AFI for 2008/09. We will continue to discuss with BT how the disclosure of the newer information may be shown in the future.
- 3.62 Annex A of Direction 3 at Annex 9 of this document sets out the requirement for the AFI to be published. This AFI is described at Annex I to Direction 4 at Annex 10 of this document.

¹³ <http://www.ofcom.org.uk/consult/condocs/regfinch/main/regfinch.pdf>

Legal Tests

3.63 In order to implement these changes Ofcom will have to modify Directions 3 and 4 under SMP condition OA2. We have set out how we satisfied the legal tests under sections 3, 4 and 49(2) of the Act to implement these changes at Annex 6.

Question 4: Do you agree with Ofcom's proposal requiring BT to produce and publish online, details of the cost stacks underlying PPC services and technical areas?

Reporting of downstream gross margin information to support BT's no undue discrimination obligation in the business connectivity markets

Proposed change

- 3.64 We propose to formalise the reporting requirement for the preparation of the statement that reports the transfer charges from the services covered by the BCMR to the relevant downstream product groups ("the gross margin statement").

Objective of change

- 3.65 BT is required to separate out the upstream activities (wholesale markets) from downstream markets (retail markets) of its business as a result of accounting separation obligations. These provide clarity on BT's compliance with their no undue discrimination obligations.
- 3.66 The effective operation of the no undue discrimination obligation to ensure BT treats itself on the same basis as external purchasers is an important regulatory remedy. This means that BT should be able to provide relevant information to show that it can account properly for wholesale inputs to downstream activities on the same basis as charges made to other communications providers.
- 3.67 We had concerns about the effective operation of this obligation during our review of the business connectivity markets. Therefore in 2007/08 we agreed with BT that they would voluntarily produce this information for all of the downstream product groups covered by the services of the markets covered by the business connectivity review (as listed in paragraph 2.12).
- 3.68 In the context of our price control and dispute resolution work in business connectivity markets together with the importance of the no undue discrimination obligation, we believe it is appropriate at this time to request this statement. We therefore propose to put in place a formal reporting requirement for this information. Due to the confidentiality of the data we only propose that it be provided to Ofcom rather than general publication.

BT's position

- 3.69 BT believes we have not expressed any specific concerns over the information provided voluntarily in 2008 and that the reasons for formalising this AFI are unclear. We set out our reasoning in 3.70.

Ofcom's position

- 3.70 The ongoing changes in reporting and revenue methodologies in respect of business connectivity markets persuades us that maintaining some continuing reporting to assist the monitoring of the no undue discrimination obligation is important in the short term. The requirement to produce this AFI is at Annex A to Direction 3 at Annex 9 of this document and the description is at Annex I to Direction 4 at Annex 10 of this document.

Legal Tests

- 3.71 In order to implement these changes Ofcom will have to modify Directions 3 and 4 under SMP condition OA2. We have set out how we satisfied the legal tests under sections 3, 4 and 49(2) of the Act to implement these changes at Annex 6.

Question 5: Do you agree with Ofcom's proposal to continue to require BT to produce the information to support the no undue discrimination and cost orientation obligations of the services covered by the business connectivity market review and that we formalise this reporting requirement?

External revenue reported in the RFS to be reconciled against the general ledger

Proposed change

3.72 We propose that BT produce a reconciliation for each of the markets covered by the replicability review (as set out in paragraph 2.12) explaining the difference between the calculated revenue reported in the RFS by market compared with the revenue in BT's general ledger.

Objective of change

3.73 In the 2008 consultation we highlighted some of the issues coming out of the review of the replicability of services in the leased lines markets. One of these issues concerned the differences between the calculated external revenues reported in the RFS by market and the revenue recognised in BT's general ledger.

3.74 As a result of this we concluded that BT should provide a reconciliation for each of the markets covered by the replicability review. This was in the form of an AFI and explained the difference between the revenue reported in the RFS by market compared with the revenue reported in BT's general ledger. This requirement was in place for 2007/08 only.

3.75 As BT has also revised its methodology for calculating PPC revenues from 2007/08 onwards, which led to the restatement of 2006/07 numbers, we believe it is appropriate for BT to produce and provide this AFI for Ofcom only. Our key objective is that the RFS reflect transacted volumes and revenues wherever possible and this reconciliation will aid in providing assurance that this is the case and that external revenues are prepared and reported on a robust basis.

BT's position

3.76 BT has explained that its general ledger is currently set up specifically for the purposes of preparing information required to produce BT's group statutory and management accounts. The structure of the general ledger has not been set up to provide information to the level of granularity of the RFS. Additionally, the economic markets defined by us often cut across commercial product sets in BT's general ledger.

3.77 BT proposes to provide us with the additional information as set out on a market by market level to the extent that such detail is currently available in the general ledger. They have informed us that they are able to produce individual reconciliations for:

- Traditional interface symmetric broadband origination (up to and including 8Mbit/s and wholesale trunk segments combined);
- Traditional interface symmetric broadband origination (above 8Mbit/s up to and including 45Mbit/s) and wholesale trunk segments combined;
- Traditional interface symmetric broadband origination (above 45 Mbits and up to and including 155Mbit/s) and wholesale trunk segments combined; and
- Technical areas (Point of Handover).

Ofcom's position

- 3.78 BT's proposal differs from our proposal in that they will not be producing separate reconciliations for the traditional interface markets and the wholesale trunk markets.
- 3.79 At this stage we think it would be disproportionate to require BT to carry out extensive further analytical work to disaggregate its general ledger revenues to carry out a detailed reconciliation. If we discover any issues in the reconciliations of the combined markets we will address these issues with BT as appropriate and require them to carry out further analysis if necessary. We will also reassess the effectiveness of this reconciliation based on the 2008/09 position.
- 3.80 We propose BT produce the individual reconciliations as set out in Annex A to Direction 3 at Annex 9 of this document for the four market groupings described in 3.77. The AFI is described at Annex I to Direction 4 at Annex 10 of this document.

Legal Tests

- 3.81 In order to implement these changes Ofcom will have to modify Directions 3 and 4 under SMP condition OA2. We have set out how we satisfied the legal tests under sections 3, 4 and 49(2) of the Communications Act to implement these changes at Annex 6.

Question 6: Do you agree with Ofcom's proposal that BT continues to provide an AFI that explains the difference between the revenue reported in the RFS compared to the revenue recognised in BT's general ledger for 2008/09 for the markets covered by the replicability review?

Consistent reporting of units in the RFS against BT's price lists

Proposed change

- 3.82 We propose that, where possible, for each service reported in the RFS the units should be consistent with the units by which that service is sold in BT's price list.

Objective of change

- 3.83 Users of the accounts, aside from Ofcom, are generally purchasers of the services reported e.g. other communications providers ("OCPs"). They will obtain the price they pay for the services they buy from BT's price list.
- 3.84 In order to monitor BT's compliance with their no undue discrimination and cost orientation obligations in the regulated markets (that BT are charging themselves the same as they charge external purchasers of their services i.e. OCPs and that prices are cost oriented), the prices in the RFS need to be derived on the same basis as the services that are sold through BT's price list.
- 3.85 Through our work on various market reviews and charge control projects we have noticed that for some services the units which are reported and used to derive the average price are not the same as those in BT's price list. One example is for WES 10Mbit rentals, for which the prices in the price list are quoted per end, but in the RFS the unit that is reported and that the average price is derived from is lines.

BT's position

- 3.86 No comments received from BT on this proposal.

Ofcom's position

- 3.87 We believe it is important, as far as possible, that users of the RFS can trace the services reported to the price lists.

Question 7: Do you agree with Ofcom's proposal that, as far as possible, for each service reported in the RFS the units should be consistent with the units by which that service is sold in BT's price list?

Section 4

Implementation of reporting changes as a result of market reviews concluded in 2008

Introduction

- 4.1 Two market reviews which require specific changes to the RFS of BT and KCOM have concluded since the publication of the 2008 statement and BT's 2007/08 RFS. These are the wholesale broadband access and business connectivity market reviews.
- 4.2 Both reviews have identified geographic markets which have regulatory reporting obligations and have made some changes to the market definitions. This consultation is the mechanism by which we implement these changes to BT's regulatory reporting requirements through the RFS, to the extent that the two reviews have not already applied the reporting obligations.
- 4.3 Stakeholders should note that the only change we will not be requiring BT to implement in time for the publication of the 2008/09 RFS is geographic reporting in the business connectivity markets. This is because of the timing of the publication of the statement (December 2008). We intend to consult on the form and content of geographic reporting in these markets for implementation in 2009/10.

Geographic reporting in the wholesale broadband access markets

Proposed change

- 4.4 We propose that BT and KCOM report on the revised market definitions as per the WBA statement.

Objective of change

- 4.5 The findings in the WBA statement revoked all previous regulatory remedies imposed as a result of the previous wholesale broadband access market review in 2003/04 ("2003/04 statement")¹⁴ and imposes new regulatory remedies in respect of significant market power (SMP) markets.
- 4.6 Changes are therefore required to the RFS in order to address the finding of geographic markets in the wholesale broadband access area.
- 4.7 In the 2003/04 statement Ofcom concluded that there were three economic wholesale markets in the UK as set out below:

¹⁴ <http://www.ofcom.org.uk/consult/condocs/wbamp/wholesalebroadbandreview/>

2003/04 wholesale broadband access markets		
Asymmetric broadband origination in the UK (excluding Hull)	Asymmetric broadband origination in Hull	Broadband conveyance in the UK

4.8 The latest RFS published by BT for 2007/08 reflect these markets.

4.9 The 2007/08 market review identified that competition is maturing at different rates across the UK and this conclusion resulted in Ofcom identifying four separate geographic markets in the WBA statement:

2007/08 wholesale broadband access markets			
	Market 1	Market 2	Market 3
The Hull area; those areas covered by exchanges where KCOM is the only operator	Those areas covered by exchanges where BT is the only operator	Those areas covered by exchanges where there are 2 or 3 operators	Those areas covered by exchanges where there are 4 or more operators

4.10 SMP was found in all the above markets except Market 3 where no operator was deemed to hold a position of SMP. Given these findings, regulatory accounting obligations apply to KCOM with respect to the Hull area market and for BT in both Market 1 and Market 2.

BT's position

4.11 This is the first time that the RFS will include markets defined on a geographic basis and has raised many new cost attribution questions for BT.

4.12 BT needs to report on a geographic basis for markets 1 and 2, allocating revenues and costs across the three markets on a causal and objective basis. However, BT explained that certain revenues and costs cannot currently be attributed geographically using an appropriate and robust attribution methodology.

4.13 They demonstrated that the majority of services' revenues can be split geographically using billing data. However they are unable to robustly split the following on a geographic basis:

- internal and external virtual path handover;
- internal and external broadband conveyance in the UK; and
- ancillary charges (migration, cessation, re-grades).

4.14 With regards to costs BT have indicated to that certain depreciation and maintenance costs can be allocated to markets using the allocation bases such as number of DSLAMs located at exchange sites. This however leaves numerous other overhead-type costs that cannot be allocated on a robust geographic basis.

KCOM's position

4.15 No comments received from KCOM on these proposals.

Ofcom's position (proposals relating to BT)

- 4.16 The statements in the RFS that we propose to change are Annexes 5A, 6A, 8 and 12 (see 4.17) at Annexes A and B to Direction 4 and the FA10 Direction at Annex 10 of this document. These take into consideration the points raised in 4.11 to 4.14. The changes to the FA10 form and content Direction for Annexes 5A and 6A are required to maintain consistency with the market definitions modified in Direction 4. BT is not required to do any additional reporting as a result of the proposed modification to the FA10 Form and content Direction. Annexes 8 and 12 are solely a modification to Direction 4.
- 4.17 The market summary (which presents the consolidated market information and the no undue discrimination and cost orientation information) for the wholesale broadband access market (Annex 12 of the RFS) will include all revenues and costs for wholesale broadband access at a consolidated level. However, in order for BT to support its no undue discrimination obligation, detail of both internal and external revenue, volumes and average price for market 1 and 2 and those revenues that cannot be split geographically still need to be reported. Remaining market 3 revenues will therefore effectively be a 'balancing' figure and will be reported separately alongside those revenues which cannot be split geographically. The proposed format is at Annex B to Direction 4 at Annex 10 of this document. Should we also proceed with Option 1 as set out in 3.22 to 3.27 (and at Annex A to Direction 4 and the FA10 Direction), these adjustment lines will be relevant to this market if costs and revenues need to be matched and will be added to the proforma in the forthcoming statement to this consultation.
- 4.18 In addition to the information presented in the RFS we have also discussed with and agreed on a format for additional information to support BT's non-discrimination obligation. This will take the form of an AFI and consist of 4 individual statements.
- 4.19 We have agreed with BT that they will provide a P&L and MCE statement which show details of revenues and costs on an individual market basis (i.e. 1, 2 & 3). This will detail the data that can be split geographically by market and totals of all 3 markets for those that cannot. BT have also agreed to provide a P&L and MCE statement in this format on an equivalence of input (EOI) basis showing the inputs from other wholesale markets. The requirement to produce these is at Annex A to Direction 3 at Annex 9 of this document. The description of the AFIs is at Annex I to Direction 4 at Annex 10 of this document.
- 4.20 The updated table setting out the identified SMP markets which have regulatory reporting obligations is reproduced in Annex 8 for ease of reference.

Legal Tests

- 4.21 In order to implement these changes Ofcom will have to modify Directions 3 and 4 under SMP condition OA2. We have set out how we satisfied the legal tests under sections 3, 4 and 49(2) of the Act to implement these changes at Annex 6.

Question 8: Do you agree with Ofcom's proposals for geographic reporting in the wholesale broadband access markets for BT?

Ofcom's position (proposals relating to KCOM)

- 4.22 The proposed change for KCOM is simply that the market, asymmetric broadband origination in Hull is replaced by wholesale broadband access in the Hull area. In this case Hull is the geographic area. Our proposal for changes to take account of the new market definitions are at Annexes 11 and 12 which propose modifications of Directions 3 and 4 to KCOM.
- 4.23 The updated table setting out the identified SMP markets for which RFS are required is reproduced in Annex 8 for ease of reference.

Legal Tests

- 4.24 In order to implement these changes Ofcom will have to modify Directions 3 and 4 under SMP condition OA2. We have set out how we satisfied the legal tests under sections 3, 4 and 49(2) of the Act to implement these changes at Annex 6.

Question 9: Do you agree with Ofcom's proposals for changes to reporting in the wholesale broadband access market for KCOM?

Reporting changes resulting from the business connectivity market review

Proposed change

- 4.25 We propose that BT and KCOM report on the revised market definitions as per the BCMR statement. We also propose that BT report the relevant services within these markets, to which there have been some modifications since the last market review.
- 4.26 The BCMR statement has deregulated the markets for low and high bandwidth TI terminating segments in the Central and East London Area (CELA). This will mean that these markets will now have a geographical element of reporting similar to that proposed for the wholesale broadband access market.
- 4.27 Due to the timing of the BCMR statement and complexities involved in reporting geographically we propose that BT continues to report the markets for low and high bandwidth TI terminating segments including the CELA for the 2008/09 regulatory financial statement. However, we plan to work closely with BT in order to be able to report the markets geographically as defined in the BCMR statement for the 2009/10 RFS.

Objective of change for BT

- 4.28 The BCMR statement found that AI and TI leased lines continue to be in separate markets. It has also concluded that additional bandwidth categories should be defined for very high bandwidth TI and high bandwidth AI circuits, over and above those identified in the previous leased lines market review published in June 2004¹⁵. The full list of the product markets is set out below:

Product markets	Bandwidth breaks			
TI symmetric broadband origination (TISBO)	Low Up to and including 8Mbit/s (including analogue and SDSL services)	High Above 8Mbit/s up to and including 45 Mbit/s	Very high - 155 Above 45Mbit/s up to and including 155Mbit/s	Very high - 622 Above 155Mbit/s
Alternative interface symmetric broadband origination (AISBO)	Low Up to and including 1Gbit/s		High Above 1Gbit	
Trunk segments (SDH/PDH)	All bandwidths			

- 4.29 It was concluded that BT have SMP in the following markets:

¹⁵ <http://www.ofcom.org.uk/consult/condocs/lmr/statement/>

BT has SMP	
Wholesale product markets	Retail product markets
- Low bandwidth TISBOs	Low bandwidth TI leased lines - but no reporting obligations
- High bandwidth TISBOs in the UK excluding the CELA	
- Very high bandwidth 155Mbit/s TISBOs in the UK excluding the CELA	
- Low bandwidth AISBOs	
- TI trunk segments	

- 4.30 BT is subject to cost orientation and no undue discrimination obligations in the wholesale product markets under which it must report in its RFS.
- 4.31 The relevant services should also be reported under the new market definitions. One change to the services reported from the previous market review that we want to highlight is that sales of netstream to MNOs should now be separately reported as a wholesale service within the relevant business connectivity market within the RFS.
- 4.32 This position is set out in the BCMR statement, “Although some MNOs have purchased circuits from BT on ostensibly retail “Netstream” tariffs in preference to wholesale RBS terms, we regard all MNOs’ purchases as wholesale services.”¹⁶

BT’s position

- 4.33 No comments received from BT on these proposals.

Ofcom’s position (proposals relating to BT)

- 4.34 For the wholesale markets where BT is deemed to have SMP (outlined above) BT are required to separately report data to support their no undue discrimination and cost orientation obligations (except in the case of retail low bandwidth leased lines).
- 4.35 With regards to the retail leased lines market in which BT was found to have SMP there will continue to be no reporting obligations. These are subject to BT conforming to their voluntary commitments as set out in the BCMR statement. However, BT should continue to be able to produce the relevant information within a reasonable timeframe for these markets should we require it.
- 4.36 As set out in 4.31 to 4.32 we remain of the position that netstream should be reported separately in the relevant business connectivity market.
- 4.37 The notification in Annex 8 of the BCMR statement amended the original 2004 Notification to BT setting the regulatory reporting obligations so as to reflect the new market definitions and apply regulatory reporting obligations to the revised market definitions. The BCMR notification omitted to apply the relevant regulatory reporting obligations with respect to the revised market that was identified in the BCMR (market 17a). The proposed notification to amend the 2004 Notification to BT to apply the regulatory reporting obligations to this additional market is set out in Annex 7. The reasoning is set out in the BCMR statement so we do not propose to repeat it here and we are satisfied there has been no material change in that market since the market power determination in December 2008.
- 4.38 The updated table setting out the identified SMP markets for which RFS are required is reproduced in Annex 8 for ease of reference.

¹⁶ Page 87 of the BCMR statement <http://www.ofcom.org.uk/consult/condocs/bcmr08/bcmr08.pdf>

4.39 The proposed changes to Direction 3 and 4 are set out in Annex A to Direction 3 and in Annex A to Direction 4 at Annexes 9 and 10 of this document.

Legal Tests

4.40 In order to implement these changes Ofcom will have to modify the 2004 notification and modify Directions 3 and 4 under SMP condition OA2. We have set out how we satisfied the legal tests under sections 3, 4 and 49(2) of the Act to implement these changes at Annex 6.

Question 10: Do you agree with Ofcom's proposals for changes to reporting for BT as a result of the findings in the BCMR statement?

Objective of change for KCOM

4.41 The BCMR concluded that KCOM has SMP in the following markets in the Hull area:

← 2008 BCMR markets where KCOM has SMP →			
The wholesale market for low bandwidth TISBOs	The wholesale market for high bandwidth TISBOs	The wholesale market for very high bandwidth TISBOs - 155	The wholesale market for low bandwidth AISBOs

KCOM's position

4.42 No comments received from KCOM on these proposals.

Ofcom's position (proposals relating to KCOM)

4.43 For the wholesale markets where KCOM is deemed to have SMP (outlined above) KCOM are required to separately report data to support their no undue discrimination and cost orientation obligations.

4.44 It was also concluded that KCOM no longer has SMP in the market for retail low bandwidth TI leased lines in the Hull area. In addition, it was found that no provider has SMP in the wholesale market for very high bandwidth TISBOs at speeds over 155Mbit/s. There are currently no circuits of this kind in the Hull area. As such there is no reporting obligation for KCOM for these markets. In addition in a second statement to the BCMR published in February 2009¹⁷, we concluded that no undertaking, jointly or individually, has SMP in the high bandwidth (speeds above 1 Gbit) AISBO market in the Hull area.

4.45 The notification in Annex 8 of the BCMR amended the original 2004 Notification to KCOM setting the regulatory reporting obligations so as to reflect the new market definitions and apply regulatory reporting obligations to the revised market definitions. The BCMR notifications omitted to apply the relevant regulatory reporting obligations with respect to the new market that was identified in the BCMR (market 12). The proposed notification to amend the 2004 Notification to KCOM to apply the regulatory reporting obligations to this additional market is set out in Annex 7. The reasoning is set out in the BCMR so we do not propose to repeat it here and we are satisfied there has been no material change in that market since the market power determination in December 2008.

¹⁷ <http://www.ofcom.org.uk/consult/condocs/bcmr08/statement/statement.pdf>

- 4.46 The updated tables setting out the identified SMP services markets for which RFS are required are reproduced in Annex 8 for ease of reference.
- 4.47 The proposed changes are at Annexes A and C to Direction 3 at Annex 11 of this document and Annex A to Direction at Annex 12 of this document.

Legal Tests

- 4.48 In order to implement these changes Ofcom will have to modify the 2004 notification and modify Directions 3 and 4 under SMP condition OB2. We have set out how we satisfied the legal tests under sections 3, 4 and 49(2) of the Act to implement these changes at Annex 6.

Question 11: Do you agree with Ofcom's proposals for changes to reporting for KCOM as a result of the findings in the BCMR statement?

Removal of reporting for markets that account for less than £10m of revenue (BT)

Proposed change

- 4.49 BT has proposed that they do not report markets that they no longer deem material (as they account for less than £10m of revenue). This proposal would ease the burden of preparation on BT.
- 4.50 These markets are wholesale technical areas – point of handover, wholesale residential ISDN2, retail operator assisted calls in the UK and retail residential IDD calls category B.

Objective of change

- 4.51 BT's objective is to lighten the regulatory reporting burden in areas that it believes are no longer relevant or appropriate.

Ofcom's position

- 4.52 Ofcom has a general duty to review regulatory burdens and ensure that any regulation does not involve the maintenance of burdens which have become unnecessary.
- 4.53 We are minded to agree with BT's proposal to remove reporting on the markets listed in 4.50, except in the case of technical areas (point of handover).
- 4.54 All sales from the point of handover technical area are external and therefore full transparency is considered important for stakeholders. From speaking to UKCTA it is clear that there is a particular sensitivity to the removal of reporting for this technical area. We are mindful of enforcing unnecessary burden on BT, but in the case of this technical area we regard its significance to be more related to the nature of the sales of this product (i.e. they are all external) rather than the absolute value. In any case while we appreciate that the value of the revenues in this market may not be material to BT, they will be to some of the purchasers of the services within the market and therefore transparency is regarded as important.
- 4.55 We have therefore proposed the modifications to Directions 3 and 4 (at Annexes 9 and 10 of this document) on the basis of removing the reporting requirements in three out of the four markets – wholesale residential ISDN2, retail operator assisted calls in the UK and retail residential IDD calls category B. We welcome stakeholder's views on this proposal and will take these into account when making a final decision on whether to remove the separate reporting requirements for these markets.

Legal Tests

- 4.56 In order to implement these changes Ofcom will have to modify Directions 3 and 4 under SMP condition OA2. We have set out how we satisfied the legal tests under sections 3, 4 and 49(2) of the Act to implement these changes at Annex 6.

Question 12: Do you agree with BT's proposal and Ofcom's position with regards to removing reporting for the markets that account for less than £10m of revenue?

Section 5

Other items for information

- 5.1 This section sets out a number of areas where we are not currently proposing formal changes, but that we want to bring to BT and other stakeholder's attention. These topics could have an impact on current or future years reporting.

Regulatory accounting treatment of BT's Low User Scheme (LUS) transfer charge

- 5.2 In the 2008 Statement, we required BT to exclude all costs relating to the administration and revenue discounts incurred in providing the Low User Scheme. This scheme is established under the requirements of BT's universal service obligation (USO).
- 5.3 We explained that when last reviewed the costs of USO are offset by the benefits (see last USO assessment¹⁸). These benefits principally accrued to BT's retail activities and therefore it was inappropriate to treat the transfer charge as a cost to a SMP wholesale residential rentals service.
- 5.4 The 2008 Statement dealt only with BT's treatment of these costs in the RFS. We did not take a view on BT's interpretation of its reporting obligation under the BT Undertakings regarding its reporting of Openreach (the regulatory entity). When the Statement was published we had not completed a financial review of Openreach and we did not want to speculate on the way in which this review would treat these transfer charge in respect of the Undertakings. However, by including these costs within Openreach, the reported costs are higher than those used for price control purposes and returns lower than actually earned. The results therefore as reported are potentially misleading for users of the accounts.
- 5.5 The Openreach consultation explained that "...attributing the cost of the LUS to Openreach's services is not consistent with Ofcom's conclusion that the net cost to BT of the USO was relatively small, with most of the benefit accruing at the retail level¹⁹."
- 5.6 BT is required to present separately the financial results for Openreach in its RFS.²⁰ The form, content and basis of preparation of Openreach's financial results should follow that adopted for BT's RFS unless otherwise agreed by BT and Ofcom. On this basis, given that the BT's RFS do not include a reference to LUS costs we consider that these costs should also be excluded from the Openreach RFS.
- 5.7 To ensure that the results of Openreach are consistent with the RFS and reflect our view that BT's transfer charge is not a cost relevant to or caused by the activities of Openreach, we propose that these costs are excluded from the accounts of the regulatory entity published with the RFS. This proposal does not require BT to amend its own line of business reporting. The LUS costs will therefore be part of the reconciliation between BT's statutory reporting of Openreach and the regulatory entity. We propose that LUS costs are shown separately in this reconciliation.

¹⁸ http://www.ofcom.org.uk/consult/condocs/uso/uso_statement/statement.pdf

¹⁹ Page 36 of the Openreach consultation

<http://www.ofcom.org.uk/consult/condocs/openreachframework/off.pdf>

²⁰ Pursuant to the separate accounting obligations provided in the BT Undertakings.

- 5.8 We have presented this proposal to BT. In the event that our proposed changes are not accepted by BT we will consider further action as appropriate.
- 5.9 Our proposal applies the conclusions of the last USO review. In our recently published "Access and Inclusion" consultation we announced our intention to review the existing implementation of the USO and consider whether changes to it are required. The review will include an assessment of the extent to which the USO results in a significant net burden upon BT and KCOM, the current universal service providers, and will consider the case for alternative funding and procurement models to ensure that continued USO provision is both effective and proportionate.

Issue identified in the Openreach pricing framework consultation - Cost allocation

- 5.10 In the Openreach consultation, published on 5 December 2008, Ofcom has identified that some of the non-regulated Openreach services do not appear to pick up an appropriate share of costs. On this basis, some costs may be over-allocated to the regulated services and therefore the accounts are potentially deficient.
- 5.11 The Openreach consultation sets out some options for dealing with the potential over-allocation of costs to the regulated services.
- 5.12 Because our position has not yet been clarified through a statement we do not wish to pre-judge the outcome. A final statement on Openreach is due for publication shortly at which point our position on the allocation of costs to these non-regulated services will be clarified. If it concludes that there is an over-allocation of costs to the regulated Openreach services then we intend that BT addresses the deficiency in the RFS consistent with the Openreach statement.

Reporting of new services

- 5.13 We are aware that new services are offered by BT throughout the year. In this section we want to highlight when BT should be picking up full and separate reporting for new services if relevant to SMP markets.
- 5.14 BT is able to apply guidance on merging low value services in the RFS as addressed in the 2005 consultation on BT's regulatory financial reporting framework. Low value services were defined as those services with low revenue and operating costs (typically below £10m pa). Direction 4 was relaxed so that low value services within similar product families could be merged to reduce the reporting burden on BT. For example connection services may be merged with rental services for the same 'low value' product set. These groupings are then reported separately within the line by line service reporting of the relevant market statement.
- 5.15 BT has explained that they continue to review new services and where revenue generated exceeds the £10m threshold they will endeavour to report this separately. But due to the complexity of setting this up in the regulatory reporting systems, including changing the system structure and methodologies and where revenues reach the threshold over a short period of time towards the year end, it may not always be possible to effectively report the revenues and associated costs immediately once the threshold is exceeded.
- 5.16 Even if a service's revenues and/or associated costs are below £10m they should still be reported within the relevant market, however they are not required to be reported separately. If a service's revenues and/or associated costs do exceed the £10m threshold they should be reported separately. If the stage in the year at which the threshold is reached means it is difficult for BT to set up them up in the regulatory systems appropriately then they should discuss this with us as there are some services that are significant that we would want BT to report in full from 2008/09.
- 5.17 Ethernet Backhaul Direct (EBD) is one such significant product that BT launched in May 2008, which is expected to see significant growth and is expected to exceed the £10m threshold in 2008/09. We would expect it to be reported separately and not bundled with other services in the alternative interface symmetric broadband origination market.

Term discount reporting

- 5.18 BT currently reports revenue net of discounts. In the 31 August 2005 statement, Changes to BT's regulatory reporting framework²¹, we stated that BT are required to disclose discounts which represent 5% or above of gross revenues.
- 5.19 We are highlighting this here as it may become important as BT offer term discounts for some Ethernet services. Should the value of these discounts go above the 5% threshold then we would expect BT to separately identify and report discount information in the relevant market statements (Annex 11, 12 or 13) split between internal and external sales.

²¹ <http://www.ofcom.org.uk/consult/condocs/regfinch/statement/statement.pdf>

Comparative information

- 5.20 Where we are requiring a change to form and content (Direction 4 at Annex 10 for BT and Direction 4 at Annex 12 for KCOM) we have also considered if and how they prepare comparative information.
- 5.21 We set out the form and content to include changes to the comparative information to ensure that going forward the correct prior year information will be produced. To the extent BT is unable to produce some or all of the 2007/08 comparative information for the 2008/09 RFS due to the lack of relevant prior year data or other reasons, we may need to highlight any constraints or qualifications in the relevant annexes to Direction 4 in the forthcoming statement to this consultation.

Change to the order of the RFS

- 5.22 BT has proposed that the order of the statements in the RFS changes for 2008/09 onwards.
- 5.23 All of the same information will be there, just in a different order which more closely reflects the order of statements in a set of statutory accounts.
- 5.24 We have put this in here for stakeholders' information so they are aware of this when the accounts are published. The previous and revised order are set out in the table below:

Revised structure	2007/08 section location
1 Introduction	
1.1 Purpose and content of current cost financial statements	
The regulatory regime	1.1
SMP markets summary	1.1
Openreach	1.1
1.2 Regulatory financial review covering:	
Regulatory changes impacting the current year markets	1.1 & 2.2
BT Undertakings under the Enterprise Act	2.2
Future developments	
2 Statement of responsibility (links to basis of preparation)	10
3 Audit report	10
4 Basis of preparation to include:	
Basis of preparation	1.1
Accounting policies	8
Impact of 21CN cost allocation methodology	2.2
Accounting documents	1.1
BT accounting records	1.1
Restatement of prior year comparatives	1.1, 2.2 & 8
Cost allocation bases if required	
5 Consolidated performance summary - with overview commentary if required	2.1
6 Attribution of wholesale current cost and mean capital employed	2.3 - 2.6
7 Review of access markets	3
8 Review of other wholesale markets	4
9 Review of retail markets	5
10 Reconciliation statements	7
11 Openreach information	11
12 Accounting documents and other documentation	12
Appendix 1 Other information	6
Appendix 2 Price control statements	9

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 1 May 2009**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://www.ofcom.org.uk/consult/condocs/btregs08/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 gavin.greenfield@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.
- Gavin Greenfield
Floor 4
Competition Finance
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7783 4330
- 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 questions asked in this document, which are listed together 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 questions raised in this consultation, or need advice on the appropriate form of response, please contact Gavin Greenfield on 020 7783 4330 or Joanna Gough on 020 7783 7328.

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 as soon as practicable.
- 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.

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 <input type="checkbox"/>	Name/contact details/job title <input type="checkbox"/>
Whole response <input type="checkbox"/>	Organisation <input type="checkbox"/>
Part of the response <input type="checkbox"/>	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. <input type="checkbox"/>	
Name	Signed (if hard copy)

Annex 4

Consultation questions

A4.1 Questions requiring responses by 1 May 2009

Question 1: Do you think change is required to match costs and revenues? If so which option do you think best meets our objectives and why:

Option 1: BT prepares and discloses the adjustments necessary to match costs and revenues to show undistorted returns, MCE, FAC and LRIC numbers; or

Option 2: BT changes its regulatory accounting treatment so that costs and revenues are matched.

Question 2: Do you agree with Ofcom's proposal for BT to separately identify and report the costs of OSPs, resilience and third party equipment charges?

Question 3: Do you agree with Ofcom's proposal for BT just to account for the point of handover costs in external local end service rentals?

Question 4: Do you agree with Ofcom's proposal requiring BT to produce and publish online, details of the cost stacks underlying PPC services and technical areas?

Question 5: Do you agree with Ofcom's proposal to continue to require BT to produce the information to support the no undue discrimination and cost orientation obligations of the services covered by the business connectivity market review and that we formalise this reporting requirement?

Question 6: Do you agree with Ofcom's proposal that BT continues to provide an AFI that explains the difference between the revenue reported in the RFS compared to the revenue recognised in BT's general ledger for 2008/09 for the markets covered by the replicability review?

Question 7: Do you agree with Ofcom's proposal that, as far as possible, for each service reported in the RFS the units should be consistent with the units by which that service is sold in BT's price list?

Question 8: Do you agree with Ofcom's proposals for geographic reporting in the wholesale broadband access markets for BT?

Question 9: Do you agree with Ofcom's proposals for changes to reporting in the wholesale broadband access market for KCOM?

Question 10: Do you agree with Ofcom's proposals for changes to reporting for BT as a result of the findings in the BCMR statement?

Question 11: Do you agree with Ofcom's proposals for changes to reporting for KCOM as a result of the findings in the BCMR statement?

Question 12: Do you agree with BT's proposal and Ofcom's position with regards to removing reporting for the markets that account for less than £10m of revenue?

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 The consultation relates to proposed changes to the regulatory financial information prepared by BT and KCOM. Ofcom requires regulatory financial information in order to monitor and enforce various obligations that are placed on dominant providers in markets where they are found to have significant market power. The regulatory financial reporting regime also provides confidence to the industry that certain ex-ante obligations are being effectively monitored and enforced.
- A5.5 Many of these proposals are designed to rectify situations where we have not been fully able to monitor the obligations on BT, which to an end are there to prevent abuse of a dominant market position which could have a negative impact on consumers. Therefore to the extent that an effective financial reporting regime contributes to a competitive telecommunications market, there will be a benefit to citizen and consumers.

Ofcom's policy objective

- A5.6 The purpose of this consultation is to ensure that BT and KCOM are meeting and continue to meet their regulatory financial reporting obligations.
- A5.7 We have proposed changes that will implement adjustments arising from recently completed market reviews; apply to certain aspects of the preparation of the RFS; and some other improvements to reporting identified through our work on market reviews and the replicability project.
- A5.8 We have identified one area where we to believe BT's 2007/08 RFS may be deficient (3.2 to 3.35). We recognise the difficulties in identifying the relevant information and the fact that a different accounting policy would be required to the statutory accounts, therefore we have also listed out a number of other options that

could achieve the same objective and welcome all stakeholders' views on the most appropriate option.

- A5.9 In addition as a result of various market reviews and the ongoing use of the BT's RFS we have identified areas where improvements to the financial statements need to be made to ensure they are fit for purpose.

Conclusion

- A5.10 Ofcom considers that the proposals and changes set out in Sections 3, 4 and 5 of this document are necessary and appropriate because they represent amendments and enhancements required to maintain the relevance and usefulness of the financial statements. Ofcom does not expect the proposals to result in a significant incremental cost to BT and KCOM.

Annex 6

Legal Tests

Introduction

A6.1 This annex sets out how Ofcom has satisfied the legal tests for its proposals to amend the regulatory financial accounting obligations applying to BT and KCOM, as set out earlier in the consultation.

Proposals relating to BT

1) Change to ensure consistent recognition of costs and revenues

A6.2 In paragraphs 3.2 to 3.35 we discussed two options for BT to ensure consistent recognition of costs and revenues. Both options require slightly different modifications to Directions 4 and the FA10 form and content Direction. Option 1 proposes changes to Annexes 11, 12 and 13 of Direction 4 and Annex 11 of the FA10 Form and content Direction. Option 2 proposes changes to Annexes 19 and 20 of Direction 4 and the FA10 Form and content Direction and additionally requires Directions in accordance with SMP services conditions OA22 and FA10.22.

Option 1 – BT to make adjustments to costs, returns and MCE in the relevant market statements

Legal tests

A6.3 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Directions 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.22 as proposed in paragraphs 3.22 to 3.27 and set out in Annex 10, are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

A6.4 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.

A6.5 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.

A6.6 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews have already assessed whether these regulatory accounting obligations met the tests outlined in Sections 3 and 4 of the Act. The proposed changes to Direction 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 are designed to enable BT to more effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate

cost orientation and non-discrimination). In consequence Ofcom believes the proposed amendments to Direction 4 and the FA10 Form and content Direction under SMP condition OA2 and FA10.2 meet the tests in Sections 3 and 4.

Section 49(2) tests

A6.7 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- b) not unduly discriminatory against particular persons or against a particular description of persons;
- c) proportionate to what it is intended to achieve; and
- d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

A6.8 Ofcom considers that making Directions in the manner described in paragraph 3.22 to 3.28 and set out in Annex 10 is objectively justifiable because these changes will better ensure BT are able to demonstrate their obligation to ensure charges are matched to costs of provision to the users of the accounts and to show returns that are undistorted. This is part of ensuring the accounts are fit for purpose.

Not unduly discriminatory against particular persons or against a particular description of services

A6.9 Ofcom considers that making Directions in the manner described in paragraph 3.22 to 3.27 and set out in Annex 10 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, adopts a treatment in its RFS which ensures consistent treatment of costs and revenues.

Proportionate to what it is intended to achieve

A6.10 Ofcom considers that making Directions in the manner described in paragraph 3.22 to 3.27 and set out in Annex 10 is proportionate because it is important that BT are able to demonstrate their obligation to ensure charges are matched to costs of provision to users of the RFS and to show returns that are undistorted. We have acknowledged that estimates may need to be made to reduce the level of burden in the first instance.

Transparent in relation to what it is intended to achieve

A6.11 Ofcom considers that making Directions in the manner described in paragraph 3.22 to 3.27 and set out in Annex 10 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence.

Option 2 – BT amend regulatory accounting policies to reflect an accounting treatment that matches costs and revenues

Legal tests

A6.12 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the making of Directions in accordance with OA22 and FA10.22 and modification of Directions 4 and the FA10 Form and content Direction as proposed in paragraphs 3.29 to 3.34 and set out in Annexes 13 and 10 respectively, are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

A6.13 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.

A6.14 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.

A6.15 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews have already assessed whether these regulatory accounting obligations met the tests outlined in Sections 3 and 4 of the Act. This proposed Direction is designed to enable BT to more effectively fulfil the purpose for which one of these particular obligations was imposed (cost accounting). In consequence Ofcom believes the proposed Directions in accordance with OA22 and FA10.22 meets the tests in Sections 3 and 4.

A6.16 The proposed modification to Direction 4 and the FA10 Form and content Direction is necessary as a result of the deficiency finding and therefore our justifications set out below cover both the deficiency and the necessary modification.

Section 49(2) tests

A6.17 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- b) not unduly discriminatory against particular persons or against a particular description of persons;
- c) proportionate to what it is intended to achieve; and
- d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

A6.18 Ofcom considers that making Directions in the manner described in paragraph 3.29 to 3.34 and set out in Annexes 10 and 13 is objectively justifiable because these changes will better ensure BT are able to demonstrate their obligation to ensure charges are matched to costs of provision to the users of the accounts and to show returns that are undistorted. This is part of ensuring the accounts are fit for purpose.

Not unduly discriminatory against particular persons or against a particular description of services

A6.19 Ofcom considers that making Directions in the manner described in paragraph 3.29 to 3.34 and set out in Annexes 10 and 13 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, adopts a treatment in its RFS which ensures consistent treatment of costs and revenues.

Proportionate to what it is intended to achieve

A6.20 Ofcom considers that making Directions in the manner described in paragraph 3.29 to 3.34 and set out in Annexes 10 and 13 is proportionate because it is essential that BT are able to demonstrate whether or not they comply with their cost orientation obligation at the service level. We have acknowledged that estimates may need to be made to reduce the level of burden in the first instance.

Transparent in relation to what it is intended to achieve

A6.21 Ofcom considers that making Directions in the manner described in paragraph 3.29 to 3.34 and set out in Annexes 10 and 13 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence.

2) Separate identification and reporting of costs in respect of other single payments (OSPs), resilience and third party equipment and infrastructure charges

Legal tests

A6.22 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Direction 4 under SMP condition OA2 as proposed in paragraphs 3.36 to 3.45 and Annex 10 are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

A6.23 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.

A6.24 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.

A6.25 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews have already assessed whether these regulatory accounting obligations met the tests outlined in Sections 3 and 4 of the Act. The proposed changes to Direction 4 under SMP condition OA2 are designed to enable BT to more effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and non-discrimination). In consequence Ofcom believes the proposed amendments to Direction 4 under SMP condition OA2 meet the tests in Sections 3 and 4.

Section 49(2) tests

A6.26 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- b) not unduly discriminatory against particular persons or against a particular description of persons;
- c) proportionate to what it is intended to achieve; and
- d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

A6.27 Ofcom considers that modifying Direction 4 under SMP condition OA2 in the manner described in paragraphs 3.36 to 3.45 and Annex 10 is objectively justifiable because BT has a cost orientation obligation at the service level in the markets in which these services sit. Therefore they need to be able to demonstrate their compliance with this obligation through the RFS.

Not unduly discriminatory against particular persons or against a particular description of services

A6.28 Ofcom considers that modifying Direction 4 under SMP condition OA2 in the manner described in paragraphs 3.36 to 3.45 and Annex 10 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, does not have such extensive or detailed reporting requirements and is not subject to the majority of the changes proposed in this consultation.

Proportionate to what it is intended to achieve

A6.29 Ofcom considers that modifying Direction 4 under SMP condition OA2 in the manner described in paragraph 3.36 to 3.45 and Annex 10 is proportionate because it is reasonable for us to expect that the costs of these services should be separately disclosed as part of BT demonstrating compliance with their cost orientation obligation.

Transparent in relation to what it is intended to achieve

A6.30 Ofcom considers that modifying Direction 4 under SMP condition OA2 in the manner described in paragraph 3.36 to 3.45 and Annex 10 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence from other projects.

3) Requirement to publish detailed cost stack analysis underlying PPC services and technical areas

Legal tests

A6.31 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modifications of Directions 3 and 4 under SMP condition OA2 as proposed in paragraphs 3.55 to 3.62 and Annex 10 are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

A6.32 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.

A6.33 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.

A6.34 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews have already assessed whether these regulatory accounting obligations met the tests outlined in Sections 3 and 4 of the Communications Act. The proposed changes to Directions 3 and 4 under SMP condition OA2 are designed to enable BT to more effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and non-discrimination). In consequence Ofcom believes the proposed amendments to Directions 3 and 4 under SMP condition OA2 meet the tests in Sections 3 and 4.

Section 49(2) tests

A6.35 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- b) not unduly discriminatory against particular persons or against a particular description of persons;
- c) proportionate to what it is intended to achieve; and

d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

A6.36 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.55 to 3.62 and Annexes 9 and 10 is objectively justifiable because currently we believe that the components in these markets do not fulfil all of the characteristics of a component and therefore our proposals aim to rectify this and allow all of these characteristics to be met.

Not unduly discriminatory against particular persons or against a particular description of services

A6.37 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.55 to 3.62 and Annexes 9 and 10 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, does not have such extensive or detailed reporting requirements and is not subject to the majority of the changes proposed in this consultation.

Proportionate to what it is intended to achieve

A6.38 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.55 to 3.62 and Annexes 9 and 10 is proportionate as BT has a transparency obligation with regards to cost accounting and the current reporting of the underlying cost stack for the PPC markets and technical areas does not meet this obligation.

Transparent in relation to what it is intended to achieve

A6.39 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.55 to 3.62 and Annexes 9 and 10 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence from other projects.

4) Reporting of downstream gross margin information to support BT's no undue discrimination obligation in the business connectivity markets

Legal tests

A6.40 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Directions 3 and 4 under SMP condition OA2 as proposed in paragraph 3.64 to 3.70 and Annexes 9 and 10 are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

A6.41 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.

A6.42 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum

benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.

A6.43 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews have determined that these regulatory accounting obligations meet the tests outlined in Sections 3 and 4 of the Act. The proposed changes to Directions 3 and 4 under SMP condition OA2 are designed to enable BT to more effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and non-discrimination). In consequence Ofcom believes the proposed amendments to Directions 3 and 4 under SMP condition OA2 meet the tests in Sections 3 and 4.

Section 49(2) tests

A6.44 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- b) not unduly discriminatory against particular persons or against a particular description of persons;
- c) proportionate to what it is intended to achieve; and
- d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

A6.45 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.64 to 3.70 and Annexes 9 and 10 is objectively justifiable because of our concerns about the effective operation of the no undue discrimination obligation in the business connectivity markets. This piece of information allows us to further monitor this obligation and alleviate our original concerns

Not unduly discriminatory against particular persons or against a particular description of services

A6.46 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.64 to 3.70 and Annexes 9 and 10 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, does not have such extensive or detailed reporting requirements and is not subject to the majority of the changes proposed in this consultation.

Proportionate to what it is intended to achieve

A6.47 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.64 to 3.70 and Annexes 9 and 10 is proportionate as this covers an area where there is particular interest due to the recent market review and the setting of a new charge control. We are also not asking BT to publish information due to the confidential nature of the data.

Transparent in relation to what it is intended to achieve

A6.48 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.64 to 3.70 and Annexes 9 and 10 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence from other projects.

5) External revenue reported in the RFS to be reconciled against general ledger

Legal tests

A6.49 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Directions 3 and 4 under SMP condition OA2 as proposed in paragraphs 3.72 to 3.80 and Annexes 9 and 10 are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

A6.50 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.

A6.51 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.

A6.52 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews determined that these regulatory accounting obligations meet the tests outlined in Sections 3 and 4 of the Act. The proposed changes to Directions 3 and 4 under SMP condition OA2 are designed to enable BT to more effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and no undue discrimination). In consequence Ofcom believes the proposed amendments to Directions 3 and 4 under SMP condition OA2 meet the tests in Sections 3 and 4.

Section 49(2) tests

A6.53 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- b) not unduly discriminatory against particular persons or against a particular description of persons;
- c) proportionate to what it is intended to achieve; and

- d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

- A6.54 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.72 to 3.80 and Annexes 9 and 10 is objectively justifiable because it is not currently possible to determine if the revenues in the RFS represent those reported in BT's statutory accounts. If the revenues are different then the return at market level will be different.

Not unduly discriminatory against particular persons or against a particular description of services

- A6.55 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.72 to 3.80 and Annexes 9 and 10 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, does not have such extensive or detailed reporting requirements and is not subject to the majority of changes proposed in this consultation.

Proportionate to what it is intended to achieve

- A6.56 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.72 to 3.80 and Annexes 9 and 10 is proportionate because we are only asking for this information as an AFI which is for Ofcom only and confined to the markets covered by the BCMR in order to monitor the effectiveness of the revised calculation of internal and external revenues.

Transparent in relation to what it is intended to achieve

- A6.57 Ofcom considers that modifying Directions 3 and 4 under SMP condition OA2 in the manner described in paragraph 3.72 to 3.80 and Annexes 9 and 10 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence from other projects.

6) Geographic reporting in wholesale broadband access markets - BT

Legal tests

- A6.58 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Directions 3 and 4 and the FA10 Form and content Direction under SMP condition OA2 and FA10.2 as proposed in paragraphs 4.4 to 4.20 and Annex 10 are met. The changes to the FA10 form and content Direction are required to maintain consistency with the market definitions modified in Direction 4. BT is not required to do any additional reporting as a result of the proposed modification to the FA10 Form and content Direction. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

- A6.59 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.

- A6.60 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A6.61 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews determined that these regulatory accounting obligations met the tests outlined in Sections 3 and 4 of the Act. The proposed changes to Directions 3 and 4 under SMP condition OA2 are designed to enable BT to more effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and non-discrimination). In consequence Ofcom believes the proposed amendments to Directions 3 and 4 under SMP condition OA2 and to the FA10 Form and content Direction under SMP condition FA10.2 meet the tests in Sections 3 and 4.

Section 49(2) tests

- A6.62 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:
- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - b) not unduly discriminatory against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

- A6.63 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.4 to 4.20 and Annexes 9 and 10 is objectively justifiable because the changes are necessary to meet BT's new SMP conditions as a result of the most recent market review. The publication of some information for a non-SMP market is justifiable to the extent that it is required to provide a complete picture of markets 1 and 2 – the markets with SMP – as the majority of costs cannot be allocated on a geographic basis.

Not unduly discriminatory against particular persons or against a particular description of services

- A6.64 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.4 to 4.20 and Annexes 9 and 10 is not unduly discriminatory because we will propose the relevant changes for KCOM, the only other communications provider with similar obligations, imposed by the most recent market review.

Proportionate to what it is intended to achieve

A6.65 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.4 to 4.20 and Annexes 9 and 10 is proportionate because it is the minimum necessary to satisfy the new SMP conditions imposed by the most recent market review and the publication of some information for a non-SMP market is necessary to provide a complete picture of markets 1 and 2 as the majority of costs cannot be allocated on a geographic basis.

Transparent in relation to what it is intended to achieve

A6.66 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.4 to 4.20 and Annexes 9 and 10 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence from other projects.

7) Changes to reporting in the business connectivity markets - BT

Legal tests

A6.67 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of the original notification dated 22 July 2004, Directions 3 and 4 and the FA10 Form and content Direction under SMP condition OA2 and FA10.2 as proposed in paragraphs 4.25 to 4.39 and Annexes 7, 9 and 10 are met. As explained in paragraph 4.37 Ofcom is proposing a minor change to the original July 2004 notification to ensure the existing reporting obligations apply to the new market 17a defined in the BCMR. The reasons for modifying the notification were consulted on in the BCMR consultations in January 2008 and July 2008. The proposed changes to the FA10 form and content Direction are required to maintain consistency with the market definitions altered in Direction 4. BT is not required to do any additional reporting as a result of the modification to the FA10 Form and content Direction. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

A6.68 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.

A6.69 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.

A6.70 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews determined that these regulatory accounting obligations meet the tests outlined in Sections 3 and 4 of the Act. The proposed changes to Direction 4 under SMP condition OA2 are designed to enable BT to

more effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and non-discrimination). In consequence Ofcom believes the proposed amendments to the notification, Directions 3 and 4 under SMP condition OA2 and a direction under SMP condition FA10.2 meet the tests in Sections 3 and 4.

Section 49(2) tests

A6.71 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- b) not unduly discriminatory against particular persons or against a particular description of persons;
- c) proportionate to what it is intended to achieve; and
- d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

A6.72 Ofcom considers that modifying the notification, Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraphs 4.25 to 4.39 and Annexes 7, 9 and 10 is objectively justifiable because the changes are necessary to meet BT's new SMP conditions as a result of the most recent market review.

Not unduly discriminatory against particular persons or against a particular description of services

A6.73 Ofcom considers that modifying the notification, Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraphs 4.25 to 4.39 and Annexes 7, 9 and 10 is not unduly discriminatory because we will propose the relevant changes for KCOM, the only other communications provider with similar obligations, as per the most recent market review.

Proportionate to what it is intended to achieve

A6.74 Ofcom considers that modifying the notification, Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.25 to 4.39 and Annexes 7, 9 and 10 is proportionate because it is the minimum necessary to satisfy the new SMP conditions as per the most recent market review.

Transparent in relation to what it is intended to achieve

A6.75 Ofcom considers that modifying the notification, Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.25 to 4.39 and Annexes 7, 9 and 10 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence from other projects.

8) BT's proposal to remove reporting for market that account for less than £10m of revenue

Legal tests

A6.76 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Directions 3 and 4 and the FA10 Form and content Direction under SMP condition OA2 and FA10.2 as proposed in paragraphs 4.49 to 4.55 and Annexes 9 and 10, respectively, are met. The changes to the FA10 form and content Direction are required to maintain consistency with the markets deleted in Direction 4. BT is not required to do any additional reporting as a result of the modification to the FA10 Form and content Direction. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

A6.77 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.

A6.78 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.

A6.79 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on BT in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews have already determined that these regulatory accounting obligations meet the tests outlined in Sections 3 and 4 of the Act. However, Ofcom has a duty to regularly review regulatory burdens and consider whether it would be appropriate to remove or reduce regulatory burdens it has imposed. In this case Ofcom believes the three identified markets are no longer material enough to warrant individual reporting and should therefore be reported in the residual markets in the RFS.

Section 49(2) tests

A6.80 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- b) not unduly discriminatory against particular persons or against a particular description of persons;
- c) proportionate to what it is intended to achieve; and
- d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

A6.81 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.49 to 4.55 and Annexes 9 and 10 is objectively justifiable because at the service-level BT can apply the £10m de minimus limit which allows them to merge low value services within similar product families to reduce the reporting burden. These markets will now be merged and reported in the residual markets. We are proposing changes and additional obligations in other more material areas and therefore it is appropriate for us to relax obligations, as appropriate, in these less material areas.

Not unduly discriminatory against particular persons or against a particular description of services

A6.82 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.49 to 4.55 and Annexes 9 and 10 is not unduly discriminatory because KCOM, the only other communications provider with similar obligations, does not have such extensive or detailed reporting requirements and is not subject to the majority of the changes proposed in this consultation.

Proportionate to what it is intended to achieve

A6.83 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.49 to 4.55 and Annexes 9 and 10 is proportionate as it is a removal of certain reporting requirements and should reduce the quantity of reporting by BT.

Transparent in relation to what it is intended to achieve

A6.84 Ofcom considers that modifying Directions 3 and 4 and the FA10 Form and content Direction under SMP conditions OA2 and FA10.2 in the manner described in paragraph 4.49 to 4.55 and Annexes 9 and 10 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence from other projects.

Proposals relating to KCOM

9) Changes to reporting in wholesale broadband access markets - KCOM

Legal tests

A6.85 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Directions 3 and 4 under SMP condition OB2 as proposed in paragraphs 4.22 to 4.23 and Annex 10 are met. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

- A6.86 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.
- A6.87 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A6.88 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on KCOM in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews determined that these regulatory accounting obligations meet the tests outlined in Sections 3 and 4 of the Act. The proposed changes to Direction 4 under SMP condition OB2 are designed to enable KCOM to more effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and non-discrimination). In consequence Ofcom believes the proposed amendments to Direction 4 under SMP condition OB2 meet the tests in Sections 3 and 4.

Section 49(2) tests

- A6.89 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:
- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - b) not unduly discriminatory against particular persons or against a particular description of persons;
 - c) proportionate to what it is intended to achieve; and
 - d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

- A6.90 Ofcom considers that modifying Direction 4 under SMP condition OB2 in the manner described in paragraph 4.22 to 4.23 and Annexes 9 and 10 is objectively justifiable because the changes are necessary to meet KCOM's new SMP conditions as a result of the most recent market review.

Not unduly discriminatory against particular persons or against a particular description of services

- A6.91 Ofcom considers that modifying Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.22 to 4.23 and Annexes 9 and 10 is not unduly discriminatory because we will propose the relevant changes for BT, the only other communications provider with similar obligations, as per the most recent market review.

Proportionate to what it is intended to achieve

- A6.92 Ofcom considers that modifying Direction 4 under SMP condition OB2 in the manner described in paragraph 4.22 to 4.23 and Annexes 9 and 10 is proportionate because it is the minimum necessary to satisfy the new SMP conditions as per the most recent market review.

Transparent in relation to what it is intended to achieve

- A6.93 Ofcom considers that modifying Direction 4 under SMP condition OB2 in the manner described in paragraph 4.22 to 4.23 and Annexes 9 and 10 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence from other projects.

10) Changes to reporting in the business connectivity markets - KCOM**Legal tests**

- A6.94 The section below sets out Ofcom's reasons why it considers that the relevant legal tests under the Act for the modification of Directions 3 and 4 under SMP condition OB2 as proposed in paragraphs 4.41 to 4.47 and Annexes 7, 11 and 12 are met. As explained in paragraph 4.45, Ofcom is proposing a minor change to the original July 2004 notification to ensure the existing reporting obligations apply to the new market 12 defined in the BCMR. The reasons for modifying the notification were consulted on in the BCMR consultations in January and July 2008. These paragraphs should be read in the light of relevant considerations and Ofcom's conclusions as set out above in this consultation document.

Section 3 and 4 – general duties & the six Community requirements

- A6.95 Section 3 of the Act sets out the duties of Ofcom in carrying out its functions, in particular that it furthers the interests of citizens in relation to communications and furthers the interests of consumers in relevant markets.
- A6.96 Section 4 of the Act requires that Ofcom acts in accordance with the six Community requirements concerning: the promotion of competition; the development of the European internal market; the promotion of the interests of all EU citizens; non-discrimination; promoting efficiency and sustainable competition and the maximum benefit for consumers; and facilitating service interoperability and securing freedom of choice for consumers.
- A6.97 As part of the EU market review process Ofcom imposed wholesale cost accounting and accounting separation obligations (conditions and directions) on KCOM in specific identified markets as appropriate remedies to its SMP in these markets. The relevant individual market reviews have already determined that these regulatory accounting obligations meet the tests outlined in Sections 3 and 4 of the Act. The proposed changes to Directions 3 and 4 under SMP condition OB2 are designed to enable KCOM to more effectively fulfil the purpose for which these particular obligations were imposed (i.e. demonstrate cost orientation and non-discrimination). In consequence Ofcom believes the proposed amendments to Directions 3 and 4 under SMP condition OB2 meets the tests in Sections 3 and 4.

Section 49(2) tests

A6.98 Ofcom has the ability to modify a direction that gives effect to an SMP obligation under section 49 of the Act but only where it is satisfied that the tests under section 49(2) has been met. The tests are that the modification of the direction is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- b) not unduly discriminatory against particular persons or against a particular description of persons;
- c) proportionate to what it is intended to achieve; and
- d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

A6.99 Ofcom considers that modifying the notification, Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.41 to 4.47 and Annexes 7, 11 and 12 is objectively justifiable because the changes are necessary to meet KCOM's new SMP conditions as a result of the most recent market review.

Not unduly discriminatory against particular persons or against a particular description of services

A6.100 Ofcom considers that modifying the notification, Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.41 to 4.47 and Annexes 7, 11 and 12 is not unduly discriminatory because we will propose the relevant changes for BT, the only other communications provider with similar obligations, as per the most recent market review.

Proportionate to what it is intended to achieve

A6.101 Ofcom considers that modifying the notification, Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.41 to 4.47 and Annexes 7, 11 and 12 is proportionate because it is the minimum necessary to satisfy the new SMP conditions as per the most recent market review.

Transparent in relation to what it is intended to achieve

A6.102 Ofcom considers that modifying the notification, Directions 3 and 4 under SMP condition OB2 in the manner described in paragraph 4.41 to 4.47 and Annexes 7, 11 and 12 is transparent because Ofcom is explaining and consulting on this change and has provided background explanatory material and evidence from other projects.

Annex 7

Proposed Notification to BT and KCOM

Notification under sections 48(2) and 86 of the Communications Act 2003

Proposal for the setting of SMP service conditions to BT and KCOM in relation to their regulatory accounting obligations in respect of various markets

Background

1. On 8 December 2008, the Office of Communications (“OFCOM”) published a statement entitled Business Connectivity Market Review, review of the retail leased lines, wholesale symmetric broadband origination and wholesale trunk segments markets (the “BCMR”) identifying a number of markets for the purpose of making market power determinations and setting SMP services conditions.
2. At Annex 8 of the BCMR OFCOM published a notification (the “2008 BCMR Notification”) identifying, in accordance with section 79 of the Communications Act 2003 (the “Act”), various services markets including the services market 17a, “Provision of traditional interface symmetric broadband origination with a bandwidth capacity above forty five megabits per second and up to and including one hundred and fifty five megabits per second within the United Kingdom but not including the Hull Area and the Central and East London Area (as defined in OFCOM’s Notification published on 8 December 2008)”, in which Ofcom determined that, for the purposes of making a market power determination under the Act, BT has significant market power. As a result of that market power determination, in accordance with section 48(1) of the Act, Ofcom set on BT pursuant to section 45 of the Act the SMP services conditions set out in Schedules 1 to 6 of the 2008 BCMR Notification.
3. In the 2008 BCMR notification OFCOM identified in accordance with section 79 of the Act, various services markets including the services market 12, “Provision of alternative interface symmetric broadband origination with a bandwidth capacity of up to and including one gigabit per second within the Hull Area” in which Ofcom determined that, for the purposes of making a market power determination under the Act, KCOM has significant market power. As a result of that market power determination, in accordance with section 48(1) of the Act, OFCOM set on KCOM pursuant to section 45 of the Act the SMP services conditions set out in Schedules 7 to 10 of the 2008 BCMR Notification.
4. In the 2008 BCMR Notification OFCOM also amended Part 1 of Schedule 1 to the Notifications dated 22 July 2004 thereby setting further SMP services conditions on BT and KCOM in relation to regulatory accounting obligations applying in respect of the markets identified in paragraphs 2 and 3 above. The tables in Part 1 of Schedule 1 of the Notifications dated 22 July 2004 to BT and KCOM were amended to include reference to the newly identified markets 17a and 12, however, a required amendment to reference markets 17a and 12 in paragraph 4 of the same Schedule was omitted. A further modification to the Notifications dated 22 July 2004 is therefore required to ensure the obligations for the preparation of regulatory accounting statements apply to markets 17a and 12.

Proposal

5. OFCOM hereby makes, in accordance with section 48(2) of the Communications Act 2003 ("the Act") the following proposal to modify:
 - i. The Notification to BT dated 22 July 2004 setting SMP services conditions on BT in relation to regulatory accounting in various markets (as modified); and
 - ii. The Notification to KCOM dated 22 July 2004 setting SMP services conditions on KCOM in relation to regulatory accounting in various markets (as modified).
6. By making the modification in paragraph 5(i) above OFCOM is proposing in accordance with section 86(1)(b) of the Act to set further SMP services conditions on BT in respect of the wholesale market numbered 17a set out in Part 1 of Schedule 1 to the Notification dated 22 July 2004 (as modified), the SMP services conditions as set out in Schedule 2 to the Notification dated 22 July 2004, excluding conditions OA29 to OA31 and OA34, as OFCOM is satisfied there has been no material change in market 17a since the market power determination was made.
7. By making the modification in paragraph 5(ii) above OFCOM is proposing in accordance with section 86(1)(b) of the Act to set further SMP services conditions on KCOM in respect of the wholesale market numbered 12 set out in Part 1 of Schedule 1 to the Notification dated 22 July 2004 (as modified), the SMP services conditions as set out in Schedule 2 to the Notification dated 22 July 2004, excluding conditions (d) and (e) of OB23, conditions OB28 to OB31 and condition OB33, as OFCOM is satisfied there has been no material change in market 12 since the market power determination was made.
8. The proposed modifications to the 22 July 2004 Notifications to BT and KCOM are set out in Annexes A and B to this Notification.
9. The effect of the proposals, and the reasons for making the proposals, are set out in the accompanying explanatory statement and the business connectivity market review consultation notifications published on 17 January 2008 and 10 July 2008.
10. OFCOM consider that the proposed SMP services conditions referred to in paragraphs 6 and 7 above comply with the requirements of sections 45 to 50 and sections 78 to 92 of the Act, as appropriate and relevant to each such SMP services condition.
11. In making the proposal referred to in paragraph 5 of this Notification Ofcom has considered and acted in accordance with their general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.
12. Representations may be made to OFCOM about the proposal set out in this Notification and the accompanying explanatory statement by 5pm on 1 May 2009.
13. In accordance with section 50 of the Act, copies of this notification have been sent to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State.
14. In this Notification:

- a) "BT" means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;
- b) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
- c) "KCOM" means KCOM Group plc, whose registered company number is 2150618, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989; and
- d) "OFCOM" means the Office of Communications.

Craig Lonie

Director of Competition Finance, Ofcom

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

20 March 2009

Annex A

The Notification to BT dated 22 July 2004 setting SMP services conditions on BT in relation to regulatory accounting in various markets as modified is hereby amended as follows:

1. In paragraph 4.a.i. of the Notification insert “, and 17a” after the words “numbered 1, 3, 4, 6 to 10, and 14 to 17”.

Annex B

The Notification to KCOM dated 22 July 2004 setting SMP services conditions on KCOM in relation to regulatory accounting in various markets as modified is hereby amended as follows:

1. In paragraph 4.a.ii. of the Notification replace "11" with "12" and insert "and" at the end of the paragraph.
2. In paragraph 4.a.iii. of the Notification delete "OB33; and" and replace with "OB33."
3. Delete paragraph 4.b of the Notification in its entirety.

Annex 8

Annex – SMP Services markets

For ease of reference we have reproduced a current consolidated version of the tables setting out the services markets against which BT and KCOM are required to prepare RFS²². These tables were recently amended by notifications in the business connectivity market review and the review of the wholesale broadband access markets which resulted in changes to the markets in which BT and KCOM have been found to have SMP. Ofcom is currently consulting on its market reviews of the fixed narrowband services wholesale market and the fixed narrowband retail services market and has proposed different market definitions for BT and KCOM so the market definitions set out below may change further.

The consolidated table in Part 1 of Schedule 1 to the July 2004 Notification to BT is shown below.

Part 1: Wholesale Markets

Market identified and in which BT found to have SMP in previous Notifications pursuant to section 79 of the Act	Date
1. Wholesale residential analogue exchange line services in the UK excluding the Hull Area	28.11.03
2. Wholesale residential ISDN2 exchange line services in the UK excluding the Hull Area	As above
3. Wholesale business analogue exchange line services in the UK excluding the Hull Area	As above
4. Wholesale business ISDN2 exchange line services in the UK excluding the Hull Area	As above
5. Wholesale ISDN30 exchange line services in the UK excluding the Hull Area	As above
6. Call origination on fixed public narrowband networks in the UK excluding the Hull Area	As above
7. Local-tandem conveyance and transit on fixed public narrowband networks in the UK excluding the Hull Area	18.08.05 ²³
8. Inter-tandem conveyance and transit on fixed public telephone networks in the UK excluding the Hull Area	As above²⁴
9. Single transit on fixed public narrowband networks in the UK excluding the Hull Area	As above
10. Fixed geographic call termination provided by BT	28.11.03
11. Wholesale international call conveyance from the United Kingdom to each of the countries, territories or satellite services set out in Category B at Part 3 of this Schedule on a	18.11.03

²² It is recommended that you consult the relevant notification(s) for the SMP services conditions as these contain an explanation of the reasons for the decision to amend and the specific modifications that have been made. While every reasonable effort is made to ensure that the information provided in the tables is accurate, no guarantees for the currency or accuracy of information are made. The original notification and the subsequent modifying notifications are signed by an authorised person, and the definitive version is that which has been so signed and which is the original printed version held by Ofcom. For the avoidance of doubt, in the case of any difference between texts, the signed version held by Ofcom shall take precedence over the electronic or printed version.

²³ See the notification in Annex 3 of the Review of BT's network charge controls, dated 18 August 2005, <http://www.ofcom.org.uk/consult/condocs/charge/statement/annex3.pdf>

²⁴ See footnote [23] above

Market identified and in which BT found to have SMP in previous Notifications pursuant to section 79 of the Act	Date
route by route basis such that each route from the United Kingdom to one of those countries, territories or satellite services constitutes a separate market	
12. Wholesale Broadband Access in Market 1 as defined in OFCOM's Notification published on 21 May 2008	21.05.08 ²⁵
13. Wholesale Broadband Access in Market 2 as defined in OFCOM's Notification published on 21 May 2008	As above ²⁶
14. Provision of traditional interface symmetric broadband origination with a bandwidth capacity up to and including eight megabits per second within the UK but not including the Hull Area	08.12.08 ²⁷
15. <i>Provision of traditional interface symmetric broadband origination with a bandwidth capacity above eight megabits per second and up to and including forty five megabits per second within the United Kingdom but not including the Hull Area and the Central and East London Area (as defined in OFCOM's Notification published on 8 December 2008)</i> ;	As above ²⁸
16. <i>Provision of alternative interface symmetric broadband origination with a bandwidth capacity up to and including one gigabit per second within the United Kingdom but not including the Hull Area</i>	As above ²⁹
17. Provision of wholesale trunk segments at all bandwidths within the UK	As above ³⁰
17a. <i>Provision of traditional interface symmetric broadband origination with a bandwidth capacity above forty five megabits per second and up to and including one hundred and fifty five megabits per second within the United Kingdom but not including the Hull Area and the Central and East London Area (as defined in OFCOM's Notification published on 8 December 2008)</i>	As above ³¹

The consolidated table in Part 2 of Schedule 1 to the July 2004 Notification to BT is shown below.

Part 2: Retail Markets

Market identified and in which BT found to have SMP in previous Notifications pursuant to section 79 of the Act	Date
18. Residential analogue exchange line services in the UK excluding the Hull Area	28.11.03
19. Residential local calls in the UK excluding the Hull Area	As above
20. Residential national calls in the UK excluding the Hull Area	As above
21. Residential calls to mobiles in the UK excluding the Hull	As above

²⁵ See the Notification in Annex 1 of the review of the wholesale broadband access markets statement dated 21 May 2008, <http://www.ofcom.org.uk/consult/condocs/wbamr07/statement/statement.pdf>

²⁶ See footnote [25] above

²⁷ See the Notification in Annex 8 of the business connectivity market review statement dated 8 December 2008, <http://www.ofcom.org.uk/consult/condocs/bcmr08/bcmr08.pdf>

²⁸ See footnote [27] above

²⁹ See footnote [27] above

³⁰ See footnote [27] above

³¹ See footnote [27] above

Market identified and in which BT found to have SMP in previous Notifications pursuant to section 79 of the Act	Date
Area	
22. Residential operator assisted calls in the UK excluding the Hull Area	As above
23. Residential IDD Category A calls in the UK excluding the Hull Area	As above
24. Residential IDD Category B calls (on a route by route basis) in the UK excluding the Hull Area	As above
25. Provision of traditional interface retail leased lines up to and including a bandwidth capacity of eight megabits per second within the UK but not including the Hull Area	08.12.08 ³²

The consolidated table in Part 1 of Schedule 1 to the July 2004 Notification to KCOM is shown below.

Part 1: Wholesale Markets

Market identified and in which KCOM found to have SMP in previous Notifications pursuant to section 79 of the Act	Date
1. Wholesale residential analogue exchange line services in the Hull Area	28.11.03
2. Wholesale residential ISDN2 exchange line services in the Hull Area	As above
3. Wholesale business analogue exchange line services in the Hull Area	As above
4. Wholesale business ISDN2 exchange line services in the Hull Area	As above
5. Wholesale ISDN30 exchange line services in the Hull Area	As above
6. Call origination on fixed public narrowband networks in the Hull Area	As above
7. Fixed geographic call termination provided by Kingston	28.11.03
8. Wholesale Broadband Access in the Hull Area	21.05.08³³
9. Provision of traditional interface symmetric broadband origination with a bandwidth capacity up to and including eight megabits per second within the Hull Area	08.12.08 ³⁴
10. Provision of traditional interface symmetric broadband origination with a bandwidth capacity above eight megabits per second and up to and including forty five megabits per second within the Hull Area	As above³⁵
11. Provision of traditional interface symmetric broadband origination with a bandwidth capacity above forty five megabits per second and up to and including one hundred and fifty five megabits per second within the Hull Area	As above³⁶
12. Provision of alternative interface symmetric broadband origination with a bandwidth capacity of up to and	As above³⁷

³² See footnote [27] above

³³ See the Notification in Annex 1 of the review of the wholesale broadband access markets statement dated 21 May 2008, <http://www.ofcom.org.uk/consult/condocs/wbamr07/statement/statement.pdf>

³⁴ See the Notification in Annex 8 of the business connectivity market review statement dated 8 December 2008, <http://www.ofcom.org.uk/consult/condocs/bcmr08/bcmr08.pdf>

³⁵ See footnote [34] above

³⁶ See footnote [34] above

³⁷ See footnote [34] above

Market identified and in which KCOM found to have SMP in previous Notifications pursuant to section 79 of the Act	Date
<i>including one gigabit per second within the Hull Area</i>	

The consolidated table in Part 2 of Schedule 1 to the July 2004 Notification to KCOM is shown below.

Part 2: Retail Markets

None ³⁸	
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³⁸ See footnote [34] above

Annex 9

Notification of Proposed Amendments to Direction 3

Notification of a proposal under section 49 of the Communications Act 2003

Proposal for modifying a Direction given under SMP Services Condition OA2 specifying requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting

1. The Office of Communications (“OFCOM”) hereby makes, in accordance with section 49 of the Communications Act 2003 (“the Act”), the following proposal to modify Direction 3 given under SMP Services Condition OA2 at Annex 4 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004* (the “Original Direction 3”), as modified by the following statements: at Annex 2 of the *Changes to BT’s regulatory financial reporting framework, dated 31 August 2005*; at Annex 3 of the *Changes to BT’s regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 4 of *BT’s regulatory financial reporting requirements dated 30 May 2007*; and at Annex 4 of *Changes to BT’s 2007/08 regulatory financial statements, dated 26 June 2008*, which relate to BT’s obligations under SMP services conditions OA1 to OA34, in that the modifications set out amendments specifying requirements for the preparation, audit and delivery of regulatory financial statements in respect of wholesale cost accounting, accounting separation and retail cost accounting.

2. The draft modification to the Direction is set out in the Schedule to this notification.

3. The effect of the draft modification to the Directions, and the reasons for making the proposal, are set out in the accompanying explanatory statement.

4. Representation may be made to OFCOM about the proposed draft modification to the Direction by 5 pm on 1 May 2009.

5. In accordance with section 50 of the Act, copies of this notification have been sent to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State.

Craig Lonie

Director of Competition Finance, Ofcom

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

20 March 2009

Schedule

[Draft] Direction modifying Directions under section 49 of the Communications Act 2003 and SMP Services Condition OA2 specifying requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting

WHEREAS:

(A) as a result of a market analysis carried out by the Director General of Telecommunications (the 'Director') and OFCOM in accordance with section 79 of the Act, BT has been designated as having SMP in respect of certain identified markets in accordance with section 79 of the Act;

(B) as a result of such SMP designations, BT has been subjected to various SMP Services Conditions in accordance with sections 45 and 86 to 92 of the Act, including conditions OA1 to OA34 imposing obligations on BT in respect of wholesale cost accounting, accounting separation and retail cost accounting in relation to BT's activities in those markets where BT has been designated as having SMP;

(C) in complying with the SMP services conditions referred to in paragraph B above, and in particular condition OA5, BT is required to, amongst other things:

- a) prepare;
- b) secure an audit opinion in respect of;
- c) deliver to OFCOM (with the corresponding audit opinion); and
- d) publish (with the corresponding audit opinion)

the regulatory financial statements as directed by OFCOM from time to time.

(D) by virtue of the Transitional Provisions, references to the Director in any of those SMP services conditions should be read as references to OFCOM;

(E) condition OA2 includes, in accordance with section 45(10) of the Act, the ability for OFCOM to make such directions as they consider appropriate from time to time in relation to BT's obligations under conditions OA1 to OA34;

(F) this modified Direction modifies Direction 3 which relates to BT's obligations under SMP services conditions OA1 to OA34, in that it sets out an amendment to the Regulatory Financial Statements which are required to be prepared, audited (including the level of audit), delivered to OFCOM and/or published by BT under condition OA5; and

(G) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM are satisfied that, in accordance with section 49(2) of the Act, this Direction is:

- i. objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- ii. not such as to discriminate unduly against particular persons or against a particular description of persons;
- iii. proportionate to what it is intended to achieve; and
- iv. in relation to what it is intended to achieve, transparent;

(H) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM have considered and acted in accordance with the six Community

requirements set out in section 4 of the Act and their duties in section 3 of the Act;

(I) on 20 March 2009, OFCOM published a notification of the proposed modified Direction in accordance with section 49 of the Act (the 'Notification');

(L) a copy of the Notification was sent to the Secretary of State, the European Commission and the regulatory authorities at every other Member State in accordance with section 50 of the Act;

(M) in the Notification and accompanying explanatory statement OFCOM invited representations about any of the proposals therein by 5pm on 1 May 2009;

(N) by virtue of section 49(9) of the Act, OFCOM may give effect to the proposal set out in the Notification, with or without modification, only if:

a) they have considered every representation about the proposal that is made to them within the period specified in the Notification; and

b) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;

(O) Ofcom has considered every representation about the proposed modified Direction duly made to them and these representations are discussed in the statement accompanying this modified Direction; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

NOW, therefore, pursuant to section 49 of the Act and Condition OA2 OFCOM hereby gives the following modification to Direction 3:

1. Direction 3 shall be modified as set out in Annex A to this modified Direction.
2. For the purpose of interpreting this modified Direction, the following definitions shall apply:
 - a) "Act" means the Communications Act 2003 (c. 21);
 - b) "BT" means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;
 - c) "Direction 3" means the Original Direction 3 and the following modifying Directions: at Annex 2 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 3 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 4 of *BT's regulatory financial reporting requirements dated 30 May 2007*; and at Annex 4 of *Changes to BT's 2007/08 regulatory financial statements, dated 26 June 2008*, which relates to BT's obligations under SMP services conditions OA1 to OA34, specifying requirements for the preparation, audit and delivery of regulatory financial statements in respect of wholesale cost accounting, accounting separation and retail cost accounting delivered to OFCOM and/or published by BT under condition OA5;
 - d) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - e) "OFCOM" means the Office of Communications;
 - f) "Original Direction 3" means the Direction given under SMP Services Condition OA2 at Annex 4 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*; and
 - g) "Transitional Provisions" means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003 and the Office of Communications Act 2002 (Commencement No. 3) and Communications Act 2003 (Commencement No. 2) Order 2003.
3. 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 Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
4. For the purpose of interpreting this modified Direction:
 - a) headings and titles shall be disregarded; and
 - b) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.
5. This Direction shall take effect on the day it is published.
6. The Schedule to this modified Direction shall form part of this modified Direction.

[Name]

[Title]

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

[Date]

Annex A

Direction 3 is modified as shown below in that the words underlined are inserted and the words struck through are deleted.

BT and KCOM's regulatory financial reporting

	Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.	Traditional interface symmetric broadband origination (above 3Mbit/s up to and including 155Mbit/s)	Traditional interface symmetric broadband origination in the UK, excluding the Hull Area and the Central and East London Area (above 8Mbit/s and up to and incl. 155Mbit/s)	Wholesale service A	Wholesale service B	Partial and Private Circuits 34/45mbit/s - link	Partial and Private Circuits 34/45mbit/s - distribution	Partial and Private Circuits 34/45mbit/s - local end	Traditional interface symmetric broadband origination in the UK, excluding the Hull Area and the Central and East London Area (above 45 Mbit/s and up to and incl. 155Mbit/s)	WS service A	WS service B	Partial and Private Circuits 140/155mbit/s link	Partial and Private Circuits 140/155mbit/s distribution	Partial and Private Circuits 140/155mbit/s local end	Alternative interface symmetric broadband origination (alt bandwidths) - aggregate utilisation	Alternative interface symmetric broadband origination in the UK, excluding the Hull Area (up to and including 1 Gbit/s)	WS service A	WS service B	WESLES	BES
Annex 1	Statement by Ofcom	P	P						P						P	P				
Annex 2	Statement of responsibility	P	P		P					P										
Annex 3	Consolidated performance summary	P	P			P	P					P								
Annex 4	Regulatory financial review	P	P						P											
Annex 5A	Attribution of Wholesale current costs	P	P	N	N	N	N	N	P	N	N	N	N	N	P	P	N	N	N	N
Annex 5B	Attribution of Retail current costs																			
Annex 6A	Attribution of Wholesale Current Cost Mean Capital Employed	P	P	N	N	N	N	N	P	N	N	N	N	N	P	P	N	N	N	N
Annex 6B	Attribution of Retail Current Cost Mean Capital Employed																			
Annex 7	Financial performance in Access markets	P	P						P						P	P				
Annex 8	Financial performance in other wholesale SMP markets																			
Annex 10	Market Group Financial Review	P	P						P						P	P				
Annex 11	Market summary	P	P						P						P	P				
Annex 12	Market summary																			
Annex 13	Market summary (ToD)																			
Annex 14	Market Level Financial Review	P	P						P						P	P				
Annex 15	Network Activity Statement	P	P						P						P	P				
Annex 16	Calculation of FAC based on component costs and usage factors	P	P						P						P	P				
Annex 17	BT Network Services Reconciliation	P	P						P						P	P				
Annex 19	BT Reconciliation Statement - P&L	P	P						P						P	P				
Annex 20	BT Reconciliation statement -MCE	P	P						P						P	P				
Annex 21	BT Inter-market turnover reconciliation	P	P						P						P	P				
Annex 22	Notes to the Financial Statements	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Annex 23	Report of the Regulatory Auditors	P	P						P						P	P				
Annex 24	Price controls in wholesale markets	P	P						P						P	P				
Annex 25	Price controls in wholesale markets	P	P						P						P	P				

		Technical areas	Point of Handover	Asymmetric broadband origination in the UK excluding the Hull area	Wholesale Broadband Access	WS service A	WS service B	Wholesale local access market	wholesale service A	wholesale service B etc	Wholesale-residential-ISDN2-exchange line services	Residential-ISDN2-internal-service-connections	Residential-ISDN2-internal-service-rental	Residential-ISDN2-external-service-rental	Wholesale business ISDN30 exchange line services	wholesale service A	
	Note "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes a statement to be produced and provided to Ofcom but need not be published.																
Annex 1	Statement by Ofcom	P		P	P			P			P				P		
Annex 2	Statement of responsibility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Annex 3	Consolidated performance summary	P		P	P			P			P				P		
Annex 4	Regulatory financial review	P		P	P			P			P				P		
Annex 5A	Attribution of wholesale current costs	P	N	P	P	N	N	P	N	N	P	N	N	N	P	N	
Annex 5B	Attribution of retail current costs																
Annex 6A	Attribution of wholesale current cost mean capital employed	P	N	P	P	N	N	P	N	N	P	N	N	N	P	N	
Annex 6B	Attribution of retail current cost mean capital employed																
Annex 7	Financial performance in Access markets	P		P	P			P			P				P		
Annex 8	Financial performance in other wholesale SMP markets																
Annex 10	Market Group Financial Review	P		P	P			P			P				P		
Annex 11	Market summary	P						P			P						
Annex 12	Market summary			P	P										P		
Annex 13	Market summary (ToD)																
Annex 14	Market Level Financial Review	P		P	P			P			P				P		
Annex 15	Network Activity Statement	P		P	P			P			P				P		
Annex 16	Calculation of FAC based on component costs and usage factors	P		P	P			P			P				P		
Annex 17	BT Network Services Reconciliation	P		P	P			P			P				P		
Annex 19	BT Reconciliation Statement - P&L	P		P	P			P			P				P		
Annex 20	BT Reconciliation statement -MCE	P		P	P			P			P				P		
Annex 21	BT Inter-market turnover reconciliation	P		P	P			P			P				P		
Annex 22	Notes to the Financial Statements	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Annex 23	Report of the Regulatory Auditors	P		P	P			P			P				P		
Annex 24	Price controls in wholesale markets	P		P	P			P			P				P		
Annex 25	Price controls in wholesale markets	P		P	P			P			P				P		

BT and KCOM's regulatory financial reporting

	Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.	Broadband conveyance in the UK	WS-ATM-Interconnection	Wholesale trunk segments (including Kingston upon Hull)	WS service A	WS service B	Partial and Private circuits 2mbit/s trunk	Partial and Private circuits 34/45mbit/s trunk	Partial and Private circuits 140/155mbit/s trunk	Partial and Private circuits 622mbit/s trunk	Fixed geographic call termination	WS Call termination local exchange segment	WS Call termination local exchange segment (ISDN)	WS Call termination local exchange Stick	WS Call termination local exchange Stick (ISDN)
Annex 1	Statement by Ofcom	P		P							P				
Annex 2	Statement of responsibility	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Annex 3	Consolidated performance summary	P		P							P				
Annex 4	Regulatory financial review	P		P							P				
Annex 5A	Attribution of Wholesale current costs	P	N	P	N	N	N	N	N	N	P	N	N	N	N
Annex 5B	Attribution of Retail current costs														
Annex 6A	Attribution of Wholesale Current Cost Mean Capital Employed	P	N	P	N	N	N	N	N	N	P	N	N	N	N
Annex 6B	Attribution of Retail Current Cost Mean Capital Employed														
Annex 7	Financial performance in Access markets														
Annex 8	Financial performance in other wholesale SMP markets	P		P							P				
Annex 10	Market Group Financial Review	P		P							P				
Annex 11	Market summary			P							P				
Annex 12	Market summary	P													
Annex 13	Market summary (ToD)														
Annex 14	Market Level Financial Review	P		P							P				
Annex 15	Network Activity Statement	P		P							P				
Annex 16	Calculation of FAC based on component costs and usage factors	P		P							P				
Annex 17	BT Network Services Reconciliation	P		P							P				
Annex 19	BT Reconciliation Statement - P&L	P		P							P				
Annex 20	BT Reconciliation statement -MCE	P		P							P				
Annex 21	BT Inter-market turnover reconciliation	P		P							P				
Annex 22	Notes to the Financial Statements	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Annex 23	Report of the Regulatory Auditors	P		P							P				
Annex 24	Price controls in wholesale markets	P		P							P				
Annex 25	Price controls in wholesale markets	P		P							P				

		Wholesale residential analogue exchange line services	wholesale service A	wholesale service B ...	Wholesale business analogue exchange line services	wholesale service A	wholesale service B ...	Wholesale business ISDN2 exchange line services	wholesale service A	wholesale service B
Annex 26	Additional Information by way of notes									
AI-1	Cost category analysis for network components, increments and common cost		N	N		N	N		N	N
AI-2	Summarised activity analysis of components		N	N		N	N		N	N
AI-3	Cost category analysis for network components and increments		N	N		N	N		N	N
AI-4	Summarised activity analysis for network components and increments		N	N		N	N		N	N
AI-5	Analysis by asset category and network activities		N	N		N	N		N	N
AI-6	CCA fixed asset movement statement		N	N		N	N		N	N
AI-7	Total mean capital employed and detailed activity analysis		N	N		N	N		N	N
AI-8	Analysis by type of product group and by type of OLO									
AI-9	Detailed Network activity analysis of mean capital employed		N	N		N	N		N	N
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N			N			N		
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N			N			N		
AI-13	Total operating costs & mean capital employed costs for each plant group	N	N	N	N	N	N	N	N	N
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis									
AI-15	Provision of BT 'Data File'	N	N	N	N	N	N	N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets	N	N	N	N	N	N	N	N	N
AI-21	Comprehensive analysis of the transfer charges	N	N	N	N	N	N	N	N	N
AI-22	Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue									
AI-23	Cost data for plant group to service for the PPC services and technical areas									
AI-24	Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis									
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities									

BT's regulatory financial reporting

	Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.															
	Traditional interface symmetric broadband origination (up to and including 8Mbit/s);	WS service A	WS service B	Partial and Private Circuits 64kbit/s connection	Partial and Private Circuits 64kbit/s link	Partial and Private Circuits 64kbit/s transmission	Partial and Private Circuits 64kbit/s local end	Partial and Private Circuits 2mbit/s connection	Partial and Private Circuits 2mbit/s link	Partial and Private Circuits 2mbit/s distribution	Partial and Private Circuits 2mbit/s local end	RBS Backhaul sub 2mb rental connection	RBS Backhaul sub 2mb	RBS Backhaul 2mb rental	RBS Backhaul 2mb connection	SDSL
Annex 26 Additional Information by way of notes																
AI-1 Cost category analysis for network components, increments and common cost		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-2 Summarised activity analysis of components		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-3 Cost category analysis for network components and increments		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-4 Summarised activity analysis for network components and increments		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-5 Analysis by asset category and network activities		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-6 CCA fixed asset movement statement		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-7 Total mean capital employed and detailed activity analysis		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-8 Analysis by type of product group and by type of OLO																
AI-9 Detailed Network activity analysis of mean capital employed		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-10 Graphs over time of the various raw indices, index weightings & composite indices		N														
AI-11 Estimated economic useful lives, valuation and depreciation basis etc		N														
AI-13 Total operating costs & mean capital employed costs for each plant group		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-14 CPS set up costs and their recovery over time on a discounted cash flow basis																
AI-15 Provision of BT 'Data File'		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-20 CCA information to allow Ofcom to re-calculate the RAV for copper assets		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-21 Comprehensive analysis of the transfer charges		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-22 Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue		N														
AI-23 Cost data for plant group to service for the PPC services and technical areas		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
AI-24 Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis																
AI-25 Analysis of input costs from the business connectivity markets to downstream (retail) activities		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.		Traditional interface symmetric broadband aggregation, (above 8Mbit/s up to and including 155Mbit/s)	Traditional interface symmetric broadband aggregation in the UK, excluding the Hull Area and the Central and East London Area (above 8Mbit/s and up to and incl. 155Mbit/s)	WS service A	WS service B	Partial and Private Circuits 34/45mbit/s link	Partial and Private Circuits 34/45mbit/s distribution	Partial and Private Circuits 34/45mbit/s - local end	Traditional interface symmetric broadband aggregation in the UK, excluding the Hull Area and the Central and East London Area (above 45 Mbit/s and up to and incl. 155Mbit/s)	WS service A	WS service B	Partial and Private Circuits 140/155mbit/s link	Partial and Private Circuits 140/155mbit/s distribution	Partial and Private Circuits 140/155mbit/s local end
Annex 26	Additional Information by way of notes													
AI-1	Cost category analysis for network components, increments and common cost			N	N	N	N	N		N	N			
AI-2	Summarised activity analysis of components			N	N	N	N	N		N	N			
AI-3	Cost category analysis for network components and increments			N	N	N	N	N		N	N			
AI-4	Summarised activity analysis for network components and increments			N	N	N	N	N		N	N			
AI-5	Analysis by asset category and network activities			N	N	N	N	N		N	N			
AI-6	CCA fixed asset movement statement			N	N	N	N	N		N	N			
AI-7	Total mean capital employed and detailed activity analysis			N	N	N	N	N		N	N			
AI-8	Analysis by type of product group and by type of OLO			N	N	N	N	N		N	N			
AI-9	Detailed Network activity analysis of mean capital employed			N	N	N	N	N		N	N			
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N	N						N					
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N	N						N					
AI-13	Total operating costs & mean capital employed costs for each plant group								N					
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis													
AI-15	Provision of BT 'Data File'	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-21	Comprehensive analysis of the transfer charges	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-22	Analysis for the markets covered by the replicability review to explain the differences between ledqered revenue and calculated service revenue	N	N						N					
AI-23	Cost data for plant group to service for the PPC services and technical areas	N	P	P	P	P	P	P	P	P	P	P	P	P
AI-24	Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOJ basis													
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities		N	N	N	N	N	N	N	N	N	N	N	N

BT and KCOM's regulatory financial reporting

Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.		Alternative interface- asymmetric broadband- origination call	Alternative interface- symmetric broadband- origination in the UK excluding the Hull Area (up to and including 1Gbit)	WS service A	WS service B	WESLES	BES	Technical areas	Point of Handover	Asymmetric broadband- origination in the UK- excluding the Hull area	Wholesale Broadband Access	Wholesale service A	Wholesale service B	Wholesale local access market	Wholesale service A	Wholesale service B etc
Annex 26	Additional information by way of notes															
AI-1	Cost category analysis for network components, increments and common cost			N	N	N	N		N						N	N
AI-2	Summarised activity analysis of components			N	N	N	N		N						N	N
AI-3	Cost category analysis for network components and increments			N	N	N	N		N						N	N
AI-4	Summarised activity analysis for network components and increments			N	N	N	N		N						N	N
AI-5	Analysis by asset category and network activities			N	N	N	N		N						N	N
AI-6	CCA fixed asset movement statement			N	N	N	N		N						N	N
AI-7	Total mean capital employed and detailed activity analysis			N	N	N	N		N						N	N
AI-8	Analysis by type of product group and by type of OLO															
AI-9	Detailed Network activity analysis of mean capital employed			N	N	N	N		N						N	N
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N						N			N			N		
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N									N			N		
AI-13	Total operating costs & mean capital employed costs for each plant group	N		N	N	N	N	N	N		N			N	N	N
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis															
AI-15	Provision of BT 'Data File'	N		N	N	N	N	N	N	N	N			N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets	N		N	N	N	N							N	N	N
AI-21	Comprehensive analysis of the transfer charges	N		N	N	N	N	N	N	N	N			N	N	N
AI-22	Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue							N								
AI-23	Cost data for plant group to service for the PPC services and technical areas							P	P							
AI-24	Wholesale broadband access geographical analysis of costs and assets on a cost accounting and EOI basis										N					
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities		N	N	N	N	N	N	N							

Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.		Wholesale residential ISDN2 exchange line services	Residential ISDN2 internal service connections	Residential ISDN2 internal service rental	Residential ISDN2 external service rental	Wholesale business ISDN30 exchange line services	Wholesale service A
Annex 26	Additional Information by way of notes						
AI-1	Cost category analysis for network components, increments and common cost		N	N	N		N
AI-2	Summarised activity analysis of components		N	N	N		N
AI-3	Cost category analysis for network components and increments		N	N	N		N
AI-4	Summarised activity analysis for network components and increments		N	N	N		N
AI-5	Analysis by asset category and network activities		N	N	N		N
AI-6	CCA fixed asset movement statement		N	N	N		N
AI-7	Total mean capital employed and detailed activity analysis		N	N	N		N
AI-8	Analysis by type of product group and by type of OLO						
AI-9	Detailed Network activity analysis of mean capital employed		N	N	N		N
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N				N	
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N				N	
AI-13	Total operating costs & mean capital employed costs for each plant group	N	N	N	N	N	N
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis						
AI-15	Provision of BT 'Data File'	N	N	N	N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets	N	N	N	N	N	N
AI-21	Comprehensive analysis of the transfer charges	N	N	N	N	N	N
AI-22	Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue						
AI-23	Cost data for plant group to service for the PPC services and technical areas						
AI-24	Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis						
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities						

<p>Note:"P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.</p>		Call origination on fixed public narrowband networks	WS Call originating local exchange segment PSTN and ISDN (excluding Operator Assistance)	WS Call originating local exchange segment (incl Operator Assistance)	WS Call originating local exchange segment ISDN (including Operator Assistance)	WS Call originating local exchange segment PSTN and ISDN (incl Operator Assistance)	WS Call origination local exchange Stick	WS Call origination local exchange Stick (ISDN)	WS local exchange Call origination circuit excluding FRIACO port	WS FRIACO port at the local exchange	WS PPP for FRIACO
		Annex 26	Additional Information by way of notes								
	AI-1 Cost category analysis for network components, increments and common cost		N	N	N	N	N	N	N	N	N
	AI-2 Summarised activity analysis of components		N	N	N	N	N	N	N	N	N
	AI-3 Cost category analysis for network components and increments		N	N	N	N	N	N	N	N	N
	AI-4 Summarised activity analysis for network components and increments		N	N	N	N	N	N	N	N	N
	AI-5 Analysis by asset category and network activities		N	N	N	N	N	N	N	N	N
	AI-6 CCA fixed asset movement statement		N	N	N	N	N	N	N	N	N
	AI-7 Total mean capital employed and detailed activity analysis		N	N	N	N	N	N	N	N	N
	AI-8 Analysis by type of product group and by type of OLO										
	AI-9 Detailed Network activity analysis of mean capital employed										
	AI-10 Graphs over time of the various raw indices, index weightings & composite indices	N									
	AI-11 Estimated economic useful lives, valuation and depreciation basis etc	N									
	AI-13 Total operating costs & mean capital employed costs for each plant group	N	N	N	N	N	N	N	N	N	N
	AI-14 CPS set up costs and their recovery over time on a discounted cash flow basis										
	AI-15 Provision of BT 'Data File'	N	N	N	N	N	N	N	N	N	N
	AI-20 CCA information to allow Ofcom to re-calculate the RAV for copper assets										
	AI-21 Comprehensive analysis of the transfer charges	N	N	N	N	N	N	N	N	N	N
	AI-22 Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue										
	AI-23 Cost data for plant group to service for the PPC services and technical areas										
	AI-24 Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EO1 basis										
	AI-25 Analysis of input costs from the business connectivity markets to downstream (retail) activities										

	Local-tandem conveyance and transit on fixed public narrowband networks	WS local-tandem conveyance segment	WS local-tandem conveyance segment (ISDN)	WS LTT Stick	WS LTT Stick (ISDN)	Single transit on fixed public narrowband networks	WS Single transit segment PSTN and ISDN
Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.							
Annex 26 Additional Information by way of notes							
AI-1 Cost category analysis for network components, increments and common cost		N	N	N	N		N
AI-2 Summarised activity analysis of components		N	N	N	N		N
AI-3 Cost category analysis for network components and increments		N	N	N	N		N
AI-4 Summarised activity analysis for network components and increments		N	N	N	N		N
AI-5 Analysis by asset category and network activities		N	N	N	N		N
AI-6 CCA fixed asset movement statement		N	N	N	N		N
AI-7 Total mean capital employed and detailed activity analysis		N	N	N	N		N
AI-8 Analysis by type of product group and by type of OLO							
AI-9 Detailed Network activity analysis of mean capital employed		N	N	N	N		N
AI-10 Graphs over time of the various raw indices, index weightings & composite indices	N					N	
AI-11 Estimated economic useful lives, valuation and depreciation basis etc	N					N	
AI-13 Total operating costs & mean capital employed costs for each plant group	N	N	N	N	N	N	N
AI-14 CPS set up costs and their recovery over time on a discounted cash flow basis							
AI-15 Provision of BT 'Data File'	N	N	N	N	N	N	N
AI-20 CCA information to allow Ofcom to re-calculate the RAV for copper assets							
AI-21 Comprehensive analysis of the transfer charges	N	N	N	N	N	N	N
AI-22 Analysis for the markets covered by the replicability review to explain the differences between ledged revenue and calculated service revenue							
AI-23 Cost data for plant group to service for the PPC services and technical areas							
AI-24 Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis							
AI-25 Analysis of input costs from the business connectivity markets to downstream (retail) activities							

		Technical areas														
		WS standard CSI connection	WS standard CSI rental fixed	WS standard CSI rental per km	WS ISI connection	WS ISI rental per 100m	WS IEC connection	WS IEC rental fixed	WS IEC rental per km	WS intra-building circuits connection	WS intra-building circuits rental	WS rearrangements	WS Connection (£ per 2Mbit/s per year)	WS Rental fixed (£ per 2Mbit/s per year)	WS Rental per km (£ per 2Mbit/s per year)	DAAWS Re-arrangements (£ per occasion)
Annex 26	Additional Information by way of notes															
AI-1	Cost category analysis for network components, increments and common cost	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-2	Summarised activity analysis of components	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-3	Cost category analysis for network components and increments	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-4	Summarised activity analysis for network components and increments	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-5	Analysis by asset category and network activities	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-6	CCA fixed asset movement statement	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-7	Total mean capital employed and detailed activity analysis	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-8	Analysis by type of product group and by type of OLO															
AI-9	Detailed Network activity analysis of mean capital employed	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N														
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N														
AI-13	Total operating costs & mean capital employed costs for each plant group	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis															
AI-15	Provision of BT 'Data File'	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets															
AI-21	Comprehensive analysis of the transfer charges	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
AI-22	<u>Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue</u>	N														
AI-23	<u>Cost data for plant group to service for the PPC services and technical areas</u>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
AI-24	<u>Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis</u>															
AI-25	<u>Analysis of input costs from the business connectivity markets to downstream (retail) activities</u>	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

		Broadband conveyance in the UK	WS ATM Interconnection	Wholesale trunk segments (including Kingston upon Hull)	WS service A	WS service B	Partial and Private circuits 2mbit/s trunk	Partial and Private circuits 34/45mbit/s trunk	Partial and Private circuits 140/155mbit/s trunk	Partial and Private circuits 622mbit/s trunk
Annex 26	Additional Information by way of notes									
AI-1	Cost category analysis for network components, increments and common cost		N		N	N	N	N	N	N
AI-2	Summarised activity analysis of components		N		N	N	N	N	N	N
AI-3	Cost category analysis for network components and increments		N		N	N	N	N	N	N
AI-4	Summarised activity analysis for network components and increments		N		N	N	N	N	N	N
AI-5	Analysis by asset category and network activities		N		N	N	N	N	N	N
AI-6	CCA fixed asset movement statement		N		N	N	N	N	N	N
AI-7	Total mean capital employed and detailed activity analysis		N		N	N	N	N	N	N
AI-8	Analysis by type of product group and by type of OLO									
AI-9	Detailed Network activity analysis of mean capital employed		N		N	N	N	N	N	N
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N		N						
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N		N						
AI-13	Total operating costs & mean capital employed costs for each plant group	N	N	N	N	N	N	N	N	N
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis									
AI-15	Provision of BT 'Data File'	N	N	N	N	N	N	N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets									
AI-21	Comprehensive analysis of the transfer charges	N	N	N	N	N	N	N	N	N
AI-22	<u>Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue</u>			N						
AI-23	<u>Cost data for plant group to service for the PPC services and technical areas</u>			P	P	P	P	P	P	P
AI-24	<u>Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis</u>									
AI-25	<u>Analysis of input costs from the business connectivity markets to downstream (retail) activities</u>			N	N	N	N	N	N	N

		Fixed geographic call termination	WS Call termination local exchange segment	WS Call termination local exchange segment (ISDN)	WS Call termination local exchange Stick	WS Call termination local exchange Stick (ISDN)
Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.						
Annex 26	Additional Information by way of notes					
AI-1	Cost category analysis for network components, increments and common cost		N	N	N	N
AI-2	Summarised activity analysis of components		N	N	N	N
AI-3	Cost category analysis for network components and increments		N	N	N	N
AI-4	Summarised activity analysis for network components and increments		N	N	N	N
AI-5	Analysis by asset category and network activities		N	N	N	N
AI-6	CCA fixed asset movement statement		N	N	N	N
AI-7	Total mean capital employed and detailed activity analysis		N	N	N	N
AI-8	Analysis by type of product group and by type of OLO					
AI-9	Detailed Network activity analysis of mean capital employed		N	N	N	N
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N				
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N				
AI-13	Total operating costs & mean capital employed costs for each plant group	N	N	N	N	N
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis					
AI-15	Provision of BT 'Data File'	N	N	N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets					
AI-21	Comprehensive analysis of the transfer charges	N	N	N	N	N
AI-22	Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue					
AI-23	Cost data for plant group to service for the PPC services and technical areas					
AI-24	Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis					
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities					

		Residential analogue	Retail Segments	Residential local calls in	Retail Segments	Residential national calls	Retail Segments	Residential IDD calls	Retail Segments
		exchange line services in the UK	the UK	the UK	in the UK	in the UK	category A routes (retail IDD routes which are competitive at WS) in the UK	the UK	
Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.									
Annex 26	Additional Information by way of notes								
AI-1	Cost category analysis for network components, increments and common cost								
AI-2	Summarised activity analysis of components								
AI-3	Cost category analysis for network components and increments								
AI-4	Summarised activity analysis for network components and increments								
AI-5	Analysis by asset category and network activities								
AI-6	CCA fixed asset movement statement								
AI-7	Total mean capital employed and detailed activity analysis								
AI-8	Analysis by type of product group and by type of OLO	N	N	N		N		N	
AI-9	Detailed Network activity analysis of mean capital employed								
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N		N		N		N	
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N		N		N		N	
AI-13	Total operating costs & mean capital employed costs for each plant group								
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis								
AI-15	Provision of BT 'Data File'	N	N	N	N	N	N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets								
AI-21	Comprehensive analysis of the transfer charges								
AI-22	Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue								
AI-23	Cost data for plant group to service for the PPC services and technical areas								
AI-24	Wholesale broadband access geographical analysis of costs and assets on an cost accounting and EOI basis								
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities								

Note: "P" denotes a statement that must be produced and published as part of the Regulatory Financial Report. "N" denotes statement to be produced and provided to Ofcom but need not be published.		Retail IDD calls to category B routes (retail IDD routes which are not competitive at WS) in the UK	Retail Segments	Residential calls to mobiles in the UK	Retail Segments	Residential operator assisted calls in the UK	Retail Segments
Annex 26	Additional Information by way of notes						
AI-1	Cost category analysis for network components, increments and common cost						
AI-2	Summarised activity analysis of components						
AI-3	Cost category analysis for network components and increments						
AI-4	Summarised activity analysis for network components and increments						
AI-5	Analysis by asset category and network activities						
AI-6	CCA fixed asset movement statement						
AI-7	Total mean capital employed and detailed activity analysis						
AI-8	Analysis by type of product group and by type of OLO	N		N	N	N	N
AI-9	Detailed Network activity analysis of mean capital employed						
AI-10	Graphs over time of the various raw indices, index weightings & composite indices	N		N		N	
AI-11	Estimated economic useful lives, valuation and depreciation basis etc	N		N		N	
AI-13	Total operating costs & mean capital employed costs for each plant group						
AI-14	CPS set up costs and their recovery over time on a discounted cash flow basis						
AI-15	Provision of BT 'Data File'	N	N	N	N	N	N
AI-20	CCA information to allow Ofcom to re-calculate the RAV for copper assets						
AI-21	Comprehensive analysis of the transfer charges						
AI-22	Analysis for the markets covered by the replicability review to explain the differences between ledgered revenue and calculated service revenue						
AI-23	Cost data for plant group to service for the PPC services and technical areas						
AI-24	Wholesale broadband access geographic analysis of costs and assets on an cost accounting and EOI basis						
AI-25	Analysis of input costs from the business connectivity markets to downstream (retail) activities						

Annex 10

Notification of Proposed Amendments to Direction 4 and the FA10 Direction (BT)

Notification of a proposal under section 49 of the Communications Act 2003

Proposal for modifying a Direction given under SMP Services Conditions OA2 and FA10.2 specifying requirements for the form and content of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting

1. The Office of Communications ("OFCOM") hereby makes, in accordance with section 49 of the Communications Act 2003 ("the Act"), the following proposal to modify:

- i. Direction 4 given under SMP Services Condition OA2 at Annex 4 of The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 as modified by the following modifying Directions: at Annex 3 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 4 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 5 of *BT's regulatory financial reporting requirements dated 30 May 2007*; and at Annex 5 of *Changes to BT's 2007/08 regulatory financial statements, dated 26 June 2008*, ("Direction 4") which relate to BT's obligations under SMP services conditions OA1 to OA34, in that it sets out the form and content to be applied by BT in preparing certain regulatory financial statements required by virtue of condition OA5 and Direction 3 (as amended); and
- ii. a Direction given under SMP Services Condition FA10.2 at Schedule 5 to the Notification set out in Annex 2 of the Review of the wholesale local access market, dated 16 December 2004, as modified by the following statements: at Annex 3 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 4 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 5 of *BT's regulatory financial reporting requirements dated 30 May 2007*; and at Annex 5 of *Changes to BT's 2007/08 regulatory financial statements, dated 26 June 2008* ("*the FA10 Form and content Direction*"), which relate to BT's obligations under SMP services conditions FA10, in that it sets out the form and content to be applied by BT in preparing certain regulatory financial statements required by virtue of condition FA10.5 and the FA10 Preparation, audit and delivery Direction (as amended).

2. The draft modification to the Direction is set out in the Schedule to this notification.

3. The effect of the draft modification to the Direction, and the reasons for making the proposal, are set out in the accompanying explanatory statement.

4. Representations may be made to OFCOM about the proposed draft modification to the Direction by 5 pm on 1 May 2009.

5. In accordance with section 50 of the Act, copies of this notification have been sent to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State.

Craig Lonie

Director of Competition Finance, Ofcom

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

20 March 2009

Schedule

[Draft] Direction modifying a Direction under section 49 of the Communications Act 2003 and SMP Services Conditions OA2 and FA10.2 specifying requirements for the form and content of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting

WHEREAS:

(A) as a result of a market analysis carried out by the Director General of Telecommunications (the 'Director') and OFCOM in accordance with section 79 of the Act, BT has been designated as having SMP in respect of certain identified markets in accordance with section 79 of the Act;

(B) as a result of such SMP designations, BT has been subjected to various SMP services conditions in accordance with sections 45 and 86 to 92 of the Act, including conditions OA1 to OA34 and FA10 imposing obligations on BT in respect of wholesale cost accounting, accounting separation and retail cost accounting in relation to BT's activities in those markets where BT has been designated as having SMP;

(C) in complying with the SMP services conditions referred to in paragraph B above, and in particular conditions OA5 and FA10.5, BT is required to prepare such Regulatory Financial Statements as directed by OFCOM from time to time;

(D) by virtue of the Transitional Provisions, references to the Director in any of those SMP services conditions should be read as references to OFCOM;

(E) conditions OA2 and FA10.2 include, in accordance with section 45(10) of the Act, the ability for OFCOM to make such directions as they consider appropriate from time to time in relation to BT's obligations under conditions OA1 to OA34 and FA10;

(F) this modified Direction modifies:

- i. Direction 4 which relates to BT's obligations under SMP services conditions OA1 to OA34, in that it sets out the form and content to be applied by BT in preparing certain Regulatory Financial Statements required by virtue of condition OA5 and Direction 3; and
- ii. the FA10 Form and content Direction, in that it sets out the form and content to be applied by BT in preparing certain Regulatory Financial Statements required by virtue of condition FA10.5 and the FA10 Preparation, audit and delivery Direction;

(G) BT is entitled to depart from the form and content set out in this Direction in certain circumstances in accordance with conditions OA7 and OA21 and FA10.7 and FA10.21;

(H) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM are satisfied that, in accordance with section 49(2) of the Act, this Direction is:

- (i) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;

- (ii) not such as to discriminate unduly against particular persons or against a particular description of persons;
- (iii) proportionate to what it is intended to achieve; and
- (iv) in relation to what it is intended to achieve, transparent;

(I) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM have considered and acted in accordance with the six Community requirements set out in section 4 of the Act and their duties in section 3 of the Act;

(J) on 20 March 2009, OFCOM published a notification of the proposed modified Direction in accordance with section 49 of the Act (the 'Notification');

(K) a copy of the Notification was sent to the Secretary of State, the European Commission and the regulatory authorities at every other Member State in accordance with section 50 of the Act;

(L) in the Notification and accompanying explanatory statement OFCOM invited representations about any of the proposals therein by 5pm on 1 May 2009;

(M) by virtue of section 49(9) of the Act, OFCOM may give effect to the proposal set out in the Notification, with or without modification, only if:

- a) they have considered every representation about the proposal that is made to them within the period specified in the Notification; and
- b) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;

(N) OFCOM has considered every representation about the proposed modified Direction duly made to them and these representations are discussed in the statement accompanying this modified Direction; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

NOW, therefore, pursuant to section 49 of the Act and Conditions OA2 and FA10.2, OFCOM hereby gives the following modification to Direction 4 and the FA 10 Form and content Direction:

1. The form and content of the Regulatory Financial Statements set out in the Direction 4 and the FA10 form and content Direction shall be amended as follows in Annex A to this modified Direction.
2. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 12 and 13 as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex B to this modified Direction.
3. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 14 as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex C to this modified Direction.
4. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 15 as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex D to this modified Direction.
5. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 16 as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex E to this modified Direction.
6. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 17 as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex F to this modified Direction.
7. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Technical Areas shall be amended as follows in Annex G to this modified Direction.
8. The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 17a as identified in Part 1, Schedule 1 of the Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004 (as amended) shall be amended as follows in Annex H to this modified Direction.
9. The Additional Information set out in Annex 26 to Direction 4 shall be amended as follows in Annex I to this modified Direction.
10. For the purpose of interpreting this modified Direction, the following definitions shall apply:
 - a) "Act" means the Communications Act 2003 (c. 21);
 - b) "BT" means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act

1985, as amended by the Companies Act 1989;

c) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;

d) "Direction 3" means the Original Direction 3 and the following modifying Directions: at Annex 2 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 3 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 4 of *BT's regulatory financial reporting requirements dated 30 May 2007*; and at Annex 4 of *Changes to BT's 2007/08 RFS, dated 26 June 2008*, which relates to BT's obligations under SMP services conditions OA1 to OA34, specifying requirements for the preparation, audit and delivery of RFS in respect of wholesale cost accounting, accounting separation and retail cost accounting delivered to OFCOM and/or published by BT under condition OA5;

e) "Direction 4" means the Original Direction 4 and the following modifying Directions: at Annex 3 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 4 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 5 of *BT's regulatory financial reporting requirements dated 30 May 2007*; and at Annex 5 of *Changes to BT's 2007/08 RFS, dated 26 June 2008*, which relates to BT's obligations in that it sets out the form and content to be applied by BT in preparing certain RFS required by virtue of condition OA5 and Direction 3;

f) "FA10 Form and content Direction" means the Original Direction at Schedule 5 to the FA10 Direction and the following modifying Directions: at Annex 3 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 4 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 5 of *BT's regulatory financial reporting requirements dated 30 May 2007*; and at Annex 5 of *Changes to BT's 2007/08 RFS, dated 26 June 2008*, which relates to BT's obligations in that it sets out the form and content to be applied by BT in respect of preparing certain RFS required by virtue of condition FA10.5 and the FA10 Direction Preparation, audit and delivery Direction;

g) "FA10 Preparation, audit and delivery Direction" means the Original FA10 Preparation, audit and delivery Direction and the following modifying Directions: at Annex 2 of the *Changes to BT's regulatory financial reporting framework, dated 31 August 2005*; at Annex 3 of the *Changes to BT's regulatory financial reporting and audit requirements, dated 16 August 2006*; at Annex 4 of *BT's regulatory financial reporting requirements dated 30 May 2007*; and at Annex 4 of *Changes to BT's 2007/08 RFS, dated 26 June 2008*, which relates to BT's obligations under SMP services conditions FA10, specifying requirements for the preparation, audit and delivery of RFS in respect of wholesale cost accounting, accounting separation and retail cost accounting delivered to OFCOM and/or published by BT under condition FA10.5;

h) "Original Direction 3" means the Direction given under SMP Services Condition OA2 at Annex 4 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*;

i) "Original Direction 4" means Direction 4 given under SMP Services Condition OA2 at Annex 4 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*;

j) "Original FA10 Form and content Direction" means the Direction given under SMP Services Condition FA10.2 at Schedule 5 of Annex 2 of the *Review of the wholesale local access market, dated 16 December 2004*, which sets out the form and content to be applied by BT in preparing certain RFS required by virtue of condition FA10.5 and the Original FA10 Preparation, audit and delivery Direction;

k) "Original FA10 Preparation, audit and delivery Direction" means the Direction given under SMP Services Condition FA10.2 at Schedule 4 of Annex 2 of the *Review of the wholesale local access market, dated 16 December 2004*, which relates to BT's obligations under SMP services conditions FA10, specifying requirements for the preparation, audit and delivery of RFS in respect of wholesale cost accounting, accounting separation and retail cost accounting delivered to OFCOM and/or published by BT under condition FA10.5;

k) "OFCOM" means the Office of Communications;

l) 'Transitional Provisions' means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003, and the Office of Communications Act 2002 (Commencement No. 3) and Communications Act 2003 (Commencement No. 2) Order 2003.

11. 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 Notification and otherwise any word or expression shall have the same meaning as it has in the Act.

12. For the purpose of interpreting this modified Direction:

a) headings and titles shall be disregarded; and

b) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

13. This Direction shall take effect on the day it is published.

14. The Schedule to this modified Direction shall form part of this modified Direction.

[Name]

[Title]

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

[Date]

Annex A

The form and content of the Regulatory Financial Statements set out in Direction 4 and the FA10 Form and content Direction are modified as shown below in that the words underlined are inserted and the words struck through are deleted.

**Annex 5B
Financial performance & attribution
of retail current costs**

Purpose of statement: to provide an understanding of how costs have been allocated to each market

for the year ended 31 March 200x

	Residential analogue exchange line services in the UK £m	Residential local calls in the UK £m	Residential national calls in the UK £m	Residential IDD calls category A routes £m	Residential IDD-calls- category B routes £m	Residential calls to mobiles in the UK £m	Residential-operator- assisted-calls-44-UK £m	BT Retail Markets consolidation £m	Retail Residual £m	Total Retail Markets & Activities £m
Turnover	£	£	£	£	£	£	£	£	£	£
HCA Operating Costs of Retail Markets										
Charges from Wholesale Markets	£	£	£	£	£	£	£	£	£	£
Outpayments	£	£	£	£	£	£	£	£	£	£
Marketing and Sales	£	£	£	£	£	£	£	£	£	£
Finance and Billing	£	£	£	£	£	£	£	£	£	£
Computing	£	£	£	£	£	£	£	£	£	£
Customer Service	£	£	£	£	£	£	£	£	£	£
General Management	£	£	£	£	£	£	£	£	£	£
Messaging Payments	£	£	£	£	£	£	£	£	£	£
Bad Debts	£	£	£	£	£	£	£	£	£	£
Other Costs	£	£	£	£	£	£	£	£	£	£
Sub total HCA Operating Costs	£	£	£	£	£	£	£	£	£	£
CCA adjustments:										
Holding (gain)/loss	£	£	£	£	£	£	£	£	£	£
Supplementary depreciation	£	£	£	£	£	£	£	£	£	£
Other adjustments	£	£	£	£	£	£	£	£	£	£
Roundings	£	£	£	£	£	£	£	£	£	£
Total CCA Operating Costs	£	£	£	£	£	£	£	£	£	£
Return	£	£	£	£	£	£	£	£	£	£
Return on Mean Capital Employed	%	%	%	%	%	%	%	%	%	%
Return on Turnover	%	%	%	%	%	%	%	%	%	%

Annex 6B

Allocation of Retail Current Cost Mean Capital Employed

Purpose of statement: to provide an understanding of how assets have been allocated to each market

for the year ended 31 March 200x

	Residential analogue exchange line services in the UK £m	Residential local calls in the UK £m	Residential national calls in the UK £m	Residential IDD calls category A routes £m	Residential IDD calls category B routes £m	Residential calls to mobiles in the UK £m	Residential operator-assisted calls in UK £m	BT Retail Markets consolidation £m	Retail Residual £m	Total Retail Markets & Activities £m
Fixed assets										
Accommodation Land & Buildings	£	£	£	£	£	£	£	£	£	£
Motor Transport	£	£	£	£	£	£	£	£	£	£
General Computers	£	£	£	£	£	£	£	£	£	£
Software	£	£	£	£	£	£	£	£	£	£
International Transmission	£	£	£	£	£	£	£	£	£	£
Other	£	£	£	£	£	£	£	£	£	£
Investments	£	£	£	£	£	£	£	£	£	£
Total Fixed Assets	£	£	£	£	£	£	£	£	£	£
Current assets										
Stocks	£	£	£	£	£	£	£	£	£	£
Debtors	£	£	£	£	£	£	£	£	£	£
Internal	£	£	£	£	£	£	£	£	£	£
External	£	£	£	£	£	£	£	£	£	£
Total current assets	£	£	£	£	£	£	£	£	£	£
Creditors falling due within one year										
Other creditors	£	£	£	£	£	£	£	£	£	£
Internal	£	£	£	£	£	£	£	£	£	£
External	£	£	£	£	£	£	£	£	£	£
Total Creditors falling due within one year	£	£	£	£	£	£	£	£	£	£
Net current assets	£	£	£	£	£	£	£	£	£	£
Total assets less current liabilities	£	£	£	£	£	£	£	£	£	£
Provisions for liabilities & charges & roundings	£	£	£	£	£	£	£	£	£	£
Roundings	£	£	£	£	£	£	£	£	£	£
Mean Capital Employed	£	£	£	£	£	£	£	£	£	£

Annex 7

Financial performance in Access markets

Purpose of statement: to provide summary of financial performance in Access markets

for the year ended 31 March 200x

	Turnover				HCA costs	CCA adjustments	Roundings	Total CCA operating costs	Return	Return on turnover	Mean Capital Employed	Return on MCE
	Internal	External	Roundings	Total								
Wholesale residential analogue exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business analogue exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business ISDN2 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale residential ISDN2 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business ISDN30 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (up to and including 8Mbits)	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (above 8Mbits and up to and including 8Mbits)	£	£	£	£	£	£	£	£	£	%	£	%
AISBO (all bandwidths)	£	£	£	£	£	£	£	£	£	%	£	%
<u>TISBO in the UK excluding the CELA (above 8 Mbits and up to and including 45 Mbits)¹</u>	£	£	£	£	£	£	£	£	£	%	£	%
<u>TISBO in the UK excluding the CELA (above 45 Mbits and up to and including 155 Mbits)¹</u>	£	£	£	£	£	£	£	£	£	%	£	%
<u>AISBO (up to and including 1 Gbit)</u>	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale local access	£	£	£	£	£	£	£	£	£	%	£	%
	£	£	£	£	£	£	£	£	£	%	£	%

for the year ended 31 March 200y

	Turnover				HCA costs	CCA adjustments	Roundings	Total CCA operating costs	Return	Return on turnover	Mean Capital Employed	Return on MCE
	Internal	External	Roundings	Total								
Wholesale residential analogue exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business analogue exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business ISDN2 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale residential ISDN2 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale business ISDN30 exchange line services	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (up to and including 8Mbits)	£	£	£	£	£	£	£	£	£	%	£	%
TISBO (above 8Mbits and up to and including 8Mbits)	£	£	£	£	£	£	£	£	£	%	£	%
AISBO (all bandwidths)	£	£	£	£	£	£	£	£	£	%	£	%
<u>TISBO in the UK excluding the CELA (above 8Mbits and up to and including 45Mbits)¹</u>	£	£	£	£	£	£	£	£	£	%	£	%
<u>TISBO in the UK excluding the CELA (above 45Mbits and up to and including 155Mbits)¹</u>	£	£	£	£	£	£	£	£	£	%	£	%
<u>AISBO (up to and including 1Gbit)</u>	£	£	£	£	£	£	£	£	£	%	£	%
Wholesale local access	£	£	£	£	£	£	£	£	£	%	£	%
	£	£	£	£	£	£	£	£	£	%	£	%

¹Due to the timing of the BCMR statement we are reporting the national market for 2008/09 and the CELA is not excluded. Geographic reporting will be implemented in 2009/10

Annex 8

Financial performance in other wholesale SMP markets

Purpose of statement: to provide summary of financial performance in regulated wholesale markets, other than access markets

for the year ended 31 March 200x

	Turnover			HCA costs	CCA adjustments	Total CCA operating costs	Return	Return on turnover	Mean Capital Employed	Return on MCE
	Internal	External	Total							
Call origination on FPN networks	£	£	£	£	£	£	£	%	£	%
Local tandem conveyance and transit on FPN network	£	£	£	£	£	£	£	%	£	%
Single transit on FPN networks	£	£	£	£	£	£	£	%	£	%
Technical areas (interconnect circuits)	£	£	£	£	£	£	£	%	£	%
Fixed call termination	£	£	£	£	£	£	£	%	£	%
Wholesale trunk segments	£	£	£	£	£	£	£	%	£	%
Wholesale IDD to category B	£	£	£	£	£	£	£	%	£	%
Asymmetric Broadband origination	£	£	£	£	£	£	£	%	£	%
Technical areas (point of handover)	£	£	£	£	£	£	£	%	£	%
Asymmetric Broadband origination	£	£	£	£	£	£	£	%	£	%
Broadband conveyance in the UK	£	£	£	£	£	£	£	%	£	%
<u>Wholesale Broadband Access (markets 1, 2 & 3)</u>	£	£	£	£	£	£	£	%	£	%
	£	£	£	£	£	£	£	%	£	%

for the year ended 31 March 200y

	Turnover			HCA costs	CCA adjustments	Total CCA operating costs	Return	Return on turnover	Mean Capital Employed	Return on MCE
	Internal	External	Total							
Call origination on FPN networks	£	£	£	£	£	£	£	%	£	%
Local tandem conveyance and transit on FPN network	£	£	£	£	£	£	£	%	£	%
Single transit on FPN networks	£	£	£	£	£	£	£	%	£	%
Technical areas (interconnect circuits)	£	£	£	£	£	£	£	%	£	%
Fixed call termination	£	£	£	£	£	£	£	%	£	%
Wholesale trunk segments	£	£	£	£	£	£	£	%	£	%
Wholesale IDD to category B	£	£	£	£	£	£	£	%	£	%
Asymmetric Broadband origination	£	£	£	£	£	£	£	%	£	%
Technical areas (point of handover)	£	£	£	£	£	£	£	%	£	%
Asymmetric Broadband origination	£	£	£	£	£	£	£	%	£	%
Broadband conveyance in the UK	£	£	£	£	£	£	£	%	£	%
<u>Wholesale Broadband Access (markets 1, 2 & 3)</u>	£	£	£	£	£	£	£	%	£	%
	£	£	£	£	£	£	£	%	£	%

Annex 11

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
² Adjustment to match costs and revenues ¹					y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)
² 200x result (costs and revenues matched)	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
² Adjustment to match costs and revenues ¹					y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)
² 200y result (costs and revenues matched)	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

	Non-discrimination				Cost orientation						
	Internal Sales - services also provided externally £m	Internal Sales - services provided internally £m	External Sales £m	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC ceiling £	Average price/FAC
for the year ended 31 March 200x											
Service											
Service 1 Internal	£	£		£		x	£	£	x.xx	x.xx	x.xx
² Adjustment to match costs and revenues ¹							y/(y)	y/(y)	y/(y)	y/(y)	y/(y)
² 200x result (costs and revenues matched)	£	£		£		x	£	£	x.xx	x.xx	x.xx
Service 1 External			£	£		x	£	£	x.xx	x.xx	x.xx
² Adjustment to match costs and revenues ¹							y/(y)	y/(y)	y/(y)	y/(y)	y/(y)
² 200x result (costs and revenues matched)			£	£		x	£	£	x.xx	x.xx	x.xx
Service 2 Internal	£	£		£		x	£	£	x.xx	x.xx	x.xx
Service 2 External			£	£		x	£	£	x.xx	x.xx	x.xx
etc											
	£	£	£	£							
for the year ended 31 March 200y											
Service											
Service 1 Internal	£	£		£		x	£	£	x.xx	x.xx	x.xx
² Adjustment to match costs and revenues ¹							y/(y)	y/(y)	y/(y)	y/(y)	y/(y)
² 200y result (costs and revenues matched)	£	£		£		x	£	£	x.xx	x.xx	x.xx
Service 1 External			£	£		x	£	£	x.xx	x.xx	x.xx
² Adjustment to match costs and revenues ¹							y/(y)	y/(y)	y/(y)	y/(y)	y/(y)
² 200y result (costs and revenues matched)			£	£		x	£	£	x.xx	x.xx	x.xx
Service 2 Internal	£	£		£		x	£	£	x.xx	x.xx	x.xx
Service 2 External			£	£		x	£	£	x.xx	x.xx	x.xx
etc											
	£	£	£	£							

¹Reference to be made to the notes to the regulatory financial statements where the adjustments are explained

²These lines are only required for markets and services where an adjustment to match costs and revenues needs to be made.

Annex 12

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	Mean capital employed £m	Return on mean capital employed %
200x (reported figures)	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
³ Adjustment to match costs and revenues ¹					y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)
² 200x result (costs and revenues matched)	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
200y (reported figures)	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
³ Adjustment to match costs and revenues ¹					y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)
² 200y result (costs and revenues matched)	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

← Non-discrimination →

for the year ended 31 March 200x

Service

Service 1 Internal
Service 1 External

Service 2 Internal
Service 2 External
etc

Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	Turnover £m	Volume	Unit	Average price £
£	£		£		x	£
		£	£		x	£
£	£		£		x	£
		£	£		x	£
£	£	£	£			

for the year ended 31 March 200y

Service

Service 1 Internal
Service 1 External

Service 2 Internal
Service 2 External
etc

Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	Turnover £m	Volume	Unit	Average price £
£	£		£		x	£
		£	£		x	£
£	£		£		x	£
£	£	£	£			

¹Reference to be made to the notes to the regulatory financial statements where the adjustments are explained

²These lines are only required for markets and services where an adjustment to match costs and revenues needs to be made.

Annex 13

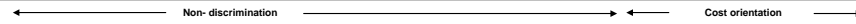
Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Rounding	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on Mean capital turnover employed %	Return on mean capital employed £	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
¹ Adjustment to match costs and revenues ¹						y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)			
² 200x result (costs and revenues matched)	z	z	z	z	z	z	z	z	z	z	z	z	z	z	z	z
200y	£	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
¹ Adjustment to match costs and revenues ¹						y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)	y/(y)			
² 200y result (costs and revenues matched)	z	z	z	z	z	z	z	z	z	z	z	z	z	z	z	z

Note 1: Comparison of Average internal and external charges with each other and with FAC



	Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	Turnover £m	NCC traffic minutes (mm)				Average NCC rates (ppm)				Unaudited LRIC Floor	Unaudited LRIC ceiling	Average price/FAC	
					Day	Evening	Weekend	24 hours	Day	Evening	Weekend	Weighted Average				FAC
for the year ended 31 March 200x																
Service																
Service 1	£			£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
¹ Adjustment to match costs and revenues ¹														y/(y)	y/(y)	y/(y)
² 200x result (costs and revenues matched)														z	z	z
Service 1			£	£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
¹ Adjustment to match costs and revenues ¹														y/(y)	y/(y)	y/(y)
² 200x result (costs and revenues matched)														z	z	z
Service 2	£			£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
Service 2			£	£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
Service 3		£		£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
Service 4			£	£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
Service 5		£		£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
Service 5			£	£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
	£	£	£	£												
for the year ended 31 March 200y																
Service																
Service 1	£			£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
¹ Adjustment to match costs and revenues ¹														y/(y)	y/(y)	y/(y)
² 200y result (costs and revenues matched)														z	z	z
Service 1			£	£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
¹ Adjustment to match costs and revenues ¹														y/(y)	y/(y)	y/(y)
² 200y result (costs and revenues matched)														z	z	z
Service 2	£			£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
Service 2			£	£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
Service 3		£		£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
Service 4			£	£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
Service 5		£		£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
Service 5			£	£	m	m	m	m	p	p	p	p	p	x.xx	x.xx	x.xx
	£	£	£	£												

¹Reference to be made to the notes to the regulatory financial statements where the adjustments are explained

²These lines are only required for markets and services where an adjustment to match costs and revenues needs to be made.

Annex 19

BT Reconciliation Statement

**Consolidated profit and loss account
For the year ended 31 March 200x**

	Turnover £m	Operating Costs £m	HCA Return or Profit before taxation £m	Holding gain/(loss) and other Adjustments £m	Supple- mentary depreciation £m	CCA Return or Profit Before Taxation £m
Market/Area						
Wholesale Markets (where cost accounting and/or accounting separation obligations apply)						
Retail Markets (where cost accounting obligations apply)						
Sub Total SMP Markets						
<u>Residual activities</u>						
- Wholesale residual activities						
- Retail residual activities						
Sub Total Residual Activities						
Adjustments						
Wholesale						
Retail						
Sub Total Adjustments						
Total						
Adjustments (as necessary)						
<u>Difference between statutory and regulatory accounting policies</u>						
Elimination of Inter Business turnover and costs						
Other operating income						
Goodwill						
Group's share of profits of associates and joint ventures						
Profit on sale of fixed asset investments						
Profit on sale of Group undertakings						
Amounts written off investments						
Profit on sale of property fixed assets before exceptional items						
Profit on sale of property fixed assets						
Net short term interest payable						
Long term interest payable						
As in the Annual Report						

Annex 20

BT Reconciliation statement

200x 200y
(comparative)

Consolidated mean capital employed

For the year ended 31 March 200x

£m £m

Shareholders' funds as in the Annual Report
CCA adjustments

Adjustments

Difference between statutory and regulatory accounting policies

Corporation taxes payable
Provision for dividends payable
Deferred tax / (ACT recoverable)

Long term borrowing:

 Due in less than one year
 Due in more than one year

Adjustments to closing capital employed

Goodwill

Minority interests

Closing CCA capital employed at 31 March
Opening CCA capital employed at 1 April
Adjustment to opening capital employed
Revised opening CCA capital employed at 1 April
Average CCA capital employed

Daily averaging adjustment
Deferred costs

Total CCA mean capital employed

Mean capital employed of SMP Markets

Wholesale Markets (where cost accounting and/or accounting separation obligations apply)
Retail Markets (where cost accounting obligations apply)

Sub total markets

Residual activities

- Wholesale residual activity
- Retail residual activity
Sub Total Residual Activities

Adjustments

 Wholesale
 Retail
Sub Total Adjustments

Total CCA mean capital employed

BT and KCOM's regulatory financial reporting

Annex 21

BT Inter-market turnover reconciliation
for year ended 31st March 200x

Charges from Wholesale residual to Retail markets are not shown on the face of the Retail market P&L account as charges from Wholesale markets	Other wholesale services (combined) £m	Residential analogue exchange line services in the UK £m	Residential local calls in the UK £m	Residential national calls in the UK £m	Residential IDD calls category A routes (retail IDD routes which are competitive) in the UK £m	Residential-IDD-calls-category-B-routes-which-are-not-competitive-in-the-UK £m	Residential calls to mobiles in the UK £m	Residential-operator-assisted-calls-in-the-UK £m	Retail residual £m	Total 200x £m
Turnover originating in:										
Wholesale residential analogue exchange line services										
Wholesale business analogue exchange line services										
Wholesale business ISDN2 exchange line services										
Call origination on fixed public narrowband networks										
Local-tandem conveyance and transit on fixed public telephone networks										
Single transit on fixed public narrowband networks										
Technical areas (Interconnect Circuits)										
Fixed call termination										
Traditional interface symmetric broadband origination (up to and including 8Mbit/s)										
Traditional interface symmetric broadband origination (above 8Mbit/s up to 155Mbit/s)										
Alternative interface symmetric broadband origination (all bandwidth)										
Traditional interface symmetric broadband origination in the UK excluding the CELA (above 8Mbit/s and up to and incl. 45Mbit/s)										
Traditional interface symmetric broadband origination in the UK excluding the CELA (above 45 Mbit/s and up to and incl. 155Mbit/s)										
Alternative interface symmetric broadband origination (up to and including 1Gbit)										
Wholesale trunk segments										
Technical areas (Point of Handover)										
Asymmetric broadband origination in the UK										
Broadband conveyance in the UK										
Wholesale Broadband Access (markets 1, 2 & 3)										
Wholesale residential ISDN2 exchange line services										
Wholesale business ISDN30 exchange line services										
Wholesale local access										
Wholesale residual										
Residential analogue exchange line services in the UK										
Residential local calls in the UK										
Residential national calls in the UK										
Residential IDD calls category A routes (retail IDD routes which are competitive) in the UK										
Residential-IDD-calls-category-B-routes-which-are-not-competitive-in-the-UK										
Residential calls to mobiles in the UK										
Residential-operator-assisted-calls-in-the-UK										
Retail residual										
Total 200x										

Annex B

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Markets 12 & 13 is specified as set out below. This replaces the form and content as specified for Market 12 in the 26 June 2008 statement, Changes to BT's 2007/08 Regulatory Financial Statements.

BT and KCOM's regulatory financial reporting

Section 4.X - Wholesale Broadband Access (Annex 12)

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with non-discrimination obligations (Annex 12)

Wholesale Broadband Access Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (note 1) £m	Operating costs £m	Depreciation £m	Holding (gain)/loss £m	Supplementary depreciation £m	Other adjustments £m	Total CCA operating costs £m	Return £m	Return on turnover	Mean capital employed £m	Return on mean capital employed
200X	X	X	X	X	X	X	X	X	X	X	X	X%	X	X%
200Y	X	X	X	X	X	X	X	X	X	X	X	X%	X	X%

Market 1

	Non-discrimination						Volume	Unit	Average price £
	Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	Roundings £m	Turnover £m				
for the year ended 31 March 200X									
Service									
Internal IPstream end user access - connection	X	X	X	X	X	X	X	X	X
External IPstream end user access - connection	X	X	X	X	X	X	X	X	X
Internal IPstream end user access - rental	X	X	X	X	X	X	X	X	X
External IPstream end user access - rental	X	X	X	X	X	X	X	X	X
Internal Datastream end user access - connection	X	X	X	X	X	X	X	X	X
External Datastream end user access - connection	X	X	X	X	X	X	X	X	X
Internal Datastream end user access - rental	X	X	X	X	X	X	X	X	X
External Datastream end user access - rental	X	X	X	X	X	X	X	X	X
Internal Backhaul circuits (excluding Virtual Paths)	X	X	X	X	X	X	X	X	X
External Backhaul circuits (excluding Virtual Paths)	X	X	X	X	X	X	X	X	X
	X	X	X	X	X	X			X

Market 2

	Non-discrimination						Volume	Unit	Average price £
	Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	Roundings £m	Turnover £m				
for the year ended 31 March 200X									
Service									
Internal IPstream end user access - connection	X	X	X	X	X	X	X	X	X
External IPstream end user access - connection	X	X	X	X	X	X	X	X	X
Internal IPstream end user access - rental	X	X	X	X	X	X	X	X	X
External IPstream end user access - rental	X	X	X	X	X	X	X	X	X
Internal Datastream end user access - connection	X	X	X	X	X	X	X	X	X
External Datastream end user access - connection	X	X	X	X	X	X	X	X	X
Internal Datastream end user access - rental	X	X	X	X	X	X	X	X	X
External Datastream end user access - rental	X	X	X	X	X	X	X	X	X
Internal Backhaul circuits (excluding Virtual Paths)	X	X	X	X	X	X	X	X	X
External Backhaul circuits (excluding Virtual Paths)	X	X	X	X	X	X	X	X	X
	X	X	X	X	X	X			X

Market 3 & Non Geographically split turnover

	Turnover £m					
for the year ended 31 March 200X						
Internal Virtual Paths handover	X	X	X	X	X	X
External Virtual Paths handover	X	X	X	X	X	X
Ancillary charges (migration, cessation, re-grades)	X	X	X	X	X	X
Internal Broadband conveyance in the UK	X	X	X	X	X	X
External Broadband conveyance in the UK	X	X	X	X	X	X
Market 3 (excluding non-geographical)				X		
	X	X	X	X	X	X

¹ The market summary for the Wholesale Broadband Access market includes geographical markets 1, 2 & 3.

Annex C

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 14 is amended in that the words underlined are inserted into and those struck through are deleted from the Regulatory Financial Statements.

BT and KCOM's regulatory financial reporting

Annex 11

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

TISBO (up to and including 8Mbit/s)

Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

Service	Non-discrimination				Cost orientation			Cost orientation							
	Internal Sales - services only provided externally £m	Internal Sales - services also provided externally	External Sales £m	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC
CLZ Service 1 Internal															
Service 1 Internal							£								
Additional associated services e.g. enhanced maintenance							£								
Total Internal CLZ	£			£	y	x	£								
Non-CLZ Service 1 Internal															
Service 1 internal							£								
Additional associated services e.g. enhanced maintenance							£								
Total internal non-CLZ	£			£	y	x	£								
CLZ Service 1 External															
Service 1 External							£								
Additional associated services e.g. enhanced maintenance							£								
Total external CLZ			£	£	y	x	£								
Non-CLZ Service 1 External															
Service 1 External							£								
Additional associated services e.g. enhanced maintenance							£								
Total external non-CLZ			£	£	y	x	£								
Weighted average price for CLZ/non-CLZ // Nationally averaged cost							£	£	x.xx	x.xx	x.xx				
Service 2 Internal	£			£	y	x	£	£	x.xx	x.xx	x.xx				
Service 2 External			£	£	y	x	£	£	x.xx	x.xx	x.xx				
etc					y										
Service 3 Internal		£		£	y	x	£	£	x.xx	x.xx	x.xx				
etc															
Support Activity															
Internal Third Party Customer Infrastructure	£			£	(ux)		(sx)					£	x.xx	x.xx	x.xx
External Third Party Customer Infrastructure			£	£	(ux)		(sx)					£	x.xx	x.xx	x.xx
Internal Protected Path Variants and Resilience	£			£	(ux)		(sx)					£	x.xx	x.xx	x.xx
External Protected Path Variants and Resilience			£	£	(ux)		(sx)					£	x.xx	x.xx	x.xx
Internal Excess Construction charges	£			£	(ux)		(sx)					£	x.xx	x.xx	x.xx
External Excess Construction charges			£	£	(ux)		(sx)					£	x.xx	x.xx	x.xx
	£	£	£	£											

Note 1 (to be replaced by cost information as shown adjacent to this)

(sx) This service comprises a number of individual prices as indicated by the value of x
 (ux) This service comprises a number of individual volumetrics as indicated by the value of x

Note 1 - Whilst the cost orientation obligation applies to these services the fact that each line is made up of a number of individual prices and volumetrics means that it is not possible to show this cost orientation data in this format

Annex D

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 15 (as referred to in Annex 8 of this document) is specified as shown below with the specified services underlined.

Annex 11

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

TISBO (above 8Mbit/s up to and including 45Mbit/s)

Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

	← Non-discrimination →				← Cost orientation →						
	Internal Sales - services also provided externally £m	Internal Sales - services also provided internally £m	External Sales £m	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC
for the year ended 31 March 200x											
Service											
Service 1 Internal	£			£	y	x	£	£	x.xx	x.xx	x.xx
Service 1 External etc			£	£	y	x	£	£	x.xx	x.xx	x.xx
Service 2 Internal etc		£		£	y	x	£	£	x.xx	x.xx	x.xx
Support Activity											
Internal Third Party Customer Infrastructure	£			£	(ux)		(sx)	£	x.xx	x.xx	x.xx
External Protected Path Variants and Resilience			£	£	(ux)		(sx)	£	x.xx	x.xx	x.xx
Internal Protected Path Variants and Resilience	£			£	(ux)		(sx)	£	x.xx	x.xx	x.xx
External Protected Path Variants and Resilience			£	£	(ux)		(sx)	£	x.xx	x.xx	x.xx
Internal Excess Construction charges	£			£	(ux)		(sx)	£	x.xx	x.xx	x.xx
External Excess Construction charges			£	£	(ux)		(sx)	£	x.xx	x.xx	x.xx
	£	£	£	£							

(sx) This service comprises a number of individual prices as indicated by the value of x
 (ux) This service comprises a number of individual volumetrics as indicated by the value of x

Annex E

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 16 (as referred to in Annex 8 of this document) is specified as shown below with the specified services underlined.

Annex 11

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Alternative interface symmetric broadband origination (up to and including 1Gbit)

Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

	Non-discrimination				Cost orientation						
	Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC
for the year ended 31 March 200x											
Service											
Service 1 Internal	£			£	y	x	£	£	x.xx	x.xx	x.xx
Service 1 External			£	£	y	x	£	£	x.xx	x.xx	x.xx
etc					y						
Service 2 Internal			£	£	y	x	£	£	x.xx	x.xx	x.xx
etc											
<u>Internal main link rental charges</u>	£			£	y	x	£	£	x.xx	x.xx	x.xx
<u>External main link rental charges</u>			£	£	y	x	£	£	x.xx	x.xx	x.xx
					-						
<u>External BNS all bandwidth rental</u>			£	£	y	x	£	£	x.xx	x.xx	x.xx
<u>External BNS all bandwidth connection</u>			£	£	y	x	£	£	x.xx	x.xx	x.xx
<u>Internal Excess Construction Charges</u>	£			£	(ux)		(sx)	£	x.xx	x.xx	x.xx
<u>External Excess Construction Charges</u>			£	£	(ux)		(sx)	£	x.xx	x.xx	x.xx
	£	£	£	£							

(sx) This service comprises a number of individual prices as indicated by the value of x
 (ux) This service comprises a number of individual volumetrics as indicated by the value of x

Annex F

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 17 is amended in that the words underlined are inserted into and those struck through are deleted from the Regulatory Financial Statements.

BT and KCOM's regulatory financial reporting

Annex 11

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Wholesale Trunk Segments Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	Mean capital employed £m	Return on mean capital employed %
2008	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
2007	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

	Internal Sales - services also provided externally				Internal Sales - services only provided internally		External Sales	Turnover	Volume Unit		Average price	FAC (see Section 5)				Average price/FAC				
	£m	£m	£m	£m	£	£			£	£		£	£	£	£		£	£		
for the year ended 31 March 2008																				
Service																				
Service 1 Internal				£			£		y	x	£	£	x.xx	x.xx	x.xx					
Service 1 External						£	£		y	x	£	£	x.xx	x.xx	x.xx					
etc							£		y											
Service 2 Internal							£				£	£	x.xx	x.xx	x.xx					
etc																				
Support Activity																				
Internal Protected Path Variants and Resilience				£			£		(ux)		(sx)		Note 1				£	x.xx	x.xx	x.xx
External Protected Path Variants and Resilience							£		(ux)		(sx)		Note 1				£	x.xx	x.xx	x.xx
				£			£						(to be replaced by cost information as shown adjacent to this)							

(sx) This service comprises a number of individual prices as indicated by the value of x

(ux) This service comprises a number of individual volumetrics as indicated by the value of x

Note 1 - Whilst the cost orientation obligation applies to these services the fact that each line is made up of a number of individual prices and volumetrics means that it is not possible to show this cost orientation data in this format

Annex G

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Technical Areas (Point of Handover) is amended in that the words underlined are inserted into and those struck through are deleted from the Regulatory Financial Statements.

BT and KCOM's regulatory financial reporting

Annex 11

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

Technical Areas (Point of Handover) Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

Service	Non-discrimination				Cost orientation				Cost orientation							
	Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC	
External Customer Sited Handover connection			£	£	y	x	£	£	x.xx	x.xx	x.xx					
External Customer Sited Handover rental			£	£	y	x	£	£	x.xx	x.xx	x.xx					
External In Span Handover connection			£	£	y	x	£	£	x.xx	x.xx	x.xx					
External In Span Handover rental			£	£	y	x	£	£	x.xx	x.xx	x.xx					
Service 1 Internal	£			£	y	x	£	£	x.xx	x.xx	x.xx					
Service 1 External			£	£	y	x	£	£	x.xx	x.xx	x.xx					
etc					y											
Service 2 Internal			£	£	y	x	£	£	x.xx	x.xx	x.xx					
etc																
Support Services																
Internal Excess Construction Charges			£	£	(ux)		(sx)		<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Note 1 (to be replaced by cost information as shown adjacent to this) </div>				£	x.xx	x.xx	x.xx
External Excess Construction Charges				£	(ux)		(sx)	£					x.xx	x.xx	x.xx	
	£	£	£	£												

(sx) This service comprises a number of individual prices as indicated by the value of x

(ux) This service comprises a number of individual volumetrics as indicated by the value of x

Note 1 - Whilst the cost orientation obligation applies to these services the fact that each line is made up of a number of individual prices and volumetrics means that it is not possible to show this cost orientation data in this format

Annex H

The form and content of the Regulatory Financial Statements set out in Direction 4 and applying to Wholesale Market 17a (as referred to in Annex 8 to this document) is specified as shown below with the specified services underlined.

Annex 11

Market summary

Purpose of statement: to provide more detail on financial performance and first order tests of compliance with cost orientation and non-discrimination obligations

TISBO (above 45Mbit/s up to and including 155Mbit/s)

Summary

	Internal Sales - services only provided internally £m	Internal Sales - services also provided externally £m	External Sales £m	Turnover (see note 1) £m	Operating costs £m	Depreciation £m	Holding gain/(loss) £m	Supplementary depreciation £m	Other adjustments £m	Roundings £m	Total CCA operating costs £m	Return £m	Return on turnover %	Mean capital employed £m	Return on mean capital employed %
200x	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%
200y	£	£	£	£	£	£	£	£	£	£	£	£	%	£	%

Note 1: Comparison of Average internal and external charges with each other and with FAC

	← Non-discrimination →				← Cost orientation →						
	Internal Sales - services also provided externally £m	Internal Sales - services only provided internally £m	External Sales £m	Turnover £m	Volume	Unit	Average price £	FAC (see Section 5) £	Unaudited LRIC Floor £	Unaudited LRIC Ceiling £	Average price/FAC
for the year ended 31 March 200x											
Service											
Service 1 Internal	£			£	y	x	£	£	x.xx	x.xx	x.xx
Service 1 External etc			£	£	y	x	£	£	x.xx	x.xx	x.xx
Service 2 Internal etc			£	£	y	x	£	£	x.xx	x.xx	x.xx
Support Activity											
Internal Third Party Customer Infrastructure	£			£	(ux)		(sx)	£	x.xx	x.xx	x.xx
External Protected Path Variants and Resilience			£	£	(ux)		(sx)	£	x.xx	x.xx	x.xx
Internal Protected Path Variants and Resilience	£			£	(ux)		(sx)	£	x.xx	x.xx	x.xx
External Protected Path Variants and Resilience			£	£	(ux)		(sx)	£	x.xx	x.xx	x.xx
Internal Excess Construction charges	£			£	(ux)		(sx)	£	x.xx	x.xx	x.xx
External Excess Construction charges			£	£	(ux)		(sx)	£	x.xx	x.xx	x.xx
	£	£	£	£							

(sx) This service comprises a number of individual prices as indicated by the value of x

(ux) This service comprises a number of individual volumetrics as indicated by the value of x

Annex I

The Additional Information set out in Annex 26 to Direction 4 shall be amended in that the words underlined are additional AFIs.

Annex 26

Additional information by way of notes

Reference	Additional Financial Information	Description	Purpose (AS, CA or reconciliation)
<u>AI-22</u>	<ul style="list-style-type: none"> • <u>Statements for the markets covered by the replicability review that explain the difference between the revenue by market reported in the RFS compared to the revenue recognised in BT's general ledger.</u> <p><u>Differences identified in the following categories: provisions, other immaterial unidentified services, impact of differences between calculated and ledgered volumes and other. This is the minimum disclosure and it should not restrict BT if they identify other types of differences.</u></p>	<p><u>The format will be similar to the relevant market statements (annexes 11, 12 & 13) in the RFS with the additional lines added.</u></p>	<p><u>reconciliation, AS & CA</u></p>
<u>AI-23</u>	<ul style="list-style-type: none"> • <u>Information showing the underlying cost stack analysis behind the PPC and technical area services using the plant groups to replace the current components</u> 	<p><u>The format for this AFI is similar to the statements within the current format of the RFS that explicitly disclose component information. To be published online alongside the RFS after they have been published.</u></p>	<p><u>CA</u></p>

Reference	Additional Financial Information	Description	Purpose (AS, CA or reconciliation)
<u>AI-24</u>	<u>Wholesale broadband access geographical analysis of costs and assets on a cost accounting and EOI basis</u>	<u>There will be a P&L and MCE statement on a cost accounting basis and an equivalence of input basis for the 3 geographical markets for wholesale broadband access. These will be in a format similar to annex 5A for the P&L and 6A for the MCE statement. Revenues, costs and assets for markets 1, 2 and 3 will be shown on a geographical basis where possible. Where they cannot be split geographically the entire wholesale broadband access market results will be reported.</u>	<u>AS</u>
<u>AI-25</u>	<u>Analysis of input costs from the business connectivity markets to downstream (retail) markets</u>	<u>The statement will show the gross margin made by each of the retail product groupings that use services covered by the business connectivity market review as inputs. The gross margin is split down into the turnover of the product grouping and the value of the business connectivity charges plus the remaining charges from other SMP markets and other network charges grouped together.</u>	<u>CA & AS</u>

Annex 11

Notification of Proposed Amendments to Direction 3 (KCOM)

Notification of a proposal under section 49 of the Communications Act 2003

Proposal for modifying Directions given under SMP Services Condition OB2 requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting

1. The Office of Communications ("OFCOM") hereby makes, in accordance with section 49 of the Communications Act 2003 ("the Act"), the following proposal to modify Direction 3 given under SMP Services Condition OB2 at Annex 5 of The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004, specifying requirements for the preparation, audit and delivery of RFS in respect of wholesale cost accounting, accounting separation and retail cost accounting; and
2. The draft modification to the Directions is set out in the Schedule to this notification.
3. The effect of the draft modification to the Directions, and the reasons for making the proposal, are set out in the accompanying explanatory statement.
4. Representation may be made to OFCOM about the proposed draft modification to the Direction by 5 pm on 1 May 2009.
5. In accordance with section 50 of the Act, copies of this notification have been sent to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State.

Craig Lonie

Director of Competition Finance, OFCOM

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

20 March 2009

Schedule

[Draft] Direction modifying Directions under section 49 of the Communications Act 2003 and SMP Services Conditions OB2 specifying requirements for the preparation, audit and delivery of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting

WHEREAS:

(A) as a result of a market analysis carried out by the Director General of Telecommunications (the 'Director') and OFCOM in accordance with section 79 of the Act, KCOM has been designated as having SMP in respect of certain identified markets in accordance with section 79 of the Act;

(B) as a result of such SMP designations, KCOM has been subjected to various SMP Services Conditions in accordance with sections 45 and 86 to 92 of the Act, including conditions OB1 to OA33 imposing obligations on KCOM in respect of wholesale cost accounting, accounting separation and retail cost accounting in relation to KCOM's activities in those markets where KCOM has been designated as having SMP;

(C) in complying with the SMP services conditions referred to in paragraph B above, and in particular conditions OB5, KCOM is required to, amongst other things:

- a) prepare;
- b) secure an audit opinion in respect of;
- c) deliver to OFCOM (with the corresponding audit opinion); and
- d) publish (with the corresponding audit opinion)

the Regulatory Financial Statements as directed by OFCOM from time to time.

(D) by virtue of the Transitional Provisions, references to the Director in any of those SMP services conditions should be read as references to OFCOM;

(E) condition OB2 includes, in accordance with section 45(10) of the Act, the ability for OFCOM to make such directions as they consider appropriate from time to time in relation to BT's obligations under conditions OB1 to OB33;

(F) this modified Direction modifies Direction 3 which relates to KCOM's obligations under SMP services conditions OB2, in that it sets out an amendment to the RFS which are required to be prepared, audited (including the level of audit), delivered to OFCOM and/or published by KCOM under condition OB5.

(G) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM are satisfied that, in accordance with section 49(2) of the Act, this Direction is:

- iii. objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- iv. not such as to discriminate unduly against particular persons or against a particular description of persons;

- iii. proportionate to what it is intended to achieve; and
- iv. in relation to what it is intended to achieve, transparent;

(H) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM have considered and acted in accordance with the six Community requirements set out in section 4 of the Act and their duties in section 3 of the Act;

(I) on 20 March 2009, OFCOM published a notification of the proposed modified Direction in accordance with section 49 of the Act (the 'Notification');

(J) a copy of the Notification was sent to the Secretary of State, the European Commission and the regulatory authorities at every other Member State in accordance with section 50 of the Act;

(K) in the Notification and accompanying explanatory statement OFCOM invited representations about any of the proposals therein by 5 pm on 1 May 2009;

(L) by virtue of section 49(9) of the Act, OFCOM may give effect to the proposal set out in the Notification, with or without modification, only if:

a) they have considered every representation about the proposal that is made to them within the period specified in the Notification; and

b) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;

(M) Ofcom has considered every representation about the proposed modified Direction duly made to them and these representations are discussed in the statement accompanying this modified Direction; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

NOW, therefore, pursuant to section 49 of the Act and Condition OB2, OFCOM hereby gives the following modification to Direction 3.

1. Direction 3 shall be modified as set out in Annexes A to C to this modified Direction.
2. For the purpose of interpreting this modified Direction, the following definitions shall apply:
 - a) "Act" means the Communications Act 2003 (c. 21);
 - b) "KCOM" means KCOM Group plc, whose registered company number is 2150618, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;
 - c) "Direction 3" means Direction 3 given under SMP Services Condition OB2 at Annex 5 of the *The Regulatory Financial Reporting Obligations on BT and Kingston Communications statement, dated 22 July 2004*;
 - d) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - e) "OFCOM" means the Office of Communications; and
 - f) "Transitional Provisions" means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003 and the Office of Communications Act 2002 (Commencement No. 3) and Communications Act 2003 (Commencement No. 2) Order 2003.
3. 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 Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
4. For the purpose of interpreting this modified Direction:
 - a) headings and titles shall be disregarded; and
 - b) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.
5. This Direction shall take effect on the day it is published.
6. The Schedule to this modified Direction shall form part of this modified Direction.

[Name]

[Title]

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

[Date]

A11.1

Annex A

Annex A to Direction 3 is amended in that the words underlined are inserted and the words struck through are deleted.

Wholesale Cost Accounting Financial Statements

For the purposes of this annex the following abbreviations are used, the scope of these statements is set out in the matrix of obligations that follows; references to annexes are to the form and content direction attached at Schedule 4 to the Notification dated 8 April 2004. In the table below, X means that the financial statement set out at the head of the column is required for the market or service on that row. Please note, the separation of the tables into Parts A to C is purely for presentational purposes.

- CCPS = 'current cost primary statements', current cost profit and loss statement (CC P&L) and statement of current cost mean capital employed (CC MCE), as set out in Annexes 13 & 14 in relation to wholesale services, Annexes 11 & 12 in relation to wholesale segments (when designated) and Annexes 9 & 10 in relation to individual wholesale markets;
- RTW = 'reconciliation to wholesale', reconciliation of CC P&L and CC MCE to wholesale level - consolidation across group of markets covered by review (as set out in Annexes 7 & 8 for wholesale markets), followed by consolidation of these consolidations, to give consolidated CC P&L and CC MCE for wholesale markets subject to cost accounting (as set out in annex 5 & 6);
- RTSA = 'reconciliation to statutory accounts', reconciliation of consolidated CC P&L and CC MCE for wholesale markets subject to cost accounting to the profit and loss account and balance sheet of the operator shown in their statutory financial statements (as set out in annexes 23 & 24, supported by annexes 25, 26, 27 & 28);
- SoCC Ext = statement of costs and charges for wholesale service supplied in the market, other than those which are only Internal Wholesale Services (as set out in annex 30);
- SoCC Int = statement of costs and charges for wholesale service supplied in the market, which are only Internal Wholesale Services (as set out in annex 31);
- SoAC FA = statement of activity costs on a current fully allocated cost basis for the market (as set out in Annexes 34), supported by consolidated statement of activity costs on a current fully allocated cost basis (as set out in Annexes 33);
- NCR FA = attribution of activity costs on a current fully allocated cost basis for the market (as set out in annex 36), supported by consolidated attribution of activity costs on a current fully allocated cost basis (as set out in annex 35);
- RFR – regulatory financial review, as set out in annex 2 [NB – no audit opinion is required for the RFR];
- SDR – statement of responsibility, as set out in annex 3 [NB – no audit opinion is required for the SDR];
- FPIA – Audit Opinion required for required statements, for inclusion in audit report as set out in annex 4;
- PPIA – Audit opinion required for required statements, for inclusion in audit report as set out in annex 4;
- Notes – notes to the financial statements, as set out in annex 19;
- RMP – retail markets purchase statement, as set out in annex 22;
- SPS – summary, for reconciliation purposes, of profitability by wholesale service (as set out in annex 32) [NB – the SPS should not be published].

Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets

Wholesale markets and illustrative services	Financial statements					Audit		Published
	CCPS	RTW	RTSA	SoCC Ext	SoCC Int	FPIA	PPIA	
Traditional interface symmetric broadband origination (up to and including 8Mbit/s);	X	X	X			X		X
Traditional interface symmetric broadband origination (above 8Mbit/s up to and including 155Mbit/s)								
<u>Traditional interface symmetric broadband origination in the Hull Area (above 8Mbit/s and up to and incl. 45Mbit/s)</u>	X	X	X			X		X
<u>Traditional interface symmetric broadband origination in the Hull Area (over 45 Mbit/s and up to and incl. 155Mbit/s)</u>	X	X	X			X		X
Alternative interface symmetric broadband origination (all bandwidths);								
<u>Alternative interface symmetric broadband origination (up to and including 1Gbit/s)</u>	X	X	X			X		X
Technical areas (as necessary)	X	X	X			X		X

Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets

Wholesale markets and illustrative services	Financial statements					Audit		Published
	SoAC FA	NCR FA	SoAC IC	RFR	SDR	FPIA	PPIA	
Traditional interface symmetric broadband origination (up to and including 8Mbit/s);	X	X	X	X	X	X		X
Traditional interface symmetric broadband origination (above 8Mbit/s up to and including 155Mbit/s)								
<u>Traditional interface symmetric broadband origination in the Hull Area (above 8Mbit/s and up to and incl. 45Mbit/s)</u>	X	X	X	X	X	X		X
<u>Traditional interface symmetric broadband origination in the Hull Area (over 45 Mbit/s and up to and incl. 155Mbit/s)</u>	X	X	X	X	X	X		X
Alternative interface symmetric broadband origination (all bandwidths);								
<u>Alternative interface symmetric broadband origination (up to and including 1Gbit/s)</u>	X	X	X	X	X	X		X
Technical areas (as necessary)	X	X	X	X	X	X		X

Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets

	Financial statements					Audit		Published
	Notes	RMP	SPS			FPIA	PPIA	
Wholesale markets and illustrative services								
Traditional interface symmetric broadband origination (up to and including 8Mbit/s);	X		X				X	X
Traditional interface symmetric broadband origination (above 8Mbit/s up to and including 155Mbit/s)								
<u>Traditional interface symmetric broadband origination in the Hull Area (above 8Mbit/s and up to and incl. 45Mbit/s)</u>	X		X				X	X
<u>Traditional interface symmetric broadband origination in the Hull Area (over 45 Mbit/s and up to and incl. 155Mbit/s)</u>	X		X				X	X
Alternative interface symmetric broadband origination (all bandwidths);								
<u>Alternative interface symmetric broadband origination (up to and including 1Gbit/s)</u>	X		X				X	X
Technical areas (as necessary)	X		X				X	X

Annex B

Annex B to Direction 3 is amended in that the words underlined are inserted and the words struck through are deleted.

Accounting Separation Financial Statements

For the purposes of this annex the following abbreviations are used, the scope of these statements is set out in the matrix of obligations that follows; references to annexes are to the form and content direction attached at Schedule 4 to the Notification dated 8 April 2004. In the table below, X means that the financial statement set out at the head of the column is required for the market or service on that row. Please note, the separation of the tables into Parts A to B is purely for presentational purposes.

- TS – turnover statements: sales of External Wholesale Services (as set out in annex 20) and sales of Internal Wholesale Services (as set out in annex 21);
- SOS – notes to the financial statements (as set out in annex 19) in relation to sufficiency of separation, in particular assurance that activities to which accounting separation applies have been sufficiently separated from each other and from activities to which separation does not apply;
- IMT - Inter-market turnover, reconciliation of the source and destination of inter market turnover, to verify that transfer charges are self cancelling overall (as set out in annex 29);
- RFR – regulatory financial review, as set out in annex 2 [NB – no audit opinion is required for the RFR];
- SDR – statement of responsibility, as set out in annex 3 [NB – no audit opinion is required for the SDR];
- FPIA – Audit Opinion required for required statements, for inclusion in audit report as set out in annex 4;
- PPIA – Audit opinion required for required statements, for inclusion in audit report as set out in annex 4;
- CCPS = ‘current cost primary statements’, to demonstrate sufficiency of separation where CCPS not required for cost accounting purposes - current cost profit and loss statement and statement of current cost mean capital employed, as set out in Annexes 13 & 14 in relation to wholesale services, Annexes 11 & 12 in relation to wholesale segments (when designated) and Annexes 9 & 10 in relation to individual wholesale markets;
- RTW = ‘reconciliation to wholesale’, reconciliation of CC P&L and CC MCE to wholesale level, to demonstrate sufficiency of separation where RTW not required for cost accounting purposes - consolidation across group of markets covered by review (as set out in Annexes 7 & 8 for wholesale markets), followed by consolidation of these consolidations, to give consolidated CC P&L and CC MCE for wholesale markets subject to cost accounting (as set out in annex 5 & 6);
- RTSA = ‘reconciliation to statutory accounts’, reconciliation of consolidated CC P&L and CC MCE for wholesale markets subject to accounting separation to the profit and loss account and balance sheet of the operator shown in their statutory financial statements (as set out in annexes 23 & 24 supported by annexes 25, 26, 27 & 28), to demonstrate sufficiency of separation where RTSA not required for cost accounting purposes.

Review of the wholesale broadband access market

	Financial statements			Audit		Published
	TS	SOS	IMT	FPIA	PPIA	
Wholesale markets and illustrative services						
Asymmetric broadband origination in the Hull area						
Wholesale Broadband Access in the Hull Area	X	X	X	X		X

Review of the wholesale broadband access market

	Financial statements			Audit		Published
	RFR	SDR	CCPS, RTW & RTSA	FPIA	PPIA	
Wholesale markets and illustrative services						
Asymmetric broadband origination in the Hull area						
<u>Wholesale Broadband Access in the Hull Area</u>	X	X	X	X		X

Annex C

Annex C to Direction 3 is amended in that the words underlined are inserted and the words struck through are deleted.

Retail Cost Accounting Financial Statements

For the purposes of this annex the following abbreviations are used, the scope of these statements is set out in the matrix of obligations that follows; references to annexes are to the form and content direction attached at Schedule 4 to the Notification dated 8 April 2004. In the table below, X means that the financial statement set out at the head of the column is required for the market or service on that row. Please note, the separation of the tables into Parts A to C is purely for presentational purposes.

- CCPS = 'current cost primary statements', current cost profit and loss statement (CC P&L) and statement of current cost mean capital employed (CC MCE), as set out in Annexes 17 & 18 in relation to retail product segments, Annexes 15 & 16 in relation to individual retail markets;
- RTR = 'reconciliation to retail', reconciliation of CC P&L and CC MCE to wholesale or retail level – not required as there is only one retail market that has cost accounting obligations proposed;
- RTSA = 'reconciliation to statutory accounts', reconciliation of consolidated CC P&L and CC MCE for retail markets subject to cost accounting to the profit and loss account and balance sheet of the operator shown in their statutory financial statements (as set out in annexes 23 & 24, supported by annexes 25, 26, 27, & 28);
- SoCC Ext = statement of costs and charges for wholesale service supplied in the market, other than those which are only Internal Wholesale Services (as set out in annex 30);
- SoCC Int = statement of costs and charges for wholesale service supplied in the market, which are only Internal Wholesale Services (as set out in annex 31);
- SoAC FA = statement of activity costs on a current fully allocated cost basis for the market (as set out in Annexes 34), supported by consolidated statement of activity costs on a current fully allocated cost basis (as set out in Annexes 33);
- NCR FA = attribution of activity costs on a current fully allocated cost basis for the market (as set out in annex 36), supported by consolidated attribution of activity costs on a current fully allocated cost basis (as set out in annex 35);
- RFR – regulatory financial review, as set out in annex 2 [NB – no audit opinion is required for the RFR];
- SDR – statement of responsibility, as set out in annex 3 [NB – no audit opinion is required for the SDR];
- FPIA – Audit Opinion required for required statements, for inclusion in audit report as set out in annex 4;
- PPIA – Audit opinion required for required statements, for inclusion in audit report as set out in annex 4;
- Notes – notes to the financial statements, as set out in annex 19;
- RMP – retail markets purchase statement, as set out in annex 22;
- SPS – summary, for reconciliation purposes, of profitability by wholesale service (as set out in annex 32) [NB – the SPS should not be published].

Part A

Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets

Retail market and illustrative services	Financial statements					Audit		Published
	CCPS	RTR	RTSA	SoCC Ext	SoCC Int	FPIA	PPIA	
Traditional interface retail leased lines (up to and including 8Mbit/s);	✗	✗	✗			✗		✗

Part B

Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets

Wholesale markets, retail market and illustrative services	Financial statements					Audit		Published
	SoAC FA	NCR FA	SoAC IC	RFR	SDR	FPIA	PPIA	
Traditional interface retail leased lines (up to and including 8Mbit/s);				✗	✗	✗		✗

Part C

Review of the retail leased lines, symmetric broadband origination and wholesale trunk segments markets

Wholesale markets, retail market and illustrative services	Financial statements					Audit		Published
	Notes	RMP	SPS			FPIA	PPIA	
Traditional interface retail leased lines (up to and including 8Mbit/s);	✗					✗		✗

Annex 12

Notification of Proposed Amendments to Direction 4 (KCOM)

Notification of a proposal under section 49 of the Communications Act 2003

Proposal for modifying a Direction given under SMP Services Condition OB2 specifying requirements for the form and content of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting

1. The Office of Communications ("OFCOM") hereby makes, in accordance with section 49 of the Communications Act 2003 ("the Act"), the following proposal to modify Direction 4 given under SMP Services Condition OB2 at Annex 5 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*, specifying requirements for the form and content of regulatory financial statements in respect of wholesale cost accounting, accounting separation and retail cost accounting.
2. The draft modification to the Direction is set out in the Schedule to this notification.
3. The effect of the draft modification to the Direction, and the reasons for making the proposal, are set out in the accompanying explanatory statement.
4. Representations may be made to OFCOM about the proposed draft modification to the Direction by 5pm on 1 May 2009.
5. In accordance with section 50 of the Act, copies of this notification have been sent to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State.

Craig Lonie

Director of Competition Finance, OFCOM

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

20 March 2009

Schedule

[Draft] Direction modifying a Direction under section 49 of the Communications Act 2003 and SMP Services Condition OB2 specifying requirements for the form and content of Regulatory Financial Statements in respect of wholesale cost accounting, accounting separation and retail cost accounting

WHEREAS:

- (A) as a result of a market analysis carried out by the Director General of Telecommunications (the 'Director') and OFCOM in accordance with section 79 of the Act, KCOM has been designated as having SMP in respect of certain identified markets in accordance with section 79 of the Act;
- (B) as a result of such SMP designations, KCOM has been subjected to various SMP services conditions in accordance with sections 45 and 86 to 92 of the Act, including conditions OB1 to OB33 imposing obligations on KCOM in respect of wholesale cost accounting, accounting separation and retail cost accounting in relation to KCOM's activities in those markets where KCOM has been designated as having SMP;
- (C) in complying with the SMP services conditions referred to in paragraph B above, and in particular condition OB5, KCOM is required to prepare such Regulatory Financial Statements as directed by OFCOM from time to time;
- (D) by virtue of the Transitional Provisions, references to the Director in any of those SMP services conditions should be read as references to OFCOM;
- (E) condition OB2 includes, in accordance with section 45(10) of the Act, the ability for OFCOM to make such directions as they consider appropriate from time to time in relation to KCOM's obligations under conditions OB1 to OB33;
- (F) this modified Direction modifies Direction 4 given under SMP Services Condition OB2 at Annex 5 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004* which relates to KCOM's obligations under SMP services conditions OB1 to OB33, in that it sets out the form and content to be applied by KCOM in preparing certain RFS required by virtue of condition OB5 and Direction 3 (as modified);
- (G) KCOM is entitled to depart from the form and content set out in this Direction in certain circumstances in accordance with conditions OB7 and OB20;
- (H) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM are satisfied that, in accordance with section 49(2) of the Act, this Direction is:

- (ii) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- (ii) not such as to discriminate unduly against particular persons or against a particular description of persons;
- (iii) proportionate to what it is intended to achieve; and
- (iv) in relation to what it is intended to achieve, transparent;

(I) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM have considered and acted in accordance with the six Community requirements set out in section 4 of the Act and their duties in section 3 of the Act;

(J) on 20 March 2009, OFCOM published a notification of the proposed modified Direction in accordance with section 49 of the Act (the 'Notification');

(K) a copy of the Notification was sent to the Secretary of State, the European Commission and the regulatory authorities at every other Member State in accordance with section 50 of the Act;

(L) in the Notification and accompanying explanatory statement OFCOM invited representations about any of the proposals therein by 5pm on 1 May 2009;

(M) by virtue of section 49(9) of the Act, OFCOM may give effect to the proposal set out in the Notification, with or without modification, only if:

a) they have considered every representation about the proposal that is made to them within the period specified in the Notification; and

b) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;

(N) OFCOM has considered every representation about the proposed modified Direction duly made to them and these representations are discussed in the statement accompanying this modified Direction; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

NOW, therefore, pursuant to section 49 of the Act and Condition OB2, OFCOM hereby gives the following modification to the Original Direction 4:

1. Direction 4 shall be modified as set out in Annex A to this modified Direction.2. For the purpose of interpreting this modified Direction, the following definitions shall apply:

- a) "Act" means the Communications Act 2003 (c. 21);
- b) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
- c) "Direction 3" means Direction 3 given under SMP Services Condition OB2 at Annex 5 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*
- d) "KCOM" means KCOM Group plc, whose registered company number is 2150618, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;
- e) "Direction 4" means Direction 4 given under SMP Services Condition OB2 at Annex 5 of *The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004*;
- f) "OFCOM" means the Office of Communications; and
- g) 'Transitional Provisions' means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003, and the Office of Communications Act 2002 (Commencement No. 3) and Communications Act 2003 (Commencement No. 2) Order 2003.

3. 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 Notification and otherwise any word or expression shall have the same meaning as it has in the Act.

4. For the purpose of interpreting this modified Direction:

- a) headings and titles shall be disregarded; and
- b) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

5. This Direction shall take effect on the day it is published.

6. The Schedule to this modified Direction shall form part of this modified Direction.

[Name]

[Title]

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

[Date]

Annex A

The form and content of the Regulatory Financial Statements set out in the Original Direction 4 are modified as shown below in that the words underlined are inserted and the words struck through are deleted.

Annex 13

Notification of a proposal to make Directions under OA22 and FA10.22

Notification of a proposal under section 49 of the Communications Act 2003

Proposal for making Directions under SMP Services Condition OA22 and FA10.22 requiring BT to amend Accounting Documentation in order to remedy a deficiency identified by OFCOM.

1. The Office of Communications ("OFCOM") hereby makes, in accordance with section 49 of the Communications Act 2003 ("the Act"), the following proposal to make:

- i. a Direction under SMP Services Condition OA22 at Annex 4 of The Regulatory Financial Reporting obligations on BT and Kingston Communications statement, dated 22 July 2004, requiring BT to amend Accounting Documentation in order to remedy a deficiency identified by OFCOM; and
- ii. a Direction under SMP Services Condition FA10.22 at Schedule 4 to the Notification set out in Annex 2 of the Review of the wholesale local access market, dated 16 December 2004, requiring BT to amend Accounting Documentation in order to remedy a deficiency identified by OFCOM.

2. The Directions are set out in the Schedule to this notification.

3. The effect of the draft Directions, and the reasons for making the proposal, is set out in the accompanying explanatory statement.

4. Representation may be made to OFCOM about the proposed draft modification to the Direction by 5pm on 1 May 2009.

5. In accordance with section 50 of the Act, copies of this notification have been sent to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State.

Craig Lonie

Director of Competition Finance, OFCOM

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

20 March 2009

Schedule

[Draft] Direction under SMP Services Conditions OA22 and FA10.22 requiring BT to amend Accounting Documentation in order to remedy a deficiency identified by OFCOM.

WHEREAS:

(A) as a result of a market analysis carried out by the Director General of Telecommunications (the 'Director') and OFCOM in accordance with section 79 of the Act, BT has been designated as having SMP in respect of certain identified markets in accordance with section 79 of the Act;

(B) as a result of such SMP designations, BT has been subjected to various SMP services conditions in accordance with sections 45 and 86 to 92 of the Act, including conditions OA1 to OA34 and FA10 imposing obligations on BT in respect of wholesale cost accounting, accounting separation and retail cost accounting in relation to BT's activities in those markets where BT has been designated as having SMP;

(C) in complying with the SMP services conditions referred to in paragraph B above, and in particular conditions OA5 and FA10.5, BT is required to, amongst other things:

- a) prepare;
- b) secure an audit opinion in respect of;
- c) deliver to OFCOM (with the corresponding audit opinion); and
- d) publish (with the corresponding audit opinion)

the Regulatory Financial Statements as directed by OFCOM from time to time.

(D) by virtue of the Transitional Provisions, references to the Director in any of those SMP services conditions should be read as references to OFCOM;

(E) condition OA22 and FA10.22 include, in accordance with section 45(10) of the Act, the ability for OFCOM to make a direction to BT requiring it to amend Accounting Documents where OFCOM has reasonable grounds to believe that such documents are deficient;

(F) OFCOM has reasonable grounds to believe that BT's Accounting Documents are deficient in that the costs associated with supplying its Low User Scheme have been inappropriately attributed to wholesale access markets and these Directions require BT not to attribute these costs to wholesale access markets;

(G) for the reasons set out in the explanatory statement accompanying this modified Direction, OFCOM are satisfied that, in accordance with section 49(2) of the Act, these Directions are:

- i. objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- ii. not such as to discriminate unduly against particular persons or against a particular description of persons;
- iii. proportionate to what it is intended to achieve; and
- iv. in relation to what it is intended to achieve, transparent;

(H) for the reasons set out in the explanatory statement accompanying these Directions, OFCOM have considered and acted in accordance with the six Community requirements set out in section 4 of the Act and their duties in section 3 of the Act;

(I) on 20 March 2009, OFCOM published a notification of the proposed Directions in accordance with section 49 of the Act (the 'Notification');

(J) a copy of the Notification was sent to the Secretary of State, the European Commission and the regulatory authorities at every other Member State in accordance with section 50 of the Act;

(K) in the Notification and accompanying explanatory statement OFCOM invited representations about any of the proposals therein by 5pm on 1 May 2009;

(L) by virtue of section 49(9) of the Act, OFCOM may give effect to the proposal set out in the Notification, with or without modification, only if:

- a) they have considered every representation about the proposal that is made to them within the period specified in the Notification; and
- b) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;

(M) OFCOM has considered every representation about the proposed Directions duly made to them and these representations are discussed in the statement accompanying these Directions; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

NOW, therefore, pursuant to section 49 of the Act OFCOM hereby:

1. Makes a Direction under OA22 as set out in annex A;
2. Makes a Direction under FA10.22 as set out in annex B
3. For the purpose of interpreting this modified Direction, the following definitions shall apply:
 - a) "Act" means the Communications Act 2003 (c. 21);
 - b) "BT" means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;
 - c) "Director" means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - d) "OFCOM" means the Office of Communications; and
 - e) "Transitional Provisions" means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003, and the Office of Communications Act 2002 (Commencement No. 3) and Communications Act 2003 (Commencement No. 2) Order 2003.

3. 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 Notification and otherwise any word or expression shall have the same meaning as it has in the Act.

4. For the purpose of interpreting these Directions:

- a) headings and titles shall be disregarded; and
- b) the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

5. These Directions shall take effect on the day they are published.

[Name]

[Title]

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

[Date]

ANNEX A

Direction under OA22:

BT shall amend its Accounting Documents to explicitly set out an accounting policy that ensures costs and revenues are matched. This revised accounting policy should be applied to the preparation of the Regulatory Financial Statements starting in 2008/09.

ANNEX B

Direction under FA10.22:

BT shall amend its Accounting Documents to explicitly set out an accounting policy that ensures costs and revenues are matched. This revised accounting policy should be applied to the preparation of the Regulatory Financial Statements starting in 2008/09.