



A Statement on setting quality of service parameters

Notification of Direction

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Contents

Section		Page
1	Summary	2
2	Introduction	3
3	Provision of Quality of Service Information	5
4	Quality of Service Parameters	9
5	Who should provide this information	12
6	Responses to the Consultation	13
7	Timing, Accuracy and Publication	15
8	Direction under General Condition 21.1 on Quality of Service	17
Annex		Page
1	Respondents to the September 2004 Consultation	21
21	General Condition 21	22
22	ETSI Guide 201 769	23

Section 1

Summary

- S1 The provision of comparable quality of service (“QoS”) Information is beneficial to consumers and Ofcom is committed to ensuring that it is supplied. In September 2004 Ofcom published *A Statement on providing quality of service information to consumers* (“September 2004 Statement”) and *A Consultation on quality parameters* including a *Notification and Draft Direction* (“September 2004 Consultation”) following on from the consultation *Reporting quality of service information to consumers* published November 2003 (“November 2003 Consultation”). Following consideration of the responses to this consultation, Ofcom is making a direction that places a requirement on fixed line Communications Service Providers (“CSPs”) to report QoS information to consumers. No direction is to be issued in relation to the mobile sector.
- S2 Ofcom’s decision in relation to the provision of QoS information for consumers reinforces its commitment to a co-regulatory approach wherever possible. Ofcom will help facilitate the development of two co-regulatory groups tasked with providing this information - one for the fixed-line industry and another for mobile network operators. The mobile co-regulatory group will have a voluntary membership.
- S3 This Statement sets out the rationale and legal basis for the requirements on fixed CSPs to supply certain QoS information using defined testing parameters. Ofcom believes that it is necessary to specify a base set of reporting parameters for fixed-line CSPs. The process of how to meet these parameters and the identification of any further testing options will be determined by the co-regulatory group and implemented by them. All the QoS parameters defined in the September 2004 Consultation will be included in the mandatory specification with the exception of the proposed requirement in relation to disconnections for non-payment.
- S4 The final section of this document is the Direction made by Ofcom under section 49 of the Communications Act 2003 (“Act”). The Direction is made under General Condition of Entitlement (“GC”) 21 Quality of Service in Part 2 of the Schedule and is applicable to certain fixed-line CSPs only.

Section 2

Introduction

Purpose

- 2.1 This document is divided into two main parts. The first part is an explanatory statement of the Direction that follows on from Ofcom's September 2004 Consultation on quality parameters and notification of draft Direction. This statement gives the reasons for Ofcom making the QoS Direction. It also sets out the required QoS testing parameters, as well as providing further detail on the auditing and publication requirements to be placed on each participating CSP.
- 2.2 The second part of this document is the Direction that Ofcom is making, which will apply to certain fixed line CSPs. The Direction sets out the dates when fixed line CSPs must comply. The CSPs who are subject to this Direction - and who will be obliged to collect and publish QoS information through a co-regulatory group - are those CSPs as defined in the September 2004 Consultation and who are not subject to the exemptions listed in that same publication. This list may be subject to change in the future.

Background

- 2.3 The provision of comparable QoS information is beneficial to consumers. Until now, its provision has been voluntary and at least in the fixed sector no comprehensive comparable information has been published. In November 2003, Oftel, in association with Ofcom, published a consultation *Reporting Quality of Service Information to Consumers*. That document included a regulatory impact assessment which considered four options for the future supply of QoS information in this area. Broadly, the options included:
1. No encouragement for the reporting of QoS information to consumers.
 2. Maintain a system of voluntary co-regulation for delivering QoS information to consumers (ie CPI).
 3. Introduce a system of mandatory co-regulation to provide QoS information.
 4. Set a direct form of prescribed QoS information requirements.
- 2.4 The original November 2003 Consultation did not offer a preferred option. The consultation provided evidence both for and against each of the four options and enabled stakeholders to offer their own opinion as to which option to employ, or to offer alternative solutions. The consultation period lasted three months and Ofcom received 30 responses.
- 2.5 In the September 2004 Statement, Ofcom explained that it considered that there was strong evidence in support of the need for residential and small business consumers to be provided with information about aspects of service quality. This was supported by further analysis which took account of stakeholders' responses to the November 2003 Consultation. Ofcom set out its proposals for ensuring that QoS information be made available to consumers of fixed-line communication services.

- 2.6 However, Ofcom also set out a proposal in the September 2004 Consultation for three basic exemptions to be put in place to protect against placing excessive demands upon certain CSPs; for instance: those who are new to market, are smaller operators, or who are in particular financial difficulty would not be required to provide QoS information.
- 2.7 The September 2004 Consultation proposed the test parameters from which the QoS information would be derived. Ofcom received 23 responses and these are listed at Annex 1 along with a summary.
- 2.8 Ofcom sets out in section 4 below the required testing parameters that will be applied to fixed line CSPs through a Direction issued under section 49 of the Act and under GC 211 at Annex 1. Ofcom is satisfied that in establishing these required testing parameters it has met tests of proportionality, transparency, non-discrimination, and is objectively justifiable. Ofcom is also satisfied that it has properly considered stakeholders' responses to the September 2004 Consultation, existing evidence, and best practice.
- 2.9 Ofcom believes that the QoS parameters established at section 4 below will provide sufficiently comprehensive information to End-Users in order to meet Ofcom's duties set out in sections 3 and 4 of the Act.

¹ See Annex 2

Section 3

Provision of Quality of Service Information

Ofcom's Duties and Functions

- 3.1 Ofcom, in reaching its decision on the provision of QoS information to End-Users, has sought to fulfil its principal duty set out in section 3 (1) of the Act. Section 3 (1) of the Act states that in carrying out its functions, Ofcom shall further the interests of citizens in relation to communications matters, and the interests of consumers in relevant markets, where appropriate by promoting competition.
- 3.2 In this regard, Ofcom considered amongst other things the requirements in section 3 (2) of the Act to secure the availability throughout the UK of a wide range of electronic communications services, and section 3(4) of the Act, namely, the:
- desirability of promoting competition in relevant markets;
 - desirability of promoting and facilitating the development and use of effective forms of self-regulation;
 - desirability of encouraging investment and innovation in relevant markets;
 - needs of persons with disabilities, of the elderly and of those on low incomes;
 - opinions of consumers in relevant markets and of members of the public generally; and,
 - different interests of persons in the different parts of the UK, of the different ethnic communities within the UK and of persons living in rural and in urban areas.
- 3.3 In order to secure the availability throughout the UK of a wide range of electronic communications services, as set out in section 3 (5) of the Act, Ofcom aims to further the interests of consumers by having regard, in particular, to the interest of those End-Users in respect of choice, price, QoS, and value for money.
- 3.4 Section 4 of the Act sets out Ofcom's duties for the purposes of fulfilling its Community obligations. In section 4 of the Act, Ofcom has considered amongst other things the requirement to promote competition and the interests of all persons who are citizens of the EU; and the requirement to encourage such compliance with the standards mentioned in section 4 (10) of the Act as is necessary for, amongst other matters, securing freedom of choice for the customers of Communications Providers. Section 4 (10) includes the standards of the European Telecommunication Standards Institute (ETSI).
- 3.5 In making the Direction, Ofcom is:
- balancing the promotion of choice and competition with the duty to foster plurality, informed citizenship, the protection of viewers, listeners and customers, and promote cultural diversity; and
 - serving the interests of citizen-consumers as the communications industry enters the digital age.

- 3.6 A part of Ofcom's mission is to encourage the provision of timely, relevant, accessible and accurate information to citizen-consumers and enable them to make informed purchasing decisions.
- 3.7 Reliable consumer information facilitates the exercise of choice by End-Users and helps them to receive the benefits of increased competition. Ofcom believes that if End-Users are to rely upon such information it needs to be accurate, accessible, and truly comparable.
- 3.8 Ofcom also believes that a successful co-regulatory initiative that provides adequate, timely and comparable QoS information will help to promote investment and innovation in the provision of services and will also to promote competition. All consumers should be able to take advantage of the benefits of transparent and comparable information and the competitive benefits that this should bring; this includes consumers in different parts of the UK, from different income groups, and for those with a disability (see paragraph 7.7).

Section 49 and the setting of directions

- 3.9 Ofcom is required by section 49 of the Act, that any direction it gives is:
- objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - not unduly discriminatory against particular persons or against a particular description of persons;
 - proportionate to what it is intended to achieve; and,
 - transparent in relation to what it is intended to achieve.
- 3.10 Ofcom considers that the proposals contained in the Direction set at section 8 below meet the tests set out in Section 49 of the Act. That is,
- Ofcom considers that the proposals are objectively justifiable in relation to furthering the interests of citizen-consumers in respect of choice, price, quality of service and value for money. The November 2003 Consultation, the September 2004 Consultation, and this Statement have provided evidence which proves that there is a requirement for this information. Without it, consumers will not have sufficient information to make an informed purchasing decision. Also, an important element of competition in the market place will be lost i.e. publicly available comparable QoS Information;
 - Ofcom also considers that the proposals are not unduly discriminatory against particular persons, as the requirement to provide QoS Information will only be placed on those fixed line CSPs who meet a threshold; that is, those larger and more established fixed-line providers. Ofcom believes that only the fixed line industry of the type set out in this Notification and Direction has proved itself incapable of providing consistent and thorough information on a voluntary basis, and therefore this Direction only pertains to those particular CSPs;
 - the Direction in section 8 below clearly sets out the requirements to be imposed on certain fixed CSPs and therefore it meets the requirements of transparency. Ofcom also believes that the requirements are transparent in what they are intended to achieve (comparable and widely-available consumer information); and,

- Ofcom considers that the proposals are the least intrusive means of ensuring that those aims set out in paragraphs 3.7 and 3.8 will be met by those fixed CSPs who are capable of delivering such information. Ofcom is not however imposing wider requirements on individual fixed CSPs than is already required by the CPI scheme e.g. by requiring the publication of all the parameters set out by ETSI. Therefore, Ofcom believes that its proposals are proportionate to what it intends to achieve.

Three Steps

3.11 Before setting the requirement to provide QoS information, Ofcom sought to answer three key questions in order to facilitate its decision making process - a process that included evidence gathering, consultation with stakeholders and the publication of two documents. These questions were:

- Is there a considerable consumer requirement for information about the quality of telecommunication services?
- If a requirement exists, what would be the most effective - yet proportionate, non-discriminatory, justifiable and transparent - method for ensuring that adequate, comparable and timely information is made available to consumers?
- Upon considering the answers to questions one and two, what is the most important and therefore helpful information that should be made available to consumers?

Interpreting the Base of Evidence

3.12 The November 2003 Consultation and the September 2004 Statement set out the evidence which established the consumer need for comparative information about the quality of the services offered by certain CSPs. Moreover, stakeholder responses to these publications provided a strong statement in favour of making this information available to consumers so long as the information produced is accurate, representative, and cost-effective.

3.13 Research proved that consumers attach great importance to the quality of the communication services they receive. Some types of consumer have at times ranked its importance higher than price. This may not be surprising when one considers, for instance, that a small business may suffer should their communication service fail because it is inferior to another offering.

3.14 The research – as set out in the November 2003 Consultation and the September 2004 Statement - also suggested that there are significant differences in the quality offered by different CSPs and that accordingly there are differences in the levels of customer satisfaction. The differing levels of service and of satisfaction were identified for both residential and small business CSPs.

3.15 Ofcom concluded that there could be benefits in consumers switching CSPs if a better quality product was on offer elsewhere, that product could be easily identified, and the consumer decided to move between suppliers. As such, switching to a CSP offering superior QoS would likely be beneficial for consumers and may also have a positive competitive effect across the sector.

3.16 However, the evidence also showed that the existing Comparable Performance Indicators (“CPI”) schemes were not entirely effective at providing adequate QoS information to consumers and were not as effective as they could be at reaching consumers; this was borne out by the relatively low percentage of consumers who

were aware of either CPI scheme and regularly made use of the information. The difference between the estimated number of consumers who would use QoS information and those who were making use of the CPI information was identified as the "opportunity gap".

Setting Appropriate Regulation

- 3.17 After establishing a consumer need for QoS information for both fixed-line and mobile consumers (and for residential and small business consumers), Ofcom determined that the most effective way to ensure effective delivery of this information was to utilise co-regulation, but also to maintain a division between the fixed-line and mobile groups. In accordance with Ofcom's duties to regulate proportionately and establish a proper justification for intervention, Ofcom believed it necessary to propose by Direction that fixed-line CSPs provide relevant information on QoS.
- 3.18 Ofcom remains of the opinion that by involving relevant stakeholders throughout the process, the best possible information product will be made available on a consistent basis and in the most efficient manner. Furthermore, Ofcom believes that it is utilising the least intrusive means of regulation necessary to achieve its objectives.
- 3.19 Ofcom believes that adequate QoS information to consumers should be provided in both the fixed-line and mobile markets, but that different methods are needed to ensure its proper delivery in these different markets. In making this determination, and in addition to existing evidence, stakeholders' responses and other factors, Ofcom considered the level of competition in these sectors, the impending introduction of Wholesale Line Rental ("WLR") providers and the growing number of larger Carrier Pre Selection ("CPS") providers, as well as previous experience within the two established CPI groups. As set out in the September 2004 Statement, Ofcom does not consider it necessary to mandate participation in a co-regulatory group for the mobile network operators.
- 3.20 On this basis, the second part of this document sets in place a Direction for fixed CSPs only.

Section 4

Quality of Service Parameters

- 4.1 Ofcom proposed in the September 2004 Consultation that the QoS information to be provided should conform to certain parameters set out in the European Telecommunications Standards Institute (“ETSI”) guide 201 769 and reflected in the CPI scheme. These were:
- supply time for initial completion (ie. order completion);
 - fault rate per access line;
 - fault repair time; and,
 - bill correctness complaints (ie. billing accuracy).
- 4.2 In addition, Ofcom proposed a parameter for testing the complaint handling capability (ie. how promptly complaints are resolved) and a parameter for testing the number of disconnections for non-payment (to be limited to Consumers, and not End-Users).
- 4.3 Ofcom was also of the opinion that the co-regulatory group should explore further measures that consumers may find helpful; these would be supplied on a voluntary basis. For instance, Ofcom suggested that a customer satisfaction measure might be particularly useful.

Reasons for Setting Test Parameters Based on ETSI

- 4.4 Ofcom having considered the responses to the September 2004 Consultation believes that these basic parameters are generally appropriate. Indeed, as Sections 4 (9) and (10) of the Act require Ofcom to encourage compliance with ETSI standards. Also, in order to secure freedom of choice for End-Users of CSPs, the Universal Service Directive (“USD”) sets out in Article 22, which GC 21 implements, that the parameters on which National Regulatory Authorities (“NRAs”) should , where appropriate, use the QoS information as set out in the ETSI guide EG 201 769.²
- 4.5 MCI stated in its response:
- “MCI also supports the adoption of the ETSI guide EG 201 769 as the basis for reporting, as this aligns the UK reporting obligation with that required by many other European NRAs. This commonality of approach offers benefits to all parties with an interest in comparable QoS information: Regulators, Service Providers and End-users.”
- 4.6 Ofcom believes that the set parameters will provide sufficiently comprehensive information to End-Users in order for Ofcom to meet its objectives set out in sections 3 and 4 of the Act. These parameters capture the main quality issues between End-Users and their CSPs. These are: ordering services, fault repair, handling complaints³, and accurate billing.
- 4.7 However, it is important to note that the co-regulatory group will have responsibility for the design and implementation of each test parameter proposed, and that the

² See Annex 3

³ handling complaints was a CPI measure and not an ETSI parameter

ETSI guide EG 201 769 shall serve as a basis on which to construct more tailored testing parameters.

Using ETSI Parameters as a Base

- 4.8 As noted by some respondents to the September 2004 Consultation, the proposal that the parameters should be based on the ETSI guide 201 769 means that they will be similar to those used by the Telecommunications Industry Forum (“TIF”) with its CPI. Indeed, Ofcom considers that the base set of information utilised previously by TIF is a useful set of information and that the frequency and methods of publication are also sound approaches that could be adopted by the new co-regulatory group.
- 4.9 This view was shared by other stakeholders who have had experience with the CPI program in the past, including Thus who stated: “We would prefer to see a scheme which utilises the parameters agreed under the existing CPI scheme, in which we, with other operators have invested a great deal of time and effort. We believe that these parameters have broadly the same policy objectives as the ETSI parameters.”

Suggested Customer Satisfaction Parameter

- 4.10 Ofcom suggests that a parameter indicating the level of customer satisfaction might be particularly useful and should be incorporated into the new scheme. Such a parameter would allow consumers to view End-Users’ opinions of CSPs and allow a basic comparison of the quality of the service offered. Ofcom believes that this will be useful to consumers – particularly if used in conjunction with other ETSI-based information.
- 4.11 Many stakeholders also thought this parameter would be beneficial to consumers. Energis stated: “Energis believes that previous experience within the CPI scheme has shown that a customer satisfaction measure is useful for the end-user. We also welcome the reduction of this to a single measure which is both more cost-effective and proportionate.”
- 4.12 Uswitch stated in its response with regard to a customer satisfaction measure:
- “this will be highly beneficial. It will provide consumers with the opportunity to obtain a realistic idea of what it is like to be a customer of a particular supplier, rather than base their decision solely on the operator supplied data as laid out in the parameters above.”
- 4.13 The co-regulatory group will need to establish the exact questions to be asked and how to present the information accurately. Ofcom would welcome a commitment to providing further information using customer satisfaction results (ie more questions and results), but notes that in the past there has been a concern about the amount of information given to consumers– and the complicated presentation of the data.
- 4.14 A proposal was also put forward in the responses to the September 2004 Consultation that there was a need to distinguish between business and residential customers for the purposes of this general satisfaction parameter. Ofcom suggests that this may be a reasonable proposition that the co-regulatory group should consider.

Disconnections Figure

- 4.15 Ofcom has taken account of stakeholder responses and decided not to proceed with the requirement to provide a figure for the number or proportion of customers disconnected for non-payment.
- 4.16 There are two main reasons for this decision. The first is that there is insufficient evidence that consumers will make use of this specific information before choosing their CSP (ie Ofcom is not aware of sufficient research suggesting a consumer need for this particular information as it pertains to QoS) .
- 4.17 The second reason is that the comparability of this information is limited to at most two different CSPs at one time given that the measure is only applicable to directly connected fixed CSPs (ie. BT, Kingston, ntl, Telewest). This fact reflects the choice of direct fixed-line providers in the UK and where these services are offered.

Other Parameters

- 4.18 Ofcom set out its reasons for not including further ETSI test parameters or indeed any other test parameter in the September 2004 Statement. The majority of stakeholders agreed that these parameters should not be included in this initiative. For example, ntl noted: “ntl agrees with some of the reasons for not adopting other parameters provided in the ETSI guide as they are no longer relevant to Communications Providers alone or are too expensive or data critical to achieve.”
- 4.19 However, some stakeholders wished to see the inclusion of data service measurements and this issue is dealt with in section 6 below.

Section 5

Who should provide this information

- 5.1 The September 2004 Consultation proposed certain exemptions on fixed line CSPs from providing this information on a mandatory basis. These included:
- CSPs who have been providing PECS in the UK for less than 18 months;
 - CSPs who are in receivership or administration in the UK;
 - CSPs operating at less than the threshold set at £4 million per quarter in gross revenue and 100 million minutes handled per quarter.
- 5.2 Most stakeholders were in agreement with Ofcom that these proposed exemptions are appropriate, and therefore Ofcom has set these thresholds in its Direction. Ofcom can modify the Direction to change the thresholds in light of marketplace developments and availability of relevant information and will consult with relevant stakeholders before taking any action; Ofcom is aware that these thresholds may also need to be re-evaluated in light of practical experience.
- 5.3 BSI Product Services suggested the introduction of a release threshold whereby if a CSP falls below the set thresholds, they would remain a participant for a period of time to be established. Ofcom has decided not to set a release threshold as part of the Direction, however Ofcom considers that the co-regulatory group should consider this suggestion to maintain consistency in the information delivered.
- 5.4 An exemption was also proposed for those (indirect) reseller CSPs regarding the disconnections measure only. Given Ofcom's decision not to implement this requirement - as set out in section 4 - this exemption is no longer valid.
- 5.5 The ETSI guide does not specify that it is applicable to those CSPs who do not have their own network (generally resellers). Ofcom believes that all CSPs who are not subject to the exemptions listed must provide the relevant information for all the parameters listed in section 4 - this includes CSPs with networks, indirect providers including resellers supplying WLR, CPS, and Internet Protocol ("IP") CSPs who are PATS providers. It is important to note that the purpose of the initiative is to allow comparison of each CSPs performance from the End User's viewpoint. Therefore, although certain CSPs rely upon a network provider (eg BT Wholesale) for their service provision, it is the total telecommunications package provided by each CSP that the End User will compare.

Clarification of "Supply Time" Parameter

- 5.6 The September 2004 Consultation proposed a measure for the supply time for initial connection based on ETSI EG 201 769. Ofcom would like to clarify that for those CSPs without a network an indicative figure will need to be reported i.e. this requirement will also apply to (indirect) resellers of communications services. The ETSI guide EG 201 769 is proposed as the basis for data collection, but it will be the responsibility of the co-regulatory group to determine the precise measurement(s) and how these are presented to the End-User. This proposal is similar to the existing CPIs which are based on the ETSI guide, but are not exact copies of those requirements.

Section 6

Responses to the Consultation

- 6.1 The September 2004 Consultation asked four specific questions:
1. Do you believe that the proposed parameters will provide sufficient QoS information to End-Users?
 2. Do you believe a customer satisfaction parameter(s) is necessary to capture providers' QoS offerings?
 3. Do you agree with the exemptions to reporting/publishing QoS information?
 4. Is the proposed timeline too short or too long a period?
- 6.2 A summary of stakeholder responses to these questions is provided at annex 1. The majority of respondents gave affirmative answers to these questions with the exception of question 4 – the proposed timeline. After taking account of these responses, Ofcom has amended the timeline to include an additional three months (see paragraphs 7.3 – 7.5).
- 6.3 The following sets out Ofcom's response to a number of issues raised in the consultation.

PATS and PECS

- 6.4 Some stakeholders asked Ofcom to clarify which CSPs are expected to provide QoS information by way of this Direction. The September 2004 Consultation set out that those offering a Publicly Available Telephone Service ("PATS") by means of a Public Telephone Network ("PTN") would be required to comply with GC 21 (subject to exemptions).
- 6.5 However, a concern was raised about certain services that would soon come to market that will not meet the definition of PATS and would therefore fall outside of the requirements of GC 21. For instance, some Voice of Internet Protocol ("VoIP") products may not provide access to emergency services. As set out in the Direction, and preceding any future work in establishing further clarity on the meaning of PATS, Ofcom believes that for the purpose of complying with GC 21, only PATS providers who offer voice telephony products will be caught under this Direction.
- 6.6 Ofcom does not view the ETSI guide – and the scope of the service provision that the guide encompasses – as being wholly determinative of those CSPs who should be providing QoS information. It is as it says a guide. For example, the parameter regarding the supply time for initial connection could be interpreted as applying only to CSPs with their own network. Ofcom believes it is imperative that the End-User perspective of communications services is reflected and as such it is important that this parameter captures indirect fixed service providers and the average time it takes between placing the order for a service/function, and the time taken to deliver it by the CSP offering and billing for that service.
- 6.7 It is the intention that all fixed CSPs (directly or indirectly supplied) shall provide QoS information under the Direction subject to the listed exemptions and shall use the ETSI guide EG 201 769 as a basis on which to design relevant test parameters. It

will be for the co-regulatory group to decide whether to tailor the parameters around direct and indirect services (or between residential or business).

Penalties for Non-compliance

- 6.8 One of the major concerns about the previous CPI scheme was the inability of the TIF or Oftel or any other body to impose a penalty for not providing QoS information (BT and Kingston Communications as designated Universal Service Providers excepted). With the advent of the Direction as set out in section two of this publication, certain CSPs will be obliged to provide the requisite information under GC 21. Therefore, any CSP who is found to be in non-compliance with the Direction, and thus GC 21, will be subject to investigation and action by Ofcom using the powers set out in section 94 to 96 of the Act. This includes power for Ofcom to issue a penalty for any contravention.

BT Retail (not wholesale)

- 6.9 For the avoidance of doubt, QoS information that relates to BT Wholesale's performance with respect to services provided to CSPs falls outside the scope of this Direction. Rather, the requirement on BT to report Key Performance Indicators ("KPIs") is found elsewhere (see Ofcom's *Requirement on BT to publish Key Performance Indicators* published 23 September 2004).

Data Services (particularly for business)

- 6.10 Certain stakeholder responses to the September 2004 Consultation noted that information relating to data services was not included as part of the mandatory set of parameters. Ofcom is of the opinion that the availability of such information may be of use to (in particular, business) End-Users, but Ofcom has not yet seen adequate evidence to justify the imposition of a mandatory collection and publication of this sort of information. Ofcom is not aware of any other European NRA that currently collects data information on a mandatory basis and the proposed ETSI guide does not establish parameters for data information testing.
- 6.11 That said, Ofcom believes that the co-regulatory group might wish to consider the addition of data testing on a voluntary basis - and perhaps only for business providers. Data transfer and other new services will need to be continually evaluated for their desirability in terms of delivering comparable QoS information to End-Users.

Section 7

Timing, Accuracy and Publication

7.1 The proposed timing of this initiative falls into three parts:

1. The date from which the Direction begins.

Ofcom propose the date of the publication of the final Direction (ie. 27 January 2005) as this date. Ofcom is giving a 9 month grace period to allow for the co-regulatory group to design the information gathering processes.

2. The date by which the co-regulatory group will have designed the necessary processes and is collecting the data to be audited.

3. Ofcom propose this date should be nine months following the date of (1).

4. The deadline for publishing the final results.

Ofcom propose this date should be six months following the date of (2).

Correction of Error in the Draft Direction

7.2 Ofcom is aware that an error was made in the September 2004 Consultation regarding the proposed dates for establishing working methods and for publishing the information. The draft Direction (Schedule I, 2) set dates that did not match those proposed in the Consultation. Ofcom would like to clarify that the proposed publication date in the draft Direction of six months following the publication of the final Direction was a mistake and apologies for the error.

Extension of Timeframe

7.3 Some respondents to the September 2004 Consultation were of the opinion that more time would be needed in order to plan and execute this initiative, and to ensure that a quality product is established. There was particular concern for those CSPs who have not collected this type of information before (and for those with no CPI experience). Kingston stated: "The timetable that Ofcom propose in which to implement the scheme is in Kingston's opinion unreasonably short and does not take into consideration the requirement for Communication Providers that have never previously supplied QoS information to make the necessary changes that will be required to create systems and processes to capture all the required information."

7.4 After considering Stakeholder responses to the proposed timelines, Ofcom believes that additional time should be given in order to establish the working processes of the group and to ensure that sufficient time is allowed for the auditing of six months' worth of data before publication. Therefore Ofcom is adding an additional three (3) months onto the original time provided with the knowledge that this may delay publication by a further three months. This extension is already incorporated into paragraph 7.1 above and into the Direction.

7.5 Publication of results shall be within 15 months of the date of the publication of the final Direction. Therefore, Ofcom has set the date of 28 April 2006 as the final date

on which the publication of complete QoS information shall be delivered to End-Users.

Publication

- 7.6 In the September 2004 Consultation, Ofcom set out its basic publication requirements. This included the following obligations:
- the use of an independent website;
 - information to be made available in different formats;
 - the information must meet the need – on request – of those with a disability;
 - all information must be free of charge to the End-User; and,
 - the publication(s) should use Plain English.
- 7.7 Ofcom does not wish to be overly-prescriptive with regard to the nature of the publication(s), and intends that the co-regulatory group takes responsibility for its function, look, and publicity.
- 7.8 Ofcom wishes to see as a maximum a 6 month period between each successive publication of QoS information.

Ensuring Accuracy

- 7.9 Ofcom needs to ensure that the information presented to consumers is accurate and comparable. In the past – with the CPI scheme – this involved the use of an independent audit and an independent Comparability Review Body (“CRB”). The CRB would check to ensure that the audit procedures carried out at each individual CSP were to a common methodology and standard.
- 7.10 The accuracy and comparability of information is not just vital to End-Users; CSPs will also want to ensure that their services are compared fairly with their competitors. As such, Ofcom believes that there will be a common goal for ensuring that accuracy and comparability is achieved.
- 7.11 Although responsibility for designing the audit process will rest with the co-regulatory group, Ofcom suggests that the use of an independent and adequately qualified auditor could be utilised. Ofcom reserves the right to intervene and ensure a level of robustness regarding the accuracy of data should it be necessary.

Next Steps

- 7.12 This document and its Direction sets into motion the timeframes by which certain CSPs will publish QoS information. Certain fixed-line CSPs will have a period of 9 months to implement the requirements and commence the extraction of data, and a further 6 months to begin publication.
- 7.13 In February 2005, Ofcom will host an inaugural meeting of stakeholders with a view to forming the co-regulatory group that will be responsible for delivering the QoS information. Ofcom offers an open invitation to stakeholders who are interested in attending this meeting and invites those stakeholders to lodge their interest in attending this meeting by 11 February 2005.

Section 8

Direction under General Condition 21.1 on Quality of Service

Direction under General Condition 21 requiring specified Communications Providers which provide Publicly Available Telephone Services over a Public Telephone Network at a fixed location to provide quality of service information

WHEREAS:

- A. the Director General of Telecommunications (the 'Director') issued on 22 July 2003 the General Conditions Notification, which took effect on 25 July 2003 by way of publication of a notification pursuant to section 48(1) of the Act;
- B. General Condition 21.1 in Part 2 of the Schedule to the General Conditions Notification provides that Communication Providers shall, on the direction of Ofcom, publish comparable, adequate and up to date information for End-Users on the quality of its service;
- C. Ofcom issued a notification on 1 September 2004 pursuant to section 49(4) of the Act (the 'Notification') of a proposal to give a Direction under Condition 21.1 directing the appropriate quality of service information to be published;
- D. in the Notification and accompanying explanatory Statement, Ofcom invited representations about any of the proposals therein by 4 October 2004;
- E. a copy of the Notification was sent to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State as Ofcom considered it appropriate to do so in accordance with section 50 of the Act;
- F. 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:

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

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;

- G. Ofcom received responses to the Notification and have considered every such representation made to them in respect of the proposals set out in the Notification and accompanying consultation document and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose;
- H. for the reasons set out in Sections 3, 4, 5, 6 and 7 of the explanatory Statement accompanying this 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 Sections 3, 4, 5, 6 and 7 of the explanatory Statement accompanying this Direction, Ofcom are satisfied that they have acted in accordance with the relevant duties set out in sections 3 and 4 of the Act; and

Pursuant to section 49 of the Act and General Condition 21.1 in Part 2 of the Schedule to the General Conditions Notification, Ofcom gives the following Direction:

1. Communications Provider must publish the following Quality of Service Parameters:
- a. the ETSI Guide Information; and
 - b. the time for End-User complaints received by the Communications Provider to be resolved;

unless the Communications Provider has been providing Public Electronic Communication Services in the UK for less than 18 months or is in either receivership or administration in the UK.

2. The frequency of publication of the Quality of Service Parameters set out in paragraph 1 above shall be at least every six months starting from the Measurement Commencement Date;
3. The method of publication of the Quality of Service Parameters set out in paragraph 1 above shall be at least: on an independent website; available in large print; and, available in Braille.
4. The publication of the Quality of Service Parameters set out in paragraph 1 above shall be provided free of charge to the End-User.
5. For the purpose of interpreting this Direction, the following definitions shall apply:
- a. “**Act**” means the Communications Act 2003;
 - b. “**Consumer**” means any natural person who uses or requests a Public Electronic Communications Service for purposes which are outside his or her trade, business or profession;
 - c. “**Communications Provider**” means a person providing Publicly Available Telephone Services by means of a Public Telephone Network at a fixed location which has at least £4 million in net revenues per quarter and 100 million minutes of calls handled to End-Users per quarter;
 - d. “**Director**” means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - e. “**ETSI Guide Information**” means certain quality of service parameters as set out in the ETSI guide EG 201 769; namely:
 - a. supply time for initial connection;

- b. fault rate per access line;
 - c. fault repair time; and
 - d. bill correctness complaints;
- f. **“General Conditions Notification”** means the notification setting general conditions under section 45 of the Communications Act 2003, issued by the Director on 22 July 2003;
- g. **“Measurement Commencement Date”** means nine months from the date this Direction is published, being the date when a Communications Providers begins to accumulate the relevant Quality of Service Parameters data in order to comply with the obligations set out in paragraph 1 above;
- h. **“Notification”** means the notification referred to in recital (C) of this Direction above;
- i. **“Ofcom”** means the Office of Communications as established under section 1 of the Communications Act 2003;
- j. **“Public Telephone Network”** means an Electronic Communications Network which is used to provide Publicly Available Telephone Services; it supports the transfer between Network Termination Points of speech communications, and also other forms of communication, such as facsimile and data;
- k. **“Publicly Available Telephone Services”** means a service available to the public for originating and receiving national and international calls and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance services, Directory Enquiry Facilities, Directories, provision of Public Pay Telephones, provision of service under special terms, provision of specific facilities for End-Users with disabilities or with special social needs and/or the provision of non-geographic services;
- l. **“Quality of Service Parameters”** means those parameters as referred to in paragraph 1 (a) to (b) above.
6. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification (including in the Parts) and otherwise any word or expression shall have the same meaning it has in the General Conditions Notification (including in the Annexes) and otherwise any word or expression shall have the same meaning as it has in the Act.
7. For the purpose of interpreting this 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.
8. This Direction shall take effect on the day it is published.

A Statement on setting quality of service parameters

Sean Williams
Partner, Competition and Markets

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

26 January 2005

Annex 1

Respondents to the September 2004 Consultation

The table below is a summary of non-confidential responses to the questions asked in the September 2004 Consultation.

CSP	Are the parameters sufficient?	Is a customer satisfaction measure desirable?	Do you agree with the CSP exemptions?	Is the proposed implementation timeline adequate?
ACSP	N/A	N/A	N/A	N/A
BABT	Yes	Yes	Generally yes	Generally yes – too long
British Telecom	Yes	Generally yes	Yes	Yes
Broadsystem Ventures	Generally yes – with exceptions	Generally no	N/A	No
BSI	Generally yes	N/A	Generally yes	N/A
Cable and Wireless	Generally yes	Generally yes	Yes	Yes
Centrica	No	N/A	N/A	No
CMA	N/A	N/A	N/A	N/A
Customer Satisfaction UK	Generally no	N/A	N/A	N/A
CWU	Generally yes	No	Generally yes	Yes
Energis	Generally yes	Yes	Yes	Neutral
Enigma	Generally yes	N/A	N/A	N/A
Kingston Communications	Generally yes, if based on CPI	Yes	Generally no	No
MCI	Generally yes	No	Yes	No
Ntl	Generally yes	Neutral	Yes	Generally yes
O2	N/A	N/A	N/A	N/A
Telewest	N/A	Yes	N/A	N/A
Thus	Generally no	Generally yes, with reservation	Generally no	Generally no
uSwitch	Generally yes	Yes	Yes	No – too long
Vodafone	N/A	N/A	N/A	N/A

Annex 2

General Condition 21

- 21.1 The Communications Provider shall, on the direction of the Director, publish comparable, adequate and up to date information for End-Users on the quality of its services.
- 21.2 Subject to paragraph 21.3, where the Director makes a direction under paragraph 21.1 he may amongst other things direct:
- a. the quality of service parameters to be measured;
 - b. the content and form of the information to be published, and how the comparability of the information is to be validated. For the purposes of validation, the Director may require independent audit of the specified information;
 - c. the manner of publication of the information;
 - d. the timing of publication of the information; and/or
 - e. that the Communications Provider shall provide the Director with a copy of the information to be published well in advance of the publication as agreed by the Director.
- 21.3 The Director shall only make such a direction where the Communications Provider has been providing the Public Electronic Communication Services in question for at least 18 months prior to the direction being made.
- 21.4 For the purposes of this Condition, “Communications Provider” means a person who provides Public Electronic Communications Services.

Annex 3

ETSI Guide 201 769

Quality of Service Parameters⁴

Supply time for initial connection
Fault rate per access line
Fault repair time
Unsuccessful call ratio*
Call set up time*
Response times for operator services
Response times for directory enquiry services
Proportion of coin and card operated public pay telephones in working order
Bill correctness complaints

* Member States may decide not to require that up-to-date information concerning the performance for these two parameters be kept, if evidence is available to show that performance in these two areas is satisfactory.

⁴ Parameters should allow for performance to be analysed at a regional level (i.e. no less than Level 2 in the Nomenclature of Territorial Units for Statistics (NUTS) established by Eurostat).