

# Review of the New Ofcom General Conditions

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## Overview Preiskel & Co

- Preiskel is a telecoms and technology specialist City law firm
  - recognised in the major independent guides as leading experts in telecoms law and regulation, and
  - major expertise in IT, IP, and data protection
- We have supported from a legal & regulatory perspective various ITSPA initiatives over many years
- Preiskel is the only UK member of the leading global network of specialist Telecoms & Tech lawyers ([www.lexing.network](http://www.lexing.network))

## Agenda

- Introduction to GCs and summary of the main changes
- Main changes to consumer protection
- Complaints handling & access to ADR
- Vulnerable customers
- Billing
- Nuisance calls – CLI
- Access to Emergency services
- Contracts
- Switching and mis-selling
- Mobile bill limits
- Payment surcharges regulation

## Introduction

### What are the 'General Conditions'?

- Main rules for communications providers (CPs).
- Anyone can provide these services but must comply with the GCs.
- Fines up to 10% turnover for any breach.

## Summary of main changes to the GCs

### Numbering

- Simplified regulation of directory information and strengthened number withdrawal.

### Consumer protection

- Strengthened consumer protection in some areas (e.g. complaints-handling, nuisance calls and vulnerable consumers).

### Structure/style for all the GCs

- Streamlined and consolidated drafting to produce more user-friendly GCs

All changes will come into force on 1 October 2018

# CONSUMER PROTECTION GCS

## Main changes to consumer protection GCs

- **Information requirements:** consolidation into single condition and simplification.
- **Billing requirements:** extension to broadband & protecting mobile customers from unfair debt collection/disconnection practices.
- **Complaints handling:** strengthening protections.
- **Vulnerable consumers:** new requirement to ensure CPs treat them fairly .
- **People with disabilities:** extension of current requirements to all public electronic communications services, including broadband.
- **Calling line identification:** new requirements including on authenticity of CLI, retail charges for CLI and blocking of invalid numbers.
- **No significant changes to:**
  - Switching and mis-selling
  - Contract requirements
  - Access to emergency services

## Complaints handling & access to ADR

### New Code of Practice for complaints handling and ADR - significant changes:

- Ensuring all complaints are covered by Code, including customer service complaints.
- Improving transparency of processes and timelines.
- Improving accessibility.
- Improving effective and timely resolution of complaints.
- Facilitating prompt access to ADR for unresolved complaints.
- Strengthening record-keeping requirements.
- Obligations to train staff.



## Vulnerable

### Policy for vulnerable consumers

- New requirement for CPs to publish and implement policies to ensure fair treatment of vulnerable consumers.
- Vulnerability may be due to circumstances, including age, physical or learning disability, physical or mental illness, low literacy, communications difficulties or changes in circumstances such as bereavement.
- Policies should include practices for:
  - Fair and appropriate treatment of vulnerable consumers (both when the provider has been informed **or** should otherwise be reasonably aware a consumer may be vulnerable).
  - Storing information about consumers' needs and preferred communication channels.
  - How providers will monitor and evaluate impact of their policies.

### Extension of requirements for disabled people

- Extended requirements for (i) priority fault repair, (ii) third party bill management and (iii) bills in an accessible format to all public electronic communications services.

## Billing

### Billing accuracy

- Introduces a 12-month minimum period for record keeping.
- Extends the requirement to have billing systems approved by an authorised body to cover data in addition to calls.

### Itemised billing

- Requires free access to 'adequate' billing information instead of a 'basic level' of itemised billing for no more than a reasonable fee.
- Extends this GC to cover data as well as calls.
- Extends the non-itemisation of free calls (e.g. calls to helplines) to also cover free SMS and usage records and clarifies free calls include 999, 112, 080 and 116XXX numbers.

### Fair debt collection/disconnection

- Keeps existing requirements about fair debt collection and disconnection practices: proportionality, non-discrimination, transparency & due warning.
- Extends these requirements from fixed calls only to cover also data and mobile calls.

## Nuisance calls – CLI

### CLI by default

- New requirement that CPs enable CLI facilities by default, as is already the case on mobile.

### Charges for CLI facilities

- Prohibited separate or additional charges for CLI facilities.

### Blocking invalid and non-diallable CLI

- New requirement for CPs to identify and block calls with which invalid or non-diallable CLI data is provided, where technically feasible.

## Access to emergency services

- General Condition A3.2 continues to require CPs to take all necessary measures to ensure:
  - (a) the fullest possible availability of the Public Electronic Communications Network and Publicly Available Telephone Services provided by them in the event of catastrophic network breakdown or in cases of force majeure; and*
  - (b) uninterrupted access to Emergency Organisations as part of any Publicly Available Telephone Services offered.*
- Move to VoIP services and closure of PSTN mean consumers' lines will not remain powered in event of a local power cut.

## Contracts

### Notifying subscribers of contract changes

- As before, subscribers must be given one-month's notice of any contractual changes likely to be of '*material detriment*' and be told of their rights to exit their contract without penalty.
- The GC also now specifies that an increase to the "*core subscription price*" is a change likely to be of material detriment (previously set out in Guidance). Applies to consumer and small business contracts only.

### Revised guidance

- New guidance under Condition C1 consolidates and updates existing guidance to include:
  - **Conditions and procedures for contract termination** (including examples of best practice);
  - **Automatically renewable contracts;**
  - **Notifying subscribers of contractual changes** (including form and content of notifications)

## Switching & Mis-selling

### Switching

- Removed the prohibition on reactive save activity as currently defined in GC22.15.

### Mis-selling

- Replaced the current rules preventing CPs from engaging in dishonest, misleading, deceptive or aggressive conduct and from contacting customers in an inappropriate manner with a requirement that:
  - any information they provide to customers is accurate and not misleading; and
  - they ask customers if they also want the information in a “durable medium” (i.e. in writing either in hard-copy or by email).

# OTHER LEGISLATIVE CHANGES

## Mobile bill limits

- Government policy – s124S and s124T of the *Comms Act*.
- Requires providers of mobile phone services to offer a bill limit to new and renewing customers from **1 October 2018**.
- Applies to both business and domestic consumers.
- Customers can specify, amend or remove limit at any time with reasonable notice.
- As far as practicable, customers must be notified if limit is about to be reached and when it is reached. Can only exceed limit by express consent.



## Payment Surcharges Regulations

- EU regulation implemented by UK Govt in *Payment Surcharges Regulations 2012 (as amended July 2017)*.
- New rules in force from **13 January 2018** and applies to contracts entered into after 18 July 2017.
- Bans surcharges for using payment instruments (e.g. debit/credit cards, PayPal).
- Applies to payments made by business and domestic consumers.

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