
Emergency video relay

Statement

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[Statement: Emergency video relay](#) – Welsh overview

STATEMENT:

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1. Overview

We want to make sure disabled people can easily contact the emergency services.

Video relay services are a way of enabling people who use British Sign Language (BSL) to communicate effectively with people who don't use BSL. The deaf BSL user makes a video call using a connected device to call an interpreter in a call centre. The interpreter translates what the deaf user is signing into spoken English for the hearing person to hear, and signs what the hearing person is saying to the deaf user.

In December 2019, we published a proposal to require communications providers to make available a free, 24/7 video relay service for deaf BSL users, approved by Ofcom, to enable them to communicate with the emergency services via a dedicated app and website.

Enabling BSL users to use their first language to call for help and to receive advice in emergency situations will make emergency communications faster and more accurate. BSL users will be better able to describe the nature of the emergency and to understand potentially life-saving instructions from the emergency services.

Our proposal was part of a package of measures we introduced in response to [changes in European rules](#), to protect customers and help make sure they get a fair deal. It reflected the principle that disabled people should have equivalent access to emergency communications.

The proposals in our initial consultation received broad support, but responses raised some specific points which were the subject of further consultation in February 2021. This included requiring providers to either deliver the video relay service themselves or contract another organisation to do so. We also proposed that any data that customers use to make the video call remains free for the user – just as other emergency calls are.

This statement sets out our decision to require the provision of an emergency video relay service, implemented through the UK telecoms regulations (the General Conditions). This new requirement will sit alongside, and be in addition to, the existing requirements for emergency text relay and emergency SMS, both of which are being retained.

Our decisions

Our decision is to require providers of fixed and mobile telephony services (i.e. number-based interpersonal communications services) and providers of internet access services, to provide, or contract to provide, a free 24/7 video relay service for deaf BSL users, approved by Ofcom, to enable communication with the emergency services.

This new requirement will have effect from 17 June 2022, the same day that other new General Conditions come into force that relate to rights to exit contracts, and pre-contract information requirements.

We now invite expressions of interest for approval of a service by 1 September 2021 and formal applications for approval of a service by 1 October 2021.

This overview is a simplified high-level summary only. The decisions we have taken, and our reasoning, are set out in the full document.

2. Introduction and background

- 2.1 Ofcom has a duty under the Communications Act 2003 (the “Act”) to further the interests of citizens and consumers in relation to communications matters. This includes having regard to the needs of disabled citizens. Ofcom also needs to adhere to the principle contained in the regulatory framework that people with disabilities should have access to emergency communications that is equivalent to that experienced by other end-users.
- 2.2 In December 2019, Ofcom consulted on a package of measures aimed at protecting UK consumers (the “Initial Consultation”).¹ These measures were put forward to implement the new consumer protections in the European Electronic Communications Code (“EECC”).² In July 2020, the UK Government confirmed the changes it was making to UK law to implement the EECC and also stated that Ofcom should proceed to implement the consumer protections in the EECC in full, as planned.
- 2.3 As part of this work, we examined whether the consumer protection measures currently in place for disabled people were sufficient, and considered that it was appropriate to use our discretionary powers to propose a new requirement for the provision of an emergency video relay service with implementation through the General Conditions (“GCs”).
- 2.4 Video relay involves a deaf BSL user signing via a video link to an interpreter in a location such as a call centre using a connected device such as a smartphone, tablet or PC. The interpreter translates what is signed to the hearing person (in this case the emergency services) and signs the responses from the emergency services back to the deaf BSL user.
- 2.5 Emergency video relay will allow deaf BSL users to communicate with non-BSL users clearly and effectively, and will allow instructions from the emergency services to be more easily understood by BSL users.
- 2.6 With the principle of equivalence as a key policy objective, we proposed that certain communications providers, namely providers of number-based interpersonal communications services (“ICS”)³ and internet access services (“IAS”)⁴ (collectively referred to as the “regulated providers”), should be required to make available a free 24/7 video relay service for deaf British Sign Language (“BSL”) users, to enable effective communication with the emergency services.⁵

¹ [Fair treatment and easier switching for broadband and mobile customers: proposals to implement the new European Electronic Communications Code](#)

² Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code.

³ Essentially, number-based ICS services are interpersonal communications services which enable communication with a telephone number. Number-based ICS are services that connect with publicly assigned numbering resources, namely, a number or numbers in a national or international numbering plan, or enable communication with numbers in national or international numbering plans and which enable direct interpersonal and interactive exchange of information by means of electronic communications networks between a finite number of persons, where the persons initiating or participating in the communication determine its recipient. See [section 32A of the Act](#).

⁴ An IAS is essentially a service that provides access to the internet. See the definition in [section 32\(2\)\(b\) of the Act](#).

⁵ [EECC Consultation](#): see Chapter 10 and Annex 10.

- 2.7 We proposed that Emergency Video Relay services would have to meet certain approval criteria (“The Approval Criteria”) that we set out in the Initial Consultation.⁶ We also indicated in the Initial Consultation that the service would be available via a dedicated app and a dedicated website, and this was included as a requirement in the Approval Criteria.
- 2.8 We received a range of responses to our Initial Consultation, from communications providers, consumer bodies, advocacy groups, industry bodies, other organisations and individuals. Eighteen consultation responses related solely to emergency video relay, and a further sixteen commented on this proposal. Nearly all respondents agreed that emergency video relay would further the objective of equivalence of access to the emergency services. Deaf respondents in particular said that this service would improve deaf people’s welfare and health. However, some issues relating to implementation of our proposals were raised, and consequently we carried out a further consultation in February 2021 (the “Further Consultation”). We also discussed these issues with industry and other stakeholders, including at an industry round table we convened in September 2020.
- 2.9 In the Further Consultation we proposed that providers of number-based ICS and IAS should be required to provide, or contract to provide, emergency video relay. We also clarified that, in order for the service to be free at the point of use, the data used should be zero-rated and said that the service must be available to end-users without any requirement to register to access or use it. We also proposed that, in order to be approved, suppliers of the proposed service must agree to contract to provide the service on fair, reasonable and non-discriminatory (“FRAND”) terms.
- 2.10 We received 20 responses to the Further Consultation, from communications providers, consumer bodies, advocacy groups, industry bodies and individuals.⁷

Services currently available and their limitations for BSL users

- 2.11 In the UK, emergency calls are prioritised over all other calls in a range of ways:
- Emergency calls to 999 or 112 are always free of charge
 - Consumers can make voice 999 calls even after being disconnected for non-payment
 - There is limited service state for mobile voice 999 calls, meaning that if the customer’s mobile network is not available, the call will ‘roam’ onto any available network
 - Provision of location information is required for 999 calls
 - We require resilience solutions to ensure that emergency calls can be made on internet protocol (IP) networks in power cuts
 - We mandate text relay for all calls including emergency communications, and emergency SMS for emergency communications
- 2.12 The two main ways for deaf or speech-impaired people who cannot make voice calls to contact the emergency services are text relay and emergency SMS.

⁶ Compliance with the Approval Criteria would be a matter for emergency video relay suppliers.

⁷ The responses are available on the Ofcom website: see [Further consultation: Emergency video relay](#).

- 2.13 Text relay can be used on a textphone or a connected device such as a PC, tablet or smartphone. A relay assistant in a call centre voices over what is typed by the deaf person and types what is said by the hearing person. Emergency SMS allows users to send SMS (text) messages to 999, and to receive replies in the same format. Both these services rely on written English.
- 2.14 It is also possible to make a voice call to 999 and make as much noise as possible or bang on the handset to attract attention. If location information is available, the police will attend to assess the situation. They can summon other emergency services if necessary. However, this can lead to delay in getting appropriate help.
- 2.15 Our assessment is that the existing methods for contacting the emergency services do not deliver equivalence of access for deaf BSL users.
- 2.16 Stakeholders have told us that many deaf BSL users do not feel they have an effective way of contacting the emergency services and of being sufficiently understood through existing means of access. We are aware of real-life examples where deaf BSL users have not had a way to contact the emergency services when an emergency was unfolding in front of them, sometimes with very serious consequences.
- 2.17 BSL has been recognised in the UK as a language in its own right, with its own vocabulary, grammar and syntax, since 2003.⁸ Census data indicates that a majority of prelingually deaf BSL users have serious difficulties with English, with limited opportunities to improve their access to a language that they cannot hear.⁹
- 2.18 Having to work in written English, under stress, can lead to misunderstandings which could have negative or even fatal consequences in emergency situations. Emergency video relay will allow BSL users to use their first language to call for help and to receive advice in emergency situations. This will be likely to make emergency communications faster and more accurate, delivering a range of benefits. BSL users will be better able to describe the nature of the emergency and to understand potentially life-saving instructions from the emergency services.

Legal framework

- 2.19 The UK regulatory framework for electronic communications has for many years contained the principle that people with disabilities should have access to emergency communications that is equivalent to that experienced by other end-users.¹⁰ Taking into account advances in communications technology, the EECC built on this principle of

⁸ [Hansard HC Deb vol 401 c 41WS, 18 March 2003](#)

⁹ Data from the 2011 census suggests that 65% of people for whom BSL is a main language have significant difficulty with spoken English and that 40% of them have no qualifications.

¹⁰ The principle was previously set out in the Universal Service Directive (Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services, OJ L 108, 24.4.2002, p. 51) and was further developed in the EECC. Article 111 of the EECC confirms that access to electronic communications services for end-users with disabilities must be equivalent to access provided for other end-users.

ensuring equivalent access in the context of emergency services by requiring it to be “available through emergency communications”.¹¹

- 2.20 Video communications are now commonplace and more reliable than ever before and acknowledging this, the scope of “emergency communications” was broadened in the EECC to specify the inclusion of video relay.
- 2.21 An emergency communication is defined as a “communication by means of interpersonal communications services between an end-user and the PSAP¹² with the goal to request and receive emergency relief from emergency services.”¹³ Emergency communications include “not only voice communications services, but also SMS, messaging, video or other types of communications, for example real time text, total conversation and relay services.”¹⁴
- 2.22 Ofcom’s discretionary powers to require emergency video relay derive from the UK Communications Act 2003 (the “Act”), as amended by the regulations implementing the EECC Directive.¹⁵
- 2.23 It is Ofcom’s principal duty, in carrying out its functions, to further the interests of citizens in relation to communications matters.¹⁶ In performing this duty, Ofcom must have regard to, amongst other things, the needs of persons with disabilities.¹⁷ Requirements in respect of disabled end-users are addressed by Ofcom through General Conditions (“GCs”), set under section 45(1) of the Act.
- 2.24 Section 45 of the Act says that Ofcom may set GCs which contain provisions authorised or required by one or more of sections 51, 52, 57, 58 or 64. Section 51(2) sets out a non-exhaustive list of the specific types of GCs that we may set in pursuance of this purpose.
- 2.25 Under section 51(1)(a) of the Act, Ofcom may set conditions making provision as it considers appropriate for protecting the interests of the end-users of public electronic communications services. This includes a broad power under section 51(2)(c) to set conditions which specify requirements in relation to the provision of services to disabled end-users. Section 51(2)(c) provides:

*“(2) The power under subsection (1)(a) to set conditions for protecting the interests of the end-users of public electronic communications services includes power to set conditions for that purpose which –
...(c) specify requirements in relation to the provision of services to disabled end-users.”*

¹¹ Article 109(5) of the EECC sets out that: “Member States shall ensure that access for end-users with disabilities to emergency services is available through emergency communications and is equivalent to that enjoyed by other end-users...Such measures shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.”

¹² A Public Safety Answering Point (PSAP) effectively acts as a “call centre”, providing a point of interconnection for calls that are being made over the communications provider’s network to the emergency organisations.

¹³ Article 2(38) of the EECC.

¹⁴ Recital 285 of the EECC.

¹⁵ The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020

¹⁶ Section 3(1)(a) the Act.

¹⁷ Section 3(4)(i) the Act.

- 2.26 Section 47(2) governs the circumstances in which we can set or modify a GC. It states that a condition can be set or modified where it is objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates,¹⁸ not such as to discriminate unduly against particular persons or against a particular description of persons, proportionate to what the condition or modification is intended to achieve, and transparent in relation to what it is intended to achieve.

Impact assessment and equality impact assessment

- 2.27 Impact assessments provide a valuable way of assessing different options for regulation policymaking. This is reflected in section 7 of the Act, which requires Ofcom to carry out impact assessments where its proposals would be likely to have a significant effect on business or the general public, or where there is a major change in Ofcom's activities. As a matter of policy, Ofcom is committed to carrying out impact assessments in relation to the great majority of its policy decisions. The form of our impact assessments depends on the nature of the proposals under consideration and the legal framework in which we are operating. In our Initial Consultation and our Further Consultation, we gave consideration to the expected impact of the proposals that we are deciding on in this statement, as appropriate.
- 2.28 Section 149 of the Equality Act 2010 (the "2010 Act") imposes a duty on Ofcom, when carrying out its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct related to the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. The 2010 Act also requires Ofcom to have due regard to the need to advance equality of opportunity and foster good relations between persons who share specified protected characteristics and persons who do not.
- 2.29 Section 75 of the Northern Ireland Act 1998 (the "1998 Act") also imposes a duty on Ofcom, when carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations across a range of categories outlined in the 1998 Act. Ofcom's *Revised Northern Ireland Equality Scheme*¹⁹ explains how we comply with our statutory duties under the 1998 Act.²⁰
- 2.30 To help us comply with our duties under the 2010 Act and the 1998 Act, we assess the impact of our proposals on persons sharing protected characteristics and in particular whether they may discriminate against such persons or impact on equality of opportunity or good relations.

¹⁸ Section 47(3) states that the setting of a General Condition is not subject to the test of being objectively justifiable, although we are likely to consider this in any event when assessing whether the condition is proportionate.

¹⁹ [Revised Northern Ireland Equality Scheme](#)

²⁰ [Northern Ireland Act 1998](#)

2.31 We do not consider that the expected impact of the decisions outlined in this statement will have any detrimental equality implications under the 2010 Act or the 1998 Act. We do, however, envisage that our decisions will have a positive impact on deaf BSL users, who share a protected characteristic (disability). We expect that these positive impacts will include: increased dignity and peace of mind by being able to communicate and receive, life-saving information in their first language; faster responses to their requests for assistance thereby possibly lessening the extent of injuries and reducing the likelihood an emergency will result in death.

This document

2.32 This document summarises and assesses issues raised during the consultation process and sets out our decision.

2.33 The rest of this document is structured as follows:

- Section 3 discusses alternatives to emergency video relay
- Section 4 covers the scope of the obligation
- Section 5 covers cost recovery
- Section 6 covers zero-rating of data and net neutrality
- Section 7 covers the provision of emergency video relay on fair, reasonable and non-discriminatory basis
- Section 8 covers registration and use of the service
- Section 9 is about the role of the interpreter and issues relating to the approval criteria
- Section 10 is about the technical underpinning of the service
- Section 11 covers implementation
- Section 12 is about proportionality
- Section 13 contains our decision and the legal tests.

2.34 The annexes are then as follows:

- Annex 1: Final Approval Criteria
- Annex 2: Notification of setting new General Conditions

3. Alternatives to emergency video relay

- 3.1 We proposed an emergency video relay service, as described in Section 2.
- 3.2 In their responses to the Initial Consultation, three respondents, the Association of Sign Language Interpreters (ASLI)²¹, an individual respondent and one other [§<], argued for a direct emergency video calling system rather than a relay service, with deaf BSL users handling video calls. ASLI said that the emergency services should consult with deaf people on how best to serve them and to implement direct forms of communication.
- 3.3 Andrews & Arnold said that Ofcom had not considered properly the full range of options, including whether some lesser intervention would achieve the objective of greater equivalence of access, including proposals which might require action by other bodies, or indeed the government.²²
- 3.4 BT suggested that Ofcom consider whether TapSOS could be a viable alternative to emergency video relay.²³ TapSOS is a smartphone app that gives access to emergency SMS and allows users to tap on symbols rather than type.²⁴ Users register their number with the emergency SMS service from within the app, and additionally set up a profile with information including name, gender (optional) and email address.²⁵ The app has been accredited by British APCO.²⁶
- 3.5 In its response to the Further Consultation, Three suggested that if no video relay provider stepped forward, Ofcom should reconsider TapSOS as an alternative to emergency video relay.²⁷
- 3.6 Virgin Media noted that many regulated providers had existing contracts with video relay suppliers and asked if Ofcom would be taking these into consideration or encouraging video relay providers to make provisions for end-users to communicate via BSL.²⁸ Virgin Media suggested that this could result in a better outcome for end-users, as requiring them to use another service could be disruptive, as it would be for regulated providers in having to change suppliers.
- 3.7 An individual respondent to the Initial Consultation said that emergency SMS and text relay must be retained alongside emergency video relay. An individual respondent to the Further Consultation also made this point.

²¹ [ASLI response to the Initial Consultation](#)

²² [Andrews & Arnold response to the Initial Consultation](#)

²³ [BT response to the Initial Consultation](#)

²⁴ www.tapsos.com

²⁵ Emergency SMS used without this app does not require a profile to be set up

²⁶ [British APCO website](#)

²⁷ [Three response to the Further Consultation](#)

²⁸ [Virgin Media response to the Initial Consultation](#)

- 3.8 Simwood said that there should be an awareness campaign about existing ways for deaf people to contact the emergency services.²⁹ Simwood also suggested that an alternative for future consideration by Ofcom would be having emergency video calling for all.
- 3.9 An individual respondent to the Further Consultation (transcript from BSL) said that texting 999 was not as good, because she would then need to rely on English. She said, “When there is an emergency and I am panicking, I might not remember the spelling of words. Some words might be difficult for me to spell, like ‘ambulance’, and if I am panicking it will be even more difficult for me to remember the correct spelling. Using video remote interpreting means I don’t need to rely on English or know the spelling of words, I can just sign and communication will be smooth, quick and easy.” She also said that texting was not the same as using emergency video relay because she would have to wait for the operator to respond, which means there would be a delay in her providing emergency first aid. She said that using emergency video relay would mean she could follow instructions and administer help at the same time.³⁰
- 3.10 In its response to the Further Consultation, Andrews & Arnold said that if emergency services operated using existing common, usually pre-installed, number-independent ICS (such as Signal, FaceTime and WhatsApp) then this would be easier for end-users.³¹ It also suggested that there could be work on an international standard approach for IP-based emergency service calls and videos that could be built into operating systems.

Our assessment

- 3.11 Ofcom is the regulator for the communications sector and does not have the power to require the UK emergency services to implement direct emergency video calling. There are practical considerations of how such calls would be answered at the PSAP³² and transferred to the relevant emergency authority. There are also considerations relating to the use of deaf BSL-using call takers, including the fact that it is not generally possible to sign and write or type at the same time, meaning that for optimal speed, a second call taker (or an interpreter) would be needed. Given this, we are not proposing to work on an international standard that could be built into operating systems.
- 3.12 Ofcom’s powers to set GCs do not extend to number-independent ICS such as Signal, FaceTime and WhatsApp (this is discussed in more detail under the subheading ‘Exclusion of number-independent ICS’ in Section 4). Furthermore, if emergency video relay were implemented using existing number-independent ICS, it would not be possible to zero-rate emergency communications, because the regulated provider would not be able to distinguish emergency communications over these platforms from other data traffic (see Section 6 about zero rating). The result of this could be that end-users might run out of data during

²⁹ [Simwood response to the Further Consultation](#)

³⁰ [Sam Roxburgh response to the Further Consultation](#)

³¹ [Andrews & Arnold response to the Further Consultation](#)

³² A Public Safety Answering Point (PSAP) effectively acts as a “call centre”, providing a point of interconnection for calls that are being made over the communications provider’s network to the emergency organisations.

emergency communications. This would be contrary to our policy objective of equivalence and could cause serious harm in an emergency situation.

- 3.13 We consider that while TapSOS offers benefits to some users, it has limitations in that it does not offer two-way communications in BSL users' first language. In our consultation we evaluated the benefits of BSL users receiving potentially life-saving instructions in their first language. We consider that access in BSL is consistent with the principle of equivalent access for disabled end-users.
- 3.14 In response to Virgin Media's point, we are not requiring regulated providers to change video relay suppliers for calls to or from their contact centres. Emergency video relay would be a standalone service. Virgin Media's existing video relay supplier would be able to apply for approval of an emergency video relay service if it wished.
- 3.15 We recognise that there are some alternatives to emergency video relay, but do not consider that any of these alternatives deliver equivalence for BSL users. Our assessment remains that the existing methods for contacting the emergency services also do not deliver equivalence of access for deaf BSL users, for the reasons given in Section 2.
- 3.16 Emergency text relay and emergency SMS are valuable for deaf and speech-impaired citizens who do not use BSL and will be retained alongside emergency video relay.
- 3.17 There is a regulatory obligation on the communications sector to provide and publicise all these services.³³ We will work with organisations such as deaf charities to help publicise emergency video relay via their publications and social media channels.
- 3.18 We have therefore decided to impose an obligation to provide, or contract to provide emergency video relay (also see Section 5) and to require this to be publicised alongside other services for disabled end-users.

³³ General Condition C5

4. The scope of the obligation

Inclusion of number-based ICS and IAS providers

- 4.1 In the Initial Consultation, we proposed that the obligations would be imposed on number-based interpersonal communications services (ICS) and internet access service (IAS) providers (collectively referred to as “regulated providers”).³⁴
- 4.2 We published this table in the Initial Consultation setting out the scope of the proposed obligations:

Figure 4.1: Scope of the proposed obligations

	Current voice 999 obligations	Proposed emergency video relay obligations
Fixed and mobile voice providers (i.e. number-based ICS)	Yes	Yes
Internet access providers	No	Yes
Number-independent ICS	No	No

- 4.3 Simwood argued that ‘over-the-top’ products like Facetime could be construed as being number-based, rather than number-independent, ICS.³⁵ It said it was contradictory to exclude over-the-top providers such as WhatsApp from emergency services obligations, while allowing their presence to be evidence to deregulate SMS. However, it also said that, as such applications required a data connection, their inclusion was likely to be unwarranted.
- 4.4 Simwood questioned why Ofcom proposed to include number-based ICS in the scope of the obligation. It said that for bundled (voice and data) services this was academic, but for customers taking voice and data from different providers, the number-based ICS provider would not be able to discharge the obligation. Simwood argued that as video relay can only be operated over an IAS, the obligation should fall on IAS providers and that number-based ICS providers should be exempt. However, Simwood also said that “the technical reality is that the convergence of voice and data services means they are effectively the same thing”.

³⁴ As previously stated, essentially, number-based ICS services are interpersonal communications services which enable communication with a telephone number. Number-based ICS are services that connect with publicly assigned numbering resources, namely, a number or numbers in a national or international numbering plan, or enable communication with numbers in national or international numbering plans and which enable direct interpersonal and interactive exchange of information by means of electronic communications networks between a finite number of persons, where the persons initiating or participating in the communication determine its recipient. See [section 32A of the Act](#). An IAS is essentially a service that provides access to the internet. See the definition in [section 32\(2\)\(b\) of the Act](#).

³⁵ [Simwood response to the Further Consultation](#)

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- 4.5 The BCC said that number-based ICS could be provided as fixed line voice services with no internet access service, and video relay would require an IAS to work.³⁶ It said that for IAS, there may not be an expectation of any voice call service, and therefore no equivalence could be provided, as users without disabilities would not have access to the emergency services either. They proposed a technical feasibility and proportionality exception. UKCTA³⁷ also questioned the scope to include a pure voice service and suggested adding a technical feasibility exception to the GC.³⁸
- 4.6 IQ mobile considered that emergency video relay should be provided “but it should not be a regulatory obligation on internet/telecoms infrastructure providers. It should be delivered via the existing over the top video calling providers, and funded by a levy on those.”³⁹
- 4.7 Post Office asked for clarification on the scope of the obligation and how it related to the Public Switched Telephone Network (PSTN).⁴⁰
- 4.8 In their responses to the Initial Consultation, Andrews & Arnold and an individual respondent were in favour of BSL access to the emergency services, but against the proposal that regulated providers should pay for it. Andrews & Arnold said, “ensuring the safety of people with disabilities should be part of the obligations of the state, through properly-funded emergency services, and not left as an obligation imposed on, and funded by, private companies”.
- 4.9 In its response to the Further Consultation, Andrews & Arnold said that it appreciated that Ofcom does not have the power to direct how emergency services operate, however, it considered that Ofcom should work closely with those who have the power to direct the emergency services to bring about the best solution.⁴¹
- 4.10 An individual respondent also argued that it was not appropriate to expect telecommunications providers to fund and provide emergency video relay, or to subscribe to an existing service. This respondent considered that emergency video relay should be provided by the state, with regulated providers required to give access.
- 4.11 In its response to the Initial Consultation, Andrews & Arnold also argued that Ofcom’s proposal to impose obligations on number-based ICS and IAS providers over-extended Article 109 of the EECC in attempting to impose obligations on IAS providers who do not offer a voice telephony service.
- 4.12 In its response to the Further Consultation, Andrews & Arnold again disagreed with the imposition of the obligation on IAS providers, saying that IAS providers carry subscribers’ packets to online services run by others. It said, “It is appropriate - to the extent not

³⁶ [Business Carrier Coalition response to the Further Consultation](#)

³⁷ The UK Competitive Telecoms Association is a trade association promoting the interests of fixed-line telecommunications companies

³⁸ [UKCTA response to the Further Consultation](#)

³⁹ [IQ Mobile response to the Further Consultation](#)

⁴⁰ [Post Office response to the Initial Consultation](#)

⁴¹ [Andrews & Arnold response to the Further Consultation](#)

- already required by the net neutrality framework - to require ISPs to convey their subscribers' packets to their chosen video relay provider, but not to require the ISP to become, or to fund, a video relay service provider.”
- 4.13 Andrews & Arnold recognised that Ofcom was proposing a solution which mirrored the approach taken for voice 999 but considered that it did not make sense “because of the intrinsic differences in over-the-top communication services, and the voice traffic over PSTN.”. However, it submitted that equivalence did not mean doing something in the same way (despite differences in technology, user expectations, and the service being provided) - it meant ensuring that users are not disadvantaged. It suggested that the solution was to require IAS providers to carry traffic, uninhibited, to an IP endpoint operated by the emergency services. It also argued that there was insufficient evidence to show that subscribers of IAS expect the provider of their IAS to provide infrastructure in support of emergency calling facilities.
- 4.14 In its response to the Further Consultation, the Business Carrier Coalition (BCC) said that it was important for everyone to be able to contact the emergency services, but that BCC members did not have a contractual relationship with the individuals within the organisation of the customers with whom they contract and that “On a strict reading of the condition therefore, we do not have any customers in scope of the intent of video relay.” It asked Ofcom to “recognise that there are providers focused only on provision of service to large business customers (with no offers for consumers) and carve these out from the requirements to provide emergency video relay.”⁴²
- 4.15 The BCC said that large business customers “can neither be considered disabled end-users nor users of British Sign Language” and that it seemed “disproportionate for us to have to contract to provide a service regardless of whether our customers can make use of that service, or even want access to that service.”
- 4.16 The BCC said that according to StageText, eleven million people in the UK were deaf, deafened or hard of hearing and that this was set to rise to 15.6 million by 2035.⁴³ Of these, 40% of people over the age of 50 have a hearing loss and 70% of people over the age of 70 have age-related hearing loss. However, only an estimated 24,000 people in the UK use a sign language as their main language. The BCC also said, “Based on the above numbers, the proposed solution will address only a very small part of the concerned population (less than 1%).”
- 4.17 The BCC also said, “anecdotally, requests for any kinds of relay service are extremely low if non-existent in our case. It is also unlikely that a hearing-impaired person would work alone in our customers’ environments.”
- 4.18 The BCC said that Recital 284 of the EEC indicated that there were exceptions to the requirement to provide access to emergency services such as technical feasibility. It suggested that BCC members could therefore be exempt from the emergency video relay

⁴² [Business Carrier Coalition response to the Further Consultation](#)

⁴³ [StageText website](#)

obligation, but could be given an obligation to inform customers of the limitations. It suggested that, alternatively, a threshold could be used to determine which regulated providers should have to provide, or contract to provide, emergency video relay. This could be based on technical feasibility, economic viability, number of subscribers or nature of the business (i.e. mass market only).

- 4.19 The BCC also suggested that Ofcom could amend the GC to refer to ‘consumers’ rather than ‘end-users’.
- 4.20 In its response to the Further Consultation, UKCTA said that the requirement to contract to provide a service was disproportionate for providers serving large businesses.⁴⁴ It said that large businesses were the end-user customers and so could not themselves make use of video relay services. Large businesses also had bespoke contracts covering all the services they require for their business and employees, with the onus on the customer to discuss video relay or any other requirements for their disabled employees. UKCTA said, “Ofcom should consider that an acceptable approach would be to reduce the scope to ‘consumers with disabilities’ instead of ‘end-users’. Employees (consumers with disabilities) will in all likelihood have their own mobile phones.” It added that, failing that, a proportionality threshold should be included e.g. based on number of subscribers. It suggested that Ofcom includes a requirement to register for the service, and then only require those business providers with registered customers to have to provide or contract to provide the service.
- 4.21 In its response to the Initial Consultation, Virgin Media noted that users of emergency video relay would need a data connection and a suitable device. It also noted that a customer who was provided with only fixed line telephony would not be able to access video relay.⁴⁵

Our assessment

- 4.22 While the emergency services themselves are state-funded, emergency communications, including voice 999 calls, emergency text relay calls and emergency SMS, are funded by the communications sector. Emergency video relay will be an additional form of emergency communication.
- 4.23 Ofcom is the regulator for the communications sector and does not have the power to impose regulatory obligations on the emergency services.
- 4.24 On Andrews & Arnold’s point that there was insufficient evidence to show IAS subscribers expect their IAS provider to provide infrastructure in support of emergency calling facilities, the obligation relates to end-users, not subscribers.
- 4.25 The legal framework section explains at paragraphs 2.20-2.21 above that the scope of the term “*emergency communications*” in the regulatory framework was recently broadened to specify the inclusion of video relay. The rationale for applying the emergency video relay obligations to IAS providers as well as number-based ICS providers is that a deaf BSL user

⁴⁴ [UKCTA response to the Further Consultation](#)

⁴⁵ [Virgin Media response to the Initial Consultation](#)

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could be using a fixed data connection when away from home on a device such as a laptop or a tablet without a SIM. If an emergency situation arose, the user would not necessarily know if the connection was provided by an IAS provider or a number-based ICS provider, but would reasonably expect to be able to use the data connection to make an emergency communication. This is also the rationale for referring to end-users rather than consumers in the GC.

- 4.26 In consideration of Andrews & Arnold's other points, consultation responses from deaf charities and video relay suppliers indicated that they were confident that emergency video relay would work well. We discuss resilience and access to the network in Section 10.
- 4.27 We agree that end-users who wish to use emergency video relay will need a fixed or mobile data connection and a suitable device.⁴⁶ Customers who just buy a fixed voice product will not be able to use emergency video relay.
- 4.28 In response to Simwood, to use emergency video relay, end-users will need to have access to a data connection. This could be from any provider, fixed or mobile, and the end-user may be unaware of who is providing the data connection. As Simwood says, technology can converge, and it may be the case that in future, number-based ICS providers who are not IAS providers will be able to offer video calling to their customers. We therefore do not consider it prudent to exclude number-based ICS from the scope of the obligations. However, we accept that if a customer is buying voice calls and data from different providers, it may not currently be possible for the voice provider to provide emergency video relay to end-users of that customer's voice connection. We have therefore amended the scope provision of the General Condition to refer to provision of Emergency Video Relay being 'technically feasible'.
- 4.29 On the BCC point that there may not be an expectation of any voice call service on IAS, and that equivalence could therefore not be provided, we consider that obligations on IAS providers are necessary for deaf BSL users to have access to emergency video relay on any data connection, as set out in paragraph 4.25.
- 4.30 We do not agree with stakeholders' suggestions that services provided to business users should be excluded from the scope of the obligation to provide access to emergency video relay, or that the obligation should be limited so as to apply only in relation to consumers. There is an existing regulatory obligation to enable end-users to make voice 999 calls at all times from any number in the UK numbering plan. Restricting the connections from which emergency communications using video relay services can be made would not be consistent with our policy objective of equivalence. We also consider it appropriate that the cost of providing emergency video relay should be shared across industry as a whole and not limited to providers of services to residential customers.
- 4.31 We agree that deaf BSL users in the UK are a small proportion of the population. Our policy position is that this group of people's needs are not being met by the existing means of access to the emergency services.

⁴⁶ We do not propose obligations on public call boxes for emergency video relay.

- 4.32 The obligation to provide an emergency video relay service regardless of whether the provider's customers may be able to make use of it is consistent with the obligation to provide access to text relay. The text relay obligation also refers to end-users rather than customers.
- 4.33 Deaf BSL users can and do work alone.⁴⁷ They might also need to use emergency video relay on behalf of a colleague or someone else. They could, for example, need to call an ambulance if a co-worker was injured or became unwell.
- 4.34 We consider that placing the obligation to provide emergency video relay on providers of number-based ICS and IAS is necessary and a proportionate means of meeting our policy objective of equivalence.

Exclusion of number-independent ICS

- 4.35 In the Initial Consultation, we proposed that the obligations would be imposed on number-based ICS and IAS but not number-independent ICS.⁴⁸
- 4.36 In its response to the Initial Consultation, Vodafone⁴⁹ asked why Ofcom had not extended the scope of the proposed new regulation to number-independent ICS such as WhatsApp, Snapchat and Facebook Messenger. BT also asked if Ofcom had considered whether access to emergency video relay could be provided by building on existing popular services such as Skype, WhatsApp or FaceTime, given that customers may be familiar with these apps.⁵⁰ Microsoft said it considered that the proposed GC appeared to impose obligations to provide access to emergency video relay on apps with calling features.⁵¹

Our assessment

- 4.37 Number-independent ICS are not within the scope of the new GCs, for the reasons set out below and in paragraph 7.22 of the Further Consultation.
- 4.38 In the Further Consultation we explained that the Government's decision in July 2020 not to extend Ofcom's powers to impose GCs on number-independent ICS meant that Ofcom does not have the power to require number-independent ICS to give access to emergency video relay.⁵²
- 4.39 Section 46 of the Act sets out that GCs may apply to every person: providing an electronic communications network (ECN) or electronic communications service (ECS); or providing such a network or service of a particular description specified in the condition. Both ECN and ECS are defined in section 32.⁵³

⁴⁷ The relevant [Health and Safety Executive guidance](#) says that employers should consider whether an employee might be more vulnerable because they are disabled. It does not say that deaf BSL workers cannot work alone.

⁴⁸ See paragraph 10.30 of the [Initial Consultation](#)

⁴⁹ [Vodafone response to the Initial Consultation](#)

⁵⁰ [BT response to the Initial Consultation](#)

⁵¹ [Microsoft response to the Initial Consultation](#)

⁵² [Government response to the public consultation on implementing the European Electronic Communications Code](#)

⁵³ See [section 32A of the Act](#)

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- 4.40 According to the definition in the Act, an ECS is any of the following services:
- a) an internet access service (IAS);⁵⁴
 - b) a number-based interpersonal communications service;⁵⁵
 - c) any other service consisting in, or having as its principal feature, the conveyance of signals, such as a transmission service used for machine-to-machine services or for broadcasting;
- provided by means of an ECN, except in so far as it is a content service.⁵⁶
- 4.41 Number-independent ICS⁵⁷ do not fall into any of the three sub-categories of ECS listed above (as set out in section 32(2A)). They therefore cannot, currently, be made the subject of GCs and number-independent ICS are not in scope of our new obligation.

⁵⁴ An IAS is essentially a service that provides access to the internet. See the definition in [section 32\(2\)\(b\) of the Act](#).

⁵⁵ Essentially, number-based ICS services are interpersonal communications services which enable communication with a telephone number. Number-based ICS are services that connect with publicly assigned numbering resources, namely, a number or numbers in a national or international numbering plan, or enable communication with numbers in national or international numbering plans and which enable direct interpersonal and interactive exchange of information by means of electronic communications networks between a finite number of persons, where the persons initiating or participating in the communication determine its recipient. See [section 32A of the Act](#).

⁵⁶ See [section 32\(2\) and \(2A\) of the Act](#)

⁵⁷ See definition set out in [section 135\(3B\) of the Act](#)

5. Cost recovery

- 5.1 In the Initial Consultation we proposed that regulated providers should be required to give access to an approved emergency video relay service.
- 5.2 In responses to the Initial Consultation, some communications providers argued that an obligation to give access to the service may not be enough to guarantee that regulated providers pay their share of the costs.⁵⁸ This is because any regulated provider can provide access to an emergency video relay service without making any contribution to its cost. It is not possible for the video relay service to charge based on use because it is not always possible to determine from which network the emergency video relay call originated.
- 5.3 For emergency video relay to be delivered, it is essential that enough money is collected to pay for the service. In the Further Consultation we therefore proposed that regulated providers should be required to provide emergency video relay themselves or contract with a third party for its provision.
- 5.4 This proposal would ensure that regulated providers will, as well as giving access to the service, be obliged to pay towards the costs either directly or under contract. Ofcom would not be a party to the contracts but would be responsible for ensuring that regulated providers comply with the GCs, including the requirement to provide the service themselves or contract to provide it.
- 5.5 Because of the economies of scale involved in providing an emergency video relay service, we consider it likely that a single emergency video relay service will operate (even if more than one is approved). This is consistent with the current single supplier of voice 999 call handling services in the UK.
- 5.6 Any approved emergency video relay service will need to consider how to contract with regulated providers to recover its costs. One option would be for there to be a wholesaler between the emergency video relay service and regulated providers. Other options would involve the emergency video relay service contracting directly with regulated providers.

Consultation responses

- 5.7 A number of respondents to the Initial and Further Consultations raised other comments concerning funding and cost recovery.
- 5.8 BT asked how the emergency video relay supplier or any wholesaler could be confident of recovering the costs of providing the service.⁵⁹ Other industry representatives who attended the industry round table also said that if they were to become a wholesaler, they would want to know that they were not taking on the financial risk of being unable to recover costs.

⁵⁸ See from paragraph 3.4 of the [Further Consultation](#)

⁵⁹ [BT response to the Initial Consultation](#)

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- 5.9 BT also considered that Ofcom would need to assist industry in reaching a suitable and timely implementation for example by convening a working group and making introductions.⁶⁰ UKCTA asked that Ofcom take an active role in coordinating an “industry workstream”.⁶¹
- 5.10 Zzoomm agreed that the costs of the services should be borne by the sector collectively, but said it would be helpful if Ofcom were to participate more actively in finding a solution.⁶²
- 5.11 Telefonica O2 asked that Ofcom explicitly set out its approach to funding of emergency video relay, and said that costs should be borne by the whole of industry and not solely by mobile providers. It said that the apportioning of cost should take account of the fact that mobile customers would be able to access emergency video relay via a fixed broadband connection (albeit on a mobile device).⁶³
- 5.12 Simwood suggested Ofcom opine on the challenge of how to fund emergency video relay.⁶⁴
- 5.13 Tesco Mobile said that it did not agree that the cost of emergency video relay should be covered by mobile providers.⁶⁵
- 5.14 A confidential respondent called for details of funding arrangements and the proposed mechanism for funds to be recovered to be published as part of Ofcom’s annual publication on its funding and expenditure.
- 5.15 In its response to the Further Consultation, Andrews & Arnold said that to ensure that smaller providers were not faced with a cost burden they are unable to meet, the Approval Criteria requirements should include that:
- “Pricing must be based on the number of emergency video relay calls a provider’s subscribers generate or are expected to generate. We would expect to pay no more than a token sum.
 - Smaller providers must not pay more per call (if that is the pricing model) than larger providers.”⁶⁶
- 5.16 Andrews & Arnold was also concerned that there might be significant set-up costs, or even development costs, for a third-party service to which it was unlikely to send much, if any, traffic.

Our assessment

- 5.17 In response to Andrews & Arnold’s point about set-up costs, video relay services already exist in the UK (see for example the references in Section 12 to Contact SCOTLAND - BSL).

⁶⁰ [BT response to the Further Consultation](#)

⁶¹ [UKCTA response to the Further Consultation](#)

⁶² [Zzoomm response to the Further Consultation](#)

⁶³ [Telefonica O2 response to the Initial Consultation](#)

⁶⁴ [Simwood response to the Further Consultation](#)

⁶⁵ [Tesco Mobile response to the Initial Consultation](#)

⁶⁶ [Andrews & Arnold response to the Further Consultation](#)

We said in paragraph 8.6 of the Further Consultation that we would expect the costs of an emergency video relay service to be higher due to the need for it to have high resilience. We consider it very unlikely that the costs of provision would exceed the benefits (see Section 12).

- 5.18 In response to Tesco Mobile and Telefonica O2's points, the obligations will be imposed on providers of number-based ICS and IAS, not just mobile providers, as set out in the Initial and Further Consultations and in Section 4 above.
- 5.19 It will be a matter for the emergency video relay service, rather than Ofcom, to determine with industry the most appropriate method of cost recovery, in the same way as for other modes of emergency communications such as 999 calls. Given usage is not readily identifiable for emergency video relay, an alternative basis for charging may be required. This could, for example, be based on some measure of size or have tiers.
- 5.20 While there is not a comprehensive public register of communications providers in the UK, Ofcom publishes a list of around 120 larger networks and service providers that are liable for Ofcom's administrative charges.⁶⁷ It would be possible, but not obligatory, to use this register. For reasons of practicality, it would be open to the emergency video relay supplier or a wholesaler to agree contracts with very small regulated providers for a nominal value.
- 5.21 It would also be open to an emergency video relay service supplier (or any wholesaler) to agree contractual terms with a regulated provider which allow them to cancel the contract for non-payment by the regulated provider. If the contract were cancelled, the regulated provider would then either have to find another third party to supply an approved service or provide it themselves. If they were unable to do either of these, they may be found to be in breach of the GC.
- 5.22 Our decision is that regulated providers must provide, or contract to provide, emergency video relay.

Cost recovery via a wholesaler

- 5.23 We discussed the possibility of a wholesaler in both the Initial Consultation and the Further Consultation. In this scenario, the wholesaler would contract with an emergency video relay supplier for providing the service and then contract with regulated providers to recover the costs.
- 5.24 Any wholesaler with established industry relationships (e.g. as a result of interconnection for calls, or other wholesale communication services) would be a natural go-to partner for regulated providers.
- 5.25 Voice 999 call handling, text relay and emergency SMS are all currently supplied by BT on a wholesale basis in the UK, with communications providers paying for their customers' use of these services.

⁶⁷ [Networks and Services Providers Billed for Ofcom's 2019/20 Administrative Charges](#)

- 5.26 In the Further Consultation we recognised that any wholesaler would need to recover not only the charges levied by the emergency video relay supplier, but also its own set-up and administration costs (for example, relating to contracting and billing regulated providers).
- 5.27 We indicated that we considered it would be reasonable for a wholesaler of emergency video relay to charge for its administrative work so long as this was on fair, reasonable and non-discriminatory terms. However, Ofcom would have no role in setting or the collection of these charges or any commercial margin.

Consultation responses

- 5.28 In its response to the Further Consultation, BT favoured a wholesale approach for the service. It said “A wholesale model creates the benefits of the supplier only having to focus on one customer, at a lower cost for the benefit of the whole of industry and the wholesaler, in all likelihood, making efficient use of existing CP relationships.”⁶⁸ Telefonica O2 and TalkTalk also favoured a wholesale model in their responses.^{69, 70} BUUK Infrastructure considered that a wholesaler “is likely to represent the most pragmatic approach.”⁷¹ Virgin Media said that a wholesale model would provide a consistent approach for both regulated providers and consumers, although this model was not without potential issues.⁷²
- 5.29 At the industry round table, all regulated providers who expressed an opinion favoured a wholesale model, and no one dissented from this view.
- 5.30 However, some regulated providers were concerned that there might be no constraints on what a wholesaler could charge.
- 5.31 BT considered that a single supplier and single wholesaler model would be efficient, given the expected low call volumes for emergency video relay. It further considered that if there was more than one wholesaler, then economies of scale would be lost and a wholesaler’s business case would be less attractive.⁷³
- 5.32 BT also commented that any wholesaler would need to be able to make a normal commercial return, as BT does for its existing voice 999 services. This return would “need to reflect the wholesaler’s activities and risk profile”, including reputational risk, which could be significant even though the performance onus is on the relay supplier.
- 5.33 BT asked what the liabilities of any wholesaler would be if the supplier of an approved emergency video relay service subsequently failed to meet the Approval Criteria.⁷⁴

⁶⁸ [BT response to the Further Consultation](#)

⁶⁹ [Telefonica O2 response to the Further Consultation](#)

⁷⁰ [TalkTalk response to the Further Consultation](#)

⁷¹ [BUUK response to the Further Consultation](#)

⁷² [Virgin Media response to the Further Consultation](#)

⁷³ [BT response to the Further Consultation](#)

⁷⁴ [BT response to the Initial Consultation](#)

Our assessment

- 5.34 As stated in our Further Consultation, we would expect any wholesale charges to be on a fair, reasonable and non-discriminatory basis. See also below at Section 7 where we discuss this point further and explain why we consider it important that the Approval Criteria should reflect this expectation.
- 5.35 Also, regulated providers would not be required to use a particular wholesaler. They would have the option of contracting directly with an emergency video relay supplier or of setting up an alternative wholesaler. These options would limit what a wholesaler could charge.
- 5.36 If more than one video relay service was approved by Ofcom, a wholesaler could choose to work with just one of these if it so wished.⁷⁵
- 5.37 In response to BT's comment about the potential liabilities of a wholesaler, compliance with the Approval Criteria would be the sole responsibility of the supplier of the approved emergency video relay service contracted by the wholesaler and not of any other party. Contractual terms between any wholesaler and regulated providers could, for example, limit the wholesaler's liability for the continued wholesale provision of emergency video relay in circumstances where the supplier had its approval withdrawn by Ofcom and there was no other approved alternative.
- 5.38 BT is the supplier as well as the wholesaler of text relay. However, Ofcom's approval of BT's text relay service is separate from BT's standing as a regulated communications provider. For emergency video relay, it is likely that the supplier of an approved service would be a specialist third party organisation.

Cost recovery without a wholesaler

- 5.39 We said in the Further Consultation that if there were no wholesaler, there is a risk that there will be no single point of contact for obtaining a video relay service. This could make it more difficult for regulated providers to comply with the obligation. However, if an emergency video relay supplier itself offers all regulated providers a simple and cost-effective way to contract to meet the obligation, then this would be no more onerous for regulated providers than if there were a wholesaler.
- 5.40 If there was a single emergency video relay supplier serving all regulated providers, then without a wholesaler, the supplier would likely need help to design a cost recovery mechanism. The relay supplier would also need to gain access to regulated providers' contact details. These issues were discussed at the industry round table.
- 5.41 If there were more than one approved service and no wholesaler, this does raise the potential for some regulated providers contracting with one supplier and other regulated providers with a different supplier.

⁷⁵ See paragraph 7.35 of the Further Consultation

Consultation responses

- 5.42 In its response to the Further Consultation, BT said, “Without a functioning wholesaler model there is a greater risk that the proposed solution would not be practically feasible. This would be due to the loss of the wholesale benefits above and also because a supplier may be less willing to step forward given the administrative costs of dealing with a potentially large number of CPs [communications providers].”⁷⁶
- 5.43 Telefonica O2 said that if a wholesaler did not step forward voluntarily, Ofcom should consider designating an approved emergency video relay service supplier and wholesaler for regulated providers.
- 5.44 Virgin Media said that arrangements not involving a wholesaler could include individual regulated providers contracting with an approved supplier or an industry-wide approach selecting one of the approved services. It said an industry-wide approach would result in a consistent approach whereby all consumers would have access to the same service even if they switched [communications] provider. It said that such approaches had elements that would need to be ironed out, including the question of how any supplier would be able to set up a robust, proportionate and accurate charging process.

Our assessment

- 5.45 The video relay supplier contracting directly with regulated providers, without a wholesaler, could also be an efficient way for the service to be delivered.
- 5.46 Video relay suppliers responded to the Further Consultation and did not indicate that they would be deterred from stepping forward in the absence of a wholesaler.
- 5.47 We consider there are ways a video relay supplier could provide the service in the absence of a wholesaler. For example, industry knowledge and contacts could be obtained from a suitable third party, such as a consultant or a regulated provider. Such a third party could also act as an intermediary in designing the pricing structure or act as the agent for the emergency video supplier in its contracts with regulated providers.
- 5.48 In response to Telefonica O2’s point, Ofcom is unable to designate either an approved emergency video relay service supplier or a wholesaler for regulated providers. Also see paragraph 5.58 below.

What if no emergency video relay service is approved?

- 5.49 Telefonica O2 said that there was no guarantee that an emergency video relay supplier would step forward and/or meet the Approval Criteria.⁷⁷
- 5.50 Three also asked what would happen if a wholesaler and/or relay supplier did not step forward, and said that it would be disproportionate to expect regulated providers to self-

⁷⁶ [BT response to the Further Consultation](#)

⁷⁷ [Telefonica O2 response to the Further Consultation](#)

provide emergency video relay given the likely number of users.⁷⁸ It suggested that Ofcom limited the obligation on regulated providers to an obligation to contract with a third party for emergency video relay.

Our assessment

- 5.51 We have already received informal expressions of interest from more than one video relay supplier currently operating in the UK. Video relay suppliers have also responded to the Further Consultation and have had the opportunity to comment on the draft Approval Criteria. Given this, we think it reasonable to expect that Ofcom will be able to approve at least one emergency video relay service within seven months of the date of this statement, as envisaged in the Initial Consultation.
- 5.52 The new GC says: “Regulated Providers must: (a) provide or contract to provide an Emergency Video Relay Service which has been approved by Ofcom.” This means that in the event that no third party video relay service has been approved by Ofcom, regulated providers would be under an obligation to provide the video relay service themselves. This could be done by regulated providers creating a service themselves and seeking Ofcom’s approval, or it could be done by regulated providers commissioning a service and requiring the supplier to seek approval from Ofcom.
- 5.53 This is consistent with text relay, where the obligation is to give access to a text relay service that has been approved by Ofcom. While all fixed and mobile voice providers currently buy an approved service from BT, if BT were to cease supplying text relay as a wholesale product, the other regulated providers would have to commission or provide an alternative service, which would need to be approved by Ofcom in either case.

What if more than one emergency video relay service is approved?

- 5.54 BT was concerned that if there was more than one approved emergency video relay service, this could lead to confusion, as end-users would have to know which service their regulated provider was contracted with. In its response to the Initial Consultation, BT suggested that as an alternative to having a wholesaler, Ofcom could designate one approved video relay provider and make it a regulatory obligation for regulated providers to contract directly with it.⁷⁹
- 5.55 Sign Language Interactions Group, in response to the Further Consultation, also said, “We are however concerned at the possible impact of there being multiple regulated providers directly providing emergency relay, as that would be likely to introduce complexity, e.g. through Deaf people having to choose from different apps or services, when making an emergency call”.⁸⁰

⁷⁸ [Three response to the Further Consultation](#)

⁷⁹ [BT response to the Initial Consultation](#)

⁸⁰ [Sign Language Interactions Group response to the Further Consultation](#)

- 5.56 Hyperoptic submitted that consumer confusion could arise in the event there was more than one approved relay service and said that Ofcom must do more in order to reduce the scope for this. It suggested that due to the ‘safety of life’ nature of the service, the law might permit Ofcom to give approval to just one service. This would promote equivalence with other citizens who do not have different 999 services. At a minimum, Ofcom could require that any app or website for the service would have the same layout, to benefit users who switched provider. Hyperoptic also suggested that Ofcom oversee industry-wide customer communications such that consumers who switch between providers do not have to familiarise themselves with a new service.⁸¹
- 5.57 Telefonica O2 said that whilst they recognised the benefits of effective competition for the provision of an emergency video relay service, they were concerned about the prospect of different providers contracting with different emergency video relay suppliers. Such an approach could result in differentiated emergency video relay applications and websites and this could lead to customer confusion and distress. They also said a customer may be unaware that different applications could be incompatible with other providers’ networks e.g. if a customer switched communications provider.⁸²

Our assessment

- 5.58 When approving a supplier’s service, Ofcom is required to follow the statutory process and steps set out in the Act.⁸³ Ofcom must not give an approval unless it is satisfied that to do so does not discriminate unduly against particular persons or against a particular description of persons.⁸⁴ Ofcom cannot deny an approval on the basis that another service has already been approved. If a video relay service meets the Approval Criteria, it shall be approved by Ofcom, regardless of whether more than one provider meets the criteria at a given time.
- 5.59 We agree that having more than one approved service operating has the potential to cause confusion for end-users. However, unless an approved service receives funding from regulated providers, it is unlikely to operate. As noted above, due to the economies of scale, we consider it likely that a single emergency video relay service will operate.
- 5.60 As stated in paragraph 5.36, if more than one service was approved and there was a wholesaler, the wholesaler could choose to work with just one of these if it so wished.

⁸¹ [Hyperoptic response to the Further Consultation](#)

⁸² [Telefonica O2 response to the Further Consultation](#)

⁸³ See sections 49, 49A and 49C of the Act.

⁸⁴ See section 49(2)(b) of the Act.

6. Zero-rating of data and net neutrality

6.1 Emergency video relay should be free to access and use, in keeping with our policy objective of equivalence. For this to be the case, each aspect of the service needs to be free: the relay service, the leg of the call between the relay centre and the emergency services, the data consumed by the emergency communication and the purchase of the app.

Zero-rating

6.2 The question of whether data used for emergency video relay would need to be zero-rated was raised in responses to the Initial Consultation.

6.3 Zero-rating is a commercial practice whereby an internet service provider applies a price of zero to the data traffic associated with a particular application, service or category of applications or services. This means that the customer is able to access certain applications, services or websites without that data counting toward the customer's general data allowance.

6.4 Requiring the data associated with use of emergency video relay to be zero-rated is consistent with the existing requirements for voice 999 calls, emergency text relay and emergency SMS which are always free at the point of use. It is also consistent with Article 109 of the EEC, which states that emergency communications must be free of charge.⁸⁵

6.5 In the Further Consultation we clarified that, as well as the emergency video relay service itself being free to use by the end-user, the data used to access and use the service should also, to the greatest extent technically feasible, be free to the caller.

6.6 We consulted on a revised form of words to clarify that, where technically feasible, zero-rating of data for the emergency video relay service is required. We added a further subparagraph to the proposed GC C5.12 stating that in providing access to emergency video relay services under GC C5.11, Regulated Providers must: "(b) where technically feasible, apply an incremental price of zero to any data traffic associated with the use of the Emergency Video Relay Service".⁸⁶

6.7 We also reflected this in the Approval Criteria by requiring the emergency video relay supplier to liaise with regulated providers with a view to facilitating zero-rating of data used in connection with the service and/or app.

6.8 As set out in the Further Consultation, for zero-rating to happen effectively, it will be necessary for the emergency video relay app and website to be designed in a way that

⁸⁵ [Article 109 of the EEC](#)

⁸⁶ This does not prevent Regulated Providers charging a standard monthly charge or other similar charges for data, but customers should not be charged for the data used when accessing the service, and this should not be deducted from monthly allowances or pay as you go credit.

allows all relevant data to be identified. Regulated providers will need to work with the relay supplier to ensure this happens.

Net neutrality

- 6.9 The zero-rating of data traffic can raise questions in relation to the net neutrality principles set out in the Regulation laying down measures concerning open internet access (“the Open Internet Access Regulation”).⁸⁷ In broad terms, zero-rating offers can give rise to compliance issues where they lead to a material reduction in end-user choice. Ofcom has published a framework for assessing zero-rated offers.⁸⁸
- 6.10 Applying our published framework to emergency video relay, we said in the Further Consultation that we were satisfied that zero-rating the data used to access the service would not materially affect end-users’ rights under the Open Internet Access Regulation.

Consultation responses on zero-rating and net neutrality

- 6.11 In their responses to the Further Consultation, deaf charities⁸⁹ and IQ mobile⁹⁰ supported zero-rating of data used to access and use emergency video relay. Zoomm agreed that emergency video relay services should be available free of charge, as is the standard 999/112 service.⁹¹ Sign Language Interactions Group supported zero-rating so long as it was technically feasible⁹² and a confidential respondent supported zero rating provided that the ‘technically feasible’ criterion referred to the use of existing systems. Another confidential respondent considered that zero-rating was technically feasible with a standalone app, and supported it on this basis.
- 6.12 Virgin Media supported zero-rating where this was technically feasible but said it would not expect zero-rating would also apply to the downloading of the app.⁹³ UKCTA also pointed out that downloading the app would consume data, and that this would not be zero-rated.
- 6.13 UKCTA supported zero-rating in principle but said that communications providers do not control the price of apps. UKCTA also said that the emergency video relay supplier would need to make up-to-date information about a website’s IP address or the app’s Domain Name System available, and said that “UKCTA assumes that the app will not be ingesting content from any other third-party sites nor using analytical software which can cause

⁸⁷ The Open Internet Access Regulation is an EU Regulation (Regulation (EU) 2015/2120) which has been retained in domestic UK law post-Brexit as “retained EU law” under sections 3 and 6 of the European Union (Withdrawal) Act 2018. It has been amended by The Open Internet Access (Amendment etc.) (EU Exit) Regulations 2018, made pursuant to section 8 of the European Union (Withdrawal) Act 2018. See <https://www.legislation.gov.uk/eur/2015/2120/contents>

⁸⁸ [Ofcom’s approach to assessing compliance with Net Neutrality rules](#)

⁸⁹ [Deaf charities response to the Further Consultation](#) (this response was submitted by RNID on behalf of itself, the British Deaf Association, the National Deaf Children’s Society, the National Association of Deafened People, SignHealth and the UK Council on Deafness).

⁹⁰ [IQ Mobile response to the Further Consultation](#)

⁹¹ [Zoomm response to the Further Consultation](#)

⁹² [Sign Language Interactions Group response to the Further Consultation](#)

⁹³ [Virgin Media response to the Further Consultation](#)

issues when zero-rating and recommends that Ofcom makes this a condition of accreditation.”⁹⁴

- 6.14 Hyperoptic considered that where uncapped data packages were being used, the proposed wording of the GC would preclude a regulated provider from complying, and asked Ofcom to amend the wording of the GC such that regulated providers can comply using either approach (i.e. zero rating or uncapped data package).⁹⁵
- 6.15 Telefonica O2 asked if Ofcom expected emergency video relay to be available to roaming customers in the UK and, if so, was it Ofcom’s expectation that roaming usage will also be zero-rated? It also asked if Ofcom would expect all emergency video relay services (if more than one was in operation) to be compatible with every network and to zero-rate usage, including for a service that a regulated provider has not contracted to provide.⁹⁶
- 6.16 TalkTalk said that it supported zero-rating assuming that Ofcom’s interpretation of net neutrality rules was accurate.⁹⁷
- 6.17 In its response to the Further Consultation, BT said that it supported zero rating (especially given the likely small volumes of emergency video relay calls) but that there were net neutrality considerations. It said there were technical issues involved in zero rating and suggested that Ofcom should have an approval criterion that the service traffic must be both secure and be identifiable by networks.⁹⁸
- 6.18 Andrews & Arnold did not agree that providers should be required to zero rate traffic. It said, “This is because it would require providers without the facility to zero rate traffic to build it for this purpose. This is counterintuitive: we do not have a mechanism for zero rating traffic, because, consistent with the principle of net neutrality, we treat all endpoints the same: we do not discriminate based on the destination of a user’s traffic. We *may* be able to build a system to continue to provide access if a user has reached their quota, but this would be dependent on the operators of the relay services publishing their IP addresses, and keeping that list updated.”
- 6.19 Three welcomed the clarification in the Further Consultation that Ofcom was satisfied that zero-rating the data used to access the service would not materially affect end-users’ rights under the Open Internet Access Regulation. Three suggested that in addition to clarifying that it would not be possible to use emergency video relay after disconnection for non-payment, Ofcom should also clarify that providers should not be required to give access where a mobile data allowance had expired.⁹⁹

⁹⁴ [UKCTA response to the Further Consultation](#)

⁹⁵ [Hyperoptic response to the Further Consultation](#)

⁹⁶ [Telefonica O2 response to the Further Consultation](#)

⁹⁷ [TalkTalk response to the Further Consultation](#)

⁹⁸ [BT response to the Further Consultation](#)

⁹⁹ [Three response to the Further Consultation](#)

- 6.20 UKCTA said that net neutrality rules prohibited the continuation of zero-rated data where a mobile data allowance had expired, and that Ofcom would need to resolve this issue prior to launch.¹⁰⁰

Our assessment

Zero rating

- 6.21 In the Further Consultation we confirmed that our position is that the data used for emergency video relay communications should be free. We also gave an example of how it could be free by either zero-rating the actual data used or through the use of uncapped data packages.
- 6.22 We want to clarify Hyperoptic's point about it not being feasible to comply with the GC (as proposed in the Further Consultation) where uncapped data packages are being used. This would not be the case. The relevant wording of the proposed condition on which we consulted was that Regulated Providers must:
- “(b) where technically feasible apply an incremental price of zero to any data traffic associated with the use of the Emergency Video Relay Service;”
- 6.23 The inclusion of the word “incremental” is intended to allow for situations where end-users have unlimited data packages. For example, where an end-user has access to unlimited internet data in exchange for a monthly recurring charge, once the end-user has paid that monthly charge there would be no additional, further charges to pay related to the amount of data consumed or the number of internet sessions initiated. Therefore, there would be no incremental charge for the data used for emergency video relay and the relevant provider would have complied with the obligation set out above.
- 6.24 In response to BT's suggestion to have an approval criterion that the service traffic must be identifiable by networks, the need for emergency video relay traffic to be identifiable is reflected in the requirement for a standalone app and website. It is also reflected in the requirement for suppliers of approved relay services to liaise with regulated providers to facilitate zero rating.
- 6.25 In response to Telefonica O2's comment about zero-rating in the event that more than one emergency video relay service were in operation, it is the case that all approved services would have to be zero-rated to meet our policy objective of equivalence. However, as explained in paragraph 5.5, we consider it likely that a single emergency video relay service will operate (even if more than one is approved).
- 6.26 In response to Telefonica O2's point about roaming, our requirement is for data to be zero-rated where technically feasible. In contrast to 999 calls, for which limited service state roaming applies, we are not requiring emergency video relay to be accessible via domestic

¹⁰⁰ [UKCTA response to the Further Consultation](#)

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roaming and we accept that it may not be technically feasible for providers to zero-rate data for emergency video relay customers using international roaming.

- 6.27 In response to UKCTA's question about the app not ingesting content or using analytical software, we would expect providers to work with the emergency video relay supplier to agree the precise specifications and functionality of the service.

The price of apps and the data used to download apps

- 6.28 Some respondents raised the possibility of zero-rating the data used to download the video app itself. We understand that it may not be technically feasible for ISPs to identify the nature of an app being downloaded from marketplaces such as the App Store and Google Play. We do not therefore consider a regulatory requirement to zero-rate data used to download the video relay app would be appropriate.
- 6.29 We note that downloading of the app by end-users in advance is highly desirable as this will save time in an emergency situation. We will seek to engage with relevant charities and media channels to promote awareness of emergency video relay and to encourage end-users to download the app in advance of needing to use it.
- 6.30 In response to UKCTA's point about the price of apps not being controlled by regulated providers, we have specified in the Approval Criteria (see Annex 1) that the service, including the app, should be available free of charge.
- 6.31 UKCTA raised the need for a website's IP address or the app's Domain Name System to be made available. We consider this point to be addressed by the approval criterion that requires liaison with regulated providers, including during the design and development phase of the service and/or app, with a view to facilitating zero-rating of data used in connection with the service and/or app.

Zero-rating facility with fixed capped data packages

- 6.32 We consider that zero rating is essential for equivalence. Today the majority of fixed broadband products are sold with an unlimited data allowance. However, where fixed capped packages still exist, it will be necessary for providers to take action to ensure free access to emergency video relay.
- 6.33 Andrews & Arnold noted that where a fixed data package is capped, the obligation would require providers without the facility to identify and zero-rate traffic, to build such a facility. In the event that capped fixed packages are still offered, our view is that building such a facility is technically feasible and we do not expect the costs would be large.
- 6.34 As described in Section 2, voice 999 calls are privileged above other calls in a range of ways. Our policy objective is equivalence, and the consequences of an end-user running out of data during an emergency communication could be serious.

6.35 We therefore conclude that it is necessary and proportionate to require regulated providers offering fixed capped data packages to zero-rate emergency video relay.¹⁰¹

Our decision on zero-rating of data

6.36 We consider that the zero-rating of data used for emergency video relay is important to achieving our key policy objective of equivalence and that, taken together, the GC and Approval Criteria will facilitate this. Our decision is therefore that it is necessary and proportionate to require regulated providers offering capped data packages to zero-rate emergency video relay, even if this involves additional cost. We are not suggesting that the data used to download the app has to be zero-rated too, although the app itself must be available free of charge.

Blocking internet access

6.37 The net neutrality rules on traffic management measures such as blocking and filtering internet content mean that IAS providers should not block access to some parts of the internet while continuing to allow access to other parts, other than in specified limited exceptional circumstances.¹⁰²

6.38 A strict application of these rules would mean that IAS providers would not be able to continue to provide access to emergency video relay over the internet when access to the internet is otherwise blocked, either where an account is suspended for non-payment or where a user with a limited data bundle has used up their allowance or it has expired. However, the principle of equivalence for disabled users of communications services would imply that it should always be possible to make an emergency video relay call, in the same way that it is always possible to dial 999. As such, we consider that access to emergency video relay should take priority and, if IAS providers do make emergency video relay available in these circumstances, this is unlikely to be something Ofcom would object to on policy grounds.

6.39 Ofcom is carrying out a review of the net neutrality framework, as set out in our Plan of Work 2021/22.¹⁰³ This will include consideration of the treatment of communications with the emergency services.

¹⁰¹ Emergency voice calls using Voice over IP (VoIP) technology over broadband networks are out of scope for our examination of emergency video relay. While there may be parallels to both approaches, there are also material differences between them. Consequently, we are not taking decisions on the matter of zero-rating of VoIP emergency calls over broadband networks at this time.

¹⁰² See [Ofcom's approach to assessing compliance with net neutrality rules](#) (16 May 2019).

¹⁰³ [Ofcom's Plan of Work 2021/22](#)

7. Contracting on a fair, reasonable and non-discriminatory basis

- 7.1 We consulted on draft Approval Criteria for emergency video relay as part of the Initial and Further Consultations.
- 7.2 In the Further Consultation we consulted on an additional approval criterion, which is that to be approved, a relay supplier must undertake to agree to contract for the provision of the service on fair, reasonable and non-discriminatory terms as part of any contract with any Regulated Provider or wholesaler. See also Section 5 on cost recovery, and the Further Consultation where we indicated that we considered it would be reasonable for a wholesaler for emergency video relay to charge for its administrative work so long as this was on fair, reasonable and non-discriminatory terms.

Consultation responses

- 7.3 Respondents supported the proposed additional criterion on relay suppliers. For example, Three and BUUK Infrastructure welcomed the proposal, and Telefonica O2 said, “we welcome Ofcom’s decision to ensure access to wholesale emergency video relay services to be on fair, reasonable and non-discriminatory terms, conditions and charges (FRAND). This is consistent with the requirements set out for the existing Next Generation Text Relay service.”¹⁰⁴ Sign Language Interactions Group said that it agreed so long as emergency video relay suppliers can make sufficient profit that their service remains viable.¹⁰⁵
- 7.4 Zoomm was concerned that “there is no provision for what should happen if the terms proposed are not fair, reasonable, and non-discriminatory. If the charges were to be challenged and Ofcom [were] asked to intervene, what would happen in the meantime for operators subject to the new GCs?”¹⁰⁶
- 7.5 BT commented that, “There is a danger that fair, reasonable and non-discriminatory terms are confused with SMP [significant market power] regulatory terminology which Ofcom can only impose on CPs [communication providers] following a market review”.¹⁰⁷ It continued that a FRAND term in a contract is not defined in contract law and therefore cannot be enforced in the event of a legal dispute. BT also said, “For the market to function well with a new supplier who is not familiar with the telecom regulatory regime, we propose that Ofcom should review suppliers’ costs and margins as part of its quarterly reviews. This will help ensure costs to industry and ultimately to consumers are reasonable.”

¹⁰⁴ [Telefonica O2 response to the Further Consultation](#)

¹⁰⁵ [Sign Language Interactions Group response to the Further Consultation](#)

¹⁰⁶ [Zoomm response to the Further Consultation](#)

¹⁰⁷ [BT response to the Further Consultation](#)

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- 7.6 In relation to Ofcom highlighting that it would be open to the approved supplier (or a wholesaler if there were one) to agree contracts with very small regulated providers for a nominal value, Andrews & Arnold said that this leaves “it to the commercial whims of a wholesaler as to whether they wish to offer such nominal pricing or not. Unless there is a regulatory obligation to offer such nominal pricing, there is a very real risk that smaller providers will be ‘priced out’.”¹⁰⁸
- 7.7 Virgin Media said, “with all potential approaches to the provision of Emergency Video Relay services, there are legitimate concerns among CPs [communications providers] about unfair or excessive application of wholesale rates and charges.”¹⁰⁹
- 7.8 Virgin Media also said, “Whilst Virgin Media agrees with Ofcom’s proposal to not regulate pricing or involve itself in contractual negotiations, we do feel that the highlighted risks remain. We believe, therefore, that the proposed intervention from Ofcom, requiring suppliers of approved emergency video relay services to include a clause about fair, reasonable and non-discriminatory terms in any contract with CPs, must be included in the approval criteria for suppliers of Emergency Video Relay services.”
- 7.9 In its response to the Initial Consultation, Telefonica O2 said that it was concerned that the absence of clarity and certainty about funding could give rise to disputes, or result in the exploitation of market power where there is only one wholesale provider of such services available.

Our assessment

- 7.10 In response to BT’s point, the approval criterion it refers to requires an undertaking from the relay supplier to contract on fair, reasonable and non-discriminatory terms (i.e. to contract on that basis). The actual terms of the contract, including all the details, are to be negotiated and agreed between the contracting parties and it is up to them to ensure that there is sufficient certainty and detail so that all the contract’s terms are enforceable. For example, it would be up to the negotiating parties to agree what was meant by fair, reasonable and non-discriminatory in the particular circumstances of their contract.
- 7.11 In response to Zzoomm, compliance with the GCs will still be required in the event of a dispute. Emergency video relay is a critical life-saving service, provision of which cannot be ceased in the event of a contractual dispute. It would of course be open to regulated providers to source an alternative approved service should a dispute become impassable and/or protracted.
- 7.12 We do however also consider that the inclusion of a specific term in the contract recording the fact that the parties have agreed that the service should be supplied on a fair, reasonable, and non-discriminatory basis would reinforce the supplier’s undertaking referred to in the Approval Criteria. Therefore, in response to BT’s comments, we have modified the criterion to ensure that there should be a specific clause in the contracts. We

¹⁰⁸ [Andrews & Arnold response to the Further Consultation](#)

¹⁰⁹ [Virgin Media response to the Further Consultation](#)

do not consider that contracting on a FRAND basis (and including a FRAND clause) in emergency video relay contracts is likely to be confused by the contracting parties with SMP terminology.

7.13 Additionally, following consideration of stakeholder comments raising concerns about potential unfair or excessive wholesale charges, we further decided that where there is a wholesaler and/or some other third party intermediary, there should also be agreement of contracts on a FRAND basis between the intermediary and regulated providers. To ensure this is put in place, we have revised the requirement in the Approval Criteria (and made some minor drafting changes) so that essentially the supplier would be required to do these things:

(a) that any contract in respect of the service that the supplier enters into directly with regulated providers or an intermediary is to be on FRAND basis (with a FRAND clause documenting that the contract had been agreed on that basis); and

(b) if the supplier enters into a contract in respect of the service with an intermediary, it will require the intermediary to agree as part of that contract that they will contract with regulated providers on a FRAND basis (with a FRAND clause documenting that the contract has been agreed on that basis).

7.14 We have therefore decided that this requirement, modified as explained above, be included in the final Approval Criteria. These are set out in Annex 1 of this document.

7.15 In response to BT's suggestion that Ofcom should review suppliers' costs and margins as part of its quarterly reviews as a way of ensuring costs to industry and consumers are reasonable, Ofcom considers that the appropriate means of ensuring reasonable supplier pricing (which should take into account costs and margins) is by ensuring robust contractual terms are in place and the parties to the contract monitor compliance with those terms. Therefore, the regulated providers and/or intermediary are best placed to keep such matters under review. Moreover, the fact that more than one service can be approved by Ofcom should act as a constraint on pricing of the service.¹¹⁰

¹¹⁰ This is consistent with section 3 of Ofcom's [2012 statement on text relay](#) where we refer to the constraints on the price BT can charge for text relay.

8. Registration and use of the service

User registration

- 8.1 In the Further Consultation, we consulted on a requirement that registration must not be compulsory in order to use emergency video relay.
- 8.2 Registration is often required for users to use and access some websites and apps. Users register by providing details such as an email address, and from that point on, the user may be required to use a password to gain access to the website or app.
- 8.3 In their responses to the Initial Consultation, Three asked if customers would have to register for emergency video relay, and an individual respondent said it was important that emergency video relay did not require registration or downloading.
- 8.4 Compulsory registration would not be consistent with the principle of equivalence, because hearing people do not need to register in order to make voice 999 calls. We consider that if the service required users to log in at the time of use, this could lead to harm in time-critical emergency situations e.g. an end-user struggling to remember their password while their house was on fire.¹¹¹
- 8.5 We therefore consulted in the Further Consultation on an additional approval criterion to say that end-users must not be required to register in order to use emergency video relay.

Consultation responses

- 8.6 Responses to the Further Consultation suggested that voluntary, as opposed to compulsory, registration may offer some benefits to end-users, particularly related to call-backs.
- 8.7 Zzoomm said that customers should not have to pre-register for using the emergency video relay service but that they would welcome proposals to encourage customers to inform service providers of their specific needs. This would help them provide a better service to deaf and hearing-impaired customers including, for example, assistance with back-up power for essential devices.¹¹² Deaf Links agreed that deaf BSL users should not be expected to register to access or use the service.¹¹³
- 8.8 Hyperoptic said that registration should not be compulsory, but it should not be prohibited either, as there were likely to be benefits.¹¹⁴ UKCTA said there were benefits to be gained from registration which suggested that voluntary registration, at the very least, was

¹¹¹ There is minimal registration for emergency SMS (users text 'register' to 999). The reason for this is to protect the service from messages sent in error which waste resources. There are up to 500 messages a day from unregistered mobile numbers to 999, most of which are clearly not intended for the emergency services (e.g. "I'm running late"). We consider that the problem of messages sent in error would be very unlikely to arise with emergency video relay because of the way in which the service would be accessed and used.

¹¹² [Zzoomm response to the Further Consultation](#)

¹¹³ [Deaf Links response to the Further Consultation](#)

¹¹⁴ [Hyperoptic response to the Further Consultation](#)

- preferable. It strongly recommended that end-users were encouraged to register in order to provide location information.¹¹⁵ BT said that registration should be optional unless there were specific technical reasons for registration to be required, and noted that registration would not be equivalent with voice 999 calls. This would enable individuals to choose if they wanted to register e.g. to facilitate location information.¹¹⁶
- 8.9 Deaf charities also said that registration should not be compulsory but that the voluntary provision of mobile numbers may facilitate call-backs. They suggested alternatives, including that there could be an optional provision of information at the time of downloading the app, an entirely optional registration process or through the protocols established for the interpreters and call-handlers taking a call.¹¹⁷
- 8.10 Deaf charities also raised the issue of the mechanism for call-backs in their response to the Initial Consultation, recommending that call-backs should be in a video relay format and be facilitated by SMS link.¹¹⁸ ASLI also asked about the mechanism for call-backs in its response to the Initial Consultation.¹¹⁹
- 8.11 Sign Language Interactions Group also agreed that end-users should not need to register to be able to use the service. However, they thought this should not preclude users being able to register and log on, if they choose to do so and have sufficient time, as this might provide additional information useful in an emergency call.¹²⁰
- 8.12 However, not all respondents were in agreement. The BCC in its response to the Further Consultation urged Ofcom to require prior registration. It submitted that “registration would be more proportionate in that only those providers with customers who identify their registered end-user would be required to provide or contract to provide Emergency Video Relay.”¹²¹ Virgin Media considered that end-users should not be required to register when using the service. However, it believed that an initial registration process should be required in order for the service to be used effectively and to enable it to fully support its users.¹²² Sign Solutions thought there was a need for registration for the first time someone downloaded the app only, to facilitate call-backs.¹²³
- 8.13 Three said Ofcom should consider how best to protect the service from misuse and to support users of the service. It said having a registered service can help to avoid misuse (e.g. a security attack) by giving providers more visibility of users. It also said “Ofcom might consider introducing a requirement for the emergency video relay provider to ask users to provide details of which home network they are on. It would also be helpful if network providers could be made aware of which of their users are using the service, as this would

¹¹⁵ [UKCTA response to the Further Consultation](#)

¹¹⁶ [BT response to the Further Consultation](#)

¹¹⁷ [Deaf charities response to the Further Consultation](#)

¹¹⁸ [Deaf charities response to the Initial Consultation](#)

¹¹⁹ [ASLI response to the Initial Consultation](#)

¹²⁰ [Sign Language Interactions Group response to the Further Consultation](#)

¹²¹ [Business Carrier Coalition response to the Further Consultation](#)

¹²² [Virgin Media response to the Further Consultation](#)

¹²³ [Sign Solutions response to the Further Consultation](#)

help providers assist with any issues arising with the service and communicate with the customers concerned.”¹²⁴

- 8.14 Simwood supported the principle of users not being required to register (e.g. no passwords required) to use the service but was concerned that the service could be hijacked and potentially deny access to users in times of need. They considered the risk of a denial of service attack to be “considerably higher” than to traditional voice 999 services. Simwood suggested an addition to the Approval Criteria for a minimum requirement to assure the integrity and resilience of the service.¹²⁵

Our assessment

- 8.15 Zzoomm’s point about resilience in power cuts is addressed in paragraph 10.17.
- 8.16 We do not agree that compulsory registration is desirable for the reasons given in paragraph 8.4. We do agree that there may be additional benefits from allowing for optional prior registration with the emergency video relay service. The approval criterion requires that the service must be available without any requirement to register to use it or access the service. This means that compulsory registration is not a requirement, but does not preclude the possibility of voluntary registration.
- 8.17 We do not agree with the suggestion by Simwood that registration could be required, without needing a login or password at the point of use i.e. in an emergency, as the list of people registered would not help to identify malicious users.
- 8.18 Although call-backs are not emergency communications, we recognise there will be instances where the emergency services need to call users back. Therefore we have decided to include a requirement in the Approval Criteria for the service supplier to maintain a system whereby phone numbers and/other contact information are obtained to enable call-backs and/or other contact with the end-user. The relevant information could be obtained on a voluntary basis when a user registers or during the course of an emergency call. We consider that this is consistent with the principle of equivalence of access. Voice calls made from fixed or mobile phones will normally have their number presented automatically to the emergency services, enabling call-backs.¹²⁶ To ensure compliance with data protection and privacy laws, the criterion also includes a requirement about the retention period and that the service supplier must comply with all applicable data protection and privacy laws.¹²⁷
- 8.19 A connection over a data network may not allow for call-backs as the application being used may not register with a telephone network, so a different approach is needed to achieve the policy objective of equivalence. If a deaf end-user voluntarily provides a mobile

¹²⁴ [Three response to the Further Consultation](#)

¹²⁵ [Simwood response to the Further Consultation](#)

¹²⁶ Fixed lines and the equivalent mobile SIMs have telephone numbers assigned to them to allow incoming and outbound calls, so any phone connected to or registered with its network will have a telephone number associated with an emergency call. This is not possible when mobile phones ‘roam’ onto a different network to make an emergency call.

¹²⁷ Note data and privacy law compliance must also be adhered to in respect of video recordings.

number, they could be sent a text message (SMS) asking them to make further contact with the emergency services. SMS is extremely resilient as it uses ‘store and forward’, protocol, so a message is more likely to reach the end-user even if they have lost data connection (for example, having moved out of range of a wireless signal).

- 8.20 Call-backs through the emergency video relay app would be technically possible, but would require the end-user to be aware of them (by hearing a ringing tone, seeing a visual signal or feeling a vibration). Recent research commissioned by the Canadian communications regulator with users of video relay in Canada suggested that incoming calls were easy to miss unless the user was looking at their device.¹²⁸
- 8.21 We understand that video relay calls to NHS 111 can be made anonymously via the website or have the option for the deaf end-user to provide their mobile number. We also understand that NHS 111 has worked with the video relay supplier to adjust procedures to reduce the need for call-backs to deaf BSL users.
- 8.22 Our decision is to include the approval criterion that the service must be available without any requirement to register to use it or access the service. This will not preclude voluntary registration. We are including a requirement for the relay supplier to maintain a system whereby telephone numbers and/or other contact information from the end-user are obtained to enable call-backs and/or other contact to be made. This also includes a requirement in relation to the retention period and compliance with all applicable data protection and privacy laws.

The obligation to ensure emergency video relay can be accessed and used

- 8.23 In its response to the Initial Consultation, Andrews & Arnold commented on our proposed requirement for regulated providers to ensure end-users with disabilities “can access and use” emergency video relay. It said it does not provide training to customers, so cannot ensure that any given customer can use a third party’s service, if it is poorly designed, or if the user requires particular equipment or facilities. Andrews & Arnold also said, “we could not ensure that any end user could ‘access’ any particular service, beyond ensuring that that traffic was routable on our network. If a user has an incompatible browser (or no browser), then that is outside our control”.¹²⁹

Our assessment

- 8.24 The reference to “access and use” in this context is consistent with the existing regulatory obligations for text relay. We do not require regulated providers to provide training for customers. Nor do we require that regulated providers should have to do anything in

¹²⁸ [Sage Research Corporation \(2020\). Video Relay Service Public Opinion Research: Final Report Prepared for the Canadian Radio-television and Telecommunications Commission](#)

¹²⁹ [Andrews & Arnold response to the Initial Consultation](#)

relation to matters beyond their control, such as a customer not having a compatible browser.

Speed of communication via emergency video relay

- 8.25 Three asked for clarification on the speed of communication requirement in the GC definition of “Emergency Video Relay Service”.¹³⁰ It said, that Ofcom’s proposed “emergency video relay service” definition asks that this service “insofar as reasonably practicable, allows for communication between end-users of the service at speeds equivalent to voice communications.” Three asked that Ofcom make clearer what its proposed requirement is on this, “Is it, for example, a call set-up time requirement for the video relay service provider? Given that there are no current minimum guaranteed speed requirements for mobile operators in either the EECC or under EU Open Internet Regulation rules, Three presumes that this is not a mobile network level requirement.”

Our assessment

- 8.26 The definition of “Emergency Video Relay Service” in the GC specifies that the service “insofar as reasonably practicable, allows for communication between End-Users of the service at speeds equivalent to voice communications”. This relates to the translation speed between BSL and English. As set out in the Approval Criteria, to be approved, a supplier’s service has to fall within this definition and the Approval Criteria state that “The service must be an Emergency Video Relay Service as referred to in the General Conditions and must be capable of satisfying all the requirements set out in the Emergency Video Relay General Condition at C5”. Therefore, the supplier will have to ensure, insofar as reasonably practicable, equivalent speeds. For the avoidance of doubt, it is not a mobile network level requirement.

Handsets

- 8.27 A confidential respondent asked about emergency situations where vulnerable customers may be unable to unlock their phone and open an app. It suggested that Ofcom should engage with handset providers to ensure that their mobile operating software takes this into account.

Our assessment

- 8.28 Provided that it is technically feasible and proportionate, we consider this to be a sensible suggestion and one that would benefit BSL end-users in an emergency situation. Although Ofcom does not have statutory powers in relation to this handset matter, we will raise this issue with the trade body representing handset manufacturers, the Mobile and Wireless Forum.¹³¹

¹³⁰ [Three response to the Initial Consultation](#)

¹³¹ [Mobile and Wireless Forum website](#)

9. Interpreter role and issues relating to the Approval Criteria

Interpreter qualifications, experience, role and welfare

- 9.1 We consulted on a proposal that all persons acting as interpreters for the Emergency Video Relay Service must:
- a) be on the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) register for qualified interpreters;
 - b) have at least two years' post-qualification experience acting as a BSL interpreter in a range of settings;
 - c) have had a clear Disclosure and Barring Service (DBS) check within the last two years.
- 9.2 The Association of Sign Language Interpreters (ASLI)¹³² and deaf charities¹³³ said that current ASLI guidance recommends interpreters in video relay settings should have at least three (rather than the two proposed in the Initial Consultation) years' post-qualification experience.
- 9.3 ASLI also, in response to the Initial Consultation, made a number of points about the role of the emergency video relay interpreter, noting that flexibility will be required in order for interpreters to use their knowledge and expertise to help the emergency call handler assess the situation, for example by generating their own questions.
- 9.4 ASLI and a confidential respondent also had concerns about the wellbeing of interpreters when dealing with potentially very distressing situations such as domestic violence or child abuse. ASLI recommended that interpreters be given a choice of whether to handle 999 calls.
- 9.5 Deaf charities said they hoped that Ofcom and any approved supplier(s) would engage with representatives of BSL interpreters to ensure the instructions and guidance given to the interpreters was appropriate to the nature of the calls they will be handling and the needs of the deaf community.

Our assessment

- 9.6 We have accepted ASLI's recommendation for three years' post-qualification experience and this decision is reflected in the final Approval Criteria.¹³⁴
- 9.7 The role of the interpreter and interpreter welfare would be operational matters for suppliers of approved emergency video relay services. We are aware that for NHS 111, the

¹³² [ASLI response to the Initial Consultation](#)

¹³³ [Deaf charities' response to the Initial Consultation](#)

¹³⁴ See paragraphs 7.53 and 7.56 of the [Further Consultation](#)

video relay supplier has been able to collaborate with the NHS to adjust scripts and procedures to make the service more accessible for deaf end-users.

Staying on the call

9.8 In response to the Initial Consultation, ASLI said that in an emergency situation, the service may need to move from video relay (where the caller and the emergency services are in different locations) to on-location video remote interpreting (where the emergency services and the caller are in the same place). ASLI considered that it was not appropriate to place the interpreter in a situation where they could not remain on the call to ensure the ongoing safety of a citizen.¹³⁵

Our assessment

9.9 As the GC sets out, emergency video relay is a service which provides BSL translation and relay facilities for the purposes of requesting and receiving emergency relief.¹³⁶ The emergency video relay supplier will need to develop operational procedures that take account of the needs of deaf end-users and allow interpreters to use their professional judgement about the appropriate point at which to exit an emergency communication once the emergency services have arrived.

Minor changes to the Approval Criteria

9.10 In the Further Consultation we also made some very minor changes to the draft Approval Criteria to improve the clarity and accuracy. These were indicated in yellow highlighted underlined text in Annex A6 of the Further Consultation.

9.11 No one commented on these minor changes in responses to the Further Consultation and they are not discussed further here. We have therefore decided to include them in the final Approval Criteria.

9.12 We also wish to reiterate that, in order for an emergency video relay service to be approved by Ofcom and to retain such approval, it must satisfy all the Approval Criteria on an ongoing basis.

Changes to the Approval Criteria that were suggested but not accepted

9.13 BT suggested a further two reporting requirements in the Approval Criteria to mirror those for text relay.¹³⁷ These were:

¹³⁵ [ASLI response to the Initial Consultation](#)

¹³⁶ Article 2(38) of the EECC says that equivalent access is required to be “available through emergency communications”. An emergency communication is defined as a “communication by means of interpersonal communications services between an end-user and the PSAP with the goal to request and receive emergency relief from emergency services.”

¹³⁷ [BT response to the Initial Consultation](#)

Statement: Emergency video relay

- Total calls to be subject to a handover
- Emergency calls abandoned. This is in line with the standard voice service measure

Our assessment

- 9.14 The Approval Criteria say that emergency communications should not be subject to a handover from one interpreter to another unless they continue for more than 30 minutes. This reflects the fact that handover to another BSL/English interpreter is more complex than handover to another text relay assistant. Given that the average length of a voice 999 call in the UK is around 3.5 minutes, we consider that the number of emergency video relay calls lasting longer than 30 minutes **and** subject to a handover would be extremely small and so this metric is unlikely to generate meaningful data. Ofcom has a duty not to impose unnecessary obligations, and we have not seen any evidence that it would deliver public benefit for this metric to be required to be reported.
- 9.15 For text relay reporting purposes, “abandoned” means that the call is ended by the caller before the relay assistant is brought in. It will not be possible for emergency video relay calls to be abandoned before the interpreter is brought in, as in a video relay call, the connection to the interpreter is made before the interpreter is connected to the hearing party via a voice call. There is no call directly between the deaf user and the hearing party.

10. Technical underpinning of the service

The speed and quality of the data connection

- 10.1 BT noted that end-users would need access to a data connection of adequate speed and quality and would need to be familiar with how to use the device and the app. It said that it would be useful for Ofcom to consider this in its “market sizing assessment”.¹³⁸
- 10.2 A confidential respondent noted that the app will require network data to run effectively, leaving the provision of the service open to impact if there are underlying data coverage issues (particularly in rural and densely populated areas).

Our assessment

- 10.3 We have considered BT’s comment that it would be useful to consider the adequacy of the data connection, a suitable device and familiarity with the app in our “market sizing assessment”. This is potentially relevant to our assessment of benefits. We quantified the benefit from deaths that would be avoided through emergency video relay in paragraphs A10.15 to A10.33 of the Initial Consultation. We assumed the possible use made of an emergency video relay service based on information on the frequency of emergency calls by the general population. Based on this, we estimated there would be around 90 incidents where people were transported to hospital by ambulance in life-threatening situations, and we judged it reasonable to assume that at least two fatalities could be avoided per year if a video relay service existed, and the number of fatalities avoided might be much higher than this. We did not explicitly include an adjustment for the proportion of deaf people who might use the service being less than the proportion of the general population who would use an emergency voice service because the lack of connection or a suitable device might be higher for video calls than voice calls. However, we consider our judgement of at least two fatalities prevented is sufficiently conservative to take account of this.
- 10.4 In response to the confidential respondent’s point, data connections and video communications are increasingly common and reliable in the UK. The scope of ‘emergency communications’ was broadened in the EECC to specify the inclusion of video relay.

Network resilience

- 10.5 In their responses to the Initial Consultation, Three asked whether regulated providers would be required to provide uninterrupted access to the data network in order for end-users to be able to use emergency video relay and Post Office commented that uninterrupted access to emergency services is required for Publicly Available Telephone

¹³⁸ [BT response to the Initial Consultation](#)

Statement: Emergency video relay

Services.^{139, 140} Three asked Ofcom to amend the proposed GCs C5.11 and C5.12 to clarify expectations on availability of data services to be offered to underpin the provision of emergency video relay. It also suggested that Ofcom could confirm this in their guidance on security requirements in sections 105A to D of the Act.

- 10.6 Three also raised concerns about a reference in our Initial Consultation to the obligation for IP networks to have resilience solutions. It said: “Three also has concerns with Ofcom’s requirements for emergency video relay in light of paragraph 10.11 of the Consultation, which refers to an existing 999 calls requirement to ‘require resilience solutions such as battery backup to ensure that emergency calls can be made on IP networks in power cuts.’ In Three’s view, the cost of the battery could be a significant portion of the ‘data’ device price. Three therefore asks that the requirement to provide resiliency in the form of battery back-up for ‘data’ devices which might be used to access emergency video relay services be removed as a disproportionate measure when compared to the likely consumer benefit this offers.”
- 10.7 Simwood called for Ofcom’s power cuts guidance to be reviewed to make it clear that an IAS provider is required to provide the requisite resilient solution to a vulnerable deaf BSL end-user.¹⁴¹
- 10.8 Hyperoptic considered that there was an inconsistency between the fact that Ofcom was not imposing a requirement for regulated providers to provide access to emergency video relay when accounts were suspended for non-payment and the fact that IAS providers were being encouraged to consider resilience solutions, consistent with voice 999 requirements.¹⁴²
- 10.9 Mobile UK commented that for mobile, battery life is determined by the customer.¹⁴³

Our assessment

- 10.10 GC A3.2 aims to ensure the fullest possible availability of public communications services at all times (‘fullest possible availability obligation’) and uninterrupted access for voice communications calls to emergency organisations (‘uninterrupted access obligation’). Modifications to reflect the wording in Article 108 of the EECC were set out in our recent consultations and statements.¹⁴⁴ These changes take effect at the end of 2021.
- 10.11 Although the EECC extended an obligation in relation to ensuring the ‘fullest possible availability’ to apply to all voice communications and internet access services provided over public electronic communications networks, the obligation to ensure ‘uninterrupted

¹³⁹ [Three response to the Initial Consultation](#)

¹⁴⁰ [Post Office response to the Initial Consultation](#)

¹⁴¹ [Simwood response to the Further Consultation](#)

¹⁴² [Hyperoptic response to the Further Consultation](#)

¹⁴³ [Mobile UK response to the Initial Consultation](#)

¹⁴⁴ See the [Initial Consultation](#), published on 17 December 2019; [Statement and Consultation: Implementing the new European Electronic Communications Code](#), published on 27 October 2020; and [Statement: Implementation of the new European Electronic Communications Code](#), published on 17 December 2020.

- access' to emergency organisations remained limited to voice communications services only.
- 10.12 The 'uninterrupted access obligation' requires regulated providers¹⁴⁵ to take all necessary measures to ensure uninterrupted access to emergency organisations as part of any voice communications services (formerly called 'Publicly Available Telephone Services') offered. We were asked, in responses to our Initial Consultation, if this meant that emergency video relay users needed to benefit from uninterrupted access to data networks, as the proposed emergency video relay service will work by accessing data networks.
- 10.13 There is currently no obligation on IAS providers to ensure uninterrupted access to data networks and we do not consider it necessary to extend the scope of the uninterrupted access obligation in GC A3.2(b) to apply to IAS providers or data networks generally. However, given the principle of equivalence of access for disabled end-users, we have considered how uninterrupted access to emergency organisations for deaf BSL users might be achieved.
- 10.14 Take-up of mobile phones, including smartphones, in the UK is very high, and two-thirds of voice 999 calls are made from mobile devices. We might expect broadly similar proportions for emergency video relay communications.
- 10.15 If a deaf BSL user is using a smartphone (or a tablet with a SIM) on their fixed Wi-Fi connection to access emergency video relay and there is a power cut, the device will automatically switch to mobile data, powered by the device's battery. However, deaf BSL users who do not have a smartphone or a tablet with a SIM, or who do not have a mobile signal in their home, may need to rely on their fixed broadband to make emergency video relay communications during power cuts on a suitable connected device with a battery such as a laptop. These end-users may benefit from a resilience solution. Suitable solutions might include battery backup for the broadband router or the provision of a device with a data-enabled SIM.
- 10.16 Resilience solutions are discussed in Ofcom's Guidance on protecting access to emergency organisations when there is a power cut at the customer's premises.¹⁴⁶ This guidance on General Condition A3.2(b) sets out Ofcom's expectations on the measures providers should have in place to ensure customers making calls over broadband are able to make emergency calls in the event of a power cut at their premises. In the Guidance we said that providers must ensure equivalent access for customers using textphones or text relay.
- 10.17 The guidance requires communications providers to take steps to assess the needs of the individual customer. We would also encourage providers of IAS to consider the particular needs of deaf BSL end-users and provide them with a resilience solution on request where needed. We note in this regard that providers of IAS are subject to the 'fullest possible

¹⁴⁵ For the purposes of Condition A3.2, a 'Regulated Provider' is any person who provides a Voice Communications Service and/or Internet Access Service and/or a Public Electronic Communications Network over which a Voice Communications Service and/or Internet Access Service is provided.

¹⁴⁶ [Protecting access to emergency organisations when there is a power cut at the customer's premises](#). Guidance on General Condition A3.2(b)

availability obligation' in GC A3.2(a) in any event. However, at this time we are not proposing to extend the 'uninterrupted access obligation' in GC A3.2(b) to providers of IAS.

- 10.18 On the suggestion that Ofcom could clarify expectations on the availability of data services in its guidance on security requirements under sections 105A to D of the Act, we intend to replace our published security guidance in due course following the passage of the Telecommunications (Security) Bill, which is currently before Parliament.¹⁴⁷
- 10.19 We do not agree with Hyperoptic's comment in paragraph 10.8. We are not requiring regulated providers to ensure access to emergency video relay where an account has been suspended for non-payment since this would, in effect, require providers to lift the suspension of internet access generally (i.e. beyond just emergency calls) in order to comply with net neutrality rules (see section 6). Given our policy objective of equivalence with voice 999 calls insofar as possible, we do still encourage regulated providers to consider and provide appropriate resilience solutions to those customers who may depend on a functioning fixed broadband connection as their only means of contacting the emergency services by emergency video relay.
- 10.20 In response to Simwood, as stated in paragraph 10.13, we do not consider it necessary to impose obligations for uninterrupted access to data networks.

Incident location information

- 10.21 In their responses to the Initial Consultation, Telefonica O2 and BT said that it was essential for the Public Safety Answering Point (PSAP)¹⁴⁸ to be informed of the caller's location rather than the interpreter's location. This would need to be built into the technical specifications of the service and the protocols for its operation. BT asked if the location information would be obtained by the emergency video relay provider.¹⁴⁹ Telefonica O2, in its response to the Initial Consultation, asked Ofcom not to include emergency video relay services in the scope of the existing regulatory requirement to provide caller location.¹⁵⁰ Three said in its response to the Further Consultation that any location information would need to be device-based not network-based. It also commented that the requirement for deaf users to be asked to confirm their location in BSL would be helpful.¹⁵¹

Our assessment

- 10.22 We agree that it is essential for the emergency services to be given the incident location information of the BSL user initiating the emergency video relay call where this is technically feasible. The Approval Criteria include a requirement on the emergency video relay supplier to obtain incident location information.

¹⁴⁷ [Telecommunications \(Security\) Bill](#)

¹⁴⁸ A PSAP effectively acts as a "call centre", providing a point of interconnection for calls that are being made over the communications provider's network to the emergency organisations.

¹⁴⁹ [BT response to the Initial Consultation](#)

¹⁵⁰ [Telefonica O2 response to the Initial Consultation](#)

¹⁵¹ [Three response to the Further Consultation](#)

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- 10.23 The Approval Criteria require, where technically feasible, that the incident location information be automatically obtained from the device being used by the end-user. Ofcom has not specified the mechanism by which this should be derived, but handset-derived location is well-established for a range of applications from satellite navigation to emergency calling from smartphones ('Advanced Mobile Location' or 'AML').¹⁵²
- 10.24 In response to Three, we cited AML as evidence that handsets can determine location in a manner that can be conveyed to the emergency services. We were not advocating that this be the method for the app (as the app will have a data channel open to the call handler at the time of the call). We would like to reiterate that the example of AML was to provide confidence that handset-based location derivation is not only feasible but widely available – the precise method employed by the app would be for industry to determine.
- 10.25 There are existing examples of processes and procedures where location and situation details are passed on to emergency services. Calls for assistance can be made from vehicles and security systems via third party 'Telematics' systems to call centres managed by third parties. These centres triage and make emergency calls on behalf of the end-user, passing on location and situation details to the emergency services. We expect that similar processes would be followed for emergency video relay, building on the existing processes and procedures in place for Telematics services.
- 10.26 We have also included an obligation in the Approval Criteria for deaf BSL users to be asked to confirm their location in BSL. Irrespective of the automatic provision of location information, it is standard practice on all 999 calls (including voice, text relay and emergency SMS) for the user to be asked to confirm where they are. NHS 111 call handlers routinely ask for this information at the beginning of video relay calls, as they are able to dispatch an ambulance if necessary, and location information is essential for this purpose.
- 10.27 The rules on providing caller location information to the emergency services, referred to by Telefonica O2, are set out at GC A3.5. This requires regulated providers (for the purposes of that GC),¹⁵³ to the extent technically feasible, to make accurate and reliable caller location information available for all calls to the emergency call numbers "112" and "999". GC A3.6 then provides further detail on what is required in relation to certain specific types of call.
- 10.28 We are not amending GC A3.5 or A3.6 to refer specifically to emergency video relay communications. A BSL user initiating an emergency communication by video relay is not making a call to the emergency telephone numbers, 999 or 112. Therefore, GC A3.5 and A3.6 would not apply to that video communication. That is why we have included additional requirements on the incident location information in the Approval Criteria.

¹⁵² See a [technical report](#) on AML.

¹⁵³ For the purposes of GC A3.5, regulated providers are defined as any Communications Provider who provides End-Users with an Electronic Communications Service, or provides access to such a service by means of a Pay Telephone, for originating calls to a number or numbers in the National Telephone Numbering Plan, excluding any Click to Call Service.

11. Implementation

Expressions of interest

- 11.1 In the Initial Consultation we published an expected sequence of actions for implementation, indicating that we would first invite expressions of interest from parties seeking Ofcom approval to provide an emergency video relay service, before moving to consideration of applications for approval.
- 11.2 Inviting expressions of interest will enable us to ascertain at an early stage how many applications for approval of a service to expect and to plan effectively for the approval process. If there is more than one application, we will be able to consider them concurrently.
- 11.3 We have already received more than one informal expression of interest, but in the event that no formal expressions of interest are received in the first three months we will be aware of the issue at an early stage and will be able to work with industry to address this.

Timetable for implementation

- 11.4 In paragraph 10.57 of the Initial Consultation we published an expected sequence of actions.
- 11.5 Deaf charities in their response to the Further Consultation said, “Given the importance and urgent need of emergency video relay, we urge Ofcom to conclude the consultation as swiftly as possible and not delay the implementation date any further.”¹⁵⁴
- 11.6 Three asked that implementation be considered for after 2022 to give providers adequate time to prepare, given they already have a large number of end-user protections to implement in 2021 and 2022.¹⁵⁵ Telefonica O2 also urged Ofcom to take into account ongoing regulatory projects, and queried whether there will be viable emergency video relay services suppliers suitable for approval, in setting its final implementation timelines.¹⁵⁶
- 11.7 In its response to the Initial Consultation, BT recommended that, like any new proposition, Ofcom should make emergency video relay subject to rigorous concept testing and customer trials and that the outcome of this should not be pre-judged. They said that such an approach would be consistent with Ofcom’s ambition for customer engagement remedies to be trialled in order to gauge their likely effectiveness in improving customer outcomes.
- 11.8 BT also noted that Ofcom proposed to allow an implementation period of one year from statement, but BT was concerned that this pre-supposed that emergency video relay is the

¹⁵⁴ [Deaf charities response to the Further Consultation](#)

¹⁵⁵ [Three response to the Further Consultation](#)

¹⁵⁶ [Telefonica O2 response to the Further Consultation](#)

final solution without any trialling. BT believed it would be more appropriate for the implementation period to start after this has been carried out and after the emergency video relay service approval process had finished.¹⁵⁷

- 11.9 In its response to the Further Consultation, Virgin Media said it would like to understand more about the implementation process of this service, particularly the timeframes envisaged and how Ofcom sees its involvement in the process as a whole.¹⁵⁸

Our assessment

- 11.10 Video relay is an existing product in widespread use in the UK and we do not consider there would be benefit to trials. We have also been able to draw upon the experience of NHS 111, which has relevance to emergency video relay. The role of the BSL/English interpreter is pivotal to video relay and interpreters are subject to rigorous standards set by their own professional body.
- 11.11 Our decision on the implementation date is set out below and it is for regulated providers and any approved service to make the preparations for implementation. Planning by regulated providers for implementation can start straight away.
- 11.12 In relation to the approval process, it includes the following steps that are set out in the timetable below. Ofcom must gather in applications from would-be suppliers and then assess every application against the final Approval Criteria. Should there be one or more suppliers that Ofcom considers meet the Approval Criteria, Ofcom shall then publish a consultation stating that there is a proposal to approve a particular applicant or applicants. It would give the reasons for making the proposal and specify the period within which representations may be made about the proposal. Ofcom shall then consider every representation received during the consultation period and have regard to every international obligation of the UK (if any) notified to it by the Secretary of State. It is only then that Ofcom may give effect to the proposed approval as appears to it to be appropriate.
- 11.13 In line with Section 5 above, we think it reasonable to expect that Ofcom will be able to approve at least one emergency video relay service by January 2022. Regulated providers can begin their own preparations for implementation during this time, and participate in any relevant industry discussions. Once one or more services have been approved, regulated providers would be able to contract for the provision of an approved service and make any further necessary preparations.
- 11.14 Having considered all the responses to the Initial Consultation and Further Consultation, including all the steps that need to be taken by industry, would-be suppliers and Ofcom, we consider that an implementation date of 17 June 2022 is appropriate. This aligns with other General Conditions due to come into force on the same date (these relate to rights to exit contracts, and pre-contract information requirements, and which were announced

¹⁵⁷ [BT response to the Initial Consultation](#)

¹⁵⁸ [Virgin Media response to the Further Consultation](#)

in the EECC statement of 17 December 2020).¹⁵⁹ We have taken account of other work to implement regulation when making our decision.

11.15 In the light of stakeholder comments and the timing of Christmas and New Year 2021/22, our final timetable is as follows:

Figure 11.1: Final timetable for implementation

Expected timing	Action
22 June 2021	Publication of final approval criteria
1 September 2021	Deadline for expressions of interest
1 October 2021	Deadline for formal applications
November 2021	Consultation on any proposal to approve services
January 2022	Publication of a decision by Ofcom to approve one or more services
January-June 2022	Regulated providers contract with a supplier of an approved service, either via a wholesaler or direct

11.16 Implementation is a matter for industry rather than for Ofcom, but we would be happy to attend, if invited, any implementation working group set up by industry.

11.17 As set out in the Notification at Annex 2, the new General Condition will come into force on 17 June 2022.

11.18 In the event that no emergency video relay service were approved by Ofcom, it would be necessary for us to revisit this timetable. However, as stated in paragraph 5.51, we think it reasonable to expect approval of at least one emergency video relay service within seven months of the date of this statement, as envisaged in the Initial Consultation.

Promotion of emergency video relay

11.19 GC C5.6 requires regulated providers to take all reasonable steps to ensure that the various measures needed to meet the needs of disabled users of communications services set out in GC C5 are publicised, taking into consideration the need to disseminate information in appropriate formats through appropriate channels for users with disabilities. Once the new emergency video relay conditions come into effect, they will be included in GC C5 by way of a cross-reference and will be automatically subject to the publication requirement in GC C5.

¹⁵⁹ [EECC statement](#)

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- 11.20 Ofcom’s 2020 guide to treating vulnerable customers fairly gives examples of actions that regulated providers may like to consider when publicising services for disabled end-users.¹⁶⁰
- 11.21 We will also work with relevant charities and media channels to promote awareness of emergency video relay and to encourage end-users to download the app in advance of needing to use it.
- 11.22 Deaf charities said that stronger language was needed to ensure service providers communicate the availability of emergency video relay.¹⁶¹
- 11.23 Simwood said that there should be an awareness campaign about existing ways for deaf people to contact the emergency services.¹⁶²
- 11.24 Other respondents e.g. Three pointed to the need for clear communication about the limitations of emergency video relay, such as the need for a data connection.
- 11.25 Virgin Media said there was scope for Ofcom to promote and publicise the service once it becomes live and offer guidance on its usage.¹⁶³

Our assessment

- 11.26 Regulated providers are already required under the GCs to publicise text relay, emergency text relay and emergency SMS (see GC C5.6) and emergency video relay services will also fall within the scope of this condition.
- 11.27 We will work with organisations such as deaf charities to help publicise emergency video relay via their publications and social media channels.

¹⁶⁰ [Treating vulnerable customers fairly: a guide for phone, broadband and pay-TV providers](#)

¹⁶¹ [Deaf charities response to the Initial Consultation](#)

¹⁶² [Simwood response to the Further Consultation](#)

¹⁶³ [Virgin Media response to the Further Consultation](#)

12. Proportionality

- 12.1 In our consultations we assessed the benefits of emergency video relay, including fatalities prevented, quicker emergency responses and increased dignity and peace of mind for deaf end-users. We set out why we considered the obligation to be proportionate in light of the potential costs.
- 12.2 Our proposals received broad support, including from BUUK Infrastructure which said, “Given the benefits of these services in terms of securing equivalence of treatment, and the prudence of minimising financial risk for any potential wholesaler, we are supportive of a requirement on regulated providers that obliges them to pay toward the cost of these services.”¹⁶⁴
- 12.3 An individual respondent (transcript from BSL) noted the benefits of emergency video relay. It meant she did not need to rely on English or know the spelling of words, she could just sign, and communication would be smooth, quick and easy. It would also be easier for her to understand the operator and follow any instructions and administer help at the same time. She said texting was not the same because she would have to wait for the operator to respond.¹⁶⁵
- 12.4 Some responses however raised concerns about proportionality. In particular, Andrews & Arnold said that it was not realistic to impose this obligation on regulated providers and that “Ofcom cannot claim that it has robustly assessed the proportionality of its proposal when it cannot reliably quantify the cost”. It also said that Ofcom should ensure that the cost/funding model takes into account the limited resources of smaller providers and that the metric for imposing costs on industry needed to be appropriate, to ensure that it did not amount to an undue burden on small providers.¹⁶⁶
- 12.5 In its response to the Further Consultation, Andrews & Arnold said that Ofcom’s proposal left it to industry to design the cost sharing mechanism, with no obligation to have nominal pricing for small regulated providers. Alternatively, if regulated providers had to develop a solution, the cost would be disproportionate. In either case, Andrews & Arnold said that the obligation was disproportionate.¹⁶⁷
- 12.6 A number of other providers also raised concerns around proportionality in their responses to the Further Consultation. Hyperoptic said the proposals would be disproportionately onerous on very small providers if they were required to secure a service provider and negotiate a commercial contract, and therefore urged Ofcom to do its utmost to ensure that a wholesaler stepped forward.¹⁶⁸ Three also had concerns about the requirement if a wholesale or video relay supplier provider does not come forward.¹⁶⁹

¹⁶⁴ [BUUK response to the Further Consultation](#)

¹⁶⁵ [Sam Roxburgh response to the Further Consultation](#)

¹⁶⁶ [Andrews & Arnold response to the Initial Consultation](#)

¹⁶⁷ [Andrews & Arnold response to the Further Consultation](#)

¹⁶⁸ [Hyperoptic response to the Further Consultation](#)

¹⁶⁹ [Three response to the Further Consultation](#)

12.7 Some providers considered the requirements might be disproportionate for providers serving large businesses. We have set out in Section 4 why we do not agree that services provided to business users should be excluded from the scope of the obligation to provide access to emergency video relay. As discussed below, the cost for an individual regulated provider of meeting the obligation is likely to be proportionate, given the benefits we have identified.

Our assessment

12.8 Having considered all responses to the Initial and Further Consultations, we remain of the view that the emergency video relay requirement is proportionate. We set out our reasons for this in the Initial Consultation and Further Consultation. For completeness, we repeat these below, and then respond to the arguments made in responses to the Further Consultation.

12.9 As set out in Section 10 of the Initial Consultation and Section 8 of the Further Consultation, we consider there are limitations of the existing methods of emergency communication for deaf BSL users. We therefore see important benefits from the provision of approved video relay services for emergency communications:

- a) **Benefits from deaths avoided.** We quantified the benefit from deaths that would be avoided through emergency video relay in paragraphs A10.15 to A10.33 of the Initial Consultation. We judged it reasonable to assume that on average at least two fatalities could be avoided each year if emergency video relay existed, and the number of fatalities avoided might be much higher than this. It is of course very difficult to estimate the value of preventing a fatality, but Government considers that it can be appropriate to use the value of a statistically prevented fatality when assessing policy options.¹⁷⁰ For the purpose of considering the impact of our proposal, we adopted this methodology. Using a value of a single prevented fatality of around £2m, our provisional conclusion was that the minimum level of benefits from saved lives would be around £4m per year and, in all likelihood, would be considerably larger.
- b) **Benefits from quicker emergency responses:** for example, treatment of injuries or illnesses, reduced damage to property (e.g. in relation to fire) and quicker responses from the police.
- c) **Benefits to the emergency services** in the form of faster and more accurate calls.
- d) **Increased dignity and peace of mind** for deaf BSL users from knowing that video relay for emergency calls is available, even if they do not need to make an emergency call.

12.10 While we only quantified the first of these benefits, all of them remain integral to our assessment of the proportionality of our decision.

¹⁷⁰ See paragraphs 6.36 to 6.38 of [The Green Book: Central Government Guidance on Appraisal and Evaluation](#), HM Treasury, 2020

- 12.11 In terms of the costs of the obligation, we said in the Initial Consultation that the cost of the 24-hour service that Contact SCOTLAND - BSL provides is around £400,000 per year. While the emergency video relay service would cover the whole of the UK rather than just Scotland, we do not anticipate the number of calls being higher. This is because Contact SCOTLAND - BSL handles a much wider range of calls than would a UK-wide emergency service.¹⁷¹ However, we said we would expect the costs of an emergency video relay service to be higher due to the need for it to have high resilience, with the capability to answer calls very quickly and handle occasional peaks in the number of calls.
- 12.12 Even if the costs of emergency video relay provision were greater than for the provision of the services offered by Contact SCOTLAND - BSL, we considered it unlikely that the costs would be ten times higher than the cost of Contact SCOTLAND - BSL, which is what it would need to be to outweigh the quantified benefit alone (namely the estimated benefits of two prevented fatalities per year). Further, considering the unquantified benefits noted earlier, we consider it very unlikely that the costs of provision would exceed the benefits.
- 12.13 We recognise that the above assessment considers the cost of funding the emergency video relay supplier and does not include the administrative costs of any wholesaler and the costs on regulated providers of having to provide the data connectivity for video calls they might otherwise not have, and for which they cannot charge. However, we consider that these costs are likely to be small compared to the costs incurred by the emergency video relay supplier.¹⁷² We also note that fixed providers that offer capped data packages who do not already have the facility to identify and zero-rate traffic will need to build such a facility in order to continue to offer capped fixed data tariffs. We do not believe the costs of building such a facility would be large. We therefore do not consider that the requirement to provide connectivity free to end-users adds materially to the cost to industry.
- 12.14 The assessment of costs above assumes there is a *single* emergency video relay supplier. This might be achieved via a wholesaler or could also happen with a single supplier contracting directly with all regulated providers. We consider a single emergency video relay supplier to be the most likely outcome of imposing the obligation on regulated providers.
- 12.15 Whilst we do not provide a specific cost estimate for the industry as a whole, we nevertheless consider that we have sufficient information on the likely costs to consider

¹⁷¹ The number of calls connected to the emergency services per person per year for the general population is about 0.31 (that is, 20.5 million 999 calls connected divided by a UK population of 66.4 million people). Applying this ratio to the 11,200 individuals who will have difficulty using the existing text relay system for 999 calls, would imply 3,500 calls per year, or 290 per month. This is much lower than the number of video relay calls now handled by Contact SCOTLAND - BSL. See paragraph A10.21 of the Initial Consultation for how we estimated there would be 11,200 individuals who will have difficulty using the existing text relay system for 999 calls.

¹⁷² For example, the costs of providing data connectivity would be very small. We estimated there may be around 3,500 emergency video relay calls per year. For the purposes of illustration, if we were to assume a high average call duration of 20 minutes and an average data rate of 4 Mbps, this would imply around 2 Terabytes of data per year. To put this 2 Terabytes in context, based on figures in Ofcom's [2020 Connected Nations report](#), fixed networks in the UK have total traffic of over 110 million Terabytes per year and mobile networks about 5 million Terabytes. Set against overall traffic, the increase in traffic from emergency video relay would be negligible.

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that the measure is proportionate, given the benefits we have identified. Provided it is relatively simple for regulated providers, including small regulated providers, to contract for the provision of the emergency video relay service (whether through a wholesaler or directly with an emergency video relay supplier), then we believe it is realistic and proportionate to impose the obligation on regulated providers to contract for this service.

- 12.16 We do not agree with Andrews & Arnold's argument in its response to the Further Consultation that not specifying the cost sharing mechanism makes Ofcom's decision disproportionate for small regulated providers. The Approval Criteria for the emergency video supplier include that it must undertake to agree to contract for the provision of the service on a fair, reasonable and non-discriminatory basis as part of the contract with any regulated provider or wholesaler and/or some other third party intermediary. To fulfil such terms, it is likely that any mechanism to recover the costs would need to take account of the relative size of different providers. While there are many options for precisely how this could be done, the requirement to provide the service on a fair, reasonable and non-discriminatory basis is sufficiently clear for the obligation to be proportionate.
- 12.17 Three raised concerns about the proportionality of the obligation if a wholesale or video relay supplier provider does not come forward. Andrews & Arnold and Hyperoptic submitted that if small regulated providers had to develop a solution, the cost would be disproportionate. Given responses to the Further Consultation, we consider it likely that there will be at least one emergency video relay supplier who will be prepared to offer services to regulated providers. Any individual regulated provider is therefore unlikely to need to develop a solution by itself.

13. Decision and legal tests

- 13.1 Having carefully considered the responses to our Initial and Further Consultations, we have decided to impose an obligation on providers of number-based ICS¹⁷³ and IAS to provide, or contract to provide, a free 24/7 emergency video relay service to be implemented by 17 June 2022.
- 13.2 We consider this to be consistent with the principle of equivalence that is set out in the regulatory framework.
- 13.3 We set out our initial assessment of the costs and benefits of emergency video relay in the Initial Consultation and in Section 8 of the Further Consultation. Having reviewed responses to the Initial and Further Consultations, we remain of the view that the emergency video relay requirement is proportionate. We set out our reasons for this in the previous section on Proportionality.

Legal tests

- 13.4 In Section 2 of this statement, we outlined the test in section 47(2) of the Act which must be met before we can set or modify General Conditions. We consider that the new GC we have decided to set, as outlined in this statement and annexed notification, meets the test for setting conditions in section 47(2) of the Act, as it is:
- a) **objectively justifiable** in relation to the services to which it relates - existing voice, SMS and text relay services are not sufficient for deaf BSL users who need to contact the emergency services. Providing an emergency video relay service for deaf BSL users to contact police, fire, ambulance and coastguard services in the event of an emergency helps to ensure all end-users have access to emergency communications and delivers greater equivalence of access to people with disabilities;
 - b) **not unduly discriminatory** in that all providers who provide internet access services, or number-based interpersonal communications services (where it is technically feasible to provide an emergency video relay service to end-users), i.e. fixed and mobile providers, will be subject to this obligation and it seeks to ensure that costs are spread fairly across these providers;
 - c) **proportionate** to what it is intended to achieve, in that the measures we are introducing are necessary to provide access to emergency communications by BSL users and the estimated benefits of an Emergency Video Relay Service are likely to be higher than the expected costs; and
 - d) **transparent** as the reasons for the General Condition are explained above and in the Initial and Further Consultations and in this Statement, and the effects of the General Condition would be clear to providers in the condition itself.

¹⁷³ Where it is technically feasible to provide an emergency video relay service to end-users.

- 13.5 Our duties under section 3(3) of the Act say that we need to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed. In deciding to set this General Condition, we consider that we have acted in accordance with our general duties under section 3 of the Act.

A1. Final approval criteria

Approval of an Emergency Video Relay Service

- A1.1 In order for an Emergency Video Relay Service to be approved by Ofcom, the service must satisfy all the approval criteria (“Approval Criteria”) set out below on an ongoing basis.
- A1.2 A service provider seeking approval must submit evidence to Ofcom that it can satisfy the Approval Criteria on an ongoing basis.
- A1.3 Where Ofcom has approved a service, Ofcom may, at any time, by notification in writing to the service provider, withdraw its approval where Ofcom considers that the service provider no longer meets the Approval Criteria.
- A1.4 Unless the context otherwise requires, the definitions in the General Conditions of Entitlement (“General Conditions”) shall apply to the Approval Criteria.

Approval Criteria

1. General compliance

The service must be an Emergency Video Relay Service as referred to in the General Conditions and must be capable of satisfying all the requirements set out in the Emergency Video Relay General Condition at C5.

2. Accountability and reporting

The service provider must monitor and report to Ofcom, every quarter, on its operation. The report must be in a form specified by Ofcom and must include the following information:

- a) number of app downloads;
- b) number of emergency communications;
- c) average speed of answering, measured in 15-minute intervals; and
- d) number of complaints and information about the nature of the complaint (without sharing or publication of details that could identify any complainant).

The provider must also publish an annual report covering compliance with the Approval Criteria and any related issues as directed by Ofcom.

3. Access

The service provider must do the following:

- a) Make provision for End-Users to access the Emergency Video Relay Service via a dedicated app and a dedicated website, free of charge (including but not limited to the app itself being available free of charge).

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- b) Ensure clear and user-friendly instructions on how to use the Emergency Video Relay Service are made available in both British Sign Language (BSL) and English on the app and the website.
- c) Ensure, where technically feasible, that the incident location information is automatically obtained from the device being used by the End-User in an efficient and timely way e.g. automatically via the app or website. The validity of the incident location information must always be verified with the End-User in BSL.
- d) Maintain a system whereby telephone numbers and/or other contact information from the End-User are obtained to enable call-backs and/or other contact to be made. The retention period for this information must be in line with the retention period used for other emergency relay services and the service provider must comply with all applicable data protection and privacy laws.
- e) Liaise with regulated providers, including during the design and development phase of the service and/or app, with a view to facilitating zero-rating of data used in connection with the service and/or app.
- f) Ensure that the service shall be available to end-users without any requirement to register to use or access the service.

4. Operational matters

All persons acting as interpreters for the Emergency Video Relay Service must:

- a) be on the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) register for qualified interpreters;
- b) have at least three years' post-qualification experience acting as a BSL interpreter in a range of settings; and
- c) have had a clear Disclosure and Barring Service (DBS) check within the last two years.

The Emergency Video Relay Service must have a dedicated, well-lit and soundproofed video interpreting room. There should be restricted access to the room.

The interpreter should be equipped with a suitable microphone and headset.

5. Quality of Service

Emergency communications must be answered within 5 seconds 95% of the time, measured in 15-minute intervals.

Emergency communications should not be subject to a handover from one interpreter to another unless they continue for more than 30 minutes.

Regular bi-monthly quality of service checks of emergency communications must be carried out by senior interpreters retained by the Emergency Video Relay Service.

Video conversations must be recorded. Retention of any recording should be in line with the retention periods for emergency voice calls and recordings must be stored safely, securely and

accurately, in line with standards for voice calls and the service provider must comply with all applicable data protection and privacy laws.

6. Adequate resources

The service provider must be able to demonstrate that:

- a) it has sufficient funds, facilities and staff to provide the Emergency Video Relay Service and enable it to perform properly the administrative, technical and professional work associated with the tasks for which it has been appointed;
- b) the systems deployed and managed by the service provider have sufficient technical resilience and resources to provide an uninterrupted service, so far as is technically feasible; and
- c) it has appropriate provision for complaints handling.

7. Provision on fair, reasonable and non-discriminatory terms

(1) The Emergency Video Relay Service provider must:

- a) undertake to agree to contract in respect of the service on a fair, reasonable and non-discriminatory basis as part of any contract with any Regulated Provider or wholesaler and/or some other third party intermediary; and
- b) to ensure the inclusion of a clause in such contracts, documenting that the contract has been agreed on that basis.

(2) If the Emergency Video Relay Service provider enters into a contract with an intermediary in respect of Emergency Video Relay, the Emergency Video Relay Service provider must:

require as part of that contract, that the intermediary shall contract with Regulated Providers on a fair, reasonable and non-discriminatory basis; and that the intermediary shall ensure the inclusion of a clause in its contracts, documenting that the contract has been agreed on that basis

A2. Notification of new General Conditions

Notification of setting new General Conditions under Sections 45 and 48(1) of the Communications Act 2003

Background

1. On 17 December 2019, Ofcom published a notification pursuant to section 48(1) and section 48A(3) of the Act (the “First Notification”), which included proposals in respect of emergency video relay, to set new General Conditions of Entitlement; and to add a new defined term to those set out in the Definitions section of the General Conditions.
2. In the First Notification and the accompanying consultation, Ofcom invited representations about the proposal by 3 March 2020. Copies of the First Notification were sent to the Secretary of State in accordance with section 48C(1) of the Act.
3. Following consideration of representations about the proposals in the First Notification, Ofcom decided to make revised proposals in a further notification.
4. On 16 February 2021, Ofcom published the further notification referred to in paragraph 3 above pursuant to section 48(1) and section 48A(3) of the Act (the “Second Notification”). The Second Notification made revised proposals to set new General Conditions; and to add a new defined term to those set out in the Definitions section of the General Conditions.
5. The revised proposals referred to in paragraph 4 were set out in the Schedule to the Second Notification, and a table showing the proposals in the First Notification and the revised proposals in the Second Notification were published as a separate Annex in an accompanying consultation (Annex A5 of the [Further Consultation](#)).
6. In the Second Notification and accompanying consultation, Ofcom invited representations about the revised proposal by 30 March 2021. Copies of the Second Notification were sent to the Secretary of State in accordance with section 48C(1) of the Act.
7. By virtue of section 48A(6) and (7) of the Act, Ofcom may give effect to the proposals, 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 Notifications; 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.
8. Ofcom received responses to the Notifications and has considered every such representation made to them in respect of the proposals set out in the Notifications (and the accompanying explanatory documents).
9. The Secretary of State did not notify Ofcom of any international obligation of the United Kingdom for the purpose of section 48A(6) of the Act.

Decision

10. Ofcom, in accordance with sections 45 and 48(1) of the Act, has decided to set new General Conditions and add a new defined term to those set out in the Definitions section of the General Conditions. These are set out in the Schedule to this Notification.
11. Ofcom's specific reasons for reaching this decision referred to in paragraph 10 above, and the effect of the decision, are set out in the explanatory statement accompanying this Notification.
12. Ofcom consider that it has complied with the requirements of sections 45 to 48C of the Act, insofar as they are applicable.
13. Ofcom has considered and acted in accordance with its general duties under section 3 of the Act and the six requirements set out in section 4 of the Act.
14. The new General Conditions (and new defined term) set out in the Schedule shall enter into force on 17 June 2022.
15. A copy of this Notification and the accompanying explanatory statement have been sent to the Secretary of State in accordance with section 48C(1) of the Act.
16. In this Notification:
 - (a) "**the Act**" means the Communications Act 2003;
 - (b) "**General Conditions of Entitlement**" or "**General Conditions**" means the general conditions set by Ofcom under section 45 of the Act on 19 September 2017, as amended or replaced from time to time; and
 - (c) "**Ofcom**" means the Office of Communications.
17. Words or expressions shall have the meaning assigned to them in this Notification, and otherwise any word or expression shall have the same meaning as it has in the Act.
18. For the purposes of interpreting this Notification: (i) headings and titles shall be disregarded; and (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
19. The Schedules to this Notification shall form part of this Notification.

Signed by



Fergal Farragher

Director of Telecoms Consumer Protection – Digital and Vulnerability

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

22 June 2021

Schedule of new General Conditions and new definition

The new General Conditions Ofcom is setting and the related new definition Ofcom is adding to the definitions section of the General Conditions are set out below (with extracts from the existing text for ease of understanding, shown in italics). These new General Conditions will enter into force on 17 June 2022.

C5.1 *The provisions of this **Condition** apply as follows:*

*(a) **Conditions** C5.2 to C5.10 and C5.13 to C5.18 apply to providers of **Public Electronic Communications Services**; and*

*(b) **Conditions** C5.11 and C5.12 apply to any person who provides:*

*(i) **Internet Access Services to End-Users**; or*

*(ii) **Number-based Interpersonal Communications Services**, where it is technically feasible to provide an **Emergency Video Relay Service to End-Users**;*

*each person to whom a provision applies is a “**Regulated Provider**” for the purposes of that provision.*

C5.11 **Regulated Providers** must:

(a) provide or contract to provide an **Emergency Video Relay Service** which has been approved by **Ofcom**; and

(b) ensure that any **End-User** of **Internet Access Services** or **Number-based Interpersonal Communications Services** they provide, who communicates in British Sign Language because of their disabilities, can access and use the **Emergency Video Relay Service**.

C5.12 In providing access to and facilitating use of **Emergency Video Relay Services** under **Condition** C5.11, **Regulated Providers** must:

(a) provide the **Emergency Video Relay Service** free of charge to the **End-User**;

(b) where technically feasible, apply an incremental price of zero to any data traffic associated with the use of the **Emergency Video Relay Service**;

(c) ensure measures are taken to protect the confidentiality of communications between **End-Users** of the **Emergency Video Relay Service** and the **Emergency Organisations**;

(d) subject to **Condition** C3.11, ensure that the **Emergency Video Relay Service** is available for lawful use by **End-Users** at all times; and

(e) comply with any directions in respect of the **Emergency Video Relay Service** which **Ofcom** may make from time to time.

‘**Emergency Video Relay Service**’ means any service which:

(a) for the purposes of requesting and receiving emergency relief from **Emergency Organisations**, provides British Sign Language translation and relay facilities for emergency communications to be conveyed via video between any **End-User** and **Emergency Organisations**;

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- (b) is capable of being accessed by **End-Users** of the service from readily available compatible terminal equipment with video capabilities, including smartphones and computers or tablets;
- (c) provides facilities for access to **Emergency Organisations** and is available twenty-four hours a day, seven days a week;
- (d) insofar as reasonably practicable, allows for communication between **End-Users** of the service at speeds equivalent to voice communications;
- (e) provides a means of communicating by text in conjunction with video relay.