Title: Ofcom Data Transparency **IA No:** **Lead department or agency:** DCMS **Other departments or agencies:**	**Impact Assessment (IA)** **Date:** 22/03/2016 **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Primary legislation **Contact for enquiries:** Emily Foley emily.foley@culture.gov.uk 020 7211 6585

Summary: Intervention and Options

RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, Two-Out?**	**Measure qualifies as**
£m	£m	£m	Yes	IN

What is the problem under consideration? Why is government intervention necessary?

The Communications Act 2003 gives Ofcom the power to request, from communications providers and a wide range of other persons, information for various purposes connected with Ofcom's functions, in particular to 'further the interest of consumers'. Ofcom's current information gathering powers are restricted to data that is already in existence, and data that will be used by Ofcom to fulfil a set of specific duties. This restricted ability to publish data on infrastructure, performance, reliability etc. limits the availability of relevant information for consumers to make informed choices as to their communications providers (CPs).

What are the policy objectives and the intended effects?

The objective is to facilitate the provision of meaningful information to consumers in ways that make it as easy as possible for them to engage and make optimal consumption decisions. The intended effect of this measure is to increase the range and quality of data available to Ofcom, consumers and third party intermediaries, who can take the data and use it for comparison purposes, in the interests of the consumer or in Ofcom's case, use for regulatory analysis. This is turn is expected to lead to increased competition, more choice, and improved service in the communications market.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: Do Nothing

No change to Ofcom's information gathering powers. Where Ofcom does not currently have the statutory power to request data, it will continue to rely on CPs providing specific sets of data on a voluntary basis.

Option 2 (Preferred option). New data transparency power

Government wishes to give Ofcom a new enabling power to request data from CPs, when in the interests of the consumer or for regulatory analysis, when it is proportionate to do so. The power will also enable Ofcom to request the release of data to the public, under the same conditions. The proposal is to create this new power through the addition of 1 or 2 clauses to Part 2 of the Communications Act 2003.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

Does implementation go beyond minimum EU requirements?			Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** No	**< 20** No	**Small** No	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:**	**Non-traded:**	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: ..... Date: 29 March 2016

Summary: Analysis & Evidence

Policy Option 1

Description: New Data Transparency Power for Ofcom

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2016	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate:** na

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	**£0**
High	Optional		Optional	**>£1m**
Best Estimate	na		na	**na**

Description and scale of key monetised costs by 'main affected groups'

An illustrative example of the potential costs to industry is Ofcom's infrastructure report, which cost business between £112,500 and £148,500 in 2015. However, given the level of uncertainty over the practical implications of the measure, and the uncertainty over costs to business of its use, total costs to business have not been quantified.

Other key non-monetised costs by 'main affected groups'

There may be some impacts on more established firms of increased competition, this however would be only be a transfer of benefit to another business.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	na		na	**na**

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

The majority of benefits will accrue to consumers, including reduced prices and/or more choice. Consumers will also have more information to help them make better decisions. The increased competition in the market will benefit those firms that are more efficient or more innovative.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: na	**Benefits:** na	**Net:** na	Yes	IN

Evidence Base

Background

Ofcom is the regulator for the UK communications industries. It is a statutory body, established by the Office of Communications Act 2002. It operates under various pieces of legislation, including the Communication Act 2003 ("the 2003 Act") which sets out Ofcom's general duties. Ofcom has a principal duty, in carrying out their functions, to further the interests of consumers in relevant markets, where appropriate by promoting competition. In performing their duty to further the interests of consumers, Ofcom must have regard to the interests of those consumers in respect of choice, price, quality of service and value for money. It is upon this foundation of consumer interest and the promotion of competition that the proposal outlined in this Impact Assessment is built. This IA relates to electronic communications services and networks regulated by Ofcom. It does not relate to other services regulated by Ofcom, for example postal services and broadcasting.

Existing situation

The main information gathering power in the 2003 Act are in section 135. This gives Ofcom the power to obtain, from communications providers and a wide range of other persons, information for various purposes connected with Ofcom's functions under Chapter 1 of Part 2 of the Act (but not Part 1, which sets out Ofcom's overarching functions). These include statistical purposes connected with Ofcom's carrying out of its Part 2 Chapter 1 functions. This power is subject to the limitations set out in section 137, which include a proportionality requirement.

Ofcom also has the power under section 136 to gather information for comparative overviews of the quality and price of services. This power is subject to the limitations in section 137.

As a result, Ofcom's current information gathering and publishing powers are restricted to data that is already in existence, and will be used by Ofcom to fulfil their specific duties and functions as set out in Part 2, chapter 1 of Communications Act 2003.

Ofcom publish a number of reports each year, including the infrastructure report[1] and the communications market review.[2] These reports provide detailed information on market price trends, usage trends, infrastructure coverage, and much more. Ofcom create and

1 http://stakeholders.ofcom.org.uk/binaries/research/infrastructure/2015/downloads/connected_nations2015.pdf

2 http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/

populate these reports primarily using data from industry. However, their duty to report on infrastructure every three years had led to questions from industry on why Ofcom needs the data more regularly. The reports are designed to breach the information gap between industry and consumers, enabling consumers to make more informed choices about their communication needs, thus Ofcom believes that creating and publishing these reports every year will benefit consumers by providing the most up to date information. This is particularly important in such a rapidly changing market. In essence, this proposal is about improving the competitiveness of markets by harnessing the power of data and the increasingly innovative ways in which data can be used to transform people's engagement with it.

Data release is already having an impact in important areas. Within Ofcom's own work, they have used innovative data release to publish interactive mobile coverage maps on their website, which have gained significant attention (half a million page views Aug-Dec 2015). The proposed power would enable Ofcom to go even further, and move to an operator-led model allowing third party intermediaries to pick up the data and innovate with it. This might potentially include underlying data that is not currently published to build an even more accurate and informative picture for consumers. The open data on coverage and performance that Ofcom currently release has already been used by several third parties to benefit consumers. For example, the Greater London Authority interactive connectivity map, which seeks input from Londoners on demand for improved services.

Data release can therefore increase the competitiveness and efficiency of the communications market. Government and Ofcom wish to give consumers, and third party intermediaries acting on their behalf, greater and easier access to this kind data, so that they can make increasingly informed decisions around their communications requirements. This proposal complements Government's development of 'midata', which would give consumers the right to request open source data on their own consumption and use of communications services. When combined with data on the coverage and performance of networks, the step-change in people's ability to make informed choices, and crucially to make them easily, could be transformative.

The ultimate aim is for these measures to be deregulatory, as enabling markets to function more efficiently and to be more competitive would reduce the need for more burdensome and intrusive regulation over time.

Problem Under Consideration

Provision of information to Ofcom or consumers vs. CPs publishing information themselves

Ofcom already has the power to obtain certain information from CPs and to publish this. It also has the power to require CPs to provide specified information to the end-user

(including publication) for consumer protection purposes. However, Ofcom cannot currently require CPs to make data publically available themselves for other purposes (e.g. to promote competition) or to release information directly to third parties (e.g. price comparison websites). As a result, information that could assist third party intermediaries (such as price comparison websites) in providing meaningful information to consumers is not available. By requiring CPs to publish data themselves, it also opens the data up to a broader audience than when data is only published on Ofcom's website.

Ambiguity vs. clarity of Ofcom's powers to request information

There are currently gaps in Ofcom's powers to obtain information from CPs for the purpose of generating advice for the consumer and ascertaining the consumer experience and to require CPs to maintain up to date information in relation to telephone numbers. Government considers that Ofcom currently has the power to publish comparative overviews of price and quality and to obtain information from CPs to report on infrastructure outside of Ofcom's triennial duty. However, Government wishes to put these powers beyond doubt as Ofcom have faced challenge from CPs when they have requested information to fulfil these objectives. Lacking input from CPs on these matters can result in Ofcom being unable to provide a more complete picture of the market.

Data in existence vs. data not in existence or in a non-standard format

Ofcom cannot require CPs to retain or collect information (where the CP does not do so already) or generate information that they do not already hold. As a result, Ofcom is not able to request data that has the potential to be powerful to consumers and the regulator, but does not already exist, or does not exist in the form that would be most useful to consumers. By addressing this gap in Ofcom's powers, a new measure would enable access to the data sets that are most relevant to (or have an impact on) consumers - for example: quality of service data that could assist a consumer in choosing a provider or the accuracy of broadband speed predictions.

As a result, there are few common formats around the collection and presentation of the data, as firms collect and collate it differently. This lack of consistency has particular implications for third parties wishing to use the public data for comparison. Ofcom being able to require CPs to collect, retain and generate data for the purpose of making it publicly available would improve the efficiency and efficacy of the these third party firms, which has consequential benefits to competition and to consumers.

Furthermore, a new power would enable Ofcom to request data sets that become relevant to the consumer in the future, taking account of future technological or market developments.

Rationale for intervention

Consumers are currently limited in their access to relevant information about their communications providers, which limits their ability to make informed choices. The current situation does not incentivise CPs to make service improvements for reputational purposes, as there is limited information in the public domain for consumers to compare. Consumer choice is restricted by a lack of information beyond price and tariff in many cases, when service quality issues are second only to price as a reason for switching among residential consumers[3]. This information failure in the market, where both consumers and rival firms do not have access to good information, hampers the ability of consumers to make optimal choices that achieve the greatest utility. Furthermore, there is also information asymmetry between firms and consumers, where firms have data on more performance/quality metrics than consumers, and are thus able to hide poorer aspects of their business from / promote the better parts to consumers.

The scope for improving this situation for consumers is increasing rapidly, owing to the growth of big data, app development and other sophisticated tools for consumer engagement. Advanced digital technology can be used to re-purpose vast amounts of data into simple presentation formats and choices for consumers. The combination of more data, and sophisticated tools for using it, stands to make a potentially huge impact in this sector

Low consumer engagement

Lack of clear, consistent information for consumers can lead to suboptimal buying decisions and reluctance to fully engage with the market. One indicator of this problem is switching rates. In 2014, the switching rate stood at 6% for fixed line telephony, 7% for mobile, 6% for broadband, and 2% for digital TV. These figures do not compare well with switching rates in other sectors of the economy (around 36% for car insurance; 12% each for gas and electricity), although it should be noted that this comparison does not take into account other differences in the market. According to price comparison websites, consumers need data to be presented in a consistent format to compare. One startup, BetterBill, estimated that the average consumer could save £190 by using data to switch to a provider that suited their specific needs[4]. Inconsistent and less data availability also lead to lower levels of consumer trust in the market.

Increasing importance of connectivity data

According to the Broadband Choices connectivity study[5], homebuyers rank a fast broadband connection above off-street parking and local amenities when considering a new property.

[3] Ofcom, The Consumer Experience 2015: Research Annex, p. 42
[4] BetterBill presentation to Ofcom, January 2016
[5] www.broadbandchoices.co.uk

One in five homebuyers have checked broadband speeds when evaluating a house before they have even walked around the area, and one in ten have rejected a potential new home because it had a poor connection, the study of 2,000 homebuyers found. Currently consumers can check broadband speeds at postcode level, however speeds vary considerably within a postcode. CPs do not release address-level data, which could benefit the consumer even further.

Few comparative metrics available on Price Comparison Websites

Price comparison websites (PCWs) tend to compare communications services only on price. In response to the BIS call for evidence on switching principles (Oct. 2015), BT stated that PCWs should be able to use more than a price metric - quality, speed and coverage were also important factors for consumers to consider.

Limited opportunity for PCWs to innovate

Third parties, such as PCWs currently source their data on communications services in ad hoc ways, such as scraping data from PDFs and CPs' websites. This puts substantial limitations on the data they can collect, and presents challenges for how they can use the data in a way that is compelling and useful to the consumer.

Less incentive for CPs to improve service quality

There is relatively little information available to consumers regarding CPs' service quality. Ofcom identified poor quality of service as a major issue in its recent Digital Communications Review. CPs are unlikely to make this data available voluntarily if they think it will give them a competitive disadvantage compared with firms that do not release this data. As a result, there is little incentive from an information sharing perspective to improve service quality.

Policy objective

The policy objective is to correct the market failure outlined above, by facilitating the provision of meaningful information to consumers. The intended effect of these measures is to increase the range and quality of data available to Ofcom, consumers and third party intermediaries, who can take the data and use it for comparable purposes, in the interests of the consumer. Other effects of these measures could be of a deregulatory nature, if consumer empowerment acts as a means to improve service and standards, and could result in increased competition in the market.

More competition and innovation; lower prices for consumers

If CPs are obliged to publish information themselves or give Ofcom information with a view to publication that would be valuable to consumers, it will increase competition in the market, as consumers will have a wide variety of metrics with which to compare services. It will also increase incentives to innovate in the market as a means to attract customers. A more competitive market should also place downward pressure on prices and upwards pressure on service quality and availability.

New and expanding 'infomediary' markets

Data release is already having an impact in important areas - postcode-level data on fixed broadband speeds and interactive mobile coverage maps are two examples. We now have an opportunity to give Ofcom a future-proof power to require CPs to make information publicly available, or to collect, generate or retain data for the purposes of making it publicly available. For example, the data might include installation and repair times by provider and dropped mobile call rates.

Less prescriptive product/tariff regulations

Using data to increase competition and choice can be more effective than regulation. This power could ultimately lead to de-regulation in some areas, where these powers are designed to address the effects of information asymmetric and/or consumer inertia. For example, if CPs are incentivised to implement change as a result of consumer empowerment for reputational reasons it could reduce the requirement for burdensome setting and monitoring of standards.

Changes in consumption patterns

The communications market is characterised by rapid change, making it incredibly difficult for a consumer to understand what is available to them and what their best options are. Increasing the availability of more comparative information, in ways that make it as easy as possible for consumers to engage, will enable them to choose communications packages that are more suited to their changing consumption patterns. For example, according to Ofcom statistics, the average number of SMS and MMS sent per month per person has fallen from 227 in 2012 to 117 in 2014[6]. However, low switching rates suggest that consumers have not changed their contract to reflect this, in part because of a lack of awareness of the different options available to them.

[6] Ofcom statistics

Description of Options Considered.

Option 1: Do Nothing

No change to Ofcom's information gathering powers, and no new powers for Ofcom to require the publication of information. Where Ofcom does not currently have the statutory power to require the publication or collection of data, it will continue to rely on CPs publishing or otherwise releasing specific sets of data on a voluntary basis. This option represents the counter-factual.

Ofcom's current powers allow it to request data that is already in existence, in order to fulfil certain of its functions. This includes conditions relating to consumer interests, universal service conditions and premium rate services. However, there are gaps in Ofcom's power to request data to fulfil a number of its functions and in other instances CPs have challenged Ofcom's powers to request data, which currently hampers Ofcom's ability to collect information for these purposes. Furthermore, Ofcom does not have the power to request data that is not in existence, , which can make it difficult for any meaningful analysis of the data to take place. Ofcom would therefore continue to have no power to require CPs to retain or collect data (where the CP does not already do so), or to generate information that does not already exist.

If Ofcom requires information that is not within the remit of its current powers, Ofcom will often broker an agreement with the CP to provide the data or seek the information by an alternative source (for example, consumer research). Ofcom cannot therefore rely on obtaining the data required, or faces considerable delays in using data in the interests of the consumer, whilst they negotiate with the CPs on data to be shared.

Option 2 (Preferred option). New data transparency power, and specific amendments to strengthen and clarify Ofcom's existing powers to obtain and publish information

Government wishes to give Ofcom a new power to enable it to require CPs to collect, generate or retain information with a view to publication, for the purpose of facilitating the carrying out of Ofcom's functions, when it is proportionate to do so. The power will also enable Ofcom to require CPs to release data to the public, under the same conditions. The proposal is to create this new power through the addition of 1 or 2 clauses to Part 2 of the Communications Act 2003. The power will also enable Ofcom to require CPs to publish information in specified formats, in order to allow consumers and third parties to utilise the data effectively and efficiently for comparative purposes. Government wishes to give Ofcom a power that is broad enough to be future-proof, in order to capture information and data sets that may not yet exist, but which may be important to the consumer in the future. As such, we do not propose a measure that lists the types of data that Ofcom can require CPs

to disclose as part of this power. Instead, we propose a power that sets clear limits on the purposes for which data may be requested. Government also wishes to amend a number of clauses in CA03 to either fill gaps in, or to put beyond doubt, Ofcom's existing powers to obtain and publish information.

With the objective of requesting data that would be in the interests of consumers, below are some examples of the types of data that may be within the scope of the new power, although in each case Ofcom would be required to demonstrate that their request facilitates the carrying out of their statutory functions. We also outline information and data that would be out of scope:

Within scope

Information and data that would:

1. Inform of the quality of service provided by CPs.
2. Inform of CPs' technical, infrastructure and digital capabilities that directly impact on the consumer experience.
3. Provide a greater degree of accuracy in data - e.g. at address-level.
4. Enable third party intermediaries to produce meaningful comparisons to help guide consumer purchasing decisions.
5. Be relevant to consumers' purchasing decisions, therefore is current and updated to reflect the market.
6. Inform on consumer complaint trends and emerging market issues.

Outside of scope

Information and data that would:

1. Be used to provide specified information to an end-user (this is already set out in section 51 CA03 and we do not want to duplicate).
2. Contravene IP and data protection laws.
3. Put CPs at a competitive disadvantage.

As with Ofcom's current information gathering powers, these measures would be subject to safeguards, including proportionality tests, and would be subject to data protection and intellectual property laws , in order to protect firms from unjustified requests.

Furthermore, there is a statutory appeals regime available to firms. If, for example, a firm believes that a data request placed on them by Ofcom is not proportionate in light of the objective or that Ofcom is in breach of the safeguard in relation to commercially sensitive data, they can appeal the request.

Non Regulatory Options

Government does not consider non-regulatory options to be an effective way of addressing the problem identified. The current system is in effect non-regulatory, as Ofcom relies on CPs releasing data voluntarily, and this has led to the problems outlined earlier.

Direct costs and benefits to business calculations

Option 1: Do Nothing

This represents the counterfactual and includes no change to the regulatory landscape. Therefore, costs and benefits are both zero, as is the EANCB. Any costs (quantified or otherwise) of maintaining the current arrangement will not occur under the preferred option, and are therefore classified as benefits of the preferred option.

Option 2 (Preferred option). New power on data transparency, and specific amendments to strengthen and clarify Ofcom's existing powers to obtain and publish information

This option would give Ofcom a new power that enables them to require CPs to generate, collect or retain data from CPs with a view to publication, and require CPs to make data publicly available themselves. It would also provide for the clarity Ofcom require to address apparent anomalies in their current powers to request information to fulfil certain functions they have or to put these powers beyond doubt.

Communications Providers collect a vast amount of data on their own network, performance, consumer habits, etc., which they use to inform business decisions. CPs, which tend to be larger firms, will generally have large computer systems and teams that are devoted to collecting, maintaining, and analysing this data. Therefore, many of the requests that Ofcom currently make do not impose a huge cost of firms as they already have this data. Some cost will accrue to firms if Ofcom impose common standards on these data requests, as firms would have to change the way they collect or analyse the data. A larger cost would come from requests for new data, which firms do not currently collect, as this could involve more labour, new software, or even new computer systems.

The new power would also enable Ofcom to make an information request to CPs that requires CPs to themselves publish data where this would fulfil the carrying out of Ofcom's functions. This would primarily be so that it may be used by, for example, third party comparison websites. There could conceivably be a potential cost to business to the more established firms from increased competition as a result, but this would only be a transfer to

another CP. Furthermore, these data release requests would be subject to confidentiality tests to ensure that commercially sensitive data is not released.

Given the nature of the proposal, it is impossible to know now how many requests Ofcom would make per year and the nature of these requests. This is because the power would be specifically designed to allow Ofcom to request new data in the future that may become relevant, due for example to technological change.

The measures are intended to improve the ability of Ofcom to require information in the interests of the consumer. Essentially, Ofcom would only request data if they can use this data to fulfil their functions. This prevents Ofcom from making unnecessary or irrelevant requests to business that could have a large cost but little benefit. Specifically, the new powers would be subject to a safeguards on both proportionality and on confidentiality that they would have to pass before making any request, and a safeguard in relation to confidentiality that would apply to any publication of information. Similar safeguards are already in operation in relation to Ofcom's existing powers.

To ensure that information requests are proportionate, Ofcom already takes careful account of the reasons for requesting the information, and considers whether the information that it is seeking is the least necessary to enable it to carry out the functions for which the information is needed. Ofcom would proceed in the same way in respect of these new powers. Ofcom would also have regard to any representations made to it by the intended addressees of such information requests as to the practicability of providing the information requested. Where Ofcom is proposing to exercise its new data transparency powers in a manner that would impose a significant cost on the CP, Ofcom will be required to conduct a cost-benefit analysis to ensure that the benefits that will be yielded from such information outweigh the burden on business.

In some circumstances, Ofcom's duty to carry out an impact assessment in accordance with section 7 of the Act might exceptionally be engaged. This would apply where the proposed intervention would be likely to have a significant impact on business. Ofcom would in that event be required to publish an assessment of the likely impact of making the request (or a statement explaining why they consider no such assessment was necessary in the circumstances), provide any affected parties an opportunity to make representations to them, and consider all of those representations before proceeding.

Costs

Given the broad scope of the proposed power, which is driven by the need to have a power that covers new data in the future, and, consequently, the complete uncertainty over how and how often the power would be used, it is fundamentally impossible to completely

quantify the burden on business. However, in order to understand as much as possible the potential impact on business, DCMS, in collaboration with Ofcom and industry, have used three illustrative examples of possible uses of the power to give an idea of what the costs might be.

The main costs to business would arise from the collection, management, and storage of the data sets. The scale of those costs would depend on a number of factors, such as the software/processes that CPs already have in place, the infrastructure available to collect data, the human capital to manage it, etc. A further cost to firms could come from the risk of commercially sensitive data being requested and released by Ofcom. However, there will be a legislative safeguard to guard against this, plus there will be the statutory appeals regime for firms who believe that sensitivity would be breached.

In order to generate the specific details of the process of data collection, the time required, the cost to business, etc., DCMS have consulted Ofcom. The following information, which forms the basis of the cost benefit analysis model, was provided by Ofcom. Estimates were derived from Ofcom's previous experience in data collection, and following discussions with industry where possible. This kind of historical knowledge allows for a greater degree of certainty and there is precedent to 'sense check' against. Ofcom agree that this analysis represents the best practical estimate of costs, at this stage, with the information available given the uncertainty.

The table in annex A sets out the three scenarios in which new broad data transparency powers could be used, some qualitative costs and benefits, an estimation of the scope of the request, an idea of the process that CPs would have to follow, and an estimation of the costs that might be imposed on business. This table was supplied by Ofcom. For the purpose of this impact assessment, DCMS have drawn out the key costs and each scenario, as below:

Illustrative Examples	What data would be required and from whom?	How would CPs go about collecting the data?	How frequently could it be collected?	What is the likely burden on CPs in terms of resource?	Estimated cost to CPs.
Require CPs to report service quality measures for fixed lines services	Network operators and retail CPs in fixed market to provide comparable data on e.g.: · av. time to repair · av. time to install · fault rates	Collect existing data differently / Extract and translate existing data	Quarterly / Monthly	Data collection could require some upfront work and ongoing (monthly or quarterly) input from e.g. 1 x engineer 1 x lawyer 1 x regulatory affairs manager 1 x web designer from network operators and retail CPs We expect other upfront and ongoing costs of collecting comparable data (e.g. any changes to systems) to be negligible	Our initial view, based on past experience of data collection from industry, is that total direct costs may be <£100,000 p.a., for each affected CP
Require CPs to report 'average customer hours lost' data for fixed lines services	Network operators and retail CPs in fixed market to provide comparable data on e.g. · average monthly 'downtime' experienced by a retail customer (hours); and / or · the same measure, based on all customers who experienced a fault	Extract and translate existing data / Data does not exist: generate new data	Quarterly / Monthly	Data collection would require upfront work and ongoing (monthly or quarterly) input from e.g. 2 x engineer 1 x lawyer 1 x regulatory affairs manager 1 x web designer from network operators and retail CPs	Our initial view, based on past experience of data collection from industry, is that direct may be <£100,000 p.a., for each affected CP
Require CPs to report customer service satisfaction data in fixed and mobile sectors	Retail CPs in fixed and mobile markets to survey a sample of customers contacting their customers services in order to report e.g.: · av. number of customer touches to resolve · av. time to resolve · satisfaction with outcome	Data does not exist: generate new data	Quarterly / Monthly	Data collection would require upfront work and ongoing (monthly or quarterly) input from e.g. '00s x customer service agents 1 x Management Information Systems designer 1 x lawyer 1 x regulatory affairs manager 1 x web designer	Our initial view is that total direct costs may be <£1m p.a., for each affected CP

Source: Ofcom

Case Study: The Ofcom Infrastructure Report

Ofcom publishes an annual "set piece" infrastructure report, for which it obtains a wide range of data from CPs using its existing powers. Ofcom asked these CPs to provide it with an estimate of the cost of contributing to this report in 2015, as an illustrative example of the level of costs that an information request might impose.

One CP told Ofcom that contributing to this report in 2015 cost them an estimated £12,500 in man hours, another estimated £16,500 in man hours. One of the reasons for the low cost is that they use existing computer systems to provide the data, so there were no additional costs.

From the 2015 Infrastructure Report, figure 9, we know that 9 major providers contributed to the report.[7] Using this figure, and the estimates of cost given above, we can estimate the total cost of the infrastructure report in 2015 to business. It should be noted that there were other, smaller providers who contributed to the report, so this estimate may be an underestimate.

Assuming a cost per CP of between £12,500 and £16,500, with 9 CPs contributing, we can estimate a total cost of between **£112,500** and **£148,500** to industry of the infrastructure report in 2015.

Although this estimation is only based on information from two providers on a single data request in a single year, it is nevertheless a useful case study to give an idea of the order of magnitude of costs that CPs face.

In summary, the examples given by Ofcom, and the infrastructure report case study, have a range of impact on CPs from £10,000 to £1,000,000 for each CP in the year of the request. This large range of costs is a consequence of the broad scope of the new data transparency power, which is necessary to ensure it is future proofed against future events. The cost of other specific legislative amendments would likely be both at the lower end of this range, such as providing up to date information on numbering.

Note: The cost data has been obtained by Ofcom through engaging with industry experts. We would like to future-proof the new data transparency power as much as possible and so have refrained from using more detailed cost data because this may become inaccurate in the future, given the changing technology and consumer behaviour in the industry.

7 http://stakeholders.ofcom.org.uk/binaries/research/infrastructure/2015/downloads/connected_nations2015.pdf

Benefits:

There are a number of benefits of this policy. The majority will accrue to consumers, but there will be certain benefit to some firms, for example the price comparison firms. We have not quantified the value of any of these benefits.

Improved consumer choice

The ultimate objective of this policy is to improve the information available to consumers, and make it easier to use. Consumers will be better informed about the choices available to them and will therefore be able to make more optimal decisions. For example, with better public data on the reliability of a particular broadband service, consumers will have another metric upon which to make choices.

Increased competition and reduces price

Through the same avenues that consumers have improved choice, competition in the market increases as information failure is reduced. Barriers to entry for new firms will fall, while specialist firms will be able to make more direct comparisons with larger providers. Similarly, the established firms will have more metrics on which to compete with each other. This increased competition will lead to a downward pressure on lower prices and/or an upward pressure on quality as a result of, improved choice, and better service for consumers.

Third party firms

The release of more data to the public domain, particularly when it is under a common set of standards, will generate significant benefits to firms that use this data to drive their business. In particular, price comparison websites use this kind of data to feed their algorithms and populate their databases. Having more data sets that are published under common formats will make it easier for these firms to collect and use that data, improving their offering and making their services more valuable to consumers. This will in turn lead to higher revenues for the firms, and an expanded market.

A good case study of how this kind of data release can benefit third party firms as well as consumers is the decision by TFL to release all of their service data to the public (making it 'open source'). Since this decision, "Over 5,000 developers have registered for our open data, consisting of around 30 feeds and APIs focussed on enabling provision of high-quality travel applications, tools and services. Developers have created hundreds of applications, reaching millions of active users".[8] One notable example would be CityMapper, which is now estimated to be worth over £250m.[9]

[8] https://tfl.gov.uk/info-for/open-data-users/our-open-data

[9] http://uk.businessinsider.com/citymapper-has-raised-32-million-for-its-urban-navigation-app-2016-1

Empower Ofcom

Ofcom will to be able to obtain and publish information in order to report on infrastructure, monitor CPs' output against commitments and predicted performance and use data in the interests of the consumer, and to fulfil its functions. This flexible and future proofed power, which enables it to request the data most relevant to a consumer, has clear boundaries and purpose and ensures the focus remains on consumers - Ofcom could not use this power to request information unless it facilitates the carrying out of its statutory functions. It will empower Ofcom to more effectively fulfil their duties to the consumer by driving competition and consumer choice, without the need for constant direct regulation (incentivising operators to improve).

Risks and safeguards

We have identified a number of policy risks and propose the following safeguards to mitigate them.

Limiting the burden on business:

Proportionality tests:

Ofcom must take careful consideration of the benefits of using such a power against regulatory burden. Ofcom would be required to conduct a proportionality test in each instance that it wished to use the power. To ensure that information requests are proportionate, Ofcom already takes careful account of the reasons for requesting the information, and considers whether the information that it is seeking is the least necessary to enable it to carry out the functions for which the information is needed. Ofcom would proceed in the same way in respect of these new powers. Ofcom would also have regard to any representations made to it by the intended addressees of such information requests as to the practicability of providing the information requested.

Cost-benefit analysis / impact assessment:

Where Ofcom is proposing to exercise its new data transparency powers in a manner that would impose a significant cost on the CP, Ofcom will be required to conduct a cost-benefit analysis to ensure that the benefits that will be yielded from such information outweigh the burden on business.

In some circumstances, Ofcom's duty to carry out an impact assessment in accordance with section 7 of the Act might exceptionally be engaged. This would apply where the proposed intervention would be likely to have a significant impact on business. Ofcom would in that event be required to publish an assessment of the likely impact of making the request (or a statement explaining why they consider no such assessment was necessary in the

circumstances), provide any affected parties an opportunity to make representations to them, and consider all of those representations before proceeding.

Protecting commercially sensitive and personal information:

These powers would be overwritten by existing data protection and intellectual property laws.

Appeals mechanism:

If the new powers are inserted into Part 2 of the CA 2003, then s.192 would apply. This provides an appeal on the merits to the Competition Appeal Tribunal against a decision by Ofcom under that Part. In reality, this scenario would only happen if Ofcom and the CP cannot reach a mutual agreement.

Cost Benefit Summary, NPV, EANCB

The Impact Assessment Calculator allows us to determine what the net present value of the costs and benefits are, using the social time preference rate of 3.5%. However, this requires specific estimates of cost and benefits that occur in specifically defined years. Given that there is no certainty over the costs of this proposal, or over when those costs are likely to fall, we cannot give a net present value.

Similarly, the uncertainty does not allow us to estimate a credible EANCB measure, given that the potential costs range from zero to millions of pounds. Therefore, the EANCB is given as NA.

SAMBA

Government will exempt small and micro businesses (those with fewer than 50 employees) from the scope of this power.

Example case studies	Objective	Benefits	Risks	What data would be required and from whom?	Q: How might we require CPs to collect data?					Q: How frequently could it be collected?			Q: How could they make this available? Q: What are the likely total costs?
					Data exists in appropriate form already	*Collect existing data differently*	*Extract and translate existing data*	*Data does not exist: generate new data*	*Notes including scope: which CPs would be included?*	*Real time (e.g. through an API)*	*Monthly*	*Quarterly*	
Require CPs to report service quality measures for fixed lines services	To inform consumers about the choice of service quality available to them from different networks and retail providers To encourage greater competition between network operators and retail CPs to deliver better service quality	Third parties could represent this information in formats that are easy to understand and engage with. E.g. a "quality score" drawn from a number of comparable data. Enable consumers to easily compare the quality of service different CPs. Put reputational pressure on network operators and retail CPs to deliver good service quality.	Mis-reporting or manipulation of data by CPs Mis-interpretation or mis-representation of data by third parties	Network operators and retail CPs in fixed market to provide comparable data on e.g.: • av. time to repair • av. time to install • fault rates		✓	✓		Evidence submitted to the DCR indicates that both fixed network operators (e.g. Virgin Media, Kcom) and retail CPs (e.g. BT Retail) already collect relevant information (measured differently) on repairs, installations and faults experienced by their customers We expect that requiring CPs to report consistent data would require either minor changes to analytics processes or simple calculations to translate their data into a common currency We could require this information from network operators (e.g. including Virgin Media, Kcom), operators of new networks (e.g. Cityfibre) and major retail CPs (i.e. BT, Sky, TalkTalk, Virgin Media), i.e. those that account for c98% of residential broadband connections		✓	✓	We could require CPs to publish this data on their websites (to make it available to third parties and consumers). Data collection could require some upfront work and ongoing (monthly or quarterly) input from e.g. 1 x engineer 1 x lawyer 1 x regulatory affairs manager 1 x web designer from network operators and retail CPs We expect other upfront and ongoing costs of collecting comparable data (e.g. any changes to systems) to be negligible Our initial view, based on past experience of data collection from industry, is that total direct costs may be <£100,000 p.a., for each affected CP
Require CPs to report 'average customer hours lost' data for fixed lines services				Network operators and retail CPs in fixed market to provide comparable data on e.g. • average monthly 'downtime' experienced by a retail customer (hours); and / or • the same measure, based on all customers who experienced a fault			✓	✓	As set out above, network operators and retail CPs already collect relevant information (measured differently) on repairs, installations and faults experienced by their customers However, in order to calculate a common-currency measure focused on consumers' experiences, e.g. average monthly downtime, CPs might have to convert existing data or collect new data. For example it may need to collect data on 'average duration of a fault from first contact (with retail customer / retail CP) to resolution', if it does not already. This could require changes to analytics processes As above, we could require this information from major network operators and major retail CPs in the fixed sector		✓	✓	We could require CPs to publish in this data on their websites (to make it available to third parties and consumers) Data collection would require upfront work and ongoing (monthly or quarterly) input from e.g. 2 x engineer 1 x lawyer 1 x regulatory affairs manager 1 x web designer from network operators and retail CPs Our initial view, based on past experience of data collection from industry, is that direct may be <£100,000 p.a., for each affected CP
Require CPs to report customer service satisfaction data in fixed and mobile sectors				Retail CPs in fixed and mobile markets to survey a sample of customers contacting their customers services in order to report e.g.: • av. number of customer touches to resolve • av. time to resolve • satisfaction with outcome				✓	Requiring CPs to survey a sample of customers contacting customer services to collect such new data (if they do not do so in a similar form already) could generate material costs It could also require changes to analytics processes We could require this information from major retail CPs in the fixed sector (i.e. BT, Sky, TalkTalk, Virgin Media) and mobile network operators (EE, O2, Sky, Three)		✓	✓	We could require CPs to publish this data on their websites (to make it available to third parties and consumers) Data collection would require upfront work and ongoing (monthly or quarterly) input from e.g. '00s x customer service agents 1 x Management Information Systems designer 1 x lawyer 1 x regulatory affairs manager 1 x web designer Our initial view is that total direct costs may be <£1m p.a., for each affected CP

To note: Ofcom have not consulted industry or used industry-supplied data to estimate the cost to affected CPs of gathering new information on service quality, using new powers. Instead, Ofcom have relied on colleagues' previous experience of gathering data from industry, where they have it.