



Personal numbering

BT's response to Ofcom's consultation Personal Numbering
Review of the 070 number range

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Executive summary

We support Ofcom’s proposals to cap the Wholesale Termination Rate for Personal numbers using the 070 dialling code. However, the proposals as currently drafted will not protect against all types of abuse and may not therefore achieve Ofcom’s desired outcome of mobile pricing for 070 calls in the retail market.

A termination rate cap will help reduce misuse but may not lower call prices without additional protection measures

We agree with Ofcom that regulation of the 070 termination rate is necessary to underpin implementation of consumer protection measures and to reduce misuse and abuse within the call termination market. However, we believe that the proposal to regulate the 070 Wholesale Termination Rate will not deliver the consumer benefits of retail prices aligned to mobile calls without additional measures to prevent revenue share and call incentive schemes.

Capping termination rates should be supported by a ban on revenue share to address fraud

In addition, Ofcom should prohibit revenue share and incentive schemes. This will address consumer harm that arises from fraudulent uses of the 070 number range Ofcom highlights in the consultation. Setting Wholesale Termination Rate below the one Ofcom proposes would further reduce any incentive for abuse of Personal numbers by the terminating Communications Provider.

Using a different number range for Personal numbering would be a better solution

We suggest personal numbers are migrated to an alternative, unused number range. Any confusion with mobile calls would be removed as consumers would easily identify these within the 07 range with Personal numbers sitting elsewhere in the Ofcom Telephone Numbering Plan.

To gauge the success of any intervention Ofcom will need to monitor and review on an ongoing basis

We believe Ofcom must actively monitor the impact of its proposals post implementation at least every three years to ensure its intervention has produced the desired results. Regular review will also help protect against the current misuse of Personal numbers migrating to alternative number ranges with sufficient termination rate margins to make them attractive.

1 BT's detailed views on Ofcom's proposals

Significant change in the affordability and availability in the provision of mobile calls and services has reduced the value of Personal numbers for legitimate use, but the high termination rates available to terminators of 070 calls encourage abuse and confuse consumers.

1.1 BT supports Ofcom's finding on market definition and SMP assessment

Given Ofcom's proposed remedy is to cap 070 call termination rates in line with the Mobile Call Termination Rate set out in Ofcom's Mobile call termination market review 2018-21 published 23 February 2018¹, we are unsurprised to also note the similarities between Ofcom's market definition for Mobile call termination, and that proposed for 070 numbers, with one marked difference. The market definition for Mobile call termination² refers only to 'termination' and not 'wholesale termination' as proposed for 070 numbers as follows:

"wholesale termination services that are provided by [named terminating communications provider] (TCP) to another communications provider, for the termination of voice calls to 070 numbers within the range which has been allocated to that TCP by Ofcom, for which that TCP is able to set the termination rate."

We agree with Ofcom however that this small variation takes into account the relevant part of the value chain with which market power rests. The Terminating Communications Provider who has been allocated the 070 number block(s) by Ofcom holds the power to set the wholesale termination rate that will apply to numbers within each allocated block. As such, it sits at the same point of power in the market that applies to calls to UK mobile numbers held by MCT providers and is in our view, therefore correct.³

We also agree with Ofcom that each TCP has Significant Market Power (SMP) in the provision of wholesale call termination to the 070 numbers which it has been allocated. While we believe regulatory remedies should be used in the most light-handed way possible, the distortion within the 070 wholesale call termination market has existed for many years and therefore seems unlikely to be remedied without intervention.

1.2 How Ofcom's proposed remedies can be reinforced to deliver the best solution for consumers

Ofcom's proposal to cap the Wholesale Termination Rate for 070 numbers in line with that already used for mobile numbers (circa 0.5ppm) is likely to remove the current incentive for artificial inflation of traffic (AIT) on 070 numbers. Removing the incentive for AIT will, in turn, heavily reduce the level of unexpected charges and bill shock for end users if Communications Providers choose to align their retail rates to those used for mobile calls.

¹<https://www.ofcom.org.uk/consultations-and-statements/category-1/mobile-call-termination-market-review>

² *"termination services that are provided by [named mobile communications provider] ("MCP") to another communications provider, for the termination of voice calls to UK mobile numbers allocated to that MCP by Ofcom in the area served by that MCP and for which that MCP is able to set the termination rate"*.

³ Unlike the MCT market, we do not consider OTT services significantly impact use of 070 numbers.

A termination rate cap will help reduce misuse but may not lower call prices without additional protection measures

As currently drafted, however, we believe Ofcom's proposals do not protect originating Communications Providers sufficiently for them to consider treating Personal numbering calls as they would calls to mobile services. Without additional prohibitions on how Personal numbers can be used, we believe retail prices for consumer calls to 070 numbers are unlikely to align with those for calls to mobile services.

The potential risk to call originators stems from the likelihood that some TCPs may seek to exploit the termination rate generated by encouraging consumers to use any surplus 'free minutes' if 070 are added into any mobile inclusive call minutes and call bundles.

Capping termination rates should be supported by a ban on revenue share to address fraud

03 numbers have a termination rate similar to that proposed for 070 numbers. When Ofcom first required calls to 03 numbers to be priced for consumers as though they were geographic calls and included within inclusive minutes and call bundles in the same way, this was seen as an opportunity by some TCPs to offer rewards⁴ to callers who rang specific 03 numbers using unwanted spare minutes within their bundle. The TCP could then reap the benefit of the termination rate for these calls without having the overhead of providing any genuine service to the caller. In order to halt the increasing prevalence of this type of abuse, Ofcom acted to ensure incentive schemes of this nature and revenue sharing was prohibited on 03 numbers.

We believe that placing similar prohibitions on the use of Personal numbers as those in place for calls to 03 numbers would protect originating call providers from the specific types of abuse set out below. This may in turn encourage their inclusion within mobile call packages.

Ofcom should prohibit use of 070 for revenue share with the caller

Terminators may be incentivised to drive up traffic volumes by offering to share the termination rate with the caller, for whom the call would be "free". Ofcom had to specifically prohibit this behaviour for 03⁵. Ofcom could mitigate this risk by introducing a similar prohibition on Personal numbers.

Ofcom should prohibit use of 070 for "call through" services

Where the 070 termination rate is higher than an international (or other destination) settlement rate, 070 terminators may be incentivised to offer callers "free" calls to international destinations, allowing callers to avoid the originating Communications Providers prices for such calls. The 070 terminator would net the difference between the 070 termination rate and the international settlement rate. When 03 was used in this way Ofcom defined such traffic as revenue share by the terminator, which is prohibited on 03⁶ and the traffic stopped.

Without this additional protection, we believe Communications Providers will be hesitant to include 070 numbers in their retail bundles, particularly where mobile calls are "free". Alignment of retail pricing with that for mobile calls is then unlikely and customers will continue to be confused as to how Personal numbers are charged.

⁴ often in the form of vouchers for online retail stores

⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0023/51944/statement.pdf

⁶ https://www.ofcom.org.uk/data/assets/pdf_file/0019/83332/final_determination.pdf

Even greater protection against misuse could be provided if Ofcom set the 070 termination rate to align with the Fixed Termination Rate (FTR) rather than the Mobile Termination Rate (MTR). This would reduce to a minimum any incentive to create the two issues set out above as the FTR rate is less than 10% of MTR.

Using a different number range for Personal numbering would be a better solution

We believe however that Ofcom could avoid confusion around pricing of 070 numbers by migrating Personal numbers to a different number range entirely. For this solution to be successful, the capped termination rate and the protections against revenue share and call through set out above would still be required. It has the advantage that consumers would no longer make any association of Personal numbers with mobile numbers.

This solution would also remove the artificially inflated traffic from the network. We would expect the legitimate users of Personal numbers to incur some operational costs from the migration. However, as Ofcom state in paragraph 1.91 of their consultation document the transition costs of moving away from 070 are not that impactful⁷. Furthermore the reallocation of 070 numbers to another number range would deliver the additional benefit of freeing up more 07 numbers that could then be allocated for mobile use in Ofcom's Numbering Plan.

In summary, our preferred course of action would see Ofcom:

1. Setting an appropriate cap on the maximum termination rate that can be used for Personal numbers to remove the incentive for abuse. As a lower cap will lower the incentive for misuse, Ofcom may also wish to consider using the Fixed Termination Rate as this is lower than the Mobile Termination Rate;
2. Proactively implementing prohibitions for revenue share and 'call through' services in line with those in place on the 03 number range;
3. Migrating legitimate Personal numbers to a different number range with the above protection measures in place so that consumers can easily identify them without confusion with mobile services; and
4. Recovering the 070 number range to reallocate for use with mobile services, improving number capacity in a growing market.

To gauge the success of any intervention Ofcom will need to monitor and review on an ongoing basis.

Whatever the outcome of this consultation, Ofcom should commit to ongoing monitoring of Personal numbers at least every three years, to ensure that their use remains relevant and that consumers are protected from misuse.

⁷ "1.19 We understand that there will be legitimate users of the range that will face transition costs as a result of this change, but we have already observed organisations moving away from the use of 070 without major changes to their business model, and we provisionally consider that the level of consumer harm from this range in its current form justifies imposing such costs."

2 Responses to Ofcom's Specific Questions

- Q 3.1 Do you agree with our provisional conclusion regarding market definition? Please provide reasons and evidence in support of your views.⁸**
- Yes. Ofcom's proposed market definition correctly identifies the relevant point in the value chain with market power.
- Q 3.2 Do you agree with our provisional conclusion regarding SMP? Please provide reasons and evidence in support of your views.**
- Yes. Each TCP has SMP in the wholesale termination of calls to those 070 numbers it has been allocated by Ofcom.
- Q 4.1 Do you consider that the cost of the proposed control is proportionate to the identified harm to consumers arising from this range? If not please give your reasons.**
- Yes, with the additional protections we have recommended also in place, the proposed control is a proportionate measure to address the level of consumer harm these services currently generate.
- We believe that any additional costs businesses or individuals may incur from our suggestion that Personal numbers are migrated to a different number range would be in line with any other type of number change and would therefore be unlikely to be significant.
- Q 4.2 Do you agree with our proposal for a three-month implementation period? If not, please explain why.**
- Yes. We believe a three month implementation is sufficient to change the termination rate. However, it is insufficient to implement any changes to retail call plans, or to assess how and in what manner these might be made. . Therefore, it could be considerably longer before end-users benefit.
- Q 4.3 Do you agree that our proposal to implement a charge control on 070 Communications Providers in the form of a benchmark rate is appropriate? If not, please explain why.**
- Yes. We agree that the proposed charge control is a logical choice to rebalance the market and assist in removing the current distortion. Additionally, we agree that given the reasonable conclusion that the majority of consumers calling 07 numbers are unlikely to be able to distinguish between 070 Personal Numbers from those used for call termination on mobile devices, aligning their pricing is also reasonable.

⁸ "wholesale termination services that are provided by [named terminating communications provider] (TCP) to another communications provider, for the termination of voice calls to 070 numbers within the range which has been allocated to that TCP by Ofcom, for which that TCP is able to set the termination rate."

However, as set out earlier in our response, we believe additional measures to protect against revenue share consumer prices may not change.

We would urge Ofcom to monitor the end-to-end market at least every three years to test the effectiveness of the remedy and how it has altered consumer confidence and understanding of these types of calls.

Q 4.4 Do you have any further comment on our proposals for regulating 070 termination rates? Please provide reasons and evidence in support of your views.

Whilst 070 may move to MTR payments to the terminating operator, we don't expect the arrangements for ported 070 traffic to move to those used for ported mobile traffic. It would create additional work if the model for ported calls were to change to the mobile porting model including the need for (BT's) billing systems to be changed and this type of additional development spend and implementation timescale impact has not been taken into account within this response.

Q A9.1 Do you agree with our approach to estimating the cost of providing a 070 service? Please provide reasons and evidence in support of your views.

We have no comments on Ofcom's approach to estimating the cost of providing a 070 service.