



HARMONISED EUROPEAN NUMBERS FOR SERVICES OF SOCIAL VALUE

Allocation and charging arrangements for 116
numbers in the UK

including modifications to the
National Telephone Numbering
Plan, General Condition 17 and
the access code application form

Statement

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Section 1

Summary

Background

- 1.1 The European Commission ('the Commission') is aiming for certain services of social value to be contactable by the same memorable telephone numbers in all Member States. At present many hotline and helpline services are available across Europe but numbers differ between countries, making it difficult for visitors from other European Union ('EU') countries to find the correct telephone number for a service when they need help, assistance or advice.
- 1.2 In order to achieve the goal of 'same number – same service' across the EU, the Commission published a decision on 15 February 2007¹ ('the Decision') requiring harmonisation of the '116XXX' 6-digit range of national telephone numbers for harmonised services of social value. According to the Decision, these are services that answer a specific social need and are potentially of value to visitors from other countries. The Commission decides which services should be reserved '116' numbers and attaches conditions relating to the use of the numbers. The first three '116' numbers to be reserved by the Commission are 116000 for hotlines for missing children; 116111 for child helplines; and 116123 for emotional support helplines.
- 1.3 Ofcom published the consultation document *Harmonised European numbers for services of social value: proposed allocation and charging arrangements for 116 numbers in the UK* ('the 116 Consultation') on 1 October 2008.² The document asked stakeholders for their views on issues of '116' number implementation in the UK. As well as describing the 116 service and providing background information, the consultation put forward proposals on two key implementation matters: the allocation process and charging arrangements. It also posed specific questions on the implementation of the first three '116' numbers. Having considered the views of stakeholders and the results of our Impact and Equality Assessment, we have reached decisions on these matters. These decisions are set out and explained in this document.

116 number allocation process

- 1.4 The Commission will reserve only one 116 number for each type of harmonised service of social value. This presents us with a unique situation for number allocation. Our usual 'first come first served' allocation process is not the most suitable for a situation where there is only one number available for a particular service, yet potentially a number of service providers interested in acquiring the number.
- 1.5 Recognising that only one number is available for each service, and taking into account the social value of the services to be provided on '116' numbers, as well as our duty to ensure the best use of telephone numbers, our principal duty to promote the interests of citizens and consumers and our UK-community requirements, we have developed a comparative selection process for allocation of '116' numbers. This process is designed to result in allocation of each 116 number to the most

¹ Commission Decision of 15 February 2007

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l_049/l_04920070217en00300033.pdf

The Decision is reproduced in Annex 4.

² *Harmonised European numbers for services of social value: proposed allocation and charging arrangements for 116 numbers in the UK*, published 1 October 2008 <http://www.ofcom.org.uk/consult/condocs/116/main.pdf>

suitable partnership of a single or multiple service provider(s) and their chosen communications provider. It will allow us to assess applications against Service Eligibility Criteria³ set for each 116 number and to compare each application against the relative merits of other applications, resulting in allocation to the partnership offering the most suitable service.

- 1.6 The selection of the most suitable service providers for allocation of '116' numbers requires knowledge and experience outside of the core areas of Ofcom's competence. In recognition of this, we have asked the Contact Council⁴ ('the Contact Council') which is coordinated by the Cabinet Office, to establish advisory committees to assist us with the allocation of '116' numbers and to recommend to us which service provider should be allocated each number. The Contact Council is well placed to advise us on services of social value. It has oversight across the public sector on all matters relating to customer contact and will draw on the experience of its members, plus other Government and non-Government expertise. The advisory committees will work with us on all areas of the comparative selection process for 116 number allocation and we will take full account of the Contact Council's recommendations when making 116 number allocation decisions.
- 1.7 The comparative selection process for the allocation of each 116 number will consist of two stages. In the first stage of this process, service providers will submit a general description of the service currently offered and how that service might change if allocated the 116 number. The second stage requires a detailed business cases supporting the application for each 116 number. The advisory committees will assess the applications submitted in both stages and will provide us with a report on the assessment and their recommendation on which partnership should be allocated the number. Finally, the communications provider in each partnership that successfully completes the second stage of the comparative selection process will need to submit an access code application form to Ofcom formally requesting allocation of the 116 number.
- 1.8 We will decide which partnership offers the most suitable service and is allocated the 116 number, taking into account the material submitted during both stages of the comparative selection process, the advisory committee's report and recommendation and the access code application forms. Our decision will be taken in line with our relevant statutory duties and specifically our responsibility for implementing the Decision in the UK.
- 1.9 Allocations of '116' numbers will not generally be time limited. However, in certain circumstances which may come to light during the comparative selection process for a 116 number, we may, in consultation with the advisory committee and taking into account our statutory duties, conclude that it would be the best use of the number and in the interest of citizens and consumers to apply a five year time limit to the allocation. We will inform parties of a possible time limited allocation when sending the invitations to Stage Two of the allocation process.
- 1.10 We will launch the comparative selection process for the initial three '116' numbers: 116000 'Hotlines for missing children'; 116111 'Child helplines'; and 116123 'Emotional support helplines' on the same day as publishing this statement. Guidelines setting out the application procedure for each of the numbers have been published on our website.⁵ The first stage of this selection process closes on 3 April

³ The 'Service Eligibility Criteria' consists of the Commission's Service Description; the General Service Conditions attached to all '116' numbers and the Specific Service Conditions attached to the right of use of each 116 number by the Commission, and any Additional Specific Service Conditions attached by Ofcom to the right of use of a number, including charging arrangements.

⁴ See http://www.cabinetoffice.gov.uk/public_service_reform/contact_council.aspx for more information on the Contact Council.

⁵ *Harmonised European numbers for services of social value: comparative selection process for allocation of 116000, 116111 and 116123*, published 18 February 2009 (three separate documents)

2009. The Contact Council has convened an advisory committee to assist us with the allocation of these numbers.

- 1.11 Looking ahead to the Commission's reservation of subsequent '116' numbers, we will consult on adding these to the National Telephone Numbering Plan ('the Numbering Plan'), following which advisory committees will be convened and the comparative selection process conducted for allocation of those numbers.
- 1.12 The allocation of a 116 number to a service provider is not a form of accreditation. Our decision will be a judgement taken on what appears to us to be the best use of the number based on the information provided, and having taken full account of the recommendation of the advisory committee and our statutory duties. However, service provision will be monitored by Ofcom and the advisory committee to ensure that the service fulfils the Service Eligibility Criteria.

Charging arrangements

- 1.13 Given their social importance, the Commission has stated in the Decision that '116' numbers should be 'freephone' numbers. However, 'freephone' means different things in different Member States. In some countries, 'freephone' calls are always without cost to the caller. In others, including in the UK, the caller may incur charges. In the UK, there is a requirement that the caller is notified by an announcement at the start of the call before any charges apply.
- 1.14 Due to the common practice of charging for 'freephone' calls from mobile telephones, we consider that designating all of the 116 number range as 'freephone' would not sufficiently further the social function of some of the services that might be offered. Although mobile providers have taken the commercial decision not to charge for 'freephone' calls to certain services, we have concluded that the extreme social value of some services reserved '116' numbers means that it would be strongly in the consumer interest to ensure that calls to those numbers were always 'free to caller', meaning that there is no charge irrespective of how the call is made.
- 1.15 We consider that the three services currently reserved '116' numbers by the Commission - hotline for missing children, child helplines and emotional support helplines – are of extreme social value and, following consultation, we have decided to designate these as 'free to caller' in the Numbering Plan. However, there is potential for the Commission to reserve many '116' numbers for different types of services of social value. Some of these services may focus on providing useful but non-urgent information or have a commercial element. Imposing a 'free to caller' tariff for such services may not be justified.
- 1.16 To enable us to determine the most appropriate charging arrangements for subsequent '116' numbers on a service-by-service basis, we have developed a set of factors to inform our decision. The factors are based on the level of social value or need to be met by the service; the likely situation of callers when they need to call the service; and the market environment in which the service operates. We will also seek recommendations on charging arrangements for each '116' number from the advisory committees and will consult on the charging arrangements as part of our process of making each '116' number available for allocation.

Next steps

- 1.17 To implement our decisions on '116' numbers, we are modifying the Numbering Plan, General Condition 17 ('the Numbering Conditions') and the access code application form. The 116 Consultation followed the necessary statutory procedures to make these modifications and explained the reasoning. The final notifications of the modifications are at annexes 7 to 9 to this statement.
- 1.18 The first stage of the comparative selection process for allocation of the 116000, 116111 and 116123 numbers will close on 3 April 2009, following which, those service providers meeting the Service Eligibility Criteria will move on to the second stage of the selection process. Provided that suitable service provider(s) / communications provider partnerships emerge, we expect to allocate the initial three '116' numbers by September 2009.

Section 2

Introduction and background

Introduction to '116' numbers

- 2.1 The Commission has a duty to represent and uphold the interests of the EU as a whole, and to work to further the welfare of its citizens. In line with this duty, the Commission considered that it would be of benefit to EU citizens, particularly travellers, if they were able to reach certain services that have a social value by using the same recognisable numbers in all Member States. As a variety of numbering schemes exist in different countries, the Commission considered that intervention at the European level was required to provide a harmonised numbering scheme for harmonised services of social value, such as hotlines and helplines for people in need.
- 2.2 Following public consultation, the Commission issued a Decision on 15 February 2007 ('the Decision') requiring the reservation of the national numbering range beginning with '116' for 'harmonised numbers for harmonised services of social value'.⁶
- 2.3 The Decision has regard to the Framework Directive⁷, in particular Article 10(4) which states-
- “Member States shall support the harmonisation of numbering resources within the Community where that is necessary to support the development of pan European services. The Commission may....take the appropriate technical implementing measures on this matter”.
- 2.4 The Decision is the technical implementing measure considered appropriate by the Commission to harmonise national numbering resources to support the development of pan-European services. Member States must take action to implement the Decision as appropriate within their national regulatory frameworks and make '116' numbers available from their national numbering plans. The use of '116' numbers is harmonised across the Community to produce 'same number – same service' memorability for citizens in Member States.
- 2.5 The procedures for implementing '116' numbers are a national matter, to be determined by each Member State in line with their regulatory processes. Ofcom is responsible for the administration of the UK's telephone numbers and it is therefore our responsibility to determine the most appropriate allocation procedures and charging arrangements for '116' numbers in the UK. To establish these, we published the consultation document *Harmonised European numbers for services of social value: proposed allocation and charging arrangements for 116 numbers in the UK* on 1 October 2008 (the '116 Consultation'). The consultation closed on 10 December 2008. This statement concludes the consultation process and explains the decisions that we have reached, having taken account of all responses. The document is set out as follows:

⁶ Commission Decision of 15 February 2007

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l_049/l_04920070217en00300033.pdf

The Decision is reproduced in Annex 4.

⁷ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)

http://ec.europa.eu/information_society/topics/telecoms/regulatory/new_rf/documents/l_10820020424en00330050.pdf

- the remainder of this section sets out the background to the consultation on allocation and charging arrangements for ‘116’ numbers;
- Section 3 covers the questions asked in the consultation, summarises the responses to these and other issues, and provides our comments on the submissions;
- Section 4 sets out our decision on the allocation process for ‘116’ numbers;
- Section 5 sets out our decision on the charging arrangements for ‘116’ numbers;
- Section 6 explains the implementation arrangements for the initial three ‘116’ numbers;
- Section 7 sets out the next steps, in particular, the comparative selection process for allocating the initial three ‘116’ numbers;
- Annex 1 lists the respondents to the consultation;
- Annex 2 provides an Impact and Equality Assessment on the allocation and charging arrangements for ‘116’ numbers;
- Annex 3 sets out additional information on the Contact Council advisory committees for 116 number allocation (‘the advisory committee(s)’);
- Annexes 4 and 5 set out the Commission’s Decisions on ‘116’ numbers;
- Annex 6 provides the legal framework and tests; and
- Annexes 7, 8 and 9 provide the statutory modifications to the Numbering Plan, the Numbering Conditions and the access code application form necessary to implement our decisions on ‘116’ numbers.

Background to ‘116’ numbers and the 116 Consultation

Information provided in the Decision

Definition of a harmonised service of social value

2.6 The Decision defines a harmonised service of social value in Article 2 as-

“a service meeting a common description to be accessed by individuals via a freephone number, which is potentially of value to visitors from other countries and which answers a specific social need, in particular which contributes to the well-being or safety of citizens, or particular groups of citizens, or helps citizens in difficulty”.

Service Eligibility Criteria

2.7 As stated in the preamble to the Decision, “it is necessary to attach conditions closely related to controlling the nature of the service provided to ensure that the harmonised numbers are used for the provision of the particular type of service covered by the Decision”. The preamble goes on to state that “it may be necessary that specific conditions are attached to the right of use for a specific harmonised number”. The Decision, therefore, sets out certain details relating to each service for which a 116 number has been reserved.

- 2.8 The Annex to the Decision provides the Name of Service and Service Description for each 116 number.
- 2.9 All services on '116' numbers must adhere to the following conditions listed in the Decision in Article 4. We refer to these as 'General Service Conditions':
- i) the service provides information or assistance or a reporting tool to citizens, or any combination thereof;
 - ii) the service is open to all citizens without any requirement of prior registration;
 - iii) the service is not time-limited. There is an expectation that the service is to be provided for the foreseeable future. Services of a temporary nature, for instance services associated with a single event, are excluded;
 - iv) there is no payment, or payment commitment as a pre-requisite for using the service; and
 - v) the following activities are excluded during a call: advertisement; entertainment; marketing and selling; using the call for the future selling of commercial services.
- 2.10 In addition to the General Service Conditions, specific conditions may also be set by the Commission at the time of reserving a 116 number to control the nature of that particular service and ensure pan-European harmonisation. These are referred to as 'Specific Service Conditions'.
- 2.11 There is some limited scope for Member States to attach additional conditions to the right of use provided that such conditions do not hinder the harmonising effect of the Decision or create a barrier to the development of pan-European services. Any 'Additional Specific Service Conditions' should follow the rules of the European regulatory framework, in particular Article 6 of the Authorisation Directive⁸ and Part C of its Annex, which sets out the type of conditions which may be attached to rights of use of telephone numbers. Furthermore, such conditions must be objectively justified, non-discriminatory, proportionate and transparent in what they are intended to achieve.
- 2.12 The charging arrangement for each 116 number is a condition attached to the right of use of the number. Having considered this further since the 116 Consultation, we have decided that it is appropriate to make the charging arrangement an Additional Specific Service Condition. In Annex 6 (see paragraph A6.30), we set out our reasoning regarding how the charging arrangements fulfil the criteria listed in paragraph 2.11 by being the type of condition which may be attached to rights of use of telephone numbers and therefore may be an Additional Specific Service Condition attached to '116' numbers.
- 2.13 Together, the Service Description, the General Service Conditions, the Specific Service Conditions and any Additional Specific Service Conditions, form the Service Eligibility Criteria. All applicants requesting the allocation of a 116 number must demonstrate how they meet the Service Eligibility Criteria and all who are allocated a '116' number must fulfil the criteria as a right of use.

⁸ Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) http://ec.europa.eu/information_society/topics/telecoms/regulatory/new_rf/documents/l_10820020424en00210032.pdf

Duties of the Member States

- 2.14 The Decision sets out a number of measures that National Regulatory Authorities (NRAs) responsible for administering telephone numbers must take to implement the Decision. These measures fall to Ofcom in the UK and cover:
- (i) taking all necessary measures to ensure that '116' numbers reserved by the Commission can be allocated in the UK;
 - (ii) making known when a new 116 number is available for the provision of the associated service and the process for applying for the allocation of the number;
 - (iii) ensuring that '116' numbers reserved by the Commission are only used for the specified service and that '116' numbers not reserved by the Commission are not used; and
 - (iv) keeping a publicly available register of '116' numbers available in the UK and reporting on service availability periodically to the Commission.
- 2.15 The Decision confirms that the reservation of a 116 number for a specified service does not carry an obligation for Member States to ensure that the service in question is provided within their territory.

Format of '116' numbers

- 2.16 The Commission has initially made 199 numbers potentially available for reservation in the format 116000 to 116199 inclusive, excluding 116112 to avoid confusion with the European emergency number '112'. Other parts of the 116 number range may be made available for reservation at a later stage in light of experience and depending on demand.

Charging arrangements for '116' numbers

- 2.17 Article 2 of the Decision states that a "Harmonised service of social value' is a service meeting a common description to be accessed by individuals via a freephone number (...)". This is also reflected in the preamble to the Decision, which states that-

"In order to reflect the social function of the services in question, the harmonised numbers should be freephone numbers, without this meaning the operators would be obliged to carry calls to 116 numbers at their own expense. The freephone nature of the numbers is therefore an essential component of the harmonisation being carried out".

- 2.18 Following discussions with the Commission, it is clear that its aim for '116' numbers is that calls are free for all callers. However, the Commission has also recognised that in some Member States the charging arrangements for 'freephone' numbers allow customers to be charged in certain circumstances, and that such charging arrangements would be consistent with its Decision.
- 2.19 As explained in paragraph 2.3, the Decision is made pursuant to Article 10(4) of the Framework Directive. This article allows the Commission to take appropriate technical implementing measures to harmonise numbering resources within the Community where that is necessary to support the development of pan-European services. Charging arrangements are an important element in the harmonisation of numbering resources and Member States are required to implement such measures.

Within the confines of the Decision, '116' numbers may be either 'freephone' or 'free to caller' and we may make charging arrangements part of each '116' number's service designation⁹ in the Numbering Plan and attach them as rights of use of the number in the form of Additional Specific Service Conditions.

Reservation of 116 numbers

2.20 Reservation of '116' numbers for specified services is carried out at the European level by the Commission. To reserve a 116 number, the Commission amends its Decision to include the following details:

- the 116 number;
- the Name of Service as given by the Commission;
- the Service Description, which is the Commission's description of the main elements of the service; and
- any Specific Service Conditions attached by the Commission to the rights of use of that number.

Reservation of the first three '116' numbers

2.21 The Decision included one number in the Annex – 116000 for the service 'Hotline for missing children' - when it was published on 15 February 2007. On 29 October 2007, the Commission issued a decision amending the Decision ('the Amending Decision')¹⁰ in order to reserve two additional numbers beginning with '116' and to include the Service Description and Specific Service Conditions for 116000.

2.22 The numbers currently reserved by the Commission, their Name of Service and their Service Description are set out in the following table:

Number	Name of Service	Service for which this number is reserved
		Service Description
116000	Hotline for missing children	The service (a) takes calls reporting missing children and passes them on to the police; (b) offers guidance to and supports the persons responsible for the missing child; (c) supports the investigation into the missing child.
116111	Child helplines	The service helps children in need of care and protection and links them to services and resources; it provides children with an opportunity to express their concerns, talk about issues directly affecting them and contact someone in an emergency situation.
116123	Emotional support helpline	The service enables the caller to benefit from a genuine human relationship based on non-judgemental listening. It offers emotional support to callers suffering from loneliness, in a state of psychological crisis, or contemplating suicide.

Figure 2.1: '116' numbers reserved by the Commission as at 20 February 2009

⁹ The service designation is Ofcom's description of the service in Part A1 of the Numbering Plan.

¹⁰ Commission Amending Decision of 29 October 2007

http://ec.europa.eu/information_society/policy/ecomms/doc/current/Amendment.pdf

The Amending Decision is reproduced at Annex 5.

Reservation of additional '116' numbers

- 2.23 Requests for the reservation of a new 116 number for a particular harmonised service of social value may be submitted to the Commission by any party at any time. Applications must include detailed service descriptions explaining how the proposal fits with the definition of a harmonised service of social value and how it justifies the reservation of a 116 number. It is important to note that reservation by the Commission of a 116 number for a specific service does not give any rights to the person or organisation that applied to the Commission for the reservation in any given national environment. Applications for '116' number reservations should be sent to the Commission at INFSO-116numbers@ec.europa.eu.
- 2.24 Applications will be considered by the Communications Committee ('COCOM').¹¹ COCOM follows a 'comitology' or committee procedure for assessing whether applications meet the Commission's criteria for reservation of '116' numbers. In practice, this procedure has included detailed analysis of service applications in COCOM 116 sub-committee meetings, followed by discussion of the resulting recommendations at the main COCOM meeting, and then public consultation on the reservation of any '116' numbers proposed. Ofcom and the Department of Business, Enterprise and Regulatory Reform ('BERR') are represented at all stages of the committee procedure. We will continue to work with the Commission to ensure that services reserved a 116 number are limited to those with a real case for pan-European harmonisation, that are highly likely to be launched in a number of countries, and which meet an overwhelming social need. We will consult with the advisory committees to ensure a UK perspective is brought to these discussions.
- 2.25 The Commission expects to consult on reserving additional '116' numbers periodically, probably every six or twelve months depending on demand. Following a positive outcome to a consultation, the Commission will amend the Decision to include the number; the Name of Service; the Service Description; and any Specific Service Conditions.
- 2.26 The Commission will allow a period of time between amending the Decision and when Member States should be in a position to accept applications for the allocation of the new '116' number(s). This will allow NRAs to implement the necessary arrangements to make the numbers available for allocation from their national numbering plans.

The 116 Consultation

- 2.27 Ofcom is required under the Decision to take all action necessary to make the '116' numbers reserved by the Commission available for allocation in the UK. In order to make the '116' numbers available, decisions need to be taken on the appropriate allocation and charging arrangements. The 116 Consultation set out the options, assessed them against our policy objectives of ensuring the best use of numbers and furthering the interests of citizens and consumers and put forward our proposals for allocation and charging.
- 2.28 In order to implement our proposals, modifications need to be made to the Numbering Plan, the Numbering Conditions and the access code application form.¹² Consistent with sections 47 and 60 of the Communications Act 2003 ('the Act'), we should not make the proposed modifications unless they are (with respect to the matters that they deal with):

¹¹ COCOM consists of officials from Member State authorities responsible for electronic communications and assists the Commission in carrying out its executive powers under the Framework Directive.

¹² The access code application form is the form submitted by communications providers to apply for the allocation of access codes. The form has been modified to include applications for '116' numbers.

- proportionate;
- non-discriminatory;
- objectively justifiable; and
- transparent.

2.29 The 116 Consultation contained notifications of the proposed modifications in Annexes 9, 10 and 11 and explained how, in our view, the proposed modifications met the necessary legal tests in Annex 8 of the 116 Consultation. These tests are summarised in the above paragraph and described in Annex 6 of this document.

Section 3

Responses to the consultation and Ofcom's comments

Background

- 3.1 We received 13 responses to the 116 Consultation. A list of respondents is provided at Annex 1 and the responses are available on our website at: <http://www.ofcom.org.uk/consult/condocs/116/responses/>
- 3.2 The 116 Consultation set out ten specific questions for respondents to answer. There were also additional issues that generated comments and some respondents chose to make more general observations in relation to the proposals set out in the consultation document.

Responses to questions in the 116 Consultation

- 3.3 We posed specific questions on our proposals for allocation of '116' numbers and the appropriate charging arrangements. In this section of the document, we summarise the responses received to these questions and set out our comments.

Responses to questions on 116 number allocation arrangements

- 3.4 There were three top-level questions on the allocation of '116' numbers which the 116 Consultation sought to answer:
- who can apply for a 116 number?
 - what form of selection process should be used to allocate '116' numbers?
 - how should that selection process be run?
- 3.5 We put forward a number of ways that the above questions could be answered and evaluated them in line with our duties to secure the most suitable use of each 116 number and to further the interests of citizens and consumers. We then set out our initial preferred option in each case.

Question 1: Do you agree that communications provider / single or multiple service provider partnerships are the most appropriate parties to apply for allocation of 116 numbers?

Background to Question 1

- 3.6 In the 116 Consultation, we considered that allocating '116' numbers using a process for selecting a single communications provider was preferable to the number being generally available for use without application to Ofcom. This process would allow us to verify whether services fulfil the requirements of the Decisions as amended before an allocation is made and to monitor ongoing service provision against those criteria.
- 3.7 We also explained that allocation to one communications provider would be the most straightforward method for ensuring efficient and effective routing of calls. This is because the current technical arrangements for carrying calls across communications networks relies on originating and transit communications providers routing calls to the termination point of the communications provider allocated the number. It would

also result in a more consistent approach to service provision than having a variety of communications providers handling calls to the same 116 number.

- 3.8 In addition, we believed that it was important for the provider(s) of each service to be considered as part of the allocation process and to be named explicitly as the provider(s) who would supply the service. We argued that flexibility in service provision was required in order to give the greatest opportunity to all service providers to use the 116 number applicable to their service, and to ensure that the best possible service is provided to consumers. We therefore supported the ability for multiple service providers to work together to provide a comprehensive service, where this would benefit consumers.
- 3.9 Given this, we put forward our initial preference to allocate each 116 number to a communications provider / single or multiple service provider partnership following application to Ofcom (this was referred to as Allocation Option 4). Other options considered were allocation to any communications provider without application to Ofcom (Allocation Option 1); allocation to a communications provider following an application to Ofcom (Allocation Option 2); and allocation to a communications provider / single service provider partnership following an application to Ofcom (Allocation Option 3).

Responses to Question 1

- 3.10 Almost all respondents agreed with the general principle that ‘116’ numbers should be allocated to partnerships of one communications provider and single / multiple service provider(s).¹³ Respondents agreed with the importance of service providers’ credentials being assessed and the need for them to be named as the provider of the service. There was general support for a flexible approach to joint service provider applications in order to give the greatest opportunity to service providers to use the 116 number reserved for their service category and to promote the best possible service for consumers.
- 3.11 BT agreed that it was unnecessary to change the current arrangements for allocating numbers to communications providers specifically for ‘116’ numbers. Recognising that the service provider is best placed to justify the allocation of the 116 number for their service, BT supported collaboration between communications providers and service providers at the application stage. Also, BT agreed that partnerships should not be more complex than an arrangement between a single terminating communications provider and a single service provider; or a single terminating communications provider and a single collaboration of service providers.
- 3.12 BT noted that a likely consequence of the communications provider / service provider(s) partnership approach was that Ofcom might receive multiple applications for a 116 number from:
- the same communications provider featuring different service providers;
 - from the same service provider featuring different communications providers; and
 - from the same service provider featuring different service provider partnership combinations.

BT argued that this should be permitted; otherwise providers would need to prematurely assess their options and tie themselves to one partnership application.

¹³ Those respondents were BT, the Cabinet Office co-ordinated Contact Council (‘the Contact Council’); Get Connected including CALM; The Line to What Now; B-eat; Brook (‘Get Connected’); Missing People; Ross on Wye Chamber of Commerce (‘Ross on Wye CoC’); Samaritans; the Telephone Helplines Association (‘the THA’) and Mr O’Donnell (a consumer).

- 3.13 The National Society of the Prevention of Cruelty to Children ('the NSPCC') favoured allocation of '116' numbers to a communications provider / single service provider partnership following application to Ofcom (Allocation Option 3 in the 116 Consultation). The NSPCC acknowledged that in some situations there could be benefits to a multiple service provider partnership, particularly in supplying UK coverage in the context of devolution. However, its overall view was that multiple service provider partnerships would be immensely complex to develop and implement and that it would be difficult to ensure quality, cost effectiveness and consistency in service provision. It could also be difficult to educate the public in the relationships between the different service providers and the differences in service provision. The NSPCC argued that it was important to ensure a high quality and trusted service, and that this may be harder to achieve if multiple service providers were permitted to use the same 116 number. If the multiple service provider proposal was to work, one service provider would need to be clearly established as the lead partner and all service providers using the 116 number must adhere to the same set of service standards
- 3.14 Similarly, Samaritans had reservations about the multiple service provider scenario. While in principle Samaritans did not object to the concept of multiple service providers submitting a joint application together with their chosen communications provider, it felt that for the 116123 'Emotional support helplines' service, this approach would lead to a less effective service for a number of reasons. These reasons included the need to avoid any barriers that might deter consumers from making contact with the helpline (for example, call handling systems which pass off calls to different service providers or recorded messages); lack of consistency in service provision; detracting from an already comprehensive service through potential partnerships with helplines of varying size, quality and expertise and with different missions, visions and values. Samaritans argued that, given its strong market position and the universality of its existing service, it would be better placed to deliver the 116 service as the sole provider rather than form a multiple provider partnership. However, it recognised that the multiple service provider model may be appropriate for the provision of other services on '116' numbers.
- 3.15 The Telephone Helplines Association ('the THA') argued that it is the service provider rather than the communications provider that adds quality to a helpline service, and therefore the service provider should be the lead partner in a communications provider / service provider partnership. Furthermore, the THA supported allocation direct to service providers, with the communications provider being recommended by the service provider and their choice approved by the advisory committee. Similarly, the National Policing Improvement Agency Missing People Bureau ('the NPIA Missing People Bureau') argued that the communications provider and service provider (whether single or multiple) should not submit joint applications for '116' numbers but that each party should apply separately.
- 3.16 Thus suggested an alternative allocation process, which it strongly favoured in contrast to the four proposed. Thus agreed that the service provider is the most important party in the provision of the service and believed, therefore, that the service provider should drive the allocation process. Under the Thus proposal, service providers would apply to Ofcom for accreditation to provide the service offered on a specific 116 number. Ofcom, together with the advisory committee, would consider applications and make an accreditation where the applicant fulfilled the Service Eligibility Criteria and certain quality performance measures. Accredited service providers would then negotiate arrangements with one or more communications providers for the delivery of calls. Originating communications providers could then decide to which accredited service provider they wish to forward '116' calls made by their customers. Thus used the analogy of call handling arrangements for '999/112' emergency calls, whereby originating communications providers route calls to their

choice of accredited call handling agent. The benefits of this proposal were that service providers do not need to be tied into partnership arrangements allowing for competition and innovation. It would also remove the timescale constraints imposed by allocation to a single partnership as latecomers, once accredited, could use the '116' number, which could benefit consumers through the potential provision of superior and/or innovative services.

- 3.17 Missing People requested clarification on the term 'communications provider' and whether this included small companies and resellers, as well as large communications companies. The THA requested clarification of what a 'service provider' meant and whether, in the situation of a service outsourced by the public sector, the service provider would be the commissioning body or the outsourced agency. In the THA's view, the commissioning body should be classed as the service provider in order to provide continuity in service provision.

Ofcom's response to comments on Question 1

- 3.18 We welcome the expressions of support for the proposal to allocate '116' numbers to partnerships of communications providers and single / multiple service providers. We continue to believe that this is the most appropriate arrangement for ensuring that the best available service is provided on '116' numbers for the benefit of citizens and consumers. We agree with BT's comment that the process should be as simple as possible and that there is no requirement to change the system of allocation to communications providers.
- 3.19 We have considered BT's recommendation that we permit a) multiple applications from the same communications provider featuring different service providers; and b) multiple applications from the same service provider featuring different communications providers and/or different service provider partnerships. We agree that this is a sensible approach to ensuring that communications and service providers do not unnecessarily and prematurely tie themselves to one partnership option.
- 3.20 We found the NSPCC and Samaritan comments on potential problems with multiple service provider partnerships helpful and understand the concerns expressed. While we continue to value the flexibility that would be provided by multiple service provider partnerships and believe that there would be many benefits created by this arrangement, our most important consideration is to promote the best use of '116' numbers and further citizen and consumer interests. We stress, as we did in the consultation, that multiple service provider partnerships would only be encouraged where it was in the consumer interest. The advisory committees will be well placed to advise on the benefits or disadvantages of single and multiple service provider partnership arrangements for each 116 number, depending on the characteristics of the particular service and the service sector. To clarify, multiple service provider partnerships would be pursued at the service providers' request and would not be forced on service providers by Ofcom.
- 3.21 In order to facilitate the effectiveness of multiple service provider partnerships, we agree with the NSPCC that a lead service provider needs to be nominated. The lead service provider would be responsible for submitting the application for the 116 number on behalf of the partnership and would be the contact for further information, both during the comparative selection process and post number allocation. The lead service provider would be responsible for ensuring that the service provided by the partnership fulfils the Service Eligibility Criteria and for responding to Ofcom and advisory committee requests in relation to monitoring of service provision.

- 3.22 We note the comments from the THA and the NPIA Missing Person Bureau regarding the value that service providers bring to the service and the suggestion that the service provider should therefore be the lead in the allocation partnership (or even the sole allocatee). We agree that it is the service provider that needs to demonstrate how the proposed service would meet the Service Eligibility Criteria and therefore the comparative selection process will concentrate on the service provider's credentials and the details of its proposed service. In practice, the inclusion of the communications provider in the allocation partnership is designed to facilitate efficiency in call routing – the assessment process will concentrate primarily on the service provider. We continue to believe that this is the most effective proposal for '116' number allocation.
- 3.23 Thus' alternative allocation proposal was interesting and we gave the idea of accreditation serious consideration. We agree that the proposal is attractive on some levels, particularly as a means for potential service providers to approach Ofcom for accreditation at any time and thereby allowing for 'late comers' to use the 116 number reserved for their type of service . However, we have strong concerns that consumers calling '116' numbers on which a multitude of accredited service providers offer services, will experience inconsistency in service provision and a lack of transparency as to which service provider they will get when calling from different networks. The possible consumer confusion caused by getting through to different service providers when originating a call from different networks may harm the service provided if there is a lack of continuity and if consumers value talking to the same service provider. We believe that it would better serve consumers' interests if, when dialling a 116 number, they were connected to the service provider(s) whose partnership was considered to offer the most suitable service rather than being connected to one of a multitude of accredited service providers. Also, it is clearer for the routing of calls if one terminating communications provider is named as part of the 116 number allocation.
- 3.24 We understand Thus' concern regarding exclusion of late comers from using the 116 number relevant to their service. We considered that one way of addressing this within our proposed allocation option may be to time limit the allocation. This would require allocations to lapse after a set period, say five years, and for a new comparative selection process to be conducted. This would allow 'late comers' to the original selection to apply during this new selection process. It would also facilitate competition. We have concluded that in some circumstances in the future we may want to consider such an approach. For example, if it emerges during the comparative selection process that there is strong competition between service providers in a particular service sector, we may decide that a five year allocation period would continue to stimulate competition, whereas an indefinite allocation to one service provider might stifle competition. However, we have decided that in general, allocations of '116' numbers will not be time limited. We do not wish to increase the administrative burden by forcing service providers to undertake a lengthy comparative selection process periodically when they are providing a service that continues to meet the Service Eligibility Criteria.
- 3.25 In its response, Missing People requested clarity over the definition of a communications provider. A 'Communications Provider' is defined in the Definitions section of the notification of the General Conditions as "a person who provides an Electronic Communications Network or provides an Electronic Communications Service".¹⁴ The communications provider in the partnership requesting allocation of a 116 number will be required to complete an access code application form at the end of the comparative selection process, setting out details of its electronic communications network or service. Provided that the application form demonstrates

¹⁴ The consolidated version of General Conditions as at 15 August 2007 (including annotations) is available on Ofcom's website at http://www.ofcom.org.uk/telecoms/ioi/g_a_regime/gce/cvogc150807.pdf

that the applicant meets the definition of a communications provider, it may be of any size.

- 3.26 The THA requested clarity regarding which party would be considered the ‘service provider’. In the context of 116 number partnerships, the service provider is the organisation responsible for service provision. The THA also raised the issue of rights of use of a 116 number in a situation involving a public sector commissioning body and an outsource agency. In such a situation, the commissioning body would generally be the organisation with overall responsibility for the service, including financial and performance accountability. Actual service provision might be outsourced to an administering agency on their behalf for a contracted period. In this situation, we would normally consider the commissioning body to be the service provider in the context of 116 number allocations. However, the detailed applications submitted during the selection process will afford Ofcom and the advisory committee the opportunity to understand each applicant’s service in detail and determine which party has overall responsibility for service provision. Where necessary, rights over 116 number use in post-allocation situations that might include changes to the commissioning body or the outsource agency would be considered by the advisory committee and decided by Ofcom.

Question 2: Do you agree that a comparative selection process is the most appropriate way of determining applications for 116 numbers?

Background to Question 2

- 3.27 We identified three alternative options for selecting which party should be allocated each 116 number. These options were:
- ‘first come first served’, which is the process currently used by Ofcom to assess applications for numbers and allows communications providers to select their choice of number from an available stock;
 - comparative selection, which would assess applications for ‘116’ numbers against the Service Eligibility Criteria and each other to determine the most suitable provider to receive the allocation; and
 - competitive selection through lotteries and auctions.
- 3.28 Having assessed the options for the selection process for ‘116’ numbers in line with our duties to secure the best use of numbers and to further the interests of citizens and consumers, we favoured the comparative selection process. This option would allow us to evaluate the merits of each applicant and make an informed decision on the allocation. We believed that this process was best suited to the allocation of ‘116’ numbers given their uniqueness and the social value of the services to be provided on the numbers.

Responses to Question 2

- 3.29 Most respondents agreed that a comparative selection process would be the most suitable way to allocate ‘116’ numbers.¹⁵ A number of respondents made specific comments on the Service Eligibility Criteria. These are set out in the following paragraphs.

¹⁵ Those respondents were BT, the Contact Council, Get Connected, Missing People, NPIA Missing Person Bureau, Mr O’Donnell, Ross on Wye CoC, Samaritans, the THA and Thus.

- 3.30 BT commented that the Service Eligibility Criteria should ensure that calls to services on '116' numbers do not subsequently lead to new chargeable calls being set up directly.
- 3.31 The NPIA Missing Person Bureau requested clarification of Ofcom's understanding of 'nationwide' availability in the context of the Specific Service Conditions for the initial three 116 numbers.
- 3.32 BT supported the use of Additional Specific Service Criteria and felt that, given the impact that being allocated a 116 number would have on the service sector, there should be stretching but achievable criteria set for each service, some specific and some common to all '116' numbers. Samaritans also supported the use of Additional Specific Service Criteria and felt that this could be used to enhance the Commission's Service Description and Specific Service Criteria and thereby ensure a service that furthers citizen and consumer interests.
- 3.33 Both BT and Samaritans supported services of 'extreme social value'¹⁶ being available 24-hours, 7 days a week. BT felt that services should be supplied in a significant number of Member States' official languages, given that harmonised services were for the particular benefit of European travellers, and that there needed to be a front-end interface to establish the language of choice. PhoneAbility also felt that language barriers needed to be covered by the Service Eligibility Criteria.
- 3.34 Although supportive of a comparative selection process, Samaritans felt that the detail of how the process would work in practice remained to be seen and suggested that the methodology was piloted at this stage, with its effectiveness in enhancing the social value of the services being carefully scrutinised and kept under review.
- 3.35 BT, the Contact Council and the THA pointed out that use of a comparative selection process required ongoing monitoring of the service allocated the 116 number to ensure that it continued to meet all the Service Eligibility Criteria. The Contact Council suggested that service standards were delivered and reported on using the Cabinet Office Performance Management Framework ('the PMF').¹⁷ The THA suggested that a service provider's commitment to quality should be demonstrated through accreditation with the THA Quality Standard.¹⁸
- 3.36 As set out in paragraph 3.16, Thus proposed an alternative comparative selection process which would accredit service providers that met the Service Eligibility Criteria and certain quality performance measures. In other words, Thus proposed that the selection process should allow "Ofcom...(to)...select 'everyone good' rather than 'the best'".

Ofcom's response to comments on Question 2

- 3.37 We welcome respondents' support for the proposed comparative selection process and remain of the view that this is the most appropriate process to deliver the best use of '116' numbers and further the interests of citizens and consumers.
- 3.38 We agree with BT that calls to '116' numbers should not lead to chargeable calls or be used as a portal for connection to chargeable numbers. We therefore intend to discuss the merits of including this as an Additional Specific Service Condition for future '116' numbers with the advisory committees. We will also suggest seeking confirmation from applicants for '116' numbers that this practice will not take place.

¹⁶ Services of 'extreme social value' is the term used by Ofcom to describe services which generally meet a vital and/or extremely urgent need at a time of emotional distress or threat to welfare.

¹⁷ The Performance Management Framework was developed by the Cabinet Office to provide a clear set of performance management indicators for publicly funded contact centres.

On a European level, Ofcom will put this position forward when participating in the COCOM 116 sub-committee meetings that consider applications for the reservation of future '116' numbers.

- 3.39 On the matter of 'nationwide' availability, England, Wales, Scotland and Northern Ireland share the same national numbering scheme under the UK country code '44'. Within a national numbering scheme, there can only be one version of each 116 number reserved by the Commission, resulting in only one version of each 116 number available for allocation in the UK. Given this, we would expect to see applications (from single and multiple service provider partnerships) for services that are available across the UK. In doing this, we will need to fully involve service providers covering England, Wales, Scotland and Northern Ireland. Ofcom and the advisory committees will work with service providers to try and achieve this goal.
- 3.40 We agree with Samaritans and BT that Additional Specific Service Conditions could be used to raise and guarantee the quality of services allocated '116' numbers. The advisory committees have also expressed a desire to enhance the ongoing quality of services allocated '116' numbers. The benefits of adding Additional Specific Service Conditions would need to be considered alongside the possible consequence of reducing the number of service providers who could reasonably be expected to meet and fund fulfilment of those conditions. This includes the requirement for continual provision (where not required by the Commission's Specific Service Conditions) and additional language provision.
- 3.41 We agree with Samaritans that processes should be reviewed once launched to ensure that they are efficient and effective. While we have taken considerable care in formulating the process and have enhanced it by enlisting the help of advisory committees, there may be aspects of the comparative selection process that require modification with the benefit of experience. We plan to have an informal discussion with service providers who have taken part in the comparative selection process for the initial three '116' numbers about their experience and any suggestions for improvement.
- 3.42 We agree that ongoing monitoring goes hand-in-hand with a comparative selection process to ensure that the commitments made to meet the Service Eligibility Criteria at the time of allocation continue to be met. The advisory committee will take a lead role in monitoring the service provided on the 116 number and we will also monitor service availability and other aspects of service provision in order to report periodically to the Commission. We agree with the Contact Council's suggestion that service performance standards are delivered and monitored using the Cabinet Office's PMF. However, while we agree with the THA that a service provider's commitment to quality can, in many regards, be demonstrated through accreditation, we prefer not to limit this accreditation to a single specified body or organisation.
- 3.43 In response to Thus' recommendation that '116' numbers are made available for use by any service provider that meets the Service Eligibility Criteria and certain quality performance measures, we continue to believe that the best form of comparative selection is one that results in allocation of '116' numbers to the partnership that, following assessment against the Service Eligibility Criteria and other applicants, is deemed to provide the best service.

Question 3: Do you have any comments on the proposal for a 'call for interest' period? Do you think that six weeks allows sufficient time to make a submission of interest?

Background to Question 3

3.44 In the 116 Consultation, we proposed introducing a ‘call for interest’ period into the allocation process in order to allow service providers sufficient time to adequately express their interest in applying for a 116 number before the three week statutory timescale for determining numbering applications commences.¹⁹ This period would need to be of sufficient time for service providers to become aware of the ‘call for interest’; to consider whether they want to apply for the 116 number; and, if so, to select a communications provider to form a partnership and put together a comprehensive application. We proposed a period of six weeks for each ‘call for interest’.

Responses to Question 3

- 3.45 Most respondents supported the concept of the ‘call for interest’ period as necessary for service providers to put together comprehensive applications.²⁰ However, virtually all recommended a longer period than the proposed six weeks.²¹ It was argued that service providers needed more time to become aware of the ‘call for interest’; consider the pros and cons of applying; negotiate partnerships with communications providers and, if applicable, other service providers; address funding and commercial arrangements; and put together all the information requested as part of the application.
- 3.46 A number of alternative suggestions were made for an appropriate timeframe for the ‘call for interest’. These ranged from eight weeks (the Contact Council); three months (Get Connected and Missing People - if there were only one service provider in the partnership); four months (BT and the NSPCC); and six months (Missing People - if there were multiple service providers in the partnership). The NSPCC added that it had experience - through its ‘helpline development programme’ - of the amount of detail on service operation and quality assurance measures that it would reasonably expect us to ask of applicants and this implied that a significant amount of time would be required to meet this request.
- 3.47 While Samaritans agreed in principle with the ‘call for interest’ proposal, it felt that the process should be kept under review as the allocation of ‘116’ numbers was rolled out more widely. It was likely that service providers interested in applying for the initial three ‘116’ numbers would already be prepared to submit an application during the ‘call for interest’ due to the wider consultation that had taken place but that potential service providers for future ‘116’ numbers may need more time to prepare. Therefore the length of time for ‘call for interest’ periods should be flexible to avoid service providers struggling to meet the deadline for submissions.
- 3.48 Samaritans encouraged Ofcom to publicise forthcoming ‘call for interest’ in ‘116’ numbers in a variety of ways to be as effective as possible, with the proactive engagement of potential service providers as a welcomed part of that process. Get Connected and Mr O’Donnell (a consumer) also expressed concern that potentially interested service providers may be unaware of the Commission’s Decision and the opportunity to apply for ‘116’ numbers. They recommended increased publicity or direct approaches during the ‘call for interest’ stage to ensure that all potential service providers were aware of the opportunity. The NSPCC wanted clarity over the information required from service providers at the different stages of the selection process.

¹⁹ Ofcom has a statutory duty under section 58(4) to determine an application for telephone numbers within three weeks of receipt of the all the necessary information.

²⁰ Those respondents were BT, the Contact Council, Get Connected, Missing Persons, NPIA Missing Person Bureau, the NSPCC, Mr O’Donnell, Ross on Wye CoC, Samaritans and Thus.

²¹ Those respondents were BT, the Contact Council, Get Connected, Missing Persons, the NSPCC, Samaritans and Mr O’Donnell.

3.49 Thus suggested an alternative comparative selection process involving accreditation of all service providers that fulfil the Service Eligibility Criteria and certain quality performance measures (see paragraph 3.16). Under this proposal, accreditation would take place at any time, however, the concept of a ‘call for interest’ / ‘thinking period’ between publication of the Service Eligibility Criteria and the first date on which applications may be submitted was supported to avoid ‘first mover’ advantage.

Ofcom’s response to comments on Question 3

3.50 We welcome the support for the ‘call for interest’ concept as a means of giving interested service providers time to put their application together before the statutory timescale for determining formal numbering applications begins. However, we accept that our proposed timescale for this period was too short for service providers to take all the necessary steps to complete a full application.

3.51 In response to the points made on our proposals for the ‘call for interest’ period, we have worked with the Contact Council and the advisory committee set up for the initial three ‘116’ numbers to develop a more satisfactory process that should allay respondents’ concerns. Details of the allocation process are set out in Section 4 of this document and specific details on the selection process for the initial three ‘116’ numbers are contained in individual documents available on our website.²² An explanation of the new two stage comparative selection process and the new timescales for interested service providers to submit applications is provided below.

3.52 The comparative selection process for each 116 number will have two stages, referred to as Stage One and Stage Two. (We no longer refer to this pre access code application form phase as a ‘call for interest’ period.) Stage One will last for six weeks. Service providers interested in the allocation of a 116 number will submit applications providing detail on themselves and their service, demonstrating how they would meet the Service Eligibility Criteria. During Stage Two, a detailed business case supporting the application is submitted. Stage Two will generally last for twelve weeks (but may be reduced in exceptional circumstances when it is in the interest of all applicants to shorten the period).²³ Both stages will be followed by a four week assessment period during which the advisory committees consider the applications received. As mentioned in response to comments on Question 2, we will keep the specifics of the comparative selection process, including timescales, under review to ensure that it is as effective as possible.

3.53 We agree that it is vital for all potentially interested service providers to be made aware of the availability of each 116 number and of the comparative selection process to ensure that all have an opportunity to apply and that applications are received from appropriate service provider(s). We will undertake the following steps to ensure that the selection process is promoted sufficiently:

- we will consult on adding each new 116 number to the Numbering Plan and this consultation will help to bring the forthcoming comparative selection process to the attention of interested service providers;
- we have launched a ‘116 webpage’ on the Ofcom website as part of the ‘Numbering Policy’ section. This is available at <http://www.ofcom.org.uk/telecoms/ioi/numbers/>. The ‘116 webpage’ contains information on all ‘116’ numbers reserved by the Commission, including details of the current and forthcoming comparative selection processes, as well as other

²² <http://www.ofcom.org.uk/telecoms/ioi/numbers/116/116000.pdf> ;
<http://www.ofcom.org.uk/telecoms/ioi/numbers/116/1166111.pdf> ,
<http://www.ofcom.org.uk/telecoms/ioi/numbers/116/116123.pdf>

²³ For instance, in the event of only one service provider applying for a particular 116 number and where the necessary details for the business case are to hand and negotiations with the chosen communications provider are well advanced

information on '116' numbers. There is a free e-mail subscription list for people interested in receiving notification of updates to the Numbering Policy webpages and documents, including updates to the '116 webpage'.²⁴

- we will endeavour to take all reasonable measures to raise awareness of the availability of each 116 number with relevant stakeholders. We will take advice from the advisory committees convened specifically for each 116 number on the best way to bring the comparative selection process to the attention of the helpline community and to identify potentially interested service providers so that we can directly bring the selection process to their attention.

Question 4: Do you have any comments on the proposal for Government coordinated advisory committees to assist Ofcom with the 116 number allocation process? Do you have any views on the possible membership of the advisory committees?

Background to Question 4

- 3.54 In the 116 Consultation, we explained that the comparative selection process would involve us making judgements on the suitability of service providers to deliver services of social value in accordance with the Service Eligibility Criteria. We recognised that evaluating the merits of service providers and the types of service to be offered on '116' numbers required knowledge substantially different from that acquired during our usual number allocation processes. We explored a number of options with central Government and reached agreement that Ofcom should be the ultimate decision-maker, but that our decisions would be made with the support of advisory committees set up by the Cabinet Office co-ordinated Contact Council. This support would ensure that we have the required competency to make allocation decisions on '116' numbers. Given this, we proposed that Ofcom is assisted in the comparative selection process by Government run advisory committees convened specifically for each 116 number allocation decision.
- 3.55 We proposed that the advisory committees would work with us on the two key elements of the selection process:
- setting out the information to be supplied to us by interested service providers as part of the application process; and
 - assessing that information and providing recommendations on which service providers should be allocated the '116' numbers.

Responses to Question 4

- 3.56 There was general support for the concept of Government run advisory committees with the requisite expertise to provide Ofcom with recommendations on the most appropriate service providers to be allocated 116 numbers.²⁵
- 3.57 The Contact Council submitted a response supporting the proposal for it to run the advisory committees. It recommended that the committees have a consistent core membership drawn from the Contact Council's already established Numbering Strategy sub-group. The core membership would ensure retention of knowledge and consistency with the Contact Council's strategic numbering work related to publicly funded contact centres. The core membership would be supplemented by ad hoc members for each 116 number advisory committee, tailored to meet the demands of

²⁴ To register for automatic updates to the numbering policy webpages, including updates to the '116 webpage', follow this link <http://www.ofcom.org.uk/static/subscribe/numbering.htm>

²⁵ Those respondents were BT, the Contact Council, Get Connected, Missing People, NPIA Missing Person Bureau, the NSPCC, the THA and Thus.

the particular service and drawing on specific skills from local and central Government, the voluntary sector and other Non-Government Organisations ('NGOs').

- 3.58 Get Connected commented on the membership of the advisory committees, stating that professionals working in the relevant social care sectors should be included. The NSPCC strongly recommended that service user views from across the UK were represented. Samaritans wanted to ensure that a wide range of membership candidates with the relevant expertise and experience were considered. In particular, candidates with a detailed knowledge of the third sector and of emotional support helplines should be a high priority for membership of the 116123 'Emotional support helplines' advisory committee.
- 3.59 A number of respondents stressed that caution needed to be taken to resolve potential conflicts of interest within the advisory committees, given that experts in a service field were likely to have connections with potential applicants.²⁶ Samaritans expected a fair, open and transparent appointment procedure that would address potential conflicts of interest in the manner of other public appointments; that is, anyone with personal connections to an applicant would not be an appropriate member of the relevant advisory committee. Get Connected commented that as around half of all helplines are either operated or funded (in whole or part) by local or central Government, there were questions regarding the level of impartiality that could be achieved through Government run advisory committees. In addition, the cost of running a service on '116' numbers could mean that only Government funded services could afford to deliver the service.
- 3.60 NPIA Missing Person Bureau felt that advisory committee members should, either singly or as a quorum, be able to veto applications from organisations considered unsuitable to run a service using a 116 number.
- 3.61 The Contact Council and the THA believed that the advisory committees should play a role in monitoring the partnerships allocated '116' numbers to ensure that service provision continues to meet the Service Eligibility Criteria, and that undertakings made at the time of allocation are delivered. The THA also suggested that the allocation is made for a set period of time rather than indefinitely to allow for review.
- 3.62 A couple of respondents expressed some reservations with the proposal. Samaritans, as reflected in its response to Questions 2 and 3, felt that the comparative selection methodology, including the use of Government run advisory committees, should be seen as a pilot at this stage and reviewed in light of experience. Ross on Wye Chamber of Commerce argued for the selection process to be kept simple and that the decision on whether to use advisory committees should be taken with this in mind.
- 3.63 Requests to be represented on the advisory committees were made by the NPIA Missing Person Bureau and the THA.
- 3.64 Thus supported the concept of the advisory committees and noted that in order to deliver its proposed allocation process, the advisory committees would need to be 'standing' to accredit service providers at any time.

Ofcom's response to comments on Question 4

- 3.65 We acknowledge the general support for Government run advisory committees to assist us in making '116' number allocation decisions. We strongly believe that the experience and expertise of the advisory committees will be central to ensuring that

²⁶ Those respondents were Get Connected, Missing People and Samaritans.

- our decisions deliver best use of '116' numbers and further the interests of citizens and consumers.
- 3.66 We very much welcome the commitment from the Contact Council to run the advisory committees and we support their suggestion of core and ad hoc membership. We have worked closely with the Contact Council since the close of the 116 Consultation to agree the advisory committee arrangements. In our view, these arrangements deal effectively with the concerns raised in the consultation responses, in particular the need for a broad membership and the management of conflicts of interest.
- 3.67 The core membership of the advisory committees will consist of members of the Contact Council's Numbering Strategy sub-group, plus representatives from the THA, each of the devolved national administrations, specific central and local government representation and Ofcom representation in the capacity of observer. Ad hoc advisory committee members will be selected to provide specialist expertise according to the nature of the helpline service. In addition, advice in the form of reports or other submissions such as focus group research with representatives from potential users of the helplines may be requested from relevant organisations. Further detail on the membership and functioning of the advisory committees is set out in Annex 3.
- 3.68 On the matter of conflicts of interest, we agree with respondents that connections between advisory committee members and potential 116 number applicants could occur and that these would need to be addressed. We have discussed this with the Contact Council and believe that any conflicts of interest can be adequately managed. Advisory committee members must declare any connections with a service provider as soon as that service provider expresses interest in being allocated a 116 number or, if unknown at that time, as soon as a connection becomes evident. The Chair of the advisory committee²⁷, in consultation with Ofcom, will decide if the advisory committee member needs to step down from that particular advisory committee. To ensure transparency, service providers applying for '116' numbers will be informed of the advisory committee members, whether any conflicts of interest were disclosed and by whom, and any action taken as a result.
- 3.69 The NPIA Missing Person Bureau's suggestion that advisory committee members should be able to veto applicants was discussed with the Contact Council. It was decided not to permit the veto of applicants. Any concerns that one or more advisory committee members have with a particular applicant should be voiced to the committee and factored into the assessment. If a service provider is unsuitable to provide services on a 116 number, this will become evident as part of the advisory committee's assessment process against the Service Eligibility Criteria.
- 3.70 We agree that monitoring of services provided on '116' numbers post allocation is fundamental to the ongoing effectiveness of the comparative selection process. We welcome the Contact Council's offer to monitor the partnerships allocated '116' numbers to ensure that the services provided meet the Service Eligibility Criteria. Without such monitoring, the commitments made during the process to service provision that set certain service providers apart from others may not materialise.
- 3.71 We were interested in the THA's suggestion that allocation of '116' numbers should be for a set period rather than indefinitely. As discussed in relation to Thus' comments on exclusion of late comers (see paragraph 3.24), we have considered the merits of time limiting allocations. While we believe that generally allocations of '116' numbers should be for an indefinite period provided that the numbers are used in accordance with the Numbering Plan (as with other telephone numbers), we agree that in certain circumstances it might be beneficial to limit the period of allocation.

²⁷ The advisory committees are chaired by the Cabinet Office Service Transformation Deputy Director/the Chair of the Contact Council.

- 3.72 We believe that such circumstances could include, although not be limited to:
- evidence of strong competition between service providers in a particular service sector, where a five year allocation period might continue to stimulate competition, whereas an indefinite allocation to one service provider might stifle competition;
 - allocation is to be made to a service provider that is a relative new comer to the service sector or to helpline provision in general and where lack of service history suggests that an allocation breakpoint would be prudent; and
 - where short and medium term funding are secured by the service provider considered to offer the most suitable service, but where there are some doubts over the long term funding arrangements.
- 3.73 Details of situations such as those described above are likely to emerge during the comparative selection process. Given this, any decision to allocate a 116 number for a finite period would be taken in consultation with the advisory committee and following discussions with the relevant service provider(s). We believe that in such situations, an allocation period of five years would be reasonable. An allocation of less than five years could create uncertainty for service providers in establishing ownership and might not encourage marketing and investment in the 116 brand. We will inform parties of a possible time limited allocation when sending the invitations to Stage Two of the allocation process.
- 3.74 We agree with Samaritans and the Ross on Wye Chamber of Commerce that the allocation process, including the use of advisory committees, must be kept as straight-forward as possible and the process reviewed to ensure it remains efficient and effective.
- 3.75 The Contact Council decided that the characteristics of the initial three '116' numbers were similar enough for the same advisory committee to be convened for all three numbers. We can confirm that the THA and the NPIA Missing Person Bureau were invited to be part of the advisory committee for these numbers as requested.

Responses to questions on the most appropriate charging arrangements for '116' numbers

- 3.76 The 116 Consultation explained that while the Decision defined '116' numbers as being 'freephone', the 'freephone' charging arrangement meant different things in different Member States. In the UK, the definition of 'Freephone Number' in the Numbering Plan allows for calls to be charged provided there is a non-chargeable announcement advising of such at the beginning of the call. An alternative charging option within the terms of the Decision is for '116' numbers (some or all) to be 'free to caller'. This would ensure that calls to '116' numbers were always free.
- 3.77 We assessed options for charging arrangements for '116' numbers and considered these in line with our duties to secure the best use of numbers and to further the interests of citizens and consumers.

Question 5: Do you have any comments on Ofcom's assessment of the three charging options for 116 numbers?

Question 6: Do you agree with Ofcom's conclusion that Charging option 3: 116 numbers are either 'freephone' or 'free to caller' on an individual basis is the most appropriate option?

Background to Questions 5 and 6

- 3.78 Within the constraints of the Decision, we identified three charging options:

- Charging option 1: all '116' numbers are 'freephone'
- Charging option 2: all '116' numbers are 'free to caller'
- Charging option 3: '116' numbers are either 'freephone' or 'free to caller' on an individual basis

- 3.79 In the 116 Consultation, we set out the reasons why we favoured the option of '116' numbers being either 'freephone' or 'free to caller' on an individual basis. In assessing the 'all 116 numbers are freephone' option, we were concerned that mobile providers (and possibly some fixed line providers) might charge for calls to '116' numbers, thus creating barriers (both financial and through confusion created by a charging announcement) to calling '116' numbers at times when it is vital that citizens can make the call.
- 3.80 When considering the 'all 116 numbers are free to caller' option, we were conscious that it represented a significant intervention in the market and that we needed to ensure that such intervention was, among other things, proportionate. We do not know what new services will, in the future, be reserved '116' numbers by the Commission, although we must assume that a range of services will emerge covering the spectrum of social need. For services dealing with convenience rather than urgent or vital need, the case for intervention in charging arrangements may not be strong. Given that the services to be reserved '116' numbers in the future are unknown, and therefore the appropriateness and impact of making the entire 116 range 'free to caller' from the outset is also unknown, we did not favour this option.
- 3.81 Under the option of '116' numbers are either 'freephone or free to caller on an individual basis', the characteristics of each service – in particular the level of social value or need met by the service; the likely situation of the caller when he/she needs to call the service; and the market environment in which the service operates – would form factors for deciding the most appropriate charging arrangement for each 116 number on a service by service basis. Our proposed charging arrangement would then be consulted on as part of the process of making the 116 number available for allocation.

Responses to Questions 5 and 6

- 3.82 A number of respondents agreed with our assessment and initial conclusions on charging arrangements for '116' numbers.²⁸
- 3.83 Although not against the co-existence of 'freephone' and 'free to caller' charging arrangements in the 116 number range, Get Connected was concerned that tariff transparency may be lost and consumers may be confused as to whether the '116' number that they needed would be free to call. Given this, Get Connected asked for consideration to be given to how the charging arrangements could be made clear in the allocation and promotion of the numbers.
- 3.84 BT noted that freephone charging arrangements in the UK may prove to be problematic and expensive for consumers, as well as confusing if the norm across Europe was for '116' numbers to be 'free to caller'.
- 3.85 BT also referred to existing commercial arrangements and requested confirmation that, from an originating communications provider viewpoint, 'freephone' '116' numbers would mirror the general arrangements for 080 numbers, while 'free to caller' '116' numbers would mirror the arrangements put in place by communications

²⁸ Those respondents were Get Connected, NPIA Missing Person Bureau, the NSPCC, Ross on Wye CoC, Samaritans and Thus.

- providers when they take the commercial decision not to charge for calls to certain 080 numbers (generally charity numbers such as the 0800 1111 Childline number).
- 3.86 The THA found the charging terms misleading, particularly for visitors to the UK, as 'freephone' suggested that the call would be free. Instead, the THA suggested using the terms 'free from fixed/land lines' and 'free from all phones'.
- 3.87 The THA and Mr O'Donnell favoured Charging Option 2, making all '116' numbers 'free to caller' from the outset. The main concerns that led to this view were the need for tariff transparency; the removal of financial barriers to calling all '116' numbers; and the confidentiality afforded by free calls not being itemised on telephone bills. Mr O'Donnell pointed out that tariff transparency was a major problem for some other number ranges and should be avoided for the 116 range, otherwise the lack of transparency would eradicate the motive for making any '116' numbers free to caller. The THA argued that the charging arrangement for the initial three '116' numbers would set an expectation that all '116' numbers would be 'free to caller'.
- 3.88 T-Mobile favoured Charging Option 1, making all '116' numbers 'freephone'. It argued that implementation of '116' numbers should be no different from the existing 'freephone' arrangements, whereby the terminating provider is responsible for negotiating the commercial and interconnection arrangements with the transit and originating communications providers. T-Mobile had no objections to calls to certain '116' numbers not being charged, but this should be down to commercial negotiation.
- 3.89 The Contact Council suggested that it could work with Ofcom and negotiate with the mobile providers on their position regarding charges for calling '116' numbers and the costs of delivering free calls to service providers. Samaritans recommended that mobile networks should be obliged to provide access to 'free to caller' '116' numbers from pay-as-you-go phones when there is no available credit.
- 3.90 The THA stated its support for helplines in general to have 'free to caller' numbers. It referred to the Special Freephone Tariff available for services on the 080880 Confidential Helpline number range, which it had successfully negotiated to be free to call from all UK mobile providers and offered at affordable tariffs to the service provider.²⁹ The THA recommended that Ofcom explores an equivalent model for the 116 range. Mr O'Donnell suggested that Ofcom intervenes in the amount mobile providers can charge terminating providers to deliver the calls.
- 3.91 The NSPCC suggested that the Child Helpline International study on implementation of 116111 numbers would be useful when considering charging issues.³⁰
- 3.92 Samaritans and Missing People raised concerns about the funding of service provision by NGOs, which it felt were unaddressed by the 116 Consultation. While service providers might be able to negotiate deals with their communications providers, other external funding would also be required, which would be difficult to secure even with an extension to the timescales for the comparative selection process.
- 3.93 BT suggested that Ofcom and the advisory committees should be guided by service provider experience on charging arrangements. BT expressed reservations about the appropriateness and sustainability of Ofcom dividing services into two categories according to level of social value. BT was also concerned about the additional costs for service providers resulting from the higher cost of terminating a free call from a mobile phone and the possible increase in frivolous/hoax calls. This could result in a

²⁹ Information on the THA Special Freephone Tariff is available at http://helplines.org.uk/membership_special_free_tar.htm

³⁰ The Child Helpline International study on 116 numbers is currently only available for download by CHI members. For an introduction to the study see <http://www.childhelplineinternational.org/en/news?news=3478071779323916068>

reduced number of applicants for '116' numbers, with perhaps the most promising applicant deciding not to apply due to funding concerns. Given this, BT would prefer that the decision on charging for each 116 number be left to the application stage and form part of the comparative selection process.

- 3.94 BT added that calls to '116' numbers should never appear on a caller's telephone bill. Although this should generally be the case if calls were free, without a specific provision, free calls could still be listed.

Ofcom's response to comments on Questions 5 and 6

- 3.95 Having considered the responses to our assessment and initial conclusions on the appropriate charging arrangements for '116' numbers, we maintain our position that intervention in charging arrangements must be proportionate and that decisions should be made on a service by service basis, taking into account the factors relating to the service (that is, the level of social value or need met by the service; the likely situation of the caller when they need to call the service; and the market environment in which the service operates - see comments on Question 7 below). We will take the views of the advisory committee into account when considering the appropriate charging arrangement for each 116 number and our proposal would be subject to consultation before inclusion in the Numbering Plan as part of the service designation for each 116 number.
- 3.96 We understand respondents' concerns about loss of tariff transparency if some calls to '116' numbers are 'freephone' and others are 'free to caller'. This is inevitable across Europe as different Member States have taken different positions on the meaning of 'freephone' and the implement of '116' numbers. One consumer protection measure to aid tariff understanding in the UK is the requirement for originating communications providers that charge for 'freephone' calls to provide a non-chargeable pre-call announcement advising the caller that there will be a charge. In terms of making the charging arrangement clear at the time of allocation, the applicable tariff for each 116 number will be set out in the Numbering Plan and will be explicit in the notification of number allocation given to the service provider(s) / communications provider partnership. Ofcom and the advisory committees will look at additional ways of promoting the tariff arrangements for each 116 number and will provide guidance to each service provider / communications provider partnership allocated a 116 number on the best ways to achieve this.
- 3.97 As with existing commercial arrangements for 'freephone' numbers, a designation of 'freephone' does not mean that mobile providers will necessarily take the commercial decision to charge callers. We have seen the decision not to charge taken by mobile providers for certain charity run services on 080 numbers and for services using the Confidential Freephone 080880 range (as mentioned by the THA in its response). As BT remarked, there are already commercial agreements in place to deal with the billing arrangements between communications providers for free and charged 'freephone' calls and these could provide the model for 116 number arrangements. However, while the current system of commercial negotiation may work well in some cases, it does not guarantee that all '116' numbers used for services considered to be of 'extreme social value' would be 'free to caller' on all networks from the launch of the number. We retain our view that this is necessary for such services to fully deliver their benefits to citizens and consumers and that regulatory intervention is required to ensure this happens.
- 3.98 Given that a designation of 'freephone' does not necessarily mean that the call will be free from a fixed line and charged from a mobile, we do not think that the THA's suggestion of changing the established terms of 'freephone' and 'free to caller', which are commonly used across Europe, would necessarily make the tariff position clearer.

- 3.99 We recognise that funding of services is a key issue and that important and sensitive negotiations would need to take place between service providers, communications providers and any identified sources of funding. We have built additional time into the comparative selection process for such negotiations by creating a second stage, during which service providers applying for allocation of a 116 number submit a business case, including their budgeting and funding arrangements. Service providers are reminded that sponsorship of '116' services is permitted within the terms of the Decision – the only constraint being that advertising and marketing may not take place during the call.
- 3.100 Ofcom and the Contact Council plan to explore with industry the opportunities for making the funding of 'free to caller' services more affordable for service providers, in particular opportunities for special tariffs for service providers terminating calls on '116' numbers. We will also discuss arrangements for ensuring that callers' confidentiality is not compromised through calls to '116' numbers appearing on telephone bills. We agree that this is an important issue.
- 3.101 However, despite any progress that might be made in reducing the costs for service providers to receive free calls, we realise that there will always be implications for service providers when making '116' numbers 'free to caller'. The additional costs of receiving free calls from mobiles, plus the likely increase in call traffic resulting from the use of the 116 number, may be too high for service providers to fund, resulting in no suitable service providers completing the comparative selection process and the 116 number remaining unallocated. This outcome would jeopardise the aim of pan-European provision of 116 numbers.
- 3.102 In assessing the likelihood of such an outcome, we agree with BT's comment that potential service providers' views on the most appropriate charging arrangement would be very informative. This is discussed in responses to Question 7 below.

Question 7: Do you agree with the suggested factors for deciding whether a service should be 'freephone' or 'free to caller'? Do you think any other factors should be taken into account?

Background to Question 7

- 3.103 As part of the proposal in the 116 Consultation to decide whether '116' numbers should be 'freephone' or 'free to caller' on an individual basis, we suggested a set of factors for deciding the appropriate charging arrangements for each 116 number. These factors were designed to ensure that regulatory intervention is kept proportionate and does not unduly impact on the market for service provision by considering the particulars of the specific service. We would use these factors to reach a proposal on the appropriate charging arrangements and would consult on our proposal as part of the process of making each 116 number available in the Numbering Plan.
- 3.104 We considered that there were three main factors in determining whether the appropriate charging arrangement for each 116 number was 'freephone' or 'free to caller'. These were:
- the level of social value or need met by the service;
 - the likely situation of the caller when he/she needs to call the service; and
 - the market environment in which the service operates.

- 3.105 Further detail on how the factors help determine whether each '116' number should be 'freephone' or 'free to caller' is set out in Section 5 (see paragraphs 5.22 to 5.39).

Responses to Question 7

- 3.106 The NPIA Missing Person Bureau, the Ross on Wye Chamber of Commerce and Samaritans agreed with the determining factors and did not suggest any additional factors to be taken into account. Samaritans believed that the factors would be workable provided they were clear and that the advisory committees adjudicated where appropriate.
- 3.107 Get Connected suggested that the age of the caller should also be a determining factor, with services aimed at children and young people being 'free to caller'. The NSPCC felt that the factors should include a user perspective and should be reviewed in light of experience.
- 3.108 Get Connected believed that consideration should be given to existing service provision when deciding the appropriate charging arrangements, in particular the pricing structure of calls to an existing service. BT also suggested that affordability should be an additional factor for deciding the charging arrangements for a 116 number, as well as the extent to which increased 'frivolous' calls might be anticipated as a result of a 'free to caller' arrangement. Also the expectations of consumers with regard to charging should be taken into account – specifically mentioned was visitors to the UK whose expectations for charging arrangements would be based on their home experience.
- 3.109 Get Connected argued that the combination of demands should be taken into account to establish what was reasonable to expect a service provider to supply. For instance, access to the 'Hotline for missing children' service must be provided 24 hours a day, seven days a week. Continual access at 'free to caller' was a costly service to provide. With funding not currently offered by the Commission or the UK Government, there was a risk that no organisations would be in a position to fund such provision and the 116 number would remain unallocated. Get Connected questioned whether it would be in the consumer interest for the number to remain unallocated or whether, in such a situation, it would be better to reduce the demands to be fulfilled and stimulate interest from potential service providers.
- 3.110 The THA and Mr O'Donnell did not agree with the principle of service by service charging arrangements, arguing that all '116' numbers should be 'free to caller'. Consequentially, they did not agree with the need for a set of determining factors. The THA felt that the factors would be difficult to administer as judgements and predictions about relative social value would be hard to make.

Ofcom's response to comments on Question 7

- 3.111 We welcome the acceptance by the majority of respondents to the proposed factors for determining the appropriate charging arrangement for each 116 number. We will keep these factors under review to ensure that they remain effective.
- 3.112 We agree with Get Connected that the age of the caller is a pertinent factor and it will be taken into account when considering the 'caller situation' factor, in particular whether the caller is likely to be in a position of vulnerability.
- 3.113 A number of responses stressed the need to take into account the views of potential service providers on affordability and to examine their current charging framework as an indication of what might be reasonable to expect. We agree that this would be useful information. We expect potential service providers to make the case for affordability in response to the consultation on adding each new 116 number to the

Numbering Plan, as this is the point at which we determine whether the 116 number will be 'freephone' or 'free to caller'. We will also take into account the views of the advisory committees on the most appropriate charging arrangement for each 116 number and our proposals will benefit from the advisory committee's knowledge of the specific service sector.

- 3.114 We fully appreciate that the increased demands likely to accompany a service of 'extreme social value' may have a significant impact on the providers of those services. Those that form part of the Service Eligibility Criteria, such as the Specific Service Condition attached to the 116000 number that the service is available 24 hours a day, seven days a week, are set by the Commission and must be fulfilled if the number is to be allocated. However, whether the service is 'freephone' or 'free to caller' is a UK decision. In taking this decision, we need to ensure that the factors for determining the appropriate charging arrangements balance the requirements placed on service providers and take into account the likelihood of a service provider emerging that could offer a 'free to caller' service.
- 3.115 We recognise that despite taking a considered approach to individually determining the charging arrangement for each 116 number, it may emerge that no suitable service providers can complete the comparative selection process for a particular 116 number designated as 'free to caller'. Should it be clear that the charging arrangement was preventing service providers from fulfilling the Service Eligibility Criteria and that, following consultation with the advisory committee, it was considered to be the best use of the 116 number and in the interests of citizens and consumers to do so, we may, in exceptional circumstances, consider consulting again on the charging arrangements and re-launching the comparative selection process. However, we would need to balance such an incentive to service provision against the potential impact on consumers of a proposal to change the charging arrangement.

Responses to questions on implementation of 116000, 116111 and 116123

- 3.116 As well as consulting on the allocation and charging arrangements for the 116 number range in general, the 116 Consultation also consulted on specific proposals to include the 116000 'Hotlines for missing children' service, the 116111 'Child helplines' service and the 116123 'Emotional support helplines' service in the Numbering Plan.
- 3.117 For each of the initial three '116' numbers, the Name of Service, the Service Description and the Specific Service Conditions were determined by the Commission and set out in the Amending Decision. As such, these were not open to further consultation. We proposed a charging arrangement of 'free to caller' for each of the initial three '116' numbers and consulted on this as part of the 116 Consultation. The charging arrangement is part of the numbers' designation in the Numbering Plan and is the only Additional Specific Service Condition that we proposed for these numbers.

Question 8: Do you agree that the initial three 116 services (116000 hotline for missing children; 116111 child helplines; 116123 emotional support helplines) should be 'free to caller'? If not, please give your reasons.

Background to Question 8

- 3.118 Based on our preferred charging arrangement for 116 numbers being 'freephone or free to caller on an individual basis', we assessed the initial three '116' numbers using the proposed determining factors (see paragraphs 6.4 to 6.36). We concluded that the 'free to caller' charging arrangement was appropriate for these services as all three would meet an extremely urgent need at a time of emotional distress and it was therefore crucial that citizens were able to call these services when they required the

advice and support that they offer. In addition, the three services were considered to operate in an environment where there were multiple providers of complementary services which were not in competition for the same calls. This allowed decisions on charging arrangements to be based on the level of social value or need and the likely situation of the caller without impacting on the provision of similar services.

Responses to Question 8

- 3.119 The proposal that the initial three '116' numbers are designated 'free to caller' was supported by the majority of respondents that commented on this question.³¹
- 3.120 While Get Connected and Samaritans supported our categorisation of the initial three '116' numbers as being for services of 'extreme social value' and therefore 'free to caller', they were mindful of the financial burden that this would place on service providers (which were likely to include charities with limited budgets). As such, they believed that this would likely limit the number of organisations that were able to provide those particular services. Get Connected noted that a number of existing helplines do not currently offer either 'freephone' or 'free to caller' services (and used the example of Samaritans, which uses a 0845 number and geographic numbers for its branches). Funding was a crucial element and needed to be given further consideration, particularly as the helpline sector is not thriving in the current economic climate and sponsorship will be increasingly harder to secure. Samaritans remarked that Ofcom had made no commitment towards resolving this situation. It was concerned that unless Ofcom encouraged financial support from communications providers, service providers allocated the initial three '116' numbers were likely to incur unsustainable and ongoing costs, which could jeopardise their ability to provide the service.
- 3.121 BT felt that service providers applying for '116' numbers would be in the best position to judge whether services should be 'freephone' or 'free to caller'. Given this, BT felt that the decision on whether the initial three '116' numbers should be 'free to caller' should be deferred to the comparative selection process rather than be decided at this stage.
- 3.122 Missing People asked Ofcom to consider ensuring that all calls were routed for free across networks for the initial three '116' numbers in the manner regulated for 999/112 Emergency Call numbers. It mentioned that this was the situation for calls to 116000 in France and Belgium.
- 3.123 T-Mobile stated that it had no objection with the initial three '116' numbers being 'free to caller' as long as the commercial arrangements to support this were in place. It did not believe that regulatory intervention was required.

Ofcom's response to comments on Question 8

- 3.124 We note that the majority of respondents agreed with our view that the initial three '116' numbers are for services of 'extreme social value' and that these numbers should therefore be designated as 'free to caller'.
- 3.125 Again, we respect the concerns expressed over the ability of service providers to fund 'free to caller' services and to fulfil all the Service Eligibility Criteria. However, we maintain that the extreme social value and need met by these services requires exacting demands to be placed on the service providers allocated these numbers and for charging obligations to be placed on originating communications providers.

³¹ Those respondents were the Contact Council, Get Connected, Missing People, NPIA Missing Person Bureau, the NSPCC, Mr O'Donnell, Samaritans and the THA.

- 3.126 As stated in our response to Questions 5 and 6, we are keen to work with the Contact Council in exploring with industry opportunities for making the funding of 'free to caller' services more affordable for service providers. We hope that these negotiations will result in reduced tariffs for delivery of free '116' calls to service providers, which will help to alleviate some of the financial burden of providing the service.
- 3.127 As stated in our comments on Question 7 (see paragraph 3.115), if it turns out that no suitable service provider can meet the 'free to caller' arrangement for any of the initial three '116' numbers, then, following consultation with the advisory committee, and only if considered to be the best use of the 116 number and in the interests of citizens and consumers to do so, we may, in exceptional circumstances, consider consulting again on the charging arrangements and re-launching the comparative selection process. In such circumstances, we would need to balance the benefits of this course of action against the potential impact to consumers of changing the charging arrangement to 'freephone' - considerations that informed our original decision to make the initial three numbers 'free to caller' in the first place. If it should appear that a change in charging arrangements might be appropriate for any of the initial three '116' numbers, we would consult on modifying the designation in the Numbering Plan and then relaunch the comparative selection process for the relevant number(s).
- 3.128 We have considered the suggestion from Missing People that Ofcom intervenes in the regulatory arrangements for handling calls to some '116' numbers by designating them as 'emergency call numbers'.
- 3.129 Under General Condition 4 which deals with Emergency Call Numbers³², communications providers must ensure that any end-user can access Emergency Organisations by using emergency call numbers at no charge and in the case of a pay telephone, without having to use coins or cards. The designated emergency call numbers in the UK are '999' (UK only) and '112' (across all Member States).
- 3.130 An 'Emergency Organisation' (as defined in the definitions section of Part 1 of the schedule to the General Conditions) means in respect of any locality:
- “(a) the relevant public police, fire, ambulance, and coastguard services for that locality; and
- (b) any other organisation, as directed from time to time by the Director as providing a vital service relating to the safety of life in emergencies”.
- 3.131 We have considered the appropriateness of directing that one or more of the initial three '116' numbers are treated as Emergency Call numbers and that the service providers allocated those numbers are each defined as an 'Emergency Organisation'. As mentioned in the Missing People response, this approach has been taken in France and Belgium for the 116000 'Hotline for missing children' number. The implications of this action are that all communications providers must open access to the number so that their customers can call it and that the number is always 'free to call'. Implicit in such a proposal is the need for communications providers that originate, transit and terminate calls to those numbers to be able to recover their costs, possibly through a subsidy applied to all calls (the model used for recovering the costs of carrying 999/112 calls).
- 3.132 Such action clearly requires a high level of regulatory intervention into access and charging arrangements. Our assessment is that, in the UK, we can produce a similar result without recourse to this level of intervention. Although only BT has an obligation

³² http://www.ofcom.org.uk/telecoms/ioi/g_a_regime/gce/cvogc150807.pdf

to provide its customers with access to all telephone numbers in service (including '116' numbers)³³, we strongly encourage all providers to open access to '116' numbers so that their customers can benefit from the services of social value provided on these numbers.

- 3.133 On the related charging issue, we want to find a solution to the charging arrangements that will be applicable to all '116' numbers rather than elevate one or more of the initial three numbers above all others through the designation of an emergency call number. We do not believe that the emergency call number approach is required and prefer for industry to take the opportunity to open access to '116' numbers and to negotiate affordable tariffs for delivering free calls to service providers.

Question on the impact assessment

Question 9: Do you have any comments on the Impact Assessment on the options for allocation of 116 numbers and charging arrangements? Do you agree with Ofcom's conclusions?

Background to Question 9

- 3.134 Annex 5 of the 116 Consultation contained our impact assessment on the allocation and charging options, assessing each option against our policy objective of securing the best use of each 116 number and furthering the interests of citizens and consumers.

Responses to Question 9

- 3.135 Get Connected supported the arguments presented in the impact assessment contained in the 116 Consultation and the NPIA Missing Person Bureau agreed with its conclusions. The NSPCC agreed for the most part with the conclusions but did not agree that multiple service providers in the partnership for number allocation was the best option.
- 3.136 The THA commented on the impact assessment on the charging arrangement proposals. It argued that cost is only one factor in the success of a service, and therefore did not agree that if one service had a 'free to caller' charging arrangement while another in the same service sector had a 'freephone' charging arrangement, that the former service would necessarily 'crowd out' similar services on 'freephone' numbers. Other factors relevant to consumers were perceived quality and trustworthiness; the customer experience; and the effectiveness of service promotion.
- 3.137 Although not directly in response to Question 9, BT remarked that for each 116 number reserved by the Commission, Ofcom's first action should be to assess the potential impact that the allocation of the number would have on the service sector concerned and decide whether it would likely distort competition. Ofcom would need to acquire an appreciation of the sector concerned and hear from interested parties to make this assessment. If it was felt that the potential benefit of allocating the 116 number would be outweighed by the potential detriment to the service sector, then Ofcom should seriously consider not allocating that particular 116 number.

³³ Call origination is a commercial issue. Only BT has an obligation to provide its customers with access to all telephone numbers in service (including '116' numbers) in accordance with the terminating communications provider's request. This is due to BT's access-related obligation to provide end-to-end connectivity. For more information see Ofcom's statement *End-to-End Connectivity* published on 13 September 2006 available on our website at: http://www.ofcom.org.uk/consult/condocs/end_to_end/statement/statement.pdf

Ofcom's response to comments on Question 9

- 3.138 We agree with the THA that the cost of calls is not the only factor in the success of a service and that the other factors listed are also influential. These factors will be built into the comparative selection process as measures of service quality. We will also take the points made by the THA into account when considering the appropriate charging arrangements for each 116 number.
- 3.139 On the matter of a 116 number allocation distorting the balance of service provision, we will work with the advisory committee to gain an understanding of each service sector where a 116 number has been reserved for a relevant service. Information to assist us in understanding the service sector will also be provided by service providers when they submit their business case during Stage Two of the comparative selection process. Part of that business case will assess the service sector in which they operate, including an analysis of their standing in that sector and the position of other service providers offering similar services. We will ask the advisory committee for its view on the possible impact of allocating the 116 number on other service providers in that service sector. Our decision on whether to allocate the number will reflect our duty under the Act to further the interests of citizens and consumers, where appropriate by promoting competition.

Question on the proposed modifications to the Numbering Plan, the Numbering Conditions and the access code application form

Question 10: Do you have any specific comments on the proposed modifications to the Numbering Plan, Numbering Condition and/or the access code application form as set out in Annexes 11 to 13?

Background to Question 10

- 3.140 In order to implement our proposals for 116 number allocation and charging arrangements, we need to modify certain documents for which a statutory consultation process is set out in the Act. The 116 Consultation contained the necessary notifications of the proposed modifications and requested comments.

Responses to Question 10

- 3.141 We received comments on the proposed modifications from one respondent – Thus. The comments related to its alternative suggestion for number allocation arrangements (see paragraph 3.16) and the modifications that would need to be made to the Numbering Condition for this to be implemented.
- 3.142 Thus also stated that, in its view, Ofcom's proposed modifications did not meet all the legal tests. Thus was concerned that by tying service provision to a specific communications provider, and requiring all providers of a given service on a 116 number to operate in partnership with that provider, Ofcom would not secure the best use of '116' numbers or encourage efficiency and innovation. Thus contended that its proposal would better meet those objectives.

Ofcom's response to comments on Question 10

- 3.143 As we have decided to implement our proposed number allocation arrangements, we will be making the draft modifications set out in the 116 Consultation. We believe that these modifications meet the legal tests set out in sections 60(2), 47(2) and 49(2) of the Act of being objectively justifiable, not unduly discriminatory, proportionate, and transparent in what they are intended to achieve, for the reasons set out in Annex 6 (which sets out the legal tests and how we consider them to have been met); as

explained in our responses to comments on charging arrangements earlier in this section and in the Impact and Equality Assessment in Annex 2.

- 3.144 We continue to believe that our number allocation proposals meet our duty under section 63(1) of the Act “(a) to secure that what appears to...(Ofcom)...to be the best use is made of the numbers that are appropriate for use as telephone numbers; and (b) to encourage efficiency and innovation for that purpose”. The allocation proposals are designed to ensure that each 116 number is allocated to the most suitable service provider, with the opportunity of multiple service provider partnerships to encourage efficiency and innovation in service provision.

Other issues raised in response to the 116 consultation

- 3.145 In addition to the specific questions raised in the 116 Consultation, there were a number of other issues that generated comment by respondents. The main issues raised are addressed below.

Equality of citizen access to services on 116 numbers

- 3.146 PhoneAbility expressed serious reservations about the proposed process for allocating ‘116’ numbers, as it did not appear to ensure that access to services on ‘116’ numbers was open to all citizens. PhoneAbility’s particular concern was for citizens who cannot communicate effectively through the spoken voice. Given that Ofcom recognises that some, if not all, ‘116’ numbers are for services of extreme social value, it was considered unthinkable for this group of already vulnerable citizens to be excluded from access to services on ‘116’ numbers. PhoneAbility commented that the currently used text relay service accessible through dialling the 18XXX access code before dialling the number would not be an ideal solution for discussing highly personal and emotional matters due to the involvement of the relay operator converting text into speech and vice versa. It was also an unsatisfactory solution for those whose native language is British Sign Language.
- 3.147 Following the close of the consultation, we also received correspondence from TAG³⁴ giving full support to the points made by PhoneAbility.
- 3.148 BT assumed service providers with ‘116’ numbers would have to be able to receive calls using the TextDirect system, which allows for voice to text and text to voice calls using a relay operator and text to text calls for callers with textphones.
- 3.149 BT sought confirmation that Ofcom intended ‘116’ numbers to be accessible to callers regardless of the technology used to make the call, be it from fixed, Voice over Internet Protocol (VoIP) or mobile phones. BT also requested confirmation that there was no origination obligation other than where Significant Market Power (SMP) had been designated.

Ofcom response

- 3.150 As recognised in the PhoneAbility submission, Ofcom is a strong supporter of inclusion policies and the promotion of equal opportunities and diversity. In addition, we have a statutory duty to undertake Race, Gender and Disability impact assessments where it is appropriate to do so. We stress that although not set out as a matter for consultation, equality issues in the context of ‘116’ numbers have, and will continue, to be given serious consideration.

³⁴ TAG is a consortium of UK national and regional organisations working on behalf of deaf people, and promotes equality of access to electronic communications, including telecommunications and broadcasting, for deaf, deafened, hard-of-hearing, deafblind people and sign language users.

- 3.151 We have been assisted in addressing equality issues by the advisory committee for the initial three '116' numbers, whose membership includes expertise in inclusion policies. We will continue to seek advice from advisory committee members on equality issues.
- 3.152 We have set out considerations in respect of general 116 number policy in the Impact and Equality Assessment at Annex 2 of this document. The assessment of equality forms a significant part of the selection process. As part of this, we will be assessing equality of access issues (such as those mentioned by PhoneAbility), as well as a wide range of equality issues, such as the service provider's approach to equality in its own workplace. Achievements in these areas will contribute to a service provider's relative standing in the selection process.
- 3.153 On the matter of equality of access for those who cannot communicate effectively through the spoken voice raised by PhoneAbility, in the context of the 116 Consultation, we can only consider the issues in terms of the current facilities for relaying calls to and from textphones.
- 3.154 BT TextDirect enables text to voice and voice to text calls using a RNID Typetalk operator ('Typetalk') to relay the call, converting text to voice and vice versa. All calls relayed through Typetalk are private and confidential and Typetalk operators are highly trained and experienced in relaying calls containing personal, sensitive and confidential information.
- 3.155 Calls made using BT TextDirect require the dialling of an access code – 18001 for text to voice and 18002 for voice to text – ahead of dialling the telephone number. Therefore, if a consumer wanted to make a call using their textphone to a service on a 116 number (where that call would terminate on a telephone as opposed to a textphone), then the consumer would dial 18001 116XXX.
- 3.156 Text to text calls are made directly between parties using textphones. For technical reasons, textphones usually have an individual telephone number assigned to them, which is different from the telephone number for voice calls to the same organisation. Therefore, under current arrangements, it is likely that textphone to textphone calls will not be made using '116' numbers. However, although textphone to textphone calls may not be available on '116' numbers, there is still potential benefit to consumers using a textphone in having 'same number - same service' memorability. Textphone users wanting to make a call to a service using a 116XXX number could call it using the 18001 prefix and Typetalk service. On making contact, enquiries could be made as to whether the organisation had a textphone and, if so, the number for the textphone could be obtained and the textphone to textphone call set up. The memorability of the 116 number may, therefore, still help to make initial contact.
- 3.157 We expect all service providers to make reasonable adjustments to address equality issues. In considering the points above relating to equality of access for those who cannot communicate effectively through the spoken word, we would expect, at the very minimum, that service providers applying for allocation of a 116 number would encourage calls from textphone users made via Typetalk. Beyond that, service providers might consider installing and maintaining a textphone if not already done so. These aspects of the proposed service will be considered in the allocation process.
- 3.158 In response to BT's question regarding general access to '116' numbers, we confirm our policy that access to numbers should be technology neutral. Also, we confirm that there is no origination obligation other than where SMP has been designated. All communications providers, with the exception of BT, are free to decide whether to open access to telephone numbers, including '116' numbers. BT is obliged to do so

under the obligations of its access-related condition³⁵. However, we strongly encourage all communications providers to open access to all allocated '116' numbers so that their customers can benefit from the socially valuable services.

Number Portability

3.159 BT commented that service providers allocated '116' numbers should be able to benefit from competition and change the communications provider in the partnership while retaining the number. This facility is known as 'Number Portability' and the associated rights and obligations are set out in General Condition 18 ('the Number Portability Condition'). BT suggested that the likely model for porting a 116 number would be the block transfer process used for porting 118 Directory Enquiry numbers. Thus also noted that the issue of portability needed to be addressed. The THA commented that porting arrangements were required to allow for changes in partnerships.

Ofcom response

3.160 We agree that the number portability obligations set out in the Number Portability Condition apply to '116' numbers. This means that '116' numbers may be ported between communications providers at the service provider(s) request. In practice, porting would take place by block transfer process. All service provider(s) in the allocation partnership would need to apply to Ofcom's Numbering Team³⁶ to arrange the porting process.

3.161 The service provider(s) in the partnership must remain as per the allocation and are not changeable as part of the number portability process. Transfers are prohibited without Ofcom's permission.

Process for appealing the number allocation decision

3.162 BT commented that given the potentially high value of a 116 number to service providers and the impact of a 116 number being allocated to the provider of a 'rival' service, an appeals mechanism needed to be determined prior to launching the comparative selection process for the initial three '116' numbers. Ross on Wye Chamber of Commerce commented that the allocation process could be kept simple provided that there was an appeal process.

Ofcom response

3.163 Should a person affected by a decision on allocation wish to appeal against it, the Competition Appeal Tribunal ('the CAT') is the appropriate body³⁷ Section 192 of the Act sets out the applicable mechanism for appeal to the CAT.

Process for withdrawal of allocated '116' numbers and reallocation of the numbers

3.164 BT requested an explanation of the circumstances under which Ofcom may seek to withdraw an allocated '116' number and the process that it would follow. BT assumed that '116' numbers could only be reallocated following return to Ofcom.

³⁵ Call origination is a commercial issue. Only BT has an obligation to provide its customers with access to all telephone numbers in service (including 116 numbers) in accordance with the terminating communications provider's request. This is due to BT's access-related obligation to provide end-to-end connectivity. For more information see Ofcom's statement *End-to-End Connectivity* published on 13 September 2006 available on our website at: http://www.ofcom.org.uk/consult/condocs/end_to_end/statement/statement.pdf

³⁶ Numbering.applications@ofcom.org.uk

³⁷ <http://www.catribunal.org.uk/>

Ofcom response

- 3.165 Under the Act, there are three general circumstances under which we may withdraw an allocation of '116' numbers:
- the number not being put into service within an agreed period (process set out in section 61(2)(e) and (f) of the Act and paragraph 17.11 of the Numbering Conditions);
 - with the consent of all parties in the service provider(s) / communications provider partnership (process set out in section 61(2)(a) of the Act); and
 - if there have been serious or repeated contraventions of the Numbering Conditions by the service provider(s) / communications provider partnership, for instance if the Service Eligibility Criteria are not complied with (process set out in section 61(3) of the Act).
- 3.166 We confirm that '116' numbers may only be used by the service provider(s) / communications provider partnership allocated the number. Service providers and communications providers allocated a 116 number are prohibited from transferring the number without application to Ofcom and from allowing additional service providers not listed as allocatees from providing a service on the number.

Implementation issues

- 3.167 BT raised a number of points on detailed implementation issues and requested clarification from Ofcom on its assumptions. BT expected the implementation of '116' numbers to broadly follow the service provision models already in use for non-geographic numbers.
- 3.168 BT assumed that calls to '116' numbers would be free from public payphones and that BT Payphones would be able to recover costs via the Payphones Access Charge ('PAC'). For practical purposes, all calls to '116' numbers should be treated in an identical fashion as many payphones require a visit to implement changes. Renters of private payphones cannot be required to make '116' calls free from their apparatus and it may not be possible to do so.
- 3.169 Where '116' calls are transited between different communications providers across the BT network, BT assumed that the terminating communications provider would pay the transit with interconnect ('the TWIX') charge, which is the BT charge for transit conveyance of calls across its network. This was the position for calls to 'freephone' numbers.
- 3.170 BT sought confirmation that '116' numbers would never be shown as the Calling Line Identification ('CLI') at Points of Connection for outbound calls made by the service provider allocated the number. This was to ensure that the geographic origination point of the call could be identified and that CLI-based interconnection billing was not compromised.
- 3.171 BT assumed that appropriate records would need to be kept for the purposes of tracing nuisance calls.
- 3.172 BT assumed that '116' numbers would not be subject to Carrier Pre-Selection ('CPS') requirements given that calls to '116' numbers were free and there would be no incentive to pre-select an alternative communications provider for carrying calls to that type of number.

- 3.173 As '116' numbers are free to call, BT assumed that there would be no requirement for connection via the operator. It also assumed that '116' numbers are national numbers not dialable from abroad (i.e. by dialling +44 116XXX). Indeed, attempts to dial '116' numbers from abroad would fail, as the number would appear to be an incomplete Leicester 0116 geographic number.
- 3.174 BT requested confirmation that there is no expectation that '116' numbers should be able to receive text messages.

Ofcom response

- 3.175 We agree with BT that implementation of '116' numbers should be as straight-forward as possible and that communications providers should use existing service provision models where possible and appropriate.
- 3.176 In terms of recovery of the PAC for free calls from BT's public pay telephones and payment of the TWIX charge for transiting BT's network, we would expect arrangements for '116' numbers to follow those in place for freephone numbers.
- 3.177 We would also expect CLI arrangements and retention of call records to be in line with arrangements for non-geographic Number Translation Service ('NTS') numbers – in particular, 08 numbers.
- 3.178 We confirm that CPS requirements do not apply to '116' numbers.
- 3.179 We confirm BT's assumption that there is no regulatory requirement for connection of calls to '116' numbers via the operator. On international dialling, we confirm that '116' numbers from the UK Numbering Plan are national numbers not suitable for dialling from abroad.
- 3.180 On the matter of '116' numbers accepting SMS, we confirm that there is no current expectation for service providers to put this into place, although there has been some discussion at the European level about the merits of SMS on '116' numbers.

Access Codes

- 3.181 BT remarked on the original European Conference of Postal and Telecommunications ('CEPT') concept of reserving all 10X and 11X access codes in CEPT countries for European harmonisation. It was now apparent from the 116 Consultation that these codes were no longer available for harmonised services in all countries. Given this, BT wondered what Ofcom had in mind for the remainder of the unallocated 10X and 11X numbers.

Ofcom response

- 3.182 We agree that the concept of a range of harmonised European numbers is now difficult to achieve as many countries have used the previously reserved 10X and 11X codes for national services.
- 3.183 In the UK, there are currently 15 of these codes still available for designation for either European harmonised services or for national services where justified following an appropriate request being made to Ofcom and subject to consultation.

Section 4

Decision on allocation of 116 numbers

Introduction

- 4.1 Having taken into account all the responses to the 116 Consultation and the findings of the Impact and Equality Assessment in Annex 2, we have decided to implement our proposals for the allocation of '116' numbers as set out in the 116 Consultation, with some modifications. Further detail on our decision on allocation arrangements for '116' numbers is set out in this section. The Impact and Equality Assessment provides further analysis on the benefits of implementing this option over the others proposed in the 116 Consultation and one further option suggested in response to the consultation.
- 4.2 Our role in the allocation of '116' numbers is to make the numbers reserved by the Commission available in the UK and to take decisions on which parties should be allocated the numbers. The decision to allocate a 116 number to a service provider is not a form of accreditation. Our decision will be a judgement taken on what appears to us to be the best use of the number based on the information provided, and having taken full account of the recommendation of the advisory committee and our statutory duties. We will be responsible for ensuring that the service allocated the 116 number meets the Service Eligibility Criteria³⁸ but we will not be monitoring the day-to-day provision of the service or the content of individual calls. The advisory committees will be responsible for monitoring overall service provision and performance.

Policy objectives

- 4.3 The 116 Consultation sought to answer three top-level questions on the allocation of 116 numbers:
- who can apply for a 116 number?
 - what form of selection process should be used to allocate '116' numbers?
 - how should that selection process be run?
- 4.4 This section of the document answers these questions. Our decisions on the most appropriate way of answering them was based on meeting our duties to:
- secure the best use of each 116 number; and
 - further the interests of citizens and consumers.

Ofcom's decision on arrangements for the allocation of '116' numbers

- 4.5 We have decided to allocate '116' numbers using the process summarised below:
- allocation to a partnership of a single or multiple service provider(s) and a single communications provider;

³⁸ The 'Service Eligibility Criteria' consists of the Commission's Service Description; the General Service Conditions attached to all '116' numbers and the Specific Service Conditions attached to the right of use of each 116 number by the Commission, and any Additional Specific Service Conditions attached by Ofcom to the right of use of a number, including charging arrangements.

- selection of that partnership via a comparative selection process, which will assess applications against the Service Eligibility Criteria and other applications, resulting in allocation to the partnership providing the most suitable service;
- the comparative selection process to have two stages:
 - Stage One, lasting six weeks: service providers will be asked to provide information primarily relating to their relevant experience and current service operation, plus an initial assessment of how this might change if the 116 number were allocated to them(e.g. what the likely increase to call volumes would be and how it would be handled). Evidence of how the service would fulfil the Service Eligibility Criteria is required; and
 - Stage Two, lasting twelve weeks³⁹: service providers' will provide a detailed business case supporting the application for the 116 number;
- Ofcom to be assisted in the comparative selection process by advisory committees convened by the Cabinet Office co-ordinated Contact Council specifically for each 116 number allocation decision. The advisory committees will advise us throughout the process of making the 116 number available for allocation and the comparative selection process. The advisory committees will provide a report to Ofcom of the assessment process and will make a recommendation to Ofcom on the most appropriate service provider(s) / communications provider partnership to be allocated each 116 number;
- we will invite the communications provider from each partnership that successfully completes the comparative selection process to submit an access code application form;
- we will decide which partnership offers the most suitable service and will be allocated the 116 number, taking into account the material submitted during both stages of the comparative selection process, the advisory committee's report and recommendation and the access code application forms. Our decision will be taken in line with our relevant statutory duties and specifically our responsibility for implementing the Decision in the UK; and
- '116' numbers will generally be allocated to service provider(s) / communications provider partnerships for an indefinite period provided that numbers are used in accordance with the Numbering Plan. As discussed in paragraphs 3.71 to 3.73, in certain circumstances we may decide to limit the allocation to a five year period following which a new comparative selection process will be run.

4.6 The flowchart with timelines for the comparative selection process for each 116 number allocation is set out below:

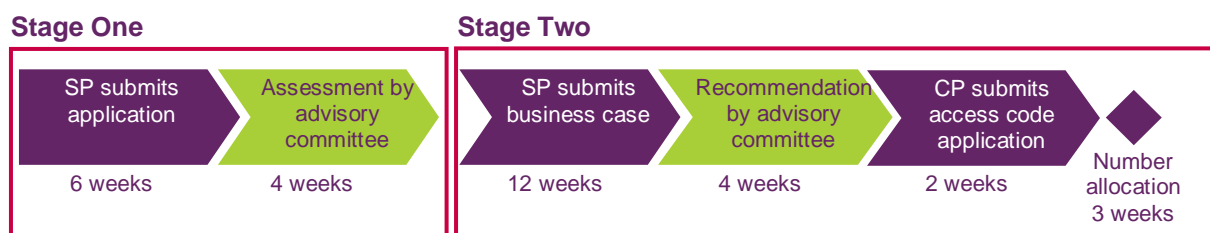
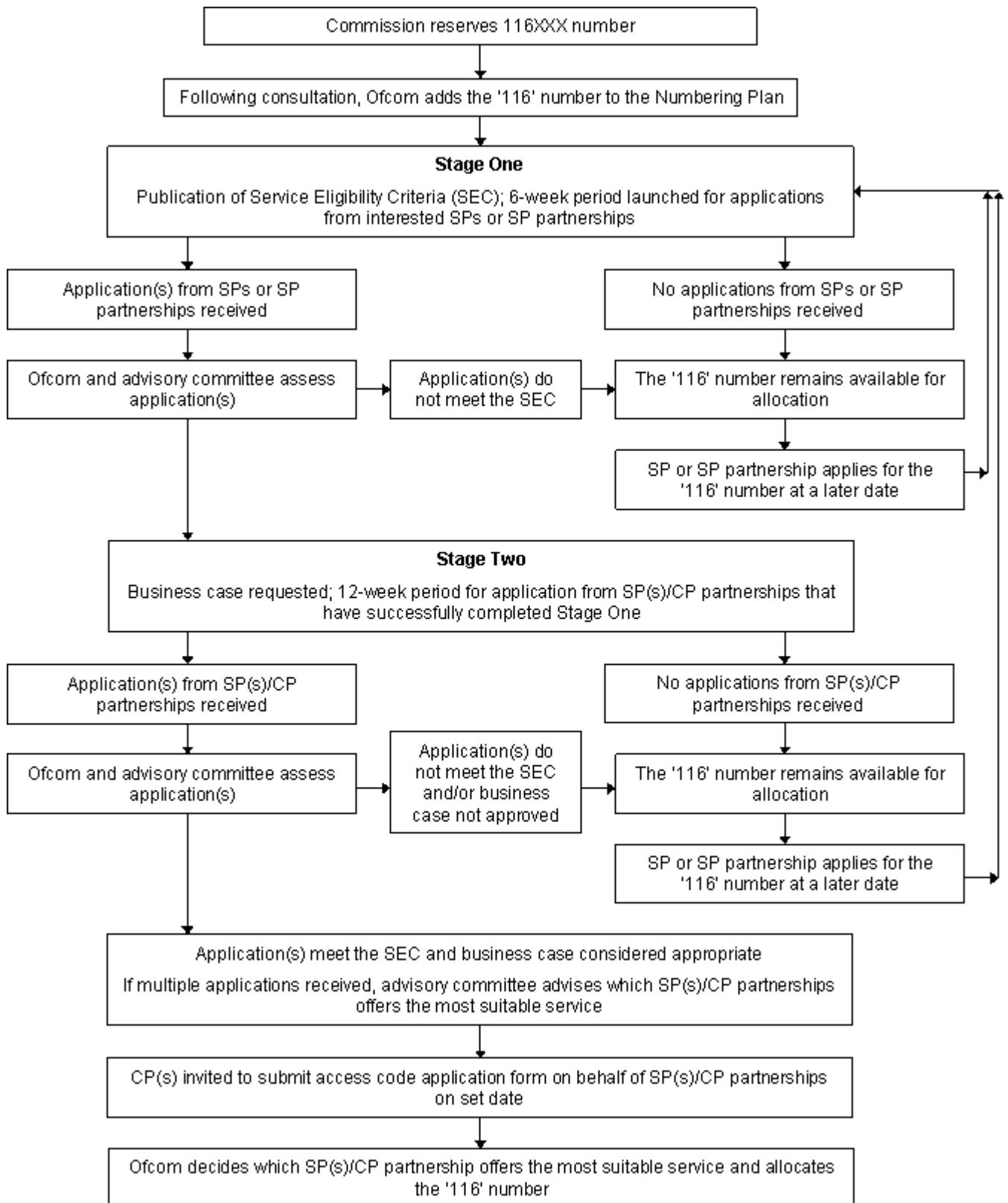


Figure 4.1: timeline for the comparative selection process for the allocation of each 116 number

³⁹ The timescale for Stage Two of the comparative selection process may be reduced in exceptional circumstances and where it is in the interest of all relevant parties to do so.

Figure 4.2: process flow diagram for the comparative selection process for '116' numbers



The process for allocating '116' numbers

Who can apply for a 116 number

- 4.7 The allocation of a telephone number gives rights to an organisation to use that number and be contacted on it. It also indicates the communications provider that terminates the call. This has no bearing on the ability of all other communications providers to originate calls from their customers to the service provided on the number.
- 4.8 We only allocate telephone numbers to communications providers. We do not have in place procedures to allocate numbers to non-providers. Although there is provision to do so under the Act, we do not believe that the effective allocation of numbers requires such a change in this instance. Generally, current technical processes for carrying calls effectively and efficiently rely on originating and transit communication providers routing calls to the termination point of the communications provider allocated the number. It is therefore part of the routing process for the terminating communications provider to be named as the allocatee of the number.⁴⁰

Allocation to a single or multiple service provider / single communications provider partnership following an application to Ofcom

- 4.9 We will allocate '116' numbers to partnerships of a single or multiple service provider(s) / single communications provider. For clarification, the communications provider in a partnership is the provider of the electronic communications network or service. The service provider in a partnership is the party responsible for the provision of the service. Where a commissioning body has outsourced service provision to an agency, the commissioning body would normally be regarded as the service provider and be allocated the 116 number.⁴¹
- 4.10 The service provider applying for the allocation of a 116 number will be considered the lead party in the partnership and will be responsible for completing and submitting the applications during the two stages of the comparative selection process. The service provider would also need to liaise with Ofcom and the advisory committee for the ongoing monitoring of service provision.
- 4.11 To promote flexibility in the application process, service providers and communications providers may submit multiple applications for allocation of the same 116 number featuring different partnership combinations as follows:
- from the same communications provider with different service providers;
 - from the same service provider with different communications providers; and
 - from the same service provider with different service provider partnership combinations.

Multiple service provider partnerships

- 4.12 In order to support flexibility in service provision, multiple service providers may work together to provide a comprehensive service where this would benefit citizens and consumers.

⁴⁰ The exceptions to this general practice are some access codes (i.e. Type A and Type C). These are listed in the Annex to the Numbering Conditions and may be adopted or otherwise used in accordance with their designation without application to Ofcom.

⁴¹ The detailed applications submitted during the selection process will afford Ofcom and the advisory committee the opportunity to understand each applicant's service in detail and to determine which party has overall responsibility for service provision. Where necessary, rights over 116 number use in post-allocation situations that might include changes to the commissioning body or the outsource agency would be considered by the advisory committee and decided by Ofcom.

- 4.13 Where two or more service providers wish to form a partnership and apply together for the allocation of a 116 number, one service provider must be nominated as the lead provider. The lead provider will be responsible for completing and submitting the applications for the 116 number on behalf of the partnership and will be the contact point for Ofcom.
- 4.14 Multiple service provider partnerships must demonstrate in their applications that they can work together effectively and that the resulting service would be in the interest of consumers. Multiple service provider partnerships will only be pursued at the service providers' request and will not be forced on service providers by Ofcom. The overall test of the most effective partnership model for each 116 number will be whether it furthers the interests of citizens and consumers in line with our principal duty in section 3(1) of the Act.

The selection process for allocating 116 numbers

- 4.15 We will use a comparative selection process for the allocation of '116' numbers to service provider(s) / communications provider partnerships. The comparative selection process allows us to assess applications against the Service Eligibility Criteria set for each 116 number and to compare each application against the relative merits of other applications, resulting in allocation to the partnership offering the most suitable service.

How the comparative selection process will work

- 4.16 The comparative selection process for the allocation of each 116 number will be run in two stages.
- 4.17 Stage One commences with the publication of guidelines on the '116 webpage' of our website setting out the selection process and explaining what information applications should include and how they should be submitted.⁴² The guideline document will:
- set out the Service Eligibility Criteria for each '116' number against which applications will be assessed. These criteria include the Service Description for that 116 number, the General Service Conditions attached by the Commission to all '116' numbers, the Specific Service Conditions attached by the Commission to that particular 116 number and any Additional Specific Service Conditions attached by Ofcom to that 116 number. Additional Specific Service Conditions include the charging arrangements for that 116 number; and
 - set out the information that applicants need to provide in their applications so that Ofcom and the advisory committees can compare the applications to the Service Eligibility Criteria and assess their relative merits.
- 4.18 During Stage One, applicants will be required to provide detail on themselves and their service, demonstrating how they would meet the Service Eligibility Criteria. Certain operational, legal and financial information will also be requested.
- 4.19 Service providers will have six weeks following the launch of Stage One to submit their applications.
- 4.20 The advisory committees convened by the Contact Council to assist Ofcom with the allocation of '116' numbers will have four weeks to assess the applications submitted in Stage One. Service providers whose applications demonstrate that their service

⁴² <http://www.ofcom.org.uk/telecoms/ioi/numbers/116/>

would fulfil the Service Eligibility Criteria will be invited to take part in Stage Two of the comparative selection process. During Stage One, the advisory committee will also determine whether a possible time limited allocation would be appropriate.

- 4.21 The main submission in Stage Two will be a detailed business case, including justification on why that service provider(s) / communications provider partnership should be allocated the 116 number; their position in the service sector; and the likely impact of the allocation of the 116 number on other services in the same sector; plus funding and budgeting information. Service providers will also need to set out the details of their partnership with a communications provider. We suggest that service providers begin preparing for Stage Two in advance of its launch, in particular, commencing negotiations to select a communications provider and funding/budgeting arrangements.
- 4.22 The invitation to apply in Stage Two will set out the exact information that the service provider(s) / communications provider partnership will need to supply, how this information will be assessed and what format the submission should be in. The invitation will describe the standard required to successfully complete the two stages of the comparative selection process. We will inform parties of a possible time limited allocation when sending the invitations to Stage Two of the allocation process.
- 4.23 Service providers will have twelve weeks to submit their Stage Two applications to Ofcom. This period may be reduced at the start of Stage Two in exceptional circumstances and only where it is in the interests of all relevant parties to do so. This may be acceptable, for instance, in the event of a single application being submitted at Stage One, which is well advanced in negotiating the partnership with the communications provider and the funding arrangements, and where the service provider states that 12 weeks are not required to submit a detailed business case and supply any other material requested by the advisory committee as part of the selection process.
- 4.24 The advisory committees will assess each application submitted, comparing them to the Service Eligibility Criteria and against the relative merits of other applications based on the information supplied. The advisory committee will submit an assessment report to Ofcom. This report will state which partnerships successfully completed the comparative selection process and are eligible for allocation of the 116 number. It will set out how each partnership rated against the Service Eligibility Criteria and other applicants and will provide the advisory committee's recommendation on which service provider(s) / communications provider partnership would offer the most suitable service and should be allocated the 116 number.
- 4.25 The communications provider in each partnership that successfully completes the comparative selection process will be invited by Ofcom to submit an access code application form requesting the allocation of the 116 number on a set date. This is the usual process followed by communications providers when applying for the allocation of telephone numbers from Ofcom.
- 4.26 We then have three weeks to determine the outcome of the applications for the 116 number, taking into account the material submitted during both stages of the comparative selection process, the access code application forms and the advisory committee's report and recommendation. The decision will be taken in line with our statutory duties and specifically our responsibility for implementing the Decision in the UK. Upon reaching our decision, we will allocate the 116 number to the communication provider in the successful partnership. Unsuccessful applicants will be informed of our decision.

- 4.27 Allocations of '116' numbers will not generally be time limited. However, in certain circumstances which may come to light during the comparative selection process for a 116 number, we may, in consultation with the advisory committee and taking into account our statutory duties, conclude that it would be best use of the number and in the interest of citizens and consumers to apply a five year time limit to the allocation. Such circumstances could include, although not be limited to:
- evidence of strong competition between service providers in a particular service sector, where a five year allocation period might continue to stimulate competition, whereas an indefinite allocation to one service provider might stifle competition;
 - allocation is to be made to a service provider that is a relative new comer to the service sector or to helpline provision in general and where lack of service history suggests that an allocation breakpoint would be prudent; and
 - where short and medium term funding are secured by the service provider considered to offer the most suitable service, but where there are some doubts over the long term funding arrangements.

Ofcom to be assisted in the comparative selection process by advisory committees convened by the Contact Council specifically for each 116 number allocation decision

- 4.28 The Cabinet Office co-ordinated Contact Council will be responsible for establishing and running the advisory committee for each 116 number, drawing on the expert knowledge of relevant Contact Council members (which includes Government and non-Government representatives) and other independent contacts with experience relevant to the service. See Annex 3 for information on the membership and administration of the advisory committees. We will formalise the roles and responsibilities of Ofcom, the Contact Council and the advisory committees in the 116 number comparative selection process in a Memorandum of Understanding.
- 4.29 All comments submitted to Ofcom in response to the advisory committee proposal in the 116 Consultation have been discussed with the Contact Council. See paragraphs 3.54 to 3.75) for detail on these comments and our response.
- 4.30 The types of services to be provided on each '116' number could vary greatly and the advisory committees would consequently benefit from a core membership providing consistency and knowledge retention, supplemented by ad hoc members with a detailed knowledge of the particulars of each service.

Potential conflicts of interest will be managed by the Chair of the advisory committees, in consultation with Ofcom. Membership of the relevant advisory committee will be made known to service providers applying for '116' numbers. Service providers will also be informed as to whether any conflicts of interest were disclosed and by whom, and any action to stand down members taken as a result.

- 4.31 The advisory committees will work with Ofcom on three key elements of the comparative selection process:
- advising us on Additional Specific Service Conditions for each 116 number, including the appropriate charging arrangement;
 - setting out the information to be supplied to us in applications for '116' numbers by interested service providers as part of both stages of the comparative selection process; and

- assessing applications against the Service Eligibility Criteria set for each 116 number and comparing each application against the relative merits of other applications, resulting in a recommendation on which partnership would offer the most suitable service.

Process if a 116 number remains unallocated after the initial comparative selection process

- 4.32 There is no obligation for any 116 number to be allocated and we will not make an allocation unless we are confident that the number would be used appropriately and the service provided would further citizen and consumer interests in line with our principal duty under section 3(1) of the Act and our numbering duty under section 63(1) of the Act.
- 4.33 If we receive no applications as a result of either stage of the comparative selection process, or if the services described in the applications received are not considered to meet the Service Eligibility Criteria and result in rejection, the 116 number would remain available for allocation.
- 4.34 Should it be clear that the charging arrangement was preventing service providers from fulfilling the Service Eligibility Criteria and that, following consultation with the advisory committee, it was considered to be the best use of the 116 number and in the interests of citizens and consumers to do so, we may, in exceptional circumstances, consider consulting again on the charging arrangements and re-launching the comparative selection process. In such circumstances, we would need to balance the benefits of this course of action against the potential impact to consumers of a proposal to change the charging arrangement.
- 4.35 If a number remains unallocated following the initial or further comparative selection process, then interested service providers may, at any time, approach Ofcom for the allocation of the 116 number by expressing an interest. Following an initial assessment to ensure that the applicant is aware of the Service Eligibility Criteria and is likely to fulfil it, we will launch a comparative selection process, with the same steps and timescales as the initial process. We will make other potentially interested service providers aware in the same way that we would publicise the initial comparative selection process.

Post allocation processes

Monitoring of number use

- 4.36 Ofcom has a duty under Article 6 of the Decision to report periodically to the Commission on the use of '116' numbers in the UK. In order to meet the obligation and to ensure that allocated '116' numbers are actually in service and being used in accordance with the Service Eligibility Criteria, we will audit those to whom allocations have been made in accordance with the Commission's monitoring timetable.
- 4.37 The advisory committee for each number will take on a service provision monitoring role post allocation of the 116 number. The main element of the monitoring process will be the Cabinet Office's Performance Management Framework ('PMF'), which provides a tool for performance measurement, benchmarking and management. The PMF gathers performance statistics on a number of different operational areas, such as matching capacity and demand and people management. Reporting takes place on a quarterly basis and will not be onerous. Guidance on the PMF will be provided by the contact council to applicants during the selection process and to the successful partnership post allocation. In addition, the advisory committee may need

to undertake targeting monitoring of specific aspects of service provision to ensure that the Service Eligibility Criteria are fulfilled.

- 4.38 The monitoring process may identify certain aspects of service provision that need to be addressed. If these aspects relate to the Service Eligibility Criteria, these will need urgent attention and may ultimately result in the withdrawal of the number if not rectified. Any other issues would need to be resolved with Ofcom and/or the advisory committees as appropriate.

Ensuring compliance from communications providers allocated 116 numbers

- 4.39 We have included the General Service Conditions in the Numbering Plan and these conditions will be attached to the right of use of all '116' numbers.
- 4.40 We will list each 116 number reserved by the Commission individually in the Numbering Plan to provide transparency in the Service Description, the Specific Service Conditions and any Additional Specific Service Conditions applicable to that number. These measures are necessary to ensure that the requirements and restrictions on the adoption and use of '116' numbers are enforceable. Under the Numbering Conditions, communications providers must adopt or otherwise use numbers in accordance with the Numbering Plan. Failure to comply could lead to us taking enforcement action pursuant to sections 94 to 96 of the Act (see paragraph 4.41).

Number withdrawal

- 4.41 Conditions for the withdrawal of telephone numbering allocations are set out in section 61 of the Act. Further to Section 61(2)(e) and (f) and paragraph 17.11 of the Numbering Conditions, we may withdraw an allocation of numbers from a communications provider if those numbers are not in use within six months of allocation (or other period specified by Ofcom). We expect those to whom we allocate '116' numbers to work towards putting their numbers into service as soon as is practicable and in accordance with the planned 'in-service' date agreed as part of the comparative selection process. We recognise that new number ranges can take longer to activate and, provided that action has been taken towards getting the number in service, we will work with the relevant parties to agree acceptable timescales should the forecasted 'in service' date prove unachievable.
- 4.42 Section 61(2)(a) allows for withdrawal with the consent of the person to whom the numbers have been allocated. We would use this process should the provider of the service no longer wish to retain the allocation of the 116 number.
- 4.43 There are also processes under section 61(3) of the Act for withdrawal if there have been serious or repeated contraventions of the Numbering Conditions by the person to whom the numbers have been allocated and it appears to us that the taking of other steps in respect of the contraventions is likely to prove ineffective for securing future compliance. Provided all conditions are met, we would, under this provision, be able to withdraw '116' numbers where the requirements and restrictions set out in the Numbering Plan are not complied with, i.e., the Service Eligibility Criteria.

Porting of '116' numbers

- 4.44 '116' numbers will be subject to the number portability obligations set out in General Condition 18 ('the Number Portability Condition'). This means that numbers are portable between communications providers at the service provider(s) request. This allows service providers to retain use of the 116 number should they want to change the communications provider in the partnership.

- 4.45 In practice, porting will take place using the block transfer process. All service provider(s) in the allocation partnership would need to apply to Ofcom's Numbering Team⁴³ to arrange the porting of the 116 number. This would be achieved by Ofcom allocating the 116 number to the new communications provider chosen by the service provider(s) in the partnership.
- 4.46 The service provider(s) in the partnership must remain as per the allocation and are not changeable as part of the number portability process. Transfers are prohibited without Ofcom's permission.

Rights of use for 116 numbers

- 4.47 '116' numbers may only be used by the service provider(s) / communications provider partnership allocated the number. Service providers and communications providers allocated a 116 number are prohibited both from transferring the number without application to Ofcom and from allowing service providers not listed as allocatees from providing a service on the number.

Process for making future 116 numbers available for allocation

- 4.48 As set out in paragraph 2.24, Ofcom and BERR have an active role in the Commission's committee process for reserving new '116' numbers. We will consult the Contact Council and the advisory committees as part of gauging UK stakeholder views on requests for new '116' numbers and we will input these views into the committee process.
- 4.49 Once a request for a 116 number has successfully completed the reservation process and the Commission has amended the Decision to include the new 116 number, we need to take action so that we can allocate that number in the UK. We will do this by asking the Contact Council to convene an advisory committee specifically for that number and consulting on modifications to the Numbering Plan so that the new 116 number can be added.
- 4.50 The addition to the Numbering Plan would include the 116 number, the Name of Service, the Service Description and the Specific Service Conditions attached to the right of use for that number. These would be set by the Commission and would not be subject to change as part of the consultation. Within certain constraints, we may consult on Additional Specific Service Conditions that we consider should be attached to the rights of use of that 116 number in order to ensure best use and promote the interests of citizens and consumers (see paragraph 2.11). These would normally include our proposed charging arrangements for the number. We will seek advice from the advisory committees on the charging arrangements and the appropriateness of any other Additional Specific Service Conditions.
- 4.51 We will publish a statement setting out our conclusions on the consultation to add the new 116 number to the Numbering Plan, publish the modified Numbering Plan and launch the comparative selection process for the 116 number.

⁴³ Numbering.applications@ofcom.org.uk

Section 5

Decision on charging arrangements

Introduction

5.1 Having taken into account all the responses to the 116 Consultation and the findings of the Impact and Equality Assessment in Annex 2, we have decided to implement our proposals for the charging arrangements for '116' numbers. The Impact and Equality Assessment provides further analysis on the benefits of implementing this option over the others proposed in the 116 Consultation.

Policy objectives

5.2 As shown in the preamble to the Decision (see paragraph 2.17), the Commission has intervened on the matter of charging arrangements for '116' numbers. We agree that the strong social function of the services already identified means that regulatory attention should be given to establishing and enforcing the appropriate charging arrangements for calling '116' numbers.

5.3 In determining what the appropriate charging arrangements should be, we considered that our duty to further the interests of citizens and consumers is particularly relevant. We believe that this duty can be best achieved by taking measures to remove barriers to calling '116' numbers at times when it is vital that citizens can make the call, while ensuring that any regulatory intervention on this matter is proportionate.

5.4 This section of the document examines:

- what 'freephone' means;
- the concept of 'free to caller';
- the factors to help determine whether 116 numbers are 'freephone' or 'free to caller'; and
- funding issues.

Ofcom's decision on charging arrangements for '116' numbers

5.5 Our decision on charging arrangements for '116' numbers is that numbers are designated as either 'freephone' or 'free to caller' on a service by service basis, taking into account a set of factors to determine the most appropriate arrangement for each number and subject to consultation.

Explanation of charging arrangements

5.6 In order to distinguish between different charging arrangements in this document, the term 'freephone' is used to describe the situation where calls can be charged for provided there is a non-chargeable announcement at the start of the call to inform the caller. This is commonly the position when calling a 'freephone' number from a mobile phone. The term 'free to caller' is used to describe the situation where calls are always free, including those from mobiles.

Freephone numbers

- 5.7 The charging arrangements for 'freephone' numbers are obviously different from those of other number ranges. With most number ranges, the caller pays for some or all of the cost of conveying the call and, for some numbers, additional payment is made for the content of the call. With 'freephone' numbers, consumers are encouraged to contact the service by making the call free. The cost of conveyance and supply of information is covered by the provider of the service (and may be subsidised by the communications provider terminating the call).
- 5.8 In the UK, 'Freephone Number' is defined in the Numbering Plan as-
- “a number that is reached free of charge to the Customer except where a charge is notified to the End-User at the start of the call”.
- 5.9 In the UK, therefore, the definition of 'Freephone Number' allows for calls to be charged for provided there is a non-chargeable announcement at the start of the call to inform the caller. The pre-announcement requirement is a consumer protection measure, as consumers are likely to assume that a number known as 'freephone' will be free to call.
- 5.10 It is common for calls to numbers in 'freephone' ranges, such as 0800 and 0808 numbers, to be charged for when the call is made from a mobile telephone. Tariff transparency is difficult to achieve for 'freephone' numbers if a charge is applied. Although an announcement must be made informing the caller at the start of the call, the actual price is complex to calculate and may depend on a number of elements, such as the caller's tariff plan. Generally, it is not technically possible for the pre-call announcement to state the actual tariff and therefore the likely call charge is not transparent. The charge can typically range from 10p to 25p per minute (and even up to 40p per minute) for a call from a mobile to a 'freephone' number. This can lead to larger than expected bills for mobile contract customers or the running out of credit for pre-pay customers.
- 5.11 Mobile providers sometimes take the commercial decision not to charge their customers for calls to certain 'freephone' numbers. For example, the THA has worked with mobile providers to ensure that calls to 080880 freephone 'confidential helpline numbers' are not charged and do not appear on itemised telephone bills, thus ensuring confidentiality. Also, calls to some national services of social value, such as the 0800 1111 Childline service, are commonly free to call from mobiles. BT has announced recently that it will not charge its mobile customers for calls to any 0800 'freephone' numbers.

Freephone 116 numbers

- 5.12 'Freephone' is an established charging concept in the UK. To implement '116' numbers as 'freephone' would be to facilitate a 'business as usual' approach, enabling the communications industry to implement those '116' numbers using the existing national 'freephone' model and interconnection arrangements.
- 5.13 A 'freephone' service designation in the Numbering Plan would not prevent calls from being free from any or all networks, including mobiles. Communications providers may take into account the economic and social impact of charging for calls to the type of services provided on '116' numbers and decide, for wider social responsibility motives, not to charge.

Free to caller numbers

- 5.14 The situation in the UK, whereby ‘freephone’ calls may be chargeable, is also found in some other Member States. However, there are some European countries where regulation ensures that ‘freephone’ calls are always free to the caller regardless of whether the call is made from a fixed or mobile network.
- 5.15 In order to introduce the ‘free to caller’ charging arrangement in the UK,⁴⁴ the following definition has been introduced into the Numbering Plan-

“‘Free to caller Number’ means a number that is reached at no charge to the Customer and, in the case of a Pay Telephone, without having to use coins and cards”.

Free to caller 116 numbers

- 5.16 Ensuring that calls to ‘116’ numbers are always free regardless of how the call is made would make sure that there were no financial restrictions to calling the required service. This enables us to meet our policy objective of furthering the interests of citizens and consumers by removing barriers to calling ‘116’ numbers at times when it is vital that citizens can make the call.
- 5.17 While ‘free to caller’ furthers the interests of consumers in terms of call cost and tariff transparency, we are conscious that it represents a significant intervention in the market, in that it sets the absolute tariff at which originating communications must charge for calls. For certain services considered to be of extreme social value, it is important to remove any barriers to making the call in times of need. These barriers include payment for calls and the understanding of pre-call announcements. We consider that the benefits in terms of promoting the interests of citizens and consumers when they find themselves in situations where they need to call services of extreme social value are paramount. As such, this is considered a proportionate intervention.
- 5.18 However, there are always costs incurred in carrying calls and if the caller does not pay, these costs need to be recovered from elsewhere. Generally, the recipient of the free call pays to receive the call, i.e. the service provider. Costs for receiving calls vary, but are usually higher when the call originates from a mobile phone. The upshot of this is that it is costly for service providers to offer ‘freephone’ services and even more costly to offer ‘free to caller’ services. Therefore when considering charging arrangements for ‘116’ numbers, we need to bear in mind the financial burden on the service provider and the consequence that a ‘free to caller’ arrangement could result in no suitable service providers emerging that could fund a 116 ‘free to caller’ service.

How we determine the appropriate charging arrangement for each 116 number

- 5.19 There are valid arguments both for making ‘116’ numbers ‘freephone’ or ‘free to caller’. The majority of these arguments turn on the characteristics of each service, in particular the level of social need and the likely situation of the caller.
- 5.20 We also consider that the market for service provision is an important factor in determining the appropriate charging arrangement on a service by service basis. For instance, understanding the position of the service within its relevant service sector, in terms of the number and nature of similar services, gives further justification for making individual decisions on charging arrangements for ‘116’ numbers. We are

⁴⁴ Before introduction of the ‘free to caller’ charging arrangement for calls to ‘116’ numbers, ‘free to caller’ only existed for calls to the emergency call numbers 999/112. This charging arrangement was provided for under the requirements of the Universal Service Directive, transposed into General Condition 4.

mindful of how our actions in relation to charging might potentially crowd out alternative services to the one allocated the 116 number, although we recognise that call costs are just one factor in a consumer's decision on what service to call. And, crucially, we also need to consider the funding implications of particular charging arrangements for service providers.

- 5.21 The factors for deciding the appropriate charging arrangements for each '116' number are designed to ensure that the decision is proportionate. We would use these factors to reach a proposal on the appropriate charging arrangements and would seek the advice of the advisory committee convened for each 116 number on the appropriate charging proposal for that number. We would then consult on our proposal as part of the process of making each 116 number available in the Numbering Plan.

Factors for deciding whether a service should be 'freephone' or 'free to caller'

- 5.22 There are three main factors that we will use to determine the appropriate charging arrangement and establish whether a service merits a 'free to caller' or 'freephone' designation. These are:
- the level of social value or need met by the service;
 - the likely situation of the caller when he/she needs to call the service; and
 - the market environment in which the service operates.

Level of social value or need

- 5.23 Within the potentially broad scope of services of social value, services may emerge that meet different levels of social need. We believe that the difference between these can be distinguished as:
- services of 'extreme social value'; and
 - services of 'social value'.

Services of 'extreme social value'

- 5.24 Services of 'extreme social value' will generally meet a vital and/or extremely urgent need at a time of emotional distress or threat to welfare. The situation where a call to one of these numbers is likely to be needed is one in which it is crucial that the caller can make the call for reasons of their safety or well-being, or the wellbeing of others. In other words, they provide a life-line for people in distress.

Services of 'social value'

- 5.25 Services of 'social value' are likely to meet relatively less urgent or stressful needs, and may provide a convenient tool for gaining information and/or have a commercial element, such as a traffic information helpline. While the situation of the caller may still be urgent and stressful, it is not of such an acute social value or need. The situation here would be one in which making the call is useful and furthers the interests of the consumer, but is not crucial for the caller or someone else's safety or well-being.
- 5.26 We consider that '116' numbers used for services that are best categorised as services of 'extreme social value' will be stronger candidates for being 'free to caller' numbers than services which are of 'social value'.

Likely situation of the caller

Situations where the caller requires increased consumer protection

- 5.27 If a citizen is in a situation where they need to make a call to a service of 'extreme social value', for instance if they have lost a child or are in a state of emotional crisis, certain consumer protection measures beyond those generally afforded to consumers may be necessary.
- 5.28 In particular, the caller should not be prevented or discouraged from making the call using the most convenient method (e.g. a mobile phone) due to lack of financial means or concern over call cost/pre-paid credit availability.
- 5.29 In such situations, callers are likely to be in a position of distress or vulnerability and will need the calling process to be as straightforward as possible. An announcement regarding an unspecified level of call charges may confuse the caller and act as a deterrent to making the call.
- 5.30 In addition, when citizens are in a situation where they need to contact a service of 'extreme social value', they may require privacy and confidentiality. The caller may need to achieve this by using a mobile phone and may need to be sure that a large bill or loss of pre-paid credit will not occur, and that the call will not appear on itemised bills.

Situations where the caller is in a relatively safe and comfortable state

- 5.31 If a citizen is in a situation where they need to call a service to get information of a non-urgent nature, then the caller is more likely to be in a position to make considered decisions on, for example, convenience versus cost when deciding whether to make a call from a fixed or mobile telephone. They would also be able to make decisions on whether to continue with the call if a charge has been notified without being placed in a vulnerable or dangerous position. Also, if privacy and confidentiality are not strong requirements, the caller will usually have more options for how to make the call.
- 5.32 We believe the likely situation of the caller is relevant when deciding the charging arrangement for a particular '116' service. When the caller is likely to be in a position of emotional distress or vulnerability, for example, the particular '116' service would generally be a stronger candidate for a 'free to caller' service designation.

Market environment of service provision

- 5.33 Services of social value may operate in different markets where:
 - there is a single provider of the service;
 - there are multiple providers of complementary services; or
 - there are multiple providers of competing services.
- 5.34 The options for charging arrangements have potentially different impacts depending on which of the three market situations the service operates in and provide a further consideration for whether a service should be freephone or free to caller.

Single provider of the service

- 5.35 Some services of a social nature are only provided by a single party. This will often be the case for services of extreme social value, as the number of organisations in a

position to provide the service will be limited and there is no commercial incentive to create alternatives. In this situation, decisions on charging arrangements will only affect one service provider and can be taken purely on the basis of social need and caller situation as there will be no impact on the positioning of alternative services.

Multiple providers of complementary services

- 5.36 For other services of a social nature, there may be a number of organisations providing services that complement each other and answer a variety of citizens' needs within the same broad service category. For instance, in the provision of services for missing children, there might be services that concentrate on lost children, others that focus on runaway children and others that deal with child trafficking. These services work together to provide comprehensive coverage of needs relating to lost children and are not in competition for calls. Decisions on charging arrangements would not generally interfere with the positioning of players in the market and can be taken on the basis of social need and caller situation.

Multiple providers of 'competing' services

- 5.37 A further situation for service provision is one in which multiple service providers compete for consumers' calls. These are likely to be services with a commercial element and/or no charitable funding. The financial aspects of service provision are clearly a crucial element in running these services and regulatory intervention on charging arrangements would limit or remove any flexibility on call tariffs which may be relied upon to help fund the services.
- 5.38 Regulatory actions in relation to charging could crowd out services that might be provided by the private or voluntary sector and which have been established using existing 'freephone' charging arrangements. For instance, there could be a situation where two similar providers offer a service for which a '116' number has been reserved. Provider A is allocated the '116' number and it is designated as 'free to caller'. Provider B continues to use a 0800 'freephone' number. Callers become aware that a call from a mobile to Provider A is free, whereas it incurs a charge when made to Provider B, and therefore they call Provider A. In addition, commercial sponsorship has been given to Provider A due to the higher profile of using a '116' number. Eventually Provider A secures all or the majority of calls to its service and Provider B ceases to operate. We recognise that this may be an extreme scenario and that the cost of a call is only one factor determining which service a consumer will call, however, the possible effects of 'crowding out' should be taken into account when making charging proposals.
- 5.39 We consider that when making a decision on charging arrangements for '116' services, it is appropriate to take into account the following aspects of the service provision market:
- the nature of the players in the market for the provision of the service, e.g. are they charities, public or private sector organisations?
 - the number of service providers offering the service;
 - the likely effect on existing services if one was to be allocated a 'free to caller' 116 number, given that such charging arrangements would not be guaranteed for any other service; and
 - the likelihood of a service provider emerging who could offer the service on a 'free to caller' basis.

Summary of factors to be taken into account when determining charging arrangements

Factors to be taken into account	Tendency towards 'Free to caller'	Tendency towards 'Freephone'
Level of social need	<ul style="list-style-type: none"> ➤ extremely urgent need at a time of emotional distress ➤ vital that the call is made 	<ul style="list-style-type: none"> ➤ urgent or routine need with no / low level of emotional distress ➤ useful/convenient if the call is made
Caller situation	<ul style="list-style-type: none"> ➤ in a position of vulnerability; distress; ➤ privacy/confidentiality important ➤ in stressful situation ➤ too distressed to be concerned or confused by cost of call/ call announcement 	<ul style="list-style-type: none"> ➤ in a position where information is required ➤ privacy/confidentiality not required ➤ in non-stressful situation ➤ in a position to decide whether to continue the call if notified there is a charge
Market for service provision	<ul style="list-style-type: none"> ➤ single provider of service or multiple providers of complementary services ➤ likely that a service provider will emerge who could/would offer 'free to caller' 	<ul style="list-style-type: none"> ➤ competing service options available, perhaps provided by the private or voluntary sector, which would be unduly impacted if calls to 116 numbers were always free ➤ unlikely that a service provider will emerge who could/would offer 'free to caller'

Funding of calls to '116' numbers

- 5.40 Funding of 'free to caller' and 'freephone' calls is an important and sensitive issue, as the cost of receiving calls originating from mobile phones can be considerably higher than the cost from fixed lines. While 'free to caller' has obvious benefits for the calling party, it needs to be borne in mind that if the caller is not paying for the call, someone else would have to bear the costs of service provision. The Decision is clear that communications providers are not required to finance the call provision. Therefore the service provider receiving the call needs to find a way to cover the cost. Considering the type of services likely to be offered on '116' numbers, the service provider may often be a charity and funds are likely to be limited. If the cost of receiving free calls can not be covered, then the service can not be provided on the 116 number. This could ultimately jeopardise consumer interests if socially valuable services are not provided on 116 numbers.
- 5.41 There is also the possibility that making '116' numbers 'free to caller' might increase the risk of hoax/nuisance calls, particularly from mobiles, and that the service provider would find itself funding the receipt of such calls.

- 5.42 Recognising that a balance needs to be struck between furthering citizen and consumer interests by removing barriers to calling '116' numbers and the need for the demands placed on potential service providers, in particular in relation to funding, to be achievable, we will encourage communications providers to work with service providers to help alleviate the financial burden of receiving calls on '116' numbers. This might be done through sponsoring services, subsidising calls or agreeing special freephone tariffs with service providers.
- 5.43 On a European level, the Electronic Communications Committee (ECC⁴⁵) has also been considering ways to address the funding of calls to '116' numbers. It has published a recommendation suggesting that some commercial organisations, including communications providers, may be willing to assist the objectives of the 116 number range by contributing to the cost of calls and sponsoring the services.⁴⁶ The recommendation confirmed that sponsorship was permissible as a possible solution to the funding problem. The only constraint is that advertising and marketing may not take place during the call in accordance with Article 4e⁴⁷ of the Decision. It is, however, permissible for sponsors to be identified on adverts and notices about the service in question. The recommendation encourages NRAs to explain to organisations to which they allocate '116' numbers that they may use sponsorship to fund the cost of their calls within the above constraints.
- 5.44 Should it turn out that no suitable service provider can meet the 'free to caller' arrangement for any of the initial three '116' numbers, then, following consultation with the advisory committee, and only if considered to be the best use of the 116 number and in the interests of citizens and consumers to do so, we may, in exceptional circumstances, consider consulting again on the charging arrangements and re-launching the comparative selection process. However, we would need to balance the benefits of this course of action against the potential impact to consumers of changing the charging arrangement to 'freephone' - considerations that informed our original decision to make the initial three numbers 'free to caller' in the first place. If it should appear that a change in charging arrangements might be appropriate for any of the initial three '116' numbers, we would consult on modifying the designation in the Numbering Plan and then relaunch the comparative selection process for the relevant number(s).

Ensuring compliance with the charging arrangements from service providers using 116 numbers

- 5.45 Service providers allocated '116' numbers must fulfil the conditions attached to the right of use of the number. These conditions are known as the Service Eligibility Criteria (see paragraphs 2.9 to 2.13).
- 5.46 The charging arrangement for each 116 number is a condition attached to the right of use of the number. Having considered this further since the 116 Consultation, we have decided that it is appropriate to make the charging arrangement an Additional Specific Service Condition and therefore part of the Service Eligibility Criteria. In Annex 6 (see paragraph A6.30), we set out our reasoning as to how the charging arrangements fulfil the criteria listed in paragraph 2.11 for being the type of condition which may be attached to rights of use of telephone numbers and therefore may be an Additional Specific Service Condition attached to '116' numbers.
- 5.47 The designation 'Freephone Number' or 'Free to caller Number' will form part of the service designation of each 116 number in the Numbering Plan.

⁴⁵ The ECC is part of the European Conference of Postal and Telecommunications Administrations (CEPT) which has a membership of 48 countries <http://www.ero.dk/ecc>

⁴⁶ <http://www.erodocdb.dk/Docs/doc98/official/Word/REC0803.DOC>

⁴⁷ Article 4e of the Decision states that "the following activities are excluded during a call: advertisement, entertainment, marketing and selling, using the call for the future selling of commercial services".

Ensuring compliance with the charging arrangements from communications providers originating calls to '116' numbers

- 5.48 In order to enforce the charging arrangements for callers, we have added '116' numbers to paragraph 17.12 of the Numbering Conditions which covers requirements in connection with use of numbers for making calls. This is to ensure that originating communications providers comply with the service designations for '116' numbers set out in the Numbering Plan, including charging arrangements,
- 5.49 Non-compliance with the requirements in the Numbering Conditions, for instance by not complying with the charging arrangements in accordance with the service designations for calls to '116' numbers, may result in the communications provider being the subject of enforcement action by Ofcom.

Section 6

Implementation of 116000, 116111 and 116123 – specific arrangements and impact assessment

6.1 As set out in the 116 Consultation, the Commission has reserved the following three '116' numbers for services of social value and attached Specific Service Conditions to the right of use of the numbers:

Number	Service for which this number is reserved	Specific Service Conditions
116000	<p><i>Name of Service:</i> Hotline for missing children</p> <p><i>Service Description:</i> The service (a) takes calls reporting missing children and passes them on to the Police; (b) offers guidance to and supports the persons responsible for the missing child; (c) supports the investigation.</p>	Service continuously available (i.e. 24 hours a day, 7 days a week, nation-wide).
116111	<p><i>Name of Service:</i> Child helplines</p> <p><i>Service Description:</i> The service helps children in need of care and protection and links them to services and resources; it provides children with an opportunity to express their concerns, talk about issues directly affecting them and contact someone in an emergency situation.</p>	Where the service is not continuously available (i.e. 24 hours a day, 7 days a week, nation-wide), the service provider must ensure that information about availability is made publicly available in an easily accessible form, and that, during periods of unavailability, callers to the service are advised when the service will next become available.
116123	<p><i>Name of service:</i> Emotional support helplines</p> <p><i>Service Description:</i> The service enables the caller to benefit from a genuine human relationship based on non-judgemental listening. It offers emotional support to callers suffering from loneliness, in a state of psychological crisis, or contemplating suicide.</p>	Where the service is not continuously available (i.e. 24 hours a day, 7 days a week, nation-wide), the service provider must ensure that information about availability is made publicly available in an easily accessible form, and that, during periods of unavailability, callers to the service are advised when the service will next become available.

Figure 6.1: '116' numbers reserved by the Commission as at 18 February 2009

- 6.2 In order to implement the Decision and Amending Decision, we must take the necessary action to make the initial three '116' numbers reserved by the Commission available for allocation in the UK. In order to do this, the Numbering Plan must be amended to include the three '116' numbers and the associated information set out in Figure 6.1 above. Annex 7 of this document provides the legal notification required to do this.
- 6.3 The Name of Service, the Service Description and the Specific Service Conditions for 116000, 116111 and 116123 were taken from the Amending Decision and, as such, were determined by the Commission and were not open to further consultation. Similarly, the General Service Conditions attached to all '116' numbers were taken from the Decision and were not open to further consultation.⁴⁸

Charging arrangements for 116000, 116111 and 116123

- 6.4 We have decided that '116' numbers are either 'freephone' or 'free to caller' and that the most appropriate of these two charging arrangements for each number will be decided on a service by service basis. The 116 Consultation, therefore, considered two charging options for each of the initial three '116' numbers.
- 6.5 In assessing which charging arrangement would be appropriate for each of the initial three '116' numbers, we used the set of guiding factors to consider the characteristics of each service. These guiding factors are:
- the level of social value or need met by the service. Services of social value can be broadly categorised as:
 - 'services of extreme social value' – these will generally meet a vital and/or extremely urgent need at a time of emotional distress or threat to welfare; or
 - 'services of social value' – these are likely to meet relatively less urgent or stressful needs, and may provide a convenient tool for gaining information and/or have a commercial element.
 - the likely situation of the caller when he/she needs to call the service. These can be broadly categorised as:
 - 'situations where the caller requires increased consumer protection', such as the removal of barriers which might prevent or discourage citizens from making essential calls; or
 - 'situations where the caller is in a relatively safe and comfortable state', for example, where the call is to get information of a non-urgent nature and the caller is in a position to make considered decisions on whether and how to make the call.
 - the market environment in which the service operates. These can be broadly categorised as:
 - 'a single provider of the service', where the service is the only one of its type within its service category;
 - 'multiple providers of complementary services', where a number of organisations provide services that complement each other and answer a variety of citizens' needs within the same broad service category; or

⁴⁸ The General Service Conditions attached to the use of '116' numbers are set out in paragraph 2.9.

- 'multiple providers of competing services', where a number of organisations compete with each other to answer citizens' needs within the same broad service category.

Impact assessment on the appropriate charging options for 116000, 116111 and 116123

- 6.6 The impact assessment below considers whether each of the initial three '116' numbers should be 'freephone' or 'free to caller' and assesses each option against our policy objectives of securing best use of numbers and promoting the interests of citizens and consumers.

116000 Hotline for missing children service

- 6.7 The 'Hotline for missing children' service would provide a lifeline to persons who have lost a child or are affected by the loss of a child, offering guidance and support in a time of crisis. It would handle calls reporting the child's loss; provide a coordination point between the person(s) experiencing the loss of the child and the police; and would support the investigation into the missing child. The service would be continuously available nationwide.

Level of social value or need met by the service

- 6.8 We consider that the 'Hotline for missing children' service should be categorised as a service of 'extreme social value'. It would meet a vital and extremely urgent need at a time of emotional distress. The loss of a child is a situation where it is crucial that persons experiencing or affected by the loss of the child, or persons with information supporting the investigation, can make the call and that any barriers preventing or discouraging the call are removed.

Likely situation of the caller when he/she needs to call the service

- 6.9 Persons experiencing or affected by the loss of a child, or persons with information supporting an investigation into a lost child, would find themselves in a crisis situation and may need increased consumer protection measures to ensure that they can make the call to 116000. The safety of the lost child may depend on the call being made and therefore steps may need to be taken to ensure that the caller is not prevented or discouraged from doing so. The caller may also require privacy and confidentiality and there should be no barriers to prevent how the call is made to achieve this.

Market environment of service provision

- 6.10 The Hotline for missing children service is likely to form part of a network of complementary services supporting child welfare and is considered to operate in an environment of multiple providers of complementary services. Within the provision of services focussing on missing children, there could be, for example, services that provide support to those whose child is lost, has run away or is involved in child trafficking. These services would have their own areas of expertise and would complement rather than compete with each other for calls relating to missing children.

Conclusions on appropriate charging arrangements for 116000

- 6.11 As set out above, the 116000 Hotlines for missing children service is considered:
- to fit within the category of 'extreme social value';

- is likely to be called when the caller is in a state of emotional stress and needs increased consumer protection to ensure that the call is not prevented or hindered; and
- to be offered by multiple providers of complementary services.

6.12 Taking into account our factors for setting charging arrangements for '116' numbers, this suggests that 116000 should be 'free to caller'.

116111 Child helplines

6.13 The 'Child helplines' service would help children in need of care and protection, linking them to required services and resources and providing a contact point in emergency situations. It would provide an opportunity for children to express their concerns and to talk about issues directly affecting them.

Level of social need

6.14 We consider that the 'Child helplines' service should be categorised as being of 'extreme social value', providing a helpline for children in distress or danger to which they can turn for comfort, advice or protection. As the child may be in a situation where it is essential that they can make the call to the helpline, increased consumer protection may be required to ensure that barriers preventing or discouraging the call are removed.

Likely situation of the caller

6.15 Children who find themselves in a situation where they need to call the 'Child helplines' service are likely to be in a vulnerable position and may be desperate to make contact with the helpline. It is also likely that the subject matter of the call will be confidential and that the child will require privacy for the conversation. It is highly likely that the child will want to make the call to the helpline using a mobile phone and therefore anything that might prevent the call being made, such as financial barriers (e.g. lack of pre-pay credit) or confusion created by a charging announcement, should be prevented.

Market environment of service provision

6.16 There are a variety of helplines providing support and advice to children with issues that they need to discuss. These form a complementary sector of service provision and the different helpline services co-exist to cover the diversity of child welfare issues. As such, child helpline service providers operate in an environment of complementary services and are not considered to compete with each other to receive calls.

Conclusions on appropriate charging arrangements for 116111

6.17 As set out above, the 116111 child helplines service is considered:

- to fit within the category of 'extreme social value';
- likely to be called when the caller is in state of emotional stress and needs increased consumer protection to ensure that the call is not prevented or hindered; and
- to be offered by multiple providers of complementary services.

- 6.18 Taking into account our factors for setting charging arrangements for 116 numbers, this suggests that 116111 should be 'free to caller'.

116123 Emotional support helplines

- 6.19 The 'Emotional support helplines' service would provide a genuine human relationship based on non-judgemental listening. It would offer emotional support to callers suffering from loneliness, in a state of psychological crisis, or contemplating suicide.

Level of social need

- 6.20 We consider that 'Emotional support helplines' should be categorised as a service of 'extreme social value', providing a genuine lifeline to persons at a time of emotional distress or despair. The caller is likely to be in a state of crisis and contact with the 'Emotional support helpline' may be essential for the caller's wellbeing.

Likely situation of the caller

- 6.21 A caller that is in a situation where they need to call the 'Emotional support helpline' is likely to be experiencing feelings of distress or despair, including those that could lead to suicide. They are likely to feel vulnerable and require a private and confidential environment to make the call. Increased consumer protection to remove barriers to making the call in the most suitable way possible are therefore required. Such barriers would include any financial concerns resulting from using a mobile phone to make the call or potentially confusing or worrying messages regarding call charges.

Market environment of service provision

- 6.22 There are a variety of emotional support helplines in existence, which provide a network of complementary support and advice opportunities for persons in need of someone to talk to. Emotional support helplines do not compete for calls but co-exist in a multiple provider environment to meet a range of citizens' emotional support needs.

Conclusions on appropriate charging arrangements for 116123

- 6.23 As set out above, the 116123 'Emotional support helplines' service is considered:

- to fit within the category of 'extreme social value';
- likely to be called when the caller is in state of emotional stress and needs increased consumer protection to ensure that the call is not prevented or hindered; and
- to be offered by multiple providers of complementary services.

- 6.24 Taking into account our factors for setting charging arrangements for '116' numbers, this suggests that 116123 should be 'free to caller'.

Conclusions on our analysis of the appropriate charging arrangements for 116000, 116111 and 116123 numbers

- 6.25 As set out above, we consider that the 'free to caller' charging arrangement is appropriate for the 116000 'Hotlines for missing children' service, the 116111 'Child helplines' service and the 116123 'Emotional support helplines' service. This is because all three services meet an extremely urgent need at a time of emotional

distress and it is therefore crucial that citizens are able to call these services when they require the advice and support that they offer. Increased consumer protection measures are required to ensure that the caller is not prevented or discouraged from calling the hotline/helpline when it is essential for their welfare or the welfare of others that they can do so.

- 6.26 The benefits of ‘free to caller’ over ‘freephone’ for these three services are that there are no financial concerns or barriers to prevent callers from making their essential call in the most suitable way and the potential for confusion or alarm created by a charging message is removed. ’
- 6.27 The ‘free to caller’ charging arrangement would represent no direct costs to consumers as calls to ‘116’ numbers would always be free. Indeed, consumers would realise a cost saving in cases where a call to the service would previously have been to a ‘freephone’ number chargeable from mobiles or other chargeable number.
- 6.28 In terms of impact, the ‘free to caller’ option would require further regulatory intervention to ensure that all calls to ‘116’ numbers are free. It also implies that the service will be more costly for service providers to fund than under the ‘freephone’ option. The level of such costs would depend on call volumes and duration and their commercial arrangements with their communications provider.
- 6.29 Given the impact and costs, there is a risk that making the initial three services ‘free to caller’ might be costly for providers and could even result in no service providers emerging who are able to fund the receipt of all ‘116’ calls to their service. Indeed, a number of respondents to the 116 Consultation raised concerns with the ability of service providers to fund ‘free to caller’ (or even ‘freephone’) services.⁴⁹
- 6.30 Samaritans set out a number of issues relating to the ‘free to caller’ charging proposal, including the funding of increased call volumes and the likely rise in misuse of the service (e.g. hoax/nuisance/frivolous calls). Samaritans went on to state that “if solutions to the funding gap cannot be resolved in partnership with the communications providers then Ofcom should be prepared to consider undertaking further regulatory action through the full use of its powers under the Communications Act 2003 to ensure that the level of service provision of helplines deemed to be of ‘extreme social value’ is not compromised by the financial implications of the ‘free to caller’ charging arrangement”.
- 6.31 We fully appreciate that a service provider’s ability to fund a service may be strongly impacted by the charging arrangement introduced by Ofcom for the 116 number. In fulfilling our duty to secure best use of the numbers and to promote citizen and consumer interests, we need to balance the appropriate charging arrangements with the need to create a regulatory environment that encourages rather than stifles opportunities for service provision. We must therefore take into account, as part of the determining factors used in the consideration of the appropriate charging arrangement; the likelihood of a service provider emerging that could offer a ‘free to caller’ service.
- 6.32 However, the risk that the ‘freephone’ charging arrangement could result in calls to the initial three ‘116’ numbers being prevented or hindered due to the cost, or lack of transparency of the cost, when calling from mobiles is a major concern for these services of extreme social value. There is a strong likelihood that mobile phones will be the most suitable or only means available of making vital contact with the three services reserved ‘116’ numbers. This is because harmonised services of social value reserved as ‘116’ numbers are services potentially of benefit to travellers who

⁴⁹ Those respondents were BT, Get Connected, Missing People and Samaritans.

are likely to have only a mobile phone for access. Also, the nature of services (taking the initial three ‘116’ numbers as examples) may mean that consumers need privacy when making the call and this may be easier to achieve using a mobile than a fixed line telephone. The strong concern that essential calls would not be made outweighs fears about the potential cost to service providers of funding ‘116’ calls to their service.

- 6.33 In addition, the three services have been categorised as operating in an environment where there are multiple providers of complementary services. Where a service is provided alongside other services that complement each other and answer a variety of citizens’ needs within the same broad service category, we believe that decisions on charging arrangements can be taken without impacting other service providers in the same broad service category. This is because the services are not in competition for the same calls. We do not anticipate that a ‘free to caller’ charging arrangement for the initial three ‘116’ numbers will ‘crowd out’ the complementary services offered in the same service category. Decisions on charging arrangements can therefore be based on the level of social value or need and the likely situation of the caller without impacting the provision of similar services.
- 6.34 In response to Samaritans’ comment regarding funding concerns, we appreciate the financial impact that a ‘free to caller’ designation will have on the providers of services on the 116000, 116111 and 116123 numbers. We believe that there is a role for the Contact Council and the advisory committees in facilitating negotiations with the communications industry on reduced tariffs for carrying calls to ‘116’ numbers before Ofcom considers whether further regulatory intervention is an option.
- 6.35 Should it be clear that the charging arrangement was preventing service providers from fulfilling the Service Eligibility Criteria and that, following consultation with the advisory committee, it was considered to be the best use of the 116 number and in the interests of citizens and consumers to do so, we may, in exceptional circumstances, consider consulting again on the charging arrangements and re-launching the comparative selection process. However, we would need to balance the benefits of this course of action against the potential impact to consumers of a proposal to change the charging arrangement. If it turns out that no suitable service provider can offer a service under a ‘free to caller’ arrangement for any of the initial three ‘116’ numbers, then, together with the advisory committee, we will assess whether it would be in the interest of citizens and consumers in achieving the best use of the number, to change the charging arrangement from ‘free to caller’ to ‘freephone’. A consultation would be required to modify the designation in the Numbering Plan and the comparative selection process for the service provider would be relaunched.
- 6.36 Therefore, taking the above analysis into consideration, our conclusion is that 116000, 116111 and 116123 should be ‘free to caller’ numbers.

116000	Free-to-caller Number used to access ‘Hotline for missing children’ service (‘Type B Access Code’)
116111	Free-to-caller Number used to access ‘Child helplines’ service (‘Type B Access Code’)
116123	Free- to-caller Number used to access ‘Emotional Support Helplines’ service (‘Type B Access Code’)

Figure 6.2: service designations for the initial three ‘116’ numbers in the Numbering Plan⁵⁰

⁵⁰ The service designation is Ofcom’s description of the service in Part A1 of the Numbering Plan.

Section 7

Next steps

Introduction

- 7.1 The publication of this statement concludes our consultation process on the allocation and charging arrangements for the 116 range of numbers. In order to implement our decisions in this respect, modifications have been made to the Numbering Plan, the Numbering Conditions and the access code application form. These modifications come into force on the same day as publication of this statement – 20 February 2009.
- 7.2 The modified Numbering Plan (which includes the modified Numbering Condition as an annex) is available from our Numbering Policy webpage.⁵¹ The modified access code application form, which is password protected and available to communications providers only, is available from the same webpage.

Comparative selection process for the allocation of 116000, 116111 and 116123

- 7.3 The conclusion of our consultation process means that we are now in a position to allocate the initial three ‘116’ numbers. At the same time as the publication of this statement, we have launched the selection process for allocation of the following 116 numbers:

116000	Hotline for missing children
116111	Child helplines
116123	Emotional support helplines

- 7.4 We have published three separate guideline documents setting out the comparative selection process for each of these three ‘116’ numbers. These are available from our ‘116 Webpage’ (<http://www.ofcom.org.uk/telecoms/ioi/numbers/116/>) .
- 7.5 The timetable for activities involved in the comparative selection process for the allocation of the initial three ‘116’ numbers is shown in Figure 7.1 below.

Figure 7.1: Timetable for allocation of the initial three ‘116’ numbers

Timing	Activity
20 February 2009	Stage One of the comparative selection process for 116000, 116111 and 116123 numbers launched
3 April 2009	Stage One of comparative selection process for 116000, 116111 and 116123 closes
3 April - 1 May 2009	Ofcom and the advisory committee assess applications for 116000, 116111 and 116123 and decide which meet the Service Eligibility Criteria for each number
1 May – 24 July 2009*	Stage Two of the comparative selection process for 116000, 116111 and 116123

⁵¹ <http://www.ofcom.org.uk/telecoms/ioi/numbers/>.

<p>24 July* - 21 August 2009*</p>	<p>Ofcom and the advisory committees assess applications submitted during Stage Two of the comparative selection process for 116000, 116111 and 116123</p> <p>The advisory committee provides Ofcom with its assessment report and recommendation on which service provider(s) / communications provider partnership should be allocated each 116 number</p>
<p>4 September 2009*</p>	<p>Deadline for submission of access code application forms by the communications provider from each partnership that completes Stage Two of the comparative selection process</p>
<p>4 September* – 25 September 2009*</p>	<p>Ofcom considers the material submitted during both stages of the comparative selection process, the access code application forms and the advisory committee’s report and recommendations and reaches a decision on the allocation of 116000, 116111 and 116123. The decision will be taken in line with our statutory duties and specifically our responsibility for implementing the Decision in the UK</p>

* the timescale for Stage Two of the comparative selection process may be reduced in exceptional circumstances and where it is in the interests of all relevant parties to do so. A reduction in the Stage Two timescale will bring forward the remainder of the milestone dates by the same time period.

Process for allocation of subsequent 116 numbers

- 7.6 The Commission will consider requests for new 116 number reservations periodically and has indicated that this is likely to be every six to twelve months depending on demand. A successful request will, subject to consultation, result in the Decision being amended to include the new 116 number, the Name of Service, the Service Description and the Specific Service Conditions.
- 7.7 Each time the Decision is amended to make a new 116 number available, we will consult on a modification to the Numbering Plan to include the number, including our proposal on whether the number should be ‘freephone’ or ‘free to caller’ and any other Additional Specific Service Conditions that we consider should be attached to the rights of use of that number. The advisory committees will advise Ofcom on these matters.
- 7.8 Further to the amendment to the Numbering Plan, we will commence the comparative selection process set out in section 4 for the allocation of the new 116 number.

Further information on 116 numbers

- 7.9 We will maintain a dedicated area on our website for ‘116’ numbers as part of the ‘Numbering Policy’ section. This page will provide all the relevant information on ‘116’ numbers, including links to the comparative selection process guideline documents and a register of the allocation status and availability of each ‘116’ number reserved by the Commission. To receive email notification of updates to the numbering webpages and numbering documents, including updates to the ‘116 webpage’, register at <http://www.ofcom.org.uk/static/subscribe/numbering.htm>.

Annex 1

List of respondents to the consultation

A1.1 We received 13 responses to the 116 Consultation and these are posted on our website at <http://www.ofcom.org.uk/consult/condocs/116/responses/>

A1.2 Responses were received from the following organisations and one individual:

- BT
- Cabinet Office co-ordinated Contact Council
- Get Connected Helpline and the following organisations: Campaign Against Living Miserably (C.A.L.M); The Line to what Now; B-eat; and Brook
- Missing People
- National Policing Improvement Agency (NPIA): Missing Person Bureau
- National Society for the Prevention of Cruelty to Children (the NSPCC)
- Mr O'Donnell
- PhoneAbility
- Ross on Wye Chamber of Commerce
- Samaritans
- Telephone Helplines Association (the THA)
- Thus
- T-Mobile

Annex 2

Impact and Equality Assessment

Introduction

- A2.1 The analysis presented in this Annex, when read in conjunction with the rest of this document and the impact assessment in Annex 5 of the consultation document Harmonised European numbers for services of social value: allocation and charging arrangements for 116 numbers in the UK ('the 116 Consultation') published on 1 October 2008⁵², represents an impact assessment as defined in section 7 of the Communications Act 2003 ('the Act').
- A2.2 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy we are committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on our website:
http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf
- A2.3 We are also required to assess the impact of different options for regulation on race, disability and gender equality. This is called an equality impact assessment and forms a fundamental part of the overall impact assessment. The equality impact assessment will ensure that we are meeting our primary aim of acting in the interest of all citizens and consumers, regardless of their background. Given this, we go beyond our statutory responsibilities in relation to race, disability and gender to include all diversity groups in accordance with good practice. These include age (children and older people), religion or belief and sexual orientation.

The citizen and consumer interest

- A2.4 Ofcom has a duty under section 63(1) of the Act to ensure that the best use is made of telephone numbers and to encourage efficiency and innovation for that purpose.
- A2.5 We also have a general duty to further the interests of citizens in relation to communications matters and to take into account the community requirement to promote the interests of all persons who are citizens of the EU.
- A2.6 The Commission's Decision to introduce a harmonised numbering range for services of a social value across Member States was taken primarily to benefit European citizens. Harmonised '116' numbers are intended to assist citizens across Europe by providing a greater understanding of the number to call if they are in difficulty or require practical or emotional help when in their own country and particularly while travelling. The effective implementation of the Decision in the UK would therefore contribute to the well-being and safety of citizens, or particular groups of citizens, or help citizens who are in difficulty.

⁵² <http://www.ofcom.org.uk/consult/condocs/116/main.pdf>

Ofcom's policy objective

A2.7 Our objective is to implement the Decision's requirements in the most effective way possible so as to:

- secure the best use of each 116 number; and
- further the interests of all groups of citizens and consumers.

The 'do nothing' option

A2.8 Impact assessments usually consider an option that would maintain the status quo. In terms of the policy issues covered by this document, the 'do nothing' option would mean us taking no action to implement the Decision in the UK. However, the Decision is binding on Member States and if we did not take the necessary actions the UK would be in breach of our obligations to implement Community law. In order to meet the requirements of the Decision, we need to make the numbers available for allocation, which requires a consultation on modifications to certain documents and a regulatory statement concluding the consultation process. We are not, therefore, considering the 'do nothing' option further.

Analysis of the different options for allocation of '116' numbers

A2.9 This impact assessment considers how best to implement the requirements of the Decision by securing the best use of '116' numbers and by furthering the interests of citizens and consumers. In deciding the best arrangement for allocation of '116' numbers, there are two main issues that we have to decide upon:

- who can apply for a 116 number; and
- what form of selection process should be used to allocate '116' numbers.

Options for who can apply for a 116 number

A2.10 In the 116 Consultation, we set out four options for who can apply for a 116 number:

- **Allocation Option 1:** '116' numbers would be made generally available for use by any communications provider to deliver calls to their choice of service provider without application to Ofcom, on the condition that the service provided is in accordance with the Service Eligibility Criteria⁵³;
- **Allocation Option 2:** Ofcom would determine which communications provider would make best use of the 116 number. However, the actual service provider would not be made part of the allocation and therefore the communications provider could route calls to any service provider;
- **Allocation Option 3:** Ofcom would not only determine the communications provider to be allocated the number but would also make it a condition of use that only a specified service provider may provide the service; and
- **Allocation Option 4:** Ofcom would determine the communications provider to be allocated the number and would make it a condition of use that the named single or multiple service provider partnership would provide the service.

⁵³ The 'Service Eligibility Criteria' consists of the Commission's Service Description and the General Service Conditions attached to all '116' numbers and the Specific Service Conditions attached by the Commission to the right of use of each 116 number, and any Additional Specific Service Conditions attached by Ofcom to the right of use of a number, including charging arrangements.

A2.11 In addition, in response to the 116 Consultation, Thus proposed an alternative allocation option:

- **Allocation Option 5:** accreditation of single or multiple service provider partnerships following application to Ofcom. This option would allow for a number of accredited service providers to offer their services independently on the same 116 number. Accredited service providers would negotiate partnerships with their choice of communications provider for delivery of calls to the 116 number.

Costs and benefits of the different Allocation Options

A2.12 We discussed the costs and benefits of Allocation Options 1 to 4 in the 116 Consultation. In summary, the possible costs and benefits we identified can be grouped into four broad areas:

- how easy the allocation process likely to be;
- how open the system is to different service providers;
- optimal outcomes for consumers; and
- monitoring issues.

A2.13 We have summarised below our discussion of the main costs and benefits of each Allocation Option as set out in the previous impact assessment and have updated this discussion where appropriate. We also include an assessment of the relative merits of Allocation Option 5.

Ease of allocation process

A2.14 We considered that Allocation Options 1 and 2 would require a less involved allocation process, as they would not entail the selection of a particular service provider ('SP'). In particular, Allocation Option 1 would not require communications providers ('CPs') to apply for the allocation of the 116 number or for Ofcom to make any allocation decisions, only to ensure that the services provided on '116' numbers meet the Service Eligibility Criteria. Therefore, there would potentially be lower administrative costs for Ofcom and for CPs with these two options, in particularly with Allocation Option 1. Allocation Options 1 and 2 would have no administrative costs for SPs, as they would not be involved in the allocation selection process.

A2.15 By contrast, Allocation Options 3 and 4 would need an additional process to select the most appropriate SP or multiple SP partnership (this is discussed in more detail in paragraphs A2.17 below). This would add additional administrative burdens, depending on the selection process implemented. Also, Ofcom and any relevant body advising on selection would need additional resource to administer this process.

A2.16 Relative to Allocation Option 3, Allocation Option 4 might entail a marginally more involved selection process (i.e. greater internal administration costs to Ofcom/Government) or add complexity to the design of the selection process. This is because there would be an opportunity for applications from service providers in different partnership combinations. This might, therefore, require additional administrative effort in comparing a greater number of applications and to ensure consistency in assessment.

- A2.17 Under Allocation Options 3 and 4, SPs would need to be involved in the allocation process, which is not the usual practice for Ofcom's allocation of numbers to CPs. Therefore these options would represent a more involved application process. In addition, under Allocation Option 4, if SPs sought to form multiple SP partnerships, the parties involved might face costs associated with negotiating and structuring their application. To balance this, however, Allocation Options 3 and 4 provide SPs with an opportunity to present the details of their service and, as the party/parties responsible for the quality of the service and for ensuring that it meets the Service Eligibility Criteria, it is arguable that the added complexity in the allocation process is justified. Also, under Allocation Option 4, multiple service providers would be able to pool their resources, which might reduce the overall costs associated with the application process.
- A2.18 Allocation Option 5 would involve accreditation, and would require an assessment process similar to Allocation Options 3 and 4 to ensure that each SP could meet the Service Eligibility Criteria. However, as more than one SP would be able to become accredited, the process would not have to be run as a competition, which might involve a more straight-forward application and assessment process and smaller administrative cost.

Openness of allocation process

- A2.19 A possible benefit of Allocation Options 1, 2 and 5 is that they would give greater flexibility to the allocation process, allowing for a range of CPs (Allocation Option 1) and SPs (Allocation Options 1, 2 and 5) to use each 116 number. By contrast, Allocation Options 3 and 4 would allocate each 116 number to a specific CP and single or multiple SP(s). Allocation Option 3 would give exclusive use of each 116 number to a single SP; whereas, Allocation Option 4 would provide the opportunity for SPs to form partnerships. Therefore, Allocation Option 4 would not necessarily prevent SPs from bidding together, lessening the risks that particular SPs are excluded from making use of the 116 number relevant to their service.
- A2.20 Nevertheless, under Allocation Options 3 or 4, once the allocation decision is made for each 116 number, only a single combination of CP/SP(s) would have the right to use that number. The advantage of Allocation Option 5 in this respect is that SPs would be able to apply for accreditation to use a 116 number at any time, thereby allowing for late comers to the selection process. These 'late comers' SPs could potentially offer superior or innovative services, whose provision may be in the overall interest of consumers.
- A2.21 A key point in selecting the most appropriate Allocation Option is that it is open to all suitable SP applicants. Although each of the Allocation Options would be open to all suitable SPs at the time when the 116 number is initially made available for use, beyond that, each Allocation Option would be open for use to relevant SPs to varying degrees. Allocation Options 1, 2 and 5 would allow for a range of SPs to use the 116 number for their service provided that they met the Service Eligibility Criteria, whereas Allocation Options 3 and 4 would limit use to a specified SP(s)/CP partnership.
- A2.22 To address this for Allocation Options 3 and 4, we could introduce a time limited period for the allocation of some or all '116' numbers to a particular SP(s)/CP partnership. This would require allocations to lapse after a set period, say five years, and for a new comparative selection process to be conducted, thus allowing for 'late comers' to the original selection to apply at this stage. Thus SPs who had subsequently entered the service sector or were previously unsuccessful or uninterested in allocation of the 116 number at the time of the initial selection process, could compete for the allocation of the number at a future date. We have

concluded that this might be a good approach in certain circumstances. For instance, if it emerges during the comparative selection process that there is strong competition between service providers in a particular service sector, we may decide that a five year allocation period would continue to stimulate competition, whereas an indefinite allocation to one service provider might stifle competition. However, we have decided that in general, allocations of '116' numbers will not be time limited. We do not wish to increase the administrative burden by forcing service providers to undertake a lengthy comparative selection process periodically when they are providing a service that continues to meet the Service Eligibility Criteria. Nevertheless, we think that it is possible to reduce the impacts of excluding parties under Allocation Options 3 and 4 and make the allocation process more open by providing an allocation break point in certain circumstances.

Consumer interests

- A2.23 The discussion above suggests that a possible benefit of Allocation Options 1, 2 and 5 is that they would be more open to late comers. However, it is not clear that the amount of flexibility that comes with these options would be the best outcome for consumers.
- A2.24 Allocation Options 1, 2 and 5 would permit each CP to select the SP(s) to which they would route calls. However, if calls are being routed to different SPs depending on the CP's choice, this may cause inconsistency in the service provided and consumer confusion over which SP they might reach. In addition, in allowing CPs to undertake the selection process for SPs, there would be no guarantee of the level, reach or quality of the service provided. For services of 'extreme social value', where the consumer making the call is potentially in distress or danger, the quality of service provided is extremely important.
- A2.25 This would also be a possible dis-benefit of Allocation Option 5. An accreditation scheme would ensure that initial checks on the quality of the SP and their ability to meet the Service Eligibility Criteria and perhaps additional performance measures were conducted. However, it would still be the case that a CP would be free to select any accredited SP, so the issues over consumer confusion and inconsistency could still arise.
- A2.26 By contrast, Allocation Options 3 and 4 would better guarantee the 'same number - same service' ideal of the Decision. In addition, the increased service provider 'ownership' of the number may encourage investment in the service, and the incentives to increase consumer awareness of the 116 number, for example by devoting resources to advertising.
- A2.27 Allocation Option 4 would also have the advantage of allowing multiple service providers to form partnerships for the potential benefit of consumers. This could be in the form of providing services that complement each other, thereby potentially offering appeal to a wider number of consumers from different backgrounds and provision of services and/or means of access that would meet their specific needs.
- A2.28 Arguably under Allocation Option 4, there is a small risk that multiple SP partnerships could also create consumer confusion or inconsistency, if an appropriate mechanism is not put in place to decide how best to route calls. However, as part of any selection process, it would be for the parties involved to demonstrate what mechanisms they would use to overcome this. Also, multiple SP partnerships would only be encouraged where they were in the interest of consumers. The advisory committee for each 116 number would consider whether a multiple SP partnership would be suitable for the provision of each specific service

and Ofcom would only make such an allocation where it was deemed to benefit consumers.

Monitoring requirements:

- A2.29 Under Allocation Options 1, 2 and 5, CPs would have more discretion to select a SP and to provide limited guarantees of the delivery of a consistent service. This might increase the level of subsequent monitoring of service provision required. With Allocation Options 1 and 2, it may be difficult for sufficient monitoring of the quality of service provision to take place, as Ofcom would not have an allocation relationship with the SP and would not necessarily know the relevant SP. Under Allocation Options 1 and 2, the CP would need to ensure that the SP was making use of the 116 number in line with the Service Eligibility Criteria and the level of monitoring may be inconsistent.
- A2.30 In particular, with Allocation Option 1, there could be a large number of CPs terminating calls to a multitude of SPs using the same 116 number, and it would be a potentially intensive exercise to keep track of each CP/SP relationship. In practice, however, the administrative burden and cost of monitoring service provision might be reduced if CPs have a limited choice of SP available for service provision. For example, for some services of social value, only a few SPs may be able to meet the Service Eligibility Criteria required to use the number/become accredited. And, even if there are multiple eligible SPs, it may be the case that CPs gravitate to only a few SPs. Nevertheless, there is a general concern over the amount of discretion that CPs might have over their choice of SP under Allocation Options 1 and 2. This heightens the potential under these options, that the services provided on '116' numbers cannot be monitored to an adequate level and, as a result, may continue to operate when not of sufficient quality for consumers.
- A2.31 In contrast, a scenario where a single SP or SP partnership were allocated the 116 number (as per Allocation Options 3 and 4) or were accredited to use the 116 number (as per Allocation Option 5), would result in Ofcom and the advisory committee having sufficient details of the SP to monitor the service provided. In addition, cooperation with the monitoring process could be made a condition of allocation/accreditation under Allocation Options 3, 4 and 5, and thus be more likely to result in adequate monitoring arrangements.

Competition effects

- A2.32 In BT's response to the 116 Consultation, it argued that the first action Ofcom should take when the Commission reserves a 116 number is to assess whether its allocation in the UK is likely to "distort competition" in that particular service sector. They argued that if the detriment outweighs the potential benefit, then Ofcom should consider not allocating the 116 number to any SP. However, as stated at the outset of this impact assessment, once the Commission reserves a 116 number and adds it to the Decision, Ofcom must take all necessary measures to be able to allocate the number. Nevertheless, it is important that in deciding which method of allocating the numbers to implement, we are aware of the potential competition effects of those options. This can help inform our choice of particular allocation option and is relevant to how the process and charging arrangements are determined. We have, therefore, identified the potential competition effects below.
- A2.33 The precise purpose of the 116 number range is to provide an easily recognisable and harmonised number range for services of social value available across Member States, with 'same number – same service' memorability providing benefits over varied existing number ranges. Clearly, it is difficult to establish the precise value of the 116 range to citizen/consumers and service providers and hence to establish the

potential impact on competition. At one extreme, the 116 number range could be so valuable, for example in terms of customer recognition, that once a 116 number had been designated, a SP could only operate in a sector if they had use of the 116 number. On the other hand, as there is already consumer familiarity with other non-geographic numbers (such as 080 freephone numbers), SPs could continue to provide a service in 'competition' with a SP using a 116 number.

- A2.34 Our view is that the impact of the introduction of the 116 number range should tend towards the latter scenario (as long as benign market conditions remain for other non-geographic numbers). For example, there are relatively low barriers to entry in the provision of alternative number ranges (as evidenced by the large number of CPs hosting services for non-geographic numbers). Hence, these number ranges are likely to remain a viable alternative for SPs unsuccessful in obtaining a 116 number. However, the existence of '116' numbers may raise the costs of marketing to other SPs, if this number range created strong consumer associations with services of social value. But, it would appear that the availability of other familiar non-geographic numbers should help ensure that the market is not foreclosed by the introduction of 116 numbers.
- A2.35 Where there is more than one SP in a sector, we also have some influence over the design of the allocation process, for example by making the selection an open and fair competitive process. We discuss below the possible competition impacts of different selection options in paragraphs A2.47 to A2.70. But the competition issue in this part of the impact assessment is to assess the competition impact of potentially allocating a number range for 'exclusive use' by a particular SP(s)/CP partnership.
- A2.36 A benefit of Allocation Options 1, 2 and 5 is that there is no limit imposed by Ofcom on the number of eligible SPs that could use the 116 number applicable to their service. This could also be a benefit of Allocation Option 4, as SPs that complement each other in terms of the services offered - such as their ability to reach or appeal to certain groups of consumers - could form a partnership for service provision. In this way, the partnership SPs could provide the service on the same 116 number together, thereby avoiding situations where particular SPs are excluded from using the number (though, it would be for the SPs to voluntarily agree to such partnership arrangements).
- A2.37 Another factor that we have considered is the likely number of SPs that will actually compete for allocation of each 116 number. The responses to our consultation do not suggest that there are a large number of SPs providing the applicable services for the '116' numbers currently reserved by the Commission. Even less would be in a position to meet the Service Eligibility Criteria. Therefore, it is not clear to us that the allocation of a 116 number to a particular SP or SP partnership would have negative competition impacts for other SPs in the same service sector. There is a question whether the same might hold for future '116' numbers, but as we do not know the types of services that might be reserved '116' numbers by the Commission, it is difficult to assess the impacts on those sectors.
- A2.38 Overall, our assessment is that the availability of alternative non-geographic numbers provides some comfort that the impact of the 116 number range on competition should not result in 'crowding out' of SPs not allocated the 116 number reserved for their service sector. In any case, for the number ranges currently being considered, the available evidence suggests that there are few prospective applicants that could meet the Service Eligibility Criteria for the '116' numbers. However, it may mean that SPs have to work harder to make consumers aware of their own services on non-116 numbers. In forming our proposals, we have also considered how best to design the selection process to make it as open and fair as

possible. This includes allowing for partnerships of SPs to apply that might otherwise have had to compete with each other for the 116 number applicable to their service. On this basis, this provides another reason to select Allocation Option 4 over Allocation Option 3.

Distributional and equality impacts

A2.39 We have considered the distributional impacts in two key areas. First, we have assessed the possible impacts by geography. Second, in line with our obligations to conduct equality impact assessments, we have assessed the possible impact in terms of equality.

Geographic distribution of impacts

A2.40 The Numbering Plan is UK wide and our proposals for allocation of '116' numbers are to allocate a single 116 number for each service reserved by the Commission for access across the UK. Therefore, consumers in different parts of the UK would not be prevented from accessing this number range. One concern with exclusively allocating a service to a particular partnership is that they may not serve consumers in particular nations or regions as well as in others. However, as discussed above, the key advantage of Allocation Option 4 is that it allows allocations to partnerships of SPs (unlike Allocation Option 3) while the lead SP ensures consistency in service provision (unlike Allocation Options 1, 2 and 5). Hence, where a single SP would not be effective at reaching or appealing to consumers in particular nations or regions, it would be possible for it to form a partnership with another provider that is better placed to do so. As discussed below, one of the criteria of the allocation process is that it would seek to ensure that the best use of the 116 number in the interests of all citizens and consumers. Indeed, the Commission has attached the Specific Service Condition of nationwide availability to the initial three '116' numbers.

Equality impacts

A2.41 One concern might be that allocating '116' numbers to a single SP might mean that certain groups might not be able to access services geared towards their specific needs on '116' numbers. However, the allocation process does not rule out the allocated provider referring '116' calls to other SPs where those providers have greater expertise in dealing with particular issues. Indeed, Allocation Option 4 is designed to ensure that partnerships are permitted where a particular SP is better placed to appeal to a particular group. By contrast, there would be a greater risk associated with Allocation Options 1, 2 and 5, as the caller would not necessarily be able to access the particular SP whose services meet their specific needs, as call access to an SP would depend on the choice of CP providing their telephony service.

A2.42 Ofcom believes that consideration of equality issues should form a fundamental part the selection process. The advantage of Allocation Options 3, 4 and 5 is that information covering the SPs approach to equality issues could be requested and assessed as part of the selection process. Such information could cover a wide range of equality issues, from the culture of the SP to addressing such issues in its workplace, to providing helpline services targeted to meet the needs of specific groups of consumers and installing a textphone so that deaf or hearing impaired consumers can make confidential and personal calls without using the relay operator. Allocation Options 3 and 4 would ensure that the SP(s) that most comprehensively addressed equality issues would be recognised.

Risks and unintended consequences

A2.43 The key risk that we have identified relates to the possibility that we exclude future SPs from using '116' numbers by providing for use to a single SP(s)/CP partnership (as would be the case under Allocation Options 3 and 4). If the excluded parties could provide a better service than the SP(s) currently selected, consumers would lose out in terms of the quality of service on the 116 number. For this reason we have put a strong emphasis on making the selection process as effective as possible.

Conclusions

A2.44 We have considered the options for who can apply for '116' numbers and assessed these in line with our policy objectives for 116 number allocation of securing the best use of the numbers and furthering the interests of citizens and consumers. Our conclusion is that the 'allocation to a communications provider / single or multiple service provider partnership following application to Ofcom' would enable us to reach a decision that would deliver the "best use" of the single 116 number available for a particular service. Also, the interests of citizens and consumers would be furthered by pan-European harmonisation of 'same number – same service', delivered through adherence to the Service Eligibility Criteria in the Numbering Plan.

A2.45 We do not know the precise level of costs of each of the allocation options. However, although some of the options are more detailed than our normal number allocation process, applying for numbers is a necessary part of the provision of communications services. The application process will be kept to the minimum required to make a judgement on which applicant would make best use of the 116 number.

A2.46 Allocation Option 4 would have the merit of managing some of the risks associated with the other options in terms of ensuring that named service providers are accountable for delivering the service set out in the application. It allows for a single or multiple SP partnership, ensuring that the service provision model can be appropriately adjusted to the particulars of each service and be ultimately provided in the interest of citizens and consumers. We believe that while some negotiation will be required to reach agreements between multiple service providers on shared service provision, this would be manageable and is preferable to the risk of other services being crowded out due to the increased popularity of the 116 service. We also believe that such partnerships could offer benefits for consumers in terms of quality of service provision.

Analysis of the different options for the selection process

Options

A2.47 In the 116 Consultation, we outlined three different options for the selection process for allocating '116' numbers:

- **Selection Option 1: 'first come first served'** Ofcom would decide whether an applicant meets the Service Eligibility Criteria on a 'first come first served' basis. In other words, we would allocate the 116 number to the communications provider that submits the first access code application form that meets all the criteria following the addition of the 116 number to the Numbering Plan.
- **Selection Option 2: comparative selection process** Ofcom would compare potential services against Service Eligibility Criteria, and against each other, to establish which service would offer the best use of the number.

- **Selection Option 3: lottery and auctions** communications providers whose services meet the Service Eligibility Criteria would compete against each other through an auction or lottery for the allocation of the number.

A2.48 In relation to the above options, we discussed the relative costs (mainly in terms of simplicity of the selection process and the resulting administrative burden) and benefits (in terms of the best use of '116' numbers and furthering the interests of citizens and consumers).

Simplicity of the selection process

A2.49 'First come first served' is Ofcom's established process for the allocation of telephone numbers and Selection Option 1 would therefore be straightforward to implement and quick to administer. In contrast, Selection Option 3 would require a completely new process to be devised for a lottery or auction, unnecessarily increasing the time for implementation of '116' numbers.

A2.50 One benefit of Selection Options 1 and 3 is that they provide easily identifiable and objective means of determining whether an applicant should be granted the allocation of the number. Selection Option 1 would result in the allocation of the number to the first application that describes a service that meets the Service Eligibility Criteria. The allocation would be made regardless of the merits of other potential applicants. In the case of Selection Option 3, we would select the provider who bids the most money in an auction or that we randomly selected via a lottery.

A2.51 By contrast Selection Option 2 would require a more detailed and time-consuming process for the applicants, Ofcom and the parties advising Ofcom during the selection process. However, it is the only selection option that adequately assesses the merits of an application beyond the meeting of the Service Eligibility Criteria and results in allocation to the partnership that offers the most suitable service. This is an extremely important advantage when considering services of social value.

Ensuring best use of the number range

A2.52 Normal practice is for Ofcom to allocate numbers on a 'first come first served' basis. However, in the case of the 116 number range, only one number is available for each type of service and more than one eligible SP may want to apply for that number. This differs from other number ranges, where there is a stock of available numbers from which the CP can select their choice. The relative scarcity of numbers in the 116 range for specified services, and the social value of the services, places far greater weight on a selection process that ensures the best use of '116' numbers rather than one that is the lowest cost to administer.

A2.53 In respect of Selection Option 1, clearly the first CP (and its partner SP) to apply for the allocation of the number may not be the applicants that would offer the best use of the number. By contrast, Selection Option 2 ensures that SPs whose services meet the Service Eligibility Criteria have sufficient opportunity to apply and be considered for the allocation of the 116 number. The process would give SPs sufficient opportunity to put applications together, rather than race to be the first to apply, would allow us to make a considered decision from a selection of eligible applicants. This would further consumer interests as the SP who compares best to the Service Eligibility Criteria is allocated the memorable number. Selection Option 2 would therefore be superior in terms of judging an application on its own merits and against the merits of similar or complementary services.

A2.54 Under Selection Option 3, a key concern is that SPs would be bidding amounts related to their willingness to pay for running the service associated with the number, with the bid of the highest value winning. However, it is not clear that the

CP/SP combination that bids the highest amount in an auction would necessarily be the partnership that would deliver the highest social value to the number and service. Auctions are often an efficient way to allocate scarce resources as bidders' private valuations are often based on their view of what their prospective future customers might be willing to pay for services that make use of the scarce resource. Hence, winning bidders' private valuation of the number range can, in theory, reflect wider social valuations.

- A2.55 This relationship is likely to hold when services highly valued by consumers are also highly valued by citizens. When this is not the case or some services generate disproportionately higher levels of broader social value than private valuations, a market process would not necessarily result in a socially efficient outcome. In the case of Harmonised Services of Social Value there is often not an explicit price paid by consumers as the services are provided by charitable organisations.
- A2.56 Ofcom has argued this point previously, for example, in relation to our Final Statement on the Digital Dividend Review.⁵⁴ In that document we discussed possible policy approaches to tackle issues associated with bidders for spectrum potentially having highest social value losing out to commercial bidders able to bid greater amounts. In these circumstances, the Government could decide to provide funding so as to ensure that the winning bidder is the one that provides the highest social value. This approach would be appropriate, for example, where commercial organisations are bidding in an auction against an organisation with public service remits and where Government considers this would deliver higher social value than the private sector alternatives.
- A2.57 However, we do not think that there would be merit in applying this approach in the case of the currently reserved '116' numbers because of the nature of the bidders (e.g. charities or not for profit non-Governmental institutions). If the Government were to allocate funds to the bidder with the highest social value, it would have to undertake a comparative selection process. And as the outcome of this selection process would guarantee the chosen bidder would win any auction (as it would receive the most Government funding), it would be far simpler to run the comparative selection process.
- A2.58 The alternative option under Selection Option 3 would be to run a lottery for eligible SPs. This would raise similar concerns to Option 1, in that there would be no guarantee that the winning SP would be the one that could offer the best use of the number.

Impact and costs associated with the Selection Options

- A2.59 For any of the Selection Options, there would be a common minimum 'baseline' cost. This is because for any option, we would first have to check that the SP was eligible to participate in any allocation process in terms of meeting the Service Eligibility Criteria. Under Selection Option 1, this would potentially only require that we check the first application that we receive for each 116 number so overall costs of this would be insignificant. In relation to Selection Option 3, it would make sense to check that the potential participants to the auction or lottery were eligible prior to running the selection process.
- A2.60 There would be additional costs associated with Selection Option 2, as once fulfilment of the Service Eligibility Criteria had been established, the relevant SP/CP partnership would be selected based on a more detailed comparative selection process. This would require an involved application and selection process for the potential SP/CP partnerships. (An example of the type of information required is set

⁵⁴ <http://www.ofcom.org.uk/consult/condocs/ddr/statement/>

out in our guideline document for the comparative selection process, which includes the application template.⁵⁵)

- A2.61 It is difficult to provide any meaningful quantification of the relevant costs to applicants of the application process as it is difficult to estimate the likely time and number of employees required to complete this process (which may vary by party). However, in designing the comparative selection process, we and the Contact Council have been mindful of keeping the administrative burdens to a minimum while ensuring sufficient detail is provided to ensure a robust selection process.

Risks and unintended consequences

- A2.62 The main risk is that our selection process results in the selection of a participant that does not make best use of the number range. However, as discussed above we think that the risks are lower under a comparative selection process than would be the case under a ‘first come first served approach’ or under auctions or a lottery
- A2.63 One risk for the comparative selection process is that it requires sufficient knowledge of the service sector in order to make comparative judgements on the merits of applications. For this reason, the Government will run advisory committees (as set out in the main body of this statement) with representatives from non-Government contacts that have relevant knowledge and expertise. However, in selecting the membership, there are possible risks that it will not be sufficiently representative or that possible conflicts of interest might affect the impartiality of any decision. To address these risks, the advisory committees will have important safeguards in place to ensure a sufficiently broad membership and to avoid any conflicts of interests. Therefore, we think that any risks of impartiality can be managed.

Competition effects

- A2.64 In assessing the allocation options above, we highlighted the risk to competition if parties were unfairly excluded from participating in the application process. The selection process used could, therefore, have an important role in reducing competition concerns. In particular, this underlines the importance of using a fair and open selection process where we can judge applications on their merits. This can be combined with periodic reviews to ensure that the service provided on the 116 number remains the best available. Periodic reviews would be possible with all Selection Options.
- A2.65 However, Allocation Option 3, which might entail periodic auctions, would potentially not have the same incentives to compete over quality of service. Instead, the outcome of the auction process would be allocation of the ‘116’ number to the highest bidder. It could be the case that the introduction of the 116 number and the running of a comparative selection process periodically could provide some enhanced incentives on players. As discussed in the main body of this document, although 116 number allocations will generally be made for an indefinite period, in certain circumstances we may consider it beneficial to allocate the number for a finite period, providing the opportunity for an allocation break point and possibly the chance for a new selection of SP depending on the outcome of the new comparative selection process. Where this approach to number allocation is taken, this could provide a spur to competition as SPs seek to demonstrate a track record of high quality service delivery. In addition, with the threat of losing the 116 number

⁵⁵ See for example *Harmonised European numbers for services of social value: comparative selection process for allocation of the ‘116000 – Hotline for missing children’ number* <http://www.ofcom.org.uk/telecoms/ioi/numbers/116/116000.pdf>

allocation, those SP(s) with the 116 number will seek to ensure that they maintain quality of service provision.

Distributional and equality impacts

- A2.66 One concern might be that allocating '116' numbers to a single SP might exclude particular groups from accessing SPs services that are geared towards meeting their specific needs. This could have a detrimental effect if the SP allocated the 116 number only appealed to citizens in particular parts of the UK or particular groups of consumers. As the sole provider of the service, the SP might not be as well equipped to tackle all issues affecting citizens with a disability or citizens of a particular race, gender, sexual persuasion or particular age groups. Therefore, allowing the possibility of partnerships would ensure that use of the 116 number could provide sufficiently wide appeal.
- A2.67 As explained above, Selection Option 2 has the advantage in two respects. First, the advisory committee can incorporate distributional impacts and issues of equality into their assessment of each application. In addition, it allows for a degree of flexibility as partnerships of SPs can be considered as part of the selection process. On the basis that the combined partnership could have a wider appeal than single providers, the committee could incorporate this into its assessment alongside other relevant criteria for assessing applicants' relative merits.
- A2.68 By contrast, Selection Options 1 and 3 would pose greater risks. Under either Option 1 or 3, there would be no guarantee that the most suitable partnership would be allocated the 116 number. In fact, under Selection Option 1, CPs are likely to have greater incentives to submit their application before other providers and may not fully develop their thinking or consider all elements of service provision when making the application quickly. Also, it might not provide the same incentives to form partnerships as these require time for negotiation.
- A2.69 If there are real benefits to allowing SP partnerships then there would also be concern related to Selection Option 3, (in respect of auctions). Similar to Option 1, there is a risk that the parties fail to form a partnership because of 'coordination failures'. Difficulties for parties in agreeing joint bids or other factors might result in each SP preferring to bid separately. In any case, even if SPs were successful in agreeing to bid together there would not be any guarantee that their winning partnership would necessarily provide the widest distribution of benefits to consumers (taking into account distributional and equality issues). Therefore, only Selection Option 2 would provide an explicit mechanism to enable evaluation of distributional and equality issues in the applications.

Conclusions

- A2.70 In line with our policy objectives for 116 number allocation, which are to secure the best use of '116' numbers and to further the interests of citizens and consumers, the selection process that we deliver needs to provide for the assessment of the service provider and its proposed service against a) a transparent set of Service Eligibility Criteria; and b) other potential providers of similar or complementary services. Given this, we have concluded that Selection Option 2, the comparative selection process, would secure best use of the 116 number range.

Analysis of the different options for charging arrangements

- A2.71 This impact assessment considers the most appropriate charging arrangements for '116' numbers. The 116 Consultation explained that while the Decision defined '116' numbers as 'freephone', the 'freephone' charging arrangement meant different

things in different Member States. In the UK, the definition of 'Freephone Number' in the Numbering Plan allows for calls to be charged provided there is a non-chargeable announcement advising of such at the beginning of the call. An alternative charging option within the terms of the Decision is for '116' numbers (some or all) to be 'free to caller'. This would ensure that calls to some or all '116' numbers were always free.

A2.72 We assessed the following three options for charging arrangements for '116' numbers and considered these in line with our duties to secure the best use of numbers and to further the interests of citizens and consumers.

- **Charging Option 1:** all '116' numbers are 'freephone'
- **Charging Option 2:** all '116' numbers are 'free to caller'
- **Charging Option 3:** '116' numbers are either 'freephone' or 'free to caller' on an individual basis

Charging Option 1: all '116' numbers are 'freephone'

A2.73 Under this option, calls to '116' numbers would either be free for the caller or chargeable with a pre-call announcement. Calls to 'freephone numbers' are commonly charged from mobiles (with an announcement advising of this).

A2.74 The following arguments could be made for Charging Option 1:

- ease of 'business as usual' approach to charging arrangements, which could be implemented according to the UK established charging and interconnection arrangements for 'freephone' numbers;
- originating providers, in particular mobile providers, may voluntarily agree not to charge for calls to some or all '116' numbers. This voluntary approach happens currently for some services of high social value such as 0800 1111 Childline and services using numbers from the 'Confidential Helplines' 080880 number range. BT has recently announced that its mobile customers will not be charged for calls to 0800 freephone numbers; and
- with 'freephone', the SP funds the cost of incoming calls, and this cost is generally higher when the call originates from a mobile phone. Under current 'freephone' arrangements, calls are commonly charged from a mobile, which means that the caller pays for all or part of the cost of the call, thus reducing the impact on the SP. As funds may be limited for organisations providing services of social value, this may be an important consideration.

A2.75 The following arguments could be made against Charging Option 1:

- the ability for CPs to charge may create a barrier to calling which could place the consumer in further distress or danger;
- unless mobile providers voluntarily agree not to charge for calls to '116' numbers, calls will not be free from mobiles. It can be assumed that a significant proportion of 116 calls will originate from mobiles;
- the intended concept of a free call for consumers at times of social need will not be delivered and 'freephone' arrangements may not further the interests of consumers who need to call services on '116' numbers at times of extreme social need;

- although CPs are obliged to place a free announcement at the start of the call advising that there is to be a charge, the announcement does not provide tariff information. The lack of clarity on the call charge may leave callers uncertain as to whether they can afford to continue with the call; and
- the pre-call announcement may confuse callers and act as a deterrent to making the call.

Charging Option 2: all '116' numbers are 'free to caller'

A2.76 Under this option, we would introduce a charging arrangement that is 'free to caller' regardless of whether calls are made from a mobile or fixed line telephone.

A2.77 The following arguments could be made for Charging Option 2:

- delivery of the Commission's intended free call concept to citizens and consumers, thus furthering their interests;
- tariff transparency, in that a 'free' call is actually free at all times for all consumers;
- consumers have no financial barriers to calling a 116 number in times of need; and
- callers are not confused or concerned on hearing a pre-call announcement advising that there will be a charge for making the call.

A2.78 The following arguments could be made against Charging Option 2:

- as the cost of incoming calls are generally funded by the SP, 'free to caller' may be costly for SPs as the higher cost of incoming calls from mobiles would need to be met;
- if the cost of receiving calls from mobiles can not be covered, then the service can not be provided on the 116 number. This could jeopardise consumer interests if services of social value are not provided on '116' numbers due to financial barriers to service provision;
- requires regulatory intervention to set the tariff at zero from all networks. This could be disproportionate for some services of less extreme social need, for instance those which offer a tool for convenience or have a commercial element;
- in the UK, all CPs, with the exception of BT, are free to decide whether to open access to telephone numbers, including in relation to '116' numbers (BT is obliged to do so under the obligations of its access-related condition). Therefore, if a CP (other than BT) is unhappy with the associated charging or commercial arrangements it may take the decision not to open access to all or some '116' numbers, meaning that their customers would be unable to call the services on those numbers. Setting the tariff for all '116' numbers as 'free to caller' from the outset may result in some CPs, particularly mobile providers, choosing not to open access to some or all '116' numbers; and
- where similar or complementary services compete with each other for consumers' calls, 'free to caller' may result in crowding out of similar services not on '116' numbers which can not be guaranteed the same charging

arrangements on freephone numbers (i.e. numbers beginning with the digits '080'). This could ultimately result in reduced choice for consumers.

Charging Option 3: '116' numbers are either 'freephone' or 'free to caller' on an individual basis

- A2.79 Under this option, the decision on whether a 116 number is 'freephone' or 'free to caller' is made on an individual basis for each 116 number. A set of guiding factors would be established which would help determine the appropriate charging arrangement depending on certain characteristics of each service.
- A2.80 As part of the process of making each 116 number available for allocation, we would consult on the most appropriate charging arrangements for that particular 116 service based on our proposed set of factors.
- A2.81 The following arguments could be made for Charging Option 3:
- 'freephone' or 'free to caller' charging arrangements would be determined for each service individually using a set of guiding factors and would be proportionate to the social value of the service; the situation of the caller; and the market conditions for the service;⁵⁶
 - stakeholders would be consulted on the charging arrangements for each 116 number; and
 - all the benefits of Charging Options 1 and 2 would be realised in a manner proportionate to the particular 116 service's needs.
- A2.82 The following arguments could be made against Charging Option 3:
- possible confusion for callers if some '116' numbers are 'freephone' while others are 'free to caller'. Further, although a pre-call announcement would inform the caller where a charge would be made, the actual cost would not be transparent; and
 - potential SPs may lobby for one charging arrangement to suit their own needs regardless of whether it would be more appropriate to have a different charging arrangement.

Impact and costs associated with the charging options

- A2.83 Charging Option 1 would not require Ofcom intervention to create a new charging designation. It would also have the least impact on SPs' funding arrangements as current cost plans based on existing 'freephone' arrangements could be retained.
- A2.84 However, Charging Option 1 would be the most costly option for consumers due to the likelihood of calls being charged from mobiles. This could provide a barrier to consumers making a call to a 116 number in times of need.
- A2.85 Under Charging Option 2, a requirement ensuring that all calls to '116' numbers are 'free to caller' would be introduced before knowing what the services will be. It could

⁵⁶ The market conditions for the service includes a) the nature of the players in the market for the provision of the service, e.g. whether they are charities, public or private sector organisations; b) the number of service providers offering the service; c) the likely effect on the existing services if one was to be allocated a 'free to caller' 116 number, given that such charging arrangements could not be guaranteed for any other service; and d) the likelihood of a service provider emerging who could offer the service on a free to caller basis.

also be costly for all '116' SPs regardless of their service characteristics, as they would need to fund the delivery of all calls to their '116' numbers. If the costs of this service are unduly high this could affect the amount of resources available for service delivery.

A2.86 Charging Option 3 would use a set of determining factors to take the impact and cost associated with the Charging Options 1 and 2 into account and reach a proportionate response according to the level of social need met by the service; the likely situation of callers when they need to call the service; and the market environment in which the service operates.

Assessment of costs to SPs

A2.87 To assess this issue further, we have included some indicative estimates of the potential costs that a SP might incur to be able to finance the hosting of its services on a 116 number. We have looked at available information on the websites of some of the major SPs that have expressed some interest in one of the three initial 116 number ranges in their responses to the 116 Consultation.

A2.88 The costs associated with hosting services are charged by CPs to SPs, typically on a pence per minute basis for each call. Looking at comparisons of charges for other non-geographic numbers based on website searches, these show, for example, that CPs hosting calls to 0800 freephone numbers typically charge between 2 to 4 pence per minute for delivering a call to a 'freephone' number.⁵⁷ In practice, this rate can depend on the volume of calls received and with higher volumes of calls likely to occur on a 116 number, a SP might be able to negotiate a better deal. However, we have used this to provide indicative estimates of the cost to SPs to use 'freephone' numbers as set out in Table A2.1. We would generally expect calls to 'free to caller' numbers to be higher as they would include free calls from mobile phones.

Table A2.1: Indicative estimates of costs to SPs to receive calls on 116 freephone numbers

Number range	Name of service	Estimated call volumes per annum (based on current provider of that type) ⁵⁸	Indicative costs per annum (using 2-4 pence per minute to receive a freephone call and an average 10 minute call duration)
116000	Hotline for missing children	50,000*	£10,000 - £20,000
116111	Child helplines	912,500**	£182,500 - £365,000
116123	Emotional support helpline	2,483,135***	£495,000 - £995,000

*Based on Missing People estimates of 50,000 calls per annum (November 2007)

**Based on Childline estimates of 2,500 calls per day

***Based on Samaritans annual telephone calls in 2007

A2.89 The figures in Table A2.1 show that costs may vary depending on the service in question, which is mainly a function of differences in actual call volumes. We have estimated the costs where the average call lasts for ten minutes. In practice this figure could be higher, depending on the nature of the services provided on each

⁵⁷ See for example <http://www.numbergroup.com/servepage.asp?page=8>

⁵⁸ The call volumes are based on published information respectively on Missing People, the NSPCC and Samaritans' websites. We have used the data on these parties' websites for illustrative purposes only.

number range. So the indicative values in the above table would need to be increased (or decreased) by the relevant amounts depending on how long the average call lasts. We have also based these estimates on historic call volumes. There is the likely prospect that using a 116 number that is clearly signalled as ‘free to caller’ from mobile, pay-phone or fixed lines might result in increased call volumes, which would result in a similar proportionate increase in costs.

- A2.90 The main difference between Charging Options 1 and 2 is that the former provides the opportunity for the SP to reduce some of their costs if the calling party pays for the call, contributing to the cost of call delivery. Whereas under Charging Option 2 they would have to come to alternative financial arrangements, possibly funding the above costs out of their existing resources.
- A2.91 As stated in the main body of this statement, we have built additional time into the comparative selection timetable for SPs to negotiate budgeting and funding arrangements. These arrangements will need to be scrutinised by the advisory committee as part of the comparative selection process for allocating ‘116’ numbers. SPs are also permitted to seek sponsorship of ‘116’ services within the terms of the Decision – the only constraint being that advertising and marketing may not take place during the call. Therefore, we think that there should be a number of ways in which SPs can manage these costs.
- A2.92 In the case of services of extreme social value, the offsetting benefit is that Option 2 would represent no direct costs to consumers as calls to ‘116’ numbers would always be free. Indeed, consumers would realise a cost saving in cases where a call to the service would previously have been to a ‘freephone’ number chargeable from mobiles or other chargeable number.
- A2.93 The above discussion suggests that the potential benefits and costs of the charging options may vary depending on the circumstances of the service for which each particular 116 number has been reserved. The benefit of Option 3 would allow the impact and costs associated with Options 1 and 2 to be incurred in a proportionate manner. Therefore, where services are considered to be of ‘extreme social value’ due to the level of social need and the likely situation of the caller, and where the market conditions would not be unduly affected, this would point to ‘free to caller’ arrangements. Whereas in a case where there was a lower overall social value, the situation of the caller was of a less urgent nature or the market conditions could be affected negatively, this might point to ‘freephone’ charging arrangements. Charging Option 3 would provide the flexibility to decide on ‘free to caller’ or ‘freephone’ on a service by service basis.

Risks and unintended consequences

- A2.94 Under Charging Option 1, we would adopt the current ‘freephone’ charging arrangements for all ‘116’ numbers (i.e. chargeable with an announcement) and this may not be suitable for the extreme social value of some services, where any financial barrier to calling should be avoided.
- A2.95 The risk with Charging Option 2 is that as more services are reserved ‘116’ numbers by the Commission, there are likely to be some services which are not of extreme social value and where it would be more acceptable to levy a charge to call the service from a mobile.
- A2.96 The risk with Charging Option 3 is that despite having an agreed set of factors to take into account when considering the appropriate charging arrangements, it may still be challenging to determine how these factors should be applied to each service reserved a 116 number. However, this risk could be mitigated by taking advice from

the advisory committees and consulting on the appropriate charging arrangement for each 116 number.

- A2.97 One risk that Charging Option 3 can mitigate is that by allowing a service by service approach to charging arrangements, we would also have the flexibility to change, in exceptional circumstances and subject to consultation, the charging arrangement from 'free to caller' to 'freephone' if it emerges that a 'free to caller' arrangement can not be funded by any potential SP and the number would remain unallocated.

Competition effects

- A2.98 There may be an impact on the provision of competing services which do not benefit from 'free to caller' charging arrangements. As a consequence, those services may attract fewer calls and may ultimately be withdrawn with reduced choice for consumers. This is another reason why we favour Charging Option 3, as it allows us to assess the 'free to caller' arrangements on a service by service basis reflecting the potential market arrangements.
- A2.99 Potential market arrangements would form part of the guiding factors used to establish the appropriate charging arrangements for each 116 number. The market conditions for the service includes a) the nature of the players in the market for the provision of the service, e.g. whether they are charities, public or private sector organisations; b) the number of service providers offering the service; c) the likely effect on the existing services if one was to be allocated a 'free to caller' 116 number, given that such charging arrangements could not be guaranteed for any other service; and d) the likelihood of a service provider emerging who could offer the service on a free to caller basis.

Distributional and equality impacts

- A2.100 We do not consider that there would be particular distributional impacts associated with the charging arrangements, as these would be applicable to all callers across the UK and on the same basis.
- A2.101 Considering equality issues, sectors of society that rely on mobile phone use for access to telephony services include citizens with limited financial means where the mobile phone provides their only means of telephony contact. Such citizens often use pay-as-you-go mobile phones and the cost of calling a 'freephone' number can be considerable. It is therefore important that these citizens are not excluded from access to services considered to be of 'extreme social value' on '116' numbers due to any costs incurred in making the call.

Conclusions

- A2.102 In reaching a conclusion on the most appropriate charging arrangement for the 116 range, our aim is to further the interests of citizens and consumers. This includes protecting consumers from detriment by removing barriers to calling '116' numbers at times when it is vital that citizens can make the call. For services of 'extreme social value' that fulfil a vital need at times of distress or urgent requirement, we believe that the charging arrangements should deliver the free call expected, and possibly required, by the consumer.
- A2.103 However, this objective must be balanced by ensuring that regulatory intervention is proportionate to the social value of the service and does not unduly impact on the market for service provision. We are mindful that the 116 number concept is new and the types of services that are to be provided are yet to be decided. In order to ensure that the level of intervention in charging arrangements is proportionate to the service, we favour the flexibility of determining the appropriate arrangements on a

service by service basis, and consulting on charging proposals as part of the process for making each 116 number available. Given this, we favour Charging Option 3: 116 numbers are either 'freephone' or 'free to caller' as judged on an individual basis for that number (as we did in the 116 Consultation).

- A2.104 We are conscious that we have only been able to undertake limited analysis as to how Charging Option 3 might increase communication costs for SPs. The cost of receiving 'freephone'/'free to caller' calls is generally a matter for commercial negotiation between the SP and their CP and forms part of the overall communications package agreement. However, in deciding on a case-by-case basis whether to implement 'freephone' or 'free to caller', we will take into account a range of factors including the market conditions.

Annex 3

Advisory committees for 116 number allocation

Introduction

- A3.1 The following details have been agreed between Ofcom and the Cabinet Office co-ordinated Contact Council for the membership and administration of the 116 number advisory committees.
- A3.2 We will formalise the roles and responsibilities of Ofcom, the Contact Council and the advisory committees in the 116 number comparative selection process in a Memorandum of Understanding.

Membership of the advisory committees

- A3.3 Advisory committees are chaired by the Cabinet Office Service Transformation Deputy Director / Chair of Contact Council

Permanent advisory committee membership

- A3.4 Permanent advisory committee members consist of:
- members of the Contact Council's Numbering Strategy subgroup – providing core cross-Government expertise on telephone numbering:
- plus representatives from:
- the THA (providing additional non-Government expertise)
 - a Contact Council local government regional representative to sit on the Committee in rotation
 - a representative from each of the devolved national administrations

Ad hoc membership of advisory committees

- A3.5 Ad hoc members to be elected to the Committee to provide additional specialist expertise dependent upon the nature of the helpline service to be provided and/or the applicant(s).

Ex-committee involvement

- A3.6 The following representatives may be asked to provide ad hoc guidance and expertise to the advisory committee members, either at the meetings or in the form of submitted advice:
- the Office of the Third Sector / Social Exclusion Task Force (providing specialist policy and governance input);
 - Equality and Human Rights Commission (EHRC) to ensure quality impact assessment can be carried out for each number allocation);

- National Council for Voluntary Organisations (NCVO) and/or input from representative bodies (for instance, via focus groups) to ensure input from the target audience; and
- the advisory committee should be able to seek financial, operational or legal expertise if necessary (e.g. to advise on multiple service provider solutions, complexities in operational or organisational delivery).

Membership guidelines

- A3.7 Advisory committee members are required to submit to the Chair a formal declaration of any relationships (either departmental or personal) with applicants, as soon as the submissions to the comparative selection process have been received. Any subsequent relationships must be declared as soon as realised/occurs. Advisory committee members should keep an audit trail showing that they have taken reasonable steps to identify relationships and other possible conflicts of interest.
- A3.8 The decision to stand down any members of the advisory committee will be taken by the Chair (in consultation with Ofcom).
- A3.9 Membership of the relevant advisory committee will be made known to service providers applying for '116' numbers. Service providers will also be informed as to whether any conflicts of interest were disclosed and by whom, and any action to stand down members taken as a result.
- A3.10 Each advisory committee will only be quorate if eight representatives are present at meetings. This must include the Chair (or named deputy); two members of the Contact Council Numbering Strategy Sub Group; one Contact Council regional representative; and one representative from the devolved administrations.
- A3.11 Ofcom (in observer capacity) will attend all meetings.

Annex 4

Commission Decision on 116 numbers issued 15 February 2007

COMMISSION DECISION

of 15 February 2007

on reserving the national numbering range beginning with '116' for harmonised numbers for harmonised services of social value

(notified under document number C(2007) 249)

(Text with EEA relevance)

(2007/116/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (the Framework Directive)⁽⁵⁹⁾, and in particular Article 10(4) thereof,

Whereas:

- (1) It is desirable for citizens of the Member States, including travellers and disabled users, to be able to reach certain services that have a social value by using the same recognisable numbers in all Member States. At present there is a patchwork of numbering and dialling schemes in the Member States and no common numbering scheme is in operation to reserve the same telephone numbers for such services in the Community. Community action is therefore required for that purpose.
- (2) The harmonisation of numbering resources is necessary to allow these services provided in different Member States to be accessed by end-users using the same number. The combination 'same number – same service' will ensure that a

specific service in which ever Member State it is provided is always associated with a specific number within the Community. This will provide the service with a pan-European identity to the benefit of the European citizen who will know that the same number dialled will give access to the same type of service in different Member States. This measure will encourage pan-European services to develop.

- (3) In order to reflect the social function of the services in question, the harmonised numbers should be freephone numbers, without this meaning that operators would be obliged to carry calls to 116 numbers at their own expense. The freephone nature of the numbers is therefore an essential component of the harmonisation being carried out.
- (4) It is necessary to attach conditions closely related to controlling the nature of the service provided to ensure that the harmonised numbers are used for the provision of the particular type of service covered by the Decision.
- (5) It may be necessary that specific conditions are attached to the right of use for a specific harmonised number, for example, that the associated service should be provided 24 hours a day and 7 days a week.
- (6) In accordance with the Framework Directive, national regulatory authorities are responsible for the management of national numbering plans and for controlling the assignment of national

⁵⁹ OJ L 108, 24.4.2002, p. 33.

numbering resources to specific undertakings. In accordance with Article 6 and Article 10 of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive)⁽⁶⁰⁾, conditions may be attached to the use of numbers and penalties may be applied in case of non compliance with those conditions.

- (7) The list of specific numbers in the numbering range beginning with '116' should be regularly updated in accordance with the procedure in Article 22(3) of the Framework Directive. Member States should make known the existence of such numbers in a manner that is accessible to all interested parties, for example, via their websites.
- (8) The Commission will consider revision or further adaptation of the present Decision in the light of experience gained, based on reports provided to the Commission by the Member States, in particular whether a specific service for which a number has been reserved has developed on a pan-European basis.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Communications Committee,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter and scope

The numbering range beginning with '116' shall be reserved in national numbering plans for harmonised numbers for harmonised services of social value.

The specific numbers within this numbering range and the services for which each number is reserved are listed in the Annex.

Article 2

Harmonised service of social value

'Harmonised service of social value' is a service meeting a common description to be accessed by individuals via a freephone number, which is potentially of value to visitors from other countries and which answers a specific social need, in particular which contributes to the well-being or safety of citizens, or particular groups of citizens, or helps citizens in difficulty.

⁶⁰ OJ L 108, 24.4.2002, p.21.

Article 3

Reservation of specific numbers within the '116' numbering range

Member States shall ensure that:

- a) numbers listed in the Annex are used only for the services for which they have been reserved;
- b) numbers within the '116' numbering range that are not listed in the Annex are not used;
- c) the number 116112 is neither assigned nor used for any service.

Article 4

Conditions attached to the right of use for harmonised numbers

Member States shall attach the following conditions to the right of use of harmonised numbers for the provision of harmonised services of social value:

- a) the service provides information, or assistance, or a reporting tool to citizens, or any combination thereof;
- b) the service is open to all citizens without any requirement of prior registration;
- c) the service is not time-limited;
- d) there is no payment, or payment commitment as a pre-requisite to use the service;
- e) the following activities are excluded during a call: advertisement, entertainment, marketing and selling, using the call for the future selling of commercial services.

In addition, Member States shall attach specific conditions to the right of use of harmonised numbers as set out in the Annex.

Article 5

Assignment of harmonised numbers

1. Member States shall take all necessary measures to ensure that as from the 31 August 2007 the competent National Regulatory Authority can assign the numbers referred to in the Annex.
2. The listing of a specific number and the associated harmonised service of social value does not carry an obligation for Member States to ensure that the service in question is provided within their territory.
3. Once a number has been listed in the Annex, Member States shall make known at national level that the specific number is available for the provision of the

associated harmonised service of social value, and that applications for the rights of use for this specific number may be submitted.

4. Member States shall ensure that a register of all harmonised numbers, with their associated harmonised services of social value, available in their territory is maintained. The register shall be easily accessible to the public.

Article 6

Monitoring

Member States shall report periodically to the Commission on the actual use of numbers listed in the Annex for the provision of the related services within their territory.

Article 7

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 15 February 2007.

For the Commission

Viviane REDING

Member of the Commission

ANNEX

List of reserved numbers to harmonised services of social value

Number	Service for which this number is reserved	Specific conditions attached to the right of use for this number
116000	Hotlines for missing children	

Annex 5

Commission Decision on 116 numbers issued 29 October 2007

COMMISSION DECISION

of 29 October 2007

amending Decision 2007/116/EC as regards the introduction of additional reserved numbers beginning with '116'

(notified under document number C(2007) 5139)

(Text with EEA relevance)

(2007/698/EC)

updated and additional reserved numbers introduced.

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (the Framework Directive)⁽⁶¹⁾, and in particular Article 10(4) thereof,

Whereas:

- (1) Commission Decision 2007/116/EC on reserving the national numbering range beginning with '116' for harmonised numbers for harmonised services of social value⁽⁶²⁾ reserves the national numbering range beginning with '116' for harmonised numbers for harmonised services of social value. The Annex to that Decision contains a list of specific numbers within this numbering range and the services for which each number is reserved. This list may be adapted in accordance with the procedure referred to in Article 22(3) of Directive 2002/21/EC.
- (2) The service description associated with the number 116000 should be updated. Moreover, two services, namely Child Helplines and Emotional Support Helplines, have been identified as services of social value that may benefit from harmonised numbers. For these reasons, Decision 2007/116/EC should be

(3) Decision 2007/116/EC should therefore be amended accordingly.

(4) The measures provided for in this Decision are in accordance with the opinion of the Communications Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2007/116/EC is replaced by the Annex to this Decision.

Article 2

Member States shall take all necessary measures to ensure that as from 29 February 2008 the competent National Regulatory Authority can assign those numbers added to the list by virtue of this Decision.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 29 October 2007.

*For the Commission
Viviane REDING
Member of the Commission*

⁶¹ OJ L 108, 24.4.2002, p. 33. Directive as amended by Regulation (EC) No 717/2007 of the European Parliament and of the Council (OJ L 171, 29.6.2007, p.32).

⁶² OJ L 49, 17.2.2007, p.30.

ANNEX

List of numbers reserved for harmonised services of social value

Number	Service for which this number is reserved	Specific conditions attached to the right of use for this number
116000	<p><i>Name of service:</i> Hotline for missing children</p> <p><i>Description:</i> The service (a) takes calls reporting missing children and passes them on to the Police; (b) offers guidance to and supports the persons responsible for the missing child; (c) supports the investigation.</p>	Service continuously available (i.e. 24 hours a day, 7 days a week, nationwide)
116111	<p><i>Name of the service:</i> Child helplines</p> <p><i>Description:</i> The service helps children in need of care and protection and links them to services and resources; it provides children with an opportunity to express their concerns, talk about issues directly affecting them and contact someone in an emergency situation.</p>	Where the service is not continuously available (i.e. 24 hours a day, 7 days a week, nationwide), the service provider must ensure that information about availability is made publicly available in an easily accessible form, and that, during periods of unavailability, callers to the service are advised when the service will next become available.
116123	<p><i>Name of the service:</i> Emotional support helplines</p> <p><i>Description:</i> The service enables the caller to benefit from a genuine human relationship based on non-judgemental listening. It offers emotional support to callers suffering from loneliness, in a state of psychological crisis, or contemplating suicide.</p>	Where the service is not continuously available (i.e. 24 hours a day, 7 days a week, nationwide), the service provider must ensure that information about availability is made publicly available in an easily accessible form, and that, during periods of unavailability, callers to the service are advised when the service will next become available.

Annex 6

Legal framework and tests

The legal framework

A6.1 Ofcom regulates the communications sector under the framework established by the Act. The Act provides, amongst other things in relation to numbering, for the publication of the National Telephone Numbering Plan ('the Numbering Plan') and the setting of General Conditions of Entitlement relating to Telephone Numbers ('the Numbering Conditions'). It also sets out statutory procedures governing the modification of the Numbering Plan, the Numbering Conditions and the numbering application forms, and the giving of directions under conditions such as the Numbering Conditions.

The Numbering Plan

A6.2 Section 56(1) of the Act states that:

"It shall be the duty of OFCOM to publish a document (to be known as 'the National Telephone Numbering Plan') setting out -

- a) the numbers that they have determined to be available for allocation by them as telephone numbers;
- b) such restrictions as they consider appropriate on the adoption of numbers available for allocation in accordance with the plan; and
- c) such restrictions as they consider appropriate on the other uses to which numbers available for allocation in accordance with the plan may be put."

A6.3 The Act provides for Ofcom to review and revise the Numbering Plan. Section 56(2) states that:

"It shall be OFCOM's duty -

- a) from time to time to review the National Telephone Numbering Plan; and
- b) to make any modification of that plan that they think fit in consequence of such a review;

but this duty must be performed in compliance with the requirements, so far as applicable, of section 60."

A6.4 Section 60 of the Act provides for the modification of documents referred to in the Numbering Conditions (which includes the Numbering Plan and numbering application forms) and explains the procedures to be followed in order to conduct this process. Section 60(2) of the Act sets out the following test for revising or modifying the relevant provisions:

"OFCOM must not revise or otherwise modify the relevant provisions unless they are satisfied that the revision or modification is—

- (a) objectively justifiable in relation to the matters to which it relates;
- (b) not such as to discriminate unduly against particular persons or against a particular description of persons;

(c) proportionate to what the modification is intended to achieve; and

(d) in relation to what it is intended to achieve, transparent”.

A6.5 Section 60(3) further provides that:

“Before revising or otherwise modifying the relevant provisions, OFCOM must publish a notification -

a) stating that they are proposing to do so;

b) specifying the Plan and other document that they are proposing to revise or modify;

c) setting out the effect of their proposed revisions or modifications;

d) giving their reasons for making the proposal; and

e) specifying the period within which representations may be made to OFCOM about their proposal.”

A6.6 Section 60(5) states that:

“Ofcom may give effect, with or without modifications, to a proposal with respect to which they have published a notification under subsection (3) only if –

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

(b) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for the purposes of this paragraph by the Secretary of State.”

Numbering Conditions

A6.7 Section 45 of the Act gives Ofcom the power to set conditions:

“(1) Ofcom shall have the power to set conditions under this section binding the persons to whom they are applied in accordance with section 46.

(2) A condition set by Ofcom under this section must be either –

(a) a general condition...”

A6.8 Section 58 states that general conditions may include conditions about the allocation and adoption of telephone numbers, including conditions which impose restrictions on and requirements in connection with the adoption of telephone numbers by a communications provider.

A6.9 Section 47 of the Act sets out the test for setting and modifying conditions. The test set out in section 47(2) is that the condition or modification is:

“(a) objectively justifiable in relation to the matters to which it relates;

(b) not such as to discriminate unduly against particular persons or against a particular description of persons;

(c) proportionate to what the modification is intended to achieve; and

(d) in relation to what it is intended to achieve, transparent”.

A6.10 Section 48 of the Act sets out the procedure for setting, modifying and revoking conditions which includes the publication of a notification setting out the modifications.

A6.11 Section 48(5) states that:

“Ofcom may give effect, with or without modifications, to a proposal with respect to which they have published a notification under subsection (2) only if-

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

(b) they have had regard to every international obligation of the United Kingdom (if any) which is notified to them for the purposes of this paragraph by the Secretary of State.”

A6.12 Under section 50(1)(a), a copy of every notification published under section 48(1) or 48(2) must be sent to the Secretary of State. This includes notifications of modifications to the Numbering Conditions.

The numbering application forms

A6.13 The General Conditions Notification that took effect on 25 July 2003 includes General Condition 17, which contains provisions relating to the allocation, adoption and use of telephone numbers.

A6.14 Paragraph 17.9 states that:

"When applying for an Allocation or reservation of Telephone Numbers, the Communications Provider shall:

(a) use an appropriate application form as directed by the Director from time to time as he thinks fit;

(b) provide such information as is required by such application form, (...)"

A6.15 By virtue of the Transitional Provisions 63, references to the Director in the Numbering Conditions should be read as references to Ofcom.

A6.16 Section 49(2) states that:

“OFCOM must not revise or otherwise modify the relevant provisions unless they are satisfied that the revision or modification is-

(a) objectively justifiable in relation to the matters to which it relates;

(b) not such as to discriminate unduly against particular persons or against a particular description of persons;

(c) proportionate to what the modification is intended to achieve; and

⁶³ 'Transitional Provisions' means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003 and the Office of Communications Act 2002 (Commencement No.3) and Communications Act 2003 (Commencement No 2) Order 2003.

(d) in relation to what it is intended to achieve, transparent”.

A6.17 Section 49(4) further provides that:

"Before the direction, approval or consent is given, modified or withdrawn, a notification must be published –

- a) stating that there is a proposal to give, modify or withdraw it;
- b) identifying the person whose proposal it is;
- c) setting out the direction, approval or consent to which the proposal relates;
- d) setting out the effect of the direction, approval or consent or of its proposed modification or withdrawal;
- e) giving reasons for the making of the proposal; and
- f) specifying the period within which representations may be made about the proposal to the person whose proposal it is."

A6.18 Under section 49(9) of the Act:

"The person who is authorised to give the direction, approval or consent may give effect, with or without modifications, to a proposal with respect to which a notification has been given under subsection (4) only if-

- (a) he has considered every representation about the proposal that is made to him within the period specified in the notification; and
- (b) he has had regard to every international obligation of the United Kingdom (if any) which has been notified to OFCOM for the purposes of this paragraph by the Secretary of State."

A6.19 Under section 50(1)(b), a copy of every notification published under section 49(4) must be sent to the Secretary of State. This includes notifications of modifications to the numbering application forms.

Conditions attached to the right of use of numbers

A6.20 Article 6 of the Authorisation Directive and Part C of its Annex set out the type of conditions which may be attached to the right of use of telephone numbers. As set out in Article 6:

"The general authorisation for the provision of electronic communications networks or services and the rights of use for radio frequencies and rights of use for numbers may be subject only to the conditions listed respectively in parts A, B and C of the Annex. Such conditions shall be objectively justified in relation to the network or service concerned, non-discriminatory, proportionate and transparent.

A6.21 Part C of the Annex sets out conditions that may be attached to the rights of use for numbers, including:

“Designation of service for which the number shall be used, including any requirements linked to the provision of that service” ;and

“Any commitments which the undertaking obtaining the usage right has made in the course of a competitive or comparative selection procedure.”

Ofcom’s general duty as to telephone numbering functions

A6.22 Ofcom has a general duty under section 63(1) of the Act in carrying out its numbering functions:

“a) to secure that what appears to them to be the best use is made of the numbers that are appropriate for use as telephone numbers; and

b) to encourage efficiency and innovation for that purpose.”

General duties of Ofcom

A6.23 The principal duty of Ofcom to be observed in the carrying out of its functions is set out in section 3(1) of the Act as the duty:

“a) to further the interests of citizens in relation to communications matters; and

b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.”

Duties for the purpose of fulfilling Community obligations

A6.24 In addition to our general duties and our duty regarding telephone numbers, Ofcom must also take into account the six Community requirements in carrying out its functions as set out in section 4 of the Act. These include the requirement to promote competition in the provision of electronic communications networks and services, as well as the requirement to promote the interests of European citizens.

A6.25 The various legal tests and duties, and how Ofcom has complied with them in making the modifications to the Numbering Plan, the Numbering Conditions and the access code application form, are set out below.

Legal tests

A6.26 It is Ofcom’s duty, when making modifications to the Numbering Plan, the Numbering Conditions and the access code application form, to show how the modifications comply with the legal tests set out in sections 60(2), and 47(2) of the Act. Ofcom is satisfied that the modifications being made to implement allocation and charging arrangements for ‘116’ numbers meet the tests being:

- **objectively justifiable**, because they will make ‘116’ numbers available for allocation in the UK in accordance with the Decision. The requirements and restrictions in relation to the use of ‘116’ numbers are justified in order to achieve pan-European harmonisation of service and to ensure protection of the consumer in terms of the cost of services of extreme social value;

- **not unduly discriminatory**, in that all communications providers eligible to apply for telephone numbers are subject to the modifications;
- **proportionate**, in that the modifications are considered the minimum necessary to ensure that the '116' number range is implemented in the most efficient and effective way possible; that pan-European harmonisation is achieved; that citizens will be able to call socially valuable services when necessary by having memorable pan-European numbers; and that a set of factors is developed which will inform decisions on the proportionality of services being 'freephone' or 'free to caller'; and
- **transparent**, in that the notifications proposing the modifications and their effects were set out in the 116 Consultation.

A6.27 Ofcom considers that we are fulfilling our general duty as to telephone number functions as set out in section 63 of the Act by:

- **securing the best use of appropriate numbers**, in that the modifications ensure that '116' numbers are available for allocation in line with the Decision and that the comparative selection process is designed to secure the best use of '116' numbers by allocating them to the most suitable service providers for the benefit of citizens and consumers; and
- **encouraging efficiency and innovation**, in that the modifications ensure that appropriate numbering resource is available to provide the innovation of harmonised numbers for harmonised services of social value and that the comparative selection process allows for multiple service provider partnerships, thus encouraging efficiency in number use and innovation in service provision.

A6.28 Ofcom considers that the modifications to the Numbering Plan, the Numbering Conditions and the access code application form are consistent with our general duties in carrying out our functions as set out in section 3 of the Act. In particular, we consider that the modifications further the interests of citizens in relation to communications matters by implementing a process which will ensure the allocation of '116' numbers to the most suitable service provider and that the cost of calling '116' numbers is appropriate and transparent for consumers.

A6.29 In making the modifications, Ofcom has also considered the Community obligations set out in section 4 of the Act, particularly the requirement to promote the interests of all persons who are citizens of the EU by harmonising the '116' number range and services with other Member States to promote the interests and safety of consumers.

A6.30 Ofcom considers that making the charging arrangements a condition which may be attached to rights of use of '116' numbers meets the tests in Article 6 of the Authorisation Directive and Part C of its annex, set out at paragraphs A6.20 and A6.21 above by being:

- **a designation of service for which the number shall be used, including any requirements linked to the provision of that service, in that the charging arrangements for each 116 number are part of the designation of the number in the Numbering Plan and are a fundamental requirement for how the service is to be provided;**
- **objectively justifiable**, because the charging arrangements for 116 numbers in the UK are in accordance with the Decision. The requirements and restrictions in relation to the use of '116' numbers are justified in order to achieve pan-European harmonisation of

charging and to ensure protection of the consumer in terms of the cost of services of extreme social value;

- **not unduly discriminatory**, in that the charging arrangements will be applicable to all communications providers originating calls to '116' numbers and will be a condition attached to the right of use of a 116 number for whichever service provider(s) / communications provider partnership is allocated the 116 number;
- **proportionate**, in that making the charging arrangements a condition attached to the right of use of '116' numbers is necessary to ensure that the 116 number range is implemented in a way that achieves pan-European harmonisation; that citizens will be able to call socially valuable services when necessary by having barriers to calling removed; and that a set of factors is developed which will inform decisions on the proportionality of services being 'freephone' or 'free to caller'; and
- **transparent**, in that the proposed charging arrangements and their effects were set out in the 116 Consultation as designations of '116' numbers in the Numbering Plan. Although we did not propose that charging arrangements would be included as an Additional Specific Service Condition, the effect on communications providers originating calls to '116' numbers and service provider(s) / communications providers offering services on '116' numbers remains the same as proposed at the time of the 116 Consultation as we have added the '116' numbers to paragraph 17.12 of the Numbering Condition which covers requirements in connection with use of numbers for making calls (see paragraphs 5.48 and 5.49). The 116 Consultation included an explanation of how we considered that the charging arrangements met the legal tests of being objectively justifiable, not unduly discriminatory, proportionate and transparent.

Notifications of modifications to the Numbering Plan, the Numbering Conditions and the access code application form

A6.31 The notifications of modifications to the Numbering Plan, the Numbering Conditions and the access code application form were set out in Annexes 9, 10 and 11 of the 116 Consultation. Representations were invited by 10 December 2008. Having considered all representations, and not having been notified of any international obligations by the Secretary of State, we have decided to make the modifications proposed. The modifications are set out in Annexes 7, 8 and 9 of this document and are unchanged from those proposed in the 116 Consultation.

Annex 7

Modification to the provisions of the National Telephone Numbering Plan ('the Plan') under section 56(2) of the Communications Act 2003

WHEREAS-

A. Section 56(2) of the Act provides that it shall be Ofcom's duty from time to time to review the Plan and make such revisions as they see fit, provided such revisions are made in accordance with section 60 of the Act;

B. section 60 of the Act applies whereby General Condition 17 is a numbering condition for the time being having effect by reference to provisions of the Plan;

C. by virtue of the Transitional Provisions, references to the Director in General Condition 17 should be read as references to Ofcom;

D. Ofcom issued a notification pursuant to section 60(3) of the Act of a proposal to make a modification to the Plan on 1 October 2008 ('the Notification');

E. for the reasons set out in the statement accompanying this modification Ofcom are satisfied that, in accordance with section 60(2) of the Act, this modification is:

- objectively justifiable in relation to the matters to which it relates;
- not such as to discriminate unduly against particular persons or against a particular description of persons;
- proportionate to what the modification is intended to achieve; and
- in relation to what it is intended to achieve, transparent.

F. for the reasons set out in the statement accompanying this modification, Ofcom are satisfied that they acted in accordance with the relevant duties set out in sections 3, 4 and 63(1) of the Act;

G. a copy of the Notification was sent to the Secretary of State;

H. in the Notification and accompanying consultation document Ofcom invited representations about any of the proposals therein by 5pm on 10 December 2008;

I. by virtue of section 60(5) of the Act, Ofcom may give effect to the proposal set out in the Notification, with or without modification, only if –

- (i) they have considered every representation about the proposal that is made to them within the period specified in the notification; and
- (ii) 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.

J. Ofcom received 13 responses to this Notification and the accompanying consultation document and have considered every such representation made to them in respect of the proposals set out in the Notification and accompanying consultation document. The Secretary of State has not notified Ofcom of any international obligation of the UK for this purpose;

K. in considering whether to make the modification proposed in the Notification Ofcom have complied with all relevant requirements set out in section 60 of the Act.

THEREFORE-

1. Ofcom, in accordance with section 56(2) of the Act, hereby makes the following modification to the provisions of the Plan.

A. The following text shall be deleted from the Plan under Section 1 ‘Definitions and Interpretations’:-

‘Access Code’ means a short Non-Geographic Number, usually beginning with ‘1’, that allows End-Users to access a wide range of services. There are three types of Access Code:

- (i) Type A Access Codes are available for use by all providers of a Public Telephone Network and are used in such a way as to enable End-Users to access designated services across all Public Telephone Networks;
- (ii) Type B Access Codes are Allocated individually by Ofcom and are Adopted in such a way as to either (i) enable End-Users to access services provided by their Communications Provider or (ii) enable End-Users to access services provided by other Communications Providers (eg, Indirect Access and Directory Enquiry Facilities); and
- (iii) Type C Access Codes are available for use for service provision within a Communications Provider’s own Electronic Communications Network.

The use of Type A and Type C Access Codes is restricted through the Numbering Condition;

and replaced with the following text (additions shown in bold type):

‘Access Code’ means a short Non-Geographic Number, usually beginning with ‘1’, that allows End-Users to access a wide range of services. There are three types of Access Code:

- (i) Type A Access Codes are available for use by all providers of a Public Telephone Network and are used in such a way as to enable End-Users to access designated services across all Public Telephone Networks;
- (ii) Type B Access Codes are Allocated individually by Ofcom and are Adopted in such a way as to either (i) enable End-Users to access services provided by their Communications Provider or (ii) enable End-Users to access services provided by other Communications Providers (eg, Indirect Access, Directory Enquiry Facilities **and Harmonised numbers for harmonised services of social value**); and
- (iii) Type C Access Codes are available for use for service provision within a Communications Provider’s own Electronic Communications Network.

The use of Type A and Type C Access Codes is restricted through the Numbering Condition;

B. The following text shall be inserted alphabetically in the Plan under Section 1 Definitions and Interpretations:-

‘Harmonised number for harmonised services of social value (116XXX numbers)’ means a type of Access Code used to provide the same service on the same 116XXX number throughout the Member States;

‘Free to caller Number’ means a number that is accessed at no charge to the Customer and, in the case of a Pay Telephone, without having to use coins and cards;

C. The following text shall be inserted numerically in the Plan under Part A1: Public Telephone Network Numbers:-

116000	Free-to-caller Number used to access ‘Hotline for missing children’ service (‘Type B Access Code’)
116111	Free-to-caller Number used to access ‘Child helplines’ service (‘Type B Access Code’)
116123	Free-to-caller Number used to access ‘Emotional

	Support Helplines' service ('Type B Access Code')
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D. The following shall be added to Part B: Specific Restrictions on Telephone Numbers as a new Section B3.7 condition in the Plan-

B3.7 Harmonised numbers for harmonised services of social value (116XXX numbers)

B3.7.1 General conditions attached to the right of use for 116 numbers:

- a) the service provides information, or assistance, or a reporting tool to citizens, or any combination thereof;
- b) the service is open to all citizens without any requirement of prior registration;
- c) the service is not time-limited;
- d) there is no payment, or payment commitment as a pre-requisite to use the service; and
- e) the following activities are excluded during a call: advertisement; entertainment; marketing and selling; using the call for the future selling of commercial services.

B3.7.2 Specific conditions attached to the right of use for individual 116 numbers:

Number	Service for which this number is reserved	Specific conditions attached to the right of use for this number
116000	<p><i>Name of service:</i> Hotline for missing children</p> <p><i>Description:</i> The service (a) takes calls reporting missing children and passes them on to the Police; (b) offers guidance to and supports the persons responsible for the missing child; (c) supports the investigation.</p>	Service continuously available (i.e. 24 hours a day, 7 days a week, nation-wide).
116111	<p><i>Name of service:</i> Child helplines</p> <p><i>Description:</i> The service helps children in need of care and protection and links them to services and resources; it provides children with an opportunity to express their concerns, talk about issues directly affecting them and contact someone in an emergency situation.</p>	Where the service is not continuously available (i.e. 24 hours a day, 7 days a week, nation-wide), the service provider must ensure that information about availability is made publicly available in an easily accessible form, and that, during periods of unavailability, callers to the service are advised when the service will next become available.

116123	<p><i>Name of service:</i> Emotional support helplines</p> <p><i>Description:</i> The service enables the caller to benefit from a genuine human relationship based on non-judgemental listening. It offers emotional support to callers suffering from loneliness, in a state of psychological crisis, or contemplating suicide.</p>	<p>Where the service is not continuously available (i.e. 24 hours a day, 7 days a week, nation-wide), the service provider must ensure that information about availability is made publicly available in an easily accessible form, and that, during periods of unavailability, callers to the service are advised when the service will next become available.</p>
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B3.7.3 Numbers will only be used in conjunction with the sub-allocatee(s) named in the National Numbering Scheme. The number cannot be sub-allocated without prior agreement from Ofcom.

2. In making the decision referred to in paragraph 1 above, Ofcom have considered and acted in accordance with the six Community requirements set out in section 4 of the Act and their duties in section 3 and 63 of the Act.

3. Ofcom has sent a copy of this notification to the Secretary of State.

4. In this modification:

- ‘Act’ means the Communications Act 2003;
- ‘the Director’ means the Director-General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
- ‘General Condition 17’ means General Condition 17 of the General Conditions of Entitlement set by the Director by way of publication of a Notification on 22 July 2003;
- ‘Ofcom’ means the Office of Communications; and
- ‘the Plan’ means the National Telephone Numbering Plan published by Ofcom on 17 June 2008; and
- ‘Transitional Provisions’ means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003 and the Office of Communications Act 2002 (Commencement No.3) and Communications Act 2003 (Commencement No.2) Order 2003.

5. Except in so far as the context otherwise require, words or expressions shall have the meaning assigned to them otherwise any word or expression shall have the meaning it has in the Act, or if it has no meaning there, in the Numbering Plan.

6. The Interpretation Act 1978 shall apply as if this modification were an Act of Parliament.

7. Headings and titles shall be disregarded.

Signed by Daniel Gordon

Harmonised European numbers for services of social value

Director of Competition

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

20 February 2009

Annex 8

Notification of a modification under section 48(1) of the Communications Act 2003 ('the Act')

The modification of General Condition 17 on Allocation, Adoption and Use of telephone numbers under section 48(2) of the Act

WHEREAS-

- A. the Director General of Telecommunications (the "Director") issued on 22 July 2003 the General Conditions notification, which took effect on 25 July 2003 by way of publication of a notification pursuant to section 48(1) of the Act;
- B. by virtue of the Transitional Provisions; references to the Director in General Condition 17 should be read as references to Ofcom;
- C. Ofcom issued a notification pursuant to section 48(2) of the Act on 1 October 2008 setting out their proposals for the modification of General Condition 17 ('the Notification');
- D. a copy of the Notification was sent to the Secretary of State in accordance with section 50(1)(a) of the Act;
- E. in the notification and accompanying consultation document, Ofcom invited representations about any of the proposals set out therein by 5pm on 10 December 2008;
- F. by virtue of section 48(5) of the Act, Ofcom may give effect to any proposals to set conditions as set out in the Notification, with or without modification, where:
- (i) they have considered every representation about the proposals made to them within the period specified in the Notification; and
 - (ii) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
- G. Ofcom received 13 responses to the Notification and have considered every such representation made to them in respect of the proposals set out in the Notification and the accompanying consultation document; and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose;

THEREFORE-

1. Ofcom in accordance with section 48(1) of the Act hereby makes the following modifications to General Condition 17 on allocation, adoption and Ofcom in accordance with section 48(1) of the Act hereby makes the following use of telephone numbers;
2. The modification is set out in the Schedule to this Notification;
3. The effect of, and Ofcom's reasons for making, the modification referred to in paragraph 1 above is set out in the accompanying explanatory statement;
4. Ofcom considers that the modification referred to in paragraph 1 above complies with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to each of the modifications;

5. In making the modifications set out in this Notification, Ofcom has considered and acted in accordance with the six Community requirements in section 4 of the Act, their general duties in section 3 of the Act and their duty as to telephone numbering in section 63 of the Act;

6. The modification shall enter into force on 20 February 2009;

7. Copies of this Notification and the accompanying statement have been sent to the Secretary of state in accordance with section 50(1) (a) of the Act;

8. In this Notification:

- 'Act' means the Communications Act 2003;
- 'the Director' means the Director-General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
- 'General Condition 17' means General Condition 17 of the General Conditions of Entitlement set by the Director by way of publication of a Notification on 22 July 2003;
- 'Ofcom' means the Office of Communications;
- 'the Plan' means the National Telephone Numbering Plan published by Ofcom on 17 June 2008; and
- 'Transitional Provisions' means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003 and the Office of Communications Act 2002 (Commencement No.3) and Communications Act 2003 (Commencement No.2) Order 2003;

9. Except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them, otherwise any word or expression shall have the meaning it has in the Act, or if it has no meaning there, in the Plan.

10. The Interpretation Act 1978 shall apply as if this modification were an Act of Parliament.

11. Headings and titles shall be disregarded.

12. The schedule to this Notification shall form part of this Notification.

Signed by

Daniel Gordon

Competition Policy Director

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

20 February 2009

Schedule

Modification to General Condition 17 (“Adoption, Allocation and Use of Telephone Numbers”) which is set out in the Schedule to the Notification under section 48(1) of the Communications Act 2003 published by the Director General of Telecommunications on 22 July 2003

A. The following text shall be deleted from General Condition 17.12:-

Requirements in connection with use of numbers for making calls

17.12 Where Customers of a Communications Provider are making calls to either UK-wide Numbers (03) or Personal Numbering Service (070) numbers, the Communications Provider shall comply with the designations for those numbers in the National Telephone Numbering Plan.

and replaced with the following text (proposed additions shown in bold type and deletions in strike-through):

Requirements in connection with use of numbers for making calls

17.12 Where Customers of a Communications Provider are making calls to ~~either~~ UK-wide Numbers (03), Personal Numbering Service (070) numbers **or Harmonised numbers for harmonised services of social value (116XXX numbers)**, the Communications Provider shall comply with the designations for those numbers in the National Telephone Numbering Plan.

Annex 9

Modifications to the access code application form under section 49(4) of the Communications Act 2003 ('the Act')

Direction under paragraph 17.9(a) of the Condition relating to an application form for Access Codes

WHEREAS-

- A. paragraph 17.9(a) of the Condition provides that when applying for an Allocation or reservation of Telephone Numbers, the Communications Provider shall use an appropriate application form as directed by the Director from time to time as he thinks fit;
- B. by virtue of the Transitional Provisions, references to the Director in the Condition should be read as references to Ofcom;
- C. for the reasons set out in the statement accompanying this Direction, Ofcom are satisfied that the application form in the Annex to this Direction is appropriate for use by Communications Providers when applying for an Allocation or reservation of Telephone Numbers;
- D. for the reasons set out in the statement accompanying this Direction Ofcom are satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - not such as to discriminate unduly against particular persons or against a particular description of persons;
 - proportionate to what it is intended to achieve; and
 - in relation to what it is intended to achieve, transparent.
- E. for the reasons set out in the statement accompanying this Direction Ofcom are satisfied that they have acted in accordance with the relevant duties set out in sections 3, 4 and 63(1) of the Act;
- F. a notification of a proposal to give this Direction was given under section 49(4) of the Act on 1 October 2008 (the 'Notification');
- G. a copy of the Notification was made available to the Secretary of State in accordance with section 50(1)(b) of the Act;
- H. in the Notification and accompanying consultation document Ofcom invited representations about any of the proposals therein by 5pm 10 December 2008;
- I. by virtue of section 49(9) of the Act, Ofcom may give effect to the proposal set out in the Notification, with or without Modification, only if-
 - i. they have considered every representation about the proposal that is made to them within the period specified in the notification; and

- ii. 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;
- J. Ofcom received 13 responses to the Notification and accompanying consultation document and have considered every such representation made to them in respect of the proposals set out in the Notification and accompanying consultation document and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose;
- K. In considering whether to make the modification proposed in the Notification Ofcom have complied with all relevant requirements set out in section 49 of the Act;

NOW, THEREFORE, OFCOM PURSUANT TO PARAGRAPH 17.9(a) OF THE CONDITION, HEREBY DIRECT THAT-

1. for the time being the application form S10 in the Annex to this Direction shall be used by Communications Providers when applying for an Allocation of Access Codes.
2. In this Direction-
 - 'the Act' means the Communications Act 2003;
 - 'Allocation' shall have the same meaning as in the Condition;
 - 'Communications Provider' shall have the same meaning as in the Condition;
 - 'the Condition' means General Condition 17 of the General Conditions of Entitlement set by the Director on 22 July 2003 pursuant to section 45 of the Act by way of publication of a Notification pursuant to section 48(1) of the Act;
 - 'the Director' means the Director-General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - 'Ofcom' means the Office of Communications;
 - 'Telephone Number' shall have the same meaning as in paragraph 1 of Part 1 of the Schedule to the Notification published by the Director on 22 July 2003 under section 48(1) of the Act;
 - 'Transitional Provisions' means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003 and the Office of Communications Act 2002 (Commencement No.3) and Communications Act 2003 (Commencement No.2) Order 2003.
3. Except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them. Otherwise, any word or expression shall have the same meaning as it has-
 - i. in the National Telephone Numbering Plan published by Ofcom from time to time pursuant to section 56 of the Act;
 - ii. if, and only if, it has no meaning ascribed as mentioned in (i) above, and only if the context so permits, in General Condition 17 (entitled 'Allocation, Adoption and Use of Telephone Numbers') set by the Director by way of publication of a Notification on 22 July 2003 under section 48(1) of the Act;
 - iii. if, and only if, it has no meaning ascribed as mentioned in (i) and (ii) above, and only if the context so permits, in paragraph 1 of Part 1 of the Schedule to the Notification published by the Director on 22 July 2003 under section 48(1) of the Act; and

iv. if, and only if, it has no meaning ascribed as mentioned in (i), (ii) and (iii) above, and only if the context so permits, in the Act.

4. The Interpretation Act 1978 shall apply as if this Direction were an Act of Parliament.
5. Headings and titles shall be disregarded.
6. This direction takes effect on the date it is published.

Signed by Daniel Gordon

Competition Policy Director

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

20 February 2009

Annex to Schedule: modification to the S10 Application Form

Form S10



ACCESS CODE APPLICATION

This form should be used to apply for '**Type B**' Access Codes only.

Type B Access Codes are commonly used for:

- i) **Directory Enquiry Facilities** (6-digit codes of the format 118XXX) – codes used by callers to access services available from their own provider of Public Electronic Communication Networks or from that of another;
- ii) **Harmonised numbers for harmonised services of social value** (6-digit codes of the format 116XXX) – codes used to provide pan-European harmonised services; and
- iii) **Indirect Access ("IDA")** (5-digit codes of the format 1XXXX) - codes used by the End-users of one provider of a Public Electronic Communication Network to have selected calls connected by another.

NB. If you are applying for Access Codes for Directory Enquiry Facilities (i.e. 118XXX codes) on behalf of a sub-allocatee(s), you MUST enclose a signed, letter-headed 'statement of intent' from each sub-allocatee you are representing.

If you are applying for an Access Code for harmonised services of social value (i.e. a 116XXX code) you MUST enclose:

- a) a comprehensive description of the service for which the 116 number would be used;
- b) a statement explaining how the proposed service meets the service description and complies with the conditions attached to the use of the 116 number set out in the Numbering Plan;
- c) a letter of confirmation from the organisation(s) who wish(es) to provide the service; and
- d) confirmation that the applicant(s) were found to be eligible to apply for allocation following an expression of interest in the specific 116 number.

You may also enclose additional evidence to support the application.

Ofcom has also set aside two specific types of Access Codes – Type A and Type C:

Type A – to allow directly connected End-users access to services recognised as having such widely understood significance that they may be used throughout the United Kingdom by all providers of Public Electronic Communication Networks offering equivalent services (whether directly or through the agency of another), and will not be used by anyone for any other service e.g. 100 – operator assistance, 123 – speaking clock, etc. and

Type C – for independent use by providers of Public Electronic Communication Networks to allow directly connected end-users and employees access to services, other than services covered by Type A and Type B access codes.

Providers of Public Electronic Communication Networks should inform Ofcom in writing as and when they use Type A and Type C Access Codes, and provide details of the service.

1. In this application form -

(i) "Act" means the Communications Act 2003;

(ii) "Director" means the Director-General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;

(iii) "OFCOM" means the Office of Communications; and

(iv) "Wholesale Line Rental" shall have the same meaning as in Part 1 of Schedule 1 to the Notification published by the Director on 27 November 2003 pursuant to section 48(1) and section 79 of the Act relating to the identification of certain fixed narrowband wholesale exchange, call origination, conveyance and transit markets.

2. Except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in paragraph 1 above. Otherwise, any word or expression shall have the same meaning as it has-

(i) in the National Telephone Numbering Plan published by Ofcom from time to time pursuant to section 56 of the Communications Act 2003 (the 'Act');

(ii) if, and only if, it has no meaning ascribed as mentioned in (i) above, and only if the context so permits, in General Condition 17 (entitled 'Allocation, Adoption and Use of Telephone Numbers') in Part 2 of the Schedule to the Notification published by the Director on 22nd July 2003 under section 48(1) of the Act;

(iii) if, and only if, it has no meaning ascribed as mentioned in (i) and (ii) above, and only if the context so permits, in paragraph 1 of Part 1 of the Schedule to the Notification published by the Director on 22nd July 2003 under section 48(1) of the Act; and

(iv) if, and only if, it has no meaning ascribed as mentioned in (i), (ii) and (iii) above, and only if the context so permits, in the Act.

3. The Interpretation Act 1978 shall apply as if this Application Form were an Act of Parliament.

(Applicants should ensure that all sections have been completed where relevant – incomplete Application Forms may not be processed within the 3-week deadline).

1. <u>Your reference (optional):</u>	
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2. <u>Applicant details and date of application:</u> Your name, company name, address, direct telephone, direct fax, direct e-mail, mobile. <i>(Where you are acting on behalf of a Communications Provider (eg a consultant, solicitor, etc), and if you have not previously supplied one, you should enclose a letter from that Communications Provider confirming that you are authorised to represent it).</i>	<u>Date of application:</u>
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3. <u>Communications Provider details:</u>	
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<p>If different from 2. above (eg where you are a consultant, solicitor, etc), provide the name and address of the Communications Provider on behalf of whom you are applying for Telephone Numbers.</p>	
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<p>4. <u>Declaration of ‘Public Electronic Communications Network’ or ‘Public Electronic Communications Service’</u></p> <p>The information requested in Annex A helps Ofcom to assess your eligibility to be Allocated Telephone Numbers.</p> <p>If you are a provider of a Public Electronic Communications Network:</p> <p>confirm whether you have previously supplied the information requested in Annex A (or information equivalent to it), to Ofcom’s Numbering Unit; or</p> <p>if not, you <u>must</u> complete in full all relevant questions in Annex A and submit it along with the form.</p> <p>If you have previously supplied the information in Annex A, then move onto the next question – you do not need to submit Annex A with this form.</p> <p>If you are a provider of Public Electronic Communications Services:</p> <p>you MUST complete all relevant questions in Annex A each time you apply for Telephone Numbers and submit it with this form.</p>	<p><i>(For providers of Public Electronic Communications Networks, please ensure you <u>have</u> previously supplied the information requested, before you confirm this – your application may be rejected if this is not the case).</i></p>
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5a. Telephone Numbers required - Access Code(s) for Indirect Access services:

The table below should be used only when applying for Access Codes for Indirect Access services. When completing the table below, you should:

- i) give a 1st, 2nd and 3rd choice for each Access Code required in case the code you have applied for is not available at the time the application is processed;
- ii) select only those codes listed as Type 'B', and which are shown as 'Free' or 'Free for Indirect Access data only', as appropriate, in the 'Status' column, and of the format '1XXXX'; and
- iii) apply for a maximum of 3 Access Codes on this Application Form. A new Form S10 should be completed for further codes for Indirect Access.

		Choice of Access Code (5-digit format ie. 1XXXX)	Is this Access Code to be used in conjunction with the British Telecommunications plc ("BT") Standard Interconnection Service known as Indirect Access?	⁶⁴ State the set-up of the code on the switch – either: Calling Line Identification ('CLI') - 1 stage or Personal Identification Number ('PIN') - 2 stage or Both CLI & PIN	If applying for an Access Code in the range '18600-18629', confirm that the code will be used for data traffic only (NB. codes outside of this range may be subject to Indirect Access call barring by providers of Wholesale Line Rental)	What is the name and the National Signalling Point Code of the switch where the Access Code will be set-up?	Is this your own company's switch, or that of another Public Electronic Communications Network Provider (please state name)?	Planned 'In-Service' Date (applications should not be submitted more than 6 months prior to in-service date)
e.g. 1 st Code	1 st Choice	18629	Yes	CLI	data only	London 1, 12630	Yes, own switch	mid Mar 2009
	2 nd Choice	18627	Yes	CLI	data only	London 1, 12630	Yes, own switch	mid Mar 2009
	3 rd Choice	18621	Yes	CLI	data only	London 1, 12630	Yes, own switch	mid Mar 2009
e.g. 2 nd Code	1 st Choice	14377	Yes	PIN		Leeds 2, 12625	No, J Bloggs Telecom	beg. Apr 2009
	2 nd Choice	16042	Yes	PIN		Leeds 2, 12625	No, J Bloggs Telecom	beg. Apr 2009
	3 rd Choice	18182	Yes	PIN		Leeds 2, 12625	No, J Bloggs Telecom	beg. Apr 2009
1 st Code	1 st Choice							
	2 nd Choice							
	3 rd Choice							
2 nd Code	1 st Choice							
	2 nd Choice							
	3 rd Choice							
3 rd Code	1 st Choice							
	2 nd Choice							
	3 rd Choice							

⁶⁴ Please note that the type of set-up (and whether the code is for data services only), will be shown on the 'Notification of Allocation' from Ofcom. The provider of Public Electronic Communications Network with whom you Interconnect will set-up the code **only** as stated. If you wish to change the type of set-up, you must seek permission from Ofcom and provide a suitable justification. If Ofcom agrees to the change of set-up, a new Notification of Allocation will be issued.

5b. Telephone Numbers required – Access Codes for Directory Enquiry Facilities - 118XXX - Access Code(s):

The table below should be used only when applying for codes for Directory Enquiry Facilities. When completing the table below, you should:

- i) give a 1st, 2nd and 3rd choice for each Access Code required in case the code you have applied for is not available at the time the application is processed;
- ii) select only those codes listed as Type 'B', and which are shown as 'Free' in the 'Status' column, and of the format '118XXX'; and
- iii) apply for a maximum of 3 DQ codes designated for Directory Enquiry Facilities on this Application Form. A new S10 Form should be completed for further 118XXX codes required.

		Choices of 118XXX DQ Code:	Name of sub-allocatee ⁶⁵ providing the Directory Enquiry Facility (where relevant)	Trading Name of Company (if different from Company Name):	Name of Directory Enquiry Facility to be Provided:	⁶⁶ Description of Directory Enquiry Facility to be Provided behind 118XXX Code (must be in accordance with definitions for NDQ and/or IDQ): (eg. Full National in English, IDQ for France in English, etc.)	Confirmation that this service will offer the caller the number requested if available from the database (YES/NO):	Planned 'In-Service' Date (applications should not be submitted more than 6 months prior to in-service date)
e.g. 1 st DQ Code	1 st Choice	118888	Zebra Telecom Ltd	Stripes 'R' Us	Find Friends in France	IDQ English language service providing numbers in Europe.	YES	December 2008
	2 nd Choice	118765						
	3 rd Choice	118567						
1 st DQ Code	1 st Choice							
	2 nd Choice							
	3 rd Choice							
2 nd DQ Code	1 st Choice							
	2 nd Choice							
	3 rd Choice							
3 rd DQ Code	1 st Choice							
	2 nd Choice							
	3 rd Choice							

⁶⁵ If you are applying for 118XXX codes on behalf of a sub-allocatee(s), you MUST enclose a signed, letter-headed serious 'statement of intent' from each sub-allocatee you are representing.

⁶⁶ Description of Directory Enquiry Facility must be sufficiently different from that of any code you have previously been allocated or from any others you are currently applying for – Ofcom will not allocate more than one code for the same type of service for the same provider. Also, the description should be worded in a way that is clear and conforms to either the National or International Directory Enquiry Facility or a combination of both. NB. The description you provide will be published on Ofcom's website – you may wish to ensure that the description does not contain commercially confidential information.

5c. Telephone Numbers required – Access Codes for Harmonised numbers for harmonised services of social nature - 116XXX numbers:

The table below should be used only when applying for 116 numbers.

	116XXX code applied for	Name of Service	Name of organisation(s) who will be providing the service ⁶⁷	Description of service to be provided on 116XXX Code (must be in accordance with the conditions set out in the Numbering Plan) ⁶⁸	Planned 'In-Service' Date (applications should not be submitted more than 6 months prior to in-service date)
Code	116000	Hotline for Missing Children	Missing Children Hotline A and Missing Children Hotline B	24 hours a day, 7 days a week nation-wide support service for those who are affected by a missing child	May 2009
Code					

⁶⁷ When you apply for a 116XXX code you MUST enclose a letter of confirmation from the organisation(s) who will be providing the service.

⁶⁸ You must also attach comprehensive details of the service to be provided, how the service meets the service description, how it meets the conditions attached to the use of the 116 number set out in the Numbering Plan and any other evidence to support the application.

6. Service and Market:

For each of the Access Codes applied for in 5a. above, give a brief description of the type of Public Electronic Communications Service for which the Access Codes will be Adopted, and the market to be served by the service. You do not need to answer this question for any Access Codes applied for in Section 5b or 5c.

7. Adoption of existing Telephone Numbers:

For each type of Access Code applied for above, you should provide details, in the table below, of any other Access Codes that you have been allocated to date where:

for Indirect Access Codes – the set-up is the same; or

for codes designated for Directory Enquiry Facilities – the service and provider is the same

- consistent with its duty in the Communications Act 2003 to secure best use of numbers Ofcom requires a justification for applying for further numbering capacity where there may be non-utilised numbers or a duplication of set-up (Indirect Access Codes) or same service and provider (Directory Enquiry Facilities).

You do not need to answer this question for any Access Codes applied for in Section 5c (116XXX numbers).

Existing Type B Access Codes: (1XX, 1XXX, 1XXXX format) or DQ codes – (118XXX format).	State the set-up of the Code on the switch – either: Personal Identification Number (1 stage) or Calling Line Identification (2 stage) or PIN & CLI (Indirect Access codes ONLY)	Is this Access Code used in conjunction with the BT Standard Interconnection Service known as Indirect Access, or for another service (please state the type of service)? (Indirect Access Codes ONLY)	What is the name and the National Signalling Point Code of the switch where the Access Code is set up? (Indirect Access Codes ONLY)	Is this your own company's switch, or that of another Public Electronic Communications Network Provider (please state name)? (Indirect Access Codes ONLY)
1251	PIN	Yes, Indirect Access	London2, 12680	Yes, own switch
12494	CLI	Yes, Indirect Access	Leeds3, 12627	Yes, own Switch

(You should e-mail this application form to numbering.applications@ofcom.org.uk)

Form S10 - Annex A

A1. Confirmation of Status:

Ofcom generally only Allocates Telephone Numbers to providers of Public Electronic Communications Networks.

Ofcom may also Allocate numbers, where number resource implications do not preclude allocation, to providers of a Public Electronic Communications Service. Ofcom would also normally expect to see that the provider has arrangements in place for its service to be carried over a network, and, where appropriate, would usually expect the provider to have taken reasonable steps to seek a sub-allocation of Telephone Numbers of the type applied for prior to making the application.

Providers of Public Electronic Communications Networks

Please provide details of:

- a) the Electronic Communications Network on which the Telephone Numbers applied for are intended to be Adopted;

(a diagram may be useful to assist Ofcom in assessing your eligibility for Telephone Numbers)

- b) the Electronic Communications Service which you are intending to provide over that network.

Providers of Public Electronic Communications Services

In order to determine whether or not you are a provider of a Public Electronic Communications Service, Ofcom needs certain information from you. Please provide details of:

- c) the Electronic Communications Service which you are intending to provide with the Telephone Numbers applied for. Please also provide details of the network on which the numbers you are applying for will be Adopted.

A2. Applications from providers of Public Electronic Communications Services

If you are applying for Telephone Numbers as a provider of Public Electronic Communications Services, where appropriate Ofcom would usually expect your company to have already taken reasonable steps to obtain a sub-allocation of Telephone Numbers of the type you are applying for from a provider of a Public Electronic Communications Network.

- a) Have you taken steps to obtain a sub-allocation of Telephone Numbers of the type for which you are applying? If not, would you please provide a justification for that; and
- b) If you have taken steps, would you provide a brief explanation of the steps you have taken, and state why did you not obtain a sub-allocation?

A3. Interconnection arrangements

Describe your Interconnection arrangements (or those of the provider of a Public Electronic Communications Network on whose network the Telephone Numbers applied for would be Adopted), if any, with other Communications Providers – a simple network diagram may be useful.

(You should e-mail this application form to numbering.applications@ofcom.org.uk)