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Dear Elizabeth,

Simplifying Non-geographic Numbers

I am pleased to set out in the following TalkTalk Group's brief comments on the above Ofcom consultation.

In general, we retain a degree of scepticism as to whether this fundamental overhaul of the regulatory regime for NTS numbers is really justified on the basis of available evidence of consumer harm. We are not entirely convinced about Ofcom's conclusions that price awareness among consumers for NTS numbers is so poor so as to require the introduction of the unbundled tariff regime. In the interest of imposing regulation only where absolutely necessary, we believe there are other options that Ofcom could and should explore first. For instance there is in principle nothing that would prevent Ofcom from reducing and simplifying the number of NTS price points under the current regime or indeed from imposing more targeted and cleverer transparency requirements at the point of sale or indeed from tackling excessive retail prices. In short, there are less intrusive regulatory options that may well meet many of Ofcom's concerns and so avoid the big and costly changes necessary to implement the unbundled tariff option.

We make the following points in relation to Ofcom's more detailed proposals:

(i) Access charge

In relation to the access charge, we continue to be concerned with Ofcom's proposal that OCPs should be allowed to have only one such charge (per tariff package). The requirement to have only one access charge across 08, 09 and 118 numbers will force the OCP to set retail prices that do not correspond with relatively different consumer demand for these

services. It will make 08 services more expensive than they would otherwise be which arguably will result in suboptimal consumption of these services.

We do not agree that consumer transparency would suffer as a result of having different access charges for 08, 09 and 118 numbers. The envisaged consumer guide will surely improve customer understanding of the fact that 08, 09 and 118 sit in very different charge bands. We believe consumers would actually be very clear on the fact that there are different access charges for the different number ranges. This could also be made clear to consumers as part of the envisaged awareness campaigns that would form part of the introduction of the new pricing regime.

Furthermore, while we welcome Ofcom's proposal that OCPs should be able to charge a minimum call charge, we are concerned that this proposal does not go far enough to accommodate current legitimate industry practice to levy a call connection charge to recover call origination costs for short duration calls. We do not believe it is sufficient or indeed proportionate to limit by way of regulation the minimum call charge to one minute. We do not understand why Ofcom would seek to limit this charge when it does not propose to cap the access charge itself. OCPs should have pricing freedom in relation to both charges to be able to recover efficiently incurred costs in a competitive retail market.

Finally, in relation to billing, we welcome Ofcom's conclusions that it is best to give OCPs the flexibility to decide the best way to present the access and service charges on their customer bills (para 12.36). This minimises the cost impact on OCPs without compromising on the need to maintain the transparency of the specific access charge on the bill.

(ii) Service charge

In relation to the service charge, we see merit in reducing the number of price points to improve customer understanding of charges. It is important though that the transition from the current larger set of charge points is managed carefully whilst taking into account legitimate commercial interests from all stakeholders concerned. Although most traffic will sit on a relatively small number of price points, there are valuable and popular services that are provided on more specific price points.

The migration to a reduced number of price points needs to take into account the impact on customers who currently value those services and make sure they can continue to access them at a reasonable and similar price.

We agree with the need to create and maintain a central service charge database (para 12.63) which can act as a master list for all providers and in particular OCPs who must have certainty as to the accurate service charge for a particular number at any given point in time. We caution against "gold plating" the solution which in essence is just a spreadsheet with 60-100 price points on it. As long as the process for maintaining and updating the database is clear, simple and robust, there is absolutely no need for this to be expensive or cumbersome to implement.

(iii) Access to numbers

We note the discussion on access to numbers and the requirement in GC20 (para 12.74). We do not believe there is any need for additional regulatory intervention in this area. It is worth emphasising that providers have no general commercial interest not to open up number ranges but they do have an interest in making sure that its customers are not exposed to fraud. We do believe there is a lack of appropriate controls when numbers are allocated by Ofcom and that more should be done to ensure that number applicants are vetted before they are allocated numbers. At the moment, OCPs may have very little option but to block access to numbers to stop consumer harm and to tackle fraudulent activities.

(iv) Price increases by OCPs

The consultation document is wholly unsatisfactory in its approach to the specific concerns raised by CPs around the implications of General Condition 9.6. As Ofcom is aware, this provision requires CPs to give customers 30 days' notice of any contractual change that is to the customer's material detriment and also to allow the customer to leave without penalty if they so wish (normally the latter requirement would mean that the customer would not be required to pay any early termination charges). Ofcom merely says (paragraph 12.113) that "we are consulting on an implementation period of 18 months, which should enable OCPs to notify the majority of customers of the potential changes prior to the end of their contracts." This statement misses the point completely in two respects:

1. The concern is that an OCP is being subjected to a regulatory change which may (or even will) force them to raise their retail prices. For instance, if Ofcom insists on requiring a single access charge for all numbers (within a tariff package), it follows quite logically that OCPs may be required to raise their call prices to lower priced numbers, e.g. 08 numbers, in order to maintain their overall retail margin (it is reasonable to expect an OCP not to want to lose out in this regard). On the current wording of GC 9.6, this may well constitute a material detriment change which will affect large proportion of a CP's customer base (because many customers call 08 numbers). It is unreasonable to effectively require CPs to release customers from their minimum term contracts simply as a result of a regulatory change.
2. It is important to note that this is not just a transitional issue. The envisaged regime whereby an OCP would be required to pass through the service charge to their customers means that the OCP will have to increase their retail price every time a particular service charge increases in price. Technically, under the current wording of GC.9.6, such a retail price increase may constitute a material detriment change which would trigger the customer's right to leave without penalty. This is unreasonable. An OCP cannot be held responsible under GC9.6 for pricing decisions by third parties over which the OCP has no control whatsoever.

TalkTalk Group believes that Ofcom must either change the wording of GC9.6 (preferable because it offers complete legal certainty) or at the very least clearly state that it does not expect OCPs to follow GC9.6 in the above circumstances.

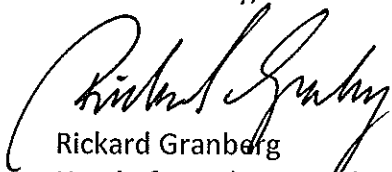
(v) Freephone numbers

We welcome Ofcom's proposal to require all retail providers, including mobile providers, to ensure that calls to freephone numbers are genuinely free. It is an anomaly in the Ofcom numbering convention that allows providers to charge for calls to these numbers and something which undoubtedly has contributed to reducing trust in NTS numbers overall. The question of call origination costs needs to be resolved and we believe Ofcom should be providing very firm guidelines as to what costs and level of costs should be recoverable.

(vi) Regulatory supervision

TalkTalk Group is pleased to note Ofcom's apparent suggestion that there is no need for PhonePayPlus (PPP) to regulate the 08 range. We agree that PPP involvement would be entirely disproportionate here adding a cost-burden on users of these number ranges. The need for PPP involvement should be based on a perceived consumer harm from premium rate or premium rate type services and not simply because it is somehow convenient to give them regulatory supervision powers in this area. It appears to us that Ofcom is also suggesting that 0871 should be removed from the PPP regime, which is sensible since we have always felt that this number range does not require this level of disproportionate regulation.

Yours sincerely,



Rickard Granberg
Head of Regulation and Compliance