



Review of the 070 personal numbering range

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Statement

Publication date: 27 February 2009

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Section 1

Summary

- 1.1 Numbers beginning with 070 have been designated as Personal Numbering Services (PNS)¹.
- 1.2 Historically, Ofcom, and before that, Oftel, have had continuing concerns about abuses of the 070 number range and have sought to tackle the problems through enforcement action and in a number of reviews.
- 1.3 Amongst the recommendations in Ofcom's review of telephone numbering (Safeguarding the future of numbers²) in 2006, Ofcom stated its intention to close the 070 range and migrate users to the 06 range. This was based on a very high level of consumer complaints in late 2005 which arose as a result of significant scamming activity on the 070 range. Since that time, the number of complaints about 070 numbers has fallen and, in particular, since PhonepayPlus has started to take enforcement action in this area. That said, the level of complaints for the range remains high relative to 070 call volumes and scamming activity appears to continue on this range.
- 1.4 We consulted on our proposals on 15 October 2008. We have taken into account responses received as well as updated complaints data in finalising our analysis. This document sets out our conclusions.
- 1.5 Overall, an assessment of the current level of consumer detriment associated with the range together with an assessment of the costs associated with migration leads to the conclusion that closing the range is not, at present, the most suitable option. In particular, it is not clear that current consumer detriment would be reduced significantly by migration of PNS to another number range, as it is likely that price confusion and scamming activity would persist on any new range that PNS is migrated to. Our assessment of the costs associated with migration indicates that these would heavily outweigh any benefits from reduced consumer detriment. Nonetheless, we will monitor the level of detriment associated with these numbers and leave open the option of revisiting the matter, if the situation changes.
- 1.6 We have decided to impose a number of other measures which we consider more appropriate in light of the detriment that currently exists:
 - support and monitor the current enforcement programme being carried out by PhonepayPlus. Since May 2008 PhonepayPlus has made 10 adjudications relating to 070 numbers with fines totalling £625,000 and this activity appears to have had a significant impact on 070 complaints;
 - require originating communications providers to publish their tariffs for calls to 070 numbers more prominently and to make them easier to understand for

¹ The formal definition of these services, as set out in the National Telephone Numbering Plan (the "Numbering Plan") is: "a service based on number translation that enables End-Users to be called or otherwise contacted, using a single Personal Telephone Number, and to receive those calls or other communications at almost any Telephone Number, including Mobile Numbers." Further definitions can be found at <http://www.ofcom.org.uk/telecoms/loi/numbers/numplan170608.pdf>

² <http://www.ofcom.org.uk/consult/condocs/numberingreview/statement/>

consumers, thereby improving the level of pricing transparency associated with 070 numbers; and

- provide new guidance to ensure PNS providers who sub-allocate 070 numbers carry out due diligence of sub-allocatees in order to ensure that sub-allocatees comply with the provisions of General Condition 17 and the National Telephone Numbering Plan.

1.7 In addition, we have removed the requirement for pre-call announcements on this range, which we requested operators to carry out in December 2007, due to the impact on alarm systems and associated risks to life and property.

Section 2

Introduction

Background

- 2.1 Numbers beginning with 070 have been designated as Personal Numbering Services (PNS). The formal definition of such services, as set out in the National Telephone Numbering Plan (the Numbering Plan)³ is: “a service based on number translation that enables End-Users to be called or otherwise contacted, using a single Personal Telephone Number, and to receive those calls or other communications at almost any Telephone Number, including Mobile Numbers.”
- 2.2 The key attributes of a personal numbering service include:
- a single contact number for family, friends and business colleagues;
 - network independence (the owner of a personal number can change their provider without changing telephone number);
 - a follow-me-anywhere service that is easy to use; and
 - ancillary services such as voice mail and messaging services.

Use of the 070 personal number range

End-users

- 2.3 Ofcom carried out an online survey in June 2008 with individuals and companies who use 070 numbers as their contact numbers and received 192 responses from these end-users. Further details of this survey can be found in Annex 5 of our consultation document⁴.
- 2.4 We found that most end-users of 070 numbers are individuals and small businesses, who use the range for a variety of services, such as:
- facilitating rotas for out of hours support by general practitioners/IT support staff;
 - enabling customers to contact staff who are travelling; and
 - allowing users to accept business calls on their mobile only during business hours and diverting calls to other lines (e.g. voicemail) at other times.
- 2.5 We also found that end-users of 070 numbers value several characteristics of services provided by personal numbering, in particular:
- the ability to redirect calls to virtually any other telephone number, whether fixed or mobile;
 - the privacy of having a personal number;

³ The Numbering Plan is the system used for assigning telephone numbers in the UK:

<http://www.ofcom.org.uk/telecoms/ioi/numbers/numplan170608.pdf>

⁴ <http://www.ofcom.org.uk/consult/condocs/070options/>

- the convenience of having only one contact number; and
 - the ability to redirect calls internationally to a local mobile at a lower cost than when roaming overseas.
- 2.6 Further, end-users were asked how important 070 numbers were to their business. 56% of respondents said that 070 numbers were essential, and 94% said that they were either important or essential, suggesting that the majority of businesses who use these services value them highly.
- 2.7 In addition, there are a small number of larger service providers who provide specific services using 070 numbers:
- Hospedia Limited (formerly Patientline) and Premier Telesolutions are two of the largest users of 070 numbers and provide hospital patients with a telephone number in order for friends and family to contact them at their bedside; and
 - Trader Media runs advertising publications such as Auto Trader and Ad Trader and provides 070 numbers to individuals who wish to advertise in their publications. The 070 number allows the advertiser to have a temporary private number which is later returned to Trader Media.
- 2.8 We estimate that the number of 070 numbers in active use, based on information received from end users and PNS providers, to be around 1.25 million⁵. We also estimate that approximately 940,000 are used by businesses and 315,000 by individuals. The average number of lines per business was five which suggests that some 190,000 businesses use personal numbers.

Traffic and revenues⁶

- 2.9 The traffic to 070 numbers compared to other ranges is relatively small. We estimate from data provided by originating communications providers (OCPs)⁷ that 070 traffic will be approximately 98 million minutes for 2008, whereas for 0870 and 0871 numbers, traffic was around 6,900 million minutes for the period April 2006 to March 2007⁸. Most 070 traffic (approximately 55%) is terminated on a fixed network⁹, with approximately 15% on mobiles and 30% on other networks, such as international.
- 2.10 Therefore, in comparison to other number ranges the traffic for 070 is small. In addition, the data supplied by both PNS providers and OCPs show that 070 call traffic and revenues have been declining since the beginning of 2007.

⁵ Numbers in active use refers only to those numbers used regularly. However, a number of PNS providers have pointed out that there are numbers in use, but which are not particularly active, for example those used for alarm systems. As Ofcom is using numbers in active use as a proxy for the number of end-users, these should in principle include those numbers which have little or no activity. However, Ofcom has not been able to ascertain the extent of these types of numbers, and therefore it has estimated the number of end-users based on active use.

⁶ More detailed traffic and revenue data are contained in Annex 1.

⁷ OCPs are communications providers from whose network a call is made (i.e. originated).

⁸ For the 0870 range the total number of minutes between April 2006 and March 2007 was approximately 5,700 million and for 0871 range it was approximately 1,200 million minutes.

⁹ Much of this can be attributed to volumes to one PNS provider, Hospedia.

PNS Providers

- 2.11 PNS providers provide a number translation service that re-directs calls made to an 070 number to a mobile or landline telephone number chosen by the end user. There are 139 PNS providers who have a direct allocation of 070 numbers from Ofcom as of 10 February 2009. PNS providers also sub-allocate numbers to resellers who provide PNS to end-users.

The history of regulating personal numbers

- 2.12 Historically, Ofcom, and before that, Oftel, have had continuing concerns about abuses of the 070 number range and have sought to tackle the problems through enforcement and in a number of reviews.
- 2.13 Oftel recognised in its consultation on *Restoring trust in personal numbers* in 2001¹⁰ that there were extensive abuses of personal numbers, and in particular that they were being used by many providers to deliver Premium Rate Services (PRS), but in a manner that evaded the regulation which applies to PRS. Oftel noted that “the 070 range is at risk of becoming a by-word for scams and pseudo-premium-rate promotions” and attempted to remedy the problems by prohibiting revenue share services on 070.
- 2.14 In January 2004, Ofcom updated guidance originally issued by Oftel on the acceptable use of 070 numbers¹¹. This guidance was intended to provide clarity over the types of services that Ofcom considered appropriate to be provided on the range, and reiterated the responsibility of communications providers when sub-allocating numbers to other persons.
- 2.15 In the second half of 2005, there was a significant rise in 070 complaints to Ofcom. It suggested that the ban on revenue share introduced in 2001 was not sufficient to prevent abuse on the 070 range.
- 2.16 In 2006, Ofcom carried out a review of telephone numbering (*Safeguarding the future of numbers*)¹² which examined the structure of the Numbering Plan. Part of this review involved the introduction of a pre-call announcement (PCA) to callers of 070 numbers (where calls exceeded 20 pence per minute (ppm)) in order to address the continued abuse arising on 070 numbers¹³. The review also set out Ofcom's intention to close the 070 range in the future and migrate users to the 06 range.
- 2.17 Following the introduction of PCAs in September, Ofcom received a number of complaints about them. In particular, there were certain automated calling services provided on the 070 range designed to protect human life or property, which PCAs caused to fail because they introduced a dialling delay.
- 2.18 Given the risk of such services not working as a result of PCAs, Ofcom decided to withdraw the requirement for PCAs on 070 numbers in December 2007¹⁴. Ofcom

¹⁰ <http://www.ofcom.org.uk/static/archive/oftel/publications/numbering/pers1001.htm>

¹¹ http://www.ofcom.org.uk/telecoms/ioi/numbers/num_070_guide

¹² <http://www.ofcom.org.uk/consult/condocs/numberingreview/>

¹³ <http://www.ofcom.org.uk/consult/condocs/numbering03/statement/gc17statement.pdf>;

<http://www.ofcom.org.uk/consult/condocs/numbering03/>

¹⁴ <http://www.ofcom.org.uk/consult/condocs/numbering03/070precall/>

indicated that it would undertake a consultation to confirm this decision, and amend General Condition¹⁵ 17 and the designation of 070 numbers in the Numbering Plan.

Ofcom's duties, including duties in relation to telephone numbering functions

- 2.19 Ofcom has a general duty under the Communications Act 2003 (the Act), in carrying out its numbering functions, to ensure that the best use is made of numbers and to encourage efficiency and innovation for that purpose.
- 2.20 As part of the fulfilment of this general duty and its duties under section 3 of the Act, including its principal duty, it is Ofcom's responsibility to secure the availability throughout the UK of a wide range of numbering arrangements, having regard to the interests of consumers in respect of choice, price awareness, and consumer protection.
- 2.21 Ofcom therefore has a general policy to ensure trust in telephone numbers and to protect consumers from scamming and the misuse of these numbers.

Why are we conducting this review?

- 2.22 Our review of telephone numbering in 2006 set out Ofcom's stated intention to close the 070 range and migrate users to the 06 range. This was based on a very high level of complaints in late 2005 that arose as a result of significant scamming activity on the range. Since that time, the number of complaints about 070 numbers has fallen and, in particular, since PhonepayPlus has started to take enforcement action in this area. That said, the level of complaints for the range remains high relative to 070 call volumes and scamming activity appears to continue on this range.
- 2.23 Before committing to any regulatory intervention such as closing the 070 range, we must, amongst other things, carry out a full assessment of the costs and benefits involved, based on the most up to date evidence. In addition, we need to consider whether there are more appropriate measures to address the current consumer detriment.

The consultation

- 2.24 We consulted on our proposals on 15 October 2008 and the consultation closed on 7 January 2009.
- 2.25 In our consultation, we examined the level of consumer detriment that exists on the 070 number range. Our analysis suggested that there remained consumer detriment in the market for personal numbers, although the overall size of the detriment was likely to be small. Evidence to support this conclusion came from several sources, including market research, which showed that despite the opacity of 070 prices, consumers were able to predict, relatively accurately, the average cost of an 070 call. In addition, data showing a fall in artificially inflated traffic (AIT)¹⁶ and complaints to both Ofcom and PhonepayPlus signalled that the number of scams on the 070 range was declining.

¹⁵ The General Conditions of Entitlement ("General Conditions" or "GCs"), which CPs are obliged to comply with.

¹⁶ Artificially Inflated Traffic (AIT) means that traffic where the flow of calls to any particular service is, as a result of any activity on or on behalf of the party operating that service, disproportionate to the flow of calls which would be expected from good faith commercial practice and usage of the network.

- 2.26 We calculated the costs associated with closing the 070 number range and migrating users to another range. Section 62(3) of the Act states that an allocation must not be withdrawn if the reorganisation fails to provide for withdrawn allocations to be replaced by allocations of telephone numbers so nearly resembling those numbers withdrawn in terms of purpose. Therefore, Ofcom must provide a migration path for users where a number range is withdrawn (i.e. closed).
- 2.27 Overall, an assessment of the current level of consumer detriment associated with the range, together with an assessment of the costs associated with migration, indicated that closing the range was not the most suitable option. However, in order to address the consumer detriment identified, we proposed a number of measures to address both price transparency and the abuse of the 070 number range through scamming.
- 2.28 To address the issue of scamming, we proposed to keep the 070 number range open and monitor the market in light of PhonepayPlus enforcement action. We also proposed, via amendments to our guidance on the acceptable use of 070 numbers, to provide new guidance in relation to compliance with GC17 to ensure that PNS providers who sub-allocate 070 numbers carry out due diligence of sub-allocatees of personal numbers.
- 2.29 To improve pricing transparency, we proposed, via amendments to General Condition 14 (GC14), to require originating communications providers to publish their tariffs for calls to 070 numbers more prominently and to make them easier to understand for consumers.
- 2.30 We also proposed, via amendments to GC17 and the Numbering Plan, to remove formally the requirement for pre-call announcements on 070 numbers.
- 2.31 For full details of our proposals and our detailed analysis, please see our consultation document at <http://www.ofcom.org.uk/consult/condocs/070options/>. Our updated assessment of consumer detriment and cost-benefit analysis of migration can be found in Annex 1 of this document.

Structure of this document

- 2.32 The remainder of this document is set out as follows:
- Section 3 sets out the responses we received to the consultation and our comments;
 - Section 4 sets out our conclusions;
 - Section 5 discusses conservation measures for 070 numbers in order to ensure that there is sufficient capacity;
 - Annex 1 sets out our assessment of consumer detriment and cost-benefit analysis of migration;
 - Annex 2 lists the non-confidential responses to our consultation;
 - Annex 3 sets out the legal basis for changing the Numbering Plan and the General Conditions;

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- Annexes 4, 5 and 6 contain the notifications of modifications to the Numbering Plan and General Conditions; and
- Annex 7 contains updated guidance on the acceptable use of 070 numbers.

Section 3

Responses to the consultation and Ofcom's comments

The consultation

- 3.1 Ofcom received 168 responses to the consultation, including those from OCPs, PNS providers, service providers, industry groups and organisations, end-users of personal numbers and consumers. A list of respondents who submitted non-confidential responses can be found in Annex 2.
- 3.2 OCPs responding to the consultation included BT, Cable&Wireless (C&W) and Scottish & Southern Energy (SSE).
- 3.3 PNS and service providers included KCOM, FleXtel, Invomo, Hospedia and j2 Global Communications. Industry groups who responded included the Mobile Broadband Group (MBG), the Premium Rate Association (PRA), the Telecommunications UK Fraud Forum (TUFF), and the Association of Interactive Media and Entertainment (AIME).
- 3.4 The remaining 156 responses came from users of personal numbers and consumers.
- 3.5 This section summarises the key issues raised in responses and provides Ofcom's response to these. Responses not marked as confidential can be viewed on our website¹⁷.

Responses to the consultation and Ofcom's comments

Analysis of consumer detriment

Comments made by industry and industry bodies

- 3.6 Most respondents broadly agreed with our assessment of consumer detriment.
- 3.7 Two respondents, MBG and C&W, considered that our estimate of consumer detriment was low. In particular, MBG believed that Ofcom had underestimated the detriment arising from "one-ring" scams, where consumers call back missed calls. MBG suggested that we obtain revenue figures for scams investigated by PhonepayPlus to get a better picture of how prolific scams are.

Comments made by consumers and end-users of personal numbers

- 3.8 Amongst consumers and end-users, 108 respondents agreed with our analysis and 30 disagreed. 16 respondents did not comment.

Ofcom response

- 3.9 Following MBG's suggestion, we asked PhonepayPlus for revenue generated by 070 cases they investigated involving scams. Of the twelve cases investigated, which

¹⁷ <http://www.ofcom.org.uk/consult/condocs/070options/>

took place between October 2006 and December 2008, they were able to estimate revenue for ten of those cases, totalling £[3<]. We note that this will be an underestimate of the true cost of scams as it only includes those that have been subject to investigation.

- 3.10 This figure is less than the value of AIT obtained in our consultation document¹⁸ (£3.75 million between January 2006 and June 2008). We therefore do not believe that it is necessary to alter our analysis of consumer detriment in light of this additional evidence.

Confusion between mobile and 070 numbers

Comments made by industry and industry bodies

- 3.11 MBG raised a point regarding the instinctive reaction consumers make to missed calls. MBG claimed that missed calls to mobiles (and email solicitations) prompt consumers to call back the unknown number instinctively, especially 070 numbers which are less understood by consumers than other ranges, citing three adjudications by PhonepayPlus¹⁹.
- 3.12 C&W did not agree with our conclusion regarding lack of confusion between 070 and the mobile ranges, believing that the structure of a question in our market research was biased. It suggested that there is a complete lack of awareness of the number range and confusion between 070 personal numbers and mobiles is significantly greater than we anticipate, citing PhonepayPlus's recent investigation of Jack Barnard Telecom Services²⁰ as evidence that consumers do not recognise numbers beyond the first two digits.

Comments made by consumers and end-users of personal numbers

- 3.13 One respondent suggested that Ofcom had underestimated the level of consumer confusion between mobile and 070 numbers.

Ofcom response

- 3.14 We agree that the instinctive reaction to dial back missed calls is a significant part of how missed call scams operate. However, our view is that such a reaction would materialise for any number that appeared as a missed call, not just for 070 numbers.
- 3.15 PhonepayPlus's adjudication of 14 August 2008 against Jack Barnard Telecom Services Ltd concerned calls where an urgent sounding message was left, which misled callers into calling the number back. C&W considered that this case demonstrates that in practice consumers do not identify numbers beyond the first two digits. However, we cannot find any specific reference to such a conclusion in the adjudication.
- 3.16 In addition, the other PhonepayPlus adjudications cited by MBG do not specifically consider whether it is the fact that an 070 number is left that makes it more likely that the number is called back. Moreover, the adjudications make no reference to

¹⁸ paragraphs A6.69-A6.72

¹⁹ <http://www.phonepayplus.org.uk/business/adjudications/search.asp?cmd=3&id=776>;
<http://www.phonepayplus.org.uk/business/adjudications/search.asp?cmd=3&id=795>;

<http://www.phonepayplus.org.uk/business/adjudications/search.asp?cmd=3&id=789>
²⁰ <http://www.phonepayplus.org.uk/business/adjudications/search.asp?cmd=3&id=776>

whether the scams were only able to mislead because of confusion between 070 and mobile numbers.

- 3.17 Our research carried out in July 2008 was designed to understand whether consumers would call back certain numbers that appeared as missed calls. When asking the question, we attempted to reduce bias by replicating scenarios as close as possible to real life. This was done by showing a series of screenshots of a missed call on a mobile phone from different fictitious numbers that varied by number range and asking whether the respondent would call that number back if it had appeared on their own mobile. The order of the numbers was also randomised for each respondent to reduce bias that might occur due to the order they were presented.
- 3.18 The results of this survey showed that 21% of respondents would ring back a mobile number, 10% an 070 number, 10% an 09 number, 27% an 0845 number and 19% an 0870 number (with the percentages being much higher for emails).
- 3.19 This data, along with the PhonepayPlus adjudications, suggest that scamming is occurring because some consumers are willing to call back unknown numbers instinctively, regardless of number range.
- 3.20 In our view, it is this instinctive reaction rather than the specific confusion between 070 and mobile numbers that causes the scams to work. Therefore, we consider that it is likely that missed call scamming could occur on any range, including any that personal numbering would be migrated to.

Closing the 070 number range and migrating users

Comments made by industry and industry bodies

- 3.21 Most respondents agreed with our conclusion that it is not proportionate to close the 070 number range.
- 3.22 TUFF and PRA agreed that the case for forced number migrations is hard to justify, although they argued that the case for closing the 070 number range remains strong. BT was sympathetic to Ofcom providing the PNS industry with one last chance to eliminate residual problems.
- 3.23 BT and TUFF suggested that Ofcom should close the 070 range to all new applications as other ranges are available (03, 08, 09) that could be used instead.
- 3.24 PRA suggested that the 060 range be opened for new commercial services, whilst retaining the 070 range for traditional personal numbers.
- 3.25 C&W believed that opening a new range would be the best option despite the potentially costly and unpopular nature of such a move and suggested this as an option should pricing transparency and enforcement measures fail. Further, it was concerned about our assertion that 070 services could not be migrated to the 08 ranges due to lack of international access. It stated that legitimate services in the 0870 range were effectively forced out despite similar issues and wondered why 070 would be treated differently.

Comments made by consumers and end-users of personal numbers

- 3.26 116 respondents agreed and 18 disagreed. 20 respondents did not comment.

Ofcom response

- 3.27 In response to BT and TUFF's suggestion that we might close the range to new applications, under section 63(2) of the Act, Ofcom cannot discriminate against communications providers in relation to the adoption of telephone numbers. Ofcom therefore will only close a number range to new applications if a decision has been taken to close a number range to all users.
- 3.28 In addition, given the low utilisation rate of the 070 range, end-users would still be able to obtain numbers from range holders who already have an allocation of 070 numbers. Therefore, such a restriction would not necessarily reduce the level of consumer detriment remaining on the range significantly due the availability of alternative sources of 070 numbers.
- 3.29 We believe that opening up a new PNS range for commercial services, as suggested by the PRA, runs the risk of causing additional confusion to consumers and is unlikely to eliminate scams or opacity of pricing.
- 3.30 In response to C&W's comment, the lack of international access to 08 numbers is only one of a number of considerations for migration to the 08 range. The 08 number range may not be suitable for PNS services in that wholesale rates would not allow for mobile termination on all networks. We consider the ability to terminate on a mobile network to be a key feature of PNS.
- 3.31 In relation to whether closing the 070 number range remains an option in the future, Ofcom will continue to monitor the market for PNS and if consumer detriment rises sufficiently to suggest that pricing transparency and enforcement measures are ineffective, we will revisit our decision not to close the range.

Enforcement action by PhonepayPlus

Comments made by industry and industry bodies

- 3.32 Most industry participants believed the 070 range should be kept open and Ofcom should continue to monitor the market.
- 3.33 A number of respondents believed that Ofcom is right to support PhonepayPlus' efforts in relation to 070. In particular, Hospedia noted that the lower incidence of AIT more recently may be reflective of effective enforcement and monitoring.
- 3.34 However, some respondents expressed concerns over PhonepayPlus' enforcement actions. In particular, PRA and FleXtel questioned the suitability and legal basis for PhonepayPlus to enforce in this area.
- 3.35 A number of respondents questioned how PhonepayPlus action will be funded, and whether PRS providers are effectively subsidising investigations into the abuse of PNS.

Comments made by consumers and end-users of personal numbers

- 3.36 125 respondents agreed and 11 disagreed. 18 respondents did not comment.
- 3.37 Respondents commented that illegitimate users should be removed more quickly to limit the number of users who are caught in scams.

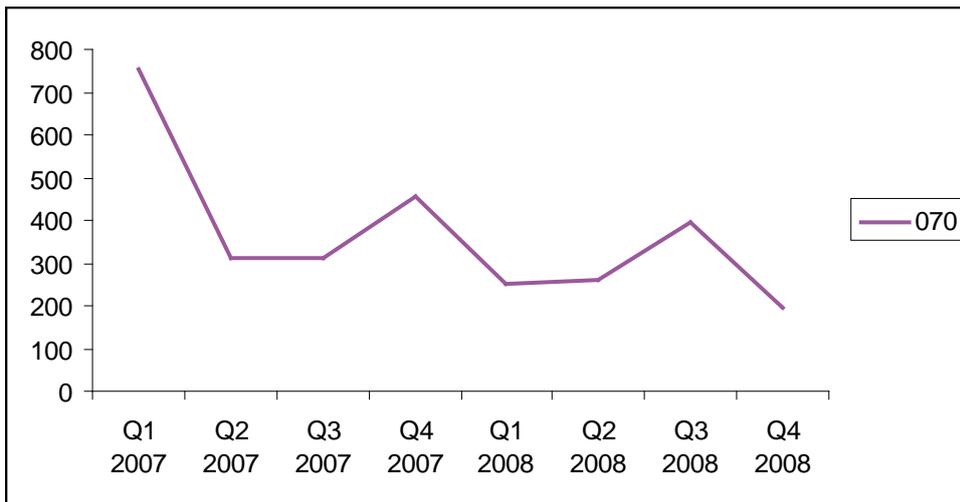
3.38 Respondents also commented that the scope of PhonepayPlus’s enforcement was too limited. In particular, they were concerned about the use of 070 numbers in advanced-fee frauds (also known as Nigerian 419 scams) where the target is persuaded to advance sums of money in the hope of receiving a larger gain. An 070 number is often used as a means of contacting the fraudster as these calls can be terminated internationally.

Ofcom response

3.39 Since December 2006, PhonepayPlus has carried out a number of investigations into scamming activity on the 070 number range. In particular since May 2008, PhonepayPlus has made adjudications on ten cases, with fines totalling £625,000, including two major fines of £200,000 and £250,000.

3.40 Since PhonepayPlus began its 070 enforcement action, there has been a notable decrease in the number of complaints arising from scams (see figure 3.1) suggesting that the programme of enforcement action is having a deterrent effect. Early indicative figures also show that there has been a substantial decrease in AIT being raised for the whole of 2008 compared to 2007.

Figure 3.1: Complaints made to Ofcom and PhonepayPlus



Source: Ofcom and PhonepayPlus

3.41 Ofcom notes that collective enforcement is essential to ensure that number ranges are not abused. We consider that PhonepayPlus is well-suited to taking action in this area because of its experience in carrying out investigations into premium rate scams, and its powers to invoke emergency procedure investigations to stop alleged misuse immediately, enabling a quick response to alleged abuse.

3.42 We wish to clarify that Ofcom will continue to monitor the market to assess the level of abuse on the range. Subject to its normal procedures, Ofcom will consider enforcement action in relation to 070 numbers where appropriate.

3.43 In relation to the queries on the legal basis for PhonepayPlus enforcement and the funding of PhonepayPlus action on 070, PhonepayPlus is better placed to provide clarification of these issues.

3.44 In relation to advanced-fee fraud, Ofcom is not able to investigate cases beyond alleged abuses of numbering. However, Ofcom will consider on a case-by-case

basis whether to refer such cases to other authorities (such as the City of London Police) who are better placed to handle.

Providing greater prominence for 070 tariffs in price lists

Comments from industry and industry bodies

- 3.45 Most respondents agreed that OCPs should provide customers with more accurate calling cost information for 070 numbers, at the very least, to the same level as that required for 08 or 09 numbers.
- 3.46 SSE disagreed with our proposals and believed that they were onerous. In particular, it believed that the detriment associated with lack of pricing transparency for calls to 070 from fixed lines had not been demonstrated.
- 3.47 One respondent stated that the proposed amendments to the General Conditions were not specific enough and without further guidance on what level of prominence is required for compliance, had the potential to be interpreted in a number of ways by OCPs. It suggested that Ofcom give a clearer set of guidelines/examples for OCPs to follow.
- 3.48 FleXtel suggested that in many cases OCP price lists are not compliant.
- 3.49 MBG believed that giving greater prominence to 070 would be disproportionate to the volume of calls made to 070 compared to other ranges and could affect pricing transparency on other ranges (e.g. 08xx). MBG also believed that Ofcom should assess the effectiveness of the existing GC14.2 before extending its scope.
- 3.50 PRA and TUFF suggested that where 070 was used for commercial purposes, that call costs be included in promotional material. However, where 070 is used by a personal user like a mobile, the PRA believed that it would be appropriate to follow the same principles as for the publication of mobile numbers.

Comments made by consumers and end-users of personal numbers

- 3.51 125 respondents agreed with our proposals and 12 disagreed. 19 individuals did not comment.
- 3.52 Respondents' comments noted the confusing rates being applied to 070 and argued for clearer pricing as callers find it difficult to find out the exact price of a call. Some respondents also suggested that end-users of personal numbers should include call charges on stationery or other places where their number is advertised, and possibly inform customers of the distinction between PNS and mobile numbers.

Ofcom response

- 3.53 The proposals for more prominent tariff publications were designed to mirror those that were consulted upon for 0870 numbers²¹.
- 3.54 In relation to not demonstrating detriment from fixed lines, we have identified this in our analysis and our research suggests that some callers from a fixed line are unable to estimate accurately the price of an 070 call. We therefore believe that there is the need for clearer pricing transparency for fixed line calls to 070.

²¹ <http://www.ofcom.org.uk/consult/condocs/0870calls/>

- 3.55 The onus is on OCPs to ensure that clear information on the pricing of 070 calls is made available to consumers when they sign up for a service package and before they make 070 calls. On price lists, charges for 070 calls must be given the same prominence as charges for calls to geographic numbers. On promotional material, where charges for calls to geographic numbers are quoted, maximum charges for calls to 070 numbers should also be given. Where prices for call packages are shown, it should be clearly stated whether 070 calls are included in the package.
- 3.56 We accept that GC14 currently allows OCPs some discretion in the way the requirements can be applied and believe that most OCPs welcome this discretion when implementing the requirements of GC14.
- 3.57 With regard to OCP compliance, Ofcom has recently carried out enforcement action in relation to compliance with General Conditions 14.2 and 10 for PRS and NTS calls²². Where appropriate, Ofcom will carry out further compliance action where requirements are not met.
- 3.58 We accept that detailing a number of tariffs might reduce the prominence of other number ranges. However, we are of the view that doing this for 070 can be easily implemented alongside other NTS numbers without significantly diluting the effect.
- 3.59 We agree that the effectiveness of GC14.2 should be assessed and an appropriate time for this might be when we review the GCs.
- 3.60 In relation to the suggestion that 070 call costs should be advertised where used for commercial purposes and included in advertising and stationery, we would welcome such initiatives from end-users where they are able to, in particular advertising typical/maximum call costs.

Requirements for PNS providers to carry out due diligence on sub-allocatees

Comments from industry and industry bodies

- 3.61 In general, respondents agreed with our proposal to introduce due diligence requirements, although there was some confusion about what would be required.
- 3.62 A number of respondents considered due diligence to be standard commercial practice. AIME asked for guidance in situations where there are back-to-back contractual clauses.
- 3.63 BT, TUFF and MBG thought that it would be appropriate for PNS providers to apply the new Consumer Protection Test (CPT)²³. KCOM and MBG requested further guidance over how this would work in practice. BT and TUFF believed that where there is no evidence that numbers have been abused by particular PNS providers or end users, retrospectively applying the CPT to existing users would not be proportionate. However, BT and TUFF suggested exceptions to this where AIT retention has been proposed recently (BT suggested in the last 24 months; TUFF suggested in the last 18 months).
- 3.64 FleXtel did not agree with the threshold for due diligence, stating that the exemption from due diligence for those resellers with 50 or fewer lines would be ineffective. Instead FleXtel suggested that due diligence should only be required prior to the

²² http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_compcases/cw_980/

²³ <http://www.ofcom.org.uk/telecoms/ioi/numbers/cpt/>

release of any payment due for revenue share. This would apply the “follow the money” principle successfully used by criminal investigatory agencies (e.g. the Serious Organised Crime Agency (SOCA)²⁴).

- 3.65 FleXtel was also concerned about the administrative burden of carrying out due diligence on overseas customers.

Comments made by consumers and end-users of personal numbers

- 3.66 75 respondents agreed and 18 disagreed. 63 respondents did not comment.
- 3.67 A number of respondents (32) were concerned over the burden of the checks required and suggested that they should only be carried out where necessary and justifiable. In particular, some respondents were concerned about how due diligence would be carried out on overseas customers.

Ofcom response

- 3.68 Condition 17.8 of the General Conditions states that:

“The Communications Provider shall take all reasonably practicable steps to ensure that its Customers, in using Telephone Numbers, comply with the provisions of this Condition, where applicable, and the provisions of the National Telephone Numbering Plan.”

- 3.69 Therefore, allocatees of numbers retain some responsibility under the General Conditions for the numbers they sub-allocate.
- 3.70 The amendments to the 070 guidance on due diligence aim to ensure compliance with GC17 and are separate from the Consumer Protection Test (CPT) guidelines published by Ofcom on 30 September 2008. The amendments set out that 070 allocatees are expected to collect and maintain relevant information on all persons they sub-allocate to, satisfy themselves that the information is accurate and bring the Numbering Plan and GC17 to the attention of those they sub-allocate to. These amendments should complement those set out in the CPT that are designed to ensure that numbers are not allocated to those companies or individuals that cause serious or repeated harm to consumers. It would be appropriate that in carrying out due diligence to ensure compliance with GC17, PNS providers should give due regard to the under assessment and number refusal lists on our website.
- 3.71 In relation to PhonepayPlus’s notice to industry on 19 December 2008, the due diligence set out in the 070 guidance applies in all instances where numbers are sub-allocated, subject to the threshold discussed below. The notice published by PhonepayPlus makes clear that they only require due diligence to be carried out in relation to PRS on 070. Given that the requirements in the 070 guidance closely follow those in the PhonepayPlus Code of Practice, in most cases, if PNS providers are complying with the 070 guidance, then they should also comply with the PhonepayPlus Code of Practice.
- 3.72 For back-to-back agreements, range holders should highlight the due diligence requirements to resellers to ensure that resellers undertake due diligence when contracting with a third party. This may go towards ensuring that the range holder has taken all reasonably practicable steps to comply with GC17.8.

²⁴ <http://www.soca.gov.uk/>

- 3.73 In the consultation, we originally proposed a threshold where due diligence was not required where sub-allocatees had fewer than fifty 070 numbers. The intention of this threshold was to reduce the administrative burden on PNS providers and not capture end-users. However, we have given significant consideration to the suggestion that the threshold should relate to whether or not revenue is passed on. We believe that this alternative approach is consistent with the original intention of the threshold proposed in the consultation and we recognise that it is more effective in terms of ensuring that due diligence is carried out in appropriate circumstances. In addition, it does not alter in any significant way when due diligence should be carried out by range holders. Therefore, for these reasons, we consider that the threshold should relate to revenue and the guidance now makes that clear.
- 3.74 In relation to the application of the due diligence guidance to existing sub-allocatees, having taken into account responses, we propose to extend the period from 12 months to 18 months for range holders to carry out the relevant due diligence on existing customers (i.e. to 28 August 2010). Given that some PNS providers state that they already carry out due diligence as a matter of course, we do not believe that the requirement to carry out due diligence on existing allocatees is disproportionate.
- 3.75 In relation to overseas customers, we accept in some cases that it would be difficult to verify information provided by them. In these cases, we would suggest PNS providers collect the necessary information and verify the information to the best of their ability.

Barring presentation of CLIs for 070 numbers

Comments from industry and industry bodies

- 3.76 Most respondents believed that there was no merit in barring CLI presentation in that the negative impact on legitimate users of restricting CLI presentation would far outweigh any consumer protection benefits.
- 3.77 From a technical point of view, one respondent mentioned that their network is unable to support a blanket ban. BT believed that the prevention of CLI presentation using technical measures is not proportionate on cost grounds.
- 3.78 However two respondents, BT and TUFF believed that CLI presentation of 070 could be barred through a prohibition in the CLI guidelines. TUFF pointed out that the scams relied on CLI presentation to work. BT and TUFF suggested Ofcom could explore the option of prohibiting CLI by regulation.

Comments made by consumers and end-users of personal numbers

- 3.79 97 respondents agreed that CLI barring was not appropriate and 8 disagreed. 47 respondents did not comment. Most respondents stressed the importance of CLI in general and that there are other more effective and generic methods of dealing with scams.

Ofcom response

- 3.80 Based on responses from stakeholders, CLI presentation appears to have significant benefits, both for the calling and the called parties.
- 3.81 BT and TUFF's response that a prohibition on CLI presentation may be feasible is not consistent with the technical challenges of implementing a ban. As set out in the

consultation document and confirmed by other respondents, there are potential ways to circumvent such a ban that would make barring 070 CLI presentation ineffective.

- 3.82 We therefore continue to believe that such a ban would not lead to benefits from reduced scamming, but would instead prevent benefits derived from current legitimate and innovative uses of CLI presentation on the range.

Removal of the requirement for pre-call announcements (PCAs)

Comments from industry and industry bodies

- 3.83 Most respondents agreed with the withdrawal of the requirement for pre-call announcements, citing the risk to human life as well as the current limitations of the information provided in that it did not provide clear tariff information.

Comments made by consumers and end-users of personal numbers

- 3.84 107 respondents agreed and 17 disagreed.

Ofcom comments

- 3.85 We continue to believe that pre-call announcements are no longer appropriate on the 070 number range.

Other comments

- 3.86 Several respondents provided comments on aspects of the charging structure associated with personal numbers. Both OCPs and PNS providers commented that the revenue retained for 070 calls by the other party was unreasonably high. Whilst OCPs argued that termination rates were high compared with other number ranges, PNS providers argued that charges retained for originating calls were significantly high for some originators. C&W also questioned Ofcom's assertion that a market review would be required in order to implement a price ceiling on the 070 range.
- 3.87 In addition, several communication providers and TUFF suggested that there should be a specific prohibition on single drop charges (other than for a small call set-up fee).
- 3.88 BT and TUFF questioned whether it was appropriate for the caller effectively to subsidise the called party's chosen method of receiving a call.
- 3.89 BT also suggested that once number blocks have been allocated at a particular rate, there should be a prohibition on those being changed to a higher rate.
- 3.90 BT and TUFF suggested that there should be a specific prohibition on ringing tones being applied by the destination end user.
- 3.91 MBG would like Ofcom to consider a requirement for TCPs to "withhold" funds from SPs for 30 days. This measure is already in place for calls to PRS and is designed to allow time for any potential abuses to be raised for investigation before payments are made to the SP.

Ofcom comments

- 3.92 Ofcom notes the points made about charges on the 070 number range. However, Ofcom is only permitted to regulate the wholesale prices of operators where they have been designated with significant market power (SMP). As Ofcom has not defined the market(s) for the termination of calls to 070 numbers, Ofcom is not able to regulate these charges and, as stated in the consultation document, we do not believe that it would be proportionate to carry out a review in these circumstances.
- 3.93 In relation to the origination of calls, subject to an assessment of whether there has been a material change in the market, Ofcom is able to set prices for BT as it has found BT to have SMP in the origination market. However, this may be something that we consider in more detail if we need to reconsider our policy in relation to 070 calls in the future.
- 3.94 Specifically in relation to single drop charges, we note the potential opportunity for abuse by using such a charging structure. Currently, however, we understand that such charges are not generally offered by OCPs, although in the case of some price bands (particularly pn7 or personal number 7), some OCPs instead offer a large connection charge with a small per minute charge. It is not clear to Ofcom why any appropriate use of personal numbering would require such a charging structure and we understand that currently several large OCPs, including BT and many mobile operators, do not offer such charging structures for 070.
- 3.95 In relation to preventing PNS providers from charging higher rates once they have been allocated a price band for a number range, we believe that this would lead to an inefficient use of numbers, as it is unclear how this would address the consumer detriment identified.
- 3.96 On specifically prohibiting ringing tones on 070, we believe that as there may be genuine needs for ringing tones to be applied, for example in the case of connecting a forwarded call, this would not be appropriate.
- 3.97 We note the point raised on withholding payments and believe that there may be benefits associated with this. If we believe from our monitoring that scams are not reduced as a result of PhonepayPlus action, we may consider whether it is appropriate to implement this at a later date.

Services provided by, for example, Hospedia, Premier Telesolutions and Trader Media on the 070 range

- 3.98 We asked a general question relating to the provision of services provided by Hospedia, Premier Telesolutions and Trader Media on the 070 range, as some stakeholders had previously suggested that these services may not align perfectly with the original concept of “follow-me” personal numbering services.

Comments from industry and industry bodies

- 3.99 Those respondents who believed that the services should remain on the range in general argued that these were legitimate uses that fall within the concept of “follow-me” services for which personal numbers were designed. In addition, they argued that migration would be a disproportionate response as there would be few benefits derived from the migration of these services, relative to the large costs associated with migration.

- 3.100 FleXtel argued that these services are examples of PRS and therefore should be migrated to 09.

Comments made by consumers and end-users of personal numbers

- 3.101 82 respondents believed that these services should be migrated off 070 numbers and only 11 disagreed. A sizeable number of respondents (61), however, did not have strong views on the matter or did not comment.
- 3.102 46 respondents commented that such services are PRS which should be migrated to the 09 range, mainly citing that these differ from other 070 services. Many believed 070 should be for "small business and personal use" and that it is inappropriate for personal "follow-me" numbers to be used for "non-personal communications".

Ofcom response

- 3.103 Although a number of respondents expressed concerns about these services remaining on the 070 number range, there was no evidence presented about detriment arising as a result of this use. Ofcom does not consider that there is currently sufficient detriment arising from the use of 070 by Hospedia, Premier Telesolutions and Trader Media to conduct an in-depth analysis of whether these services should be removed from the 070 range. However, we will continue to monitor the use of 070 by these types of services and should there appear to be consumer detriment arising in the future, we will examine this issue again.
- 3.104 We note the PRA's comments about the publication of call tariffs for commercial services and encourage these particular types of service providers to publish call prices to 070 numbers as prominently as they can.

Section 4

Conclusions

Closing the 070 number range and migrating users to an alternative ranges

- 4.1 Section 62(3) of the Act states that a numbering allocation cannot be withdrawn without replacement by allocations as similar as possible to the original allocation. Therefore, Ofcom has a duty to provide a migration path for legitimate users where a number range has been withdrawn, i.e., where a number range is closed.
- 4.2 We identified various ranges to which current 070 users could migrate. In particular, we have considered opening new ranges, such as 06, and migrating users to existing number ranges, such as 08 or 09. Our consideration of these ranges is contained in Annex 1.

Cost-benefit analysis of migration

- 4.3 We have carried out a cost-benefit analysis for migration to another number range and have estimated the costs of migration for PNS providers/resellers, end-users and OCPs. Given the difficulties with assessing these costs, we have taken a fairly conservative approach to evaluating costs. Further, the majority of the costs for PNS providers, end-users and Ofcom are one-off rather than recurring.

Costs associated with migration

- 4.4 There are a number of types of costs that apply regardless of which number range a user might migrate to, although certain costs such as system changes may vary depending on the number range.
- 4.5 The costs to PNS providers and resellers associated with migration include: costs associated with notifying end-users; costs associated with re-drafting contracts with end-users; costs associated with changing switches and billing systems; and costs of renegotiations of wholesale termination rates with OCPs. We estimate migration costs for PNS providers to be around £10 million. The majority of these costs are associated with changes to switches and billing systems and are thus one-off costs.
- 4.6 Since our consultation, the number of PNS providers has reduced from 141 to 139. This has not materially affected the costs presented in our consultation document.
- 4.7 The costs to end-users include: stationery costs; costs associated with website changes; costs associated with changes to telecoms equipment; marketing costs and loss of business²⁵. As discussed in Ofcom's previous reviews of NTS²⁶, these costs are very difficult to estimate. However, we have attempted to estimate the cost of stationery based on a similar model as that used for Ofcom's review of *Extending Premium Rate Services Regulation to 087 Numbers* in May 2008²⁷ and February 2009²⁸. As such, we estimate that stationery costs alone could be in the region of £22 million. However, given that the types of businesses using 070 numbers would vary and so would their need to update stationery, we need to be cautious with any

²⁵ See paragraph A1.124.

²⁶ <http://www.ofcom.org.uk/telecoms/ioi/nwbnd/ntsindex/>

²⁷ <http://www.ofcom.org.uk/consult/condocs/087prs/prscondoc.pdf>

²⁸ <http://www.ofcom.org.uk/consult/condocs/087prs/087statement/>

estimate used. As with the costs to PNS providers the majority of these would be one-off costs.

- 4.8 There would also be costs associated with systems changes for OCPs²⁹. These costs will differ, depending on the range chosen. Whilst migration to existing ranges is likely to require some changes, the costs associated with opening up a new range are likely to be much more substantial as new and possibly more complicated technology solutions have to be built.
- 4.9 Whilst the majority of costs fall to PNS providers and end users, Ofcom would also incur some costs due to the migration of PNS services to another range. We estimate that salary and overhead costs of migration to be approximately £3k.
- 4.10 Further, if a new range were to be used, such as the 06 range then Ofcom may decide to carry out a national advertising campaign promoting this new range, similar to that carried out for the 020 3 range, would will mean further costs.
- 4.11 We have set out our analysis of costs in Annex 1.

Benefits of migration

- 4.12 The benefits of migration will only arise if migration addresses the main sources of consumer detriment we have found, namely lack of pricing transparency for 070 numbers and the cost of scamming.
- 4.13 From the results of our market research, we cannot be certain that the main reason for the prevalence of scams or price confusion on the 070 range is because consumers confuse personal numbers with mobile numbers. Indeed, it is likely that the key drivers of current scams are the high prices of calls to personal numbers, a general lack of awareness of call prices and an instinctive reaction on the part of some consumers to call back missed calls.
- 4.14 From our consumer research, it is not clear that consumers have more awareness about the cost of calling 08 or 09 numbers. Further, if we were to create new 08 and 09 ranges or use the 06 range for PNS, consumers would be likely to have even less awareness of pricing unless there was substantial promotion of these ranges when launched and even then it is unclear whether this would be effective. Therefore, it is unclear that migration will improve pricing transparency for PNS.
- 4.15 As with quantifying consumer detriment, it has not been possible to estimate the total benefits to consumers (and possibly to users) from such a change. Nevertheless, it is likely given the discussion above that any benefits would be significantly smaller than the costs involved and this is likely to be the case even if costs were significantly smaller.
- 4.16 Overall, it is not clear that moving PNS to a recognisably different range will help to remedy the consumer detriment that arises with 070 calls and will not, on its own, prevent the same types of scams appearing on a new range or similar price confusion.

²⁹ From discussions with OCPs, we understand that to have estimated these costs would have been a difficult and complicated process for OCPs. We therefore decided not to request these figures in detail.

Conclusion

Figure 4.1 Costs and benefits associated with migration of personal numbering services to other ranges

Cost to PNS Providers/Resellers	£10m
Changes to Notices	£1m
Changes to Contracts to End-user	£0.3m
Renegotiating POLO rates	£1.7m
System costs	£6.9m
Cost to End User	£22+m
Overhead and Stationery costs	£22m
Website changes	Minimal expenditure
Telecoms costs	Will vary according to end-user needs and may be incurred on a regular basis
Marketing costs	Minimal expenditure
Cost to OCPs	These costs are associated with changes to systems and could be substantial
Cost to Ofcom	£3k
Benefits	These are likely to be minimal as migration does not address the main sources of consumer detriment. It is likely that similar scams will occur on any new personal numbering range.

- 4.17 Ofcom estimates that the total costs to PNS providers, resellers, end users and Ofcom of migrating personal numbers to another range could be as high as around £40 million (not factoring in significant loss of business to end-users and costs to OCPs).
- 4.18 In our view, the benefits of migration are likely to be significantly smaller than the costs of migration, given that migration is unlikely to address the sources of consumer detriment identified. Whilst it may provide more clarity for some consumers in terms of distinguishing personal numbers from mobile numbers, it is unlikely to address the opaque pricing, high costs and scams that currently exist with PNS.
- 4.19 In addition, the costs are high in comparison to the revenue generated in this market – approximately £32 million per year. This suggests that even if the benefits of migration were high, it would not be profitable for the market to migrate in terms of a pure cost-benefit analysis test.
- 4.20 We therefore conclude that costs are likely to significantly outweigh benefits and therefore the migration of 070 end users to an alternative range is a disproportionate response to the consumer detriment identified.

Supporting and monitoring current enforcement action being carried out by PhonepayPlus in relation to scams on the 070 range

- 4.21 We will continue to monitor the services provided on the 070 number range and expect to see a continuing reduction in scams as a result of PhonepayPlus enforcement action.
- 4.22 PhonepayPlus started to take enforcement action in relation to scamming activity on the 070 number range in December 2006. In particular, PhonepayPlus issued a statement that set out the application of its Code of Practice to PRS on 070 numbers (where the call rate exceeds 10 pence per minute or is a chatline or Internet dialler service)³⁰.
- 4.23 PhonepayPlus has since carried out a number of investigations into scamming activity on the 070 number range and since May 2008 has made adjudications on ten cases, with fines totalling £625,000. These include two major fines of £200,000 and £250,000.
- 4.24 Ofcom fully supports the action that PhonepayPlus is taking in this area. We are of the view that their swift approach and the imposition of appropriate fines will succeed in having a real impact on scamming activities on the 070 number range. Indeed, the number of complaints made to Ofcom has significantly reduced in the last 3 months of 2008 during a period when PhonepayPlus has been very active in investigating 070 abuse.
- 4.25 Where appropriate, Ofcom will continue to carry out its own enforcement action, both informally to remove swiftly any inappropriate usage of the range and investigate any cases of persistent misuse under section 128 of the Act and any breaches of the General Conditions and Numbering Plan under section 94 of the Act.
- 4.26 However, if we believe from our monitoring that scams are not reduced as a result of PhonepayPlus action, we may need to reassess whether it is appropriate to keep this range open and also consider whether other options are appropriate following an analysis of consumer detriment and the costs and benefits of each option based on evidence at that time.

Requiring originating communications providers to publish their tariffs for calls to 070 numbers more prominently and to make them easier to understand for consumers

- 4.27 To improve pricing transparency on 070, we are requiring OCPs to publish tariffs for calls to 070 numbers with due prominence and make them easier to understand for consumers.
- 4.28 The research shows that consumers are not clear about the price of 070 calls. Price misperceptions may bring about significant detriment to consumers. If consumers overestimate³¹ the price of 070 calls, they may avoid making calls to these numbers, call less often, or make shorter calls. In other words, they may be consuming a sub-optimal amount of these services. This, in turn, has a negative impact both on consumers and on the industry that provides such services.

³⁰ http://www.phonepayplus.org.uk/pdfs_news/070.pdf

³¹ Consumer detriment will also occur when consumers underestimate the price of 070 calls.

- 4.29 Therefore, we consider it important that consumers are provided with better information in relation to the cost of 070 calls. This would appear to be a more proportionate response to addressing the consumer detriment associated with pricing transparency than closing the 070 range and migrating users to another.
- 4.30 We have decided to amend GC 14 and Annex 2 to GC 14 as detailed in Annex 4 in order to require OCPs to publish call tariffs for 070 with the same prominence as for NTS calls.
- 4.31 As with the proposals consulted upon for 0870 numbers³², the onus would be on OCPs to ensure that clear information on the pricing of 070 calls is made available to consumers when they sign up for a service package and before they make 070 calls. On price lists, charges for 070 calls should be given the same prominence as charges for calls to geographic numbers. On promotional material, where charges for calls to geographic numbers are quoted, maximum charges for calls to 070 numbers should also be given. Where prices for call packages are shown, it should be clearly stated whether 070 calls are included in the package.
- 4.32 OCPs will have six months to implement these changes, i.e. until 28 August 2009.

Amending guidance on the acceptable use of numbers in relation to compliance with General Condition 17 by ensuring Personal Numbering Service providers who provide 070 numbers to end users carry out due diligence of sub-allocatees of personal numbers.

- 4.33 CPs are obliged to comply with the General Conditions of Entitlement relating to Telephone Numbers (the General Conditions)³³.
- 4.34 Specifically, Condition 17.8 of the General Conditions states that:
- “The Communications Provider shall take all reasonably practicable steps to ensure that its Customers, in using Telephone Numbers, comply with the provisions of this Condition, where applicable, and the provisions of the National Telephone Numbering Plan.”
- 4.35 Ofcom published guidance on the acceptable use of 070 numbers in January 2004³⁴ regarding compliance in relation to the sub-allocation of these numbers. To comply with this condition, the guidance states that:
- “... if sub-allocatees or resellers are not complying with rules it is the range holder's responsibility to ensure that this is remedied. It is therefore in range holders' interests to ensure that resellers are aware of these obligations. This should be made clear in the Numbering Plan that range holders are required to produce in accordance with Condition 17.4 of the General Conditions”
- 4.36 Our decision to amend the guidance makes clear the due diligence processes that we consider appropriate to meet the requirements set out in GC 17.8.
- 4.37 The amendments reflect the due diligence requirements of paragraph 2.3 of the PhonepayPlus Code of Practice³⁵, which applies to those providing premium rate

³² <http://www.ofcom.org.uk/consult/condocs/0870calls/>

³³ http://www.ofcom.org.uk/telecoms/ioi/g_a_regime/gce/

³⁴ http://www.ofcom.org.uk/telecoms/ioi/numbers/num_070_guide

services. Our guidance requires companies who have been allocated 070 personal numbers (070 allocatees) to carry out similar due diligence checks on those that they sub-allocate their numbers to, in all cases whether they are a PRS or not, subject to the threshold set out in paragraph 4.40 below.

4.38 Specifically, we would expect that before making their network and/or services available to sub-allocatees, 070 allocatees would carry out the following due diligence process:

- collect and maintain information such as the full address of the sub-allocatee, the registered name and company of that company (if a limited company), the name and address of each of the directors, the name of the director with primary responsibility for the personal numbers, the name of the person responsible for the day-to-day operation of each personal number, and phone, email, and fax details for those named persons enabling contact to be made with any of them at all necessary times;
- make sufficient inquiry so as to satisfy themselves fully that the information supplied to them by service providers is accurate. In undertaking these inquiries, 070 allocatees must obtain clear evidence, in particular in respect of the identity of the people named above;
- retain the information collected and the records of the inquiries made and responses to those inquiries and a copy of all evidence obtained, and make those records and copies available to Ofcom upon being directed by Ofcom to do so; and
- bring the Numbering Plan and General Condition 17 to the attention of their sub-allocatee.

4.39 These amendments are separate from the Consumer Protection Test (CPT) guidelines published by Ofcom on 30 September 2008³⁵. The amendments set out that 070 allocatees are expected to collect and maintain relevant information on all persons they sub-allocate to, satisfy themselves that the information is accurate and bring the Numbering Plan and GC17 to the attention of those they sub-allocate to. These amendments should complement those set out in the CPT that are designed to ensure that numbers are not allocated to those companies or individuals that cause serious or repeated harm to consumers. It would be appropriate that in carrying out due diligence to ensure compliance with GC17, PNS providers should give due regard to the under assessment and number refusal lists on our website.

4.40 In order to limit the administrative burden of the due diligence process, the above due diligence checks need to be carried out only for agreements where revenue payments will or have been made. In the consultation, we originally proposed a threshold where due diligence was not required where sub-allocatees had fewer than fifty 070 numbers. The intention of this threshold was to reduce the administrative burden on PNS providers and not capture end-users. However, after further consideration, we believe that a threshold based on whether or not revenue is passed is consistent with the original intention of the threshold proposed in the consultation and is more effective in terms of ensuring that due diligence is carried out in appropriate circumstances. In addition, it does not alter in any significant way when due diligence should be carried out by range holders. Therefore, for these

³⁵ http://www.phonepayplus.org.uk/pdfs_code/PhonepayPlus11CoP_Apr08v3.pdf

³⁶ <http://www.ofcom.org.uk/consult/condocs/numberingcpt/statement/>

reasons, we consider that the threshold should relate to whether or not revenue has passed.

- 4.41 For new applications, we envisage that these due diligence checks should be carried out at the time of application by requesting the information from the applicant. With existing sub-allocatees, we envisage that these checks should be carried out through simple email correspondence to request the information required.
- 4.42 To allow a reasonable time for 070 allocatees to comply with the guidance, we have allowed a period of 18 months for communications providers to carry out the relevant due diligence on existing customers, i.e. until 28 August 2010.
- 4.43 The amended guidance is contained in Annex 7.

Remove the requirement for pre-call announcements on this range, which we requested operators to carry out in December 2007, due to their impact on alarm systems and associated risks to life and property

- 4.44 In its statement *Raising confidence in telephone numbers*³⁷ published on 31 May 2007, Ofcom put in place a requirement on OCPs to provide free PCAs for calls to 070 numbers where either the per minute or the per call charge exceeded 20p. The PCA advised consumers of the maximum charges that could apply to the call.
- 4.45 Following the introduction of PCAs in September 2007, Ofcom received a number of complaints about them. In particular, there were certain automated calling services provided on the 070 range, mainly alarm systems, that were affected by the introduction of PCAs. The PCAs had caused these remotely activated calling services to fail as a result of the recorded message introducing a dialling delay. This was potentially endangering the life and security of people who depended on the reliability of such services.
- 4.46 Examples of these services are personal safety or burglar alarms, which when activated trigger an auto-dialler to contact a monitoring centre. In the event the call is not completed, the unit automatically disconnects and tries again for a set period or a certain number of times. For many units, the duration of the time-out meant that after the PCA had been played there was little or no time for the call to be completed before the unit disconnected and retried.
- 4.47 Ofcom also received a number of complaints from businesses and consumers about the PCA. Most of these complaints were about loss of business and consumer annoyance.
- 4.48 In light of these complaints, Ofcom undertook a detailed assessment of the potential use of 070 numbers for emergency-type services.
- 4.49 As an interim measure, Ofcom asked the major fixed line providers to suspend PCAs in respect of three 100k 070 number blocks where we had identified emergency-type services operating with automated dialling. However, given the widespread use of 070 numbers, it was not possible to be certain that similar services might not be operating on other 070 number blocks. The nature of these services is such that a failure to operate correctly might only become apparent when the service is called upon to perform its function.

³⁷ <http://www.ofcom.org.uk/consult/condocs/numbering03/statement/>

- 4.50 The risk to human life and property was the determining factor in Ofcom's decision making and, on 17 December 2007, Ofcom issued a statement withdrawing the requirement for PCAs on 070 numbers³⁸. Ofcom did not at the time remove the requirement in GC 17 and the National Numbering Plan but stated that it would not enforce the requirement on 070 numbers.
- 4.51 Because the PCA is a regulatory requirement, set out in the GCs and the Numbering Plan, we consulted on amending both.
- 4.52 The rationale behind the decision to withdraw this requirement is that information has come to light, which was not available at the time Ofcom decided to impose this requirement in 2007.
- 4.53 The main benefit of removing PCAs is that it will ensure that there is no risk to human life or property from emergency-type services operating on the 070 range. The main cost of removing PCAs is that consumers will no longer benefit from the improved price transparency that PCAs provided.
- 4.54 It is difficult to quantify both the costs and benefits in this case and carry out a rigorous and conclusive analysis. The decision to remove this requirement has been made on the basis that the possible risk to human life and property would outweigh any risk of consumer detriment from a lack of number transparency or abuse of this range. However, we do not believe that implementing a technical alternative to PCAs can be achieved without substantial costs incurred.
- 4.55 Related amendments to GC 17 and the Numbering Plan are contained in Annexes 5 and 6 respectively.

³⁸ <http://www.ofcom.org.uk/consult/condocs/numbering03/070precall/>

Section 5

Conservation of personal numbers

- 5.1 We do not foresee any immediate problems in supply based on current and historical demand for 070 numbers, particularly as blocks in the 070 number range are now allocated in 10k blocks instead of 100k blocks.
- 5.2 However, in order to further conserve number blocks, we encourage communications providers to return any unused 10k blocks from 100k allocations to extend the use of the range and ask any communications providers with unused blocks to contact us to arrange their return.
- 5.3 In the event of a shortage of numbers, we will request the voluntary return of unused allocations from range holders. If there is an increase in demand, Ofcom will consider the appropriate action to take in light of s.63(1) of the Act and its other duties.

Annex 1

Assessment of consumer detriment and costs and benefits of closing the 070 number range and migrating users

Introduction

- A1.1 The analysis presented in sections 4, and this annex represents an impact assessment, as defined in section 7 of the Act.
- A1.2 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 Ofcom is 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

The citizen and/or consumer interest

- A1.3 The analysis in the first part of this annex focuses on the extent to which consumer detriment is present in this market, because of a lack of price transparency, confusion with mobile numbers and the illegal use of the 070 number range through scamming. These negatively impact consumers; as such it is imperative that we understand the extent of this consumer detriment.
- A1.4 The second part of this annex considers the costs and benefits of closing the 070 number range and migrating users to an alternative range.

Data sources

- A1.5 In order to carry out an assessment of consumer detriment and subsequent analysis of options to remedy any detriment, we have collected information from a variety of sources.
- A1.6 We have carried out four separate pieces of consumer research³⁹:
- in May 2008, we carried out research to understand the degree to which people know what services are provided on 070 numbers and how much calls to these numbers cost. The research also looked at the level of concern about calling 070 numbers, the reasons for any concerns and the number of people who claim to have been a victim of a scam on the 070 number range;

³⁹ Further details of the consumer research carried out in 2008 can be found at Annex 5 of our consultation document. Further discussion of the February 2009 research can be found in paragraph A1.47.

- in July 2008, we carried out research specifically to identify the likelihood of consumers calling back certain number ranges following a missed call;
 - in July 2008, we carried out research that asked consumers to identify the types of services and pricing associated with all number ranges; and
 - in February 2009, we carried out research that asked consumers about their wider experiences with pricing transparency for telephone numbers.
- A1.7 In addition, we carried out a survey among end-users⁴⁰ of personal numbers to understand how personal numbers are currently used. Details of this survey can also be found in Annex 5 of our consultation document.
- A1.8 We requested information from a number of PNS providers⁴¹ on utilisation of 070 numbers, call traffic volumes, where this traffic terminates and the revenues generated by 070 calls for the period January 2007 to March 2008.
- A1.9 We also requested information from OCPs⁴² on volumes and revenues generated from calls to 070 personal numbers and any instances of AIT⁴³.
- A1.10 In addition, we have used information collected by the Ofcom Advisory Team (OAT) in relation to consumer complaints about 070, 0870, 0871 and 09 numbers and similar data from PhonepayPlus.
- A1.11 We have referred to Ofcom's statement on *Number Translation Services: The Way Forward, April 2006*⁴⁴ and Ofcom's consultation and statement on *Extending Premium Rate Services Regulation to 087 Numbers, May 2008*⁴⁵ and February 2009⁴⁶.

Inputs to the impact assessment

- A1.12 In order to be able to carry out a cost-benefit analysis (CBA), a number of inputs are required and a number of assumptions need to be defined. Further, for consistency with the impact assessment carried out for *Extending Premium Rate Services Regulation to 087 Numbers* (the 0871 review), the analysis, where appropriate, uses a number of the same assumptions.

Current traffic volumes

- A1.13 In order to be able to ascertain the size of the market for 070 numbers, we used the information provided by eight fixed and mobile OCPs following an information request requesting data on traffic volumes. We also used BT transit data to triangulate figures for the whole 070 market. We estimate that total traffic to 070 numbers in 2008 was approximately 98 million minutes.

⁴⁰ End-users are users who receive the calls made to a personal number.

⁴¹ PNS providers are communications providers who provide personal numbering services.

⁴² OCPs are communications providers from whose network a call is made (i.e. originated).

⁴³ Artificially Inflated Traffic (AIT) means that traffic where the flow of calls to any particular service is, as a result of any activity on or on behalf of the party operating that service, disproportionate to the flow of calls which would be expected from good faith commercial practice and usage of the network.

⁴⁴ http://www.ofcom.org.uk/consult/condocs/nts_forward/nts_way_forward.pdf

⁴⁵ <http://www.ofcom.org.uk/consult/condocs/087prs/prscondoc.pdf>

⁴⁶ <http://www.ofcom.org.uk/consult/condocs/087prs/087statement/>

Retail prices for 070 calls

- A1.14 In order to be able to calculate the consumer welfare loss that results from the current lack of pricing transparency, we have needed to understand both the prices that consumers believe an 070 call costs, as well as the actual price.
- A1.15 The consumer research carried out in May 2008 suggested that for an 070 call made from a landline during the day consumers believed this to cost, on average, 46ppm and from a mobile, on average, 54ppm⁴⁷.
- A1.16 From our information request to OCPs, the average daytime cost of a call was estimated at 36.5ppm for a fixed call and 52.5ppm for a mobile call⁴⁸. However, in practice the cost of a call to an 070 number varies widely, with multiple price bands, as can be seen in figure A1.1 below.

Number of PNS providers, resellers and end-users

- A1.17 As of 10 February 2009, there are 139 communications providers who have an allocation of 070 number blocks, accounting for 907 100k blocks and 284 10k blocks.
- A1.18 PNS providers are also able to sub-allocate numbers to resellers, however we do not have a record of the number of resellers who have this arrangement. As such we have used a number of 150, based on estimates set out in the CBA model used for the 0871 review. It is likely that for the 070 range this number would be an upper limit.
- A1.19 We have also estimated the number of users of 070 numbers, based on responses received from PNS providers to our information request and from end-users to our questionnaire.
- A1.20 We estimate that there are approximately 1.25 million 070 numbers in active use⁴⁹. This is based on the information provided by the PNS providers which has been uplifted in the same way as for call traffic. Based on our survey of end-users, we estimate that approximately 940,000 are used by businesses and 315,000 by individuals. The average number of lines per business was five, which suggests that some 190,000 businesses use personal numbers. Our analysis has taken into account the high usage of the range by a small number of service providers such as Hospedia, Premier Telesolutions and Trader Media.

⁴⁷ We have carried out additional research into perceived prices in February 2009, which is discussed in paragraph A1.47.

⁴⁸ This average was calculated using the data provided from a number of mobile operators.

⁴⁹ Numbers in active use suggest that this captures only those numbers used regularly. However, a number of PNS providers have pointed out that there are numbers in use, but which are not particularly active, for example those used for alarm systems. As Ofcom is using numbers in active use as a proxy for the number of end-users, these should include those numbers which have little or no activity. However, Ofcom has not been able ascertain the extent of these types of numbers, and therefore it has estimated the number of end-users based on active use and market size.

Consumer Detriment

- A1.21 Markets work best when consumers are fully informed about what they are buying. If this is not the case, then consumers can make incorrect or inefficient decisions⁵⁰. For example, if the perceived price is greater than the actual price, a consumer is likely to under-purchase a good or service. Similarly, if the perceived price is lower than the actual price, a consumer may purchase too much of a good or service. Further, even if a consumer guesses correctly the actual price they may nevertheless decline to purchase a good or service, if they believe that there is a risk that they could be charged a significantly high price.
- A1.22 There are a number of reasons why inefficient decisions may be made. The ones that appear most relevant to the 070 number range include:
- information asymmetry; and
 - transaction costs.

Information Asymmetry

- A1.23 When consumers do not have full (including understandable) information about goods or services, it is likely that incorrect purchasing decisions will be made, which in turn leads to inefficient market outcomes. This lack of information is often caused by the asymmetric nature of the market, i.e. that the producer (e.g. a communications provider) has access to better information than the consumer.
- A1.24 Regarding the 070 range, examples of where information asymmetry may lead to incorrect purchasing decisions include: possible confusion between mobile and personal numbers; not knowing whether a call is a scam; perceived prices being lower than actual prices, leading to unexpected charges; and perceived prices being higher than actual prices, leading to calls not being made.

Transaction costs

- A1.25 Transaction costs are the costs of organising and transacting exchanges, i.e. trading with others. If these costs are very high it may result in the market failing to produce the goods or services required, i.e. that they can create a barrier to entry (or switching). These costs can take a variety of forms, including: search and information costs (particularly for consumers); bargaining costs, policing and enforcement costs; and the costs of writing contracts.
- A1.26 In this case, although it is possible for consumers to find out the costs of an 070 call there are two concerns: firstly the time it takes for a consumer to search for this data; and secondly their ability to understand the price point at which they will be charged, given the number of different prices for 070 calls both from mobiles and landlines.

Assessing consumer detriment

- A1.27 The above types of market failure are likely to be relevant when assessing consumer detriment regarding the 070.

⁵⁰ An efficient decision is where a consumer who values the good or service equal to or at more than its price consume the good or use the service. Thus an inefficient decision is where this does not occur. One cause of this is incorrect information about the actual price.

A1.28 Consumer detriment at its broadest level can be defined as that which may arise from any instance, “where a customer suffers as a result of their dealings with an organisation, and where that suffering is partly or wholly the result of the organisation accidentally or deliberately treating the customer unfairly”⁵¹. Research commissioned by the OFT found that consumers can experience loss from dealing with a business in many ways including financial loss, deprivation of important services, disappointment, loss of confidence in suppliers and inconvenience, stress or anxiety⁵².

A1.29 In assessing the extent of consumer detriment in the 070 market, the key categories of evidence include:

- the extent to which PNS is used both by end-users and consumers;
- costs to end-users and PNS providers arising from customer confusion due to opacity of the pricing structure (i.e. that there is limited pricing transparency);
- how much confusion exists for consumers between PNS and mobile numbers;
- the extent of scams on the range and consumers awareness of these; and
- costs incurred by consumers (including psychological) from scams.

Use of the 070 personal number range by end users

A1.30 We found that most end-users of the 070 personal number range are individuals and small businesses, who use the range for a variety of services, such as:

- facilitating rotas for out of hours support by general practitioners/IT support staff;
- enabling customers to contact staff who are travelling; and
- allowing users to accept business calls on their mobile only during business hours.

A1.31 We found that end-users of personal numbers value several characteristics of services provided by personal numbering, in particular:

- the ability to redirect calls to virtually any other telephone number, whether fixed or mobile;
- the privacy of having a personal number;
- the convenience of having only one contact number; and
- the ability to redirect calls internationally to a local mobile at a lower cost than when roaming overseas.

A1.32 Further, end-users were asked how important 070 numbers were to their business. 56% of respondents said that 070 numbers were essential, and 94% said that they were either important or essential, suggesting that the majority of businesses who use these services value them highly.

⁵¹ From OFT press release “OFT highlights consumer detriment”, note 1, 3 February 2006.

⁵² Ibid.

- A1.33 In addition, there are a small number of larger service providers who provide specific services using 070 numbers:
- Hospedia Limited (formerly Patientline) and Premier Telesolutions are two of the largest users of 070 personal numbers and provide hospital patients with a telephone number for the duration of their stay in hospital in order for friends and family to contact them; and
 - Trader Media runs advertising publications such as Auto Trader and Ad Trader and provides 070 personal numbers to individuals who wish to advertise in their publications. The 070 number allows the advertiser to have a temporary private number which can later be returned to Trader Media.
- A1.34 We estimate the number of 070 numbers in active use, based on information received from end users and also PNS providers, to be around 1.25 million. We also estimate that approximately 940,000 are used by businesses and 315,000 by individuals. The average number of lines per business was five which suggests that some 190,000 businesses use personal numbers.
- A1.35 In comparison to other number ranges, usage of personal numbers is low in terms of the number and volume of calls. However, there appear to be few alternatives to this service that would provide the same characteristics that end users value. Any alternatives that do exist are likely to involve additional costs, such as needing two mobile phones or call forwarding charges. Therefore, although the overall market is small, our survey showed that there continues to be demand for PNS.

Use of the 070 personal number range by consumers

- A1.36 In terms of trying to quantify the size of consumer detriment, it is useful to consider the size of the market both on its own and in comparison to other number ranges. This helps to put into context any consumer detriment present in the market.
- A1.37 Call traffic is a good indicator of the size of the market and it is often easier to compare against other number ranges. Call traffic to 070 numbers has been estimated to be 98 million minutes in 2008.
- A1.38 For the 0870 and 0871 number ranges the total amount of traffic generated for the period April 2006 to March 2007 was approximately 6,900 million minutes⁵³. Therefore the 070 market is considerably smaller than 0870/71 at less than 1%.
- A1.39 For 2008, based on information received from PNS providers to our information request, the total 070 revenue for PNS providers is approximately £32 million.
- A1.40 According to the PNS provider responses, the majority (approximately 55%) of calls to 070 numbers are terminated on a fixed network⁵⁴, with approximately 15% on mobile and 30% on other networks, such as international.
- A1.41 The data also shows that there has been a decline in call traffic and revenues since the beginning of 2007 and that the PCA may have exacerbated this. For some providers call traffic and revenues have started to increase for the first quarter of 2008. However, responses received from the OCPs also indicate that overall call

⁵³ For the 0870 range the total number of minutes was approximately 5,700 million and for 0871 range it was 1,200 million minutes.

⁵⁴ This is partly because Patientline terminates all its minutes on the fixed network.

volumes and revenues for 070 calls have been declining. We note that a number of new providers have entered the market in 2008.

A1.42 As the market for personal numbers is relatively small, it also follows that in general any consumer detriment will be small relative to other markets.

The costs arising from limited pricing transparency

A1.43 Some communication providers have as many as 26 different pricing bands for 070 numbers, As a result, many consumers calling 070 numbers are likely to find it difficult to know the cost of the call before they make it.

A1.44 The following table sets out the current pricing structure for 070 calls as of 10 February 2009 for eight communication providers.

Figure A1.1 Cost of calls to 070 numbers from different OCPs

Communication Provider	Prices
BT	<u>26 bands:</u> 4.6 to 46.5ppm;
Talk Talk	<u>14 bands:</u> Daytime – 16.15 to 47.5ppm; Evening – 15.2 to 47.5ppm; Weekend – 7.6 to 47.5ppm.
O2	50ppm
Orange Mobile	Pay as you go: 50ppm Pay monthly: 55ppm
T-Mobile	<u>2 bands:</u> Cost same as calls to other UK mobile operators; 75ppm.
3 UK	<u>3 bands:</u> 25ppm; 70ppm £1 per call plus 70ppm.
Vodafone	Up to 60ppm
Virgin Mobile	Range from 35ppm - £1.50pm

Source: Company websites

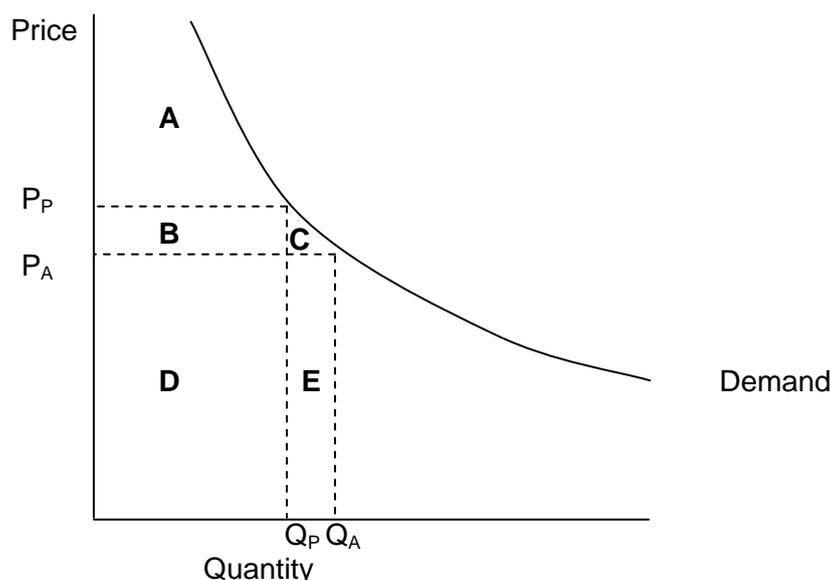
A1.45 Our consumer research in May 2008 showed that the main concerns consumers have with calling 070 numbers are the high cost or price uncertainty (75-85%). These reasons outstripped the concern over scams, which mattered for between 3-4% of those surveyed.

A1.46 In terms of the perceived cost of calling 070 numbers, calls made from a landline to an 070 number were estimated on an average basis to be 46ppm compared to 27ppm in 2004. The average cost from a mobile was estimated at 54ppm up from 43ppm in 2004.

A1.47 Ofcom commissioned additional research in February 2009 for the different purpose of examining pricing transparency more widely. Amongst other things, this research asked respondents to estimate the price of a call to an 070 number. The research showed that consumers estimated the cost of a call to an 070 number to be 25.4ppm from a fixed line and 26.7ppm from a mobile.

- A1.48 We have considered in detail the reasons for the different findings in the two surveys in terms of their methodologies. The May 2008 research asked consumers pricing questions at the start of the questionnaire, while the February 2009 research asked this question at the end. We believe that consumers may have provided a more instinctive response in the May 2008 research that had not been influenced by any prior questions and answers in relation to topics such as confidence in knowing call costs and bill shock. This may also explain the substantially lower proportion of respondents that gave “don’t know” as an answer in the May 2008 research compared to the very high proportion of respondents in the February 2009 research (c. 12% in the May 2008 research, c. 70% in February 2009 research). In addition, in the May 2008 survey, respondents were first asked to give a price unprompted with price bands, whereas the later research prompted respondents with price bands. It was therefore possible to calculate a more accurate mean of perceived prices from the May 2008 research.
- A1.49 For the reasons set out above we consider it more appropriate to rely on the May 2008 research for the issue in hand, which was specifically formulated for this 070 review.
- A1.50 Importantly, the central conclusions of our cost-benefit assessment stand for whichever survey’s findings are used. This is because as set out in paragraphs A1.128 to A1.135, migration is unlikely to lead to benefits derived from the reduction of consumer detriment associated with a lack of pricing transparency or scamming activity.
- A1.51 In Ofcom’s April 2006 statement on *Number Translation Services: The Way Forward* pricing misconceptions regarding NTS numbers were discussed. It focused on the fact that research conducted showed that consumers believed that the prices of calls were higher than they actually were. A consequence of this was that customers avoided making such calls.
- A1.52 This document went on to discuss, in particular, that the link between lack of pricing transparency and consumer detriment, a form of information asymmetry, could lead to reduced welfare. For example, when customers incorrectly perceive that prices are above their true level, consumers will purchase fewer units of a product leading to a deadweight loss. However, if that the lack of price transparency does not lead to actual prices being raised above competitive levels and hence fewer units being purchased, consumer price misconceptions will not lead to any transfer of welfare from consumers to producers.
- A1.53 As stated in the NTS consultation document, trying to quantify such a loss is problematic. One way would be to set the counterfactual as the model where consumers know the actual price of a call against the one where consumers know the average perceived price of calls. The difference between the two sets of consumer welfare would equate to the consumer detriment. Figure A1.2 below sets this out.
- A1.54 Figure A1.2 shows the equilibrium price and quantity for the actual price - P_A , Q_A and for the perceived price - P_P , Q_P . Here the welfare loss associated with pricing misconceptions is equal to the area C.

Figure A1.2 Consumer detriment due to price misconceptions



- A1.55 In addition to the difficulties discussed above (A1.54) there are a number of other assumptions that need to be made regarding, amongst other things, 070 call prices both perceived and actual. Regarding average perceived cost we have had to aggregate this across all callers of 070 numbers, using the data from figures A5.5 and A5.6 in annex 5 of our consultation document, which show the distribution of perceived prices which range from free to over £1 for mobile and fixed calls. Thus, by averaging, we are not reflecting the distribution of perceived prices which may incorrectly estimate the detriment. For example if there are two consumers, one who perceives the price to be £1pm and the other at 0ppm, then the average perceived price is 50ppm. If the actual price is then 50ppm, this implies under our methodology that no consumer harm occurs, thus underestimating actual consumer detriment. Further as discussed in paragraph A1.16, we have had to use an estimate for average actual cost, which will also affect the accuracy of the results.
- A1.56 It should also be noted that this methodology assumes full transparency which is unlikely to be achieved in this market. As such any benefits arising from greater price transparency will be less than those set out below.
- A1.57 In terms of assessing the welfare loss associated with pricing misconceptions (area C) for 070, we adopted, in the consultation document, a similar approach to that used in the NTS document, for example using the same own price elasticity of demand figure of -0.3⁵⁵ for 070 calls.
- A1.58 However, in light of the update made to the value of pricing transparency benefits set out in the 0871 review, where greater emphasis was placed on a higher elasticity, we have updated our model to also include a range of elasticities for 070

⁵⁵ Arriving at an exact estimate for this variable is necessarily subjective. We view an estimate of 0.3 as a conservative estimate (i.e. one that will tend to understate the detriment associated with price misperceptions). This view is supported by, for example, the following quote from Rappoport, P.N. and Taylor, L.D. (1997), "Toll Price Elasticities Estimated from a Sample of U.S. Residential Telephone Bills," *Information Economics and Policy*, Vol. 9, No. 1, pp. 51-70: *The conventional view in the literature is that the price elasticity is of the order of -0.3 to -0.4 for intralata calls and -0.7 for long-haul interstate calls.*

calls. The 0871 review now places more weight on the welfare estimates associated with an elasticity of -0.4 or above for 087 calls. This was because they felt this more accurately reflected the elasticity of national calls. This was based on data from the US where, '*the conventional view in the literature that the price elasticity is of the order of -0.3 to -0.4 for intralata calls and -0.7 for long-haul interstate calls.*'⁵⁶ The 087 review stated that the US data was somewhat analogous to UK local and national calls. However, it was suggested that the national call price elasticities tended to be lower than long-distance calls in the US and thus they used -0.4 rather than -0.7.

- A1.59 For our analysis, whilst the majority of calls (55%) are terminated on a fixed network (these could be equivalent to local or national calls), 5% terminate on mobile and 30% on other networks. As such it is unclear whether the elasticity of -0.4 would accurately reflect all 070 calls. Consequently we have used a range of elasticities, -0.3 to -0.5 for the consumer detriment arising from a lack of pricing transparency.
- A1.60 Thus at the current perceived price, and assuming a standard formulation for a nonlinear demand curve of $Q = Ae^{-\lambda p}$ we have estimated the impact that correcting the price misperceptions outlined above would have on consumer surplus. We have assumed that these misperceptions apply to all the 070 calls originated by all CPs.
- A1.61 Thus we estimate that the annual loss of consumer welfare for calls to 070 numbers from fixed lines is between £160k and £271k, and from mobiles is between £1k and £2k.
- A1.62 These figures only focus on the detriment caused by the *opacity* in the pricing structure, not the actual cost of the call. The reason these figures are relatively low compared to the 0871 numbers, is in part due to the size of the market and also to the fact that, consumers' estimates of call costs are not as dissimilar to the actual price of a call.

Confusion between 070 and mobile numbers

- A1.63 We have conducted consumer research to understand the level of confusion that may exist between 070 and mobile numbers. In our research, 34% of respondents claimed to have heard of 070. However when asked to identify the services provided on 070 numbers, only 8% of these 34% (3% of all respondents) were able to state that they were personal numbers from a selection of options presented and 16% of all respondents thought they were a mobile number.
- A1.64 In separate research carried out in July 2008, we asked consumers whether they would call back a number that appeared as a missed call for a variety of numbers. In order to reduce bias in the questions, we attempted to replicate scenarios as close as possible to real life. This was done by showing a series of screenshots of a missed call on a mobile phone from different fictitious numbers and asking whether the respondent would call that number back if it had appeared on their own mobile phone. The order of the numbers was also randomised for each respondent to reduce bias that might occur due to the order they were presented. 21% said they would call a mobile number, whereas only 10% said they would call back an 070 number. We also asked more generally about whether they were concerned about calling a variety of numbers. Consumers were more likely to be concerned about calling an 070 number than a mobile number or an 0870 number.

⁵⁶ See Footnote 56.

- A1.65 This suggests that to some extent consumers distinguish between 070 and mobile numbers, even though they are unsure about the services provided on 070 numbers.
- A1.66 In trying to quantify any detriment caused by confusion, the call charges of mobile and personal numbers need to be assessed. Assuming confusion exists, then detriment will only occur if the costs of the calls to these numbers are widely different. However, due to the current and very complicated pricing structure for 070 calls, as shown in figure A1.1, and the difficulties with assessing what the actual cost of a mobile call is given the different networks and call packages available, it is extremely difficult to calculate what the actual differences between the prices of mobile and 070 calls are. That said, if we use the average actual prices from responses to our OCP information request and compare that to a range of mobile pay as you go tariffs, the difference is likely to be reasonably significant.
- A1.67 Further, many mobile numbers are included in call packages, effectively making the cost of calling a mobile for the user “free”. Where this is the case and a caller rings an 070 number thinking it is a mobile and included in their call package, this will also result in consumer detriment. However, this appears not to be the case in the majority of cases as our research shows that less than a third of mobile customers have inclusive minutes as part of their call package.
- A1.68 Whilst it is clear that consumers in general are unaware of the types of services provided on 070 numbers, it is not clear that the majority of consumers confuse 070 numbers with mobile numbers and that therefore, substantial consumer detriment arises as a result of this.

The extent of scams on the 070 range

- A1.69 We have looked at three sources of information to assess the extent to which scams are present on the 070 number range:
- artificially inflated traffic;
 - complaints data from the OAT and PhonepayPlus; and
 - consumer research.

Artificially Inflated Traffic (AIT)

- A1.70 AIT relates to where the flow of calls to a number is, as a result of any activity on or on behalf of the party operating that number, disproportionate to the flow of calls which would be expected from good faith commercial practice and usage of the network.
- A1.71 Communications providers typically have processes in place to identify AIT, following which, subject to a dispute process, they may withhold payment of fees to terminating operators in cases where they suspect that AIT has occurred.
- A1.72 Figure A1.3 below sets out the AIT data that we have received from originating operators in response to our information request, it also includes AIT data transiting the BT network. However, whether this data is entirely reflective of all scams that take place on the 070 range depends on each originating operator’s policy on AIT and how proactive each operator is at identifying AIT. A number of operators have

made representations that the vast majority of scams go undetected by the AIT regime.

Figure A1.3 Cases investigated where AIT was agreed

Period	Number of Cases	Volume of calls (mins)	Value of calls (£)
January – December 2006	229	9,934,773	2,519,998
January – December 2007	261	4,374,196	1,061,364
January - June 2008	63	1,175,763	230,647

Source: Responses from OCPs to information request

A1.73 AIT figures have yet to be agreed for the second half of 2008, however, early indications are that AIT for this period is in line with the first half of 2008.

A1.74 The data shows that in terms of the value and volume of minutes, these have declined substantially since 2006.

Complaints data from OAT & Phonepay Plus

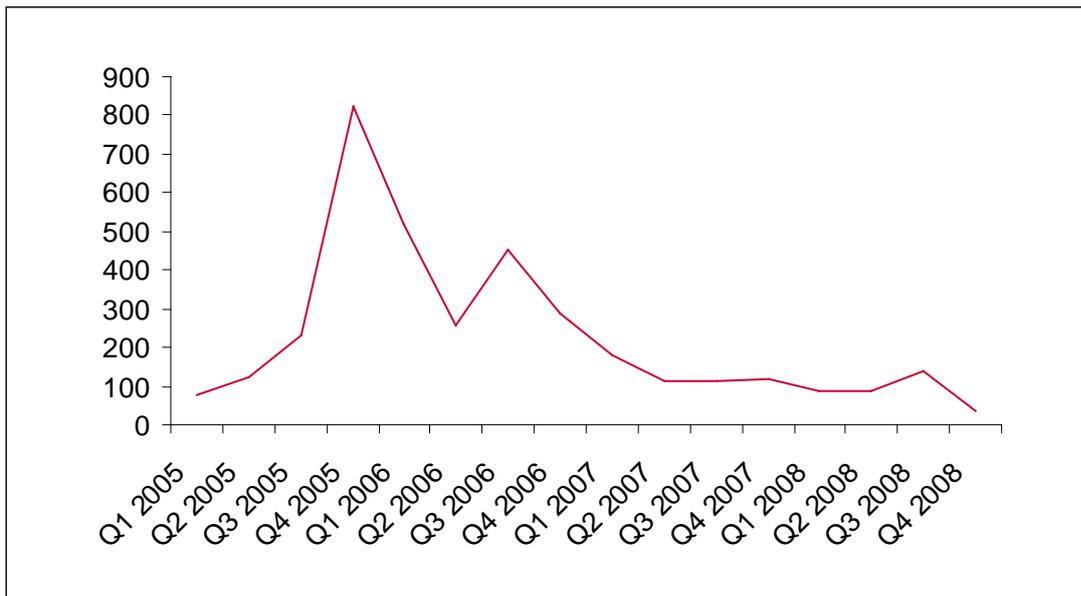
A1.75 We have used complaints data from both the OAT and PhonepayPlus.

OAT

A1.76 Figure A1.4 below sets out the total number of 070 complaints that the OAT has received from January 2005 to December 2008. The graph indicates that there is a declining trend in calls made to the OAT about 070 numbers⁵⁷.

⁵⁷ It is worth noting that many of the complaints cited the frequency of “missed” calls over a long duration as an ‘invasion of privacy’. This could be considered a type of psychological harm to the consumer. As discussed in paragraph A1.28, the OFT has carried out research into types of psychological harm that can cause consumer detriment, two such categories were stress and anxiety. It could be that ‘invasion of privacy’ is seen as a type of stress or anxiety and therefore could be associated with consumer harm.

Figure A1.4 OAT 070 complaints

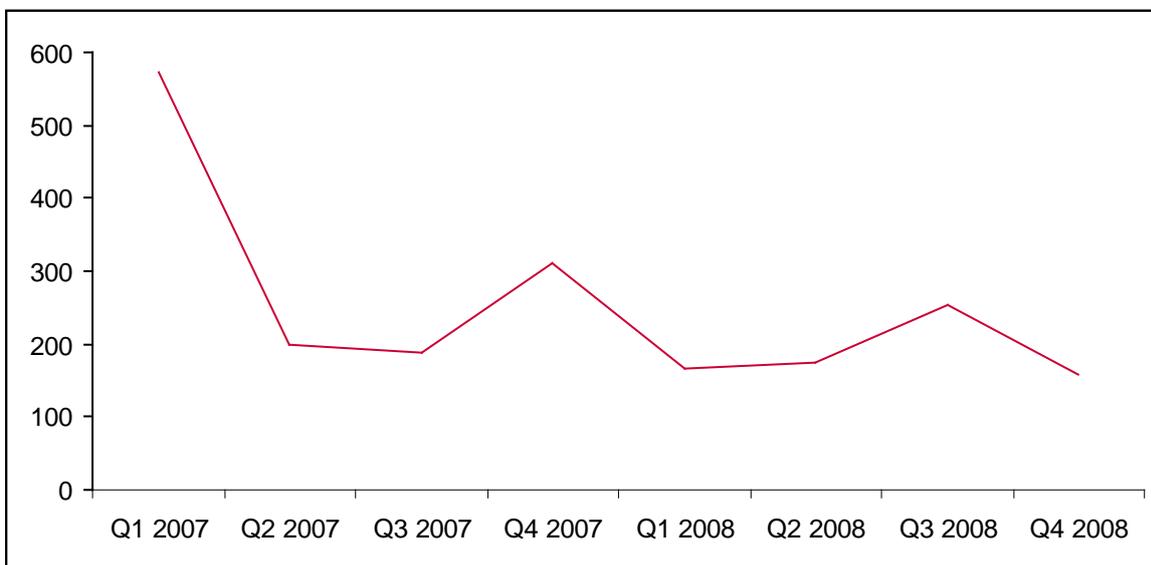


Source: OAT data from January 2005 to December 2008

PhonepayPlus

A1.77 PhonepayPlus has also provided Ofcom with data on the frequency of 070 complaints from January 2007 to June 2008 as shown in figure A1.5 below.

Figure A1.5 PhonepayPlus 070 complaints

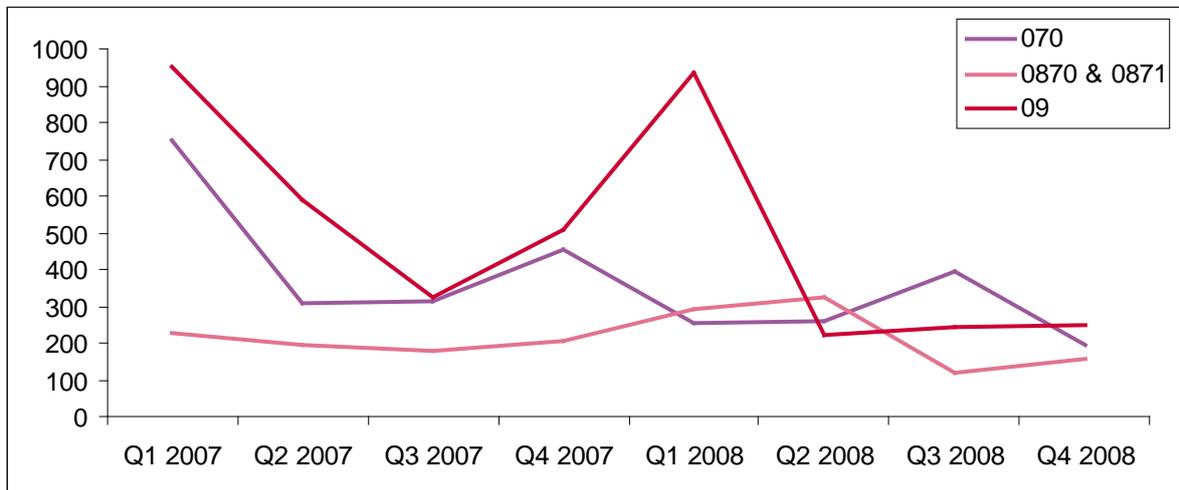


Source: Data from PhonepayPlus on 070 complaints received January 2007 to December 2008.

A1.78 The graph at first sight appears to be less smooth than that of the OAT complaints, where the decline is steadier. This is due to two peaks in complaints in March 2007 and October/November 2007, when more than one hundred complaints were made. The peak in October/November is, in part, attributable to the introduction of pre-call announcements (PCA) on the 070 number range, where consumers called to complain about the announcement.

- A1.79 It is important to interpret the complaints figures carefully. Whilst these complaints do not necessarily indicate that a consumer has been a victim of a scam, for example, some calls will simply relate to the cost of calls to 070 (although many complainants may consider these to be a scam). However, there will be a large number of people who are scammed and do not complain or are not aware that they have been scammed. For example, an OFT report⁵⁸ published in December 2006 stated that for mass marketed scams, less than 5% of victims had reported the problem to the relevant authorities.
- A1.80 Therefore, the data on the number of complaints is not sufficient on its own to suggest how large any consumer detriment associated with scamming might be, although it is useful to set out the general trend of complaints in relation to 070. It is also helpful to put into context the number of complaints compared to other number ranges. Whilst the size of the 0870/0871 market is much larger than that of 070, as discussed below, it can provide a useful benchmark. Figure A1.6 shows the number of 070, 0870, 0871 and 09 complaints made between January 2007 and December 2008.

Figure A1.6 Total OAT and PhoneyPayPlus complaints for 0870/71, 070 and 09 for January 2007 to December 2008



Source: OAT and PhoneyPayPlus data – as above

- A1.81 The graph shows that 09 complaints exceed 070 complaints for all of 2007 but only part of 2008. For the 0870/71 complaints these only exceed 070 complaints for 2008. Taking into account that traffic volumes on both 09 and 0870/71 are much higher than 070, complaints relating to 070 are relatively high.
- A1.82 Therefore, it remains the case that this market generates a significant number of complaints relative to call volumes in comparison to other number ranges.

Consumer Research

- A1.83 In the July 2008 research, 7% of consumers claimed to have been a victim of an 070 scam. However, this figure should be treated with caution and is likely to represent the very upper bound of consumers experiencing 070 scams. We are aware from our work generally on scamming that consumers have very different

⁵⁸ http://www.offt.gov.uk/shared_offt/reports/consumer_protection/oft883.pdf

concepts of what might constitute a scam. It is likely that consumers have included incidents involving high 070 call costs, where fraudulent activity did not actually take place.

Cost of scams

- A1.84 In terms of the amount of money that scams on 070 generally cost consumers, some complainants gave an indication of the amount that they had been charged to make the call. This ranged between less than 50p to much higher sums of money – one consumer stated £35 in total (over a number of calls to the same number). From the PhonepayPlus data, it appears, from the small sample analysed⁵⁹, that the most common amount spent was around £2 per call (this was on a mobile), however, in many cases people phoned the 070 number several times. Thus the total cost may be much higher than the individual cost.
- A1.85 PhonepayPlus provided us with revenue generated by 070 cases they investigated involving scams. Of the twelve cases investigated, which took place between October 2006 and December 2008, they were able to estimate revenue for ten of those cases, totalling £[<]. We note that this will be an underestimate of the true cost of scams as it only includes those that have been subject to investigation.
- A1.86 In addition, according to OFT research⁶⁰, there can be psychological costs incurred as a result of scamming. For example the research found that consumers can experience loss from dealing with a business in many ways including: financial loss, deprivation of important services, disappointment, loss of confidence in suppliers and inconvenience, stress or anxiety. However, it has not been possible to estimate a figure for this, but factors such as intrusion of privacy and the negative feelings that go with being scammed would be included.

Conclusion on consumer detriment

- A1.87 The above analysis suggests that there is consumer detriment present in this market. This detriment has not been fully valued due to a number of complexities, such as the psychological effects of being scammed. Nevertheless, the sources of this detriment have been considered and include:
- lack of transparency in the market (calculations indicate a welfare loss of between £161k and £273k);
 - general confusion over what the 070 range is and some confusion with mobile numbers; and
 - the incidence and costs of scams (AIT data indicating a £1m loss in 2007).
- A1.88 Although the proportion of complaints relative to traffic volumes is high for 070 compared to other number ranges, this is a small market especially in comparison to other number ranges (the volume of traffic to 070 numbers is around 1% of that for the 0870/71 range) and one that is declining overall both in terms of call traffic and revenue.

⁵⁹ A small sample of the data given to Ofcom by PhonepayPlus was analysed and from this a number of complainants stated the amount of money these calls had cost.

⁶⁰ From OFT press release “OFT highlights consumer detriment”, note 1, 3 February 2006.

- A1.89 In addition, despite the opacity of the market consumers are able to predict, relatively accurately, the average cost of an 070 call; and falls in AIT traffic and complaints signals that the number of scams is declining.
- A1.90 It is therefore important that any reduction in consumer detriment in this market is assessed against the costs of implementing any changes. The cost-benefit analysis of various options to address the consumer detriment arising in the 070 market is set out below.

Cost-benefit analysis for closing the 070 number range and migrating users to other ranges

- A1.91 Section 62(3) of the Act, states that a numbering allocation cannot be withdrawn without replacement by allocations as similar as possible to the original allocation. Therefore, Ofcom has a duty to provide a migration path for legitimate users where a number range has been withdrawn, i.e., where a number range is closed.
- A1.92 We have identified various ranges to which current 070 users could migrate. In particular, we have considered opening new ranges, such as 06, and migrating users to existing number ranges, such as 08 or 09.

The 08 number range

- A1.93 There are users who might be able to migrate to a current 08 number. The most likely ranges would be 0871, 0872 or 0873 as these ranges are charged at higher retail call rates relative to other current 08 ranges (but capped at 10ppm from a BT landline). However, while the rates on these ranges would accommodate termination on fixed lines (around 65% of calls to personal numbers are terminated on fixed lines), they are unlikely to be able to accommodate mobile or international termination as termination charges are too high to be covered by retail 08 call rates. Therefore, those users who use 070 numbers to receive calls on their mobile and internationally would not be able to use existing 08 ranges.
- A1.94 Ofcom could consider opening a new 08 range that allowed higher call charges. The simplest way to do this is through a “lift and shift” approach where the 070 prefix would simply be replaced with another, for example, 085. This would minimise costs associated with needing to hand back and reapply for numbers, and may lead to simpler renegotiations of existing contracts between PNS providers, resellers and OCPs. A more complex migration, where a new number range was opened from scratch and communications providers would have to re-apply for numbers, is likely to involve greater cost and inconvenience.
- A1.95 However, opening up a new personal number range on 08 with higher call charges may create more confusion and would be contrary to current Ofcom policy and attempts restore trust in 08 numbers.

The 09 number range

- A1.96 Existing sub-ranges 090, 091 and 098 have been designated for PRS as defined in section 120(7) of the Communications Act 2003. As summarised in the statement

“The conditions regulating PRS”, published on 17 October 2006⁶¹, genuine personal numbering services are not PRS as defined in section 120(7) of the Act.

- A1.97 Therefore, in order to accommodate PNS on the 09 range, we would need to open a new sub-range (in the same way as we have considered for 08) for PNS that are not PRS. This approach has the benefit that many consumers associate the 09 range with higher call charges. However, this may also have an adverse impact on end users of personal numbers as consumers may avoid making calls to what they might perceive to be a very expensive number. For example, according to our research conducted in May 2008⁶², the perceived price of an 09 call, on a fixed network is 61ppm, which is substantially higher than the estimated actual price of 36.5ppm for a 070 call. Thus there is likely to be substantial consumer welfare loss from migration to this range.
- A1.98 In addition, the 09 range currently only carries revenue share services which are prohibited on 070. Therefore, adding more services to the 09 range would make it harder to distinguish services on that range using simplified and enduring meanings. In addition, it may cause confusion for consumers to have services provided on the 09 range that are not subject to PhonepayPlus regulation (PhonepayPlus regulation only applies to PRS), or cause consumers to believe that the services provided by personal numbers are PRS, leading to reduced confidence in PNS in general.

The 06 number range

- A1.99 As set out in previous documents, Ofcom originally considered migrating 070 users to a new 06 number range.
- A1.100 As with opening a new range on 08, the simplest way to create this range would be simply to change the prefix of personal numbers.
- A1.101 Given there are no current services on the 06 range, there are no existing policies that would be affected by migrating PNS or would affect PNS services if migrated. However, it would mean using a new range that may be more appropriate to reserve for future uses.
- A1.102 Further, consumers will not know the cost of calling the 06 range and this is likely to cause more confusion without substantial promotion of the range, which may not be wholly effective.

Cost-benefit analysis of migration

- A1.103 We have carried out a cost-benefit analysis for migration to another number range and have estimated the costs of migration for PNS providers/resellers, end-users and OCPs. Given the difficulties with assessing these costs, we have taken a fairly conservative approach to evaluating costs. Further, the majority of the costs for PNS providers, end-users and Ofcom are one-off rather than recurring.

Costs to PNS Providers and Resellers

- A1.104 The costs to PNS providers and resellers are discussed below.

⁶¹ Paragraphs 2.30, 2.34, 3.4 and 4.11,

<http://www.ofcom.org.uk/consult/condocs/prsconditions2/statement/prsconditions.pdf>

⁶² See Annex 5 of our consultation document

Notification to users

A1.105 PNS providers and resellers would need to contact each of their customers (end users) to notify them that their current personal number was due to change.

A1.106 The following assumptions have been applied⁶³:

- drafting of standard letter to user would take no more than one working day per provider/reseller at an effective wage rate of £18 per hour⁶⁴; and
- dispatching of standard letters at a rate of 12 letters per hour by an administrative resource with an effective wage rate of £18 per hour.

A1.107 In terms of the drafting costs, these are likely to total approximately £36,300⁶⁵ for all providers and resellers. Associated administrative costs will ultimately depend on the number of users needing to be contacted. We estimate this to be £1m, although this is an upper limit as some providers/resellers may routinely contact their 070 customers and could include such correspondence with this.

Changes to contracts between end-users and PNS providers

A1.108 The end-user contracts with PNS providers/resellers will also need to be updated to reflect any migration changes⁶⁶.

A1.109 We estimate that the legal drafting should take no more than 7 hours and estimate the cost per provider/reseller to be £126 for internal legal resource and approximately £1,200 for external legal resource⁶⁷. Based on these assumptions, we estimate the total cost to providers/resellers in updating their contracts to range from £36,300 to £343,000⁶⁸, depending on the number of businesses that need to use external lawyers.

A1.110 We believe that most providers/resellers would send a copy of the notification and contract at the same time, thus only one set of administration costs would be incurred.

Changes to contracts between PNS providers and OCPs

A1.111 Changes are likely to require renegotiation of terms between PNS providers and OCPs but not resellers. There are a number of categories of costs associated with renegotiation of contracts with OCPs these include:

- Drafting of new contracts with the OCPs, we have assumed that each PNS provider would need to renegotiate with 10 OCPs, this includes mobile and fixed line operators. As with the drafting of contracts above this may be done with either internal or external legal resource. On this basis the total cost of all PNS

⁶³ This approach is consistent with that used in the 0871 review.

⁶⁴ Measuring Administrative Costs <http://www.berr.gov.uk/bre/policy/simplifying-existing-regulation/administrative-burdens/page44061.html>

⁶⁵ This has been calculated by multiplying £18 by 7 hours (one working day), which gives the cost for one provider/reseller and then multiplied by the total number of providers/resellers.

⁶⁶ The assumptions used are consistent with those in the 0871 review.

⁶⁷ Measuring Administrative Costs <http://www.berr.gov.uk/bre/policy/simplifying-existing-regulation/administrative-burdens/page44061.html>

⁶⁸ This has been calculated in the same way as the costs for notification, however the wage rate for the external lawyers is higher than the £18 internal wage rate.

providers renegotiating contracts could range from £175,000 to £1.7m. However, we consider it likely that many PNS providers do not have access to internal legal resource thus the cost is likely to be nearer £1.7m.

- In addition, there is also the cost of negotiations in terms of the time taken by managers, however we have not been able to credibly estimate what this might be as each negotiation will be different. Further, it may also be the case that wholesale termination rates change as a result and depending on the reasons for the change this could be a cost to providers (unless they were reduced). However, trying to estimate the outcome of any negotiations is highly speculative and therefore it is not possible to include a figure in the cost assessment.

Costs of telecoms and billing systems changes to PNS providers/resellers

A1.112 Providers and possibly some resellers would have to make system changes and would incur engineering costs. The different types of costs associated with system changes are set out below⁶⁹:

- A provider would need to apply for numbers in the new range incurring administrative costs. Based on an average daily salary cost of £119⁷⁰ and assuming that it would take a provider 0.5 days to process the paperwork etc., the overall cost to all providers would be approximately £10,000.
- A provider would then need to follow the process associated with receiving a new block of numbers.
- Once the provider has received the new number block(s)⁷¹ changes to the switch are required. The time involved could vary substantially depending on the complexity of the switch and whether a script needs to be produced to run the changes, as each number in the block might need a manual rewrite. We have estimated that a single switch operator changing one block of numbers could take between 4 hours to 5 days.
- Once the switch has been updated the billing systems will need changing. For the retail side of the billing, the costs of doing so would also be incurred by resellers. The time taken to make the changes will depend on whether a script needs to be developed and run which could take between 4 hours to 5 days.
- Based on the estimated time taken to make changes to the switch and billing systems, we have assumed that on average this would take an engineer 30 hours. For a PNS provider, the cost of updating one block of 10,000 numbers on a single switch would be approximately £1,500⁷². For a systemless reseller, the cost of updating their billing systems would be approximately £700.
- However, although there are a number of PNS providers who have very few blocks, there are 36 providers with more than 10 and many of these are blocks of 100,000 numbers. In addition, there are likely to be providers who have multiple switches. Thus the total cost to these providers could be substantially higher.

⁶⁹ It should be noted that this assumes that the 070 and new range operate in parallel for a period of time.

⁷⁰ This is the updated rate used in the 0871 review regarding overhead costs. It is based on BERR guidance which assumes an hourly wage rate of £17.

⁷¹ It has been assumed that this will be in blocks of 10,000 numbers.

⁷² This calculation takes number of hours (30) * engineer wage rate of £47.73.

However, it should be noted that there are likely to be some economies of scale involved and that for billing systems, it may be the case that updating these are independent of the number of switches and blocks a provider has. Further, given the amount of numbers in active use, it may be the case that providers with underused multiple blocks request a smaller number of blocks in the new range, thus needing to make a smaller number of changes.

- Thus to get an upper limit for the total cost for PNS providers, we have assumed that for each block of 10,000 numbers the same process for switching would be followed, i.e. that it would take an engineer approximately 15 hours per block.⁷³ We have also assumed that PNS providers would request the same amount of numbers as they currently have. However, for billing it has been assumed that this would only need to be done once. Based on this assumption the total cost for all PNS providers would be approximately £6.9m.

A1.113 In terms of the total costs facing PNS providers and resellers, these range substantially depending on the assumptions made, but could be as high as £10m.

Costs to end-users

A1.114 In addition to the costs incurred by PNS providers and resellers associated with the migration of the personal number range, end-users are also likely to incur costs in migrating to another number range. These costs include: stationery costs (e.g. letterheads, business cards); changes to websites; marketing costs; and loss of business because previous clients have an incorrect number.

- Stationery costs

A1.115 The 0871 review sets out the methodology adopted when assessing the one-off costs associated with replacing stationery. We have followed the same approach and have estimated firstly the number of business users affected and then assessed the costs involved using a number of assumptions. These costs may have been updated since the consultation to reflect changes made to the 0871 review. These assumptions include:

- businesses all print the personal numbers on their stationery;
- 25% of businesses would replace their stationery over a 12 month period (in line with the notice period that would be given if migration was to take place). This was taken from the *NTS: A way forward* consultation;
- whilst we are aware that some companies print their letterheads on to plain paper as an alternative to using letter-headed paper, it is difficult to assess the percentage of companies which do this. As such it has been assumed that all businesses would require new stationery, which is likely to overestimate the cost;
- in the 0871 review, Ofcom assumed that not all employees would need business cards, because some staff performed roles where they were not required. In addition, there is again the possibility of cards needing to be reordered in any event during the time period involved. As such, we have chosen to use the

⁷³ It has also been assumed that the same number of blocks/numbers would be required by each PNS provider. This may not occur in practice if there are currently providers who are not utilising such blocks.

estimates for number of employees requiring business cards as set out in the 0871 review;

- the 0871 review took into account the fact that businesses of different sizes were likely to spend differing amounts on stationery (letterheads and business cards), this was based on business directory data reviewed in the 2004 NTS Consultation (Annex 6). For the purposes of this CBA we have used different proportions and assumed that 100% of businesses using these numbers are small with less than 10 employees using 070 personal numbers;
- regarding the amounts that would need to be spent, we have used the figures set out in the 0871 review. For letterheads, businesses would spend £50; and for business cards it is assumed that only 3 employees will need business cards at a cost of £15 per card.

A1.116 The total stationery cost to users based on these assumptions is approximately £13.4m. This is based on the number of businesses affected, which is estimated at 140,000. In addition, we have assumed that there are some administrative overheads associated with reordering stationery, which is based on the 0871 review⁷⁴. Thus, in total, the cost to users of personal numbers could be as high as £21.8m, this equates to approximately £155 spent on stationery per end-user.

A1.117 As part of the end user questionnaire, we asked businesses what costs they would incur in terms of changes to stationery; responses suggested a range of £1,500 to £3,500.

- Changes to websites

A1.118 It is likely, given the current technological climate that many of the business users of personal numbers have websites on which these numbers are displayed. Whilst there would be some costs involved in needing to change these web pages, we consider that such changes would be straightforward and that businesses would incur minimal expenses.

- Telecom costs

A1.119 End-users are likely to incur some cost in obtaining new numbers/lines to replace 070. Although, the extent of this will depend on the type of number an end-user chooses. For example, if they were to migrate to the range chosen to replace PNS then the costs are likely to be minimal. However, if they decided that the new range will not meet their current needs, i.e. that there are some features of current PNS that are not on the new range, then they might need to take an alternative approach⁷⁵. This may require getting a new mobile/mobile contract, a new geographic line (incurring line rental charges) etc., or it may mean that some end users just use their existing mobile or fixed line numbers.

A1.120 The end-user questionnaire asked respondents what alternatives would be considered if the range were to close. The majority of responses selected mobile

⁷⁴ We have updated the wage rate associated with the administration cost to reflect the new rate used in the 0871 review. The new rate has been taken from BERR guidance and is £17 per hour which equates to a daily rate of £119. The rate that has been used to calculate administrative costs in the 070 IA is £119.15. As such the total costs are reduced by approximately £10,000.

⁷⁵ However, if the new PNS range was an exact replication of the current one, then any costs incurred by end-users moving to a different range, above the costs of moving to the new PNS range, would not be included in a CBA as this spend is discretionary i.e. up to the end-user.

and 08 numbers – and many picked more than one option. It has been difficult to estimate with any accuracy what the total costs involved would be because it is unclear how many users would in fact switch to using existing telecoms products, rather than purchasing new ones. Nevertheless, we note that some cost is likely to be incurred and therefore this is in addition to the total estimates given below.

- Marketing costs

A1.121 In the 0871 review it was assumed that Service Providers (SPs) would at least reorder marketing material on an annual basis and so only half of SPs would potentially incur incremental costs due to the six month notice period prior to the extension of PRS. They concluded that SPs costs for advertising/promotional material would not exceed the cost of adding inserts to such materials which they estimated at 8p for a compliment slip detailing the changes to advertising/promotional material and 5p to add a sticker.

A1.122 In terms of users of 070 numbers, the responses to the questionnaire were quite varied regarding whether marketing material was used. Of those that did respond to the question, the average cost was stated to be approximately £1,000, although this depended on the size of the company. Due to the high variability of marketing costs associated with individual companies, we have not assessed what the size of the cost might be, however we note that any costs would be in addition to the total estimates we have made.

- Loss of business

A1.123 Many of the responses to the questionnaire pointed out that having to change numbers would result in previous clients not being able to get in touch. If migration was to occur, then it is likely that for a period of time the two systems would run in parallel and those ringing the old number would be able to contact the business. However, if many clients ring on a sporadic basis with long gaps between calls, there is likely to be a loss of business for those end-users. It has not been possible to estimate such costs and therefore they have not been quantified. However, as discussed in the NTS consultation document, whilst loss of business could occur for an individual company, its customers would be able to use an alternative company, thus from an economic perspective this would not alter the size or value of the overall market the company operated in.

- Total costs of migration

A1.124 In terms of the total cost to users of personal numbers, as discussed above, not all of these can be quantified. However, for those which can, we estimate these to be approximately £20m.

Costs to CPs – from opening new range

A1.125 There will also be costs associated with systems changes for originating providers. These costs will differ, depending on the range chosen. Whilst migration to existing ranges is likely to require some changes, the costs associated with opening up a new range are likely to be much more substantial as new and possibly more complicated technology solutions have to be built.

Costs to Ofcom

A1.126 Whilst the majority of costs fall to PNS providers, OCPs and end-users, Ofcom will also incur some costs as a result of the migration of PNS services to another range. In order to facilitate this, it is estimated that four members of staff would be required for a week. The salary and overhead cost of this would be approximately £3,150.

Benefits of migration

A1.127 The benefits of migration will only arise if migration addresses the main sources of consumer detriment we have found, namely lack of pricing transparency for personal numbers and the cost of scamming.

A1.128 From the results of our market research, we cannot be certain that the main reason for the prevalence of scams or price confusion on the 070 range is because consumers confuse personal numbers with mobile numbers. Indeed, it is likely that the key drivers of current scams are the high prices of calls to personal numbers, a general lack of awareness of call prices and an instinctive reaction on the part of some consumers to call back missed calls.

A1.129 From our consumer research, it is not clear that consumers have more awareness about the cost of calling 08 or 09 numbers. Further, if we were to create new 08 and 09 ranges or use the 06 range for PNS, consumers would be likely to have even less awareness of pricing unless there was substantial promotion of these ranges when launched and even then it is unclear whether this would be effective. Therefore, it is unclear that migration will improve pricing transparency for PNS.

A1.130 As with quantifying consumer detriment, it has not been possible to estimate the total benefits to consumers (and possibly to end-users) from such a change. Nevertheless, it is likely given the discussion above that any benefits would be significantly smaller than the costs involved and this is likely to be the case even if costs were significantly smaller.

A1.131 Overall, it is not clear that moving PNS to a recognisably different range will help to remedy the consumer detriment that arises with 070 calls and will not, on its own, prevent the same types of scams appearing on a new range or similar price confusion.

Conclusion on migration

Figure A1.7 Summary of costs and benefits associated with migration of personal numbering services to other ranges

Cost to PNS Providers/Resellers	£10m
Changes to Notices	£1m
Changes to Contracts to End-user	£0.3m
Renegotiating POLO rates	£1.7m
System costs	£6.9m
Cost to End User	£22+m
Overhead and Stationery costs	£22m
Website changes	Minimal expenditure
Telecoms costs	Will vary according to end-user needs and may be incurred on a regular basis
Marketing costs	Minimal expenditure
Cost to OCPs	These costs are associated with changes to systems and could be substantial
Cost to Ofcom	£3k
Benefits	These are likely to be minimal as migration does not address the main sources of consumer detriment. It is likely that similar scams will occur on any new personal numbering range.

A1.132 Ofcom estimates that the total costs to PNS providers, resellers, end-users and Ofcom of migrating personal numbers to another range could be as high as around £40 million (not factoring in significant costs to OCPs).

A1.133 In our view, the benefits of migration are likely to be significantly smaller than the costs of migration, given that migration is unlikely to address the sources of consumer detriment identified. Whilst it may provide more clarity for some consumers in terms of distinguishing personal numbers from mobile numbers, it is unlikely to address the opaque pricing, high costs and scams that currently exist with PNS.

A1.134 In addition, the costs are high in comparison to the revenue generated in this market – approximately £32 million per year. This suggests that even if the benefits of migration were high, it would not be profitable for the market to migrate in terms of a pure cost-benefit analysis test.

Annex 2

List of respondents to the consultation

A2.1 The following respondents provided non-confidential responses to the consultation. These responses can be found on our website at:

<http://www.ofcom.org.uk/consult/condocs/070options/responses/>.

- 0701.com
- Acorn Art Galleries Ltd
- Aggett, Mr R
- AIME
- AIT Consultancy
- Ato, Mr R
- Blinston, Mr N
- BT Group plc
- Business Analysis Centre Ltd
- Buton, Mr R
- C.H.C.s ltd
- Cable&Wireless plc
- Cannell, Dr M
- Charlestone, Dr K
- Chung, Mr A
- Coldwell, Mr M
- Curry, Mr J
- Davies, Mr P
- Dransfield Solutions
- Evans, Ms D
- FleXtel
- Goodge, Mr M

- Hardacre, Mr P
- Harris, Mr P
- Hillsdon, Mr R
- Hospedia Ltd
- Hull, Mr R
- Humanist Society of Scotland
- Invomo
- J2 Global
- Jensen, Mr J
- KCOM
- Kendall, Mr G
- Lewendon, Mr M
- Louis, Mr D
- Mackey, Ms M
- Mainline Security
- Maman, Mr P.E
- Marcaurelh, M
- Mobile Broadband Group (MBG)
- Metier, Mr G
- Money, Mrs P
- Morrison, Mr A
- Newman, Mr T
- Penn, Mr G
- Pologon Ltd
- Porter, Mr A
- Provan, Mr S.
- Rampon, Mr A

- Robinson, Mr S
- Rowe, Ms R
- Severn & Teme District Explorer Scout Unit
- Sharma, Mr M
- Shersby, Mr J
- Simpson, Mr M
- SMF consultants
- Square1 Communications Ltd
- Sridhar, Mr
- Scottish & Southern Energy (SSE)
- Technology and Communications services
- Telecommunications Regulatory Consulting
- The Fernwood Trust
- The Turning Point Heritage Trust
- Topping, Mr D
- The Telecommunications UK Fraud Forum (TUFF)
- Vilha, Mr A
- Ward, Dr M

Annex 3

The legal basis for changes to the National Telephone Numbering Plan and proposed modification to General Conditions 14 and 17

The legal framework

- A3.1 Ofcom regulates the communications sector under the framework established by the Communications Act 2003 (the Act).
- A3.2 The Act provides, amongst other things in relation to numbering, for the publication by Ofcom of the Numbering Plan and the ability of Ofcom to set General Conditions. The Act also sets out statutory procedures that apply when Ofcom wishes to make modifications to the Numbering Plan, the processes for the giving of directions under conditions such as the General Conditions and the processes and tests that must be satisfied before setting or modifying the General Conditions.
- A3.3 A summary of the relevant provisions is set out below. In this case, our decision involves a modification of:
- General Condition 14 (GC14) to improve price transparency for 070 numbers, by requiring originating communications providers to give greater prominence for 070 prices in their published price lists; and
 - General Condition 17 (GC17) and the Numbering Plan to reflect the withdrawal of the requirement for pre-call announcements on 070 numbers.

Specific provisions under the Act

Powers and duties in relation to the General Conditions (GC 14 and 17)

- A3.4 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.....
- (3) A general condition is a condition which contains only provisions authorised or required by one or more of sections 51, 52, 57, 58 or 64.”
- A3.5 Ofcom must not modify a condition unless it is satisfied that the modification satisfies the test in section 47(2) of the Act as follows:

“That the modification is:

- a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories 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.”

A3.6 Section 48(2) further provides that:

“Before setting conditions under section 45, or modifying or revoking a condition so set, Ofcom must publish a notification—

- a) stating that they are proposing to set, modify or revoke the conditions that are specified in the notification;
- b) setting out the effect of those conditions, modifications or revocations;
- c) giving their reasons for making the proposal; and
- d) specifying the period within which representations may be made to Ofcom about their proposal.”

A3.7 Section 48(5) provides 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 has been notified to them for the purposes of this paragraph by the Secretary of State.”

General duties of Ofcom

A3.8 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.”

A3.9 As part of the fulfilment of these principal duties, it is Ofcom's responsibility to secure the availability throughout the UK of a wide range of numbering arrangements, having regard to the interests of consumers in respect to choice, price awareness, and consumer protection.

Duties for the purpose of fulfilling Community obligations

A3.10 In addition to its general duties as to telephone numbers, when considering revisions to the Numbering Plan, 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, and the requirement not to favour one form of network, service or associated facility or one means of providing or making available such network, service or associated facility over another, as well as the requirement to promote the interests of European citizens.

Powers and duties in relation to the Numbering Plan

A3.11 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."

A3.12 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."

A3.13 Section 60 of the Act provides for the modification of documents referred to in the General Conditions (which includes the Numbering Plan) and explains the procedures to be followed in order to conduct this review. Section 60(2) of the Act provides 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

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

A3.14 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 or 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."

A3.15 Section 60(5) provides 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."

Ofcom's general duty as to telephone numbering functions

A3.16 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."

A3.17 An important part of Ofcom's telephone numbering functions is the duty to publish the Numbering Plan. Section 56(1) of the Act provides:

"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.”

Legal tests

A3.18 Ofcom must, when proposing a modification to the General Conditions and the Numbering Plan, show how it considers that its proposals comply with the legal tests in the Act set out above. This analysis can be found in Annex 7 of the consultation document.

Annex 4

Notification of a modification under section 48(1) of the Act to General Condition 14

Modification of General Condition 14 on Codes of Practice and Dispute Resolution published by the Director General of Telecommunications on 22 July 2003 which is set out in the schedule to the Notification published by Ofcom on 15 October 2008 under Section 48(2) of the Act

Whereas

- A. Ofcom issued a notification proposing a modification of General Condition 14 on Codes of Practice and Dispute Resolution in accordance with section 48(2) of the Act on 15 October 2008 (the “Notification”);
- B. In the Notification and accompanying consultation document, Ofcom invited representations on the proposals set out therein by 7 January 2009;
- C. For the reasons set out in the statement accompanying this notification, Ofcom are satisfied that, in accordance with section 47(2) of the Act, this modification is:
 - (i) objectively justifiable in relation to the matters to which it relates;
 - (ii) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (iii) proportionate to what it is intended to achieve; and
 - (iv) in relation to what it is intended to achieve, transparent;
- D. By virtue of section 48(5) of the Act, Ofcom may give effect to any proposal to modify General Condition 14 on Codes of Practice and Dispute Resolution as set out in the Notification, with or without modification only if-
 - (i) it has considered every representation about the proposal that is made to it within the period specified in the Notification; and
 - (ii) it has 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;
- E. Ofcom received responses to the Notification and has 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;

Therefore Ofcom gives the following modification

- 1. Ofcom, in accordance with section 48(1) of the Act hereby makes the following modifications of the General Condition 14 on Codes of Practice and Dispute Resolution as set out in the schedule to this notification.

2. In taking the measures as set out in this notification, OFCOM has considered and acted in accordance with its general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.
3. The reasons for making the modification and the effect of the modification referred to in paragraph 1 above are set out at sections 3 and 4 and Annex 1 of the accompanying statement.
4. Copies of this notification and the accompanying statement have been sent to the Secretary of State in accordance with section 50(1)(a).
5. In this notification:
 - (i) "the Act" means the Communications Act 2003;
 - (ii) "Ofcom" means the Office of Communications;
6. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
7. For the purpose of interpreting this notification:
 - (i) headings and titles shall be disregarded; and
 - (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
8. The schedule to this notification shall form part of this notification.
9. The modification set out in the schedule to this notification shall take effect on 28 August 2009.

Signed by

Daniel Gordon

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

27 February 2009

Schedule

Modification of General Condition 14 on Codes of Practice and Dispute Resolution published by the Director General of Telecommunications on 22 July 2003 which is set out in the schedule to the Notification published by Ofcom on 15 October 2008 under Section 48(2) of the Act

General Condition 14 on Codes of Practice and Dispute Resolution shall be deleted and replaced in its entirety as follows:

14. CODES OF PRACTICE AND DISPUTE RESOLUTION

Basic Code of Practice regarding provision of Public Electronic Communications Services

14.1 The Communications Provider shall produce a basic code of practice for its Domestic and Small Business Customers which sets out at least where such customers may avail themselves of the information required to be published under Condition 10.2, as relevant to the provision of Public Electronic Communications Services. The code of practice shall be drafted in plain English which is easy to understand, and copies of the code of practice shall be provided on request and free of charge to any Domestic and Small Business Customer.

Codes of Practice for Premium Rate Services, NTS Calls⁷⁶ and calls to Personal Numbers⁷⁷

14.2 Within two months of this Condition entering into force, all Originating Communications Providers who provide Premium Rate Services, NTS calls or calls to Personal Numbers, as appropriate shall:

- (a) establish and thereafter maintain a Code of Practice for the provision of information relating to Premium Rate Services for its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex 1 to this Condition;
- (b) establish and thereafter maintain a Code of Practice for NTS Calls and calls to Personal Numbers for its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex 2 to this Condition; and
- (c) comply with the provisions of the Code of Practice referred to at 14.2 (a) and (b) above.

14.3 The codes of practice referred to in Condition 14.2 shall be drafted in plain English which is easy to understand, and copies of the codes of practice shall be provided on request and free of charge to any Domestic and Small Business Customer.

Codes of Practice for Complaints^{78 79}

⁷⁶ Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services, Statement and notification, 19 April 2006.

⁷⁷ <http://www.ofcom.org.uk/consult/condocs/070options/>

14.4 Within one month of this Condition entering into force, the Communications Provider shall establish and thereafter maintain procedures that conform with any applicable Code of Practice for Complaints for the handling of complaints made by its Domestic and Small Business Customers in relation to the provision of Public Electronic Communications Services.

Codes of Practice for Sales and Marketing

14.5 Those Communications Providers who provide Fixed-line Telecommunications Services shall:

(a) establish and thereafter maintain a Code of Practice for Sales and Marketing for dealing with its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex 3 to this Condition; and

(b) comply with the provisions of the Code of Practice for Sales and Marketing established according to Condition 14.5(a) above.

14.6 The Code of Practice for Sales and Marketing shall be drafted in plain English which is easy to understand, and copies of it shall be provided on request and free of charge to any Domestic and Small Business Customer, and be prominently available on the Communications Provider's public website.

Dispute Resolution

14.7 The Communications Provider shall implement and comply with a Dispute Resolution Scheme, including any final decision of the Dispute Resolution Body made in accordance with that Scheme, for the resolution of disputes between the Communications Provider and its Domestic and Small Business Customers in relation to the provision of Public Electronic Communications Services.

Code on the provision by Service Providers of consumer protection information for the provision of Services⁸⁰

14.8 Within two months of this Condition entering into force, all Service Providers shall:

(a) comply with the requirements set out in the Code at Annex 4.

14.9 In this Condition⁸¹:

⁷⁸ Protecting citizens and consumers from mis-selling of fixed-line telecommunications services, Notification, 13 April 2005.

⁷⁹ Protecting consumers from mis-selling of telecommunications services, Notification, 22 May 2007 – deleting text in 14.5 and adding text in 14.6.

⁸⁰ Regulation of VoIP Services, Notification, 29 March 2007, obligations in Annex 4 in force from 29 May 2007.

⁸¹ Protecting citizens and consumers from mis-selling of fixed-line telecommunications services, Notification, 13 April 2005 – applies to insertion of definitions (a), (d), (h), (j), (m) – (p), and (s) – (v), Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services, Statement and notification, 19 April 2006 - applies to insertion of definitions (i), (k) and (l), Regulation of VoIP Services, Notification, 29 March 2007 - applies to insertion of definitions (q) and (r), Protecting consumers from misselling of telecommunications services,

- (a) **“Cable Network”** means a hybrid fibre-coax Electronic Communications Network that uses a combination of optical fibres and coaxial cable;
- (b) **“Communications Provider”** means a person who provides Public Electronic Communication Services to Domestic and Small Business Customers;
- (c) **“Code of Practice for Complaints”** means a code of practice approved from time to time by the Director for the purpose of this Condition in accordance with sections 52 and 53 of the Act;
- (d) **“Code of Practice for Sales and Marketing”** means a Code of Practice established in accordance with Condition 14.5(a);
- (e) **“Dispute Resolution Body”** means the body of persons responsible for administering a relevant Dispute Resolution Scheme;
- (f) **“Dispute Resolution Scheme”** means procedures approved or established from time to time by the Director for the purpose of this Condition in accordance with sections 52, 54 or 55 of the Act;
- (g) **“Domestic and Small Business Customer”** means, in relation to a Communications Provider, a Customer of that Provider who is neither-
- (i) himself a Communications Provider; nor
 - (ii) a person who is such a Customer in respect of an undertaking carried on by him for which more than ten individuals work (whether as employees or volunteers or otherwise);
- (h) **“Fixed-line Telecommunications Services”** means Narrowband call and/or line rental services provided to Domestic and Small Business Customers;
- (i) **“Guidelines”** mean the guidelines as set out in either Annex 1, 2 or 3 to this Condition;
- (j) **“Narrowband”** means services provided over a traditional Public Telephone Network, excluding services provided over a Cable Network;
- (k) **“Mobile Number”** means a Telephone Number, from a range of numbers in the National Telephone Numbering Plan, that is Adopted or otherwise used to identify Apparatus designed or adapted to be capable of being used while in motion;
- (l) **“NTS Calls”** means calls to numbers identified in the National Telephone Numbering Plan as Special Services operating on the 08 number range and including calls to 0500 freephone numbers, but excluding calls to 0844 04 numbers for Surftime internet access services, calls to 0808 99 numbers for flat rate internet access call origination and calls to 0870 numbers;
- (m) **“Originating Communications Provider”** means a Communications Provider on whose network a call originates;

Notification, 22 May 2007 – applies to insertion of definitions (a) “Cable Network” and (j) “Narrowband”, modification of definition (h) “Fixed-line Telecommunications Services” and deletion of definitions (a) “Carrier Pre-selection”, (j) “Indirect Access”, (o) “Pre-selected Provider”, (p) “Relevant Period”, (s) “Subscriber”, (t) “Wholesale Calls”, (u) “Wholesale Inputs”, (v) “Wholesale Line Rental”.

(n) “**Personal Number**” means a Telephone Number, from a range of numbers in the National Telephone Numbering Plan, assigned by a Personal Numbering Service Provider, which allows a Subscriber to receive calls or other communications at almost any Telephone Number, including a Mobile Number;

(o) “**Personal Numbering Service**” means a service based on number translation that enables End-Users to be called or otherwise contacted, using a single Personal Number, and to receive those calls or other communications at almost any Telephone Number, including Mobile Numbers;

(p) “**Personal Numbering Service Provider**” means a provider of Personal Numbering Services;

(q) “**Publicly Available Telephone Services**” means a service available to the public for originating and receiving national and international calls and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance services, Directory Enquiry Facilities, Directories, provision of Public Pay Telephones, provision of service under special terms, provision of specific facilities for End-Users with disabilities or with special social needs and/or the provision of non-geographic services;

(r) “**Public Telephone Network**” means an Electronic Communications Network which is used to provide Publicly Available Telephone Services; it supports the transfer between Network Termination Points of speech communications, and also other forms of communication, such as facsimile and data;

(s) “**Service**” means a Public Electronic Communication Service, but only to the extent it comprises the conveyance of speech, music or sounds;

(t) “**Service Provider**” means a provider of a Service;

Annex 2 to General Condition 14

Guidelines for codes of practice for the publication of prices of calls to Number Translation Services, and Personal Numbers

1. Introduction and overview

- 1.1 The key objective of these Guidelines is to ensure that Originating Communications Providers provide their Domestic and Small Business Customers with readily accessible and accurate information relating to the usage charges for NTS Calls and calls to Personal Numbers on their networks.
- 1.2 These Guidelines seek to ensure that there is a clear framework within which Originating Communications Providers should be operating in relation to the publication and provision of information to Domestic and Small Business Customers about usage charges for NTS Calls and calls to Personal Numbers.
- 2.1 All Originating Communications Providers who provide NTS Calls and calls to Personal Numbers are required under General Condition 14.2 to establish a Code of Practice for NTS Calls for their domestic and small business customers (the “Code”), which conforms with these Guidelines and to comply with the provisions of the Code.

2. Status of code

- 2.2 Compliance with the Code does not guarantee compliance with any legal requirement.
- 2.3 Non-compliance with the Code does not affect the validity of any contract between the company and the consumer, unless otherwise provided by law.

3. Customer information and advice

- 3.1 The Originating Communications Provider that is responsible for the retail billing of NTS Calls and for calls to Personal Numbers to the end-user shall publish the usage charges required to be published under General Condition 10.2(d)(ii) for NTS Calls and calls to Personal Numbers on its website and in published price lists in a way that gives those charges the same prominence in terms of location and format given to charges for geographic calls, calls to mobiles and call packages, including bundles.
- 3.2 Without prejudice to the generality of paragraph 3.1, Originating Communications Providers to give prominence to the following, in particular:
 - (i) any usage charges that apply for calls to freephone numbers including details of when those charges will apply;
 - (ii) usage charges for NTS Calls which include variations by time of day. For example, “08xx calls are charged at x pence per minute or per call during weekday evenings inclusive of value added tax”;

(iii) usage charges for calls to Personal Numbers which include variations by time of day. For example, “070 calls are charged at x pence per minute or per call during weekday evenings inclusive of value added tax”;

(iv) whether or not any special offers, discount schemes or call bundling arrangements apply to NTS Calls and calls to Personal Numbers, including details of which arrangements apply to which numbers;

4. Customer information and advice: advertising, promotional material and new customers

- 4.1 Originating Communications Providers shall publish in their advertising and promotional material which refer to call pricing, alongside maximum prices applying to NTS Calls and calls to Personal Numbers, a clear reference as to where on websites and published price lists the complete set of NTS Call charges, as specified in paragraph 3.2, can be found.
- 4.2 When a new customer signs up for the provider’s service, Originating Communications Providers shall provide, alongside maximum prices applying to NTS Calls and calls to Personal Numbers in the relevant correspondence, a clear reference as to where on websites and published price lists the complete set of NTS Call and Personal Number call charges, as specified in paragraph 3.2, can be found.
- 4.3 Wherever an Originating Communications Provider states a price for a call package or bundle which includes geographic calls the Originating Communications Provider must include a prominent statement indicating whether or not this price includes NTS Calls and calls to Personal Numbers.

5. Processes and Procedures

- 5.1 Procedures should be in place for Originating Communications Providers’ enquiry and helpdesk staff to know of the existence and content of the Code in order for them to be able respond to complaints and enquiries about NTS Calls and calls to Personal Numbers and to monitor their compliance with the Code.
- 5.2 There should be fully documented procedures in place to make customers and advice agencies aware of the existence and content of the Code, for example by referring to the Code in sales and marketing literature and by making the Code available through Originating Communications Providers’ websites.
- 5.3 The Code shall be drafted in plain English, which is easy to understand, and copies of the Code are to be provided on request, and free of charge, to customers.
- 5.4 The Code shall include the name and contact details (including e-mail address) of the Originating Communications Provider’s representative who is responsible.

6. Terms used in these Guidelines

- 6.1 Terms used in these Guidelines shall have the same meaning, if any, as set out in Condition 14.

Annex 5

Notification of a modification under section 48(1) of the Act to General Condition 17

Modification of General Condition 17 on Allocation, Adoption and Use of Telephone Numbers published by the Director General of Telecommunications on 22 July 2003 which is set out in the schedule to the Notification published by Ofcom on 15 October 2008 under Section 48(2) of the Act

Whereas

- A. Ofcom issued a notification proposing a modification of General Condition 17 on Allocation, Adoption and Use of Telephone Numbers in accordance with section 48(2) of the Act on 15 October 2008 (the “Notification”);
- B. In the Notification and accompanying consultation document, Ofcom invited representations on the proposals set out therein by 7 January 2009;
- C. For the reasons set out in the statement accompanying this notification, Ofcom are satisfied that, in accordance with section 47(2) of the Act, this modification is:
 - (i) objectively justifiable in relation to the matters to which it relates;
 - (ii) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (iii) proportionate to what it is intended to achieve; and
 - (iv) in relation to what it is intended to achieve, transparent;
- D. By virtue of section 48(5) of the Act, Ofcom may give effect to any proposal to modify General Condition 17 on Allocation, Adoption and Use of Telephone Numbers as set out in the Notification, with or without modification only if-
 - (i) it has considered every representation about the proposal that is made to it within the period specified in the Notification; and
 - (ii) it has 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;
- E. Ofcom received responses to the Notification and has 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;

Therefore Ofcom gives the following modification

- 1. Ofcom, in accordance with section 48(1) of the Act hereby makes the following modifications of the General Condition 17 on Allocation, Adoption and Use of Telephone Numbers as set out in the schedule to this notification.

2. In taking the measures as set out in this notification, OFCOM has considered and acted in accordance with its general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.
3. The reasons for making the modification and the effect of the modification referred to in paragraph 1 above are set out at sections 3 and 4 of the accompanying statement.
4. Copies of this notification and the accompanying statement have been sent to the Secretary of State in accordance with section 50(1)(a).
5. In this notification:
 - (i) "the Act" means the Communications Act 2003;
 - (ii) "Ofcom" means the Office of Communications;
6. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
7. For the purpose of interpreting this notification:
 - (i) headings and titles shall be disregarded; and
 - (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
8. The schedule to this notification shall form part of this notification.
9. The modification set out in the schedule to this notification shall take effect on the date of this notification.

Signed by

Daniel Gordon

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

27 February 2009

Schedule

Modification of General Condition 17 on Allocation, Adoption and Use of Telephone Numbers published by the Director General of Telecommunications on 22 July 2003 which is set out in the schedule to the Notification published by Ofcom on 15 October 2008 under Section 48(2) of the Act

General Condition 17 shall be modified as set out below:

A. The following wording is to replace the current condition 17.12:

“Requirements in connection with the use of telephone numbers

17.12 Where Customers of a Communications Provider are making calls to 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.”

Annex 6

Modification under section 56(2) of the Act to the National Telephone Numbering Plan

Modification of Appendix A of the Numbering Plan which is set out in the schedule to the Notification published by Ofcom on 15 October 2008 under section 56(2) of the Act

Whereas

- A. Ofcom issued a notification proposing a modification of Appendix A of the Numbering Plan in accordance with section 60(3) of the Act on 15 October 2008 (the "Notification");
- B. The Condition has effect by reference to provisions of the Numbering Plan.
- C. In the Notification and accompanying consultation document, Ofcom invited representations on the proposals set out therein by 7 January 2009;
- D. For the reasons set out in the statement accompanying this notification, Ofcom are satisfied that, in accordance with section 60(2) of the Act, this modification is:
 - (i) objectively justifiable in relation to the matters to which it relates;
 - (ii) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (iii) proportionate to what it is intended to achieve; and
 - (iv) in relation to what it is intended to achieve, transparent;
- E. By virtue of section 60(5) of the Act, Ofcom may give effect to any proposal to modify General Condition 17 on Allocation, Adoption and Use of Telephone Numbers as set out in the Notification, with or without modification only if-
 - (i) it has considered every representation about the proposal that is made to it within the period specified in the Notification; and
 - (ii) it has 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;
- F. Ofcom received responses to the Notification and has 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;

Therefore Ofcom gives the following modification

1. Ofcom, in accordance with section 56(2) of the Act hereby makes the following modifications to Appendix A of the Numbering Plan as set out in the schedule to this notification.
2. In taking the measures as set out in this notification, OFCOM has considered and acted in accordance with its general duties in section 3 of the Act, the six Community requirements in section 4 of the Act and its duty as to telephone numbering in section 63 of the Act.
3. The reasons for making the modification and the effect of the modification referred to in paragraph 1 above are set out at sections 3 and 4 of the accompanying statement.
4. Copies of this notification and the accompanying statement have been sent to the Secretary of State.
5. In this notification:
 - (i) "the Act" means the Communications Act 2003;
 - (ii) "Condition" 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;
 - (iii) "Ofcom" means the Office of Communications; and
 - (iv) "the Numbering Plan" means the National Telephone Numbering Plan published from time to time by Ofcom.
6. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
7. For the purpose of interpreting this notification:
 - (i) headings and titles shall be disregarded; and
 - (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
8. The schedule to this notification shall form part of this notification.
9. The modification set out in the schedule to this notification shall take effect on the date of this notification.

Signed by:

Daniel Gordon

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

27 February 2009

Schedule

1. The following amendment shall be made to the Definitions and Interpretation in section 1 of the Numbering Plan as follows:

'Personal Number' means a Telephone Number, from a range of numbers in Part A of this document, assigned by a Personal Numbering Service Provider, which allows a Subscriber to receive calls or other communications at almost any Telephone Number, including a Mobile Number, ~~that is charged to the Customer at up to the rates set out in Part A, except where a free-to-caller pre-call announcement is provided at the start of the call;~~

2. The following amendment shall be made to the row in Table A1 in Appendix A of the Numbering Plan as follows:

Number(s) beginning	Designation
070	Personal Numbering Service: from 1 September 2007, calls to these numbers that are charged in excess of either 20p per minute or a fixed fee of 20p per call, inclusive (in either case) of value added tax, must be notified to callers at the start of the call before any call charges start to apply, by means of a free-to-caller pre-call announcement which at least states the maximum charge that could be incurred for a call to a personal number by a Customer of the Originating Communications Provider

Annex 7

Personal Numbering - Guidance for the acceptable use of 070 numbers

Revised 27 February 2009⁸²

Ofcom has produced these guidelines to provide range holders with further clarification on what it considers to be acceptable use of 070 numbers. They do not fetter Ofcom's discretion in dealing with future cases involving the use of the 070 range.

Comments on these guidelines are welcome and, if appropriate, may be reflected in any future revision.

1. This guidance provides further clarification on what Ofcom considers to be acceptable use of 070 numbers. It does not replace the National Telephone Numbering Plan, nor Condition 17 of the General Conditions, but provides additional guidance for range holders and their sub-allocatees in response to recent cases and enquiries about whether a particular service is acceptable.

2. This guidance covers:

- [The National Telephone Numbering Plan](#)
- [Responsibility for sub-allocated numbers](#)
- [Acceptable use of 070 numbers](#)
- [Criteria for assessing appropriate use](#)

The National Telephone Numbering Plan

3. The National Telephone Numbering Plan ('the Plan') states that there are two essential requirements re use of 070 Telephone Numbers:

- Part B1 prohibits the adoption or use of telephone numbers except in accordance with the relevant designation of those numbers in Part A of the Plan. Part A1 states that 070 is set aside for Personal Numbering Services, which are defined in the 'Definitions and Interpretation' section of the Plan; and
- Part B3.2 further states that those adopting Personal Numbers must not share with End-Users any revenue obtained from providing a Personal Numbering Service (End-User is defined in Part 1 of the General Conditions - see paragraph 8 below).

Responsibility for sub-allocated numbers

4. Condition 17.8 of the General Conditions states that:

⁸² Additions have been marked in **yellow highlight**

“The Communications Provider shall take all reasonably practicable steps to ensure that its Customers, in using Telephone Numbers, comply with the provisions of this Condition, where applicable, and the provisions of the National Telephone Numbering Plan.”

5. Specifically, we would expect that before making their network and/or services available to sub-allocatees, 070 allocatees would carry out the following due diligence process:

- collect and maintain information such as the full address of the sub-allocatee, the registered name and company of that company (if a limited company), the name and address of each of the directors, the name of the director with primary responsibility for the personal numbers, the name of the person responsible for the day-to-day operation of each personal number, and phone, email, and fax details for those named persons enabling contact to be made with any of them at all necessary times;
- make sufficient inquiry so as to satisfy themselves fully that the information supplied to them by service providers is accurate. In undertaking these inquiries, 070 allocatees must obtain clear evidence, in particular in respect of the identity of the people named above;
- retain the information collected and the records of the inquiries made and responses to those inquiries and a copy of all evidence obtained, and make those records and copies available to Ofcom upon being directed by Ofcom to do so; and
- bring the Numbering Plan and General Condition 17 to the attention of their sub-allocatee.

6. The due diligence process is separate from the Consumer Protection Test (CPT) guidelines published by Ofcom on 30 September 2008⁸³ that are designed to ensure that numbers are not allocated to those companies or individuals that cause serious or repeated harm to consumers. However, in carrying out due diligence to ensure compliance with GC17, PNS providers should give due regard to the under assessment and number refusal lists on our website.

7. In order to limit the administrative burden of the due diligence process, the above guidance only applies to where revenue payments will or have been made.

8. To allow a reasonable time for 070 allocatees to carry out their due diligence process, communications providers have 18 months before the above guidance applies to existing customers, i.e. until 28 August 2010.

Acceptable use of 070 numbers

9. The 070 range shall only be used for Personal Numbering Services, which are defined as services “based on number translation that enables End-Users to be called or otherwise contacted, using a single Personal Telephone Number, and to receive those calls or other communications at almost any Telephone Number, including Mobile Numbers”. A Personal Number is also defined in the Plan as a Telephone Number “assigned by a Personal Numbering Service Provider, which allows a Subscriber to receive calls or other communications at almost any Telephone Number, including a Mobile Number”.

⁸³ <http://www.ofcom.org.uk/consult/condocs/numberingcpt/statement/>

10. Previously the Numbering Conventions had stated that 070 numbers were "suitable for users who habitually move location", but as this was not a requirement or prohibition, it does not appear in the Plan. Additionally, the length of time for which an 070 number is active is not a relevant consideration in deciding whether or not it is a legitimate Personal Numbering Service.

11. Recent examples of services that may not fit the traditional mode of Personal Numbering, but which Ofcom considers to be legitimate Personal Numbering Services include:

- 070 numbers allocated to users of Internet chat rooms who want to talk to new acquaintances without divulging their real phone numbers;
- 070 numbers allocated solely for the purpose of selling, eg, a car through a magazine; and
- 070 numbers allocated to hospital patients so that they can have their own number for the duration of their stay (but not where a generic 070 number is used that requires further PINs – see para 17 below).

Ofcom's Criteria for assessing appropriate use

12. In the course of investigations, Ofcom has identified the following key criteria which it considers are shared by all Personal Numbering Services. These criteria will be considered when establishing whether a service being offered on an 070 number is properly considered to fall within the definition of Personal Numbering Service for the purposes of the Plan.

(A) The Personal Numbering Service benefits the person being called

13. End-User is a term defined in the General Conditions, but for the purposes of Personal Numbering, it is the person being called, and not the caller, that is relevant. Personal Numbers can be used to offer a variety of services. What these different services all have in common is that they offer a service to the person being called.

14. Services which allocate 070 numbers with the intention that the calling party sets the number to be called, rather than the receiving party, may not therefore be Personal Numbering Services. If the End-User is not aware that he or she has been allocated an 070 number, benefit does not accrue to the person being called but to the caller and this is not an acceptable use of the 070 range as defined in the Plan.

(B) The End-user must be in charge of the destination number

15. Although Personal Numbers were originally designed for people who habitually move location this is not an essential characteristic (see para 10 above).

16. However, what all Personal Numbering Services have in common is that it must be the called party who decides which destination the 070 number is routed to. Additionally, if the service that is being offered is the facility to be reached at any chosen destination then the End-User must be in charge of changing as well as allocating the destination number. This follows on from Criteria A, above.

17. The End-User cannot be in charge of their number if that number can also be used to contact, eg through a switchboard, another End-User. Therefore requiring the addition of a PIN or the stating of a name, to either a human or automated switchboard operator or

through a menu selection of some sort, amounts to offering a generic service that may not be Personal Numbering. Such generic services must be offered on other number ranges.

(C) Promotional material

18. Promotional material must reflect the key characteristics of a Personal Numbering Service as set out above.

19. For example, it is not acceptable to promote 070 numbers as a way of making (as opposed to receiving) international calls. Such services must be offered on other number ranges.

20. Promotional material or instructions for use may determine whether a particular service constitutes a Personal Numbering Service. In other words, the difference between appropriate and inappropriate use may hinge on the way it is advertised.

21. If the service has the functionality to be used as a Personal Numbering Service, but users are not aware of this functionality, then they will not be able to use it as such. It may not therefore be considered a Personal Numbering Service. If the service is designed for people who move location, for example, service providers must ensure that instructions for changing the destination number are clear and that every customer receives them.

(D) Management of Personal Numbers

22. The use of 070 numbers for administration of individuals' Personal Numbers may not constitute a Personal Numbering Service in itself.

23. It is not acceptable for service providers to use a single, generic 070 number (ie where everyone dials the same 070 number to access the service) for allocation or management (ie changing the destination number) of other 070 numbers. For generic access to a Personal Numbering Service, an 070 number should not be used. Other ranges (08, or 09, depending on price point) or geographic numbers should be used. This is because the benefit (ie, being able to receive a Personal Number or change a destination number) accrues to the calling party and not the End-user. While it may be argued that the End-user has control over the destination number - the other of the key criteria - Ofcom does not consider that the range holder or sub allocatee should also be the End-User of an 070 number.

24. However, Service Providers may enable each customer to manage his 070 number (ie changing the destination number) by calling the same 070 number, ie his individual number. In this case, the calling party and the End-User are actually the same person. Therefore the benefit of this service does accrue to the End-User of the number, and the End-User is in control of the number. As it meets both of the criteria above, Ofcom is likely to consider that this use constitutes an element of a legitimate Personal Numbering Service.