



Number Translation Services: A way forward

Consultation

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Section 1

Summary

Introduction

- 1.1 In this document, Ofcom publishes the results of its re-examination of the regulatory framework for Number Translation Services ('NTS').
- 1.2 This document is the second formal stage of Ofcom's re-examination of the regulatory framework for NTS. Ofcom issued a consultation in October 2004 entitled *Number Translation Services: Options for the Future* ('the October 2004 Consultation') in which it proposed changes to the regulatory regime designed to address growing concerns amongst industry and consumer stakeholders about the operation of the current regime.
- 1.3 The current arrangements for NTS enable calls to 08 and 09 non-geographic telephone numbers to be used by businesses and other organisations to provide a wide range of telephone services e.g. pay-as-you-go dial-up internet access, telephone banking, tele-voting and business contact services.
- 1.4 NTS calls provide a micro-payment mechanism for a wide variety of value added services, as well as a means of access to these services. With the exception of Freephone calls, a significant proportion of NTS retail call revenues is passed on to NTS service providers ('SPs') receiving the call ('a revenue share') – over a quarter on average for 0845/0844 calls and over a half for 0870/0871 calls¹.
- 1.5 This consultation document addresses certain policy issues associated with the NTS regime as it applies to the 08 number ranges rather than the 09 range.
- 1.6 In this document, Ofcom reviews the responses to the October 2004 Consultation and makes revised proposals for changes to the regulatory regime for 08 numbers.

Stakeholders concerns

- 1.7 The existing NTS framework has been extremely successful in terms of the large number of new and innovative value-added services that have been made available to UK consumers as a result. However both consumers and those involved in their provision have concerns about the current regulatory arrangements for NTS calls. For consumers, the main concerns are:
 - **Consumer protection:** some consumers argue that revenue sharing should be stopped completely on 08 numbers, because there are no adequate consumer protection measures in place to prevent consumers potentially being overcharged or otherwise exploited on 08 services. This is particularly the case where callers have no choice over the number called, for example, calls to a public service or an after-sales support service.
 - **Price transparency:** Ofcom's research shows that consumers have a very low level of awareness of the price of 084 and 087 calls, because most consumers believe that the calls cost much more than is really the case. There is an

¹ This information was mostly derived from submissions from Originating Communications Providers (OCPs) and Terminating Communication Providers (TCPs) in response to a formal information request from Ofcom prior to the October 2004 Consultation. The results of Ofcom's analysis were published in Annex 5 of the October 2004 Consultation.

economic cost associated with this lack of price transparency, because tariff misperceptions give rise to inefficient purchasing decisions.

- **Misleading advertising:** the link for customers between the prices of calls to 0845 and 0870 numbers and local and national geographic call charges has broken down, as most customers now pay more for calls to 0845/0870 numbers than they do for geographic calls. This has given rise to the potential for misleading advertising as some 0845/0870 services are advertised as being charged at geographic call rates, when in fact they are more expensive.
- **Adult services:** there is concern about the growth of adult services on 0870 and 0871 numbers because if consumers wish to bar them, they need to bar access to all 087 numbers as the adult services are not on specific number ranges. .
- **Internet diallers:** there has been an increase in the incidence of rogue internet diallers on 087 numbers which the Independent Committee for the Supervision of Standards of Telephone Information Services ('ICSTIS'), the premium rate services ('PRS') regulator, does not currently regulate.
- **Call centre waiting times:** many consumers are irritated and annoyed by long call centre waiting times. Where the call centres use revenue sharing NTS numbers, there is an additional concern that waiting times may be deliberately extended in order gain extra revenue.
- **Provision of public services:** there has been growing concern over the inappropriate use of revenue sharing numbers by some public services, fuelled by several cases which have attracted a high level of media attention. The problem has been exacerbated by the fact that many NTS numbers may not be accessible from overseas networks, preventing access for UK residents who are overseas or other international callers.

1.8 In addition to these consumer issues, Communications Providers ('CPs') and SPs have several concerns with the interconnect arrangements for NTS calls:

- **Revenue uncertainty on 0845/0870 calls:** Under current arrangements, the amount Terminating Communications Providers ('TCPs') receive for terminating 0845/0870 calls made from BT lines is effectively beyond their control. It is a residual amount, obtained by deducting BT's cost-based charges for call origination from BT's standard geographic call charges, less applicable discounts. As a result, CPs face a high degree of revenue uncertainty, as do SPs, whose revenue shares usually depend on the amount received by the TCPs. This situation has caused a succession of interconnection disputes between CPs, several of which have required regulatory intervention.
- **OCPs lack of control over payments for call termination:** Several Originating Communications Providers ('OCPs') other than BT argue that they are effectively obliged to pay the same termination charges as BT for NTS calls, and regard this as unfair as they face different costs to BT.
- **BT's NCCN 500 charges:** With effect from 1 May 2004, BT increased its charges for terminating 0845, 0870 and 0820² calls. Other CPs strongly oppose these price increases, which they believe represent an abuse of BT's dominance in the markets for call origination and / or NTS call termination. As a result, Ofcom is undertaking a Competition Act investigation into BT's NCCN 500 charges, to assess these claims.
- **NTS Market Review:** Ofcom is currently undertaking a market review of the market for NTS call termination..

² 0820 numbers are used for internet services for schools

- Ofcom expects to publish the findings of both the market review and the investigation separately, and does not consider the issue further in this document.

Proposals

- 1.9 Ofcom received over 100 responses to the October 2004 Consultation on the future of NTS. In light of those responses, and subsequent research, Ofcom has significantly amended its initial proposals. The proposals set out below reflect a revised approach to the future of these services. As these proposals are sufficiently different to those put forward in October 2004, Ofcom wishes to consult further to seek stakeholders' views on both our revised policy approach, and on the implementation of that policy. The main elements of the proposals are:
- 1.10 **Restore geographic link for 0870 calls:** following a 12-month interim period (detailed below), Ofcom proposes to require that calls to 0870 numbers are charged at the same rate as national calls to geographic numbers, from all fixed and mobile phones, including payphones. The requirement would apply on a customer by customer basis: that is, if a customer is on a particular call package, the rate applicable to geographic calls under that package would also apply for 0870 calls. These requirements would be introduced through an amendment to the National Telephone Numbering Plan³ ('the Plan') and also to the General Conditions of Entitlement⁴. This proposal would lead to a significant reduction in 0870 call charges, and the extent of revenue sharing on this range. Where an OCP chooses to vary its NTS call charge from the geographic rate, it would be required to provide a free of charge call pre-announcement informing the customer of the price of the call. The interim period of 12 months is designed to allow time for CPs and SPs to prepare for the changes.
- 1.11 **Remove 0870 calls from the scope of the BT NTS Call Origination Condition:** assuming that the geographic link is restored for 0870 calls at the same time, Ofcom proposes to remove the 0870 number range from the scope of the regulatory mechanism that supports revenue sharing - the BT NTS Call Origination Condition ('the NTS Condition')⁵. In practice this is likely to lead to an end to revenue sharing on the 0870 range because there would be little revenue available to pass on to SPs.
- 1.12 **Price ceilings during one year 0870 interim period:** During the proposed 12-month interim period, the designation of 0870 numbers in the Plan would be amended so that the current prices from BT lines would be de-coupled from the standard rates for national geographic calls and replaced with designations that reflect the current prices. The ceilings would be designed as maximum charges to ensure that retail prices do not rise in nominal terms on that number range during the interim period. BT has provided an undertaking aimed at providing TCPs with greater certainty over the level of termination payments during the interim period.
- 1.13 **Extend PRS regulation to 0871 numbers:** Ofcom also proposes that 0871 numbers should be brought within the current regulatory framework for Premium Rate Services⁶ ('PRS') which would, in effect, mean that services using the 0871 number

³ A document published from time to time under section 56 of the Communications Act 2003

⁴ See the Notification setting general conditions under section 45 of the Communications Act 2003, published by the Director General of Telecommunications on 22 July 2003, as amended.

⁵ SMP Condition AA11 set out in Part 2 of Schedule 1 to the Notification which is contained in Annex A of the review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets published by the Director General Of Telecommunications on 28 November 2003.

⁶ PRS: a particular type of Number Translation Service currently provided on the 090 and 091 number ranges

range would have the same obligations as those using 09 numbers. This would require the agreement of ICSTIS to extend the scope of its regulation, through its approved Code of Practice ('the ICSTIS Code'), to 0871 numbers. As 0871 numbers are usually priced between 5p and 10p per minute (but may be lower), Ofcom would need to extend the definition of those services which are currently defined as Controlled Premium Rate Services ('Controlled PRS'), as set out in Ofcom's PRS Condition⁷ (through which Ofcom is able to enforce breaches of ICSTIS directions). This definition currently only includes calls that exceed 10p per minute (and chatline services). This measure would provide a greater level of consumer protection. Amongst other things, it would mean that:

- information on call prices would be required to be displayed on advertisements for services using 0871 numbers; and
- internet diallers on the 0871 numbers would be subject to the ICSTIS prior permissions regime for internet diallers.

1.14 At this stage, Ofcom is seeking views on the general principle of this proposal and intends to set out its proposal in detail in a separate consultation.

1.15 **Extend PRS regulation to adult services currently provided on 08 numbers:** Ofcom proposes that adult services currently provided on 08 numbers should be brought within the regulatory framework for PRS regardless of the call price, by amending the Plan to clarify that adult services should only be provided on the 0908 and 0909 ranges that are designated for adult services. This would require all adult services currently provided on 08 numbers to move to the 0908 and 0909 ranges. This would enable consumers to bar these services, without losing access to other services provided on 08 numbers. ICSTIS already regulates adult services provided on the 09 range regardless of price so it would not be necessary for ICSTIS to modify the ICSTIS Code to regulate the adult services previously provided on 08 numbers. However, Ofcom would need to extend the definition of Controlled PRS, as set out in Ofcom's PRS Condition, to encompass all adult services regardless of price.

1.16 At this stage, Ofcom is seeking views on the general principles of these proposals and intends to set out its proposals in detail in a separate consultation alongside the proposals to extend PRS regulation to 0871 numbers.

1.17 **Two-year interim period for 0845 calls:** The 0845 number range is used for pay-as-you-go dial-up internet access as well as a range of voice services. Nearly 6 million consumers continue to use pay-as-you-go dial-up internet services⁸. If the linkage to geographic call charges were restored, these services would be forced to move to other number ranges in order to continue to charge consumers for services in this way. The cost for Internet Service Providers ('ISPs') and the associated disruption to their customers of migrating them to a new number range, would at present exceed the estimated benefits of restoring the link to geographic charges, and the resulting reduction or elimination of revenue sharing on this range. Ofcom has therefore taken the view that immediate changes to the 0845 range would not be proportionate. Ofcom instead proposes a two-year interim period, during which the designation for 0845 numbers would be amended in the Plan so that calls made from BT lines would be at BT's current rates, i.e. in the manner described above in relation to the 12-month interim period for 0870 calls. BT has provided an undertaking aimed at providing TCPs with greater certainty over the level of termination payments during

⁷ The Condition set out in the Schedule to the Notification under sections 48(1) and 120(5) of the Communications Act 2003, published by the Director General of Telecommunications on 23 December 2003.

⁸ Source: The Communications Market 2005, Ofcom, July 2005.

the interim period. Since pay-as-you-go dial-up internet usage continues to decline in favour of broadband connections, the interim arrangement for the 0845 range would be reviewed towards the end of the two-year period, to see whether pay-as-you-go internet traffic on the 0845 range had declined sufficiently to restore the linkage to geographic charges.

- 1.18 **Guidance for public bodies:** Ofcom does not consider that it currently has sufficient grounds to justify preventing public bodies using revenue sharing NTS numbers. However, Ofcom has already stated its view that public bodies should consider carefully whether it is appropriate to use 084 and 087 numbers in place of Freephone or ordinary geographic numbers. In particular, Ofcom believes it is inappropriate for public bodies to use NTS numbers exclusively (i.e. without at a minimum, giving equal prominence to a geographic alternative) when dealing with people on low incomes or other vulnerable groups. Ofcom has been active in providing advice to the Government's Central Office of Information ('COI') and Government Departments and will continue to provide this support. Ofcom would like to see a greater level of compliance with the COI's published guidelines on the use of number ranges, given the level of public disquiet over this issue, and would be keen to support the Government in achieving this objective.
- 1.19 **Better visibility of NTS tariffs:** In Ofcom's view, the lack of pricing transparency and low level of price awareness has been a major contributory factor to consumer concerns about NTS calls. As one of several measures aimed at tackling this issue, Ofcom proposes to amend General Condition 14⁹ (which relates to Codes of Practice) to require CPs to give greater prominence to NTS prices on websites, published price lists and promotional material. One of the objectives will be to ensure that consumers are better informed about NTS call charges. Ofcom plans to issue a separate consultation on this proposal.
- 1.20 As noted above, if the 0871 range is brought within ICSTIS' regulation SPs would be subject to ICSTIS requirements in respect of pricing information. Ofcom has also contributed to the Advertising Standards Authority/Committee of Advertising Practice ('ASA/CAP') guidance to advertisers on advertising NTS numbers. This guidance states, amongst other things, that advertisements should provide consumers with pricing information on the price of NTS calls and should not refer to 084 or 087 numbers as being charged at the "national" or "local" call rates.
- 1.21 **The 0871 range:** Ofcom proposes to leave the current pricing and interconnection arrangements in place for the 0871 range. However, all three measures to improve pricing transparency described above would apply to this range. Firstly the proposed modification to General Condition 14 to improve the visibility of NTS tariffs, secondly the provisions of the ICSTIS code on advertising of call prices and thirdly the ASA/CAP guidance to advertisers on how NTS call prices should be advertised.
- 1.22 **The 0844 range:** Ofcom proposes to leave the current pricing and interconnections arrangements in place for the 0844 range. However, two measures to improve pricing transparency described above would apply to this range. Firstly the proposed modification to General Condition 14 to improve the visibility of NTS tariffs and secondly the ASA/CAP guidance to advertisers on how NTS call prices should be advertised.

⁹ General Condition 14, set out in Part 2 of the Schedule to the Notification setting general conditions under section 45 of the Communications Act 2003, published by the Director General of Telecommunications on 22 July 2003, as amended

- 1.23 At present, Ofcom has no significant evidence of consumer protection concerns in relation to the 0844 range, and believes that the scope for harm is much lower than on 087 numbers due to the lower price designation in the Plan (up to 5p per minute compared with 10p per minute for 0871). However, if Ofcom's proposals are implemented, the 0844 range would be the only 08 range available for general use that facilitates revenue sharing and which would not be subject to PRS regulation. As a result it is possible that some of the services that have been the cause for concern on the 0870 and 0871 ranges might 'migrate' to the 0844 range. Ofcom would therefore continue to monitor complaints and other indicators to see if consumer concerns arose on the 0844 range so that appropriate measures such as a further extension of PRS regulation could be taken if necessary.

Responses to October 2004 Consultation

- 1.24 In the October 2004 Consultation, Ofcom expressed a preference for a pricing and interconnect option described as 'extended price competition', under which BT's retail prices for 0845 and 0870 calls would no longer be linked to geographic call prices, but would be selected by SPs and TCPs from within designated price ranges. A number of consumer protection measures were also proposed. Ofcom received over 100 responses to the October 2004 Consultation, including 74 from consumers and consumer groups.
- 1.25 Ofcom's proposals were generally not well received by consumers, who believed they would exacerbate the problem of price transparency by leading to a proliferation of prices for calls to 0845 and 0870 numbers. They also felt that the proposed consumer protection measures were too weak, and that insufficient weight had been attached to consumer interests in developing the proposals.
- 1.26 The responses from two other regulatory bodies, LACORS and ICSTIS, argued that a ban on revenue sharing would be disproportionate and that priority should be given to improving price transparency.
- 1.27 CPs were not generally supportive of Ofcom's proposals, with several arguing that insufficient attention had been paid to practical implementation problems associated with number portability and migration. Most CPs were strongly opposed to any restriction on revenue sharing, and several proposed new options for consideration.
- 1.28 SPs and business associations generally felt that the NTS regime provided a useful payment mechanism and should be protected. Of the options presented in the October 2004 Consultation, these respondents generally felt that Ofcom's preferred option was the best, although several variants were proposed.

Research and Analysis

- 1.29 In the light of these responses, and in particular, the polarisation of views between consumers and industry, Ofcom has undertaken a major programme of market research and analysis to further explore the issues raised by respondents. This will ensure that any new proposals made are also based on a solid empirical foundation. The main findings from that programme of work are summarised below.
- 1.30 **Consumer research:**
- The majority of residential consumers are aware of and use NTS numbers but are confused about the price of calls, and as a result are often apprehensive about making them.

- Fewer than one third of consumers are aware that SPs are allowed to receive a share of the call charge. Views on whether revenue sharing should be permitted were quite polarised with almost half believing that revenue sharing should be allowed and approximately one-third believing that it should not be allowed.
- Ofcom's Contact Centre has received a steady stream of complaints relating to 08 NTS numbers, of which approximately two-thirds concerned allegations of scams involving, for example, rogue diallers and mobile phone ring tones. Ofcom has also received a number of letters from Members of Parliament, mostly forwarding complaints about NTS on behalf of their constituents.
- Evidence from focus group research indicates that consumers support measures to reduce confusion over call prices rather than to curtail revenue sharing. Quantitative research findings show support for measures that would cap the price of calls or make them the same as ordinary geographic calls. Whilst most consumers supported pre-announcement of call charges, almost half thought they would find them annoying.

1.31 **Business research:**

- The clear message from Ofcom's focus group research and discussions with large business users of NTS numbers, was that the availability of a revenue share was not the main reason why most businesses use NTS numbers. NTS numbers were typically used because of the call routing features they provide and for the ability to retain the number when moving to a new location.
- For most SPs that receive a revenue share from calls to their NTS numbers, the amounts received were generally small in terms of the costs incurred in providing their services and were often small in absolute terms.
- The results of Ofcom's quantitative research with SPs showed a slightly different picture with approximately 40% of SPs regarding the revenue share that they received as important to their businesses.
- Very few SMEs knew the exact price that their customers would pay to call their NTS numbers, but most were aware that consumers are confused about the price of calling NTS numbers and would welcome measures to provide consumers with more clarity.

1.32 **Locked in calls:**

- On average, approximately 20-30% of 084 and 087 calls are estimated to be locked-in, in the sense that the caller is unlikely to have a choice about the number called. The proportion of locked in calls varies from 5% for 0845 calls, most of which are to dial-up internet services, to around 45-55% for 0870 calls.
- It was not possible to calculate in economic terms, the actual detriment to consumers associated with locked-in calls to 084 and 087 numbers. However, Ofcom was able to estimate the ceiling for the potential detriment by estimating the extra costs to consumers of calling NTS numbers instead of ordinary geographic numbers. Ofcom's estimates indicate that the maximum potential cost to consumers of locked-in calls to 084 and 087 numbers is approximately £67-83m¹⁰ p.a., of which £59-72m p.a. is accounted for by 0870 calls. Ofcom believes the actual detriment to consumers is considerably less than this, on the assumption that most of the downstream services markets where NTS numbers are used, are effectively competitive and therefore the revenues from NTS calls

¹⁰ This is for 0845 and 087 calls; due to the small sample size for the 0844 number range, it was not possible to estimate the potential detriment for 0844 calls. Please see paragraph 5.76 for more details

result, to some extent, in lower prices for other goods and services supplied by the businesses that use NTS numbers.

1.33 Price misperceptions:

- Research carried out in June 2005 showed that on average, consumers believed that 0845 and 0870 calls were priced at 26p per minute and 36p per minute respectively, whereas in fact the prices of calls from a BT line were 3.95p per minute and 7.91p per minute at peak times before applicable discounts.
- Ofcom estimates that the consumer detriment resulting from price misperceptions (in economic terms) is approximately £190m p.a. and £115m p.a. respectively on the 0845 and 0870 number ranges.

1.34 Call centre waiting times:

- Ofcom research found no significant correlation between call centre waiting times and the size of the revenue share on NTS calls. The mean waiting times for the number ranges tested were 11 seconds for 0800 numbers, 17 seconds for 0845 numbers and 13 seconds for 0870 numbers. The majority of calls (80%) are immediately connected to an operator.
- For those calls that were not answered immediately, the results were perhaps indicative of greater efficiency in call handling rather than any attempt to extend call waiting times since the more expensive calls had shorter waiting times (the mean waiting times were 96 seconds for 0800 calls, 64 seconds for 0845 calls and 59 seconds for 0870 calls).

1.35 Use of NTS numbers by the public sector:

- Based on a review of entries in two public sector directories, Ofcom found that approximately 1-2% of public sector telephone numbers were NTS numbers. Given that NTS numbers are often used for high call volume applications, Ofcom considers it likely that a considerably larger proportion of consumer calls to public sector services are to NTS numbers.

1.36 Migration costs:

- Ofcom estimates that, if revenue sharing ended on the 0845 and 0870 number ranges, 85-90% and 45-55% of call volumes respectively would migrate to other number ranges, where revenue sharing could continue.
- The one-off costs of this migration are estimated to be £44-50m and £70-90m respectively for the 0845 and 0870 ranges. It should be noted that whilst the absolute migration costs are likely to be higher for the 0870 range, the majority of the 0845 migration costs relate to ISPs. As the market is already declining as a result of the growth of broadband, any migration and its associated costs may accelerate this decline.

1.37 Call pre-announcements:

- Ofcom estimates that the one-off cost of introducing OCP call pre-announcements for all 084 and 087 calls would be approximately £70-100m. There would also be additional ongoing operational costs incurred by CPs.

Contributory factors

1.38 In Ofcom's view, a number of factors have contributed to the issues which have arisen in relation to NTS calls, including the following:

- 1.39 **Underlying instability of the 0845/0870 model:** The 0845/0870 model is a revenue sharing model in which the revenue share is effectively determined by the OCP, who typically has only a limited interest in its size. OCPs and BT in particular, set their retail prices, and discounts thereon, in response to competitive conditions in the retail market for calls. The revenue share is a by-product of these decisions, which has considerable commercial significance to TCPs and SPs, who want to see it maintained. It was probably inevitable that these conflicting incentives would lead at some point to a breakdown in the model, with the link between 0845/0870 and geographic prices being broken. That point has now been reached.
- 1.40 **Consumer protection and the growth of 08:** Where part of the revenue from a call is passed on to the receiving party as a micro-payment or revenue share, some additional consumer protection issues are bound to arise. This is because the availability of revenue share provides an incentive for unscrupulous SPs to mislead or exploit consumers, for example through the use of rogue diallers. ICSTIS is tasked with providing additional consumer protection in respect of PRS, and regulates the content, promotion and overall operation of services through its code. However, ICSTIS currently has a policy of not regulating services on 08. In effect, this means that ICSTIS only regulates services costing more than 10p per minute or per call or chatline services. The 10p per minute cut-off was considered appropriate because the likelihood of consumer harm, for example through running up very high phone bills, was thought to be far greater on calls costing more than this amount. But with micro-payments totalling over £300m p.a.¹¹ being made on 084 and 087 numbers, there is now greater scope for consumer exploitation on calls costing less than 10p per minute. The definition of Controlled PRS in the PRS Condition also reflects this approach. Ofcom and ICSTIS therefore agree that there is a strong case to extend the current PRS regulatory regime to ensure that consumer are protected from the potential for consumer detriment arising from 08 numbers.
- 1.41 **Locked-in calls:** A further contributory factor is that in some cases, consumers may have no choice over the number to call, are 'locked-in' to calling a particular number, and may therefore be vulnerable to over-charging. Callers may typically have a choice when calling a theatre booking agency for example and could therefore choose one that uses a geographic number in preference to one that uses an 0870 number. By contrast, callers may have no choice, for example, about calling a public service, or a service provided by a dominant supplier in a downstream services market, or an after-sales service.
- 1.42 **Standard rates and revenue shares:** Some consumers are concerned that the use of revenue sharing numbers is becoming institutionalised, accepted as a normal way of doing business, and may not be conducive to giving consumers good value for money. This concern is especially strong in relation to 0870 calls, because they are charged at a standard rate which may incorporate a significant revenue share, and which does not allow customers to shop around on the basis of call price, because most locked in services feature on this range: even in a reasonably competitive market, all the suppliers may use 0870 numbers. Competitive pressures will in many cases ensure that revenue shares are used to reduce the charges for other goods or services, but that is unlikely to happen in all situations. The combination of standard rates and revenue shares is not designed to promote competition.
- 1.43 **Price awareness and market failure:** The low level of price awareness points to a market failure in the market for NTS calls. In the case of 0844 and 0871 calls, this can be attributed in part to the complexity of the tariff structures. But more generally, it would appear to result from a combination of (i) CPs having insufficient incentive to

¹¹ Source: Number translation services: Options for the future, an Ofcom consultation, 2004.

ensure that their customers understand NTS call prices, and (ii) some consumers having little interest in finding out more.

- 1.44 **BT focus of numbering plan:** Another factor that has contributed to recent problems is that the numbering designations in the Plan only apply to calls made from BT lines (excluding payphones). This is a reflection of BT's historically dominant position in the market for calls, but in an environment with growing competition it looks increasingly anachronistic. It has meant that calls, which are charged at broadly the same rate as geographic calls from a BT line, can be much more expensive than geographic calls when made, for example, from mobile phones or payphones. This has understandably been a source of confusion and annoyance for some consumers.

Rationale for proposals

- 1.45 The proposals are designed to address the issues identified, and their underlying causes, in a manner which will promote the following policy objectives:
- *Price transparency* – consumers should know what they are paying for calls;
 - *Range and choice of services* – consumers should have access to a wide range of services and a choice of suppliers;
 - *Consumer protection* – the use of 08 numbers as a micro-payment system should be accompanied by measures which provide an adequate level of consumer protection, particularly for vulnerable consumers;
 - *Viability of pay-as-you-go dial-up internet access* – there are still nearly 6 million customers using dial-up internet access services and the viability of this market should not be undermined;
 - *Promotion of competition* – regulation should promote competition between CPs and SPs, consistent with reasonable levels of cost recovery and revenue certainty.
 - *Reduced regulatory intervention* – Ofcom should operate with a bias against regulatory intervention and should avoid imposing any unnecessary burden on consumers, suppliers or other stakeholders.
- 1.46 These policy objectives are in line with Ofcom's general duties under section 3 of the Act and Ofcom's duties for the purposes of fulfilling Community obligations under section 4 of the Act. In particular these objectives are intended to further the interests of citizens in relation to communications matters encourage the provision of network access and service interoperability and to further the interests of consumers in relevant markets and promote competition.
- 1.47 The proposals serve these objectives in the following ways:
- **Price transparency:** The proposals would improve price transparency by:
 - restoring the link between 0870 and geographic call charges after the interim period, and extending that linkage so that it applies not only from BT phones, but also from all fixed and mobile phones, including payphones (subject to CPs being able to use a pre-announcement which is free-of-charge to the consumer if the CP wishes to charge more than their standard geographic call charge);
 - extending pricing information requirements set out in the ICSTIS Code to 0871 calls;

- o requiring CPs to give more prominence to NTS prices on price lists, websites and promotional material by amending General Condition 14.
- **Range and choice of services:** The proposals would promote the availability of a wide range of services by continuing to allow revenue sharing at a range of price points on 08 and 09 number ranges.
- **Consumer protection:** The proposals would improve the degree of consumer protection on 0871 calls by:
 - o bringing these numbers within the regulatory regime for PRS;
 - o reducing the risk of over-charging for locked-in calls to 0870 numbers;
 - o clarifying the designation in the Plan that all adult services to be provided on the 0908 and 0909 ranges only so that if consumers wish to bar these services, they do not need to bar all other 08 services at the same time and bringing all adult services regardless of price within the definition of Controlled PRS.

The ending of revenue sharing on 0870 calls would also alleviate consumer protection concerns on this range.

- **Viability of pay-as-you-go dial-up internet access:** Pay-as-you-go dial-up internet access services would benefit from the continued availability of revenue shares on 0845 numbers for at least the next two years, and from the higher degree of revenue certainty afforded by BT's voluntary undertaking.
- **Competition and revenue certainty:** The proposals to improve price transparency would promote more effective price competition on all NTS number ranges. TCP/SP revenue certainty would be assisted by BT's voluntary undertaking and by restoration of the geographic link for 0870 calls.
- **Reduced regulatory intervention:** The need for regulatory intervention to resolve interconnect disputes is likely to decline as a result of the improved level of TCP revenue certainty. Ofcom acknowledges that its proposals for 0870, in particular, could cause some disruption for TCPs and SPs, but the results of its research and analysis indicate that the costs involved are likely to be outweighed by the associated benefits.

Alternatives considered

- 1.48 A wide range of alternative options were considered and rejected, either as being infeasible, or following evaluation against the objectives referred to above. The various options are reviewed in Section 5.

Next steps

- 1.49 The closing date for responses to this consultation is **6 December 2005**. Guidance on how to respond is set out at Section 11. Following receipt and consideration of responses, Ofcom will set out its policy decision on changes to the NTS regime in a Statement likely to be published in the first quarter of 2006.
- 1.50 If Ofcom decides to proceed with the approach proposed, the measures involved in implementation will include:

- *Interim solution:* modification of the Plan to remove the link between 0845 and 0870 prices and BT's local and national geographic rates. In order to minimise delay should the proposals be adopted, Ofcom has included the necessary notification of proposed modifications to the Plan and the draft Direction to make associated changes to the 08 numbering applications form at Annex 11 and 12 of this document;
- *Extending PRS regulation to 0871 numbers:* This would require ICSTIS agreement to extend the scope of its regulation through its approved Code to 0871 numbers and Ofcom to extend the definition of those services which are currently defined as Controlled PRS, as set out in Ofcom's PRS Condition. In order to extend the definition of Controlled PRS Ofcom would be required to consult, and Ofcom would expect to publish this during the 12-month interim period for 0870 numbers;
- *Extending PRS regulation to adult services currently provided on 08 numbers:* This would involve Ofcom clarifying the designation in the Plan that all adult services must be provided on the 0908 and 0909 number ranges and also amending the definition of Controlled PRS to apply to all adult services regardless of price. Ofcom hopes to combine a consultation on these proposals with the consultation on extending PRS regulation to 0871 numbers;
- *CP obligations to publish NTS tariff information:* a separate consultation on the proposed amendment to General Condition 14, which Ofcom is publishing on 28 September 2005;
- *Restoration of the geographic link for 0870 calls:* further modification of the Plan and 08 application form, which would be the subject of a separate consultation, during the 12-month interim period for 0870 calls;
- *Removal of regulatory support for revenue sharing on 0870:* removal of 0870 from the scope of the NTS Condition. Ofcom's initial thoughts are that the consultation on these changes could be combined with the consultation on the restoration of the geographic linkage for 0870 calls; and
- *Review of interim arrangements for 0845:* a further policy review, to be completed towards the end of the two year interim period for 0845 calls; and
- *ASA/CAP guidance to advertisers:* Ofcom will continue to provide support to the ASA/CAP for its guidance on advertising NTS numbers.

Important advice for communications providers and service providers

- 1.51 Ofcom strongly advises communications providers and service providers not to act on the basis of these proposals as far as they relate to number migration but to wait until Ofcom has published its statement setting out its decision. In particular, Ofcom advises against any premature migration of services to new numbers within the 08 range on the basis of these proposals.
- 1.52 Ofcom intends to undertake a strategic review of its numbering strategy. At this stage, work on the strategic review is not far enough advanced to gauge the impact on the 08 number ranges potentially affected by the proposals in this consultation. However early research does indicate that some number ranges may become exhausted in the medium term. Ofcom is therefore considering whether a wider restructuring of the 08 range is required. Please see Section 9, paragraphs 9.14 to 9.16 for further discussion.

Section 2

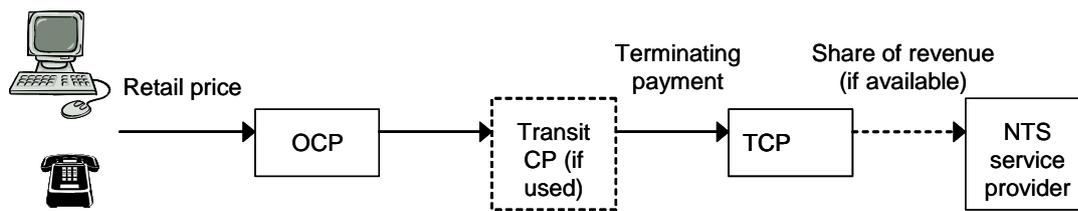
Introduction

- 2.1 This document is the second formal stage in Ofcom's re-examination of the regulatory framework for Number Translation Services ('NTS') calls in the UK.
- 2.2 Ofcom issued a consultation in October 2004 entitled *Number Translation Services: Options for the Future* ('the October 2004 Consultation') in which it proposed changes to the regulatory regime designed to address growing concerns amongst industry and consumer stakeholders about the operation of the current regime.
- 2.3 In this document, Ofcom reviews the responses to the October 2004 Consultation and makes revised proposals for changes to the regulatory regime.

What is NTS?

- 2.4 NTS calls are calls to numbers identified in the National Telephone Numbering Plan¹² ('the Plan') as Special Services numbers (broadly, numbers that start with 08 or 09). In addition, NTS includes calls to the legacy 0500 Freephone numbers, which whilst still in use, are not listed in the Plan as they are no longer available for new allocations. Calls to 0844 04 numbers for Surfetime internet access services and calls to 0808 99 numbers for Flat Rate Internet Access Call Origination ('FRIACO') are not included.
- 2.5 NTS numbers are examples of non-geographic numbers in that the number dialled does not relate to a specific geographic location, but instead relates to a particular service. At a technical level, the NTS number dialled by a caller is 'translated' by the network to a geographic number to deliver the call to its destination.
- 2.6 For a given NTS call, there can be several different Communications Providers ('CPs') involved in conveying the call from the caller to the organisation or individual receiving the call. This includes an Originating Communications Provider ('OCP'), on whose network the call commences, and a Terminating Communications Provider ('TCP'), on whose network the NTS number resides. The OCP and the TCP may be the same for some calls. There may also be a CP carrying the call between the OCP and the TCP (this is known as a 'transit' service).
- 2.7 A key feature of NTS is that the regulatory framework makes revenue sharing possible between the TCP and the organisation or individual receiving the call. In this way, the regulatory regime supports the use of NTS as a micro-payment mechanism for the various services which can be accessed via 08 and 09 numbers. The caller pays the OCP for the call. The OCP passes on a terminating payment to the TCP, who is then able (subject to commercial viability) to share some of this revenue with the individual or organisation using the NTS number (known as an NTS service provider ('SP')). These relationships are shown diagrammatically in Figure 1.

¹² A document published from time to time under section 56 of the Communications Act 2003

Figure 1: Parties involved in an NTS call

2.8 The revenue share available to the SP depends on the retail price of the call, which in turn varies by number range. The NTS ranges are designated for use as follows:

- 080 ('Freephone'): usually free to caller;
- 0844: up to and including 5p per minute or per call for BT customers;
- 0845: standard local call price for BT customers before discounts and call packages;
- 0870: standard national call price for BT customers before discounts and call packages;
- 0871: up to and including 10p per minute or per call for BT customers; and
- 09: generally over 10p per minute or per call for BT customers (also commonly known as 'premium rate services' or 'PRS').

2.9 NTS numbers are used by organisations and individuals to provide access to a very wide range of services from pay-as-you-go dial-up internet access to financial services, road traffic advice and tele-voting on TV programmes. As discussed in the October 2004 Consultation, Ofcom's research indicates that the types of services provided varies by number range and believes that the general picture is as follows:

- Freephone numbers (0800 and 0808) are principally used to access private sector voice services such as sales lines and helplines; and telephony services provided by two stage indirect access service providers;
- 0844 and 0845 numbers are used extensively to access pay-as-you-go dial-up internet services (predominantly using 0845 numbers), and also support a wide range of other services, including pre- and post-sales enquiry lines, public sector services, transaction services and information services;
- 0870 and 0871 numbers are principally used to provide access to pre- and post-sales enquiry lines, some public sector services and services such as the international telephony services provided by resellers. Recent evidence also indicates that they are now being used to support adult services; and
- premium rate (09) numbers are used mainly to access competitions, TV voting lines, scratchcards, adult entertainment, chatlines and some post-sales services such as technical support.

The current regulatory regime

2.10 Current regulatory policy for NTS calls was established in 1996 with the aim of encouraging the growth in the provision of access to new and cheaper, value added services via the telephone. This policy was aimed at ensuring the TCP should receive the profit from an NTS call which it could then share with SPs. SPs could then use that revenue share in order to fund innovative services.

- 2.11 The key elements of this policy were retained following the introduction of a new regulatory regime for electronic communications networks and services on 25 July, 2003, based on five new EU Communications Directives. Under the new regime, Oftel (Ofcom's predecessor) carried out a series of market reviews, one of which covered the wholesale market for call origination¹³. As a result of this review ('the Call Origination Market Review'), the Director General of Telecommunications (the 'Director') concluded that BT has SMP in the wholesale call origination market, amongst others, and, as a remedy, imposed an NTS call origination condition on BT¹⁴ ('the NTS Condition').
- 2.12 A key feature of the NTS Condition is an obligation on BT both to originate and, crucially, to retail calls to NTS numbers on behalf of TCPs. This creates a mechanism for TCPs to collect micro payments from consumers and to share these payments with SPs (who use NTS numbers to provide content or other services) without TCPs or SPs having to bill consumers directly themselves. BT is only permitted to make cost-related charges for originating and retailing NTS calls and must pass the remaining revenues over to the TCP.
- 2.13 Another relevant feature of the NTS regulatory regime is the Plan. As mentioned above, the various NTS number ranges have different designations for use. For example, the 080 range is designated as a range where no charges are made to customers unless those charges are notified to the customer at the beginning of the call. In selecting a particular NTS number block, a TCP takes on an obligation to use the numbers in accordance with the designations given in the Plan. In this sense, the TCP is restricted in its use of NTS numbers.
- 2.14 Charges for the termination of NTS calls are not currently subject to regulation, however NTS call termination is the subject of the NTS Call Termination Market Review. Ofcom is also conducting a Competition Act investigation into certain of BT's charges for NTS call termination (see Annex 10 for details).

The October 2004 Consultation

- 2.15 The October 2004 Consultation contained a detailed review of the operation of the current NTS regime. Ofcom noted that the existing NTS framework has been extremely successful in terms of the large number of new and innovative value-added telephone services that have been made available to UK consumers as a result. However, it was also aware from its pre-consultation contact with both the Industry and consumers that there were growing concerns amongst stakeholders:
- consumers are unsure what the retail prices are for calls to 08 and 09 numbers, and find the 'local rate' and 'national rate' descriptions of 0845 and 0870 numbers in particular to be confusing and potentially misleading.
 - consumers regard certain types of NTS call notably those to 087 and to a lesser degree 084 numbers as over-priced. There was also increasing concern that 08

¹³ Oftel published its Review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets (Explanatory Statement and Notification) on 28 November 2003. The Call Origination Market Review is available on Ofcom's web site at:

http://www.ofcom.org.uk/legacy_regulators/oftel/narrowband_mkt_rvw/fixednarrowbandstatement.pdf

¹⁴ SMP Condition AA11 set out in Part 2 of Schedule 1 to the Notification which is contained in Annex A of the review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets published by the Director General Of Telecommunications on 28 November 2003.

and 09 numbers appear to be proliferating as more expensive alternatives to geographic telephone numbers (i.e. telephone numbers starting with 01 or 02 that relate to a specific geographic area within the UK), and that the ability for the organisation using the 08 or 09 number to obtain revenue for answering the call creates incentives for callers to be kept on hold unnecessarily;

- consumer concerns were especially strong where the caller has little or no choice over the number being called. Examples of such calls include calls to public sector services but also certain calls to private sector organisations such as calls relating to after-sales service for a previous purchase;
- adult services have traditionally been accessed through the 0908 and 0909 numbers, and charged at premium rates of up to £1.50p per minute. As such they have been subject to the Independent Committee for the Supervision of Standards of Telephone Information Services ('ICSTIS') regulation. ICSTIS is the premium rate watchdog. However there were also consumer concerns about the growing number of adult services are being provided on 087 numbers which are not currently regulated by ICSTIS;
- TCP revenue uncertainty has given rise to frequent disputes requiring regulatory intervention in relation to the detailed functioning of the NTS regime. In addition, non-BT OCPs such as the cable telephone companies find it difficult to negotiate different interconnection arrangements for NTS calls from those that apply to BT.
- Finally, From 1 May 2004, BT increased its own charges to other OCPs for completing calls to its own NTS numbers (via a Network Charge Change Notice ('NCCN') known as NCCN 500), raising concerns about the extent to which competition is effective in the provision of NTS call termination services. The issues raised by BT's NCCN 500 charges are considered in a Competition Act investigation. Ofcom has also commenced a review of the market for NTS call termination. Both of these are being carried out separately; and
- from the Industry perspective, the link for BT customers between 0845 and 0870 retail call prices and BT's standard local rate and standard national rate respectively has resulted in uncertain and declining revenues for TCPs and SPs. This has given rise to concerns that further reductions in local and national rates or an increase in discounts could in future undermine the viability of PAYG internet services, and potentially of some other services provided on these number ranges. SPs could respond by migrating to other number ranges, where they could select the call prices charged to BT customers, but this would involve some costs and would be disruptive for consumers.

Pricing and interconnect policy options considered

2.16 In the October 2004 Consultation, Ofcom considered five pricing and interconnect policy options in the light of information gathered prior to publication from discussions with stakeholders, market research, international benchmarking and a technical consultancy project. These options were designed primarily to address the interconnect issues which have given rise to a succession of disputes between CPs, and those consumer issues which are related to the pricing of calls and competition between SPs.

2.17 In brief, these policy options were:

- **Option 1 - The status quo.** No change to the current arrangements;
- **Option 2 - Extended retail price competition.** Under this option, BT's retail prices for 0845/0870 calls would no longer be related to BT's retail prices for

geographic calls, and BT would amend its billing and interconnection systems so that SPs in conjunction with TCPs would be able to select retail prices for their services on the BT network, without migrating to other number ranges;

- **Option 3 – No regulated scope for revenue sharing on 0845/0870 numbers.** Under this option, the application of the NTS Condition would be withdrawn with respect to 0845/0870 calls. This would mean that there would no longer be regulatory underpinning for revenue sharing on the 0845/0870 number ranges. Certain SPs such as Internet Service Providers ('ISPs') would be able to continue revenue sharing using other 08 number ranges. However most others would either have to negotiate on a commercial basis for continued revenue sharing on 0845/0870 or would have to move to 09 numbers if they wanted to use numbers subject to NTS regulation;
- **Option 4 – No regulated scope for revenue sharing on 084/087 numbers.** Under this option, 084 and 087 numbers would be withdrawn from the scope of the NTS Condition. 09 services would not be affected, and SPs still requiring revenue sharing could migrate their 08 services to the 09 range; and
- **Option 5 – No regulated scope for revenue sharing on any NTS number ranges.** Under this option, the 08 and 09 number ranges would no longer be subject to the NTS Condition. All SPs would need to find alternative mechanisms for billing their customers, or reach commercially negotiated billing agreements with OCPs.

Ofcom's preferred pricing and interconnect option

2.18 Ofcom expressed a preference for Option 2 (subject to consultation). Briefly, Ofcom's reasons for selecting this option were that Option 2 (extended retail price competition) would:

- address a number of the problems the Industry has with the current NTS regime. It would give TCPs and SPs revenue certainty without the disruption of number migration;
- create scope for additional retail price competition between SPs; and
- ensure the continued availability of services on NTS numbers, particularly compared to Options 3, 4 and 5, since it would provide continued regulatory underpinning for revenue sharing on all current NTS number ranges regardless of the type of service provided.

Additional consumer protection measures considered

2.19 Ofcom took the view that a number of the consumer issues identified by Ofcom, such as low price awareness, could not be effectively addressed simply by changing regulatory policies related to the pricing and interconnection of NTS calls and also considered that Option 2 might exacerbate some of the existing problems.

2.20 Ofcom therefore proposed a range of targeted consumer protection measures, which could be implemented alongside Ofcom's preferred pricing and interconnect policy option.

2.21 The additional consumer protection measures proposed were:

- Ofcom working with the Advertising Standards Authority ('ASA') and the Committee of Advertising Practice ('CAP') to produce guidance on the advertising of 084/087 numbers;

- Ofcom working with the Central Office of Information ('COI') on the COI's contact centre guidance to government departments to include advice on the appropriate use of NTS numbers;
- the development of a voluntary code of practice aimed at ensuring that OCPs provide better information on NTS call prices to their customers;
- a wider role for the ICSTIS in controlling adult services and other higher risk services on 087 numbers and possibly changing the definition of Controlled PRS to bring these services within the scope of Ofcom's backstop powers;
- TCPs to provide better call pricing information to SPs through the development of a voluntary code of practice;
- Ofcom asked stakeholders for their views on the cost and feasibility of pre-announcement of call prices at the start of all voice NTS calls and/or a "splash box" or other techniques to provide pricing information for data NTS calls; and
- the possibility of bringing all revenue sharing services within the scope of ICSTIS regulation.

Respondents views

2.22 Ofcom received a large number of responses to the October 2004 Consultation, comprising 74 from consumers and consumer associations and 26 from CPs, SPs and other regulatory organisations.

2.23 The responses indicated that there was not a consensus in favour of Ofcom's preferred policy option (interconnect Option 2 and the package of consumer protection measures). Ofcom's analysis of the responses and Ofcom's comments on the responses are described in more detail in Section 3 and Annex 4. But briefly respondents views were as follows:

- there was a very strong consumer view against revenue sharing on 08 numbers especially 087;
- consumers were also concerned about the use of NTS numbers by public sector organisations such as government departments and doctors;
- some consumers thought that a single retail price point should apply to all OCPs, effectively prioritising pricing clarity over price competition;
- most CPs and SPs did not favour Option 2 partly because of the time (18 to 24 months) and practical issues associated with implementation but also because of concerns about whether price competition would work in practice;
- instead, many industry respondents favoured decoupling 0845 and 0870 prices from BT's geographic local and national retail call prices and having Ofcom set single price points for the 0845 and 0870 number ranges. The industry felt that such an arrangement would be preferred by consumers and would meet the industry's requirement for greater certainty of termination payments;
- BT argued that Option 2 would lead to price increases for consumers. It felt that competitive pressures for TCPs to raise prices and increase revenue share would outweigh competitive pressures for SPs to insist on lower prices to their customers.;
- industry respondents also thought that Option 2 would not be fully effective because responsibility for setting the retail price point for NTS numbers remains with the original TCP after a number has been ported to another TCP;

- a number of consumer and industry respondents, including the Ofcom Consumer Panel wanted Ofcom to gather more evidence to support its recommendations. In particular they felt that Ofcom should conduct more research into:
 - consumers' views and the extent to which consumer respondents' views are representative of consumers in general;
 - consumers' views on the proposed interconnect option and consumer protection measures; and
 - the extent of consumer detriment associated with revenue sharing;
- a number of respondents suggested alternative interconnect options which can be seen as variants of the five interconnect options presented in the October 2004 Consultation.

Ofcom's response

- 2.24 Given the lack of consensus in favour of Ofcom's preferred approach and the suggestion that Ofcom should gather further evidence, Ofcom decided that it was inappropriate to implement the proposed changes to the NTS regime. Ofcom therefore decided that it should reconsider its proposals and also that it should undertake additional research and analysis to explore the issues raised by respondents.
- 2.25 The main pieces of additional research were:
- Ofcom wanted to get a more in depth picture of consumers' and small/medium sized business views about calls to NTS numbers and in particular to explore views about the options for change that Ofcom was considering. In March 2005, Ofcom therefore commissioned a series of focus groups to explore these topics and followed this up with further market research to quantify some key conclusions;
 - In March/April 2005, Ofcom issued a formal information request to all TCPs that have been allocated 08 or 09 numbers by Ofcom. The purpose of the request was to gather information about how many NTS numbers are in use, the volumes of traffic they carry and the extent of revenue sharing between TCPs and SPs and resellers. Ofcom also asked the TCPs to provide contact details for a sample of their customers (the SPs and resellers);
 - In May 2005, Ofcom undertook market research to search for empirical evidence of a link between call centre waiting times and revenue sharing on 08 numbers;
 - In June/July 2005, Ofcom sent a formal information request to a sample of SPs based on the contact details supplied by the TCPs. The purpose of this second request was to gather information about the types of service being provided by TCPs on individual 08 numbers. Ofcom also asked respondents who received a revenue share to fill in an additional questionnaire that sought their views on the importance of the revenue share to their business and what they might do if revenue sharing was no longer available on their current number.
- 2.26 The results of the additional research and analysis are described in Section 5 and the market research is summarised in Annex 6.
- 2.27 Further details of Ofcom's pre-consultation engagement with stakeholders are set out in Annex 13.

Other Developments

2.28 Since the publication of the October 2004 Consultation there have been a number of developments that are relevant to the review of NTS policy. The first three relate to public sector use of NTS and the other relates to the development of advertising guidelines for NTS.

COI guidance to government departments

2.29 The COI provides advice and support to public sector organisations on all aspects of communications. Amongst other things it publishes 'better practice guidance' for Government contact centres (see the COI website at www.coi.gov.uk/ccg/). Ofcom and the COI have discussed the use of 08 and 09 numbers by government departments. Prior to the October 2004 Consultation, the COI was working on the second edition of this guidance and Ofcom was able to suggest some amendments to this guidance.

2.30 In January 2005, the COI reissued the 'cost to the citizen' section of its contact centre guidance as an addendum pending completion of the revised document. This section provides guidance to government departments on, amongst other things, the selection of telephone numbers for government contact centres. The second edition of the document was issued in August 2005. The revised guidance raises awareness of the price of 084 and 087 numbers and describes how the local and national rate terms have become outdated. The revised guidance recommends that:

- Freephone numbers (0800, 0808) numbers should be used where callers might be deterred by the cost of the calls or where the objective is to encourage as many people to call as possible;
- geographic numbers or 0844/0845 numbers could be considered as an alternative, but recommends that government departments consider the cost to the consumer of particularly 0844 and 0845 numbers;
- 0870 and 0871 numbers are not recommended for contact centres called by consumers since call charges are often higher than for geographic calls;
- alternative contact mechanisms such as geographic numbers or postal mechanisms should be offered alongside or as an alternative to 0870 and 0871 numbers; and
- 09 premium rate numbers should never be used for public services.

Department of Health guidance to doctors

2.31 On 24 February 2005, the Department of Health announced that it would amend its contract with General Practitioners to prevent them from using "high cost telephone numbers" (0870, 0871 and 09 numbers)¹⁵. The ban came into force on 14 April 2005.

2.32 On 11 April 2005, the Department of Health wrote to Primary Care Trust Chief Executives¹⁶ (for onward communication to General Practitioners practices) about the October 2004 Consultation noting that the regulatory arrangements that support revenue sharing on NTS numbers are being reviewed by Ofcom and suggesting that

¹⁵ A copy of the press release is available on the Department of Health website at the following address:

http://www.dh.gov.uk/PublicationsAndStatistics/PressReleases/PressReleasesNotices/fs/en?CONTENT_ID=4104023&chk=JdW4bw

¹⁶ A copy of the letter is available on the Department of Health website at the following address:
<http://www.dh.gov.uk/assetRoot/04/10/84/39/04108439.pdf>

- Those marketers who do not know the maximum cost charged across the different phone companies should state the cost (either per minute or per call) for BT customers. For example, marketers could claim “Calls to 084XX from BT landlines will cost 5p pm”;
- Marketers who feature several 084 (or 087) numbers in their ads should be careful not to mislead if those numbers are charged at different rates. In such circumstances, marketers should state a maximum cost, either per minute or total call, for BT callers. For example, they could claim “Calls to our customer service line, IT helpline and order line cost up to 5p a minute for BT customers” or similar;
- Marketers should make clear that the price of calls from other phone companies will vary and, if space allows, callers might want to check with their phone company; and
- If call charges are likely to change, marketers should avoid media with a long shelf-life. If choosing such media, marketers should give a prominent date at which the stated price applied or will apply.

2.40 Further details of the ASA/CAP and Ofcom work are included in Annex 8.

Section 3

Summary of responses to the October 2004 Consultation

3.1 Ofcom received a large number of respondents to the October 2004 consultation:

- 74 from consumers and consumer groups;
- 2 from other regulatory bodies;
- 14 from communications providers; and
- 11 from ISPs, SPs and other business associations.

3.2 This section provides a summary of the responses received for each group of respondents mentioned above. A detailed review of the responses together with Ofcom's comments can be found in Annex 4. The main issues raised by respondents are also covered in Section 4 (where Ofcom describes the additional research and analysis undertaken since the October 2004 Consultation) and in Section 5 (where Ofcom reviews its revised proposals).

Consumers and Consumer Groups

Format of the consultation

3.3 A number of respondents felt the consultation document was too complex and lengthy. Several also objected to Ofcom removing certain confidential information relating to BT from the published version of the document on the grounds that important details about NTS were being withheld from consumers. There were also objections to the use of the legal term *redacted* to describe the omission of the confidential information from the published version on the basis that the term wasn't plain English.

Ofcom's preferred option

3.4 Option 2 was generally not well received by consumers, who believed that it would reduce price transparency by leading to a proliferation of prices for calls to 0845 and 0870 numbers. Respondents felt that consumer protection measures were essential and felt that they were being overlooked by Ofcom in favour of more industry-centric policy objectives. In addition, some respondents felt that Ofcom's proposed consumer protection measures were too weak.

3.5 One consumer association highlighted the benefits that NTS provides, but noted that low prices were required.

General Concerns about NTS

3.6 There was general concern that an increasing number of companies were choosing to replace geographic numbers with NTS numbers and that calls to NTS numbers were more expensive than calls to geographic numbers. Some also felt that the use of NTS numbers is unfair since in many cases consumers have little or no choice but to call these numbers. Examples quoted included calls to public sector organisations and after-sales functions of private sector businesses. These views led many

consumers to suggest solutions that would stop businesses ‘overcharging’ them, including:

- NTS calls (and particularly 0845 and 0870) to be charged at geographic rates;
- NTS calls to be included in call discount packages; and
- a requirement for businesses to publish a geographic number alongside their NTS number.

3.7 There were also concerns about the high tariffs for calling NTS numbers from mobile phones and payphones.

3.8 A few consumers, some of whom responded from overseas said that NTS numbers couldn’t always be accessed from abroad making it difficult for them to contact essential public sector services.

Call centre waiting times

3.9 A number of consumers felt that companies using NTS numbers had an incentive to prolong call waiting times and that Ofcom should investigate this. Other respondents believed that long waiting times were more likely to be the result of inefficient operations. It was also suggested that call queuing be banned. Others proposed that call centres should limit the length of NTS calls or should be obliged to ring callers back.

Revenue sharing

3.10 Some respondents felt that businesses were using NTS numbers simply to make money from consumers and don’t agree that businesses should be able to charge them in this way. A variety of suggestions were given:

- some respondents thought that revenue sharing should be banned altogether;
- many respondents thought revenue sharing should be restricted to the 09 premium rate services range and that existing services should be required to move to an 09 number in order to continue to revenue share. However, some felt that ISPs should be able to continue to revenue share on 08 numbers;
- others felt that 08 numbers should be re-classified as premium rate numbers and regulated by ICSTIS;
- others suggested that only “value-added” services should be permitted to revenue share on 08 numbers;
- there were mixed views as to whether non-profit making organisations should be permitted to revenue share, but it was generally felt that the regulatory underpinning for Freephone calls should remain.

3.11 Some respondents suggested that instead of paying through a telephone bill for services, alternative payment mechanisms, such as credit cards, could be used, e.g. instead of being charged the price of an NTS call to contact a technical help desk, the caller would pay a charge on their credit card to make use of the service and would pay a geographic call charge for the cost of the call.

Pricing transparency measures

3.12 Many respondents felt that all advertisements containing NTS numbers should have the call prices clearly stated and some respondents proposed that any companies

receiving revenue from NTS calls should also state this in their adverts. A consumer association noted however, that it would be difficult to provide accurate pricing information on advertisements. A number of respondents were frustrated that companies using NTS numbers sometimes gave out incorrect call price information to customers.

- 3.13 Many consumers were supportive of call price pre-announcements if they were free to the consumer, but others felt that even if they were free, companies would pass on the cost to consumers in other ways. It was also suggested that pre-announcements could be annoying, but a prefix might be used to skip the announcement if required. There were mixed views as to whether ISPs should provide call price information.

Implementation issues

- 3.14 There was support for the idea of a public education and communication campaign and it was felt that any new regime implemented by Ofcom had to be simple to communicate and easy to implement.
- 3.15 Consumers also made a number of other proposals that would either increase pricing transparency or reduce prices:
- Call charges being capped at one price;
 - Having a legal maximum call charge, i.e. so that calls could never be more expensive than a certain price;
 - Having a one off charge on connection e.g. at 5p, followed by the remainder of the call being charged at a standard rate; and
 - Using the 08 number to reflect the call price e.g. 0841 being cheaper than 0842.

Other Regulatory Body Responses

- 3.16 Ofcom received responses from two other regulatory bodies:
- ICSTIS (an industry funded body which is Ofcom's co-regulatory partner responsible for regulating premium rate services); and
 - the Local Authorities Coordinators of Regulatory Services ('LACORS') provides advice and guidance to help support local authority regulatory and related services..
- 3.17 ICSTIS and LACORS believed a ban on revenue sharing would not be a proportionate response to the concerns about NTS and LACORS felt it would result in a loss of services to consumers.
- 3.18 LACORS suggested that the main consumer issue was a lack of pricing information for consumers and proposed that more closely linking charges for 0845 and 0870 to BT's local and national call rates would allow consumers to easily check call charges. Under Option 2, LACORS believed that retail price competition would only generate benefits if pricing information were made compulsory.
- 3.19 ICSTIS felt that stakeholders should work together to develop consumer protection measures and that consumers should be informed, at no cost to them, of how much the service would cost per minute. It took note of industry concerns however, that the costs of implementing call price pre-announcements could exceed the potential benefits.

- 3.20 ICSTIS had no evidence that SPs using 09 numbers artificially extend their call waiting times and would be surprised if the revenues generated from holding consumers on line would significantly outweigh the costs involved in undertaking such activity.
- 3.21 ICSTIS felt that Ofcom should ensure a fair and balanced regulatory regime was in place. It also stated that it would be willing to consider regulating some 08 numbers in the context of controlling potential high risk and adult services.

Communication Providers Responses

- 3.22 Most respondents agreed Ofcom had captured the main issues, but some suggested that it had not addressed the number portability and migration problems associated with Option 2. In addition, there was concern raised about OCPs lack of control over call termination payments and revenue certainty, and some TCPs felt that Ofcom had not dealt sufficiently with transit charges and other interconnection issues such as the network tariff gradient and the long/short call duration mechanism. It was questioned whether price competition would work in practice and there was concern around how new price points would be introduced. It was also felt by one CP that Ofcom had not sufficiently addressed consumer protection issues and another was concerned that consumers were not sufficiently aware of the value of NTS services or their prices.
- 3.23 Respondents felt there was no evidence of extending call waiting times, indeed they believed it was likely to be financially unviable and would lead to companies losing customers. One respondent noted anecdotal evidence showed there was little difference in call waiting times between Freephone and 084/087 numbers. It was also argued that Ofcom should not attempt to regulate a problem which was occurring in a downstream market, e.g. if there were long call waiting times in the financial services industry, this was not a communications market issue.
- 3.24 Whilst most respondents agreed with Ofcom's policy objectives, BT would have preferred a more de-regulatory approach and felt Ofcom was biased in favour of the commercial needs of TCPs, at the expense of consumers. However others stated that improving the commercial certainty for TCPs was a key objective. Respondents felt consumer protection was very important and adequate protection of all parties was essential. There were mixed views as to which objective was the most important, with some respondents feeling the consumer protection objective was key and others believing the promotion of competition objective would protect consumers.
- 3.25 Industry respondents appreciated the need for change under the current NTS regulatory framework and of the five options presented, generally preferred Option 2. However, despite this, there was little support for Option 2 with respondents believing it would increase pricing complexity, cause consumer confusion and increase uncertainty for TCPs. In addition, it was felt Option 2 would present number portability and migration issues, generate problems associated with billing at a more granular level and create timing and implementation issues.
- 3.26 As noted above, CPs generally preferred Option 2, however some also provided responses to Ofcom's questions about the other interconnect options:
- In connection with Options 3, 4, and 5, respondents felt that special provisions for non-profit organisations to obtain preferential rates for receiving inbound NTS calls were not required and that they could distort the market;

- there were mixed views as to whether under Option 3, non-Electronic Communications Services ('ECS')¹⁹ SPs should be able to receive revenue share, with some believing they should and others feeling that non-ECS SPs should not be permitted to do so (and CPs also pointed out that they did not support Option 3). It was noted however that restricting non-ECS services from revenue sharing could result in a loss of services;
- under Option 5 CPs felt that the NTS Condition should be retained for Freephone calls. One respondent believed that Ofcom would have to conduct a market review before it was able to remove this condition;
- in connection with Options 3, 4, and 5 there were differing views as to whether revenue sharing should be banned if the regulatory underpinning for NTS was removed. It was argued that if revenue sharing were prevented, it would stifle competition and the number of services available to consumers would decline.

3.27 There were various alternative policy options proposed by respondents:

- single price points for 0845 and 0870 set by Ofcom;
- pricing and interconnection arrangements similar to the 0844 and 0871 ranges set for 0845/70 with maximum price ceilings of 4p/8p and a ECS/non-ECS service distinction²⁰; and
- BT proposed its 'Option 2a' based on linking 0845 and 0870 numbers back to geographic call prices and removing the regulatory support for revenue sharing. Revenue share would continue to be permitted on 0844 and 0871 numbers, so SPs on 0845 and 0870 wishing to continue to revenue share could migrate to 0844 or 0871. BT felt their proposal would provide benefits such as increasing transparency for consumers and giving ISPs more choice.

3.28 It was noted that single price points on 0845 and 0870 would benefit consumers and the industry (by reducing the number of NTS disputes and minimising migration requirements). However the CPs were concerned that they would not resolve the underlying problem of revenue uncertainty for TCPs if BT were able to influence the interconnect regime. The 4p/8p price ceiling option would give flexibility to both TCPs and OCPs on pricing.

Pricing transparency

3.29 Whilst respondents supported clearer pricing information for consumers, it was generally felt that call price pre-announcements were disproportionate and it was noted that this is not required for more expensive calls. There were questions over who would pay for the announcement and it was suggested that it would be unlikely for any cost benefit analysis carried out to be positive. Technology issues and how discounts would be considered were also raised as concerns. One respondent suggested pre-announcements could be used only if a company deviates from a selected price point. Respondents also raised questions about how informing ISP users of the price of pay-as-you-go dial-up internet calls would work. A number of practical problems were cited such as what technical solution would work, who would provide the information and how an ISP would know what the call charge was. It was also argued that as price is one of the main drivers of choice for ISP users, it is likely they are already aware of call prices.

¹⁹ As discussed in paragraph 4.35 of the October 2004 Consultation

²⁰ ECS services are principally the conveyance of signals over a network and are distinct from content services.

- 3.30 Most respondents welcomed Ofcom's consumer protection proposals and the creation of a code of practice, although there were mixed views as to who should implement it. One respondent however, felt there may already be sufficient pricing information available to consumers. It was suggested that Ofcom should therefore implement Option 2 and monitor developments in the market, before introducing any consumer protection measures.

Adult and other higher risk services on 087 numbers

- 3.31 Respondents felt that adult services should only be available on 09 numbers, but were divided on whether ICSTIS's remit should be extended to cover 08 numbers. It was proposed that a public communication plan be developed and that Ofcom should lead this. However it was noted that if a consumer code of practice were implemented, a public communications plan may not be required.

Implementation

- 3.32 Respondents generally agreed with Ofcom's proposed implementation steps for Option 2 if that Option were to be implemented, but there was concern around the timing and the billing system development required. Some respondents agreed with the proposed implementation steps for Options 3 to 5, but were against these options being implemented at all. Several respondents argued that implementation must not be delayed and timescales were critical. Most respondents thought a phased implementation approach of the option chosen would be most appropriate however. BT stated that a phased approach of a combination of options was unnecessary and implementing its Option 2a would take up to 9 months.

Other points

- 3.33 It was generally felt that the current network tariff gradient²¹ arrangements were inadequate and that CPS should be provided further information about how the figures are calculated. BT felt there was no need for change as the arrangements have not generated any disputes. There were mixed views on new price points and timescales for their introduction, but generally respondents were against a proliferation of price points and sought consistent timescales for their introduction. There were opposing viewpoints on whether the OCP or the TCP should pay transit charges, but some respondents felt that transit charges should be harmonised across NTS and geographic numbers. Many respondents believed that the long/short call duration mechanism on 0845 should be extended to other NTS numbers. Respondents also suggested that operators should be able to opt in or out of discounts on 0845 and 0870.

ISPs, other SPs and Business Association Responses

- 3.34 It was generally felt that the NTS regime provides a useful payment mechanism for consumers and this should be protected. For ISPs the main concern was that further reductions in BT's geographic call tariffs would undermine the viability of pay-as-you-go dial-up internet services due to the linkage between 0845 tariffs and BT's standard local call tariff.
- 3.35 Of the five options presented, respondents generally agreed that Option 2 performed the best. One ISP suggested however, that the 0845 and 0870 call charges should be decoupled from geographic tariffs and that Ofcom should set fixed rates. The

²¹ The network tariff gradient is a mechanism by which BT is able to apportion network costs to calls carried at different times of the day and week (i.e. the day, evening and weekend charging periods).

respondent noted that although price competition would not then be possible on the 0845 range, SPs would still be able to compete on price on the 0844 range. Respondents also felt that it would be inappropriate to prevent businesses coming to commercial agreements relating to revenue sharing if Options 3, 4 or 5 were implemented.

- 3.36 ISPs were not in favour of any option that required them to move pay-as-you-go dial-up internet services (which are predominantly on 0845) to new numbers. Some ISPs stated that they would have problems contacting their pay-as-you-go dial-up internet customers to notify them of any changes, as they do not always use the ISP's email service and instead use web mail. It was also felt that migration was not a feasible option for many ISPs because of the costs involved.
- 3.37 One SP respondent felt change was not required and consumers were already familiar with the numbering schemes in use. It was therefore unnecessary to provide further pricing information. Conversely, the Federation of Small Businesses felt local rate and national rate descriptions were misleading and alternative geographic numbers should be provided.
- 3.38 Respondents thought that if Freephone calls were no longer subject to the NTS Condition Freephone call charges (to SPs) would rise and were therefore in favour of retaining the existing arrangements.
- 3.39 It was felt that non-ECS SPs should be able to continue to revenue share on 0844/0871 numbers if Option 3 were implemented.

Transitional arrangements

- 3.40 ISP respondents agreed with Ofcom's approach to minimise transitional consumer disruption and with the steps identified to implement Option 2. However, the timescales were deemed too long and a phased approach was favoured.
- 3.41 The Telephone Helplines Association ('THA') suggested that funding should be made available to not-for-profit helplines if migration were required due to the costs involved. It felt that any migration of numbers could have a significant impact on individuals relying on a helpline as a life-line. If migration were to occur, THA suggested creating a unique number range for helplines that met certain criteria and that this could increase consumer protection as currently there is no regulation of telephone helplines. It stated that it would be willing to act as a gatekeeper for this number range.

Call centre waiting times

- 3.42 A number of respondents felt that long call waiting times would lead to a loss of customers. However one respondent felt that third party call centres could have an incentive to increase call waiting times to increase revenue share. The THA noted that any revenue share its members received would likely be used to provide advanced routing services. Another respondent stated that revenue from its pay-as-you-go dial-up internet services went towards providing a customer call centre which otherwise would not exist.

Pricing transparency measures

- 3.43 There were mixed views on call price pre-announcements and some respondents felt that using splash-boxes was unsuitable to address any consumer issues identified.

ISPs argued that they would be unable to accurately state the price of the call (as this is dependent on the user's choice of OCP) and there would be significant technical and cost issues associated with implementation. It was felt that Ofcom should co-ordinate with industry to promote consumer awareness of pricing arrangements and there was support for Ofcom working with the ASA and CAP. Some respondents would support a public education campaign and it was felt that guidelines on advertising NTS call prices would be useful.

Other points

- 3.44 With respect to the Network Tariff Gradient and the long/short mechanism, respondents had similar views to those expressed by other CPs (see section 8). However, it was suggested that the transit charge regime for 0845 and 0870 should match that of 0844 and 0871 and that a solution was required to prevent BT from gaining an unfair advantage with respect to discounting.

Section 4

Policy issues and objectives

Introduction

- 4.1 The primary purpose of this section is to identify and discuss the issues that have arisen in relation to the current regulatory regime for NTS.
- 4.2 This section also includes a discussion of the policy objectives that Ofcom wishes to pursue in the development and evaluation of policy options for the future of NTS regulation.

Policy issues considered in the October 2004 Consultation

- 4.3 In the October 2004 Consultation, Ofcom considered a range of policy issues. These were divided into three groups; consumer issues, interconnect issues and service provider issues.
- 4.4 The consumer issues considered were:
- low consumer awareness of NTS call prices;
 - perceptions that some types of NTS call are over-priced;
 - concern over call centre waiting times, perceived to be exacerbated by NTS revenue sharing arrangements which can appear to give call centre operators an incentive to keep callers on hold;
 - potentially misleading advertising, which suggests that calls will be charged at local or national rates when that is not necessarily the case;
 - concern over the recent growth of adult services and other higher risk services on 087 numbers, bypassing ICSTIS regulation; and
 - internet dialler and other types of fraud on 09 numbers.
- 4.5 Ofcom considers that all of these issues are still relevant (except the last which has been the subject of a separate review by Ofcom) and has incorporated each in the discussion of policy issues below.
- 4.6 The interconnect issues considered were:
- for TCPs, uncertainty over the revenues they will receive for terminating 0845 and 0870 calls ('the revenue uncertainty problem');
 - for OCPs other than BT, concern over their lack of control over the amount they pay over to the TCPs for the termination of 08 and 09 NTS calls;
 - inconsistencies in the current approach to transit charges, with the OCP paying transit charges on 0844 and 0871 calls, and the TCP paying on all other types of NTS calls; and
 - concerns expressed by other CPs over the recent increase in BT's charges for terminating calls from other CPs to some BT-hosted NTS services, through the introduction of BT's NCCN 500 charges.

- 4.7 The first of the interconnect issues above (the revenue uncertainty problem) is considered in the review of policy issues below. The second and third are considered in the review of other interconnect issues in Section 8. As noted in Section 1, Ofcom is undertaking a Competition Act investigation into BT's NCCN 500 charges. Separately Ofcom is currently undertaking a market review of the market for NTS call termination. Ofcom expects to publish the findings of both the market review and the investigation separately, and does not consider the issue further in this document.
- 4.8 The main service provider issue considered in the October 2004 Consultation was the revenue uncertainty problem, which also affects service providers by causing uncertainty in the revenue shares available to fund services. The effect of the revenue uncertainty problem on SPs is considered later in this section.

Policy Issues

- 4.9 Ofcom has reviewed the policy issues considered in the October 2004 Consultation and has updated them to take account of the responses to the October 2004 Consultation (as described in Section 3) and additional information gathered by Ofcom since the October 2004 Consultation.
- 4.10 The revised policy issues are described below.

A. Revenue sharing on 08 numbers

- 4.11 As noted in paragraph 2.7 a key feature of the regulatory framework for NTS is that it makes revenue sharing possible between the TCP and the SP. In this way it supports the use of NTS as a micro-payment mechanism for various services that can be accessed via 08 and 09 numbers.
- 4.12 Some consumer respondents to the October 2004 Consultation felt that revenue sharing should be discontinued on 08 numbers and restricted to the 09 range where there is better consumer awareness that call charges are higher than for geographic calls and that SPs often receive a share of call charges. Other consumers who have contacted Ofcom about NTS also held this view. In addition, other respondents held views that indirectly questioned whether revenue sharing should continue on 08 numbers. These include:
- the view that calls to 084 and 087 numbers should be charged at the same rates as geographic calls. The underlying reason why calls to 084, 087 and 09 numbers are often higher than geographic call charges is revenue sharing. If NTS calls were charged at geographic rates, call termination charges paid to TCPs would be substantially lower than at present, particularly for 087 and 09 numbers with the result that the revenue share available to SPs would also be much smaller and in some cases too small to fund the services provided;
 - the view that SPs should be required to publish geographic numbers alongside their NTS numbers. This would allow callers to avoid NTS numbers and circumvent the micro-payment mechanism provided by NTS;
 - the view that only SPs that provide services perceived as value-added should be allowed to use NTS numbers;
 - the view that increasing use of 08 numbers will drive up call prices for consumers; and

- the view that revenue sharing allows SPs to exploit consumers either by charging them high prices for calls, by artificially extending calls or by more blatantly unscrupulous methods such as rogue internet diallers.
- 4.13 In addition, quantitative research undertaken by Ofcom (explained in Section 5 and Annex 6) indicated that almost half of consumers believe that revenue sharing should not be allowed.
- 4.14 The current regulatory arrangements were introduced specifically to facilitate revenue sharing and it is one of the main reasons that NTS numbers are widely used. However, Ofcom considers it important that consumers' concerns about revenue sharing are considered.
- 4.15 A secondary policy issue about revenue sharing arises if Ofcom considers that it would be appropriate to re-establish the linkage between 0845/0870 call charges and geographic call charges (see policy issue B below). If this is the case there is a question about whether or not that move should be accompanied by the withdrawal of the regulatory support for revenue sharing for those number ranges by removing them from the scope of the NTS Condition. Once calls are charged at geographic rates, it could be argued that the geographic interconnect model should apply, and those calls removed from the scope of the NTS Condition. Although this would not amount to a ban on revenue sharing, in practical terms it would almost certainly put an end to revenue sharing on those ranges because of the reduced retail price for those calls.

B. Retail pricing of 0845 and 0870 calls

- 4.16 Since the introduction of the NTS regime in 1996, the retail prices of 0845 and 0870 calls for BT customers have been linked to BT's standard retail call charges, net of applicable discounts, for local and national geographic call charges respectively. Many consumers are aware of the association between 0845 and 0870 ranges and local and national rate charges, which has been reinforced by advertisements for the services provided on those numbers.
- 4.17 However, the link has broken down because very few consumers now pay the standard rates for geographic calls. Most of BT's residential consumers, for example, are now on the BT Together Option 1 package, where geographic calls cost less than the standard rates. This problem does not affect other NTS number ranges such as 0844, 0871 and 09, since different retail pricing arrangements apply and there is no linkage to geographic charges. For these ranges, retail prices for BT customers are selected set by TCPs subject to the designations in the Plan.
- 4.18 The breakdown of this linkage has had an adverse impact on the consumer interest in several respects:
- it has given rise to potentially misleading advertising of 0845 and 0870 numbers as being charged at local and national rates;
 - as a result of consumer awareness of the local and national rate linkage and possibly also from misleading advertising, some consumers feel they are being overcharged for 0845 and 0870 calls;
 - as discussed further in policy issue C below, it contributes to the current lack of pricing transparency for consumers;

- services provided on 0845 and 0870 numbers are priced higher than they otherwise would be if the linkage were not broken and calls were charged at the geographic rates typically paid by callers;
 - Ofcom's research shows that many SPs are not aware that the linkage to geographic rates is now broken and as a result their customers pay higher rates than the SPs intend; and
 - the fact that 0845 and 0870 calls are charged at a standard rate (i.e. not one selected by the SP) limits the scope for price competition between SPs and may increase the likelihood of consumers getting poor value for money. This is most likely to occur where a caller has little or no choice of the number being called.
- 4.19 The linkage to geographic charges is also a major contributory factor to the revenue uncertainty problem that affects TCPs and SPs in relation to 0845 and 0870 calls, whether the calls originate on BT's network or that of another CP.
- 4.20 For 0845 and 0870 calls originating on BT's network, the amount paid to the TCP is effectively a residual amount, obtained by deducting BT's regulated charges for conveyance and retailing from the retail price of the call²². BT's retail charges for 0845 and 0870 calls are driven by:
- its standard retail charges for local and national geographic calls, which are subject to regulation through a charge control for residential calls²³ and are influenced by competitive conditions in the broader market for geographic calls; and
 - any discounts BT chooses to apply to these call types, which are at its commercial discretion (provided the discounts are applicable).
- 4.21 Thus TCPs other than BT are unable to exercise any effective control or influence over the revenues they receive for call termination if they use 0845 or 0870 numbers.
- 4.22 The terminating revenue uncertainty for TCPs extends to 0845 and 0870 calls originating on networks other than BT's, because of BT's position as a prominent transit provider. In these circumstances, the current practice is for BT to collect its standard termination charge from the OCP and to pay the same amount to the TCP. BT charges either the OCP or the TCP for transit depending on the NTS number range.
- 4.23 The SPs who use NTS numbers are also affected to a greater or lesser extent by the terminating revenue uncertainty as it is likely to be reflected in their revenue shares.
- 4.24 The current model creates conflicting incentives which have led to a number of disputes between BT, as the dominant OCP, and other TCPs. In our analysis in Section 6 we consider the issue of revenue uncertainty when assessing the various retail pricing and interconnection options for 0845 and 0870.

²² BT's conveyance charges along with its charges for transit and call origination are regulated under SMP condition AA4 (Charge Control) set out in Schedule 1 to the Notification in the Call Origination Market Review. BT's charges for the retailing of NTS calls are regulated by means of the NTS Retail Uplift. The NTS Retail Uplift was last set out in the amended direction of BT's Retail Uplift Charge published by the Director on 22 July 2003. A copy is available at Ofcom's website: <http://www.ofcom.org.uk/static/archive/oftel/publications/licensing/2003/nts0703.htm>. Ofcom will shortly be publishing its revised NTS Retail Uplift Charge, see Annex 12 for details.

²³ The charge control for certain retail services is set out in SMP Condition D1 of the 'Review of Fixed Narrowband Retail Services Markets' published by the Director on 28 November 2003

C. Price transparency

- 4.25 Our previous research (reviewed in the October 2004 Consultation) has shown that consumers have a very low level of awareness and understanding of the pricing of 084 and 087 calls. On average, consumers' perceptions of 0845 and 0870 calls prices are well above typical landline charges.
- 4.26 A significant proportion of consumers continue to associate 0845 and 0870 calls with local and national tariffs, and tend to think that the call prices are considerably lower, although still above their true level. Other consumers either believe that the calls are very expensive, and may therefore be reluctant to call them, or have no idea of the price of calls.
- 4.27 The problem of price transparency is exacerbated by the fact that the pricing designations laid down in the Plan effectively only apply to BT customers, and that calls can cost more for customers of other fixed line OCPs, mobile phone OCPs or from payphones. In some cases, the difference is considerable.
- 4.28 These concerns raise an important issue about the role of the Plan and the effectiveness of its existing provisions. The Plan sets out designations for use of numbers. Included in this are upper limits regarding the retail pricing of calls to the various number ranges. The purpose of these designations is to indicate to industry the intended use for number ranges.
- 4.29 For the most part, the provisions of the Plan are only applied to the price of calls made from BT lines. In an increasingly competitive market, this focus on the prices of one particular company will be increasingly inappropriate.
- 4.30 The lack of price transparency gives rise to costs of two kinds. First, there is an economic cost, because tariff misperceptions will give rise to inefficient purchasing decisions; and second, there is the cost to consumers associated with the potentially misleading promotion of 0845 and 0870 calls as being charged, respectively, at local and national rates.

D. Consumer protection

- 4.31 Because 084 and 087 calls support micro payments to third party SPs, they can provide an opportunity for unscrupulous SPs to mislead, defraud or otherwise exploit consumers, for example through the use of rogue diallers. As already discussed, where services use '09' numbers, the potential for consumer detriment is restricted because such services are currently regulated by ICSTIS, and would therefore be subject to ICSTIS Code provisions such as the prior permissions regime for diallers. However, this is not currently the case in respect of 08 number ranges as ICSTIS does not currently regulate services falling within these ranges.
- 4.32 In addition to this general concern, two specific issues which have caused consumers concern are:
- rogue internet diallers, which have become increasingly common on 087 numbers. This increase may have resulted from SPs seeking to avoid the requirement to seek prior permission from ICSTIS following ICSTIS' extension of its prior permissions regime to include premium rate diallers in 2004; and
 - adult services, which are now common on 087 numbers, where if consumers wish to bar them means they would lose access to other 08 services. This raises

consumer protection issues in relation to children and other vulnerable consumers and undermines the informative nature of the Plan.

- 4.33 For some, the problem is that businesses are increasingly using 0870 numbers, in particular, as a general alternative to geographic numbers. These calls have higher tariffs than calls to geographic numbers and generate a revenue share, which may, in the caller's opinion, bear no relation to the value of the service provided to the caller. The fact that 0870 calls are charged at a standard rate (i.e. not one selected by the SP) limits the scope for price competition between SPs, and may increase the likelihood of the consumer getting poor value for money. This is most likely to occur where a caller has little or no choice over the number being called.

E. Call centre waiting times

- 4.34 Responses to the October 2004 Consultation indicated that many consumers are irritated and annoyed by long call centre waiting times. Since most of these call centres are operated by businesses outside the communications sector Ofcom considers that ordinarily call waiting times are outside its regulatory remit. However, call centres that use NTS numbers are able to benefit from a revenue share as a result of a regulatory intervention by Ofcom. Ofcom therefore considers that in such cases there may be a case for Ofcom to intervene, if there is evidence to indicate that consumers are not getting value for money from a service they are paying for, at least in part, through their telephone bill.
- 4.35 This can be regarded as another of the consumer protection issues referred to in the previous sub-section.

F. Use of NTS numbers by public sector organisations

- 4.36 There is growing consumer concern about the use of NTS numbers by essential public sector services such as health care and other government agencies. Some consumers feel that public services should not be allowed to use these numbers. This is partly because call charges are higher than geographic calls and partly because of the revenue share that may be involved.
- 4.37 A considerable amount of media attention has been given to some recent cases involving the use of 087 numbers for public services such as the use of 0870 numbers by doctors (as described in Section 2, paragraph 2.31) and the use of an 0870 number by the Metropolitan Police Service for an enquiry line, following the London bombings of 7 July (as described in Section 2, paragraph 2.33). Incidents such as these have led some to the view that Ofcom should take steps to restrict, or ban altogether, the use of 087 and possibly 084 numbers for the delivery of public services.
- 4.38 A further difficulty with public sector use of 08 numbers is that some 08 number ranges may be inaccessible when calling from abroad. Ofcom has had a number of complaints from UK citizens based overseas who have been unable to contact public services provided on NTS numbers.

Policy objectives

- 4.39 Ofcom's policy objectives in relation to NTS services were described in some detail in the October 2004 Consultation and are rooted in Ofcom's statutory obligations under the Act, in particular, Ofcom's general duties in section 3 of the Communications Act 2003 ('the Act') and Ofcom's duties for the purposes of fulfilling the six European Community requirements as set out in section 4 of the Act. For the present purposes

these may be broadly characterised as furthering the interests of citizen consumers, promoting competition and encouraging the provision of network access and service interoperability. Since the October 2004 Consultation, Ofcom has refined and condensed the list of objectives into the following:

- Price transparency – consumers should know what they are paying for calls;
- Range and choice of services – consumers should have access to a wide range of services and a choice of suppliers;
- Consumer protection – the use of 08 numbers as a micro-payment system should be accompanied by measures which provide an adequate level of consumer protection, particularly for vulnerable consumers;
- Viability of pay-as-you-go dial-up internet access – given its continued importance in providing internet access to consumers throughout the UK, the viability of the market for dial-up internet services should not be undermined;
- Promotion of competition – regulation should promote competition between CPs and SPs, consistent with reasonable levels of cost recovery and revenue certainty.
- Reduced regulatory intervention – Ofcom should operate with a bias against regulatory intervention and should avoid imposing any unnecessary burden on consumers, suppliers or other stakeholders.

4.40 Account will also be taken of the implementation costs of policies designed to further these objectives, when assessing options.

Question 1: Do stakeholders agree with Ofcom's description of the policy issues and Ofcom's policy objectives?

Section 5

Summary of additional research and analysis

5.1 As noted in Section 3, Ofcom received a large number of responses to the October 2004 Consultation. However, given the lack of consensus in favour of Ofcom's preferred approach set out in the October 2004 Consultation and the suggestion that Ofcom should gather further evidence, Ofcom decided to undertake additional research and analysis to explore the issues raised by respondents and to support its analysis of the policy issues discussed in the previous section.

Overview of additional research and analysis

5.2 One of the principal objectives was to explore consumers' and SPs' views in more detail. In particular, Ofcom wanted to determine whether the views expressed by respondents to the consultation were representative of wider consumer concerns about NTS and explore consumers' and SPs' views about NTS in more detail and also to explore views about the options for change being considered by Ofcom.

5.3 **Retail pricing of 0845 and 0870 calls:** Some of the policy options that were considered by Ofcom to address the policy issues arising from the retail pricing arrangements for 0845 and 0870 calls (as discussed in paragraph 4.16) involve re-establishing the linkage between 0845 and 0870 call charges and the geographic call charges actually paid by consumers. The effect of these changes would be either to reduce revenue sharing to a very low level or to end it completely on the 0845 and 0870 ranges. Ofcom therefore undertook additional research to estimate:

- the proportion of SPs that would migrate their services to new numbers in order to continue to revenue share;
- the costs that the SPs would be likely to incur to move their services to new numbers;
- the other impacts of re-establishing the linkage such as improvements to pricing transparency and call price reductions.

5.4 **Price transparency:** As noted in the discussion of pricing transparency in paragraph 4.25 research undertaken prior to the October 2004 Consultation indicated that consumers have a low level of awareness and understanding of pricing of 084 and 087 calls. Ofcom decided to update its consumer research on pricing perceptions for NTS calls and to undertake additional economic analysis to estimate the consumer detriment associated with price misperceptions. This information could then be used to judge what scale of intervention might be justified to address the detriment. Ofcom also carried out some analysis to assess the likely costs of call pre-announcements informing callers of the price of the call in order to increase pricing transparency for consumers.

5.5 **Consumer protection:** As noted in paragraph 4.31 one of the policy issues is whether PRS regulation should be extended to address consumer protection concerns on 08 numbers. Ofcom undertook further research to explore the extent of these concerns in relation to the provision of adult services on 08 numbers and the incidence of scams such as internet diallers.

- 5.6 **Locked-in calls:** As discussed in paragraph 4.33, Ofcom considers that detriment might arise from NTS calls when the caller has little choice but to call a particular number. In such cases there is potential for callers to be overcharged. Ofcom has termed such calls locked-in. To estimate the proportion of calls to 084 and 087 numbers that might be locked-in, Ofcom undertook additional research with TCPs and SPs to get a more detailed picture of the types of services being provided on particular NTS numbers and the traffic volumes terminated on those numbers.
- 5.7 **Call centre waiting times:** As noted in the discussion of call centre waiting times in paragraph 4.34 some consumers are concerned that some call-centres may artificially extend call waiting times in order to earn additional revenues. Ofcom therefore decided to undertake additional research and analysis to explore these concerns. An important part of this research was a mystery shopping research programme to determine whether there is any relationship between call centre waiting times and the price of NTS calls.
- 5.8 **Use of NTS numbers by public sector organisations:** As noted in the discussion of the use of NTS numbers by public sector organisations in paragraph 4.36 some consumers feel that public sector organisations should not be allowed to use some NTS numbers. To support its analysis, Ofcom decided to undertake further research to estimate the level of use of NTS numbers by public sector organisations.
- 5.9 **Other issues:** One of the reasons that CPs did not support Ofcom's preferred option (Option 2) in the October 2004 Consultation, was because they felt there would be operational problems for numbers that had been ported away from the TCP that holds the number range. Ofcom therefore undertook additional research to determine the extent of porting on NTS numbers.

Additional research

- 5.10 The additional research that Ofcom undertook to explore these topics included:
- Ofcom commissioned a series of focus groups to get a more in depth picture of consumers' and small/medium sized business SPs' views about calls to NTS numbers and in particular to explore views about the options for change that Ofcom was considering, (Annex 6 contains a summary of this research);
 - the focus groups were followed up with further quantitative market research to quantify some key conclusions (Annex 6 contains a summary of this research);
 - a programme of mystery shopping research to investigate whether the availability of revenue sharing on 08 numbers has led to longer call waiting times for calls to call centres (Annex 6 contains a summary of the research);
 - formal information requests under section 135 of the Act to all TCPs that have been allocated 08 or 09 numbers by Ofcom. The purpose of the request was to gather information about how many NTS numbers are in use, the volumes of traffic they carry and the extent of revenue sharing between TCPs and SPs. Ofcom also asked the TCPs to provide contact details for a sample of their customers (the SPs and resellers);
 - formal information requests under section 135 of the Act to a sample of SPs based on the contact details supplied by the TCPs. The purpose of this request was to gather information about the types of service being provided by SPs on individual 08 numbers. Ofcom also asked SPs who received a revenue share to fill in an additional questionnaire that sought their views on the importance of the

revenue share to their business and what they might do if revenue sharing was no longer available on their current number;

- discussions with a selection of large organisations that operate call centres using NTS numbers;
- discussions with SPs that provide international calling services;
- discussions with ISPs; and
- analysis of complaints received by Ofcom relating to NTS.

5.11 Further details of Ofcom's pre-consultation engagement with stakeholders are set out in Annex 13.

5.12 Ofcom's additional research and analysis is detailed below.

Consumer views about NTS

5.13 The research found that consumers have a high level of awareness of NTS numbers and found that NTS numbers are a part of daily life for consumers and are used increasingly for 'personal management' activities such as banking, bill paying, purchasing goods etc.

5.14 Although consumers do have concerns about NTS numbers, overall they are a low engagement area for consumers and are not of major importance. Concerns about NTS numbers only seem to come to the fore in relation to events such as media coverage, a particularly bad call experience or a very high bill associated with an NTS number.

Consumer complaints received by Ofcom

5.15 Ofcom's Contact Centre keeps a record of all complaints that it receives. During the last year, 126 complaints relating to 08 NTS numbers were recorded. Approximately two thirds related to allegations of scams involving rogue diallers on 087 numbers, mobile ring tones or phishing²⁴ and approximately one in ten were about silent calls. The remainder, (approximately one quarter) covered points that were also of concern to respondents to the October 2004 Consultation. The main topics raised were:

- the high price of calls to NTS numbers, particularly 0870;
- the high price of calls to NTS numbers from payphones;
- opposition to revenue sharing;
- complaints about extended call waiting times; and
- complaints about adult services being provided on 08 numbers.

5.16 Ofcom has also regularly received letters from members of Parliament about NTS, mostly forwarding complaints about NTS to Ofcom on behalf of their constituents. Most of these letters contained complaints about the high prices associated with calling NTS numbers and complaints about the ability of SPs to obtain a share of NTS call revenues.

²⁴ Attempts to trick consumers into disclosing confidential personal financial information such as bank account details or telephone/internet banking passwords.

Views about options for change

- 5.17 Ofcom also explored consumers' views about how the NTS regime should be changed to address their concerns. The focus groups had detailed discussions about four different options for change that Ofcom was considering but didn't pick a clear winner overall. However, the focus groups gave a useful insight into consumers' views and indicated that consumers supported measures to reduce the confusion over call prices rather than to curtail revenue sharing.
- 5.18 With the confusion about the price of NTS calls, the quantitative research indicated support for measures that would cap the price of NTS calls or make them the same as ordinary geographic calls. However, support for pre-announcement of call charges at the start of each call were more mixed. Whilst most consumers supported pre-announcements, almost half thought they would find them annoying.
- 5.19 The SP focus groups had detailed discussions about four different options for change that Ofcom was considering but like consumers didn't pick a clear winner overall. The SPs felt that they would incur large costs to change numbers and therefore favoured two options that would allow them to retain their current numbers. The most favoured option was Option 2 – extended retail price competition (Ofcom's preferred option from the October 2004 Consultation) and Option 4 – no regulatory support for revenue sharing on 084 and 087 numbers (as considered in the October 2004 Consultation). The first of these would provide continued regulatory support for revenue sharing and the second would remove the regulatory support for revenue sharing (but would not impose a complete ban). In relation to Option 4, most of the sample felt that they would retain their NTS numbers provided the additional costs they would incur were not too high. If costs proved too high, most felt that they would stop using NTS numbers altogether rather than move to another NTS number that supported revenue sharing.

Utilisation of NTS numbers

- 5.20 In order to gain an understanding of how many NTS numbers are currently in use, Ofcom asked all TCPs allocated an NTS number range to provide details of how many of their NTS numbers are allocated to SPs and how many had received calls in the past month.
- 5.21 Ofcom asked TCPs to provide information about the 0800, 0844, 0845, 0870 and 0871 NTS number ranges. The analysis indicates that about 46% of the NTS numbers allocated to SPs are currently in use (defined as receiving calls in the last month). Figure 2 summarises the information provided about utilisation of 084 and 087 numbers.

Figure 2: Number of NTS numbers in use

Number range	Number currently in use by SPs (thousands)	% of numbers in use
0844	25	2%
0845	215	20%
0870	643	61%
0871	171	16%
Total	1,054	100%

5.22 Figure 2 shows 087 numbers greatly outnumber 084 numbers (77% and 22% respectively). These proportions contrast strongly with the NTS call volumes discussed in the October 2004 Consultation where 084 calls were found to predominate due to pay-as-you-go dial-up internet traffic. The 0844 and 0871 ranges, which permit TCPs to select a price point, are not currently as popular as the 0845 and 0870 ranges, which each have a single price point, but the 0871 range seems to have gained some traction and makes up 16% of 084 and 087 numbers.

Consumer views on revenue sharing

5.23 Based on the quantitative consumer research Ofcom estimates that fewer than one-third of consumers are aware that SPs are allowed to receive a share of the call charge. Views on whether revenue sharing should be allowed were quite polarised with almost half believing that revenue sharing should be allowed and approximately one-third believing that it should not be allowed. The qualitative research indicated that consumers felt quite strongly that certain types of organisation should not be allowed to obtain a share of NTS call revenues. These included public sector organisations and some types of commercial organisation such as banks that were perceived to be highly profitable.

Propensity of SPs to migrate from 0845/870 numbers and likely migration costs

5.24 Some of the policy options considered by Ofcom in Section 6 involve re-establishing the linkage between 0845 and 0870 call charges and the geographic call charges actually paid by consumers. The effect of these changes would be to reduce revenue sharing to a very low level. Alternatively Ofcom could seek to end revenue sharing completely on the 0845 and 0870 ranges. If this were to happen, some SPs might migrate to a different NTS number range in order to continue to receive a share of the call revenues. Ofcom therefore undertook additional analysis to estimate the proportion of SPs that might migrate their services to new numbers.

5.25 As noted above, the effect of the policy options considered in Section 6 is likely to range from reducing the amounts available for revenue sharing to a very low level to bringing an end to revenue sharing. However, for the purposes of research, Ofcom didn't distinguish between these options and simply considered the migration that would result from the loss of revenue sharing.

5.26 The full details of the research are discussed in Annex 14.

- 5.27 In order to assess the extent to which the loss of the revenue share would result in SPs migrating their services to different number ranges, Ofcom considered information from a variety of sources, including:
- written submissions from CPs, ISPs and other SPs;
 - meetings with a range of CPs and larger SPs;
 - qualitative research with SPs; and
 - the formal information request and additional questionnaire sent to approximately 1,000 SPs.
- 5.28 The clear message from Ofcom's focus group research with SPs and discussions with large business users of NTS numbers, was that the availability of a revenue share was not the main reason why most businesses use NTS numbers. NTS numbers were typically used because of the call routing features they provide and for the ability to retain the number when moving to a new location. Smaller businesses also tended to use NTS numbers to hide their geographic location and to make their business look larger.
- 5.29 Ofcom's quantitative research with TCPs and SPs indicates that for most SPs that receive a revenue share from calls to their NTS numbers, the amounts received were generally small relative to the costs incurred in providing their services and were often small in absolute terms. A minority of SPs in number terms, rely on the revenue share from NTS calls to fund the services they provide. However, this group includes ISPs and providers of international calling services. ISPs use NTS numbers to provide pay-as-you-go dial-up internet services to more than five million consumers²⁵. Whilst ISPs may account for a minority of SPs overall, they account for approximately 85% of traffic on the 0845 number range and therefore a large amount of traffic on this number range depended entirely on the revenue share available.
- 5.30 Those SPs that rely on the revenue share they receive from NTS calls to fund the services they provide, told Ofcom that if revenue sharing were no longer available on their current numbers, then they would have to migrate to another NTS number range that supported revenue sharing, since their business models depend on the revenue received from NTS calls. This group told Ofcom that migration would be disruptive and also said it would carry significant risks for their businesses since in many cases NTS call revenues were their principle source of revenue. ISPs were particularly concerned about the difficulties of migrating pay-as-you-go dial-up internet services to new numbers (see Annex 14 for more detailed discussion).

The 0845 number range

- 5.31 The research showed a very clear picture for 0845 calls, which is that if revenue shares were no longer available the vast majority of traffic would migrate to another number range. Ofcom assumes that the 0844 range would be the most likely destination. This is because the bulk of these calls are to dial-up internet services, the viability of which depends entirely on the revenue share. The loss of the revenue share would effectively oblige ISPs to migrate their customers onto another range. We would expect that 85-90% of the 0845 traffic would move to another number range. This assumes that all internet traffic would migrate and that approximately 16% of other SPs would migrate (as found in the quantitative research with SPs).
- 5.32 The potential one-off costs of this migration have been estimated to be in the region of £11m for non-ISP SPs and £33-39m for ISPs. For voice SPs, these costs include

²⁵ Source: The Communications Market 2005, Ofcom, July 2005

stationery, telecoms and overheads costs associated with migrating to a new number and for ISPs, relate to attempting to contact customers by email, by sending them a CD through the post to upload a new dialler, and also through the use of forced portal technology. This is discussed further in Annex 14.

The 0870 number range

5.33 The research shows a very different though not always entirely consistent picture for 0870 calls. For example:

- Ofcom met with a number of very well known larger businesses currently using 084 and 087 NTS numbers for a variety of pre-sales and post-sales services who told Ofcom they would remain on their existing numbers. This is because the revenues received from their NTS numbers, represents only a small part of their total revenue and they would prefer to give up the revenue share rather than change their numbers. Many of these businesses had chosen 0845 and 0870 numbers because of the simple local rate and national rate pricing message and were concerned about the breakdown of the linkage between 0845 and 0870 tariffs and geographic tariffs, which meant these terms were no longer accurate. A few of these SPs expressed a desire to dissociate themselves from the revenue share, because of the negative connotations it has in the minds of some of their customers. When expressing their views, these business users were fully aware of the fact that, if the geographic link was restored, they might have to pay their CPs to receive 0870 calls;
- the evidence from the SP focus groups was that the availability of a revenue share is not the main reason why most businesses use NTS numbers, and that few businesses would change their numbers in order to continue to receive a revenue share;
- Our analysis of approximately 600 responses to Ofcom's information request to SPs indicated that:
 - 65% of SPs accounting for approximately 50-55% of traffic (by volume) said they would absorb the loss of the revenue share, or find another way of recovering their costs;
 - 40% of SPs regard the revenue share they receive as important to their businesses; and
 - 40% of SPs accounting for 50-55% of traffic, nevertheless said they would move if the revenue share ceased.

5.34 Overall Ofcom estimates that approximately 35-45% of SPs on the 0870 number range would migrate to another number (likely to account for 45-55% of 0870 traffic). Ofcom estimates that these SPs would be likely to incur £70m - £90m in one-off migration costs (see Annex 14 for further details).

The impact of restoring the linkage to geographic charges for 0845 and 0870 calls

5.35 Apart from migration of some services to new numbers re-establishing the linkage between 0845/0870 calls and geographic calls would have an effect on pricing transparency and the way that consumers pay for services. In this section, Ofcom considers the likely impact of the changes.

- 5.36 As the impact would differ significantly for those services that migrate and those that don't each is considered separately below.

For those services that do not migrate to new numbers

- 5.37 For the services remaining on their existing numbers, restoration of the geographic link can be expected to have a major impact on price transparency. Many consumers retain the association between 0845/0870 and geographic calls. The transparency effect would be especially strong if all CPs, and not only BT, were required to price 0845 and 0870 calls at their standard rates. The potential value of this benefit is considered further in the section below on price transparency.
- 5.38 In addition, restoration of the link to geographic call charges would lead to a sharp reduction in the price of 0870 services, with peak-time rates from fixed lines falling from 7-8p per minute to around 3p per minute for many consumers. The price reduction for 0845 calls would be much smaller, as peak rates are typically in the 3-4p per minute range already. After adjusting for the likely impact of migration (as some SPs would choose to migrate to continue to revenue share), we estimate that the value of the price reductions to consumers would be £59-72m p.a. on the 0870 range and approximately £0.5-0.7m p.a. on 0845²⁶.
- 5.39 Ofcom considers that consumers are likely to respond to the price reductions by making more calls to 0845 and 0870 numbers, resulting in more consumption and other things being equal, higher call revenues.
- 5.40 The retail price reductions discussed above would lead to a substantial reduction in revenue sharing, possibly to zero on the 0845 and 0870 ranges. The SPs who remain on their existing numbers may absorb the loss in revenues, or seek to compensate by increasing prices elsewhere. For example, a holiday travel firm with an 0870 sales line might compensate by raising the prices of its holidays, or a computer firm with an 0870 customer service number might respond by increasing the price of its computers.
- 5.41 To the extent that SPs receive goods or services (such as call routing and call management services) from their TCPs in lieu of a revenue share, prices elsewhere might also go up. If TCPs are no longer able to cover the cost of these services from the revenue share, they are likely to charge their SPs directly for the services provided. Ofcom considers it reasonable that the costs should be recovered in this way, as the services are in the first instance being provided for the benefit of the SP, and not for those who call the SP's number, who may not want them.
- 5.42 The degree to which SPs would be able to offset the loss of revenue share by raising prices elsewhere would depend on competitive conditions in the downstream markets they serve. It is not practicable for Ofcom to quantify downstream price increases with any precision, as that would require an analysis of virtually all sectors of the UK economy. However, Ofcom would observe that:
- in the responses from SPs to Ofcom's information request, 45-50% of SPs indicated that they would absorb the loss of the revenue share;
 - where 0845/0870 numbers are used to provide post-sales services, recovering the costs at the time of the primary purchase (e.g. through a service contract) may be more transparent to the consumer than recovering the cost through a revenue share on incoming calls.

²⁶ This calculation assumes call volumes remain the same.

- 5.43 Overall, Ofcom considers it likely that some of the consumer benefit from lower call prices could be offset by price increases in downstream markets, but that the residual benefit is still likely to be significant, perhaps of the order of tens of millions of pounds a year.
- 5.44 The price reductions could also reduce the scope for consumer detriment from locked-in calls by reducing or eliminating the revenue share associated with locked-in calls to services that retain their existing numbers. Locked-in calls are discussed in more detail below.

For those services that migrate to new numbers

- 5.45 Whilst some SPs may absorb the one-off migration costs, others may seek to recover them by taking the opportunity to increase their call prices and negotiating a higher revenue share or by increasing the prices of other goods and services they provide. To some extent, in other words, the costs of migration are likely to be passed on to consumers.
- 5.46 It is also possible that migration would prompt some SPs to select different price points when they move to a different number range, irrespective of whether they decide to recover their one-off migration costs via call charges. This effect is difficult to assess. On the one hand, there is a tendency for the services currently on 0844 and 0871 to be priced towards the top end of the relevant price range, suggesting that prices could go up as more services migrate. On the other hand, the services most likely to move – such as ISPs and call resellers – tend to operate in very competitive markets, where it is unlikely that any significant price increases would be sustainable, and the ability to choose a price point could mean that prices come down.
- 5.47 For those services that migrate, there is likely to be a reduction in price transparency since services would be moving from a range with a single price point to one with multiple price points (i.e. 0844, 0871 or 09).
- 5.48 For those services that migrate to new NTS numbers there would be no reduction in the potential for consumer detriment from locked-in calls since revenue sharing would continue.

Price transparency

- 5.49 Ofcom decided to conduct further research in relation to price transparency on the basis that where consumers are not fully aware of NTS call prices there is a potential for detriment. Pricing misperceptions may give rise to detriment for consumers in several ways.
- consumers that believe the prices to be higher than they actually are may be likely to avoid making calls to these numbers, call them less often or make shorter calls;
 - consumers that don't know the price of calls to NTS numbers may either avoid calling them or assume they are ordinary geographic numbers and call them anyway and as a result be charged more for the calls than they expect; and
 - consumers that associate 0845 and 0870 numbers with the local rate and national rate designations, or who see these numbers advertised as local or national rate, may base their decision to call them on the assumption that they

are charged at the same rates as geographic calls. As a result they may be charged more for the calls than they expect.

- 5.50 One of the measures suggested in the October 2004 Consultation to address any lack of price transparency was pre-announcement of charges at the beginning of calls. This measure also had some support amongst consultation respondents. Ofcom also undertook further research to explore the costs and technical feasibility of this measure.

Level of price transparency

- 5.51 Despite the high level of awareness of NTS, both the qualitative and quantitative consumer research showed that there is confusion about the price of calls. Less than half of consumers claim to know the price of 0845 and 0870 calls from a landline and consumers significantly overestimate the price of NTS calls from landlines. These findings echo those of Ofcom's previous consumer research which was described in the October 2004 Consultation. The lack of understanding of NTS call prices led more than half of consumers to express concerns about making NTS calls.
- 5.52 Consumer awareness of NTS call prices is generally much lower than is the case for geographic calls.
- 5.53 In the October 2004 Consultation, Ofcom described its consumer research undertaken in July 2004, which showed that, on average, consumers believed that 0845 and 0870 calls were priced at 26p per minute and 30p per minute respectively, whereas in fact the price for calls from a BT line were 3.95p per minute and 7.91p per minute at peak times (both being considerably lower at off-peak rates).
- 5.54 In June 2005, Ofcom updated its consumer research, which gave similar findings, showing that consumers believe that 0845 and 0870 calls were priced at 26p per minute and 36p per minute respectively.
- 5.55 The June 2005 consumer research clearly shows that price misperceptions affect consumers calling habits. The research shows that 19% of respondents who knew of the 0845 range said that they would think twice about calling an 0845 number and 15% said that they would avoid calling an 0845 number altogether. Consumers are even more reluctant to call 0870 numbers, with 24% of those who knew about the 0870 range indicating that they would think twice about calling and 18% that they would avoid calling an 0870 number altogether. The main reasons given for avoiding calling 0845 and 0870 numbers were the price (37%), not knowing the price (19%) and concerns relating to premium rate numbers and services (13%). It is important to note that concerns about the price of calls relate to the perceived price rather than actual prices.
- 5.56 In addition to consumers not being aware of NTS charges, the qualitative research showed that very few SMEs knew the exact price that their customers would pay to call their NTS numbers and often used the local rate and national rate terms to describe call charges. However, SMEs were aware that consumers are confused about the price of calls to NTS numbers and would welcome measures to provide consumers with more clarity.

Consumer detriment associated with lack of pricing transparency

- 5.57 Price misperceptions of the sort described earlier in this document will have a negative impact on welfare because some potential callers who place a value on making these calls that is higher than the price that is actually charged will be

deterred from dialling these numbers. Given the extent of the current disparity between caller perceptions and actual call charges, the detriment associated with this inefficiency may be very significant. There are, however, a number of difficulties associated with quantifying this type of detriment. In order to do this it is necessary to make assumptions regarding a number of key parameters, in particular regarding the sensitivity of callers to changes in (perceived) call prices.

Methodology

- 5.58 When customers incorrectly perceive that prices are above their true level, welfare outcomes will be somewhat similar to those that result from prices actually being set above a competitive level by a monopolist. As in the monopoly cases, levels of consumer surplus and consumption will be lower, but, unlike monopoly prices, consumer misperceptions will not lead to increased producer surplus, since sellers do not benefit from high *perceived* prices (and, in any case, price misperceptions on the scale of the ones described earlier mean that callers currently have a view of prices that suggests that they are well above the profit-maximising monopoly level).
- 5.59 Assuming that the (market) own price elasticity of demand for NTS calls is -0.3^{27} at the current perceived price, and assuming a standard formulation for a nonlinear demand curve of $Q = Ae^{-\lambda p}$, we estimated the impact that correcting the price misperceptions outlined above would have on consumer surplus (assuming, for simplicity's sake, that the current actual prices for 0845 and 0870 calls represents the – constant – marginal cost of retailing these call types). We assumed that these misperceptions apply to all the voice 0845 and 0870 calls originated by all CPs, but not at all to data traffic, since the cost of dial-up Internet calls will tend to appear as a significant item on the bills of those consumers that use these services. We assumed that voice traffic accounts for 15% of all 0845, 100% of 0870 volumes, based on data for the year 2003 as set out in the October 2004 Consultation.
- 5.60 There is a significant degree of uncertainty in these estimates due to the need to make a number of assumptions in the absence of detailed information about certain aspects of consumer behaviour. One of the most significant of these is that we have been unable to determine how often consumers decisions to call 0845 and 0870 numbers are influenced by pricing messages that advertise numbers as “0845” or “0870” rather than “local rate” and “national rate”. Our survey results indicated that the way in which numbers are advertised contributes significantly to consumers’ perceptions of the price of NTS calls, but, for simplicity, Ofcom has assumed that all numbers are advertised using the “0845” and “0870” labels. We have based our calculations on an *average* perceived price, i.e. it has not individually calculated the welfare loss associated with each type of caller (e.g. callers who think that 0845 calls are free, callers who think that 0845 calls cost £1/minute or more, and so on) as found in its survey data. Our calculations also assume that each type of caller (e.g. callers who think that 0845 calls are free, callers who think that 0845 calls cost £1/minute or more, and so on) makes the same number of calls per head on average, since we do not have detailed data upon which to base a more precise calculation.

²⁷ 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.*

- 5.61 It is also worth noting that we have assessed the detriment associated with price misperceptions relative to a counterfactual in which there is complete price transparency. This is probably somewhat unrealistic - research carried out by Ofcom in the past shows that consumers also suffer from misperceptions in relation to the price charged for other call types such as geographic calls. None of the measures proposed in this document would entirely eradicate price misperceptions, meaning that the benefit associated with any proposal would be less than the entire detriment figure set out below.

Estimate of detriment

- 5.62 Using this approach Ofcom estimates that the detriment attributable to reduced call volumes resulting from consumer misperceptions is in the region of £190m p.a. for 0845 calls and £115m p.a. for 0870 calls.
- 5.63 Given the importance of the caveats outlined above, we believe that these figures should be regarded as indicative only. In particular, these figures are extremely sensitive to the assumed price elasticity of demand for these call types, and, as explained above, we do not have a single reliable estimate of this parameter. For example, a slightly higher assumption of -0.4 would imply a welfare loss of about £155m p.a. on 0870 calls, and a slightly lower assumption of -0.2 would imply a corresponding figure of £74m p.a.

Call pre-announcements

- 5.64 One method to improve pricing transparency for NTS calls would be to introduce a requirement for the call tariff to be announced at the start of each call. Ofcom investigated the feasibility and cost of three different solutions for pre-announcements. A summary of Ofcom's analysis is included as Annex 7.
- 5.65 Ofcom is of the view that announcements provided by OCPs (rather than by TCPs or a centralised solution) would be the most cost effective and practical way for announcements to be provided. A detailed technical study would be required to give a precise estimate of the cost of implementing pre-announcements for 084 and 087 numbers, but Ofcom's high level estimate indicated that the one-off costs to industry would be high (approximately £70 million to £100 million). In addition, it is likely that there would be additional ongoing operational costs which Ofcom has not been able to quantify. It is likely that ultimately the one-off and ongoing operational costs would be recovered from consumers.

Adult services on 08 numbers

- 5.66 Ofcom undertook desk research to determine the extent to which adult services are provided on 08 numbers. Ofcom reviewed the advertisements for adult services in a selection of regional and national newspapers and found that approximately a quarter of the advertisements quoted 087 numbers, most of which were 0871 numbers. Although these results are only indicative, they do clearly show that 087 numbers are quite commonly used for adult services.

Internet diallers and other scams on 08 numbers

- 5.67 As discussed in paragraph 5.15, during the last year, Ofcom's Contact Centre has received 126 complaints about 08 numbers. Approximately two thirds of which were allegations of scams involving rogue diallers on 087 numbers, mobile ring tones or

phishing. In previous years, complaints about rogue diallers tended to relate to the 09 number range.

Consumer detriment associated with locked-in calls

- 5.68 In some instances, consumers calling NTS numbers have little or no choice but to call the number(s) of a particular service provider. The inability of callers to switch between the numbers of different service providers leads to a potential for detriment to consumers via overcharging.
- 5.69 For example, a customer making a post-sales call to a retailer about a warranty repair of a consumer appliance cannot choose between retailers, and a customer of a particular retail bank wanting to check his bank balance via the phone will not gain any value calling another bank that he does not have an account with. We have termed callers that are in such a position as being “locked-in”.
- 5.70 It is difficult to precisely quantify the extent to which locked in callers are being overcharged for services provided over NTS calls. To do this it would be necessary to assess, in a prohibitively large number of cases, the extent to which it is efficient for costs to be recovered via call charges (e.g. there might be arguments to suggest that this is inappropriate in the case of calls to public sector bodies - see paragraph 4.36 and what the costs of service provision were (we would, for example, expect services that required dedicated staff to be more costly to provide than those that used recorded messages). As discussed in paragraph 5.81, Ofcom's research indicates that the manpower costs incurred by call centres are considerably higher than the revenues available to SPs from 08 calls.
- 5.71 Even in many cases where callers are locked in, if downstream markets (e.g. those relating to consumer appliance retailing or retail banking) are subject to significant amounts of competition, then the consumer detriment resulting from overcharging may be mitigated to some extent, since the proceeds of revenue sharing would be used to reduce overall service charges or purchase price of the goods (in the case of product sales). The less competitive the market in question is, the more likely it is that the SP would retain part of the proceeds from revenue sharing rather than use them to offset the prices of goods or services as described above. In such cases, there is the potential for consumers to be overcharged and detriment could occur. In the worst case, the SP may retain the entire revenue share in this way. A reasonable and readily measurable proxy for the ceiling of consumer detriment that is caused in this way is the difference between the price of the NTS call and the price of the call if it were at a geographic rate (this effectively means that the geographic call charge represents a “fair” call price, which may or may not be the case). In practice, Ofcom believes that most of the downstream markets are likely to be effectively competitive (i.e. competitive but not perfectly competitive) which could mean that the SP may retain some of the proceeds from revenue sharing for itself.
- 5.72 It is not possible to definitively quantify this type of detriment without, potentially, evaluating competitiveness and assessing costs in each of the markets where NTS numbers are used. This would be a prohibitively complex and detailed task. Instead, Ofcom has estimated the maximum possible detriment to consumers as described above.
- 5.73 As previously noted, Ofcom used formal information requests to gather information about NTS calls from TCPs and SPs. By using typical monthly call volume information supplied by TCPs and details provided by SPs about the services being provided, Ofcom estimated the proportion of 084 and 087 calls that are locked-in. To

do this, Ofcom asked SPs to list the five main services they provided on their NTS number. Ofcom classified each service as either locked-in or not locked-in based on whether the callers were likely to be able to choose alternative numbers. A copy of Ofcom's classification of services is included as Annex 15. Where SPs listed more than one service, Ofcom assumed an equal distribution of traffic amongst the services. In all, TCPs and SPs provided sufficient information for Ofcom to perform this analysis for over 420 SPs in this way. Figure 3 below summarises the results of the analysis.

5.74 Figure 3: Proportion of locked-in calls by number range

Number range	Proportion of calls classified as locked in (proportion of total call minutes)
0844	Unknown (insufficient sample size to provide robust estimate)
0845	<5%
0870	45-55%
0871	30-40%
Average of the above	20-30%

5.75 Figure 3 shows that overall approximately 20-30% of calls to 084 and 087 numbers are locked-in, when measured in terms of the overall volume of call minutes. However this figure is strongly influenced by the 0845 range which accounted for over 200 SPs in this analysis and which is dominated by pay-as-you-go dial-up internet traffic which Ofcom considers not to be locked-in (since callers are able to choose between alternative dial-up metered ISPs with relative ease). On the other ranges the proportion of calls that are locked in ranges from approximately one-third to half.

5.76 Based on these figures, Ofcom estimates that the ceiling detriment associated with locked-in calls is up to £67-83m for 0845, 0870 and 0871 calls. Ofcom was not able to calculate the maximum potential detriment associated with locked in calls for 0844 numbers due to an insufficient sample size. Applying the 0845 lock-in percentage to 0844 would imply a ceiling detriment of £2m, but taking the average percentage of locked in calls for the 0845 and 087 number ranges would imply a maximum detriment of £14m p.a. Ofcom considers the ceiling for this type of detriment is therefore likely to be between £2-14m for 0844 numbers.

Figure 4: Ceiling for consumer detriment from locked-in calls by number range

Number range	Estimate of ceiling for consumer detriment from locked-in calls p.a.
0844	Unknown (insufficient sample size to provide robust estimate)
0845	<£1m
0870	£59-72m
0871	£8-10m
Maximum total	£67-83m (plus any additional from 0844 number range)

- 5.77 The figures presented in Figure 4 above should be considered indicative of the ceiling for consumer detriment due to the lack of detailed information on the overall revenue share by individual number range. As previously discussed, these figures are likely to represent an upper bound of this type of detriment and Ofcom believes that the actual detriment is likely to be lower than these totals, based on the assumption that most of the markets in which NTS numbers are used are effectively competitive.
- 5.78 It is important to note that there is a close relationship between the figures discussed in Figure 4 above and those discussed in paragraph 5.38 in relation to the value to consumers of price reductions resulting from the restoration of the linkage between 0845/0870 call charges and geographic call charges. Since the ceiling for lock-in detriment is the difference between NTS call prices and geographic call prices, any reduction in NTS call prices could also reduce the scope for lock-in detriment. However, the extent to which lock-in detriment would be addressed by restoration of the geographic linkage would depend on the proportion of locked-in services that retain their existing numbers²⁸.

Call centre waiting times

- 5.79 As noted in Section 3, some consumers who responded to the October 2004 Consultation felt particularly aggrieved by the availability of revenue sharing on NTS numbers when they are used by call-centres and felt that call-centre operators deliberately keep callers on hold to earn additional revenues. Given the level of concern, Ofcom decided to undertake further research.
- 5.80 In the October 2004 Consultation, Ofcom noted that call-centre operators had told Ofcom that they have a strong commercial incentive to keep waiting times to a minimum since consumers find waiting so irritating. Call centre operators also told Ofcom that they had far more to lose by upsetting their customer, than they might gain from any additional revenue share by extending call-centre waiting times.
- 5.81 Ofcom had further meetings with call centre operators and undertook additional desk research. In particular, Ofcom reviewed a recent report on the UK contact centre

²⁸ NB: It is coincidental that this figure is the same as the estimate for the value of price reductions resulting from the restoration of the geographic linkage for 0870 as discussed in paragraph 5.39.

industry by the Department of Trade and Industry²⁹. Ofcom's analysis of the operational cost data presented in the report, led Ofcom to the view that the costs of handling calls with human agents, are considerably higher than the revenue share available on 08 NTS numbers, even when call centres are located in countries such as India or the Philippines, that have a significant manpower cost advantage over UK call centres. Based on this information, Ofcom took the view that SPs have a commercial incentive to minimise the time that callers spend speaking to an agent. Thus if any artificial extension to calls occurs, it would most likely be before callers are connected to an agent. During this period callers might be listening to announcements, selecting options in an automated menu system or simply waiting to be connected.

- 5.82 In view of this, Ofcom commissioned market research to obtain empirical evidence of whether the revenue share on NTS calls leads to extended call centre waiting times (i.e. the time between the call being answered and the caller speaking to an agent). The market research agency monitored the time it took for callers to be connected to an agent when routine enquiries were made to a range of organisations. Calls were made to organisations that use 0800, 0845 and 0870 numbers. The research did not include calls to 0844 and 0871 numbers because Ofcom considered it would be difficult to obtain a large enough sample. The results of the research are summarised in Annex 6.
- 5.83 The research found no significant correlation between waiting times and the NTS number used. The overall mean waiting times for each of the number ranges tested were very similar and were 11 seconds for 0800 numbers, 17 seconds for 0845 numbers and 13 seconds for 0870 numbers. The majority of calls (80%) were immediately connected to an operator. For those calls that were not answered immediately, the results were perhaps indicative of greater efficiency in call handling, rather than any attempt to extend call waiting times, since the more expensive calls had shorter waiting times (the mean waiting times were 96 seconds for 0800 calls, 64 seconds for 0845 calls and 59 seconds for 0870 calls).
- 5.84 The research has led Ofcom to the opinion that call centre connection times are not being artificially extended and that consumers do not therefore suffer detriment as a result. This opinion implies that the withdrawal of revenue sharing for call centres would not have any positive effect on call centre connection times.
- 5.85 However, the research indicates a wide variation in the time it takes callers to be connected to an agent. Whilst the majority of calls were immediately answered by an agent, those that were not, took an average of 68 seconds to be connected to an agent and a small minority (2%) took over 2 minutes to be connected to an agent.
- 5.86 Large companies (those with a turnover of > £10m per annum) took significantly longer to connect callers to an agent, taking 42 seconds on average. These companies were also significantly more likely to use an automated menu system. Ofcom notes that these results don't necessarily mean that large companies provide a worse service than call centre operators in general or that calls are longer overall. The differences may be due at least in part, to the greater investment in automation, resulting in some activities being performed before the caller speaks to an agent. For example, callers to a large organisation might use an automated menu system to select the correct department to answer their queries whereas callers to a small organisation might need to ask an agent to connect them to the correct department.

²⁹ The UK Contact Centre Industry: A Study. Report by CM Insight, CONTACTBABEL and the Call and Contact Centre Association on behalf of the DTI, published May 2004. This report is available on the DTI website at: <http://www.dti.gov.uk/ewt/contactind.pdf>

- 5.87 Ofcom's market research with consumers (summarised in Annex 6) found that consumers are frustrated by the call centre experience, a view that was echoed in the DTI contact centre study which quoted research indicating that as many as one in six consumers are irritated, annoyed or furious with the way in which they're treated by call centres. From its own market research, Ofcom notes that many of consumers' frustrations with NTS numbers relate to the call centre experience/ environment rather than NTS numbers.
- 5.88 Despite the lack of evidence of artificial extension of call waiting times, Ofcom acknowledges that many consumers are unhappy with long connection times and resent having to pay extra (i.e. more than a geographic call) if the call centre uses a chargeable NTS number, i.e. not an 0800 number. Ofcom was unable to estimate these extra costs because it had insufficient information about the volume of calls to call centres. Also it would be difficult to make an objective assessment of an overly long call connection time. Call connection times are likely to vary between call centres for a variety of reasons such as the variety of services offered by the call centre (which would affect the number of menu options in an automated system) and differing needs to make recorded information announcements (e.g. some financial services companies may have a regulatory requirement to make certain announcements). However, the extra costs that consumers incur whilst waiting to be connected, are included in Ofcom's estimate of amounts potentially overcharged when callers are locked-in (as described in paragraph 5.76).

Use of NTS numbers by the public sector

- 5.89 As discussed in paragraph 4.36 some consumers feel that public services should not be allowed to use NTS numbers partly because of the revenue shares that may be involved, but also because call charges can be higher than geographic calls. Ofcom decided to assess the extent of use of NTS numbers by public services because if there was a high incidence of use, together with the price transparency issues discussed above, there may be grounds for Ofcom to intervene in order to provide additional protection for consumers.
- 5.90 Ofcom conducted desk research to determine the incidence of 084 & 087 number usage in the public sector. Ofcom sampled entries in two public sector directories, which collectively give a comprehensive view of telephone numbers published by the public sector. The directories are:
- The 42nd Civil Service Year Book; and
 - The Municipal Year Book 2005.
- 5.91 From the sample, Ofcom noted that approximately 1-2% of public sector telephone numbers are NTS numbers.
- 5.92 It should be noted however, that whilst these figures give some indication of the likely use of NTS numbers in the public sector, Ofcom believes that the proportion of consumer calls to public sector organisations on NTS numbers is likely to be significantly higher than this because:
- the figures relate to numbers rather than traffic volumes and NTS numbers are often used for high volume applications; and
 - Ofcom believes that many of the numbers in the directories may be internal numbers (i.e. used by public sector organisations to contact each other) rather than external contact points typically used by consumers.

- 5.93 In its April/May 2005 information notice to TCPs, Ofcom also asked TCPs to provide information about public sector use of NTS numbers. However in many cases TCPs didn't hold this information so the results were inconclusive.
- 5.94 It is arguable whether detriment occurs since public sector organisations could recover their costs from consumers in other ways (such as direct or indirect taxation), if they could no longer receive a share of NTS call charges. However, callers are clearly locked in and therefore Ofcom has taken this issue into account (as described in paragraph 5.76) and has considered calls to public services in its estimate of potential amounts overcharged when callers are locked-in.

Number portability and Option 2

- 5.95 One of the reasons that CPs did not support Ofcom's preferred option (Option 2) in the October 2004 Consultation was because they felt that the effectiveness of price competition as envisaged for the 0845 and 0870 ranges would be hampered by the fact that donor TCPs would retain control of the price point for NTS numbers, even after they have been exported to another TCP under non-geographic number portability ('NGNP').
- 5.96 Ofcom therefore undertook additional research to determine the extent of porting on NTS numbers. Ofcom required the TCPs to provide information about the extent of porting of NTS numbers.

Figure 5: Incidence of porting of NTS numbers

Number range	Number exported to another TCP (thousands)	Proportion of numbers currently in use
0844	0.0	0.0%
0845	21	10%
0870	85	13%
0871	5	3%
09	111	19%
Total	222	14%

- 5.97 Figure 3 shows that overall 14% of the NTS numbers in use have been exported to another TCP. As a cross check, Ofcom also asked TCPs to indicate how many NTS numbers they had imported from another TCP. Although there were slight differences between the import and export figures, overall the figures were broadly consistent, showing that 13% of NTS numbers in use have been imported from another provider.
- 5.98 The results of the research and analysis covered here in Section 5 are discussed further in the review and assessment of policy options in Section 6.

Section 6

Review and assessment of policy options

- 6.1 To address the policy issues described in Section 4, Ofcom has evaluated a range of policy options. The purpose of this section is to describe the policy options and to assess them in terms of the policy objectives set out in Section 4.
- 6.2 This section is structured as follows:
- summary of policy issues and options considered; and
 - assessment of the policy options.
- 6.3 Section 7 contains a description of Ofcom's proposals together with a description of certain interim measures that Ofcom considers should be implemented in connection with the selected options.

Impact assessment

- 6.4 The analysis presented in this section, when read in conjunction with the rest of this document, represents an Impact Assessment ('IA'), as defined by section 7 of 'the Act'. You should send any comments on this IA to us by the closing date for this consultation. We will consider all comments before deciding whether to implement our proposals.
- 6.5 IAs 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 and are commonly used by other regulators. This is reflected in section 7 of 'the Act', which means that generally we have to carry out IAs 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. In accordance with section 7 of the Act, in producing the IA in this document Ofcom has had regard to such general guidance as it considers appropriate, including related Cabinet Office guidance.

Summary of policy options considered

- 6.6 Ofcom has considered a range of policy options to address each of the policy issues described in Section 4. The policy issues and the options considered are summarised in the table below and described in more detail later in this section.

Policy Issue	Options considered
A. Revenue sharing on 08 numbers	<p>A1: Maintain revenue sharing – revenue sharing would continue on 08 numbers.</p> <p>A2. Ending revenue sharing on 08 numbers – Revenue sharing would be restricted to 09 numbers.</p>
B. The retail pricing of 0845 and 0870 calls	<p>B1. The status quo - retaining the current pricing and interconnection arrangements for 084 and 087 numbers.</p> <p>B2. Extended retail price competition – amend the Plan to enable TCPs to select the price points to be applied to number blocks, from within a specified range (i.e. the same arrangements as</p>

Policy Issue	Options considered
	<p>applied to the 0844 and 0871 ranges). This option was Option 2, Ofcom's preferred option in the October 2004 Consultation.</p> <p>B3. Retail prices set by Ofcom – This option has been proposed by some CPs and would involve Ofcom setting the retail prices for 0845 and 0870 calls for BT customers though retail price regulation</p> <p>B4. Restore the geographic linkage for 0845 and/or 0870 calls after an interim period– This option would involve Ofcom amending the Plan and the General Conditions of Entitlement to restore the linkage between 0845/0870 calls and the prices that consumers actually pay for geographic calls after an interim period. The designations would apply to all providers (including mobiles and payphones) not just BT.</p> <p>B5. Restore the geographic linkage for 0845 and/or 0870 calls and withdraw regulatory support for revenue sharing after an interim period – This option is a variation on Option B4 and would involve Ofcom removing the regulatory support for revenue sharing in conjunction with the reestablishment of the geographic linkage for 0845/0870 calls.</p>
<p>C. Price transparency on 084 and 087 numbers</p>	<p>C1. Status quo – This option would involve maintaining the current pricing transparency measures such as the ASA/CAP guidance for the advertising of 084 and 087 numbers.</p> <p>C2. Restore link to geographic tariffs for 0845/0870 – Evaluation of Option B4 to gauge its effectiveness as a measure to improve pricing transparency.</p> <p>C3. Extend pricing designations in the Plan – This option would consist of amending the General Conditions of Entitlement to extend the pricing designations of the Plan to all fixed providers (excluding public payphones) on the 0844 and 0871 number ranges.</p> <p>C4. Bringing some 08 numbers within the regulatory regime for PRS – This option would involve extending Ofcom's and ICSTIS's remit to cover some of the 08 number range so that SPs were subject to the provision of the ICSTIS code relating to price publication.</p> <p>C5. More stringent obligations on OCPs – This option would involve amending General Condition 14 which deals with consumer codes of practice and is the subject of a separate consultation document that will be published in the near future.</p> <p>C6. Call pre-announcements – This option would involve providing pre-announcements for calls on the 084 and 087 number ranges indicating to the caller the likely price of the call.</p> <p>C7. Signal price through number range – This option would consist of using the numbering range to signal the price of the call e.g.</p>

Policy Issue	Options considered
	0801 would cost 1ppm and 0802 would cost 2ppm etc.
D. Consumer protection on 084 and 087 numbers	<p>D1. Status quo – No additional consumer protection measures.</p> <p>D2. Extending PRS regulation to 0871 numbers – This option would consist of extending the PRS regulatory regime to 0871 numbers to bring these numbers within ICSTIS’s remit thereby requiring SPs to operate under ICSTIS’s code provisions.</p> <p>D3. Extending PRS regulation to adult services currently provided on 08 numbers – This option would involve amending the Plan to clarify that adult services must only use the 0908 and 0909 ranges and secondly to extend the definition of Controlled PRS regulation to all adult services regardless of price.</p> <p>D4. No revenue sharing for locked-in calls to 084 and 087 numbers – This option would involve preventing calls to services classified as locked-in from revenue sharing on 08 number ranges to eliminate any potential for consumer detriment</p>
E. Waiting times for call centre services provided on 084 and 087 numbers	<p>E1. Status quo – This option would consist of maintaining the current regime, that is, call centres could continue to revenue share and there would be no requirements relating to call waiting times.</p> <p>E2. Stop call centres using 084/087 numbers – This option would involve preventing call centres from using the 084 or 087 number ranges which permit revenue sharing.</p> <p>E3. Regulate service levels for call centres using revenue sharing 08 numbers – This option would involve Ofcom regulating service levels for call centres using revenue sharing numbers.</p>
F. Public services provided on 084 and 087 numbers	<p>F1. Status quo – This option would involve retaining the current regulatory regime and providing the COI with best practice guidance on the use of 084 and 087 numbers for public services.</p> <p>F2. Stop public sector organisations using revenue-sharing 08 numbers – This option would involve the banning of public sector organisations from operating on revenue sharing 08 numbers.</p>

A. Revenue sharing on 08 numbers

6.7 The options that have been considered in relation to this policy issue are:

- A1. Maintain revenue sharing on 08 numbers; and
- A2. Ending revenue sharing on 08 numbers; and

6.8 As discussed in Section 4 some consumers favour restricting revenue sharing to 09 numbers and others have concerns that in-effect question whether revenue sharing should be allowed on 08 numbers. In this section we compare the potential effects of

ending revenue sharing on 08 numbers against maintaining the current arrangements.

- 6.9 The secondary issue relating to revenue sharing described in Section 4 is whether Ofcom should withdraw the regulatory support for revenue sharing on the 0845 and 0870 ranges, if it considers that the linkage to geographic tariffs should be re-established. This issue is described in the analysis of retail pricing Option B5 in paragraph 6.58 below.

A1. Maintain revenue sharing on 08 numbers

- 6.10 With Option A1 the regulatory support for revenue sharing on 08 numbers would be maintained. If this policy were implemented, SPs would be able to continue to provide services on their current numbers and benefit from revenue sharing using the current arrangements.
- 6.11 In relation to the policy objectives described in Section 4, paragraph 4.39, Ofcom considers that Option A1 performs:
- reasonably well in terms of service availability and choice because SPs would be able to choose numbers in the 0844, 0871 and 09 ranges at price points suitable for their services. However the revenue uncertainty problem may ultimately have a negative impact on service availability on the 0845/0870 ranges;
 - less well in terms of promotion of competition since SPs using the 0845 and 0870 ranges can not alter the prices for calls to their services and would need to migrate to the 0844, 0871 or 09 ranges to do so;
 - reasonably in relation to pricing transparency. As discussed further under policy issue C, although the ASA/CAP guidance can be expected to go some way towards addressing the issue of potentially misleading advertising, other measures will be needed to address this issue;
 - less well in relation to consumer protection since revenue sharing would continue without any additional measures to protect consumers;
 - less well in relation to support for pay-as-you-go dial-up internet access because prices for 0845 calls (which most PAYG services use) would continue to be linked to BT's standard local geographic call charges. If BT continues to reduce its local call charges the revenue shares available to fund these services would continue to decline and might decline to the point where there is insufficient revenue to fund the services; and
 - less well in terms of the level of regulatory intervention since it doesn't solve the problem of revenue uncertainty for the 0845 and 0870 ranges that is the underlying cause of many of the disputes between CPs, hence disputes relating to this issue would be likely to continue.

A2. Ending revenue sharing on 08 numbers

- 6.12 The aim of Option A2 is to bring an end to revenue sharing on all 084 and 087 numbers. In the October 2004 Consultation, Ofcom reviewed Option 4 which involved the withdrawal of regulatory support for revenue sharing on all 084 and 087 ranges. Ofcom noted that the outcome of Option 4 was uncertain since CPs might establish commercial arrangements for revenue sharing without regulatory support. Option A2 goes a step beyond Option 4 and would involve Ofcom taking steps to explicitly ban revenue sharing on these number ranges to ensure that revenue sharing ceased on 084 and 087 numbers.

- 6.13 If this policy were implemented, SPs currently using 084 and 087 numbers would have the following options:
- continue to provide services on the same number without a revenue share (and possibly with higher charges from their TCPs for the services they receive in connection with calls to their NTS number) and either absorb the loss of revenue and possible additional costs or raise charges in downstream markets to cover the loss;
 - migrate their services to either the 09 range and continue revenue sharing with regulatory underpinning; or
 - exit the NTS market.
- 6.14 In relation to the policy objectives described in Section 4, paragraph 4.39, Ofcom considers that Option A2 performs:
- poorly in terms of service availability and choice because SPs that require a revenue share to fund their services would be forced to migrate their services to 09 numbers. Given the consumer perception that call prices for 09 are very high, many consumers might stop using services if they moved to the 09 range, and this is likely to have a significant impact on service availability. In addition, consumers that currently bar 09 numbers would not be able to access these services. There is also evidence from the consumer focus groups that many consumers would be against a policy likely to prompt large-scale migration of services to the 09 range, because they fear that such a migration would be accompanied by price increases. Ofcom also believes that there is a risk that SPs might raise their prices when migrating to new numbers;
 - poorly in terms of promotion of competition because of the impact on service availability described above;
 - poorly in relation to support for pay-as-you-go dial-up internet access, as revenue sharing would no longer be available on 0845 numbers (which are used by most ISPs) and SPs would need to migrate their services to 09 numbers in order to maintain revenue sharing to fund their services. As described in paragraph 5.30, Ofcom considers that mass migration of pay-as-you-go dial-up internet services at this time would be disruptive for both ISPs and consumers;
 - reasonably well in terms of pricing transparency. Consumers already have a good level of awareness that 09 calls are generally more expensive than 08 calls, and involve payments to third party SPs, whereas Ofcom's research (See Annex 6) indicates that two thirds are unaware that there is any revenue sharing on 08 numbers. Since Option A2 would force all revenue sharing services to use the 09 range it would be likely to improve awareness of revenue sharing and higher prices;
 - reasonably well in terms of consumer protection, as revenue sharing would be ring-fenced on the 09 number range where services could be brought under ICSTIS's remit. Under current arrangements, for those services that migrate to 09 numbers Option A2 is likely to be only partially effective as Ofcom's backstop powers for PRS regulation (under the definition of Controlled PRS) apply only to services charged above 10p per minute or chatlines. Assuming the services currently being provided on 08 numbers continue to be charged at no more than 10p per minute after moving to 09, most would be below the current price threshold for Ofcom's backstop powers. Given that it would be necessary to make changes to PRS regulation to cover services currently using the 08 ranges, it may be preferable to extend PRS regulation to 08 ranges thereby avoiding unnecessary service migration. A range of measures to improve consumer protection is considered in paragraph 6.121 below.

- well in terms of the level of regulatory intervention since the revenue uncertainty that is the underlying cause of many of the disputes between CPs would be solved.
- 6.15 As noted in paragraphs 5.24 to 5.34, Ofcom's research with SPs indicates that if revenue sharing was no longer available on the 0845 and 0870 number ranges, a significant proportion of the services would migrate to number ranges that support revenue sharing. This migration of services from 084 and 087 numbers to 09 numbers would be disruptive for the SPs and for their customers, all of whom would have to be informed of the new numbers and it may result in fewer services being available to consumers.

Overall assessment of revenue sharing options

- 6.16 Option A1 performs relatively well in terms of the policy objective of promoting service availability because SPs would be able to choose price points suitable for their services. However, it does not address consumers concerns and performs poorly against the objectives of improving pricing transparency and consumer protection, because it does not address the issue of potentially misleading advertising or incidence of adult services and / or rogue internet diallers on 08 numbers. Option A2 is much more effective at addressing consumers concerns and performs well in terms of the objectives of promoting pricing transparency and consumer protection because without revenue sharing, there would be no opportunity for consumer harm. However, it would have a significant negative effect on service availability and has the additional drawback of high migration costs.
- 6.17 Ofcom's initial view is that overall Option A1 performs best against the policy objectives because it performs better in terms of service availability than Option A2 and can be combined with more selective measures to address the pricing transparency and consumer protection objectives that allow the impact on service availability to be minimised. These more selective measures are the measures Ofcom proposes to address policy issues B to F later in this section and are not therefore evaluated here. For example, re-establishing the linkage between 0845/0870 call charges and geographic call charges as proposed in Options B4 and B5 in conjunction with the additional consumer protection measures proposed later in this chapter (Options D1 to D3) could improve transparency and consumer protection but would retain regulatory support for revenue sharing on the 0844 and 0871 ranges, thereby minimising the impact on service availability.

B. Retail pricing of 0845 and 0870 calls

- 6.18 The options that have been considered in relation to this policy issue are:
- B1. Status quo;
 - B2. Extended retail price competition;
 - B3. Retail prices set by Ofcom;
 - B4. Restore the geographic linkage for 0845 and 0870 calls for all providers including payphones and mobiles after an interim period; and
 - B5. Restore the geographic linkage for 0845 and 0870 calls for all providers including payphones and mobiles after an interim period and withdraw regulatory support for revenue sharing.

Option B1: Status quo

- 6.19 Under Option B1, the current retail pricing and interconnection arrangements for 084 and 087 numbers would be left unchanged. The 0845/0870 model would continue to apply to the 0845 and 0870 ranges and the price competition model would apply to the 0844 and 0871 ranges. This option was presented as Option 1 in the October 2004 Consultation.
- 6.20 In the October 2004 Consultation, Ofcom's initial view was that this option had performed reasonably well in promoting NTS service availability but took the view that it performed less well in fostering competition between SPs and didn't do enough to address the issue of TCP revenue uncertainty. Ofcom also took the view that many of the industry disputes that had arisen resulted from the revenue uncertainty inherent in the 0845/0870 model. Ofcom therefore provisionally rejected Option 1 in favour of Option 2.
- 6.21 Looking ahead, this option is likely to lead to:
- continued growth in the use of 084 and 087 numbers, as alternatives to geographic numbers;
 - a growing divergence between 0845, 0870 and geographic call charges if the difference between BT's standard charges and the charges that most BT customers pay for geographic calls continues to widen;
 - if the use of 084 and 087 numbers continues to grow and the price of 0845/0870 calls continues to diverge from geographic call charges, there is likely to be increasing consumer concern that calls to 084 and 087 numbers are over-priced
 - a possible lessening of consumer concerns over misleading advertising of 084 and 087 numbers (especially 0845 and 0870) as a result of the recent ASA/CAP guidance to advertisers;
 - unless other measures are taken to improve consumer protection, there are likely to be increasing concerns about consumer protection issues such as adult services on 08 numbers, call centre waiting times and scams such as internet diallers (potential measures to address these concerns are discussed later in this section);
 - a continuation of the problem of revenue uncertainty for TCPs and SPs because the linkage between 0845 and 0870 call charges and BT's standard local and national geographic call charges would be maintained;
 - If BT continues to reduce its retail prices this would result in further reductions in the revenue shares available to SPs, which may ultimately decline to a point that there is insufficient revenue to fund some services. This is a particular risk for providers of pay-as-you-go dial-up internet services whose business model depends heavily on the revenue shares they receive from TCPs;
 - no reduction in the number of disputes between CPs (and therefore regulatory intervention) since the revenue uncertainty problem which is the underlying cause of many disputes would not be solved.
- 6.22 Against the policy objectives identified in Section 4 above, Option B1 performs as follows:
- reasonably well in terms of range and choice of services because revenue sharing would continue on existing numbers avoiding the need for any migration of services to new numbers. Also, SPs would be able to choose numbers in the 0844, 0871 and 09 ranges at price points suitable for their services. However the revenue

uncertainty problem may ultimately have a negative impact on service availability on the 0845/0870 ranges;

- less well in terms of promotion of competition since service providers using the 0845 and 0870 ranges can not alter the prices for calls to their services and would need to migrate to the 0844, 0871 or 09 ranges to do so;
- less well in relation to support for pay-as-you-go dial-up internet access because prices for 0845 calls (which most PAYG services use) would continue to be linked to BT's standard local geographic call charges. If BT continues to reduce its local call charges the revenue shares available to fund these services would continue to decline and might decline to the point where there is insufficient revenue to fund the services;
- reasonably in relation to pricing transparency. As discussed further under policy issue C, the ASA/CAP guidance can be expected to go some way to addressing the issue of potentially misleading advertising, however other measures would be needed to address this issue; and
- less well in terms of the level of regulatory intervention since it doesn't solve the problem of revenue uncertainty that is the underlying cause of many of the disputes between CPs.

Option B2: Extended retail price competition

- 6.23 Under Option B2, the pricing and interconnection model currently applied to freephone, 0844, 0871 and 09 numbers would be extended to the 0845 and 0870 number ranges. For 0845/0870 calls, the current links to standard geographic local and national retail call prices for BT customers would be removed, and retail prices for BT customers would be set by TCPs. As on 0844/0871 calls today, TCPs would be able to select retail prices within a price range that would be designated by Ofcom in the Plan. TCPs would also have the option to opt-out of BT discount schemes (as is currently the case on the 0844/0871 ranges today). This option was presented as Option 2 in the October 2004 Consultation and was Ofcom's preferred pricing and interconnection option.
- 6.24 As discussed in the October 2004 Consultation, Ofcom's view is that the potential benefits of this option would only be realised if BT's interconnect and billing systems were able to allow TCPs to set retail prices for different NTS numbers blocks on a more granular basis than at present (i.e. lower than the 100k level). Other CPs would also need to upgrade their billing systems if they wished to implement increased tariffing granularity.
- 6.25 In the October 2004 Consultation, Ofcom's initial view was that this option performed better against the evaluation criteria than the other four pricing and interconnection options considered and was Ofcom's preferred Option. As noted in Section 3, this option was not popular either with the industry or consumers.
- 6.26 The prospective effects of this option were considered in the October 2004 Consultation and are likely to include:
- lower prices for some services, resulting from greater retail price competition between SPs, although prices for some services could also rise, where competitive pressures are weaker;
 - the problem of revenue uncertainty for TCPs and SPs would be largely solved since the linkage between 0845 and 0870 call charges and BT's standard local and

national geographic call charges would be broken. This would encourage a continued growth in service availability;

- a negative effect on price transparency, because of the multiplicity of price points for 0845 and 0870 calls, which would need to be addressed through other measures (as discussed later in this section);
- no improvement in consumer protection which would need to be addressed through other measures (as discussed later in this section); and
- a reduction in the number of disputes (and therefore regulatory intervention) as a result of the resolution of the revenue uncertainty problem.

6.27 As noted in Section 3, CPs who responded to the October 2004 Consultation were concerned that the effectiveness of this option might be impaired by the fact that donor TCPs would retain control of the price points for NTS numbers, even after they have been exported to another TCP under non-geographic number portability. As noted in Section 4, research undertaken by Ofcom in response to these concerns indicates that the level of porting is higher than Ofcom thought when it proposed Option 2. Ofcom does not necessarily accept that the difficulties that SPs might encounter in relation to the price points of ported numbers are insurmountable, since SP could maintain a contractual relationship with the original TCP specifying terms under which price points could be varied at the donor TCP's request. However, Ofcom accepts that the level of porting would make this option more complex in operation than had been anticipated.

6.28 In terms of the policy objectives identified in Section 4, Option B2 performs as follows:

- well in terms of range and choice of services because revenue sharing would continue on existing numbers avoiding the need for any migration of services to new numbers and the problem of revenue uncertainty for TCPs and SPs would be solved by breaking the linkage between 0845 and 0870 call charges and BT's standard local and national geographic call charges. SPs would be able to choose price points suitable for their services;
- well in terms of promotion of competition since the revised pricing model would facilitate price competition between SPs, although prices for some services could rise where competitive pressures are weaker;
- well in terms of promoting the viability of pay-as-you-go dial-up internet access since the revenue uncertainty problem would be solved and it would not be necessary for ISPs to migrate their services to other number ranges;
- no improvement in consumer protection which would need to be addressed through other measures (as discussed later in this section); and
- well in terms of reducing regulatory intervention since the revenue uncertainty problem that is the underlying cause of many disputes would be solved;
- less well in terms of the objective of improving price transparency because Option B2 would allow a multiplicity of price points for 0845 and 0870 calls which could be more difficult for consumers to understand and thereby make informed purchasing decisions.

Option B3: Retail prices set by Ofcom

6.29 This option has been advocated by some CPs as a means of maintaining prices for 0845 and 0870 calls at levels which would support revenue sharing (albeit at a lower

level than at present) and addressing the revenue uncertainty problem for TCPs and SPs.

- 6.30 Under this option, for 0845/0870 calls the current links to standard local and national geographic prices for BT customers would be broken and Ofcom would set retail prices for BT customers.
- 6.31 The only means through which Ofcom has powers to regulate BT's retail charges is on an ex-ante basis. To impose such regulation, Ofcom would have to identify and carry out a market review of the relevant retail market in which 0845 and 0870 calls fall and find BT dominant. If such a review led to a finding of dominance it might provide a rationale for regulating BT's retail prices on the basis of cost. However, a revenue share which is passed on to the TCP to share with SPs is not a cost associated with retailing calls. Any price regulation which sought to incorporate an element of revenue share would be aimed at ensuring that TCPs and SPs benefit in the termination and service provider parts of the value chain rather than seeking to remedy a problem in the retail market which is what *ex ante* retail price regulation is designed to do. Therefore, Ofcom does not see that it would be a legitimate approach to set retail prices on at levels that would support a revenue share.
- 6.32 Ofcom also considers that Option B3 would be contrary to Ofcom's commitment to seek the least intrusive regulatory mechanisms which implies relying on markets to set prices where possible using minimum controls. Setting retail prices should only be considered where wholesale measures have been unsuccessful.
- 6.33 In terms of the policy objectives identified in Section 4, Option B3 performs as follows:
- reasonably well in terms of service availability and choice because revenue sharing would continue on existing numbers avoiding the need for any migration of services to new numbers and the problem of revenue uncertainty for TCPs and SPs would be solved because Ofcom would set retail prices. Also, SPs would be able to choose numbers in the 0844, 0871 and 09 ranges at price points suitable for their services;
 - less well in terms of promotion of competition since service providers using the 0845 and 0870 ranges would not be able to alter the prices for calls to their services and would need to migrate to other ranges such as 0844, 0871 or 09 to do so;
 - well in terms of promoting the viability of pay-as-you-go internet access since the revenue uncertainty problem would be solved and it would not be necessary for SPs to migrate to other number ranges;
 - no impact on consumer protection which would need to be addressed by other measures;
 - very poorly in terms of regulatory intervention since this Option would involve Ofcom setting retail prices.
- 6.34 Other Alternatives suggested
- 6.35 Some CPs have also suggested that Ofcom should modify the Plan to break the linkage between 0845 and 0870 call charges and BT's standard local and national call charges and specify set rates (as opposed to ranges or ceilings) for calls made from BT lines. If Ofcom considers it necessary to set retail prices, the legal mechanism would be to conduct a market review of retail calls rather than amending the Plan. Therefore, Ofcom has not considered this proposal further.

Option B4: Restore geographic linkage for 0845 and 0870 after an interim period

- 6.36 The idea behind this option is that Ofcom should take steps to re-establish the linkage between 0845/0870 calls and standard geographic call charges rather than completely dismantle the linkage as proposed in Option B2. Under this option, the linkage would apply to all OCPs including payphones and mobiles and not just BT as is the case with the current linkage between 0845/0870 and geographic call charges. All OCPs would be required to charge 0845 calls at their local geographic call rates and 0870 calls at their national geographic call rates (including all applicable discounts) or make a call pre-announcement specifying the call charge. Those providers that have a single geographic rate for local and national calls would charge 0845/0870 calls at their geographic rate.
- 6.37 With this option, the 0845 and 0870 ranges would remain within the scope of the NTS Condition thereby maintaining regulatory support for revenue sharing.
- 6.38 Ofcom expects that if this option were implemented, it is most likely that competition between OCPs would lead them to charge 0845/0870 calls at geographic rates rather than make a pre-announcement.. This would lead to a sharp reduction in the price of 0870 services from around 7-8p per minute to around 3p per minute at peak periods for many consumers. The price reduction for 0845 calls would be most significant for off-peak charges (i.e. evenings and weekends) as peak rates are typically in the 3-4p per minute range already – for example, BT customers on the BT Together Option 1 package currently pay 5.5p for geographic calls lasting up to an hour at evening and weekends whereas 0845 rates are 1p per minute. These price reductions would result in an immediate reduction on the revenue shares available to SPs. The changes would be most pronounced on the 0870 range due to the large fall in retail charges.
- 6.39 If this policy were implemented, SPs currently using 0845 and 0870 numbers would have the following options:
- continue to provide services on the same number without a revenue share (and possibly with higher charges from their TCPs for the services they receive in connection with calls to their NTS number) and either absorb the loss of revenue and possible additional costs or raise charges in downstream markets to cover the loss;
 - migrate their services to either the 0844, 0871 or 09 ranges and continue revenue sharing with regulatory underpinning; or
 - exit the NTS market.
- 6.40 The impact of Option B4 would depend on how SPs respond to the change. As the change would be likely to result in a large reduction in the revenue shares available to SPs for calls to 0845 and 0870 numbers, those SPs whose business models depend on the revenue share and others that regard it as important (even though their business models don't depend on it) are likely to move to other number ranges, with 0844 and 0871 being the most probable destinations. Thus, when considering the impact of Option B4 it is necessary to consider the services that migrate separately from those that remain on their existing numbers.
- 6.41 For those services that remain on their existing 0845 and 0870 numbers, restoration of the geographic link is likely to have the following effects:

- a significant improvement in price transparency because calls to 0845 and 0870 numbers would be charged at geographic rates (or a pre-announcement given) which consumers have a higher awareness of than charges for 0845/0870 calls;
 - price reductions if 0845 and 0870 calls are charged at geographic call charges which are generally cheaper than charges for 0845 and 0870 calls under the current retail pricing and interconnection arrangements. The price reductions may be offset to some extent by SPs recovering their costs in different ways (for example, if a white goods manufacturer was no longer able to receive a revenue share from an 08 number, in a competitive market the lost revenues are likely to be recovered via higher prices for white goods);
 - to the extent that TCPs fund the provision of services to SPs (such as call routing and call management services) from call charges, the price reductions are likely to result in TCPs charging SPs directly for those services. Ofcom considers it reasonable that the costs should be recovered in this way, as the services are in the first instance being provided for the benefit of the SP, and not for those who call the SP's number, who may not want them.
 - it is likely there would continue to be disputes between CPs since the revenue uncertainty problem on the 0845 and 0870 ranges would remain;
- 6.42 For those services that move to the 0844, 0871 and 09 ranges in order to continue revenue sharing, the likely impact would be significantly different:
- a negative effect on price transparency because of the multiplicity of price points on the 0844, 0871 and 09 ranges;
 - lower prices for some services resulting from greater price competition between SPs, although prices for some services could also rise, where competitive pressures are weaker;
 - SPs would incur costs in migrating their services to new numbers and these would have to be absorbed by the SPs or recovered from their customers;
 - the problem of revenue uncertainty would be largely solved for the services that move to 0844, 0871 and 09 ranges because the prices on these ranges are set by TCPs rather than by OCPs as is the case with the current pricing and interconnection model applied to the 0845 and 0870 ranges; and
 - a reduction in the number of disputes between CPs since the 0844, 0871 and 09 ranges are not affected by the revenue uncertainty problem associated with the current pricing and interconnection model applied to the 0845 and 0870 ranges.
- 6.43 Ofcom's analysis indicates that the impact of Option B4 would differ significantly for the 0845 and 0870 ranges. The impacts are therefore reviewed separately below.
- 6.44 Impact of Option B4 on the 0845 range
- 6.45 As discussed in more detail in Section 5, paragraph 5.31, Ofcom's view is that if revenue sharing were to end on the 0845 range at this point in time, the most likely outcome is that approximately 85-90% of the traffic would migrate to other number ranges (most likely 0844) because the bulk of the calls (approximately 85%) are to pay-as-you-go dial-up internet services which depend on the revenue share and are therefore likely to move to other ranges. Therefore, the potential consumer benefits from reduced prices and greater price transparency would be confined to the 10-15% of traffic that remained on 0845 numbers.

- 6.46 Given that Option B4 would result in a large reduction in the revenue shares available to SPs, Ofcom expects that Option B4 would have a similar effect to the withdrawal of revenue sharing and that a similar proportion of services would move to new numbers if Option B4 were implemented.
- 6.47 In relation to the policy objectives identified in Section 4, for the 0845 range, Option B4 performs as follows:
- poorly in relation to support for pay-as-you-go dial-up internet access as it is likely to result in most if not all these services migrating to other number ranges to maintain the revenue share that is used to fund this type of internet access. This migration could inconvenience more than 5 million users of these services and as discussed in Annex 14, it is likely that a significant minority of consumers would encounter difficulties that might result in a loss of service. As discussed in 5.32 Ofcom estimates that migrating users would cost the industry between £33m and £39m;
 - poorly in terms of range and choice of services in the short term because there is a danger that the costs and disruption associated with the ISP migration might result in a reduction in service availability. In the longer term, this option would be likely to perform well since the revenue uncertainty problem would be solved;
 - well in terms of promotion of competition between SPs since migration to other ranges would facilitate greater retail price competition;
 - less well in terms of consumer protection and other measures would need to be taken to address this policy issue, although the reduction in retail prices for services that remain on the 0845 range would reduce the potential for consumer detriment;
 - less well in terms of price transparency since pricing transparency could only be improved for the minority of services that remain on the 0845 range; and
 - well in terms of the objective of reduced regulatory intervention since the revenue uncertainty problem that is the underlying cause of many disputes would not be solved.
- 6.48 As discussed in more detail in Section 5, paragraph 5.38, the price reductions resulting from the reestablishment of the geographic linkage would result in only modest cost savings to consumers (£0.5m to £0.7m per annum) because 85% to 90% of the traffic would migrate to other number ranges and because 0845 tariffs are quite close to geographic tariffs.
- 6.49 Ofcom's overall assessment of the impact of Option B4 on the 0845 range is that its poor performance in relation to the objective of promoting the viability of pay-as-you-go dial-up internet access outweigh the benefits that it may deliver and therefore it should not be implemented at this time. However, Ofcom believes that the situation may change significantly over the next two years as the number pay-as-you-go dial-up internet subscribers continues to contract with the migration to broadband. There is also the possibility that in conjunction with the introduction of next-generation networks that dial-up internet services might migrate to new entry-level native IP services. As described in more detail in Section 7, Ofcom therefore proposes to review its analysis of Option B4 to see whether applying Option B4 to the 0845 range would be beneficial after a period of 2 years.
- 6.50 Impact of Option B4 on the 0870 Range
- 6.51 As discussed in more detail in Section 5, paragraph 5.34, Ofcom's view is that if revenue sharing were to end on the 0870 range, the most likely outcome is that

approximately 35-45% of the SPs (likely to account for 45-55% of the traffic) would migrate to other number ranges (most likely 0871) and the remainder of the SPs would continue to use their existing numbers.

- 6.52 Given that Option B4 would result in a large reduction in the revenue shares available to SPs, Ofcom expects that Option B4 would have a similar effect to the withdrawal of revenue sharing.
- 6.53 As discussed in Section 5, Ofcom estimates that the one-off costs incurred by the SPs that migrate from 0870 to new numbers would be £70m to £90m.
- 6.54 In relation to the policy objectives identified in Section 4, for the 0870 range, Option B4 performs as follows:
- reasonably well in terms of price transparency since pricing transparency would be improved for calls to services that retain their 0870 numbers (Ofcom estimates that services that remain on 0870 would account for 45-55% of 0870 traffic). Ofcom's initial view is that Option B4 along with the other pricing transparency measures proposed later in this section (Options C1 to C5) would contribute to a significant improvement in pricing transparency on 0870. Consumers are likely to respond by making more calls, in which case there would be a gain in economic terms. Ofcom estimates that the consumer detriment attributable to poor pricing transparency for the traffic that would not migrate from the 0870 range amounts to £52-63 million per annum³⁰;
 - well in terms of range and choice of services since the revenue uncertainty problem would be solved and SPs would have a choice of revenue sharing and non-revenue sharing numbers;
 - little effect in terms of the viability of pay-as-you-go dial-up internet services since almost all of these services use the 0845 range and very few use the 0870 range. For those that do use the 0870 range Option B4 performs poorly as most services would need to migrate to other ranges in order to maintain the revenue share that is used to fund this type of service;
 - well in terms of promotion of competition between SPs since those SPs that continue to revenue share would do so on ranges that facilitate greater retail price competition; and
 - well in terms of the objective of reduced regulatory intervention since the revenue uncertainty problem that is the underlying cause of many disputes would be solved.
- 6.55 As discussed in paragraph 5.38, Ofcom estimates that the price reductions resulting from restoring the geographic linkage would reduce the amount that consumers pay for 0870 calls by approximately £59-72 million per annum. Although some of this amount could be recovered from consumers in higher prices for other goods and services supplied by SPs Ofcom estimates there would be a significant residual benefit to consumers perhaps of the order of tens of millions of pounds.
- 6.56 Ofcom's overall assessment of the impact of Option B4 on the 0870 range is that taken over a period of several years that there would be a significant net benefit. This is because a significant proportion of the SPs are likely to retain their current numbers rather than migrate to other revenue sharing ranges. For these services there would be a benefit to consumers resulting from greater pricing transparency and the price reductions. These benefits would be recurring whereas the costs of

³⁰ Calculated by multiplying the price misperception detriment for 0870 calls (£115m) by the proportion of 0870 traffic that would not migrate to new numbers (45-55%).

migration would be one-off. Also given the high levels of consumer concern about 0870 call charges Ofcom believes that re-establishing the linkage to geographic charges would go a long way to improving consumer confidence in NTS numbers.

- 6.57 Ofcom proposes that if this proposal is adopted, a period of notice should be provided before the changes are implemented. This interim period is discussed in 6.68 below.

Option B5: Restore geographic linkage for 0845 and / or 0870 after an interim period and withdraw regulatory support for revenue sharing

- 6.58 This option is a variation on Option B4, which involves the removal of the 0870 range from the scope of the NTS Condition in conjunction with the restoration of the geographic linkage for all providers (including payphones and mobiles). This would mean that regulatory support for revenue sharing on 0870 would be withdrawn. Although this wouldn't amount to a ban on revenue sharing between TCPs and SPs, the combination of these measures is likely to mean that in practice that revenue sharing on 0870 would cease.
- 6.59 A similar approach could be taken with 0845 if after the interim period it was considered appropriate to restore the geographic linkage for that range. However, this is not considered further here.
- 6.60 The idea behind option B5 is that if 0870 calls are to be priced in the same way as geographic calls, the interconnect arrangements should also resemble those for geographic calls (i.e. OCP purchase call termination from TCPs).
- 6.61 For consumers, the difference between Options B4 and B5 is not likely to be a major issue as it would not affect the price they would pay for a call since it would be linked to the geographic call charge. But it may be significant for the OCPs, TCPs and SPs involved in providing services on 0870 numbers.
- 6.62 If 0870 calls remain within the scope of the NTS Condition it is likely that there would continue to be some revenue sharing, although at a much lower level than at present. This could be beneficial, in that it may mean that more SPs remain on these ranges (rather than migrating to 08 or 09 ranges) than would be the case if these ranges were removed from the scope of the NTS Condition. However, Ofcom considers that this effect is likely to be marginal given the large reduction in the revenue share caused by the reduction in call charges to geographic prices.
- 6.63 On the other hand, Ofcom is concerned that a continuation of revenue sharing in conjunction with the restoration of the link to geographic tariffs could:
- create conflicting incentives for OCPs, and could make them reluctant to reduce their 0845 and 0870 call charges to geographic call prices because of the negative impact it would have on their revenues as terminators of 0870 traffic;
 - lead some SPs whose geographic call charges are lower than BT's to charge 0870 calls above geographic rates (and make pre-announcements) because of the continuation of standard termination payments according to the conventions applied;
 - maintain the revenue uncertainty problem of the current 0845/0870 model whereby termination revenues for TCPs and therefore revenue shares are dependent on retail prices set by OCPs. The uncertainty problem is the underlying cause of many of the disputes between CPs that Ofcom has been called upon to resolve.

- 6.64 An end to revenue sharing on 0870 could also promote transparency, as it would allow a clearer line to be drawn between number ranges which support micro-payments and those which do not. It would also pave the way for a move towards an interconnect model similar to that currently applied to geographic calls, with the OCP setting the retail price and purchasing call termination from the TCP. This would bring the retail price model and the interconnect model into better alignment, and put an end to the sorts of interconnect dispute seen in recent years, at least as far as 0870 is concerned.
- 6.65 If Ofcom removed the 0870 range from the scope of the NTS Condition, it would be necessary for CPs to negotiate new interconnection arrangements for 0870 calls. As previously indicated, these are likely to be similar to those for geographic calls, whereby OCPs purchase call termination from TCPs. These differ significantly from the current arrangements whereby BT is required to retail NTS calls on behalf of TCPs and to pass on the balance of retail call charges after deduction of cost based call origination charges. The result of the change in the interconnection arrangements would likely be that OCPs kept a larger proportion of retail call charges than at present and as a result there would be a transfer of call revenues away from TCPs and SPs and in favour of OCPs. It is not possible to give a detailed estimate of the amounts involved, since it would depend on the outcome of the commercial negotiations between CPs. However, we estimate that the amounts involved would be of the order of £10-20m per annum³¹.
- 6.66 Due to its similarity to Option B4, against the policy objectives defined in Section 4, Ofcom's view is that Option B5 performs similarly to Option B4, although Ofcom considers that Option B5 has the following additional benefits over an above Option B4:
- in relation to the objective of improving tariff transparency, by bringing an end to revenue sharing on 0870 it would further improve transparency by drawing a clearer distinction between those number ranges that support revenue sharing and those that do not;
 - as noted above, by bringing an end to revenue sharing in practice Option B5 would reduce any conflicting incentives that might make OCPs reluctant to charge 0870 calls at geographic prices. Thus Option B5 may be more successful at securing the gains from reduced call prices and improved price perception; and
 - it would further reduce the need for regulatory intervention by eliminating the revenue uncertainty problem on the 0845 and 0870 ranges.
- 6.67 Ofcom's overall assessment is Option B5 has advantages over Option B4 (as listed above) but that otherwise its impact is likely to be the same as Option B4.

Interim period for 0870 under options B4 and B5

- 6.68 In relation to the proposal to restore the geographic linkage for 0870 numbers, Ofcom acknowledges that any associated migration would cause disruption but considers that this can be minimised provided SPs are given sufficient notice to prepare for the changes. Ofcom therefore considers that if Option B4 or B5 is adopted in relation to 0870 numbers, implementation should be delayed by a period of one year to give SPs time to prepare. The interim period would have several advantages:

- As indicated in Section 4, Ofcom's analysis indicates that the costs and disruption associated with migration can be reduced considerably if SPs are given time to

³¹ This estimate is based on the average difference between NTS termination payments and geographic call termination charges.

update their NTS numbers in stationery, promotional materials and directories as part of the normal replacement/updating cycle;

- it would also give SPs time to update their business plans to take account of one-off migration costs and reduced revenue shares; and
- Option B4 or B5 would also be a major change for TCPs and resellers offering services on 0870 numbers. They would need time to adjust their charges to SPs to take account of the reduced termination revenues.

6.69 As discussed in more detail in Section 7, Ofcom considers that in addition to an interim period, SPs need stability during this time. Ofcom therefore proposes interim arrangements to stabilise call termination payments (and therefore revenue shares) during this period should the option be adopted.

Overall assessment of retail pricing options for the 0845 and 0870 ranges

6.70 In light of the evaluation set out above, Ofcom considers that Option B5 applied to the 0870 range only (not the 0845 range) performs best against the policy objectives described in Section 4. However, Ofcom considers that Option B4 (again applied to the 0870 range only) would deliver many of the same benefits. The balance might be in favour of Option B4 if it resulted in a significant reduction in the number of services migrating to other numbers because of the retention of regulatory support for revenue sharing on the 0870 range. Ofcom is therefore seeking stakeholders' views on whether Option B4 would result in significantly less migration from the 0870 range. (See Question 2 at the end of this section)

6.71 As noted previously, Ofcom considers that neither Option B4 or Option B5 as applied to the 0845 range currently perform well against the policy objectives because of its poor performance against the objective of maintaining the viability of pay-as-you-go dial-up internet access. However, Ofcom considers that this position may change if usage of these services on the 0845 range continues to decline and therefore the position should be reviewed within two years of the completion of this consultation.

C. Price Transparency on 084 and 087 numbers

6.72 The options that have been considered in relation to this policy issue are:

- C1. Status quo;
- C2. Restore link to geographic tariffs for 0845/0870 (evaluated from a pricing transparency perspective);
- C3. Extend pricing designations in the Plan on 0844 and 0871;
- C4. Bringing some 08 numbers within the regulatory regime for PRS;
- C5. More stringent obligations on OCPs to publish prices;
- C6. Call pre-announcements; and
- C7. Signal price through number range.

6.73 For the most part, Options C1 to C7 are not mutually exclusive, such that a number of these measures could be adopted at the same time.

6.74 As described in Section 4, Ofcom considers that lack of pricing transparency gives rise to costs of two kinds. First there is an economic cost, because tariff misperceptions will give rise to inefficient purchasing decisions; and second, there is

a cost to consumers associated with the potentially misleading promotion of 0845 and 0870 calls as being charged, respectively at local and national rates.

- 6.75 It has been estimated that the maximum potential consumer detriment in economic terms attributable to the lack of pricing transparency on 0845 and 0870 numbers is approximately £305m per annum, of which 0845 and 0870 account for £190m and £115m respectively.

Option C1: Status quo

- 6.76 Under this option, the expectation is that the recent ASA/CAP initiative against potentially misleading advertising of 0845 and 0870 calls would continue to have an effect, but no other regulatory action would be taken to promote price awareness and transparency (described in Annex 8).
- 6.77 Ofcom considers that continuation of this initiative could be expected to go some way towards addressing the issue of potentially misleading advertising.
- 6.78 It is not, however, a complete solution to the pricing transparency problem, for a variety of reasons. For example, only BT prices are likely to be shown on advertisements for practical reasons as stated in the ASA/CAP guidelines; consumers may not read the small print on advertisements; they may learn of 08 numbers from other sources (directories, letter heads etc.); and they may not be informed by their OCP of the higher charges which apply to 084/087 calls. In addition, as a self-regulatory body, the ASA does not impose sanctions on those who break the Code of Practice, although the naming of offenders may itself act as a deterrent and enforcement action may be taken the Trading Standards authorities.
- 6.79 With regards to the pricing transparency objective, Ofcom considers that Option C1 performs reasonably, however whilst Ofcom welcomes the ASA/CAP guidance, by itself, it considers that it is insufficient for the reasons discussed above. Option C1 would have no significant impact on Ofcom's other policy objectives.

Option C2: Restore link to geographic tariffs for 0845/0870 for all CPs

- 6.80 This option consists of restoring the linkage between 0845/0870 call charges and geographic call charges for all OCPs (including payphones and mobiles) and has been considered in some detail in the analysis of options B4 and B5 above.
- 6.81 As noted in Annex 6, our market research shows that 79% of consumers would like to see the link to geographic prices restored for 0845 and 0870 services.
- 6.82 As noted in Section 5, Ofcom estimates the consumer detriment attributable to price misperceptions is in the region of £190m p.a. for the 0845 range and £115m p.a. for the 0870 range. Ofcom considers that re-establishing the linkage between 0845/0870 tariffs and geographic tariffs would make a significant contribution to improving pricing transparency, because consumer awareness of geographic tariffs is much higher than for 0845/0870 calls, and because many consumers and SPs still associate these ranges with geographic tariffs even though the linkage is currently broken.
- 6.83 Since restoration of the geographic linkage would result in migration of some services to alternate number ranges, not all of the price perception detriment could be addressed by restoration of the linkage. As noted in paragraphs 5.31 and 5.34, Ofcom estimates that if the geographic tariff linkage were restored approximately 85-

90% of 0845 traffic would migrate and 45-55% of 0870 traffic would migrate. Applying these figures to the price misperception detriment means that pricing transparency measures could address approximately £20m to £30m p.a.³² of the detriment for 0845 calls and £52m to £63m p.a.³³ of the detriment for 0870 calls. Considering price transparency in isolation, the figures suggest a much stronger case for re-establishing the geographic tariff linkage for the 0870 range than for the 0845 range. As described in more detail in the analysis of Options B4 and B5, Ofcom considers that overall, the benefit of re-establishing the geographic linkage for 0870 calls outweigh the costs, but for 0845 however, the benefits are unlikely to outweigh the costs at the present time.

- 6.84 Option C2 is the same as Option B4 and has already been assessed against Ofcom's policy objectives (see paragraph 6.54). In relation to the pricing transparency policy objective, Ofcom considers that Option C2 performs well since it would build on the existing awareness of the linkage between 0845/0870 calls charges and geographic charges and because consumers' have a higher awareness of geographic call charges than NTS call charges. However, as discussed in the analysis of Option B4, Ofcom considers that for the 0845 range the costs and disruption associated with service migration outweigh the benefits of restoring the linkage to geographic charges at this time.

Option C3: Extend pricing designations in the Plan on 0844 and 0871

- 6.85 Ofcom would like to apply the pricing designations set out in the Numbering Plan to a wider range of OCPs, in order to improve pricing transparency for consumers. Option C2 would be a step in this direction since the linkage to geographic charges for 0845 and 0870 specified in the Plan would apply to all OCPs, and not only to BT. This would mean designations in the Plan would apply to other fixed CPs including payphones and mobiles.
- 6.86 Option C2 would not mean that competing providers would all have to charge the same rates for 0845/0870 calls: each would be free to set its own retail price. They would, however, be obliged to adhere to the designation established in the Plan that 0845/0870 calls should be charged at same rate as their local/national geographic calls. If a CP wanted to disregard this convention and charge a higher price for 0845/0870 calls, it would be required to make a free of charge call pre-announcement informing the caller of the higher charge.
- 6.87 Ofcom considers that it is more difficult to extend the application of the Plan to CPs on other number ranges where the pricing designation allows TCPs to specify absolute prices subject to upper price levels as for example on 0844 and 0871. In Ofcom's view, the same price points could not reasonably be applied to calls originated from payphones and mobile phones, because there are additional costs involved in originating those calls and TCPs and SPs might not be willing to accept the significantly lower termination payments compared to fixed line calls that would result.
- 6.88 Ofcom is considering whether the designations in the Plan for 0844 and 0871 should be extended, so that they apply to all fixed providers as well as BT but not to calls originated on mobile phones or payphones. For example, where a TCP selects a price point of 4p per minute for calls to a block of 0844 numbers, that price should

³² Calculated by multiplying the price misperception detriment for 0845 calls (£190m) by the proportion of 0845 traffic that would not migrate to new numbers (10-15%).

³³ Calculated by multiplying the price misperception detriment for 0870 calls (£115m) by the proportion of 0870 traffic that would not migrate to new numbers (45-55%).

apply to calls originated on all fixed lines (excluding payphones), and not only calls originated by BT. Ofcom is interested in views on this approach (see questions 3 and 4 under paragraph 6.188).

- 6.89 The benefit of this approach is that it would provide greater price transparency, and would contribute to consumer confidence in the use of services on 0844 and 0871. The challenge for the industry is that, if the approach is to be applied to 0844 and 0871 numbers, it may be necessary to move away from the convention of standard call termination payments to OCP-specific call termination payments that would allow OCPs to negotiate termination payments that take account of their costs.
- 6.90 For transit traffic BT provides a service which involves a pass-through of the standard termination charge, which is billed to the OCP and paid out to the TCP. This means that TCPs receive standard payments for terminating 0844 and 0871 calls, regardless of the OCP which originates the call. The standard payment is calculated as the selected price point for the number in question (from a BT line) less BT's cost-based charges for call origination and discounts if applicable. Of the calls which both originate and terminate on non-BT networks, almost all are nevertheless transited via BT: there is very little direct interconnection between non-BT providers.
- 6.91 These arrangements have evolved over time, and do not encourage direct negotiation between non-BT OCPs and TCPs over the termination charges payable on NTS calls. Several OCPs argue that their costs are higher than BT's, and that they should therefore keep a larger share of the retail revenues, paying less to the TCP. For the TCPs, on the other hand, there is no incentive to accept lower termination payments, and they can avoid doing so by requiring the traffic to be transited via BT.
- 6.92 The OCPs and TCPs are not obliged to take the pass-through service. They can opt instead to negotiate bilateral terms for call termination. For bilateral settlements to be practicable, TCPs would have to be able to identify the network-of-origin of the traffic being delivered from BT's network. They would need to be able to identify which OCP the traffic came from, so they would know which termination charge to apply, and which OCP to bill. TCPs have little incentive to tackle this technical challenge, while they have the option of using the pass-through service and receiving the standard termination charge.
- 6.93 Under existing interconnection arrangements then, there is little an OCP can do to reduce its termination payments. If its call origination costs are higher than BT's, the only way to recover those costs may be to raise its retail call prices. For example, if a TCP specifies that calls to a particular block of 0844 numbers should be priced at say 4p per minute and that they should not be eligible for BT discounts, BT is obliged to price the calls at 4p per minute but an OCP with higher origination costs may have to charge more than BT in order to recover its costs.
- 6.94 If under existing interconnection arrangements the pricing designations of the Plan were extend to other OCPs there is a possibility that, if non-BT OCPs were required to charge the rate selected by the TCP for 0844 and 0871 calls, they may not be able to recover their costs. However if OCPs were given the option of charging higher prices on condition that the call charge was pre-announced this potential problem would be avoided.
- 6.95 In Ofcom's view the interconnect arrangements which cause this problem should now be reviewed. As noted above, in a period of growing competition, pricing designations in the Plan, which only apply to calls made from BT lines will look

increasingly anachronistic. The price ranges set out in the Plan for 0844 and 0871 calls would command greater consumer confidence if they apply to calls made from all fixed lines (excluding payphones). Ofcom is inclined to the view that, at some point in the future, the Plan should be amended so that the price points selected by TCPs for 0844 and 0871 number blocks apply from all fixed lines, excluding payphones. Ofcom is therefore asking for stakeholders' views on the cost and feasibility of this proposal as well as implementation timescales (see question below paragraph 6.188).

- 6.96 Ofcom is aware that this proposal does not address consumer concerns about high prices for 0844 and 0871 calls made from payphones or mobile phones. These calls raise more difficult issues because of the additional costs involved in making calls of this type, and it is not clear what form a solution might take. This is discussed further in paragraph 7.51.
- 6.97 With regard to the policy objectives outlined in Section 4, Ofcom considers that Option C3 would:
- make a positive contribution to pricing transparency as it would help improve consumer awareness of the call prices for calls from fixed lines to 0844 and 0871 numbers;
 - perform less well in terms of reduced regulatory intervention as the designations would apply to more OCPs; and
 - have little impact on the other policy objectives.

Option C4: Bringing some 08 numbers within the regulatory regime for PRS

- 6.98 Option C4 consists of extending the current regulatory framework for PRS to capture some or all of the 084/087 numbers ranges and would have the effect of making those ranges subject to the ICSTIS Code. Widening the regulatory framework for PRS would be another way of tackling the problem of potentially misleading advertising, given that this would ensure that services using these numbers would be subject to the requirements relating to pricing information in the ICSTIS Code. Given the ASA/CAP initiative, this makes most sense as part of a broader initiative to provide greater consumer protection on 08 calls. ICSTIS's involvement in this area would be complementary to that of the ASA/CAP, and would allow more resources to be devoted to monitoring and enforcement.
- 6.99 Historically, ICSTIS's remit has been on the 09 number range, where it was considered that the potential for consumer detriment or harm was greater because of the higher call charges involved and because adult services were supposed to be on the 09 number range. However, as discussed under Options D1-3 below, there is now a case for extending the PRS regulatory regime to deal with price transparency effects, but also more importantly on the broader consumer protection issues. This option is therefore considered and assessed in more detail in the consumer protection section and is not considered further here.

Option C5: More stringent obligations on OCPs to publish prices

- 6.100 Option C5 consists of requiring OCPs to provide better pricing information to their customers on the price of NTS calls.
- 6.101 Ofcom is concerned that OCPs do not always do enough to inform their customers about the price of NTS calls. Promotional material, for example, often tends to focus

on the price of geographic calls, while the generally higher price of 084 and 087 calls may not be shown despite the fact that 17% of all fixed line calls and 6% of all mobile calls are to NTS numbers. Price information on websites also tends to be less accessible for NTS calls than for geographic calls.

- 6.102 Coupled with the research that highlights the lack of price transparency for NTS calls, in Ofcom's view, there is a strong case for imposing more stringent obligations on OCPs with regard to the provision of NTS price information to their customers. Ofcom proposes to achieve this through an amendment to General Condition 14, which deals with consumer Codes of Practice. Ofcom intends to publish a separate consultation on this subject in the near future therefore this option is not analysed here.

Option C6: Call pre-announcements

- 6.103 Under Option C6 call pre-announcements, Ofcom has considered the prospective costs and benefits of a requirement for OCPs to provide call pre-announcements informing the caller of the price of all 084 and 087 calls.
- 6.104 As discussed in Section 5 and detailed in Annex 6, our market research found that 87% of consumers said they would like to have call pre-announcements for 0845 and 0870 calls, indicating the price of the call. On the other hand, 42% said that they would find such pre-announcements annoying. Although this evidence is somewhat contradictory, it is clear that a substantial number of consumers would welcome pre-announcements. However, as noted in Annex 7, Ofcom is concerned that in time consumers would find pre-announcements increasingly intrusive and annoying.
- 6.105 In Ofcom's view, the issue is whether the incremental benefits of pre-announcements (over and above the other measures proposed to improve pricing transparency) would exceed the costs involved in their provision.
- 6.106 The potential benefits of improved price transparency have been estimated at around £71m p.a. to £92m p.a. across the 0845 and 0870 number ranges (see paragraph 6.83). However, Ofcom considers that the other pricing transparency measures proposed can effectively address the pricing transparency issue.
- 6.107 As noted in Annex 7, Ofcom estimates that the one-off costs to the industry of implementing call pre-announcements for 084 and 087 calls would be of the order of £70m to £100m and possibly much higher. In addition, there would be ongoing operational costs. However, because CPs have different technical infrastructures, each requiring different solutions to provide pre-announcements on an ongoing basis, Ofcom has been unable to calculate these ongoing operational costs. Most of this expenditure would be on current technologies, which are likely to be obsolete within a few years, with the move to all-IP networks. The costs involved might therefore have to be recovered over a comparatively short period, and could lead to price increases for consumers.
- 6.108 An additional problem (discussed in Annex 7) primarily affecting the 0845 range is that it is currently unclear whether announcements could be made to work satisfactorily with calls to pay-as-you-go dial-up internet services, which are estimated to account for 85% of 0845 traffic. Further detailed technical study would be needed to determine whether this problem could be overcome either by measures taken by OCPs or by ISPs, but at present, Ofcom's view is that this problem mitigates against the use of pre-announcements on the 0845 range and possibly also the 0844 range.

- 6.109 In Ofcom's view, it could also be regarded as disproportionate to require pre-announcements for 08 calls priced at 0-10p per minute, when no such pre-announcements are required for much more expensive calls made to 09 numbers or from mobile phones.
- 6.110 Overall, Ofcom does not consider that the incremental benefits of call pre-announcements (over and above the other measures proposed) would outweigh the costs involved in their implementation at the present time. This situation could change with the move to next generation networks, which might bring down the cost of pre-announcements. Ofcom may therefore return to this issue in future, however in light of the measures proposed above, Ofcom expects the need for additional transparency measures to reduce over time.
- 6.111 With regard to the policy objectives outlined in Section 4, Option C6 therefore performs as follows:
- well in relation to an increase in price transparency as consumers would be informed of the price of 084 and 087 calls before they decide whether to proceed with the call;
 - well in terms of promotion of competition as better price awareness should stimulate price competition between SPs;
 - little effect in terms of consumer protection;
 - potentially poorly with regard to the viability of pay-as-you-go dial-up internet services if ISPs needed to make substantial investments to avoid pre-announcements interfering with their services. If this is not the case, Option C6 would be likely to be neutral for ISPs;
 - potentially poorly for the range and choice of services objective, if the cost of pre-announcements make services unviable (as discussed above); and
 - poorly in relation to the reduced regulatory intervention objective, as Ofcom would be introducing an additional cost burden on CPs.

Option C7: Signal price through number range

- 6.112 This comparatively radical option would consist of using the number range to indicate the price of the call by replacing the existing 08 number ranges with new ranges which signalled the call prices more clearly to consumers. It would, for example, be possible to designate, through the Plan, that calls to say 0811 numbers would be priced at 1p per minute from fixed lines, calls to 0812 numbers would be 2p per minute, and so on up to 0819, where calls would be priced at 9p per minute.
- 6.113 The attraction of this option is that it could allow consumers to build up a much clearer association between the price of a call and the number dialled, especially if the pricing designations applied to all fixed CPs, and not only BT.
- 6.114 This option is only likely to be effective if it were accompanied by the closure of the other revenue sharing 08 number ranges. If that did not happen, there would be little incentive for SPs to move to the new ranges, and the picture for consumers would be even more confusing than it is at present. Under this proposal the 0845 and 0870 ranges could perhaps be retained, but only if the link to geographic charges was restored and revenue sharing ended on both ranges whereas the 0844 and 0871 ranges being the remaining 08 revenue sharing ranges would close completely, after a transitional period.

- 6.115 Ofcom estimates that the one-off migration costs incurred across all 084 and 087 ranges (see Section 5 for a more detailed discussion) would be likely to exceed the prospective benefits of this option, and that there are less disruptive ways in which price transparency can be promoted.
- 6.116 In addition, if TCPs and SPs wished to change the price of their calls, they would be required to change their number thereby incurring one-off migration costs. This option may therefore be seen as less flexible than some of the other options designed to improve pricing transparency.
- 6.117 Overall, in relation to the policy objectives discussed in Section 4 Option C7 performs as follows:
- fairly well in relation to pricing transparency, in that the number range would signal the price of the call to consumers, however for this to be effective it is likely that additional measures would be required to raise awareness of the pricing signal;
 - poorly in relation to range and choice of services in the short term because there is a danger that the costs and disruption associated with the migration of all 08 revenue sharing services to new numbers might result in a reduction in service availability. In the longer term, this option would be likely to perform well since the SPs would be able to continue revenue sharing and to select price points suitable for their services;
 - little effect in terms of consumer protection;
 - poorly in relation to support for pay-as-you-go dial-up internet services as it is likely to result in most if not all these services migrating to other number ranges to maintain the revenue share that is used to fund this type of internet access. This migration could inconvenience more than 5 million users of these services and as discussed in Annex 14, it is likely that a significant minority of consumers would encounter difficulties that might result in a loss of service. As discussed in 5.32 Ofcom estimates that migrating users would cost the industry between £33m and £39m;
 - reasonably well in relation to promotion of competition in that SPs would be able to compete on price but would need to migrate their services to a new number range, in order to change the price of the calls; and
 - poorly in relation to reduced regulatory intervention in that all TCPs and SPs would need to change their numbers and as a result there would be significant migration costs.

Overall assessment of price transparency options

- 6.118 Ofcom considers that the measures outlined above under options C1-C5 would go a considerable way towards achieving these benefits. In particular:
- the ASA/CAP initiative is likely to reduce the scale of the problem on all 084 and 087 number ranges by requiring advertisers to publicise the prices of NTS calls;
 - restoration of the geographic link for 0870 calls after an interim period should go a long way towards achieving price transparency on this number range, where the potential benefits are greatest;
 - restoration of the geographic link for 0845 calls would also help improve pricing transparency. However, Ofcom considers that the one-off costs and disruption associated with service migration currently outweigh the benefits at present and Ofcom will therefore undertake a review in two years time;

- the extension of the pricing designations in the Plan to all fixed and mobile providers (including payphones) on 0845/0870 calls (should the links to the geographic call prices be restored) should provide callers with more certainty about call prices
- the extension of the pricing designations in the Plan and all fixed providers (excluding payphones) on the 0844 and 0871 number ranges should provide callers with more certainty about call prices. However, there are some interconnection issues that would need to be resolved before this change could be implemented;
- extension of the ICSTIS remit to 0871 is likely to prove effective on the 0871 range, as it has already been on 09, where consumer price awareness is much higher (discussed in more detail in policy option D2 in paragraphs 6.127 to 6.136); and
- imposing more stringent obligations on CPs regarding the provision of NTS price information (via an amendment to General Condition 14) is likely to make a significant contribution across all NTS number ranges (This will be the subject of a separate consultation).

6.119 In relation to Option C6 Ofcom does not consider that the incremental benefits of call pre-announcements (over and above the other measures proposed) would outweigh the costs involved in their implementation at the present time. This situation could change with the move to Next Generation Networks, which might bring down the cost of pre-announcements. Ofcom may therefore return to this issue in future, however in light of the measures proposed above, Ofcom expects the need for additional transparency measures to reduce over time.

6.120 In Ofcom's view Option C7 (signalling the price of the call through the number range) would be likely to improve pricing transparency but Ofcom considers that Options C1 to C5 would be likely to be at least as effective and less disruptive.

D. Consumer protection on 084 and 087 numbers

6.121 As discussed in Section 4, because 084 and 087 calls support micro payments to third party SPs, they can provide an opportunity for unscrupulous SPs to mislead, defraud or otherwise exploit consumers. Ofcom has therefore considered whether additional consumer protection measures might be required. The options that have been considered in relation to this policy issue are:

- D1. Status quo;
- D2. Extend PRS regulation to 0871 numbers;
- D3. Extend PRS regulation to adult services currently provided on 08 numbers; and
- D4. No revenue sharing for locked-in calls to 084 and 087 numbers.

6.122 Options D2 to D4 are not mutually exclusive since they address different consumer protection concerns.

Option D1: Status quo

6.123 Under option D1, there would be no additional consumer protection measures for consumers using NTS numbers, over what is currently in place for geographic calls. This means that the potential would remain for consumers to suffer detriment or harm from misuse of, particularly, the 087 number ranges.

6.124 Maintaining the status quo is likely to result in:

- the continued potential for unscrupulous SPs to mislead or exploit consumers. On 09 number ranges, additional consumer protection is provided because SPs are subject to PRS regulation and specifically the provisions of the ICSTIS code;
- a continuation of scams such as rogue diallers, where SPs may seek to avoid the ICSTIS prior permissions regime, and make use of the 087 instead of the 09 number range;
- ongoing concerns associated with adult services increasingly appearing on the 087 number range, raising consumer protection issues (for children and other vulnerable consumers). A principal concern is the inability to bar access to individual numbers scattered throughout the 087 number ranges unlike the specific 0908 and 0909 number ranges set aside for adult services by Ofcom; and
- no change in the potential for consumer detriment from locked-in calls, although Ofcom considers that the actual levels of detriment are likely to be quite low.

6.125 The status quo has already been evaluated as Option A1 against the policy objectives described in Section 4. With regards to the policy objective of consumer protection, Option D1 performs poorly

6.126 With regards to the policy objectives described in Section 4, Option D1 performs as follows:

- poorly in relation to consumer protection and is unlikely to be sufficient to protect consumers against rogue diallers and other scams. Also it does not address the concerns about adult services being provided on the 08 range; and
- little impact on the other policy objectives.

Option D2: Extend PRS regulation to 0871 numbers

6.127 Under Option D2, Ofcom would extend the PRS regulatory regime to 0871 numbers, which would bring these numbers within ICSTIS regulation and therefore SPs using 08 numbers would be subject to ICSTIS requirements. This would ensure that consumers are better protected from the potential of consumer detriment arising on 08 numbers.

6.128 To implement this option, Ofcom proposes to conduct a separate consultation so that the extension of the PRS regulatory regime would coincide with the re-establishment of the link between 0870 call charges and geographic call charges (as proposed in Options B4 and B5). At this stage, Ofcom is presenting its initial evaluation of this option and asking for stakeholders views.

6.129 As mentioned, this option would bring the 0871 number range within the remit of the ICSTIS Code, which includes a number of provisions designed to protect consumers from harm, including:

- requirements to display price information on promotional material (as noted above);
- a prior permissions regime for internet diallers;
- a compensation scheme for live chat services; and
- a requirement that services are not subject to unreasonable delay, which could be relevant to the issue of call centre waiting times.

- 6.130 As noted in Section 5, the evidence from the Ofcom Contact Centre is that there have been a small but growing number of complaints about internet diallers on 0870 and 0871 numbers. Additional information provided to Ofcom by ICSTIS and one of the larger fixed network operators shows a similar trend. Recent experience on the 09 range shows that problems of this kind can escalate and have the potential to cause a serious amount of harm to consumers.
- 6.131 ICSTIS is tasked with providing additional consumer protection in respect of PRS, and regulates the content, promotion and overall operation of services through its Code. However, ICSTIS currently has a policy of not regulating services on 08. In effect, this means that ICSTIS generally does not regulate services priced at less than 10p per minute or per call. This cut-off was considered appropriate because the likelihood of consumer harm, for example through running up very high phone bills, was thought to be far greater on calls priced at more than 10p per minute.
- 6.132 Given the growth in services being offered on the 087 ranges, and increasing concerns over consumer protection described above, Ofcom considers there is a case for bringing 0871 numbers within the regulatory regime for PRS and, in particular, subject to ICSTIS regulation. Ofcom is not proposing to extend PRS regulation to the 0870 range because it considers that Options B4 or B5 would address the consumer protection issues relating to the 0870 range by re-establishing the linkage with geographic charges.
- 6.133 In addition to extending the scope of PRS regulation to the 0871 range (whereby ICSTIS would need to extend the scope of its regulation through its approved Code of Practice to 0871 numbers) Ofcom would also need to extend its powers to support ICSTIS ('backstop powers'), this would be achieved by amending the definition of Controlled PRS to include a price threshold of above 5p per minute. This level is considered appropriate given that the consumer protection concerns relate primarily to the 0870 and 0871 ranges where calls are generally charged at above 5p per minute and because there is insufficient evidence of consumer harm on the 084 ranges which are charged at 5p per minute or less.
- 6.134 Implementing Option D2 would have the following impacts:
- Services operating on the 0871 numbers would be subject to ICSTIS's code provisions, which contain the prior permissions regime for internet diallers and provisions for live adult services to be provided on 0908 or 0909 numbers (Ofcom is also proposing that PRS regulation be extended to all adult services –see analysis of Option D3 below). As a result, the potential for consumer harm or detriment associated with rogue diallers and adult services would be significantly reduced.
 - In addition, as discussed in paragraph 6.98, SPs operating under ICSTIS's remit must provide better pricing information to inform consumers of the likely price of calls.
 - Against the benefits of increased consumer protection, there are the costs that would be incurred by ICSTIS in regulating these additional services. These costs would be recovered from SPs. ICSTIS is currently considering the likely cost implications of extending its remit to include calls to 0871 numbers and its views will be taken into account in the consultation on this proposal.
 - If the combination of Option B4 or B5 (i.e. linking 0870 call prices to the geographic rate) together with Option D2, were implemented, it could cause SPs to think more carefully about choosing to migrate from their 0870 numbers to the

0871 number range after the interim period. It is likely that some SPs may choose to remain on 0870 and forego revenue sharing in order to avoid having to pay the ICSTIS levy or to avoid the increased administrative burden associated with operating under ICSTIS's remit.

6.135 Option D2 performs well against the majority of the policy objectives set out in Section 4:

- Extending ICSTIS's remit means that the 0871 number range would become subject to the ICSTIS code provisions. This would increase consumer protection and reduce the potential for detriment or harm as a result of rogue diallers or adult services appearing on the 0871 number ranges. Ofcom considers that Option D2 performs well with regard to consumer protection;
- As previously noted, Option B4 or B5 would re-establish the linkage with geographic charges on 0870 and there would therefore be no need to extend PRS regulation to the 0870 range.
- By improving consumer protection on the 0871 range Option D2 should improve consumer confidence in relation to this range, which in turn should encourage SPs to offer services on it. Ofcom therefore considers that this option performs well against the range and choice of services objective;
- As noted in the evaluation of Option C4 in paragraph 6.98, extending PRS regulation also performs well in relation to pricing transparency. By making services on 0871 numbers subject to the pricing publication requirements of the ICSTIS Code, Option D2 should also help to further promote competition in service provision as consumers would be better able to choose between services according to their price;
- The majority of pay-as-you-go dial-up internet services operate on the 0845 number range and as a result, Option D2 would have little or no impact on the viability of these services. However, the potential for consumers to be affected by rogue diallers should be reduced, thereby restoring consumer confidence in the use of pay-as-you-go dial-up internet services; and
- Option D2 extends the scope of PRS regulation beyond 09 numbers, thereby increasing the level of regulatory intervention. However the consumer detriment (detailed above) already resulting from some services on 087, may increase without additional consumer protection. Consequently, although Option D2 does not perform well against the objective of reduced regulatory intervention, Ofcom considers it may be a proportionate response to the problems identified.

6.136 As noted above, Ofcom is interested in general views on this proposal but proposes to issue a separate consultation on this proposal in more detail. That further consultation will set out these issues and a fuller option appraisal.

Option D3. Extend PRS regulation to adult services currently provided on 08 numbers

6.137 As noted in Section 5, Paragraph 5.66, Ofcom's research indicates that an increasing number of adult services are now provided on 0870 and 0871 numbers. This raises three consumer protection concerns:

- provision of adult services on 08 numbers undermines the informative nature of the Plan which designates the 0908 and 0909 ranges for sexual entertainment services (the term used in the Plan to describe adult services) ;
- It is less easy for consumers to bar access to these services compared to adult services on the 09 range, partly because call barring facilities are less commonly

available than for the 09 range, and partly because even when facilities to bar 08 calls are available, the barring facilities are unable to discriminate between ordinary non-adult services that consumers might want to call and adult services that they might want to bar; and

- these services are charged at up to 10p per minute for BT customers and are therefore typically not regulated by ICSTIS and Ofcom has no relevant backstop powers as captured by the definition of Controlled PRS³⁴.

6.138 Option D3 consists of amending the Plan to clarify that adult services must only use the 0908 and 0909 ranges thereby ensuring that they are regulated by ICSTIS and secondly to extend the CPRS definition to include all adult services regardless of price and thus giving Ofcom backstop powers.

6.139 To implement this option, Ofcom proposes to conduct a separate consultation so that the extension of the PRS regulatory regime would coincide with the re-establishment of the link between 0870 call charges and geographic call charges (as proposed in Options B4 and B5). At this stage, Ofcom is presenting its initial evaluation of this option and asking for stakeholders' views.

6.140 The effects of implementing this option are detailed below:

- Consumers would benefit from this increased consumer protection and would be able to bar adult services without affecting their access to other ordinary services.
- Against the benefits of increased consumer protection, there are the costs that would be incurred by ICSTIS in regulating these extra adult services. These costs would be recovered from SPs. SPs may also incur costs when moving from their current numbers to 09 numbers. Ofcom's initial view is that the one-off migration costs are unlikely to be significant, provided that SPs are given a reasonable period of time to comply with the new regulations, but further information will be gathered on this point.

6.141 Looking at the policy objectives outlined in section 4, Option D3 performs as follows:

- well in terms of consumer protection, as it would require all adult services to be on special 09 numbers rather than on 08 numbers where there is the potential for consumer harm. This would have the effect of ensuring that they are regulated by ICSTIS.;
- well with regard to range and choice of services as it restricts adult services to specific 09 number ranges where they can be barred by consumers without affecting their ability to access other services provided on 08 or 09 numbers;
- well in relation to price transparency as it would be improved by adult services being subject to the ICSTIS Code provisions on pricing;
- fairly well in relation to promotion of competition since consumers would be able to make better informed decisions on the price of adult services. However, as most 09 services are generally priced at more than 10p per minute, it is possible that services migrating from an 087 number to an 09 number might cost more; and
- poorly against the objective of reduced regulatory intervention since it involves the extension of ICSTIS regulation. However, given the potential for consumer detriment Ofcom considers that these measures may be justified.

³⁴ Chatline services are defined as Controlled Premium Rate Services regardless of price.

6.142 There would be little if any impact on the viability of pay-as-you-go dial-up internet services as these services would not be subject to change under this option.

6.143 As noted above, Ofcom is interested in general views on this proposal but proposes to issue a separate consultation on this proposal in more detail. That further consultation will set out these issues and a fuller option appraisal.

D4. No revenue sharing for locked-in calls to 084 and 087 numbers

6.144 As discussed in Section 5, paragraph 5.68, when consumers are locked-in to calling particular NTS numbers (i.e. they have little or no choice over the number being called) there is a potential for consumers to be overcharged. The idea behind this option is that in such cases revenue sharing should not be allowed. This would eliminate any potential for consumer detriment.

6.145 Based on its research (discussed in Section 5, paragraph 5.75) Ofcom estimates that approximately 20-30% of calls to 0845 and 087 numbers may be locked-in³⁵. Ofcom has not been able to definitively quantify the detriment associated with these calls due to the difficulty of evaluating the competitiveness of downstream markets and therefore estimated the ceiling for this type of detriment based on the difference between NTS call prices and geographic call prices. This approach gives a ceiling for consumer detriment of £67-83 million per annum (see Section 5 for further details).

6.146 However, as discussed in Section 5, paragraph 5.71, the extent of any detriment is likely to be dependent on the extent of competition in the downstream market (i.e. the primary business of the SP). Ofcom considers that in most cases downstream markets are likely to be effectively competitive in which case the scope for consumer detriment would be likely to be considerably less than the potential ceiling by competition in the downstream market. Any mechanism that applied to all locked-in calls would therefore prevent SPs operating under competitive conditions in other markets from using revenue sharing services as well as those operating under less competitive conditions.

6.147 Ofcom considers that Option D4 should not be implemented because;

- measures applied to locked-in calls would affect those services operating under competitive conditions as well as those operating under less competitive conditions;
- Ofcom considers that imposing a regime which distinguishes between locked-in and non locked-in calls is not legally certain since each call would need to be assessed on its facts. As well as the lack of certainty this raises enforcement issues;
- there may be practical difficulties in implementing this option because under current interconnection arrangements it would not be possible to selectively prevent individual numbers from revenue sharing whilst allowing others to continue revenue sharing and therefore the only way to prevent revenue sharing for locked-in calls may be to end revenue sharing on all 08 numbers as considered and rejected in Option A2 above; and
- by applying any such regime, if it could be devised in a way that is sufficiently certain, Ofcom considers that this would, in effect, be regulating the business activities of organisations outside of the communications sector. Ofcom does not consider that its role is to evaluate the competitiveness of markets outside the

³⁵ As noted in paragraph 5.74, there was an insufficient sample size for 0844 numbers to estimate the potential ceiling for locked-in calls on this number range

communications sector or to seek to apply remedies in the communications sector to address any competitive deficiencies in those markets.

6.148 Ofcom also considers that a number of the other measures proposed will go some way to addressing the potential for consumer detriment from locked-in calls without the complexity of Option D4. These are for example:

- Ofcom's preferred option for retail pricing of 0870 calls (Option B5) would be likely to lead to a significant reduction in charges for 0870 calls. This would reduce the potential for detriment from locked-in calls for those services that do not migrate to other ranges;
- the pricing transparency measures proposed under Options C1-C5 are designed to help improve consumer awareness of call prices and the possibility of revenue sharing. This in turn may exert additional pressure on SPs to make the prices of their NTS calls more competitive; and
- Ofcom's research (discussed in paragraph 5.56) indicates that SPs have a low awareness of the charges that consumers pay for NTS calls. The pricing transparency measures should improve SP awareness and may lead to increased competition between SPs on the price of NTS calls.

6.149 Measured against the policy objectives defined in Section 4, Option D4 performs as follows:

- some contribution in terms of consumer protection from detriment from locked-in calls providing it could be practically implemented;
- poorly in terms of range and choice of services since it would be likely to reduce service availability by preventing those SPs whose calls would be classified as locked-in from using revenue sharing NTS numbers in the 08 range even though many operate under competitive conditions in downstream markets;
- poorly in terms of promotion of competition services classified as locked-in would no longer have access to revenue sharing numbers in the 08 range even if provided under competitive conditions in downstream markets;
- little effect in terms of pricing transparency; and
- very poorly in terms of reduced regulatory intervention given that it may, in effect involve Ofcom regulating the business activities of organisations outside of the communications sector. Also this option may require a high degree of intervention given the likely difficulties associated with enforcement because of the need to assess individual services on a case by case basis.

6.150 Ofcom's view is that Option D4 would have no impact on the promotion of the viability of pay-as-you-go dial-up internet services since these services would be likely to be classified as non locked-in.

Overall assessment of consumer protection options

6.151 Ofcom's initial view is that option D2 and D3, which involve the extension of existing PRS regulation to the 0871 range and adult services regardless of price, perform best against the policy objectives. Option D1, the status quo does not in Ofcom's view, currently provide adequate protection for consumers, with regard to rogue dialler, other scams and adult services which may proliferate on 08 numbers unless additional measures are taken. At this stage, Ofcom is asking for stakeholders' views and proposes to issue a separate consultation setting out these proposals in detail.

6.152 Ofcom does not consider that there is a strong case for specific measures to address the detriment associated with locked in calls. Option D4 is likely to raise issues of legal certainty and potentially would involve evaluating markets outside Ofcom's scope. Also the issues which this option is designed to address will likely be addressed by other proposed measures.

E. Call centre waiting times

6.153 As noted in Section 3, responses to the October 2004 Consultation indicated that some consumers believe that call centres artificially extend call waiting times in order to increase revenues. Ofcom therefore undertook additional research into call centre waiting times (as discussed in Section 5) and considered several options to address consumers concerns. The options that have been considered are:

- E1. Status quo;
- E2. Stop call centres using 084/087 numbers; and
- E3. Regulate service levels for call centres using revenue sharing numbers.

Option E1: Status quo

6.154 Under Option E1, call centres could continue to revenue share and there would be no measures to control call waiting times.

6.155 It has been argued that the availability of revenue sharing on 08 numbers gives call centres an incentive to increase call waiting times in order to generate more revenue. As detailed in paragraph 5.83, Ofcom's research has found no evidence to suggest that call waiting times are being artificially extended in order to generate increased revenues. As a result, Ofcom does not consider that the continued ability of call centres to revenue share will, in itself, increase call waiting times which are generally a function of the type of service being offered and staffing levels in the call centres.

6.156 It has also been suggested that Ofcom should regulate call centre waiting times in order to prevent consumers being subject to any excessive call waiting. However, as discussed in paragraph 5.85, Ofcom's research found that long call waiting times were only evident in a small proportion of 08 calls made to call centres. Ofcom, therefore, considers that it would disproportionate to attempt to impose regulation on call centres, restricting maximum call waiting times on relatively low price 08 calls.

6.157 Further, in common with Option D4 (see paragraph 6.147) Ofcom considers that it should not impose telecoms regulation to address areas of concern which may be the result of problems in other downstream markets. For example if there were operational issues in the telephone banking market, which meant that callers could expect long call waiting times, Ofcom considers this would be an issue for the financial services sector to address (as discussed in paragraph 4.34).

6.158 The impact of this option would be:

- The current situation would continue as now, where no evidence has been found that call centres that receive a revenue share have longer call waiting times than those who do not receive a revenue share.
- In the minority of situations where customers do experience longer call waiting times, as detailed under Options B4 and B5, consumers would benefit from calls on 0870 numbers being linked to the geographic call price (should one of these options be implemented) rather than the higher NTS call price.

- Call centres would continue to be able to receive a revenue share.

6.159 In relation to the policy objectives described in Section 4, Ofcom considers Option E1 performs as follows:

- neutrally in terms of consumer protection because of the lack of evidence of any correlation between call centre waiting times and call charges suggests that waiting times are not being exacerbated by the availability of revenue sharing, however long call waiting times would continue at a minority of call centres;
- well in terms of range of choice and services, this option would allow consumers to benefit from the wide choice of value added services they currently enjoy; and
- well in terms of the reduced regulatory intervention objective as it would not require any additional regulatory intervention.

6.160 This option would not affect pay-as-you-go dial-up internet services and would therefore have no impact on the viability of pay-as-you-go dial-up internet services objective. Since no change would be made there would also be no impact on competition between SPs operating call centres.

Option E2 – Stop call centres using 084/087 numbers

6.161 Under this option, call centres would be prevented from using revenue sharing 084 or 087 number ranges. Those that wished to continue to revenue share would need to move their services to 09 numbers.

6.162 The rationale for this option is that call centre service levels might improve if call centres were no longer able to use revenue sharing 08 numbers. This approach is based on the idea that some call centre operators may deliberately extend waiting times in order to secure a larger revenue share.

6.163 The results of Ofcom’s market research (see Annex 6), however, show that there is no significant correlation between call waiting times and the size or availability of a revenue share. On this basis, Ofcom considers that preventing call centres from using 084/087 numbers, is unlikely to deliver any benefits to consumers in terms of reduced waiting times.

6.164 The impact of this option would be:

- as discussed above, Ofcom is of the view that preventing call centres from operating on the 084 and 087 number ranges, is unlikely to have an impact on call waiting times. As a result, Ofcom does not consider that this option would provide any consumer benefits relating to any improvement in call centre waiting times;
- consumers would likely have access to fewer services; either services would migrate to geographic numbers, where it is possible that SPs would try to recover their costs through other mechanisms, such as increasing their prices elsewhere, or they may choose to move to the 09 number range and potentially charge higher prices for access to their call centres or they could decide to cease offering their service altogether;
- the migration of call centres to other number ranges would also mean that SPs would incur some costs (see Annex 14 for more details on migration costs) and these costs may ultimately be passed on to consumers;

- a further practical issue that would need to be addressed, would be how a call centre would be defined so that stakeholders had sufficient legal certainty. This would also have enforcement implications;
- it could also be argued that it is discriminatory in that SPs that do not operate a call centre would be eligible to use revenue sharing numbers and therefore their services may be seen as more 'legitimate' than that of call centres; and
- it is unlikely that it would be proportionate to prohibit call centres from operating on the 084 and 087 number ranges as a result of a minority of them having long call waiting times.

6.165 In relation to the policy objectives highlighted in Section 4, Ofcom considers Option E2 performs:

- neutrally in terms of consumer protection because of the lack of evidence of any correlation between call centre waiting times and call charges suggests that waiting times are not being exacerbated by the availability of revenue sharing. There is nothing to suggest that callers who have experienced long call waiting times at a minority of call centres would see any improvement if revenue sharing were no longer available to call centres.
- poorly in relation to the range and choice of services objective, as SPs operating call centres could migrate to an 09 range, which some callers currently bar, migrate to a geographic range or cease operating altogether;
- potentially well with regard to price transparency if services move to geographic numbers or 09 numbers where consumer awareness of prices is generally higher;
- poorly in terms of promotion of competition, as call prices might increase if call centres migrated to 09 numbers, but well if call centres moved to geographic numbers; and
- very poorly with regard to the reduced regulatory intervention objective. This option would require a significant level of regulatory intervention, for example, to define a call centre and to enforce the option.

6.166 There would be no impact on the viability of pay-as-you-go dial-up internet services since this Option would apply to call centres only.

Option E3 – Regulate service levels for call centres using revenue sharing numbers

6.167 Under this option, Ofcom would regulate service levels for call centres using revenue sharing numbers. This would require Ofcom to specify minimum service levels for call centres using these ranges, and to monitor and enforce compliance. In principle, such regulatory intervention might be justifiable as a consumer protection measure, particularly in terms of the poor value-for-money being provided by call centres with poor service levels.

6.168 However, as discussed above and in Annex 6, the results of our market research show that long waiting times are a problem for only a small proportion of the 08 calls made to call centres. This is consistent with the findings of our meetings with call centre operators and representative organisations, which indicate that in the majority of cases, call centres have reasonable service level targets and management processes designed to achieve them.

6.169 Assessing the impact of this option, Ofcom considers that :

- call centres would be required to operate within permitted service levels which would be beneficial to consumers who have previously been subject to extended call waiting times;
- SPs operating call centres would also be subject to additional regulation, which would likely cause them to incur additional cost, even if they were already operating within permitted service level limits; and
- call centres that were unable to operate within the permitted service levels would be subject to enforcement.

6.170 In relation to the policy objectives highlighted in Section 4, Ofcom considers Option E3 performs:

- well in terms of consumer protection in that the small minority of call centres that operate with long call waiting times would be unable to do so;
- less well in terms of choice and range of services, as some call centres might cease to operate;
- although Option E3 may increase competition in terms of service levels, it could increase prices as SPs seek to recoup the additional regulatory cost burden, so it may perform less well in relation to the promotion of competition policy objective; and
- poorly in relation to the reduced regulatory intervention objective because in Ofcom's view it would be unreasonably intrusive for Ofcom to set service level requirements for all 08 call centres, to address problems caused by a small minority of service providers. Inevitably there would be compliance burden that would affect all service providers. This would not be consistent with Ofcom statutory duty to ensure that regulatory intervention is proportionate and that regulation is not unnecessarily burdensome and in effect involve Ofcom regulating the business activities of organisations outside of the communications sector.

6.171 Ofcom considers that Option E3 would have no significant impact in relation to the policy objectives of promoting the viability of pay-as-you-go dial-up internet services and pricing transparency.

Overall assessment of call centre waiting times options

6.172 In the light of the above, Ofcom considers that neither Option E2 nor E3 perform well against Ofcom's objectives principally because they would increase the regulatory burden without sufficient evidence to justify the intervention. Ofcom's preferred approach is therefore the status quo Option E1. It should, however, be noted that ICSTIS's Code of Practice includes a clause which prohibits undue delay in the provision of services. If as discussed above, ICSTIS's remit is extended to include 0871 calls, this clause could potentially be used to address extreme cases of long waiting times on the 0871 number range.

F. Use of NTS numbers by public services

6.173 As discussed in Section 4, some consumers feel that public services should not be able to use numbers where revenue sharing is available or that they should only make use of geographic numbers. It has also been suggested that funding these services should be undertaken through taxation rather than through the cost of a telephone call. As a result of the concerns, Ofcom has considered two options for change:

- F1. Status quo; and
- F2. Stop public sector organisations using revenue-sharing 08 numbers.

Option F1: Status quo

- 6.174 Under the status quo option, Ofcom would continue to offer guidance to the COI and other public bodies on the best practice use of NTS number ranges for public services, but would not impose any further regulation.
- 6.175 In Ofcom's view it is important that public sector bodies should follow best practice in the use of NTS numbers for the delivery of public services, as this is clearly a matter of concern to consumers. However, Ofcom considers that the responsibility for the use made of NTS numbers to provide access to public services lies with the public authorities concerned.
- 6.176 Ofcom has already provided advice to the COI, but at present, there appears to be a low level of awareness of, and adherence to, the COI guidance. Ofcom is concerned about the impact this may have on consumers and considers that more should be done to raise awareness and ensure compliance with the COI guidance. Ofcom is willing to work with the COI and other relevant public authorities to explore ways in which this objective can be achieved.
- 6.177 Ofcom is also concerned that some public services may not be accessible from overseas locations because some foreign operators restrict access to 08 number ranges. Ofcom proposes to raise this issue with the European Regulators Group ('ERG'), and to explore the scope for remedial action.
- 6.178 Continuation of Option F1 the status quo would have the following impacts:
- public sector call centres would be advised to follow the guidance provided by the COI on the use of NTS number ranges;
 - it is anticipated that public bodies would become more aware of the COI guidance on the use of NTS number ranges through increased publicity and compliance with the guidelines would increase; and
 - Ofcom would seek to ensure that through its work with the ERG, consumers would have better access from overseas to NTS services.
- 6.179 With regard to the policy objectives outlined in Section 4, Ofcom considers that the impact on consumer protection will depend on the extent to which public sector organisations adhere to the COI guidance. Ofcom would like to see a greater level of compliance with the COI's guidance. If compliance with the guidance becomes more widespread there could be significant benefit in terms of consumer protection.
- 6.180 Ofcom considers that Option F1 would have no significant effects in relation to the other policy objectives.
- 6.181 Ofcom considers that Option E1 would have no impact in relation to the objective of promoting the viability of pay-as-you-go dial-up internet services. Ofcom considers that the objective of promoting competition between SPs is not relevant in the context of public services.

Option F2: Stop public sector organisations using revenue-sharing 08 numbers

- 6.182 Option F2 would involve the banning of public sector organisations from operating on revenue sharing 08 numbers. This option has been considered in response to

concerns raised about the appropriateness of public services using revenue sharing numbers.

- 6.183 It has been argued that permitting public services to use revenue sharing numbers may affect vulnerable members of society who may be more likely to need access to public services and who may have little or no choice but to call the number (i.e. they are “locked in” as discussed above in paragraph 5.68). Preventing public service organisations from operating on revenue sharing number ranges would ensure that consumers are only charged the geographic rate.
- 6.184 Further it has been suggested that permitting public services to use revenue sharing numbers is inappropriate as these services should have been funded through general taxation. However as discussed above, Ofcom considers that it is up to public sector organisations to determine how to fund their services.
- 6.185 Ofcom is concerned about pursuing this option as such an approach that singled out public sector services would be potentially discriminatory, and Ofcom does not consider there is currently sufficient evidence of consumer detriment in relation to the use of 08 numbers by public services to justify such an extreme position. That is to say, such an approach would not in Ofcom's view be a proportionate response to a problem that has been identified.
- 6.186 Implementing this option would have the following impacts:
- public services would have to operate on non-revenue sharing ranges and would not be permitted to fund their services through revenue generated by telephone calls;
 - consumers would be charged a geographic call rate (or an 0800 rate if the department chose to use this number range);
 - vulnerable members of society would not have to pay a call charge higher than for a normal geographic call; and
 - Ofcom would be taking an extreme position which could be difficult to justify in relation to whether it was proportionate or non-discriminatory.
- 6.187 In relation to the policy objectives introduced in section 4, Option F2 performs as follows:
- well in terms of consumer protection and pricing transparency as consumers would either be paying geographic call charges or the service would be provided on an 09 number where consumers have a better awareness of higher prices and that revenue sharing may be involved. This would address the concerns associated with “lock-in” detriment;
 - very poorly in relation to reduced regulatory intervention – it would be a radical step to take and it could be regarded as potentially discriminatory ; and
 - with regard to promotion of competition and range and choice of services, Option F2 would have little impact as public services generally have a duty to provide these services and would continue do so with or without the use of 08 numbers; and
 - with regards to promoting the viability of pay-as-you-go dial-up internet services there would be no impact as this option applies to public sector services.

Overall assessment of the use of NTS numbers by public services options

- 6.188 In the light of the analysis, Option F1 the status quo is Ofcom's preferred option. Ofcom also considers that Option F1 performs best against the policy objectives, particularly in regards to the aim of reducing regulatory intervention.

Questions

Question 2: In connection with Options B4 and B5, Do stakeholders agree with Ofcom's initial view that 0870 calls should be removed from the scope of the NTS Condition if the geographic link between 0870 calls and geographic calls is restored?

Question 3: In connection with Option C3, Ofcom welcomes comments from the industry about the costs and feasibility of extending the scope of the designations of the Plan for the 0844 and 0871 ranges so that they apply to all fixed line services excluding payphones? What period of preparation time should be allowed for should this change is introduced?

Question 4: In connection with Option C3, Ofcom welcomes comments from the industry about the costs and feasibility of extending the scope of the designations of the Plan for the 0844 and 0871 number ranges so that they apply to payphones and mobile phones as well as fixed line services? What period of preparation time should be allowed should this change is introduced?

Question 5: In connection with Option D2, Ofcom welcomes stakeholders' views on its proposal to extend PRS regulation to 0871 numbers after a one-year period.

Question 6: In connection with Option D3, Ofcom welcomes stakeholders views on its proposal to amend the Plan to clarify that sexual entertainment services must use the designated ranges (0908 and 0909) and extend Ofcom's backstop powers to include all adult services regardless of price.

Question 7: Ofcom has identified a range of options for evaluation (A1 to F2). What are stakeholders' views on the options? What other options do stakeholders think Ofcom should consider and why?

Section 7

Proposed approach

Summary of proposals

- 7.1 This section describes Ofcom's proposals to address the policy issues previously described and is based on the evaluation set out in Sections 4 to 6. These proposals are Ofcom's initial view and are subject to the outcome of the consultation process.
- 7.2 Ofcom's view is that this package of proposals would address the policy issues raised by both consumers and industry stakeholders in a vigorous yet proportionate manner, based on the results of the market research and other available evidence.
- 7.3 These proposals do not align directly with any of the options discussed in the October 2004 Consultation. The main proposals are summarised below.
- 7.4 **Restore the geographic link for 0870 calls for calls from all OCPs (Options B4 and B5 for the 0870 range):** following a 12-month interim period, Ofcom proposes to require that calls to 0870 numbers are charged at the same rate as inland calls to geographic numbers, from all OCPs (including payphones and mobile phones), unless a call pre-announcement is made informing the caller of the cost of the call. The requirement would apply on a customer by customer basis: that is, if a customer was on a particular call package, the rate applicable to geographic calls under that package would also apply for 0870 calls. These requirements would be introduced through an amendment to the designation of the 0870 number range in the Plan and an amendment to the General Conditions of Entitlement. It is expected that this proposal would lead to a significant reduction in 0870 call charges, and the extent of revenue sharing on this range.
- 7.5 **Remove 0870 from the scope of the NTS Condition (Option B5 for the 0870 range):** if the geographic link was restored for 0870 calls, Ofcom is inclined to remove the 0870 number range from the scope of the NTS Condition at the same time. It is likely that this would lead to an end to revenue sharing on the 0870 range. However, Ofcom recognises that there are arguments for and against this measure, and would welcome further input from stakeholders on this proposal.
- 7.6 **Price ceilings during the 0870 interim period (detailed as part of Option B5):** during the 12-month interim period, it is proposed that 0870 prices from BT lines should be de-coupled from the standard rates for national geographic calls and would be subject to price ceilings which would be set out in the designation in the Plan. The ceilings would be designed to ensure that retail prices do not rise in nominal terms during the interim period. Also BT has provided a voluntary undertaking aimed at providing TCPs with greater certainty over the level of termination payments during the interim period, should this option be adopted. A copy of BT's letter is attached to this document in Annex 9.
- 7.7 **Two-year interim period for 0845 calls (discussed as part of Option B5):** for 0845 calls, the one off costs of restoring the geographic link appears to Ofcom to outweigh the ongoing annual benefits at the present time, primarily because of the costs involved in migrating pay-as-you-go dial-up internet customers to another number range compared to the benefits that would be achieved. Ofcom therefore proposes a two-year interim period, during which price ceilings would apply to the designation of 0845 calls made from BT lines, in the manner described above in

relation to the 12-month interim period for 0870 calls. BT's undertaking is also designed to increase the level of revenue certainty for TCPs during this period, should the proposal be accepted. Towards the end of the two-year interim period, Ofcom would revisit its assessment to see whether the volume of pay-as-you-go dial-up internet users had declined sufficiently to justify Ofcom restoring the geographic link.

7.8 Extend PRS regulation to 0871 numbers (Options C4, D2 and D3) Ofcom also proposes to extend the PRS regulatory regime to include 0871 calls after a one year interim period to allow SPs to plan for the change. This would provide a greater level of consumer protection in relation to those calls and, in particular, would ensure that such numbers are subject to the ICSTIS Code and also that Ofcom had backstop powers in relation to 0871 calls, which include a number of provisions designed to protect consumers from harm. Amongst other things, it would mean that:

- internet diallers on the 0871 numbers would be subject to the ICSTIS Prior Permissions Regime for internet diallers;
- information on call prices would have to be displayed on promotional material for services using 0871 numbers.

7.9 This proposal will be the subject of a separate consultation and as discussed in Section 6, Ofcom is at the moment only seeking initial views on these proposals.

7.10 Extend the PRS regulatory regime to adult services currently provided on 08 numbers (Option D3) Ofcom proposes to clarify that adult services should only be provided on the 0908 and 0909 ranges that are designated for adult services. This would require all adult services currently provided on 08 numbers to move to the 0908 and 0909 ranges. ICSTIS already regulates adult services provided on the 09 range regardless of price so it would not be necessary for ICSTIS to modify the ICSTIS Code. In addition, Ofcom would need to extend the definition of Controlled PRS, as set out in Ofcom's PRS Condition because that condition currently only relates to services above 10ppm or chatline services and would need to encompass all adult services regardless of price.

This proposal will be the subject of a separate consultation and as discussed in section 6, Ofcom is at the moment only seeking initial views on these proposals.

7.11 CP obligations to provide NTS tariff information (Option C5): In Ofcom's view, the lack of pricing transparency and low level of price awareness has been a major contributory factor to consumer concerns over NTS calls. As one of several measures aimed at tackling this issue, Ofcom is separately proposing to amend General Condition 14 to require OCPs to give greater prominence to NTS prices on price lists, on websites and promotional material. This proposal will be the subject of a separate consultation.

7.12 Continued support for the ASA/CAP advertising guidance (Option C1): Ofcom proposes to continue its support for the ASA/CAP guidance to prevent misleading advertising of 0845 and 0870 services.

7.13 Call centre waiting times (Option E1): Ofcom's research has not produced any evidence that revenue sharing has led to call centre waiting being artificially extended. Ofcom does not therefore propose to restrict the availability of revenue sharing to call centres or to regulate call centre waiting times. However, Ofcom notes that the ICSTIS Code includes an undue delay provision which could potentially be used to tackle unreasonably long waiting times on the ranges covered.

- 7.14 **Continued support for public authorities (Option F1):** Ofcom considers that responsibility for the use made of NTS numbers to provide access to public services lies with the public authorities concerned. Ofcom has been active in providing advice to the COI, and to Government Departments, on the use of NTS numbers, and will continue to provide this support. Ofcom would like to see a greater level of compliance with the COI guidelines, given the level of public disquiet over this issue, and is keen to support the Government in achieving this objective. In addition, Ofcom plans to raise the issue of access to 08 numbers from overseas at the ERG.

Description of proposals by number range

The 0870 range

- 7.15 Ofcom proposes that, following a 12-month interim period, the Plan should be amended to require 0870 calls to be charged at the same rate as calls to geographic numbers, from all fixed and mobile lines, including payphones. If these rates were exceeded, the OCP would be obliged to make a free of charge call pre-announcement, informing the caller of the price of the call.
- 7.16 At the same time, Ofcom would also be inclined to withdraw regulatory support for revenue sharing on the 0870 range. This would be achieved by removing the 0870 range from the scope of the NTS Condition. As a result, BT would no longer be required to retail these calls at cost on behalf of third parties passing on the net retail revenue to the third parties. Ofcom would, however, welcome further stakeholder input on this matter (see Question 2 under paragraph 6.188).
- 7.17 If the link to geographic calls was restored, the charge for an 0870 call may vary between CPs and in accordance with the pricing package the customer is on, in the same way as the charge for geographic calls can vary. However, for any given CP and pricing package, the requirement would be that charges for 0870 and geographic calls would be the same.
- 7.18 This principle would apply in the same way to both fixed and mobile CPs. A mobile CP, therefore, would be required to set its charges for 0870 calls at the same level as its charges for calls to geographic numbers. For all CPs, where a pricing package includes a given number of free call minutes, those provisions would be required to apply in exactly the same way to 0870 and geographic calls.
- 7.19 Similarly, the requirement would be that calls made from payphones to 0870 numbers would be charged at the same rate as calls to geographic numbers.
- 7.20 If a CP or payphone provider wished to charge more for an 0870 call than for a geographic call, it would be required under the Plan to make a free of charge pre-announcement at the start of the call, informing the caller of the charge.
- 7.21 This approach is similar to that currently applied on calls to Freephone numbers, whereby CPs can charge for these calls, but only if they include a free of charge pre-announcement informing the caller of this fact.
- 7.22 Ofcom recognises that the proposed changes would have a significant impact on the SPs that currently use 0870 numbers and the CPs and other suppliers involved in their provision. It therefore proposes a 12-month interim period, to give service providers and suppliers time to plan for the proposed changes.

- 7.23 During this interim period, Ofcom proposes that charges for 0870 calls from BT lines would remain broadly at their current levels. This would be achieved by changing the designation in the Plan, to break the link for BT customers between 0870 charges and BT's standard national call retail prices. Instead, the Plan would specify that prices for 0870 calls made from BT lines would be set by TCPs and should cost no more than:
- 7.91p per minute or per call including VAT during weekday daytime;
 - 3.95p per minute or per call including VAT during weekday evenings; and
 - 1.5p per minute or per call including VAT at weekends;
- where weekdays are defined as Monday to Friday and weekday daytime is defined as 0600 to 1800.
- 7.24 The rates specified above are BT's current standard national call rates before discounts and call packages.
- 7.25 These rates would be the maximum that BT customers could be charged for calls to 0870 numbers and would be the rates that BT customers paying BT's standard rates without discounts and call packages would pay. However, Ofcom would not alter the NTS Condition and therefore BT would retain the ability to offer lower rates to customers who have discount packages or call packages. For example, under the current arrangements most residential BT customers have the BT Together Option 1 package and pay 7.509p per minute or per call including VAT during weekday daytime (before further discounts such as friends and family).
- 7.26 If these interim arrangements were implemented, in order to ensure greater stability in NTS payments for TCPs during the period, BT has given a voluntary undertaking to do the following in regard to 0870:
- in NTS formula pricing calculations, make no changes to the Minimum Call Fee, Headline Retail Price, Average Discounts, Retail Uplift, or Average Short Call Durations, for BT-originated 0870 calls, for a period of 12 months from the publication of the Statement; and
 - BT's actual 0870 retail pricing, discounting and call durations (with regard to the application of discounts) may vary during the period identified above. However, these changes would not affect the per-minute payments made to communications providers.
- 7.27 Under the interim arrangements, the designations indicate a maximum price and TCPs would in principle be able to request lower prices points. However, Ofcom anticipates that there would be little if any demand for different price points from TCPs during this period given that:
- these arrangements are intended to last only for an interim period; and
 - there was a strong view that Ofcom should provide the industry with greater revenue stability by removing the linkage between 0870 charges and BT's standard national call charges and setting a standard rate for 0870 calls.
- 7.28 However, Ofcom notes that if TCPs did decide to request different price points it would be necessary for BT to make changes to its interconnection and billing systems to introduce greater tariffing granularity on the 0870 range to accommodate those requests. The changes would share many of the characteristics associated with Option 2 as proposed in the October 2004 Consultation. In that Consultation, Ofcom reported results of technical consultancy that indicated the changes required

in BT's billing and interconnection systems to implement Option 2 would cost between £641k and £1.1m and take 9 to 13 months to implement. Ofcom's technical advice is that the costs and timescales of implementing new price points on the 0870 range may be similar to those estimated for Option 2. If BT received requests for new price points it would need to consider whether those requests were reasonable. Ofcom's initial view is that if BT only received a small number of requests, the costs and timescales involved may be such that it would be reasonable for BT to refuse those requests based on whether BT could expect to receive a reasonable rate of return on any necessary investment to meet requests at a price the TCP would be willing to pay. All such requests would of course need to be assessed on their merits. However, in practice, different price points for 0870 calls may not be available or at least not at short notice and TCPs that wish to offer their customers different price points may prefer to apply for 0871 blocks instead.

The 0871 range

- 7.29 Ofcom does not propose to change the current pricing and interconnect arrangements for 0871 calls. Under Ofcom's proposals, TCPs and SPs would still be able to select price points up to and including 10p per minute or per call for calls made from BT lines, and BT would still be required to originate calls at cost. The regulatory arrangements that support revenue sharing would therefore continue.
- 7.30 However, in order to address consumer protection concerns, Ofcom is also asking for stakeholders views' on its proposal to extend PRS regulation to 0871 calls. Ofcom proposes that these changes should come into effect at the end of the interim period for the 0870 range. Ofcom would need to extend its backstop powers by amending the Controlled PRS definition to include such calls.
- 7.31 Extending the PRS regulatory regime to include 0871 calls and in particular making them subject to the ICSTIS Code would provide a greater level of consumer protection, including:
- calls to these numbers would be subject to the price display requirements set out in the ICSTIS Code which already apply to 09 calls;
 - internet diallers using 0871 numbers would be subject to ICSTIS's Internet Dialler Prior Permissions regime.
- 7.32 Ofcom has discussed this proposal with ICSTIS, and understands that it is agreeable in principle to the extension. Our understanding is that the change is unlikely to require any amendment of its code. It would, however, involve an increase in ICSTIS's workload, the implications of which ICSTIS is in the process of assessing.
- 7.33 As a first step, Ofcom is asking for stakeholders' views. If after having analysed the responses to the consultation, Ofcom decides to proceed with this proposal, the intention is to issue a consultation setting out the proposals during the interim period.

The 0845 range

- 7.34 The 0845 number range has proved to be the most difficult to address. Ofcom's inclination would have been to adopt the same sort of approach as that proposed above for 0870 calls, were it not for the extensive use made of the 0845 range by pay-as-you-go dial-up internet services. If the geographic link were re-established on the 0845 number range, that would force dial-up ISPs to migrate their customers onto other number ranges, with 0844 being the most likely destination. This would be costly and highly disruptive for consumers. At this stage, Ofcom considers that the

costs of requiring this forced migration would exceed the benefits (see more detailed discussion in Annex 14).

- 7.35 In future, however, the balance of costs and benefits may change. The volume of pay-as-you-go dial-up internet traffic has been falling quite sharply in the past 2-3 years, in association with the growth of broadband, and this trend is expected to continue. At some stage, the one-off costs of forced migration may fall to a level where they are outweighed by the recurring benefits of restoring the link to geographic charges on 0845 calls.
- 7.36 The implementation of next generation networks may also have an impact, in several ways. For example, it could lead to the introduction of IP-based narrowband internet services which would be an attractive alternative for today's pay-as-you-go dial-up internet customers, and which would not require a dial-up connection. Alternatively, next generation network and billing systems may permit different pricing and interconnect arrangements to be applied to adjacent numbers in the same number range. That would open up the possibility of allowing revenue sharing to continue for dial-up ISP traffic, while at the same time allowing restoration of the geographic link on the generality of 0845 calls.
- 7.37 Given these current uncertainties, Ofcom proposes an interim period of two years, during which 0845 charges from BT lines would be designated at up to their current levels. This would be achieved by changing the designation of the 0845 range in the Plan, to remove the link with BT's standard local call retail prices, and instead to specify that BT's charges for 0845 calls can cost no more than:
- 3.95p per minute or per call including VAT during weekday daytime;
 - 1p per minute or per call including VAT during weekday evenings; and
 - 1p per minute or per call including VAT at weekends;
- where weekdays are defined as Monday to Friday and weekday daytime is defined as 0600 to 1800.
- 7.38 The rates specified above are BT's current standard national call rates before discounts and call packages.
- 7.39 These rates would be the maximum that BT customers could be charged for calls to 0845 numbers and would be the rates that BT customers paying BT's standard rates without discounts and call packages would pay. However, Ofcom would not alter the NTS Condition and therefore BT would retain the ability to offer lower rates to customers who have discount packages or call packages. For example, under the current arrangements most residential BT customers have the BT Together Option 1 package and pay 3p per minute or per call including VAT during weekday daytime (before further discounts such as friends and family).
- 7.40 In order to ensure greater stability in NTS payments for TCPs during the period of the interim arrangements, BT has given a voluntary undertaking to do the following in regard to 0845, should the option be implemented:
- In NTS formula pricing calculations, make no changes to the Minimum Call Fee, Headline Retail Price, Average Discounts, Retail Uplift, or Average Short Call Durations, for BT-originated fixed narrowband 0845 calls, for a period of at least 12 months from the publication of the Statement. Thereafter, BT will make any

such changes on only one occasion during a period of 24 months from the publication of the Statement;

- Should there be an adjustment to charges for BT's Network Charge Controlled conveyance components in the NTS formula, during these 12-month (for 0870) and 24-month (for 0845) windows, BT will reflect this in a change to the per-minute payments to CPS; and
- BT's actual 0845 retail pricing, discounting and call durations may vary during the period identified above. However, these changes would not affect the per-minute payments made to communications providers, other than at the single pricing review that may occur for 0845 services.

7.41 Under the interim arrangements, the designations indicate a maximum price and TCPs could in principle request lower price points. However, Ofcom anticipates that there would be little if any demand for different price points from TCPs during this period given that:

- these arrangements are intended to last only for an interim period; and
- there was a strong view that Ofcom should provide the industry with greater revenue stability by removing the linkage between 0845 charges and BT's standard local call charges and setting a standard rate for 0845 calls.

7.42 However, Ofcom notes that if TCPs do decide to request different price points, it would be necessary for BT to make changes to its interconnection and billing systems to introduce greater tariffing granularity on the 0845 range to accommodate those requests. The changes would share many of the characteristics associated with Option 2 as proposed in the October 2004 Consultation. In that Consultation, Ofcom reported results of technical consultancy that indicated the changes required in BT's billing and interconnection systems to implement Option 2 would cost between £641k and £1.1m and take 9 to 13 months to implement. Ofcom's technical advice is that the costs and timescales of implementing new price points on the 0845 range may be similar to those estimated for Option 2. If BT receives requests for new price points, it would need to consider whether those requests are reasonable. Ofcom's initial view is that if BT only received a small number of requests, the costs and timescales involved may be such that it would be reasonable for BT to refuse those requests based on whether BT could expect to receive a reasonable rate of return on any necessary investment to meet requests at a price the TCP would be willing to pay. All such requests would of course need to be assessed on their merits. However, in practice, different price points for 0845 calls may not be available or at least not at short notice and TCPs that wish to offer their customers different price points may prefer to apply for 0844 blocks instead.

7.43 Ofcom proposes to carry out a further review and consultation process before the end of the two-year interim period, to determine subsequent policy.

The 0844 range

7.44 Ofcom does not at this point propose any changes to the pricing and interconnect arrangements for calls to 0844 numbers. TCPs and SPs would still be able to select price points up to and including 5p per minute or per call for calls made from BT lines, and BT would still be required to originate calls at cost. The regulatory arrangements that support revenue sharing would therefore continue.

7.45 Ofcom does, however, consider that there is a need to improve tariff transparency for 0844 calls, and therefore supports the guidance for advertisers recently issued by the

ASA/CAP. The guidance recommends that pricing information be displayed on advertisements featuring 0844 numbers. See Annex 8 for a more detailed description of the guidance.

- 7.46 In addition, as discussed in Section 6, Ofcom is consulting separately on changes to General Condition 14 which would also promote price transparency. These measures, should they be implemented, would apply to the 0844 number range.
- 7.47 As discussed in section 6, should Option B5 be implemented, Ofcom has assumed that the majority of SPs would choose to migrate to the 0871 number range in order to continue to revenue share at a similar level. Although Ofcom has no evidence of significant consumer detriment on the 0844 number range, there are concerns that should either of these options be implemented, some SPs may instead choose to migrate to 0844 numbers in order to avoid being regulated by ICSTIS. As a result, Ofcom proposes to monitor the 0844 number range for any evidence of consumer protection concerns appearing on this range.

Other Measures

- 7.48 Ofcom is also seeking stakeholder views on the proposal to extend the pricing designations in the Plan to apply to all fixed OCPs (excluding payphones) on the 0844 and 0871 number ranges (considered under Option C3).
- 7.49 As discussed in paragraph 6.95, in a period of growing competition, Ofcom feels that pricing designations in the Plan, which only apply to calls made from BT lines, will look increasingly anachronistic. Ofcom is therefore inclined to the view that, at some point in the future, the Plan should be amended so that the price points selected by TCPs for 0844 and 0871 number blocks apply from all fixed lines, excluding payphones.
- 7.50 Views are invited on this proposal, and on the timescale within which implementation would be practicable.
- 7.51 As discussed in paragraph 6.96, Ofcom is aware that Option C3 does not address consumer concerns about high prices for 0844 and 0871 calls made from payphones or mobile phones. These calls raise more difficult issues because of the additional costs involved in making calls of this type, and it is not clear what form a solution might take. Views are also invited on possible approaches to this issue.
- 7.52 In addition to the above, Ofcom will also issue a separate consultation in parallel with this “NTS: A way forward” consultation document, on modifications to General Condition 14 and associated guidelines requiring OCPs to give prominence to NTS in their published price lists, in promotional material and on their websites. The separate consultation will be issued shortly and will be entitled “Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services”
- 7.53 Ofcom is also asking for stakeholders’ views on its proposal to amend the Plan to clarify that adult services should be provided on designated 09 number ranges (0908 and 0909), which would bring them within ICSTIS’s remit. Ofcom also proposes to extend its backstop powers under the PRS Condition, to include all adult services regardless of price. These proposals will be the subject of a separate consultation.

Question 8: Do stakeholders agree with Ofcom's initial view that the package of measures proposed performs best against the evaluation criteria and should be

implemented? If not, what other measures do stakeholders consider should be implemented and why?

Section 8

Other interconnection issues

- 8.1 Within the industry's responses to the October 2004 Consultation, CPs drew Ofcom's attention to a number of detailed implementation issues that they considered Ofcom would need to address in the event that Ofcom decided to proceed with Option 2 (see paragraph 2.12 of this document).
- 8.2 The focus of Ofcom's work on the NTS Framework Re-examination has necessarily been the future of the NTS regime at a strategic level, and Ofcom has not considered in detail the additional implementation issues at any length with stakeholders. In addition, Ofcom considers that many are issues that are not new since they also arise under the current NTS regime and may be best addressed by Ofcom and the Industry via the NTS Focus Group and other 'business as usual' channels.
- 8.3 Nevertheless, Ofcom considers that it is useful to list these detailed additional issues here (to the extent that they are not already mentioned elsewhere in this document) and to seek stakeholders' views on how these issues might be resolved in the best interests of Industry and consumers.
- 8.4 The issues are:
- the network tariff gradient;
 - new price points and timescales for their introduction;
 - what opting into discounts means;
 - responsibility for payment of transit charges;
 - long/short call duration mechanism for calculating 0845 interconnection payments; and
 - OCP specific call origination charges.

The network tariff gradient

- 8.5 The network tariff gradient is a mechanism by which BT is able to apportion network costs to calls carried at different times of the day and week (i.e. the day, evening and weekend charging periods). Changes to the network tariff gradient by BT will cause changes in the terminating payments to TCPs. Currently the network tariff gradient is linked to BT's retail tariff gradient for all local and national calls. CPs are keen to understand how frequently and by what methodology BT would seek to change the network tariff gradient in future, especially in relation to number ranges that continue to have regulatory support for revenue sharing.

Ofcom's Comments

- 8.6 BT's network tariff gradient is a direct function of its retail gradient calculated across all local and national (including NTS) call volumes and revenues. From the total volumes and revenues in any financial year BT can calculate the average pence per minute for all inland calls during the daytime, evenings and weekends. These are then expressed as a function of the 24 hour average pence per minute achieved for all calls.

- 8.7 The network tariff gradient was last adjusted in April 2001 using the results from the 1999/00 financial year. Only when the retail gradient in any year varies by more than 5% from the network gradient, does BT consider re-aligning the network gradient to reflect changes in the overall traffic distribution. To date, the variations seen have not justified a further re-alignment
- 8.8 Ofcom is aware that some CPs are concerned at BT's ability to change the network gradient thereby changing its call origination and transit charges at the various times of day. This has a knock-on impact on NTS outpayments and ultimately TCPs' NTS revenues. CPs are also concerned at the lack of visibility given by BT in how the retail gradient is calculated and the criteria BT uses to decide whether or not to adjust the network gradient.
- 8.9 Ofcom acknowledges these concerns but notes that the network tariff gradient applies to all BT wholesale conveyance and transit products and is not unique to NTS. Any issues should therefore be raised with BT as a general concern and are not within the scope of this document to address.

New price points and timescales for their introduction

- 8.10 CPs expressed a preference for a limited number of different retail price points for 0845 and 0870 calls in the event that Option 2 was implemented, to maximise clarity for consumers and to minimise the costs of introducing and maintaining multiple price points for CPs. Ofcom can see the advantages of trying to limit the proliferation of different retail price points, but is unclear of the objective basis on which a 'permitted' range of retail price points could be arrived at if this were required.
- 8.11 As a separate issue, CPs have also stated that they consider that, under the existing 0844/0871 model there is currently a mismatch in timescales. They consider that BT is able to make retail price changes with only 56 working days notice compared with 45 working days to implement a new number range on an existing price point and 85 working days to implement a new number range on a new price point for 0844/0871. As a result these CPs feel that any new model adopted for 0845 and 0870 needs to address these types of anomalies to ensure a level playing field.

Ofcom's Comments

- 8.12 Now that Ofcom is no longer proposing to adopt Option 2, any issues surrounding new price points in 0845/0870 are unlikely to arise. Instead Ofcom is proposing to implement an interim solution whereby the designations for 0845 and 0870 would reflect a maximum charge, which is at their present level (7.91/3.95/1.50p per minute for 0870 and 3.95/1.00/1.00p per minute for 0845). In addition, BT has given an undertaking not to change various charges and discounts available to its retail consumers for a period of, at least, one year from the date the interim arrangements come into effect. Assuming that Ofcom's proposal is confirmed, then after one year, the 0870 numbers would be removed from the scope of the NTS Condition and calls to those numbers should then be eligible for the same discounts and call options available on BT's geographic calls.
- 8.13 During the interim period for 0845 numbers and based on the undertaking given, BT may, however, seek to change the discounts it applies to 0845 numbers after the first year of the interim arrangements. However any changes BT may make are unlikely to affect TCPs' termination payments during the two year period of interim arrangements, owing to the time it takes for BT to be able to calculate the change to

the average Retail Discount Factor ('RDF') resulting from any new or amended discounts.

- 8.14 Under the process for reviewing its discounts BT uses actual call volume and revenue data recorded over a full 12 month period after any new discounts take effect. The net revenue received for 0845 calls (after discounts) is compared with the total revenue BT would have received if all calls were priced at the full headline rate currently at 3.95/1/1 p per minute. BT's RDF is the percentage difference between these two figures.
- 8.15 This use of actual revenue data over a full financial year serves to eliminate any seasonal effects but it does also mean that BT may not be able to propose a change to the RDF for 0845 calls for at least one year after any changes to its discounts. By this time Ofcom should have completed its review of future 0845 arrangements.

What opting into discounts means

- 8.16 Under the previously proposed Option 2, Ofcom envisaged that TCPs would have the ability not only to set the retail price (in accordance with the Plan) for blocks of 0845 and 0870 numbers which have been allocated to them by Ofcom, but also to opt their number blocks into or out of BT retail discount schemes. CPs have expressed a desire for clarity about which of the various BT retail discount schemes are applicable, in the event that a TCP decides to opt into BT's discounts.
- 8.17 BT's RDF is the mechanism by which BT calculates the reduction in terminating payments made by BT to TCPs, to take account of the reduced revenue BT receives from customers where NTS calls are subject to BT's retail discount schemes. CPs have also asked that the data that BT uses to calculate the RDF and the frequency with which BT makes changes to the RDF be clarified.

Ofcom's Comments

- 8.18 Ofcom is no longer proposing to implement Option 2 and there are no plans to enable TCPs to opt in or out of discounts applicable to 0845 and 0870 calls, during the period of the interim arrangements. Therefore Ofcom considers that this issue does not require clarification at this point.

Responsibility for payment of transit charges

- 8.19 Current practice regarding the payment of transit charges on NTS calls varies by number range, with the OCP currently paying transit charges for 0844/0871 calls, and the TCP currently paying transit charges for all other NTS calls types.
- 8.20 Under the previously proposed Option 2, the retail pricing and interconnection arrangements for 0845/0870 calls would have become very similar to those for 0844/0871 calls, so it could have been viewed as inconsistent to have different practical arrangements for the payment of transit charges.

Ofcom's comments

- 8.21 When Oftel introduced the 0844 and 0871 ranges as 'new NTS' in 1999 ('the 1999 statement') it established the principle that the OCP should reflect any transit charges in their retail price for these calls. This was because Oftel intended that retail prices would comprise the sum of the TCP's required outpayment plus the OCP's originating retention plus any transit charges. In the event, instead of TCPs setting

their outpayment, they select a retail price from a pricing ladder established by BT and receive whatever outpayment results after BT's call origination charge is deducted. In effect, therefore, both 0844/0871 and 0845/0870 call prices are set by the TCP, having chosen a price charged by BT. On the 0845 and 0870 number ranges, there is a single price point available for each, so in effect, by choosing to use these ranges, the TCP is also selecting the price point. In other words the principle behind who sets the prices of 0844/0871 and 0845/0870 calls is essentially the same.

- 8.22 This means that there is no real reason for the principle of 'who pays for transit' for both 0845/70 and 0844/71 calls to differ either. Oftel initially set the principle that TCP should pay for NTS transit for two reasons. Firstly, unless they charge more than BT for NTS calls or have significantly lower costs than BT, OCPs are unable to retain any retail profit for NTS calls. For this reason Oftel decided that the provider who receives the profit should bear the transit costs i.e. the TCP. Otherwise OCPs could face originating calls at a loss in order to compete with BT on price or be forced to charge more than BT simply to cover their origination costs plus transit charges.
- 8.23 Secondly, unlike geographic calls where OCPs purchase call termination from TCPs at cost based rates, TCPs were now purchasing NTS call origination from OCPs at cost. It was, therefore, considered that TCPs should bear all the costs of having the calls conveyed to their networks.
- 8.24 Ofcom now considers that having two different transit payment principles for 0845/0870 and 0844/0871 traffic is no longer justified and therefore suggests that the same arrangement should apply for all NTS calls following the principle of TCP pays.
- 8.25 However, since the 1999 statement, which established the 'new NTS' regime, has lapsed, Ofcom considers that it is now for BT and the NTS industry to discuss and agree any new transit payment arrangements subject to any SMP obligations to which BT is subject.

Mechanism for calculating long/short call duration interconnection payments for 0844 and 0871 calls

- 8.26 The NTS Focus Group has been discussing the issue of the minimum retail call charge for calls made by BT customers, and whether this should be reflected in a minimum termination payment from BT to TCPs for calls to 0844 and 0871 numbers. Under the current NTS regime, this issue also arises for calls to 0845 numbers, and has been addressed using an estimation technique based on long and short call durations.

Ofcom's comments

- 8.27 Ofcom understands that agreement has been reached on a methodology for applying short and long duration charges to 0844/0871 calls and that this is in the process of being implemented.

OCP specific call origination charges

- 8.28 At least two OCPs have for some time, sought to agree a method whereby they can retain different amounts for originating NTS calls than the equivalent BT charges, in order to reflect an OCP's costs of originating these calls. These providers hold that their network costs and business aspirations are inherently different from BT's such

that there is no justification for BT's charges to be held as representing any other OCP's costs.

- 8.29 The OCPs have sought to negotiate with BT to retain their own charge for calls which BT terminates and for calls which BT transits to TCPs. BT has, to date, refused to accept different payments from the OCPs who in turn have asked Ofcom to establish a principle that BT should be prepared to allow OCPs to retain their own specific charges.

Ofcom's comments

- 8.30 Oftel considered this issue on a number of occasions following NTS Focus Group discussions and within the scope of earlier disputes brought by one CP. At that time, Oftel concluded that the sheer complexity of managing OCP specific retentions together with TCPs specific out payments was an unreasonable demand on BT's wholesale billing systems. Given that there are probably more than one hundred OCPs and a larger number of TCPs, BT's billing systems simply could not manage a situation where its payments to any one TCP may vary for calls originated by each of one hundred or more OCPs. Furthermore, in many cases BT is unable to identify the OCP at the time the call is being transited.
- 8.31 Ofcom considers that agreements for OCPs to retain their specific charges can be achieved through negotiation between the OCP and the TCP to whose service they are originating calls. Ofcom therefore recommends that OCPs consider external payment agreements with TCPs which by-pass the BT transit payment system.

Section 9

Next steps

- 9.1 The closing date for responses to this consultation is 6 December 2005. Guidance on how to respond is set out at Section 11. Following receipt and consideration of responses, Ofcom will set out its decision and the changes to the NTS regime to be implemented in a Statement likely to be published in the first quarter of 2006. The Statement will state Ofcom's policy decision and if this is the preferred approach specified in Section 7, Ofcom will also confirm the changes to the Plan and the 08 numbering application form required to implement the interim arrangements for the 0845 and 0870 ranges.
- 9.2 The purpose of this section is to set out at a practical level the steps that Ofcom might need to take to create the legal framework for its preferred approach. Other than for the interim arrangements, the precise details of the steps required has not at this stage been fully established, the list of measures is indicative, and should be considered to be subject to change.

The interim solution for the 0845 and 0870 ranges

- 9.3 To implement the interim solution for the 0845 and 0870 ranges, it would be necessary for Ofcom to modify the designations of these ranges in the Plan, to remove the linkage with BT's standard local and national call retail charges.
- 9.4 If after having considered the responses to the consultation, Ofcom wishes to proceed with implementation of its preferred approach, it would like to do so without further delay. Therefore, Ofcom has included the necessary notification of proposed changes to the Plan and the associated draft Direction to modify the 08 numbering application form as Annexes 11 and 12 of this document. Ofcom would therefore expect the interim solution for the 0845 and 0870 ranges, if confirmed, to begin when Ofcom publishes the statement following this consultation in the first quarter of 2006.

Extend PRS regulation to 0871 numbers

- 9.5 As noted in Section 6, Ofcom considers that 0871 numbers should be brought within the current regulatory regime for PRS which would, in effect, mean that services using the 0871 number range would have the same obligations as those using 09 numbers. This would require ICSTIS agreement to extend the scope of its regulation through its approved Code to 0871 numbers and Ofcom would need to extend the definition of those services which are currently defined as Controlled PRS, as set out in Ofcom's PRS Condition in order to ensure that it has equivalent backstop powers to enforce ICSTIS regulation of 0871 numbers. Ofcom has asked for stakeholders' views in this consultation. If after having analysed the responses to the consultation, Ofcom decides to proceed with this proposal, it intends to issue a consultation during the one-year interim period setting out its proposals in detail.

Extend PRS regulation to adult services currently provided on 08 numbers

- 9.6 As noted in Section 6, Ofcom considers that it should clarify that adult services should only be provided on the 0908 and 0909 number ranges. This would require adult services within the scope of ICSTIS regulation which already applies to 09 numbers. Ofcom also considers that in conjunction with this proposal that it should extend its backstop powers in relation to these services by modifying the definition of

Controlled 'PRS' to capture all adult services regardless of price because its powers currently only relate to calls above 10ppm or chatline services. Ofcom has asked for stakeholders' views in this consultation. If after having analysed the responses to the consultation, Ofcom decides to proceed with this proposal it intends to publish a consultation setting out its proposals in detail. Ofcom intends to combine the consultation on adult services with the consultation on extending PRS regulation to the 0871 range.

Changes to General Condition 14

- 9.7 As indicated in Section 6 Ofcom intends to issue a separate consultation on its proposals to modify General Condition 14 to, amongst other things, require CPs to give greater prominence to their charges for NTS calls. Ofcom will publish the consultation shortly.

Re-establishing the link to geographic call charges on the 0870 range

- 9.8 Ofcom's preferred solution involves re-establishing the link between 0870 call charges and geographic call charges after the interim solution has been in operation for 12 months. To achieve this it would be necessary to make a further modification to the Plan and the General Conditions, to require all OCPs (including calls from mobiles and payphones) to charge 0870 calls at their geographic call rates or to make a free of charge price pre-announcement if OCPs want to deviate from their geographic call rates.
- 9.9 To ensure that the proposed changes could be implemented 12 months after the introduction of the interim arrangements, Ofcom would consult on the proposed changes during the interim period.
- 9.10 If after having reviewed the responses to the consultation, Ofcom wished to implement the proposed changes, Ofcom would issue a final notification implementing the necessary changes.

Removal of the regulatory support for revenue sharing on 0870

- 9.11 In conjunction with re-establishing the link between 0870 call charges and OCPs (including mobiles and payphones) geographic call charges, Ofcom's preferred approach also involves the withdrawal of regulatory support for revenue sharing on the 0870 range. To implement this, it would be necessary for Ofcom to remove 0870 from the scope of the NTS Condition.
- 9.12 Ofcom's initial thoughts are that the necessary consultation on these changes could be combined with the consultation on the changes to re-establish the geographic link on 0870 (as described above).

Review of the interim arrangements for the 0845 range

- 9.13 Ofcom's preferred approach involves a review of the interim arrangements for the 0845 range. Ofcom therefore intends to undertake a review towards the end of the two-year interim period and issue a consultation setting out its findings and its proposals resulting from the review.

Important advice to communications providers and service providers

- 9.14 CPs and SPs are reminded that Ofcom is consulting on the proposals described in this document; they are therefore subject to change. Depending on the responses to the consultation, some or all of the proposals may be revised or not implemented at all.
- 9.15 Also, Ofcom announced in its Annual Plan for 2005/06 that it intends to undertake a strategic review of its numbering strategy. At this stage, work on the strategic review is not far enough advanced to gauge the impact on the 08 number ranges potentially affected by the proposals in this consultation. However early research does indicate that demand from SPs for numbers in the 0870 and 0871 ranges is such that they may become exhausted in the medium term. Allocation of numbers in the 0844 range is presently growing faster than in any other range; that range may also become capacity-constrained in time. Ofcom is therefore considering whether a wider restructuring of the 08 range is required to provide greater clarity to consumers on matters such as whether a number is linked to geographic pricing or is used for revenue-sharing and to address the potential capacity limitation. Ofcom hopes to be able to give greater clarity as to the impact (if any) when it publishes the statement in the first quarter of 2006.
- 9.16 Ofcom therefore strongly advises CPs and SPs not to act on the basis of these proposals as far as they relate to number migration, but to wait until Ofcom has published its statement setting out its decision. In particular, Ofcom cautions against any migration of services to new numbers within the 08 range at this stage. This will avoid any chance of migration to number ranges that may subsequently be affected by any restructuring that proves necessary.

Section 10

Consultation on changes to the Plan and the 08 application form

10.1 As discussed in Section 7 Ofcom proposes to modify the designations in the Plan for the 0845 and 0870 ranges for an interim period. It is Ofcom's duty when proposing a modification to the Plan (and any modifications to a new telephone numbering application form) to show how it considers that its proposals comply with the legal tests in the Act. The notification setting out the proposed modifications to the Plan is at Annex 11. The notification setting out the proposed direction modifying the application form for 08 numbers is at Annex 12.

Consultation on the proposal to modify the plan

10.2 The effect of the modification to the Plan would be to amend the designations for the 0845 and 0870 number ranges to implement the interim part of the policy option preferred by Ofcom. Currently the designation for those number ranges is that calls are charged at BT's Standard Local Retail Price and BT's Standard National Retail Price for 0845 and 0870 numbers respectively.

Proposals

10.3 Ofcom proposes to modify the designation in the Plan for the 0845 number range for the interim period of two years. Under the proposed interim designations calls would be charged (before discounts and call packages) at up to:

- 3.95p per minute or per call during the Weekday Daytime;
- 1p per minute or per call during Weekday Evenings; and
- 1p per minute or per call other than during a during Weekday

10.4 Under the proposed policy the designation for the 0870 number range for the interim period of 12 months would be that calls would be charged (before discounts and call packages) at up to:

- 7.91p per minute or per call during the Weekday Daytime;
- 3.95p per minute or per call during Weekday Evenings; and
- 1.5p per minute or per call other than during a during Weekday

10.5 In both cases the designation relates to calls by BT customers and the charges are to be set by the TCP, inclusive of Value Added Tax. The prices charged by other OCPs may vary.

10.6 Definitions of 'Daytime', 'Evening' and 'Weekday', which are terms used in the new proposed designations of the 0845 and 0870 number ranges, would also be added to the Plan. Daytime would mean 0600 hours to 1800 hours, Evening would be at any other time and weekday means Monday to Friday inclusive. In addition, the definitions of 'BT's Standard Local Retail Price', 'BT's Standard National Retail Price', 'Local Call' and 'National Call' would be deleted as these definitions would no longer be needed.

- 10.7 There would also be consequential administrative changes to the Scheme to ensure that it continues to be consistent with the Plan (should the Plan be modified as proposed) but Ofcom is not required to consult on those changes.

Policy objectives

0845: change to the designation in the Plan pending further review within two years

- 10.8 As discussed in paragraph 4.23 the current designation for the 0845 range creates revenue uncertainty for TCPs because call termination charges for 0845 calls are linked to BT's standard local call charges. Thus TCPs other than BT are unable to exert any control or influence over the revenues they receive for call termination. The current designation creates conflicting incentives which have led to a number of disputes.
- 10.9 The aims of the proposed change to the designation of the 0845 range are twofold:
- firstly to give TCPs greater certainty about 0845 call termination charges by removing the linkage to BT's standard local call charges and establishing that in principle that TCPs can select the retail price for calls made by BT customers subject to the designations in the Plan (discussed in paragraph 7.37); and
 - secondly to minimise the chance of the prices paid by consumers for 0845 calls rising after the changes are implemented. This would be achieved by applying a price ceiling in the designation that is equal to BT's current standard local retail call charge (discussed in paragraphs 7.7)
- 10.10 Ofcom's current view is that the revised designation should apply for an interim period of approximately two years during which Ofcom would undertake a further review to determine whether pay-as-you-go dial-up internet traffic on the 0845 range has declined sufficiently for it to be beneficial to re-establish the linkage between 0845 call charges and geographic charges for all OCPs. Ofcom's view is that a period of two years is appropriate because:
- it should allow sufficient time to assess the likely ongoing demand for pay-as-you-go dial-up internet access on 'traditional' networks (as discussed in paragraph 7.35);
 - the likely impact of migration from pay-as-you-go dial-up internet access to broadband access;
 - during that period, ongoing pay-as-you-go dial-up internet access demand may be supplied by new IP based network services not requiring 0845 access; or
 - new IP networks developed during that period may be capable of greater billing granularity, potentially enabling alternative solutions to be considered, such as allowing revenue sharing to continue for ISPs without migration, while the geographic link could be restored for other services (see paragraph 6.49).

0870: change to the designation in the Plan for an interim period of 12 months followed by further amendment to the Plan to restore the link to geographic pricing.

- 10.11 As discussed in paragraph 4.19, the current designation for the 0870 range creates revenue uncertainty for TCPs because call termination charges for 0870 calls are linked to BT's standard national call charges. Thus TCPs other than BT are unable to exert any control or influence over the revenues they receive for call termination. The

current designation creates conflicting incentives which have led to a number of disputes.

10.12 The aims of the proposed change to the designation of the 0870 range are:

- to give TCPs greater certainty about 0870 call termination charges by removing the linkage to BT's standard national call charges and establishing that in principle that TCPs can select the retail price for calls made by BT customers subject to the designations in the Plan (discussed in paragraph 7.23);
- to minimise the chance of the prices paid by consumers for 0870 calls rising after the changes are implemented. This would be achieved by applying a price ceiling in the designation that is equal to BT's current standard national retail call charge (discussed in paragraphs 7.6 and 7.23).

10.13 As discussed in paragraph 7.4, Ofcom is consulting on a proposal to re-establish the linkage between 0870 call charges and geographic charges for all OCPs. The revised designations proposed above are therefore intended as an interim measure that would apply until those changes are implemented. As discussed in paragraph 7.6, Ofcom is proposing a 12-month interim period pending the re-establishment of the linkage to geographic charges. Ofcom considers that this period is appropriate because:

- it would allow sufficient time for services which are dependent on revenue sharing to migrate to other ranges and to inform their customers;
- for those SPs that move to new numbers, introducing a 12-month delay would reduce cost of replacing stationery and other promotional materials by allowing SPs to run down existing stocks;
- SPs would have time to renegotiate their contracts with TCPs (if necessary) to take account of the reduction in revenue available for sharing;
- SPs would have time for migration to other NTS numbers if necessary; and
- in the interests of price transparency, the 12-month delay would enable the impending changes to 0870 prices to be communicated to consumers.

Legal tests

10.14 Ofcom is satisfied that the proposal for a modification to the Plan meets the tests set out in section 60(2) of the Act being:

- **objectively justifiable** - As part of proposed policy, the interim arrangements for the 0845 and 0870 ranges are designed to provide industry certainty since the linkage to BT's geographic charges would be removed and TCPs would be responsible for specifying retail prices for calls from the BT network. The revised designations would also reduce the chance of retail price rises for 0845 and 0870 calls for consumers during the interim period resulting from the changes. The modification does not specify a date for the ending of each interim period because Ofcom would consult separately on the detailed replacement arrangements at that time. Ofcom further considers the interim periods are justified in that they would allow TCPs, in principle, to select their required retail prices for 0845 and 0870 calls subject to the price ceilings. In reality, however, this may be difficult to achieve and may lead to disputes between communications providers. In the case of 0845, the interim period would allow time for the future demand for pay-as-you-go dial-up internet access services to be assessed and whether these services could be supplied in some other way by

forthcoming IP based networks. In the case of 0870, the interim period would give TCPs and SPs time to review their commercial arrangements and to migrate services, which rely on revenue sharing, to other ranges if that is their preferred response. The interim period would allow time for SPs to plan for the change, in relation to any new stationery and marketing materials etc., thereby minimising any migration costs.

- **not unduly discriminatory** Although the proposed modifications do refer explicitly to the prices paid by BT customers, Ofcom does not consider this to be unduly discriminatory since the majority of retail consumers of 0845 and 0870 services (around 70%) are customers of BT. To ensure that the maximum prices for calls to those numbers would not increase for the majority of consumers during the interim period, the designations in the Plan would continue to apply to the prices of calls from BT lines.
- **proportionate**, in that the proposed modification to the plan is considered to be the minimum revision necessary to achieve the policy objectives of industry certainty and consumer protection from price increases by ensuring that the existing charging profiles for calls to 0845 and 0870 numbers are preserved during the interim period. Ofcom also considers that the proposals are proportionate because they are designed to put in place an interim arrangement which can facilitate a smooth transition to subsequent arrangements on 0870 and allows a period of review for 0845 numbers.
- **transparent**, in that the Notification proposing the modification to the Plan is set out in Annex 11 to this consultation and the reasons and effect of the proposals are set out in this consultation document.

10.15 In making its proposals, Ofcom considers that it is fulfilling its duty in section 63 of the Act (which refers to Ofcom's general duty as to telephone numbering functions), namely that Ofcom is:

- securing the best use of appropriate numbers, in that (for the reasons set out in Section 4 of this document), the revised designations proposed for the 0845 and 0870 ranges would continue to allow these numbers to be used for the provision of value-added services; and
- encouraging efficiency and innovation, in that by defining the maximum prices as part of the designation that apply to 0845 and 0870 calls for BT customers, the proposal ensures that those applying for numbers understand what retail pricing arrangements would apply to their services when using these numbers and so providers will be using the most relevant number to provide their service.

10.16 Section 3 of the Act specifies certain general duties that Ofcom must comply with when carrying out its functions. Section 3(1) of the Act sets out one such duty as:

- (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.

10.17 Ofcom considers that its proposals are consistent with its general duties in section 3 of the Act because:

- they provide additional revenue certainty for TCPs and therefore for SPs. Ofcom considers that this would promote the continued interoperability and availability of services to consumers and would also assist in the promotion of competition;

- in relation to the 0870 range, Ofcom considers that the proposals would give TCPs and SPs a period of stability to allow them to prepare for the further changes proposed at the end of the 12-month interim period. Ofcom considers this would also promote the continued availability of services to consumers and would also help to minimise the disruption to consumers by allowing SPs to make an orderly transition to the new arrangements;
- they would support the continued provision of pay-as-you-go dial-up internet services which Ofcom considers to be an important means for consumers to access the internet and would permit competition to continue between SPs; and
- they would also reduce the chance of retail price rises for consumers resulting from the changes.

10.18 In proposing the modification to the Plan, Ofcom has also considered the Community obligations set out in section 4 of the Act, particularly the requirement to promote competition in the provision of electronic communications networks and electronic communications services, the requirement to promote the interests of all persons who are citizens of the European Union and the requirement to encourage and facilitate service inter-operability. For the reasons explained in the paragraph above, Ofcom also consider that the proposal for modifications to the Plan meet these requirements.

Consultation on the proposal to modify the application form for 08 numbers

10.19 The proposed modifications to the application form are largely administrative, to ensure that it would be consistent with the new designations for the 0845 and 0870 number ranges in the Plan proposed above. Ofcom is consulting on a draft Direction under paragraph 17.9 of the General Condition 17. Condition 17.9 states that:

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

(a) use an appropriate application form as directed by [Ofcom] from time to time as [they] think fit;

(b) provide such information as is required by such application form; and

(c) provide to [Ofcom], on request, any other information considered by [Ofcom] to be relevant to the application, and the supply of which does not place an undue burden on the Communications Provider.”

10.20 Ofcom is also taking this opportunity to propose further modifications to the numbering application form for 08 numbers to remove Section A4, which currently refers to the now defunct Register of providers of Public Electronic Communications Networks (‘PECN register’).

10.21 Section A4 has been removed because it is no longer relevant. Ofcom decided in its Statement – Discontinuation of conditions and directions continued in July 2003 from licences made under the Telecommunications Act 1984,

<http://www.ofcom.org.uk/consult/condocs/Prop1984tele/197129/Discontinuation.pdf>

except for certain specific provisions – issued 11 November 2004, not to go ahead with the PECN register.

10.22 As set out in the statement Ofcom “recognised that the proposed PECN register seemed to contradict the spirit of the new regulatory framework, and that was of particular concern to Ofcom. The move from a licensing regime to a system of general authorisations was intended as a step towards a more normal commercial environment, in which Communications Providers did not require permission from a regulator to be in business. The proposed PECN register could have undermined that approach, and the change in mindset that it was intended to promote, and could only be justified if it provided substantial value. Ofcom did not believe that to be the case”.

10.23 In line with this, Section A1 of the application form, entitled ‘Confirmation of Status’ has also been revised to reflect the removal of Section A4. The following text has been removed from Section A1:

”It is not Ofcom’s intention for a Communications Provider to be assessed more than once to determine whether or not it is a provider of a Public Electronic Communications Network.

Therefore, please now complete question A4. If you have answered ‘yes’ to question A4(a), you do not need to answer questions A1(a) and (b) below.

If you have not registered i.e. you have answered ‘no’ to question A4(a), Ofcom needs certain information from you in order to determine whether or not you are a provider of a Public Electronic Communications Network”

10.24 The effect of the Direction would be to modify the telephone numbering application form for 08 Telephone Numbers. A Notification of the draft direction is at Annex 12, and the proposed modified application form for 08 numbers is attached. Ofcom is satisfied that the modified application form is appropriate for application for 08 numbers and that the draft direction meets the tests set out in section 49(2) of the Act, in that it is:

- **objectively justifiable**, in that it relates to the need to change certain text on the application form to ensure it is consistent with the proposed new designations of the 0845 and 0870 number ranges in the Plan and also to reflect the policy approach to the PECN register, both as set out above;
- **non-discriminatory**, in that all CPs affected by the direction would have to use the same forms, and the proposed modifications would be applicable to all applicants;
- **proportionate**, in that the changes to the application form proposed are the minimum necessary to ensure the form is consistent with the proposed new designations in the Plan and the policy approach in relation to the PECN register, and the form only requests the minimum information necessary for Ofcom to make a decision on whether the applicant is eligible to be allocated telephone numbers, or to be allocated further telephone numbers.
- **transparent**, in that the draft direction, and its effect, have been set out in this consultation and will be set out in the forthcoming statement and determination at the end of the consultation period.

10.25 In proposing the draft direction, Ofcom has considered its general duties in carrying out functions as set out in section 3 of the Act, in particular the requirement to further the interests of citizens in relation to communications matters and consumers in relevant markets, by making available an up-to-date application form for CPs to request allocations of 08 telephone numbers, which may then be provided to citizen consumers in order to access 08 services.

- 10.26 In proposing the draft direction, Ofcom has also considered the Community obligations set out in section 4 of the Act particularly the requirement to promote competition in the provision of electronic communications networks and electronic communications services, and the requirement to promote the interests of all persons who are citizens of the European Union. For the reasons explained in paragraph 10.17 above Ofcom also considers that the proposal for modifications to the 08 application form meets these requirements.
- 10.27 The direction would become redundant and would not be made unless the modification to the Plan proposed above is made.

Question 9: Ofcom proposes to modify the Plan in relation to the designations for 0845 and 0870 numbers as shown in Annex 11. Do you have any specific comments on the proposals to modify the Plan in this manner?

Question 10: Do you have any comments on Ofcom's proposed revised telephone numbering application form (as set out in Annex 12) for 08 numbers?

Section 11

Responding to this consultation

How to respond

- 11.28 Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on 6 December 2005**
- 11.29 Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 2), among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.
- 11.30 Please can you send your response to nts@ofcom.org.uk.
- 11.31 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Clive Hillier
Floor 4
Competition Group
Riverside House
2A Southwark Bridge Road
London SE1 9HA
Fax: 020 7783 4103
- 11.32 Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.
- 11.33 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 3. It would also help if you can explain why you hold your views, and how Ofcom's proposals would impact on you.

Further information

- 11.34 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Clive Hillier on 020 7783 4674.

Confidentiality

- 11.35 Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt (when respondents confirm on their response cover sheet that this is acceptable).
- 11.36 All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any

confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

- 11.37 Ofcom reserves its power to disclose any information it receives where this is required to carry out its legal requirements. Ofcom will exercise due regard to the confidentiality of information supplied.
- 11.38 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use, to meet its legal requirements. Ofcom's approach on intellectual property rights is explained further on its website, at www.ofcom.org.uk/about_ofcom/gov_accountability/disclaimer.

Next steps

- 11.39 Following the end of the consultation period, Ofcom intends to publish a statement in the first quarter of 2006.
- 11.40 Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

- 11.41 Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 1), which it seeks to follow, including on the length of consultations.
- 11.42 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.
- 11.43 If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Vicki Nask, Director, Ofcom Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St Vincent Street
Glasgow G2 5NW
Tel: 0141 229 7401
Fax: 0141 229 7433
E-mail: vicki.nash@ofcom.org.uk

Annex 1

Ofcom's consultation principles

A1.2 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A1.3 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A1.4 We will be clear about who we are consulting, why, on what questions and for how long.

A1.5 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A1.6 We will normally allow ten weeks for responses to consultations on issues of general interest.

A1.7 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A1.8 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

A1.9 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 2

Consultation response cover sheet

- A2.1 In the interests of transparency, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, without disclosing the specific information that you wish to remain confidential.
- A2.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.
- A2.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their cover sheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A2.4 We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.
- A2.5 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Number Translation Services: A way forward

To (Ofcom contact): Clive Hillier

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom’s website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name Signed (if hard copy)

Annex 3

Consultation questions

- A3.1 Question 1: Do stakeholders agree with Ofcom's description of the policy issues and Ofcom's policy objectives?
- A3.2 Question 2: In connection with Options B4 and B5, Do stakeholders agree with Ofcom's initial view that 0870 calls should be removed from the scope of the NTS Condition if the geographic link between 0870 calls and geographic calls is restored?
- A3.3 Question 3: In connection with Option C3, Ofcom welcomes comments from the industry about the costs and feasibility of extending the scope of the designations of the Plan for the 0844 and 0871 ranges so that they apply to all fixed line services excluding payphones? What period of preparation time should be allowed for should this change is introduced?
- A3.4 Question 4: In connection with Option C3, Ofcom welcomes comments from the industry about the costs and feasibility of extending the scope of the designations of the Plan for the 0844 and 0871 number ranges so that they apply to payphones and mobile phones as well as fixed line services? What period of preparation time should be allowed should this change is introduced?
- A3.5 Question 5: In connection with Option D2, Ofcom welcomes stakeholders' views on its proposal to extend PRS regulation to 0871 numbers after a one-year period.
- A3.6 Question 6: In connection with Option D3, Ofcom welcomes stakeholders views on its proposal to amend the Plan to clarify that sexual entertainment services must use the designated ranges (0908 and 0909) and extend Ofcom's backstop powers to include all adult services regardless of price.
- A3.7 Question 7: Ofcom has identified a range of options for evaluation (A1 to F2). What are stakeholders' views on the options? What other options do stakeholders think Ofcom should consider and why?
- A3.8 Question 8: Do stakeholders agree with Ofcom's initial view that the package of measures proposed performs best against the evaluation criteria and should be implemented? If not, what other measures do stakeholders consider should be implemented and why?
- A3.9 Question 9: Ofcom proposes to modify the Plan in relation to the designations for 0845 and 0870 numbers as shown in Annex 11. Do you have any specific comments on the proposals to modify the Plan in this manner?
- A3.10 Question 10: Do you have any comments on Ofcom's proposed revised telephone numbering application form (as set out in Annex 12) for 08 numbers?

Annex 4

Analysis of responses to the October 2004 Consultation and Ofcom's comments

Question 1: In relation to call centre waiting times, Ofcom would welcome stakeholders' views, supported by evidence if available, as to whether the revenue share available on NTS numbers provides sufficient incentive to encourage NTS Service Providers to artificially extend call durations or indeed whether this has actually occurred?

Consumers and Consumer Group Responses

- A4.1 Eleven respondents, including one consumer group, believed that companies using NTS numbers had an incentive to prolong call times and that it would be difficult to provide anything but anecdotal evidence to support this. It was therefore suggested that Ofcom should launch an investigation into call centres and should require better guidance for government contact centres. Other respondents suggested that inefficient systems were more likely to be prolonging calls and that this was not Ofcom's responsibility. It was noted by one respondent that providers of 0870 services actively advertised that companies could earn extra income from the use of these numbers and that this provided an incentive to prolong calls.

Other Regulatory Body Responses

- A4.2 ICSTIS had no evidence that 09 numbers artificially extend call durations and would be surprised if revenues gained would cover the costs of such activity.

Communication Provider Responses

- A4.3 Six CPs, including BT, did not believe there was any evidence of the systematic or widespread practice of artificially extending call durations or that revenue sharing was an incentive to extend call-handling times. Extending calls would be likely to damage brand, customer service levels, increase customer churn and lead to high abandon rates which would be damaging to a business. A number of respondents believed that such a practice was unlikely to be financially viable. One CP suggested that call routing could actually save the caller time in some instances. Three respondents questioned whether there was an issue since research shows most adults over-estimate or were unaware of NTS call prices. UKCTA further argued that there were incentives on call centres to minimise the length of inbound calls to reduce operational costs and to improve quality of the customer experience. Anecdotally it was also noted that 0800 numbers do not offer improved performance over 084/087 numbers – if there was an issue, the respondent suggested a code of practice could be introduced.
- A4.4 Another CP felt that even if revenue sharing were banned, NTS would still be used by many businesses because of the functionality of its services. Where customers have less choice in using NTS numbers, it was suggested alternatives such as email, SMS or written correspondence be used as substitutes. BT

suggested that Ofcom needs to draw a distinction between the conditions of competition in the NTS market and that within the downstream markets that NTS serve. There may be long call waiting times in the financial services industry for example, but this market should not be confused with the NTS market. This would otherwise lead to applying telecoms regulation to a competition issue in another sector. BT agreed that a number of consumers perceive that revenue sharing may cause some SPs to increase call times.

ISPs, SPs and other Business Association responses

- A4.5 One ISP stated that it was only possible to provide their call centre with the revenue share provided by their pay-as-you-go dial-up internet access services. It believed poor customer care and long waiting times would quickly lead to customers moving to other providers. It stated that it publishes information on its website which enables customers to use email to contact the company. Another SP believed there was an insufficient commercial incentive to artificially increase call durations, however it did suggest that large SPs terminating millions of calls per month may see a commercial advantage in extending calls if handling them on behalf of third parties. Here the third party companies would need to address any potential reputational damage by monitoring the performance of the SP. Another respondent had no evidence from the not-for-profit helplines sector that would suggest any artificial extension of call duration and believed that the majority of helplines would not have a sufficient volume of calls to make a significant profit anyway. If any revenue share was available, it stated that it was more likely to be subsumed by their provider to pay for advanced routing services. In addition, the respondent stated that membership prohibits services from making any profit from their helplines.

Ofcom's Comments

- A4.6 Ofcom has carried out research into call centre waiting times to examine whether there is any evidence of companies deliberately extending calls. This research took the form of a 'mystery shopping' exercise where over 600 calls were made to a variety of small, medium and large companies operating call centres on a mix of 0800, 0845 and 0870 numbers. No correlation was observed between the call price and the call waiting time (for all calls). In fact in cases where the callers were not immediately connected to an operator the results indicated an inverse relationship i.e. call waiting times were shorter for higher priced calls. These findings do not indicate any deliberate intent to extend holding times on higher priced calls where the companies may receive a share of the revenue from the call charges. A summary of all the additional market research commissioned by Ofcom together with the findings can be found in Annex 6 of this document.
- A4.7 In addition to the 'mystery shopping' exercise, Ofcom has also spoken to a number of companies which provide call centre services about the concerns expressed by consumers. Their response indicated a strong incentive to minimise call waiting and handling times in order to provide a good customer service experience and also to minimise costs. The alternative would be to risk losing customers to competitors and incurring higher operator costs which would not be met by any revenue share from call charges. All indicated that this share contributes only a very small percentage of the overall cost of operating the call centre and in many cases merely pays for the automated Interactive Voice Response systems used to direct callers to the appropriate operator to deal with their query.

- A4.8 Ofcom is therefore of the view that where consumers do have poor experiences in making NTS calls, the problems are more likely to be caused by operational or staffing issues in call centres than by any attempt to artificially inflate revenues.

Question 2: Do stakeholders think that Ofcom has captured all of the main issues that stakeholders have with the current NTS regime? Were there any other key issues that should be taken into consideration in this consultation?

Consumers and Consumer Group Responses

- A4.9 Two consumer groups believed that Ofcom had captured all of the main issues stakeholders have with the current NTS regime. A number of respondents believed that consumers should be given a choice of using geographic numbers rather than 08 numbers (possibly through displaying the geographic number together with the NTS number). However one respondent felt that forcing companies to show the geographic number with the NTS number would prevent services such as fax to email services from operating as they do not use geographic numbers and a consumer group felt that Ofcom had not sufficiently focused on the use of NTS services for small businesses. A consumer group stated that if geographic numbers had to be used alongside 08 numbers, then NTS had failed. Three respondents referred to the problems associated with calling NTS numbers from overseas and a number of other respondents raised the issue of calling from mobile phones. In addition, twelve respondents, including one consumer group, were concerned that NTS calls are excluded from call packages and there was concern that emergency and government numbers often used NTS numbers. One consumer felt that NTS was unnecessary altogether and that intelligent routing could be used instead at the cost of the SP. However, it was noted by one respondent that having one number to contact a company with was useful when the location of the nearest office or branch was unknown.
- A4.10 One consumer felt that Ofcom's proposals did not address any issues that non-BT customers have and another consumer respondent was concerned about using NTS from BT public payphones, following the recent price increases in December 2004. It was noted that BT had not briefed its own customer service staff of the change so as to compound the issue. Four respondents stated that a key issue for Ofcom to address was the difference between local and national call prices and 08 numbers. One respondent proposed that Ofcom should have made reference to aligning these prices. It was suggested that the difference between the prices has been increasing over time and that the framework underlying 08 services was too complex for consumers to make informed judgements. A number of consumers and a consumer group stated that call charges must be more transparent and that Ofcom should insist that call prices are clearly advertised. Some respondents stated that they did not believe the new telephone numbering plan has been adequately enforced by Ofcom.

Other Regulatory Body Responses

- A4.11 ICSTIS were unaware of any further issues that Ofcom should consider.

Communication Provider Responses

- A4.12 BT and a number of other CPs agreed that Ofcom had captured all of the main issues associated with NTS. One respondent believed however that portability issues (arising from 10k block pricing) were likely to have more impact on

competition than outlined in the consultation document. Another CP felt that public awareness issues of what NTS services provide and OCPs lack of control over call termination payments had been overlooked. It believed that consumers should be made more aware that NTS ranges were providing a service. In addition, it suggested that Ofcom had not considered the mass migration problems associated with introducing Options 2, 3, 4 and 5 (see Section 2 for a summary of these options). It was also proposed that any changes made by Ofcom should prevent the current operator specific charging arrangement from continuing. The respondent stated that OCPs were free to re-coup their higher origination cost through retail charges. As a result, allowing operator specific retention would encourage OCPs to over inflate their wholesale conveyance costs, leaving TCPs unfairly subsidising the originating network users.

- A4.13 Another CP believed that Ofcom had not sufficiently addressed interconnect issues. It felt the issues could only be addressed by increasing BT's regulated retention rate to that which would be charged by an efficient operator without SMP as currently, efficient altnets were unable to recover their origination costs whilst competing with BT on price. It also suggested that the NTS Condition is a barrier to entry as altnets may not invest in infrastructure without the prospect of a sufficient return. UKCTA stated that of overwhelming importance to its members was the need to overcome problems relating to revenue uncertainty for terminating operators. In addition, OCPs' lack of control over payments for call termination; BT's NCCN500 charges and transit charges were also cited as important. UKCTA was also concerned about the level of consumers' perception and understanding of the price of NTS calls, as UKCTA believe that on the whole they represent good value for money.
- A4.14 A further respondent believed that Ofcom had not given sufficient emphasis to consumer protection and felt Option 2 would be expensive to implement and had questionable benefits. It argued that in some cases it is difficult to ascertain NTS call costs from an originating network and believed it inadequate to state that 'other network costs may vary'. It suggested a consumer code of conduct be introduced and that if an OCP were to tariff an NTS number at a different rate to the selected price point, a free of charge call announcement be made.

ISPs, SPs and other Business Association responses

- A4.15 One respondent felt that BT had control of 0845 pricing and this impacted their ability to control revenues. In addition, it disagreed with Ofcom, stating that migrating ISP customers to different numbers was not feasible for many ISPs. It noted that although many ISPs were concerned about revenue-share, they had not migrated to 0844 numbers suggesting it was not a viable option. As a result, it did not support Options 3 to 5. Another respondent felt it was extraordinary that Ofcom wished to change the way NTS numbers were advertised, because they had been widely used for several years. It stated that consumers were familiar with the many numbering schemes in use and the concept that tariffs may vary between telecommunications providers. Consequently, it did not agree that viewers needed pricing information on call prices within advertisements and did not accept that Ofcom's proposals would address the pricing issues Ofcom was concerned with. In addition, it argued that the rules associated with price capping on NTS numbers did not need to change.
- A4.16 Two respondents believed the main issues had been captured by Ofcom. One noted that profit share had been used to employ advanced routing allowing multi-site, log-in and log-out and home working and that without this revenue share, it

was likely that many helplines would not be able to afford these services. The Federation of Small Businesses noted that “lo-call” and “national rate” descriptions of NTS numbers was misleading and the price actually paid for the call is often higher. It suggested that all rate packages should specify the prices of 0845 and 0870 calls on bills. It also resented the fact that there were often no geographic alternatives to call and suggested that these should be provided.

Ofcom’s Comments

- A4.17 The responses received confirm that whilst Ofcom has identified the major issues that need to be addressed, some respondents consider that insufficient prominence is being given to the issue or issues that cause them particular concern. Ofcom is aware that in conducting this consultation we face a number of, often, polarised views on the operation, or even existence, of NTS. We consider that the proposals we have made in this document address the range of views and concerns in the most practical way consistent with preserving choice in services for consumers whilst ensuring adequate measures are put in place to improve pricing transparency and restrict the ability of users of NTS numbers to engage in scams and other unacceptable practices.

Question 3: Do stakeholders agree with Ofcom’s policy objectives?

Consumers and Consumer Group Responses

- A4.18 Whilst there were some respondents who did not agree with Ofcom’s policy objectives, the majority of respondents who commented on Question 3 did agree with them. However one respondent suggested that promoting competition could only be achieved by making NTS and geographic call prices the same. Several consumers stated that as they do not always have a choice when using 08 numbers, promoting competition was irrelevant to them. It was proposed that 08 numbers that do not “add value” should be changed to 09 numbers (premium rate) and that revenue sharing should not be permitted on 08 numbers. Another consumer suggested that Ofcom go a step further and remove all 08 numbers or reclassify them as premium rate numbers (as 09 numbers are). There was also concern that the current proliferation of 08 numbers would drive call costs up to 1990s levels. It was felt by some consumers that Ofcom’s policy objectives were too industry centric and appeared to favour BT and that Ofcom was failing to address Oftel’s regulatory failures in this area.

Other Regulatory Body Responses

- A4.19 ICSTIS agreed with Ofcom’s proposed policy options.

Communication Provider Responses

- A4.20 BT believed that Ofcom’s policy objectives should closely match regulatory objectives driven by the Act, EU Directives and other legislative requirements. However BT would have preferred Ofcom to take a more ‘light touch’ regulatory approach and believes the needs of all stakeholders in the 0845/0870 markets should be balanced by Ofcom. It felt Ofcom is biased in favour of the commercial needs of TCPs, SPs and ISPs at the expense of citizen-consumers. Five respondents however agreed with Ofcom’s policy objectives and recognised the potential conflict between them. It was noted that introducing a single retail rate would satisfy Ofcom’s objectives.

- A4.21 UKCTA felt it was important that the objectives were pursued in proportion to the existing state of the NTS market(s) and were achieved within a meaningful timeframe. It also suggested that it was important that policy objectives were focused on real market conditions rather than perceptions of what might exist. UKCTA agreed that the medium and long term objectives were unconstrained by the current market and regulatory situation, but felt that Ofcom should ensure the new regulatory regime achieved the transitional objectives in a prompt and timely manner. UKCTA also felt that promoting competition results in service quality improvements, (as well as maintaining downward pricing pressure on retail calls) and that limiting the evaluation criteria only to pricing flexibility may fail to acknowledge other tangible benefits.
- A4.22 One CP generally agreed with Ofcom's objectives, but suggested a fourth objective – to encourage the existence of an equitable commercial environment throughout the whole NTS value chain. Adequate protection of all parties, particularly in relation to rogue-dialler activity, should be a key consideration. It was also argued that Ofcom should provide rigorous evidence around call centre waiting times and overpricing before letting this influence policy decisions. Another CP agreed with the consumer protection objective and believed the only way to address it was to create a consumer code of conduct enforced by a body such as ICSTIS and to bar all adult services currently operating on 08 numbers. To promote competition, it believed TCPs should have the incentive to offer a full range of price points to offer organisations competitive pricing for NTS calls. They believed that Ofcom had insufficiently focused on promoting interconnect arrangements and suggested that networks sometimes bar or add excessive premiums to particular number ranges to push consumers on to their products. Further they believed a consumer code of conduct would help address this issue and suggested because NTS were primarily a collection method, interconnection should be viewed in a similar way to having bank or credit card facilities.

ISPs, SPs and other Business Association responses

- A4.23 Three respondents agreed with Ofcom's policy options. One respondent stated that the present pricing framework was increasingly leading to uncertainty in revenue shares which was detrimental to competition.
- A4.24 **Ofcom's Comments**
- A4.25 Ofcom believes that most respondents agreed with the stated policy objectives although a number of consumers implied that Ofcom may be neglecting its statutory duties if it allowed the NTS regime to continue. CPs on the other hand advised that Ofcom's policy objectives should be pursued such that any changes to the NTS regime were proportionate to the real and not necessarily perceived problems and were implemented quickly.
- A4.26 Under the Act, one of Ofcom's statutory duty is set out in section 3(1) and says:

"It shall be the principal duty of OFCOM, in carrying out their functions-

(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."

A4.27 Ofcom considers that the interests of consumers are best served by promoting fair competition amongst the providers of NTS rather than by dismantling what has proved to be a successful vehicle for the provision of services which otherwise may not have existed. If the NTS regime as it currently exists were discontinued, a significant part of the UK telecommunications market would disappear leading to potentially large implications for many telecommunications companies and service providers.

Question 4: When evaluating the options, what weight should Ofcom give to the various policy objectives, bearing in mind the trade-offs that may exist between them?

Consumers and Consumer Group Responses

A4.28 Five respondents, including a consumer group, thought that consumer protection was the most important policy objective but seven respondents believed Ofcom had overlooked it. Ofcom's corporate principles were highlighted by five respondents who said that Ofcom was not fulfilling its principle duty of furthering the interests of citizens in relation to communications matters and that Ofcom should therefore consider consumers first. One respondent stated that because Ofcom does not have a transparent NTS framework, it has abdicated its responsibility for consumer protection. It was noted by another respondent that other objectives should only be considered if they weren't at the expense of consumers. In addition, a consumer group felt that Ofcom needed to focus on analysis of consumer concerns and should focus on the other industry issues subsequently. Another consumer group stated that although 08 services can be expensive, they could be of benefit to consumers. However it was important that consumers had access to these services at uniform low prices and there was concern that competition may not deliver this.

Other Regulatory Body Responses

A4.29 ICSTIS proposed that Ofcom ensure a fair and balanced regulatory regime was in place.

Communication Provider Responses

A4.30 One CP believed that all the policy objectives were relevant and maybe interrelated. It felt that protecting the interests of consumers is of paramount importance and adequate safeguards were required to shield them. Promotion of competition and service availability should also be a prime requirement. It was also suggested that there may not be direct trade offs between the policy objectives, but that the promotion of competition and service availability should be top priority and the provision of network access and service interoperability should be the third priority. In addition, the CP believed that transitional issues

need to be considered concurrently with long term considerations. Another respondent believed that weightings applied should be transparent, fair and reasonable and the objectives should be weighted equally.

- A4.31 One CP felt it is important to ensure that any trade-offs do not detract from the key policy objectives. In addition, they and another respondent believe consumer interests were best served through a properly functioning competitive market with adequate consumer protection measures. Any trade-off between price competition and related proliferation of retail prices (with the potential for consumer harm) needs to be considered carefully. A respondent also felt that Ofcom had adequately prioritised the objectives and is pleased that Ofcom's preferred option continues to develop the competitive nature of the market. BT argued that Ofcom had disproportionately placed more emphasis on its transitional objective of minimising negative revenue impact on TCPs and SPs than on any other. It believed in the benefits of an NTS commercial framework and of revenue shares associated, but would have preferred Ofcom to place more emphasis on customers and providers. BT would also like to have seen more indications from Ofcom relating to voice regulation being minimised.
- A4.32 UKCTA stated that the objectives did not appear to conflict at a principle level, but that at a more detailed level, Ofcom needed to strike the right balance between potentially conflicting objectives and to assign greater importance to the fundamental objectives. UKCTA argued that the interest of the consumer was best served by a properly functioning and competitive market, supported by economic regulation wherever necessary to restrict any abuse of market power. It added that specific consumer protection initiatives should only be introduced as a last resort where the market did not deliver those benefits or protection to consumers.

ISPs, SPs and other Business Association responses

- A4.33 A respondent agreed that the consumer concerns were valid but believed concerns stemmed from a lack of knowledge. The issue, it believed, was more about advertising and communication of prices and it urged Ofcom to ensure that regulatory changes do not prevent customers being able to use the micro-payments mechanism NTS provides. Further it was felt that the policy objectives were dependent upon one another. Another respondent believed that any changes made to the NTS regime should not have an economic impact on helplines and funding should be made available to Not for Profit Organisations' ('NPOs') helplines who need to change their number. It estimated that 26million calls are made to NPOs and a change could be detrimental to callers who rely on these not-for-profit helplines as a life-line.

Ofcom's Comments

- A4.34 Ofcom agrees that any changes to the operation of the NTS regime must go hand-in-hand with improving its transparency, including the visibility of call prices and ensuring consumers understand how the NTS regime operates. In this sense Ofcom gave equal weight to all three key policy objectives, detailed in the October 2004 Consultation. In this consultation, Ofcom has also had regard to each of the policy objectives when considering its latest proposals (see Section 4 for a more detailed discussion).
- A4.35 The consumer protection measures detailed are all aimed at encouraging CPs who originate the calls and the providers of the services to inform consumers of

the likely price of making NTS calls and, in the case of 0871, for ICSTIS to extend its Code to those calls.

- A4.36 These measures aimed at protecting the interests of citizen consumers are of equal importance in Ofcom's view to sustaining a vibrant and competitive market for the provision of often highly valued services.
- A4.37 The other, more extreme, measures discussed in the consultation, such as pre-announcement of the prices on all NTS calls, were felt to be disproportionate to the extent of the current problems. That is not to say these measures could not be re-examined in future should the changes proposed be seen not to have improved price awareness.

Question 5: Ofcom welcomes stakeholders' views on what (if any) special provisions should be made to help non-profit organisations to obtain preferential rates for receiving inbound NTS calls should Options 3, 4, or 5 be introduced?

Consumers and Consumer Group Responses

- A4.38 There were mixed views as to whether any special provisions should be made to help non-profit making organisations (NPOs) obtain preferential rates for receiving inbound NTS calls. It was felt by several respondents that revenue sharing should be permitted to continue for NPOs, but another respondent suggested that these calls should be at geographic call charge rates. However a consumer group suggested that there should be special provisions for helplines and another respondent proposed that helplines should be able to use 0800 numbers. A further respondent welcomed help for charities.

Other Regulatory Body Responses

- A4.39 ICSTIS felt the five options proposed by Ofcom seemed to encompass all the workable options.

Communication Provider Responses

- A4.40 One respondent believed regulatory underpinning in this area is not required and the issue of preferential rates for NPOs should be agreed commercially between SPs and organisations. Another respondent believed that the position of non-profit organisations would not be further disadvantaged by a more deregulated position under Options 3, 4 or 5 than is currently the case. It suggested that introducing preferential rates will be difficult due to the complexity of defining which organisations should benefit. In a fully functioning market, they believe special provisions would be unnecessary. Two CPs were sympathetic to the issues put forward on behalf of NPOs, but believe that it would distort the market, be difficult to agree on eligibility criteria and cause consumer confusion if Options 3, 4 or 5 were introduced. One of the CPs currently supplies free or reduced cost NTS to some NPOs and see no reason for these special arrangements to cease. Two further respondents did not support Options 3, 4 or 5, indeed one respondent believed that it would go out of business if any of these options were implemented. In addition it argued that NPOs would not require special provisions as some companies were willing to offer preferential terms. They do not believe it possible to implement any special provisions for NPOs and favour Option 2 which it believed offers a more sustainable environment for NPOs. BT did not feel that providing lower cost variants for NPOs would be appropriate.

- A4.41 UKCTA was sympathetic to the issues associated with NPOs who may rely on NTS revenue share. However, UKCTA felt that the issues suggested not that Options 3 to 5 be implemented with a series of carve-outs, but more fundamentally that the policy options were flawed. It also highlighted the practical problems associated with implementation.

ISPs, SPs and other Business Association responses

- A4.42 A respondent stated that if Options 3-5 are implemented, NTS providers could all become non-profit organisations, but another agreed with Ofcom's proposals. The Telephone Helplines Association welcomed the fact that Ofcom had recognised the unique needs of NPOs. It stated that helplines are largely unregulated and there was nothing to stop any organisation choosing to call their telephone service a helpline. It suggested the use of a unique number range, only available to helplines who have met distinct criteria, as providing an additional consumer protection measure. It added that it would be willing to act as a gatekeeper for such a scheme and already has experience of such arrangements through the Special Freephone Tariff scheme.

Ofcom's Comments

- A4.43 This issue was raised because of concerns about the impact of Options 3, 4 or 5 on the costs incurred by NPOs using 0845 numbers. If the proposals described in this consultation are implemented, regulatory support for revenue sharing on the 0845 range would continue during the interim period of two years and would then be reviewed. Consequently, the potential consequences of the withdrawal of regulatory support for revenue sharing on 0845 are of less immediate concern than if Option 3, 4 or 5 from the October 2004 consultation were implemented and can be considered when the 0845 range is reviewed at the end of the two-year interim period.
- A4.44 Ofcom has considered the suggestion made by the THA relating to funding assistance for NPOs, should migration to other number ranges be required. Under Ofcom's proposals, migration would be required for SPs on the 0870 range should they wish to continue to revenue share. However, Ofcom understands that there are few helplines on the 0870 number range, and therefore considers that if this proposal were implemented, the impact for helplines would not be substantial.

Question 6: If Option 3 were implemented do stakeholders think non-ECS NTS Service Providers that were already using 0844 and 0871 numbers should be allowed to continue to benefit from the regulatory underpinning for revenue sharing for these number ranges?

Consumers and Consumer Group Responses

- A4.45 Most consumer respondents responding to Question 6 felt that non-ECS NTS Service Providers that are already using 0844 and 0871 numbers should not be allowed to continue to benefit from the regulatory underpinning for revenue sharing for these number ranges under Option 3. It was suggested by one respondent that if organisations wish to continue to revenue share, they should do so by moving to 09 numbers. Another respondent however did not wish revenue sharing to cease for ISPs and felt that NTS had allowed the internet dial-up market to develop quickly.

Communication Provider Responses

- A4.46 Two CPs did not support Option 3 being implemented, but if it were, they believed that non-ECS providers should not be permitted to revenue share on 0844/0871 numbers because of consumer confusion and migration issues. Another respondent had fundamental concerns with Option 3 but believed if the option were implemented, regulation should continue. It felt there was no reason to remove regulation and to force SPs to negotiate new commercial contracts with TCPs. TCPs may be unable to negotiate sufficiently competitive rates with BT and if TCPs set up their own billing arrangements, BT would be in a stronger negotiating position whilst the systems were being set up. Two respondents believed that if Option 3 were implemented, revenue sharing should be permitted. It was also argued that implementing a regime with non-ECS and ECS distinctions would be very difficult. Further it was noted that many valuable non-ECS services rely on revenue sharing to remain viable and would be concerned that these services could disappear. BT believed there was no evidence to support change to the existing position for non-ECS SPs as currently offered within the 0844 and 0871 number ranges and another respondent did not agree with implementing Option 3.
- A4.47 If Option 3 was introduced, UKCTA would support the practice of allowing revenue sharing for non-ECS 0844 / 0871 services to continue. Further it believed that applying a non-ECS / ECS distinction would be difficult to implement as many services have both ECS and non-ECS elements and could lead to some services ceasing to be viable.

ISPs, SPs and other Business Association responses

- A4.48 One respondent agreed that non-ECS providers should be able to revenue share, as SPs may be dependent on the revenue share available and will have invested accordingly.

Ofcom's Comments

- A4.49 Here again Option 3 is no longer being proposed by Ofcom. Ofcom is of the view that any attempt to single out individual groups of SPs for 'special treatment' is potentially discriminatory as well as raising issues about legal certainty.

Question 7: If Option 5 were implemented, do you think that Ofcom should retain the BT NTS Call Origination Condition for Freephone calls? If not, what alternative basis should be applied to BT's call origination charges for Freephone calls?

Consumers and Consumer Group Responses

- A4.50 One respondent thought that Option 5 was not appropriate and that Ofcom should not retain the NTS Condition for Freephone calls. Three respondents believed that the condition should be retained and a consumer group stated that if it were not, the SP's costs may increase leading to many 0800 services being lost.

Communication Provider Responses

- A4.51 If Option 5 were implemented, BT and another respondent feel the NTS Condition for Freephone calls should be retained as there is no reason to

undermine a highly valued service. One CP stated that Ofcom would need to conduct a review of the wholesale call origination market and find BT not to be dominant in order for the NTS Condition to be removed. If this occurred, it would be difficult to maintain the condition unless Freephone calls were reviewed as a specific market. Five respondents did not support Option 5. One respondent felt that if it were implemented, BT should be required to ensure that an adequate margin was built into its call origination charges.

- A4.52 Another respondent believed Ofcom should retain the NTS Condition for Freephone calls if Option 5 were chosen and felt it was one of many successful NTS services available and could not be considered in isolation. In addition, it was doubtful that the Freephone service would remain (if there were no exclusion) under Option 5 as it would be uneconomic. One CP believed Option 5 would improve BT's position meaning an end to revenue sharing and would require new billing methods to collect revenues. UKCTA felt that Option 5 was unsuitable so determining whether Freephone should be an exception, ignored the fundamental problems of Option 5.

ISPs, SPs and other Business Association responses

- A4.53 One respondent agreed that the NTS Condition should be retained, or if BT was permitted to negotiate commercially, there should initially be a regulatory maximum margin for BT. Another respondent stated that if there was a change to current regulation, it was likely that the costs of a Freephone service would increase having a detrimental impact on helplines. It would like to encourage Ofcom to use its regulatory force to ensure that NPO helplines were not adversely affected.

Ofcom's Comments

- A4.54 The general consensus was that Freephone services were highly valued and should not be placed in jeopardy by removing those numbers from the scope of NTS Condition. However, Ofcom is now no longer proposing Option 5 or changes to 0800.

Question 8: In connection with Options 3, 4 and 5, do stakeholders think that it would be appropriate for Ofcom to seek to prevent revenue sharing on the relevant NTS number ranges in order to prevent CPs from negotiating commercial revenue sharing arrangements if the current regulatory support for revenue sharing is removed?

Consumers and Consumer Group Responses

- A4.55 Nine respondents were in favour of preventing revenue sharing on all but 09 numbers and one respondent suggested only ECS should be moved to 09 numbers. Five respondents also supported this, with the exception of genuine value added services such as technical helplines, internet access and fax to email services. A consumer group suggested that revenue sharing be prohibited for commercial service providers. There was concern raised by two consumers who felt that revenue sharing should not be permitted for debt recovery companies as consumers calling these companies were already vulnerable. Two respondents believed preventing revenue sharing would be unnecessary if geographic numbers were provided alongside NTS numbers and three respondents suggested that removing regulatory support would be pointless without a ban on revenue sharing.

Communication Provider Responses

A4.56 If regulation were removed, one CP felt it would be inappropriate for Ofcom to prevent revenue sharing as it would stifle competition. It believed that CPs and SPs should be able to enter into their own commercial arrangements. Another respondent suggested that Ofcom's objective should be to ensure that BT did not over-recover its costs and is able to adversely affect competition. Changing the focus of regulation to prevent revenue-sharing, one CP believed, would require a market review finding where TCPs and SPs had SMP together with a solution that preventing revenue-sharing would address this issue. It did not believe this would be plausible. It suggested that competitive pressures would ensure consumers were not harmed by any commercial revenue sharing arrangements. Another CP felt that if Ofcom wished to end this payment method, it would need to prevent revenue sharing. It believed this would be short-sighted considering the demand for NTS and that Ofcom should ensure the current method provides flexibility, allowing consumers to pay through their phone bill. It also suggested that directory enquiries providers have the ability to deal directly with OCPs to achieve a revenue share, but very few providers have taken this option forward. A number of respondents including UKCTA, were opposed to Options 3 to 5 being implemented and believed they would have a detrimental impact on the economy and consumers. Another CP did not agree with Ofcom's approach, as it felt that expecting companies to commercially negotiate revenue sharing with BT, was unrealistic due to it having SMP. BT stated that its Option 2a would benefit from a specific prohibition by Ofcom of revenue sharing where appropriate. One respondent did not believe revenue sharing should be prohibited as per Options 3 to 5. It argued the NTS market has resulted in innovative charging, internet dial-up and other information services being available and believed this should not be prevented under a new regulatory framework.

ISPs, SPs and other Business Association responses

A4.57 Two respondents believed it would be inappropriate to prevent business from reaching agreements. Another respondent stated it was against any removal of regulatory support to protect customers.

Ofcom's Comments

A4.58 Here again the responses reflect the polarisation of views between consumers who disagree with the ability of CPs and service providers to earn revenue from calls and CPs themselves who rely upon it. Under its latest proposals, Ofcom is inviting views on whether revenue sharing should continue on 0870 after the 12-month interim arrangements.

Question 9: Ofcom has identified 5 options for evaluation. What other options do stakeholders think that Ofcom should consider?

Consumers and Consumer Group Responses

A4.59 Alternative policy options proposed by respondents included Ofcom considering alternative paying mechanisms using credit cards, migration of 08 numbers to alternative numbers (e.g. 03) at geographic prices, calls charges being capped at various levels and regulating queuing times. It was also suggested that consumers should have the right to refuse to pay charges and the right to refunds. One respondent proposed that all 08 numbers should be free to consumers and that 08 numbers for NTS should cease. Instead, a market for

intelligent routing for geographic calls should be created. It was also suggested there could be a better use of numbers to reflect call prices e.g. making 0840 numbers cheaper than 0841 numbers and so on. One respondent stated that there should be a legal maximum charge for calls to NTS numbers which cannot be breached without verbal agreement from the caller. It was also proposed that Ofcom go back to the original numbering plan and only permit revenue sharing on 09 numbers.

Other Regulatory Body Responses

A4.60 ICSTIS did not believe there were any further options to consider.

Communication Provider Responses

A4.61 One CP felt that none of the five options presented by Ofcom were wholly acceptable and further effort should be made to explore variants on Option 2. It regretted that Ofcom had dismissed an industry proposal known as the “NTS Futures Proposal” that was reviewed in the October 2004 Consultation. It accepted that Ofcom may need to review the relevant retail market, but would be concerned about the time and effort this could entail. Another CP believed Ofcom should not consider any further options, but should broaden the scope of Option 2. It was noted by two respondents that the 5 options covered a full spectrum of possible scenarios, but one CP noted that none of the options met all requirements. Three CPs suggested that a single price point solution may be the best solution. It was proposed by one that a mechanism could be used to set the price, e.g. price freezes, and another CP proposed that Ofcom choose a single price point for the 0845 range from 0844 price points applying any discounts currently available on 0845. A single price point could benefit consumers & SPs, reduce the number of NTS disputes and minimise migration requirements. It was suggested that the single price point could also be used for 087 numbers if required. However, it was also noted that none of these solutions would resolve the underlying issues, if BT were able to enforce their costs and views on the interconnect regime.

A4.62 UKCTA believed that Ofcom had identified all the potential high level options and felt that Option 2 addressed the problems with the NTS regulatory framework the best, although it did require further development. One CP viewed Option 2 as a second choice, but noted that the industry's current number portability arrangements were not compatible with this option. If it were implemented, the CP felt adequate arrangements should be put in place to educate consumers of the multiple charge bands and there should be a phased introduction of the option. A further CP felt that specific price points should be set by Ofcom and OCPs should tariff according to these and where they did not, there should be clear visibility for the consumer. Under the current regime, it was argued that TCPs selected the highest price point, because they have no control over consumer pricing and could only affect revenues they receive. If OCPs were to set the same price for all retail price points, the TCPs would have no incentive to choose lower price points. The respondent believed this issue should be addressed by Ofcom if Option 2 were implemented.

A4.63 BT proposed Option 2a – a variant on option 2. In this proposal, there would be no change to 080 and 09 numbers, revenue sharing would be prohibited on 0845 and 0870 and these number ranges would be fully tariff-linked to geographic call prices including relevant discounts and call option packages (i.e. so that the prices paid by callers for 0845 and 0870 calls would be identical to geographic

call prices). BT suggested that termination rates for 0845 & 0870 calls should be the same as those applied to geographic call termination. It further proposed that all CPs be required to adopt the scheme and that Ofcom could enforce this in the same way as price of calls to 080 numbers as free were enforced. 0844 and 0871 numbers should remain unchanged and SPs wishing to maintain revenue share could move from 0845/0870 to 0844/0871. BT felt its proposal would have a number of benefits such as increased transparency for consumers on 0845 & 0870, more choice for ISPs, access to all BT discount options under 0845/0870 numbers, no incentives for TCPs to extend call holding times and no discrimination as all CPs would have to abide by the proposal. In addition, there would be reduced implementation timescales and costs. It noted that although number changes would be required in order to continue revenue sharing, initial churn would likely occur at the same time and Ofcom could make additional 084/087 numbering space available to simplify migration for SPs.

ISPs, SPs and other Business Association responses

- A4.64 One respondent stated that the key issue it faced was uncertainty regarding revenue-share income as BT had the power to set the 0845 rates. It favoured Option 2 but suggested it could still cause problems for the company as CPs may decide to raise their rates for 0845 numbers thereby causing SPs to continue to face revenue uncertainty. It therefore proposed that Ofcom should reconsider decoupling the 0845/0870 numbers from geographic tariffs and that if 0845 rates were to be locked, competition would be possible for SPs using 0844 numbers at a range of rates. Another respondent did not believe there were any further options to consider and it was also noted by a further respondent that although the five options were comprehensive, it would encourage Ofcom to consider unique number ranges for helplines under all options.

Ofcom's Comments

- A4.65 In addition to the further options suggested in the responses to the October 2004 Consultation a number of new options were proposed in subsequent discussions with stakeholders and from within Ofcom itself. Many of these were different variants on the original five options presented in the consultation. Ofcom is of the view that any proposal which involved treating different groups of SPs in different ways is not justified at the current time. Therefore, it has concentrated on options which seek to address the more fundamental issues such as price transparency, consumer rejection of revenue sharing in general, and in 0870 in particular, and revenue certainty for TCPs and SPs.

Question 10: Do stakeholders agree with Ofcom's initial view that Option 2 performs best against the evaluation criteria and should be implemented? If not, what other option(s) do stakeholders consider should be implemented and why?

Consumers and Consumer Group Responses

- A4.66 Other options it was suggested Ofcom should implement included requiring NTS calls to be included in call bundles and a requirement for companies to demonstrate that they provided "value added" services before being permitted to revenue share. One respondent suggested that revenue sharing be permitted where consumers would pay a fixed price connection fee and then the standard rate for the duration of the call. There was concern expressed from a consumer organisation that under Ofcom's Option 2, prices may rise to the ceiling and that

there could be a proliferation of prices which could generate consumer confusion. Six respondents felt that Option 2 did not offer sufficient consumer protection and any consumer protection measures would be harder to implement under this option. Further, two respondents felt that Option 2 worsened the current situation and a mechanism would be required to prevent abuses. Another consumer respondent believed that consumers should be able to call every number on the network (unless call barring was in place) and that Option 2 would lead to more OCPs refusing to connect to certain numbers. It was also stated by one respondent that Ofcom should not have stated a preference for Option 2 as it could prejudice the consultation. Further it was felt by one consumer respondent that if Ofcom did not support Option 4, it was not supporting the needs of consumers and should disband.

Communication Provider Responses

- A4.67 UKCTA agreed that Option 2 met the evaluation criteria best of all the five options, but believed there were some specific issues that would still need to be addressed. It cited number portability issues, consumer confusion associated with multiple price points, billing problems, long implementation timescales and potential disputes occurring. It suggested instead a single retail price point be introduced and stated that it believed a market review would be required to implement this option.
- A4.68 One CP favoured a variant of Option 2. It proposed that the 0845/0870 numbering/pricing regime should mirror the 0844/0871 regime with 4p and 8p ceilings. In addition, there should be an ECS/non ECS service distinction and the ability to opt out of BT's discount schemes. This would allow TCPs a number of options and give OCPs flexibility with retail pricing. Another respondent proposed that Option 2, as presented, would create further price complexity, consumer confusion and uncertainty for SPs as number migration could be required. It questioned the process around ported NTS numbers where the price points would still be dictated by the number range owner. A further respondent agreed that of the options presented, Option 2 performed best against the evaluation criteria. However, it believed the implementation complexities and timings associated with Option 2 make it less attractive from a consumer perspective. It felt that ongoing uncertainty would erode the base on which competition could occur and would ultimately lead to margin squeeze for TCPs and SPs. It also considered proportionality arguing that rating on 1k or individual numbers would require significant investment, which may not present a positive cost benefit analysis outcome and would have significant number migration issues. It also suggested that Ofcom request more detail on the technical consultancy report³⁶ to understand whether opting out of discounts could be achieved in a shorter timescale.
- A4.69 Two respondents believed that of all the options presented, Option 2 would offer the best outcome. One CP believed it should be implemented but had serious concerns with the implementation timescales and urged Ofcom to use a phased approach to provide benefits as soon as possible. It was agreed by another respondent that Option 2 was a reasonable prospect, although it was unclear whether Ofcom could implement and enforce it. It felt that the option must contain a viable consumer code of conduct. It felt that if Ofcom were unable implement the option, Ofcom should return to Option 1.

³⁶ The ICC report was commissioned by Ofcom following the October 2004 Consultation, to assess the likely costs of upgrading OCPs billing systems to be able to bill NTS calls at 10k, 1k and single number granularity and whether opting out of discounts at the single number level was feasible.

ISPs, SPs and other Business Association responses

- A4.70 It was felt by two respondents that Option 2 represented the best of the 5 options listed, but one noted that it should be implemented only if consumer measures were settled upon and implemented in parallel with the pricing regime changes. Another respondent agreed with the implementation of Option 2 as it would cause less disruption to the industry, and believed removing the links between local and national call charges and NTS services would reduce consumer confusion.

Ofcom's Comments

- A4.71 Ofcom recognises that whilst Option 2 had many merits it was not widely supported across the range of stakeholders including consumers and industry. It also compounded the issues surrounding pricing transparency, raised questions surrounding the ability of OCPs billing systems to implement the changes without incurring unreasonable costs and issues around number portability. This is also at a time when CPs are preparing to change to IP based next generation networks and when modifications to legacy systems may not be readily available, or cost effective, due to the relatively short lifespan of those systems prior to replacement. As a consequence Ofcom has withdrawn its support for this option in favour of the proposals contained in this second consultation.

Question 11: Ofcom welcomes comments from Industry on the feasibility of (preferably free-to-caller) pre-announcement of the cost of voice calls to 084/087 numbers supported by technical descriptions and likely costs.

Consumers and Consumer Group Responses

- A4.72 Five consumer respondents and two consumer groups agreed that pre-announcement of the cost of voice calls should be introduced. It was proposed that the announcements should be free to consumers and could be made every minute throughout the call. One consumer association was in favour of announcements together with positive caller action when using PRS numbers. Another consumer association suggested that the number of calls terminated by consumers on hearing the announcement should be monitored and assessed. It was proposed by one consumer that the announcements should also state what number the consumer was in the queue and that if callers did not wish to be informed of call charges, they could use a prefix before calling similar to 141 to withhold your number. There were however three consumers that felt that pre-announcements were unnecessary as they added further complexity or cost, as even if consumers were not charged directly, they would indirectly have to pay for the cost of technical changes required.

Other Regulatory Body Responses

- A4.73 ICSTIS stated that pricing information on connection to certain PRS was compulsory but was not free to caller. Whilst ICSTIS would support free-to-user call announcements, it noted industry concerns that the likely cost would exceed any potential benefits. However, ICSTIS believed that providing pricing information to consumers before they take part in 08/09 services would allow them to make informed decisions. It also noted that directory enquiry services do not have to provide pricing information on connection despite being a live premium rate service.

Communication Provider Responses

- A4.74 One CP supported consumer information initiatives, but believed pre-announcements to be disproportionate and noted that they were not required for calls which cost more than those on 084 and 087 numbers. It raised the issue of who would pay for the announcements and believed that differing retail price points would exacerbate the situation. It felt cost benefit analysis was unlikely to be positive and the issue should be addressed through other means e.g. ASA. A further CP felt that pre-announcement measurements were intrusive, expensive and unwarranted. Another respondent did not believe it was feasible to provide an advisory pre-call announcement on NTS calls and suggested the industry focus on helping consumers understand the NTS framework instead. Issues it raised associated with pre-announcement include who was responsible for it, how it would be funded, how discounts would be considered, consumer confusion and incompatible technology issues.
- A4.75 Another respondent supported the initiative and believed it should be supported and implemented by all OCPs who wished to deviate from selected price points. It suggested that any networks ignoring the code should receive financial penalties. A further respondent agreed that consumers need easy access to pricing information but considered the use of network messaging an unnecessary level of regulatory intervention and cost. It would prefer use of other initiatives such as a public communications plan. BT had considered two options for providing announcements, the first where the OCP provides the announcement and the second where the operator that owns the 084/087 number provides it. BT stated the first option would involve a high development cost in excess of £10m, but it could technically be done. However, these costs would eventually filter through to higher call charges to consumers and it highlights a timescale in excess of two years to implement. Overall BT felt this would not be a cost effective solution. BT concluded its second option was not a viable technical solution.
- A4.76 UKCTA understood that some consumers may find the concept of pre-announcements attractive, but felt there were a number of issues associated with its implementation which would outweigh any identified consumer benefits. It stated there would be technology interworking issues, problems with the accuracy of information, cost recovery issues and that the announcements might act as a deterrent for making calls.

ISPs, SPs and other Business Association responses

- A4.77 One respondent stated that it would be unable to pre-announce calls and would have to rely on the OCPs or TCPs involved. It also questioned how it would work for fax machines. Another respondent suggested that a clearly labelled pricing information option on call announcements should be provided, which may be skipped for regular users, or selected and free to caller for new users. Further it proposed that pricing information be provided alongside promotional material on advertisements. It was reported by one respondent that some helplines were concerned that pre-announcements may deter callers. However it did feel that provided they were accepted by industry and consumers, announcements could help callers to be aware of call charges. It could also provide an opportunity to inform callers that the number may be itemised on their phone bill and if the announcements were free, the caller would have the opportunity to protect their confidentiality by ending the call before connection. Further it would also encourage regional voices to be used on any announcements.

Ofcom's Comments

A4.78 From the comments received, Ofcom has undertaken subsequent research on this issue. Based on this research, Ofcom is of the view that the high costs associated with providing call pre-announcements on all NTS calls would be disproportionate to the benefits they would achieve (See Section 5 and Annex 7 for further details). The proposed modifications to General Condition 14 on price publication along with the ASA/CAP guidance and the extension of ICSTIS powers to 0871 should, between them, make NTS call prices clearer and more accessible. Ofcom's current proposal is that only where OCPs charge more than their geographic rates for 0870 after the interim period, will pre-announcements be required. In this case, this would allow OCP's pricing freedom whilst balancing transparency.

Question 12: Ofcom welcomes comments from Industry on the feasibility of informing callers of the cost of data calls to ISPs supported by technical descriptions and likely costs.

Consumers and Consumer Group Responses

A4.79 On the question of the feasibility of informing callers of the cost of data calls to ISPs, consumers had mixed views. One respondent suggested this was unnecessary if ISPs are required to inform customers of price changes and another suggested that "splash boxes" or "forced portals" would waste chargeable call time or irritate consumers. Other respondents said informing consumers was essential, but there were mixed views as to whether this would help prevent rogue dialler scams.

Other Regulatory Body Responses

A4.80 ICSTIS believed that all services should be regulated on a level playing field and agreed with Ofcom that call prices could be announced using splash boxes. It requires this for premium rate internet services in addition to on screen clocks that enforce a maximum call cost of £20 (to minimise consumer harm on 09 numbers). However ICSTIS stated that further analysis would be required to determine if this was proportional for 08 numbers.

Communication Provider Responses

A4.81 One respondent believed the costs would outweigh the benefits, but did not have cost data available. It proposed that SPs rather than CPs should be responsible for providing this information. Another CP believed it would be advantageous if announcements on internet traffic and lower cost premium rate calls could be excluded. In addition, two further respondents highlighted practical issues associated with its implementation. One respondent questioned whether ISP consumers were not already aware of call prices, as the rate charged forms the main part of the user's choice of ISP. It was believed there were a number of potential issues with the proposal – ISPs were often unaware of the exact charging structure of individual OCPs thereby making it impossible for them to provide accurate charging information. It was argued that using splash boxes was likely to have scalability and compatibility problems and with the low price of internet dial up services, it was unlikely to be justifiable.

A4.82 Another respondent stated that it offered some customers "cost of call so far" technology but the demand for this had declined significantly. It suggested Ofcom create a central pricing resource to help customers obtain accurate pricing information, the creation of a simple label to describe 0845 and 0870 pricing to

consumers e.g. using industry-wide brand names. BT felt an active re-direction page may be the only option to provide pre-connect information for its BTYahoo! pay-as-you-go dial-up internet access Service, however it would not be able to provide tariff information for calls which were not BT originated. It estimated that set up costs would be £60-80k and £20-25k p.a. in operational costs, as well as help desk and administration costs. For products supplied by BT's wholesale organisation, it did not believe it could provide a pre-announcement service as there was no link between the PSTN billing system and the modem in the Point of Presence that answers the call. BT proposed that ISPs could provide the announcement but there may be issues associated with viruses and other computer security risks. BT considered that these issues presented significant barriers to being able to provide tariff information to dial up customers.

- A4.83 Another respondent believed this type of solution to be unnecessary and would have preferred the use of an industry code of practice to address any pricing issues. UKCTA felt the only possible solution would be a generic message through a 'splash box' or equivalent, but that this would not be able to provide accurate pricing information for consumers and therefore would be of limited value.

ISPs, SPs and other Business Association responses

- A4.84 One SP regarded the proposed requirements to be out of proportion as many customers have been using pay-as-you-go dial-up internet access services for a number of years and therefore already have an idea of their cost. It did not believe splash boxes would work in an ISP environment and felt forced portal technology would also have problems. It stated that as its network was not designed with this in mind, there would be significant implementation costs. Another respondent stated it would like to see clear and concise pricing information. The name of the TCP/SP operating the number should be automatically provided at the start of each call to establish legitimate and rogue dialler calls.

Ofcom's Comments

- A4.85 Most consumers agree that Internet services operating on 0845 represent good value and only where ISPs propose to change their prices and especially in the case of dialler 'scams', should they be compelled to warn consumers. Under Ofcom's new proposals, 0845 call prices would reflect the current BT prices as a maximum, for at least two years and the case for requiring 'splash boxes' or 'forced portals' is no longer, in Ofcom's view, justified. ICSTIS's extension of its Code in relation to 0871 calls would capture high cost diallers and therefore should address concerns in this area.

Question 13: What comments do stakeholders have on the consumer protection measures that Ofcom has defined, in particular which measures or combination of measures should be implemented? Do you think additional consumer protection measures were required?

Consumers and Consumer Group Responses

- A4.86 Whilst one consumer group welcomed the consumer protection measures put forward by Ofcom, a number of consumers considered them too weak. LACORS added that whilst Ofcom's proposed consumer protection measures had some merit only a compulsory indication of prices would provide the necessary

protection. Five respondents suggested that ICSTIS's regulatory powers should be extended to all revenue sharing numbers, but there were mixed views as to whether geographic numbers should be published by SPs. Six respondents felt that geographic numbers should be provided, but two (including one consumer group) felt that this was unnecessary as it would not work with intelligent routing and that it would not be required if NTS services were made to work. Nine consumer respondents stated that advertisements should make call prices clear and indicate that the call was not an "ordinary" local or national call. However a consumer group felt that as call charges were not in the advertiser's control, they should not be stated, but advertisements should instead indicate that the call was more expensive than a geographic call. Three consumer respondents suggested that all SPs participating in a revenue sharing scheme should state this in their advertisements.

- A4.87 Three consumer respondents proposed that call queuing be prohibited and a consumer group suggested that calls should be rejected if there were projected waiting times above three minutes. They also suggested that for 087 numbers a limit of 5 minutes at a higher call rate, followed by 3p per minute afterwards should be imposed on SPs. One consumer proposed that all 09 services should have an enforceable price cap, whilst another felt that all OCPs should be price capped. It was also suggested that all revenue sharing services should be Controlled Premium Rate Services. It was felt that both OCPs and TCPs should provide better pricing information and further that TCPs should be criminally liable under the Consumer Protection Act 1987 if they failed to do so. One consumer respondent praised the existence of NTS, but felt that the divergence in the price of NTS calls compared with geographic call charges should be addressed and call prices made clear at the time of the call. Some respondents went further and suggested a public education campaign to inform the public of call charges. It was noted that some companies using NTS numbers appeared unaware of the price of the calls and believed they were the same price as local or national calls.
- A4.88 It was suggested that 0870 calls to call centres should be limited to a short duration and the company called should then be obliged to ring the caller back. This should be backed up by a regime of fines or suspension of the number for persistent queuing 'offences'. It was also argued that the current and increasing levels of abuse through overcharging on 084 and 087 numbers could only be addressed by either a complete ban on revenue sharing or the extension of ICSTIS control to 08 numbers. ISPs could continue to share revenue but again with ICSTIS control.

Other Regulatory Body Responses

- A4.89 LACORS believed that whilst Ofcom's proposed consumer protection measures had some merit only a compulsory indication of prices would provide the necessary protection. It also stated that specific safeguards were required for all NTS numbers to prevent them being linked directly to premium rate lines. ICSTIS stated that it would consider regulating 08 numbers in the context of controlling adult content and other high risk services if these could be easily identified, there was evidence for potential consumer harm and there was an industry mandate for it to regulate. There would be a number of issues associated however, such as (amongst others) resources, funding and enforcement.

Communication Provider Responses

- A4.90 Two CPs welcomed Ofcom's consumer protection measure proposals and supported Ofcom's COI guidance initiative. Another respondent also felt Ofcom had identified all the appropriate consumer protection measures and supported the objective of providing call price information to consumers via a code of practice. It was also felt that the code should include requirements for pricing information for 084/087 advertising and that the involvement of the ASA, CAP and ICSTIS would be useful. It was proposed that OCPs should take a lead in the consumer protection area but noted there was a considerable cost associated with this.
- A4.91 One respondent believed that consumers needed to understand that NTS calls were providing a service and therefore incurred slightly higher charges than a basic local call and suggested that additional consumer protection measures should only be present where current regulation needs to be improved upon. It was also suggested that adult services be prohibited from 08 numbers and only offered by segregated 09 numbers. Two other respondents concurred and proposed that adult services only be provided on 0909 numbers. This would allow consumers to bar access to these services easily and have confidence that ICSTIS was regulating them. In addition, it was proposed that OCPs should provide better pricing information to consumers via a voluntary code of practice. Four CPs did not believe that extending ICSTIS's remit to cover 084/087 numbers was appropriate. One believed that this would be overly burdensome and disproportionate and instead, it may be more appropriate to lower the retail price threshold for Controlled Premium Rate Services. In addition, two respondents did not feel pre-announcement of call prices were required.
- A4.92 One respondent would support a Code of Practice if cost benefit analysis was positive and another suggested the SPs could implement the Code. One CP wanted to maintain customer confidence but believed consumer protection measures should be evaluated against specific objectives. It did however welcome the use of general conditions and ASA guidelines. Another respondent believed the consumer code of conduct should be implemented by ICSTIS and obligations in PRS could be extended to NTS numbers too. BT generally supported Ofcom's measures, but felt that its Option 2a would add more tangible strength to them. It felt that the pre-announcement options were not likely to have a positive outcome in terms of cost-benefit analysis. In addition, BT was concerned that removing revenue uncertainty from TCPs would lead to a proliferation of tariffs and problems associated with tariff charges. These would lead to a rise in consumer complaints and damage BT's valuable brand.
- A4.93 UKCTA felt the introduction of additional consumer protection measures should be tested against specific objectives and that only where absolutely necessary should new regulation be introduced. It felt General Conditions should ensure that appropriate information is available to consumers, but it welcomed the involvement of the ASA and stated it would be willing to work with them. UKCTA stated that anecdotal evidence suggested that the use of 087 numbers to provide adult services was increasing. If there were sufficient quantitative evidence, it would support the extension of the definition of Controlled Premium Rate services to include all adult services charged through the telephone service. It would also support the amendment of the Numbering Plan to restrict Adult Services to the 0908 and 0909 number range if it were feasible. UKCTA did not believe it was necessary to bring all revenue share services within ICSTIS's scope as this would be disproportionate.

ISPs, SPs and other Business Association responses

A4.94 One SP felt that ICSTIS should regulate 087 numbers to provide greater SP certainty, to increase consumer confidence and to be able to take action against unscrupulous SPs. It suggested ICSTIS should take a monitoring and educative role by spot checking services regularly. Another respondent felt that overall consumer protection measures were satisfactory, but carriers needed to have more responsibility for informing consumers of prices and how to bar calls. Ofcom were also urged by a further respondent to view helplines as a unique stakeholder group and to take advice on how any new measures could affect this group. It also recognised that many adult services were operating outside of ICSTIS's remit and it would therefore support ICSTIS's role being extended to cover these services.

Ofcom's Comments

- A4.95 Ofcom recognises that many consumers would welcome more stringent measures to either ensure callers knew the precise price of calls, (although it should be noted that some consumers would find it annoying), before they made them. Additionally, some consumers want measures to prevent call holding times from being extended. Ofcom was concerned, however, that some of the measures suggested may not have been justified. Therefore Ofcom carried out further research into price transparency and call centre waiting times before consulting again on its proposals.
- A4.96 As mentioned earlier in the document, Ofcom has considered a number of measures to deal with price transparency and consumer protection. One such measure was extending ICSTIS regulation to cover 08 numbers. However, in Ofcom's view, if ICSTIS were to extend its powers to the whole of 08, this would be disproportionate to the potential harm likely to be caused by calls to lower price services priced at less than 5p per minute (generally on ranges other than 0871).
- A4.97 Further solutions such as banning call queuing or rejecting calls likely to have to wait more than a specific time do not appear appropriate in light of the research conducted into call centre waiting times (see Annex 6). In any case many consumers welcome the ability to wait in call queues in the knowledge that their call will most likely be answered, rather than having to repeatedly redial in the hope the call may eventually be connected. Callers also have the ability to terminate calls on which they are made to wait too long without the need for any automatic means of doing so.
- A4.98 Further, many companies using call centres do enable callers to leave their number and subsequently call them back but this is a commercial decision for the company and not one which Ofcom would seek to impose.
- A4.99 It is not always possible for companies to publish geographic alternative numbers since calls may be switched between any of a number of geographic locations at various times or when call volumes exceed a call centre's capacity.
- A4.100 Ofcom acknowledges LACORS' comments about compulsory price indication and considers that the combination of the ASA/CAP guidance and ICSTIS Codes (if extended to 0871 calls) should address this issue for the majority of advertisements for services, but is mindful of the difficulty SPs and advertisers have in giving pricing information when there are over 100 OCPs, including mobiles whose prices for NTS calls all differ.

Question 14: Do stakeholders agree with Ofcom's assessment of the steps Ofcom would need to take to implement Option 2? Do stakeholders consider that any steps were missing or unnecessary?

Consumers and Consumer Group Responses

A4.101 In response to Question 14 relating to whether stakeholders agree with Ofcom's assessment of the steps required to implement Option 2, two respondents stated that Option 2 should not be implemented and one respondent thought that the absence of discussion of steps to introduce Options 3, 4 and 5 confirmed that Ofcom had a pre-determined intention to implement Option 2.

Communication Provider Responses

A4.102 Two CPs agreed Ofcom had correctly assessed the steps required to implement Option 2, but did not agree that Option 2 was appropriate as currently defined. Another respondent agreed with the steps proposed for Option 2 in terms of operational and technical implementation, but felt that the issue of OCP specific call origination charges following Ofcom's recent INCA/CLI direction needed to be addressed beforehand. Another respondent agreed with Ofcom's proposed steps and urged it to implement Option 2 quickly, yet effectively, to allow stakeholders to benefit as soon as possible.

A4.103 There was concern from two respondents about the timescales and one felt an interim solution was necessary. This interim solution would need to prevent further reductions in payments to TCPs and SPs as a result of changes in BT's retail prices. It believed it critical that further detail relating to what changes could be made to BT's billing systems should be provided. UKCTA and another CP agreed with the legal steps suggested by Ofcom and requested together with another CP that the 2 month consultations happen concurrently. UKCTA stated it was deeply concerned with the timings proposed and felt these should be shortened. It thought Ofcom should be proactive in working to find ways to reduce the timeframes proposed.

A4.104 Another respondent wanted Ofcom to consider a phased implementation approach and welcomed any initiatives to speed up the regulatory process. BT agreed that Ofcom's proposals were reasonable and noted any requirements for further billing development (if Option 2 were implemented), would depend if number granularity greater than the 10k level were imposed. It did not anticipate an increase in the number of price points for 0844/0871 and therefore saw no additional systems development required.

A4.105 One respondent however believed that Ofcom had underestimated the logistics required to implement Option 2 and felt it was unfeasible to provision numbers across all networks at point of sale. It argued that implementing option 2 required changes to a billing system, and also addressing the significant operational aspects associated with managing the provisioning of each number on every network.

ISPs, SPs and other Business Association responses

A4.106 One respondent agreed with the steps proposed by Ofcom and did not believe any were missing. ISPA agreed with Ofcom's assessment of the steps they would need to take to implement Option 2, although it felt more information was required as to the detail and particularly around the availability of smaller number

blocks for small ISPs. Another ISP felt that the timescales proposed by Ofcom were too long and threatened the validity of any plan. It suggested that a phased approach would make systems changes more feasible and a sufficiently detailed plan to address the issues of phased implementation would be feasible, without huge expense and time consumption on the part of BT and other CPs.

Ofcom's Comments

- A4.107 As noted in the answer to Question 10 whilst Option 2 was not totally rejected by stakeholders, it was not widely supported. Since the consultation closed Ofcom has considered further variants to the original five options as well as new ideas and has taken the view that Option 2 backed by the proposed consumer protection measures would not fully address many of the strong concerns voiced, particularly by consumers.
- A4.108 Despite this, in deciding on the steps needed to implement Ofcom's latest proposals Ofcom took note of the comments received to Question 14 and, accordingly, has developed an implementation plan which, assuming Ofcom's new proposals were confirmed, would put the major changes into effect as quickly as possible whilst allowing SPs sufficient time to migrate services where necessary.
- A4.109 In regard to the matter of OCP specific call origination, Ofcom considers this to be a matter for the industry to resolve given the known limitations of BT's wholesale billing systems. As recommended in Section 8 of this consultation, OCPs and TCPs need to agree external payment arrangements that operate outside of BT's transit 'cascade billing' process.

Question 15: What comments do stakeholders have about the need for and content of a public communications plan to inform consumers about changes in the retail pricing arrangements for 0845 and 0870 calls under Option 2? What roles should Ofcom, the Industry and other groups have in implementing this plan?

Consumers and Consumer Group Responses

- A4.110 Three consumer respondents including two consumer groups thought that a public communications plan to inform consumers about changes in retail pricing arrangements for 0845 and 0870 calls under Option 2 was necessary. It was suggested that this should be through various media channels as well as flyers with customer bills and call announcements. However one consumer stated that Option 2 would confuse matters further and two other consumers believed that the number of price points and lack of control over OCP charges would make a communications strategy futile.

Other Regulatory Body Responses

- A4.111 ICSTIS felt it was important that if one of the main reasons the regulatory regime was being changed was due to a lack of consumer awareness of pricing, considerable thought and resources be devoted to address this issue. Specifically it felt that joint development and provision of information between Ofcom, OCPs, TCPs, ICSTIS, consumer groups and other stakeholders dealing specifically with consumer education was required. Further it thought a public communication plan needed to be developed to inform consumers of the proposed changes.

Communication Provider Responses

- A4.112 One CP believed a public communications plan was required to keep consumers informed of developments and should be supported by 'price check' websites. Another felt it was essential that consumers had more clarity on the NTS pricing structure urgently. It suggested that on demand information may be acceptable rather than expensive "push" campaigns such as advertising or notices. It argued that the message needed to be simple and easily communicable. Four respondents believed the communications should be led by Ofcom since the key pricing message was the result of an Ofcom policy decision. UKCTA thought it would be useful for Ofcom to advertise the change in policy relating to the introduction of Option 2 so that it was as clear as possible that individual communications providers were not making unilateral changes. TCPs should ensure that their customers were informed about the changes and that the ASA guidelines were highlighted. It suggested that OCPs could highlight the change from LocalCall and NationalCall by improving availability or accessibility of paper based or online tariffs.
- A4.113 Another respondent suggested that Ofcom and the industry work closely together and that managing the gap between perception and reality would be a key challenge. The anticipated increase in retail price points associated with Option 2 would need to be carefully communicated. A further CP believed that TCPs would need to inform their customers of the changes and promote usage of ASA guidelines. It was also argued that a consumer code of conduct should negate the need for a public communications plan. However it agreed that general information on the Ofcom website and promotional materials would be helpful to consumers. BT would communicate BT prices to its customers and assumed that other CPs would do the same.

ISPs, SPs and other Business Association responses

- A4.114 The Advertising Association welcomed the fact that Ofcom has already been working with the ASA and CAP on creating advertising guidance. It believed that breaking the link between geographic call prices and 08 numbers would result in the reduction of unintentionally misleading advertising occurring. It supported any initiatives that would inform and educate customers. Another respondent believed any public education campaign needed to be simple and information should be provided on all consumer bills for a certain time period. In addition, it proposed that information should be accessible on the ICSTIS and TCPs websites and that ICSTIS should provide the standardised fact sheet for all consumer bills. THA felt that any changes to the current set-up would be pointless without a public communications plan and it believed it was important that guidelines for advertising numbers and associated costs were created. It would be willing to assist in any communications plan from a helplines' perspective. ISPA felt that Ofcom should co-ordinate with industry to promote consumer awareness of the 0845 and 0870 tariff pricing arrangements.

Ofcom's Comments

- A4.115 Given that Ofcom no longer proposes Option 2 as a solution, Ofcom considers there is no longer any need for a specific plan. However, Ofcom is still concerned to see an increase in pricing transparency generally. The additional measures being proposed in regard to modifications to General Condition 14 and stronger ASA/CAP guidance on advertising should help to raise public awareness of NTS call prices.

Question 16: What comments do stakeholders have on the following issues in the event that Option 2 is implemented?

General:

Consumers and Consumer Group Responses

- A4.116 It was felt by one consumer that Ofcom had already agreed with industry to implement Option 2 and that there was never any intention of implementing any of the other options.

The Network Tariff Gradient:

Communication Provider Responses

- A4.117 UKCTA and two further CPs felt that current arrangements were inadequate and that BT had too much control over what was included in the calculation causing other CPs to be disadvantaged. Three other CPs, together with UKCTA, believed more information was required to help calculate the NTG, whilst another felt the tariff gradient issues should be discussed with new charge controls. It was also argued that the NTG is likely to remain an area of uncertainty for TCPs and the CP could not see how the issue would be addressed by changes to the NTG mechanism for NTS in isolation. Two CPs suggested that the NTS component should be reviewed as part of a wider review. Another respondent questioned whether the current peak, off peak and weekend pricing structure was to be maintained. BT stated that the NTG was not specific to NTS and was a cost allocation mechanism between different time of day bands. BT could not see any reason for change as there have been no disputes relating to it.

ISPs, SPs and other Business Association responses

- A4.118 One respondent believed there should be certainty of what was considered the day, evening and weekend charging periods for a set time of three months, for example. It was felt by one respondent that the nature of the gradient, its derivation and lack of transparency created uncertainty in NTS rate calculations. A constructive dialogue between BT, Ofcom and industry should be encouraged (and linked to ongoing work on Network Charge Controls), along with an immediate requirement for transparency from BT.

Ofcom's Comments

- A4.119 BT's network tariff gradient is a direct function of its retail gradient calculated across all local and national (including NTS) call volumes and revenues. From the total volumes and revenues in any financial year BT can calculate the average pence per minute for all inland calls during the daytime, evenings and weekends. These are then expressed as a function of the 24 hour average pence per minute achieved for all calls.
- A4.120 The NTG was last adjusted in April 2001 using the results from the 1999/2000 financial year. Only when the retail gradient in any year varies by more than 5% from the network gradient does BT consider re-aligning the network gradient to reflect changes in the overall traffic distribution. To date the variations seen have not justified a further re-alignment.

- A4.121 Ofcom is aware that some CPs are concerned at BT's ability to change the network gradient thereby changing its call origination and transit charges at the various times of day. This has a knock-on impact on NTS outpayments and ultimately TCPs' NTS revenues. CPs are also concerned at the lack of visibility given by BT in how the retail gradient is calculated and the criteria BT uses to decide whether or not to adjust the network gradient.
- A4.122 Ofcom acknowledges these concerns but notes that the network tariff gradient applies to all BT wholesale conveyance and transit products and is not unique to NTS.

New price points and timescales for their introduction:

Communication Provider Responses

- A4.123 One respondent proposed that a single price point was required on the 0845/0870 number ranges to minimise consumer confusion. It drew parallels from the directory enquiries issues and argued that introducing a number of price points would be wasteful – instead, it felt being able to opt-in or out of discounts schemes would be sufficient. It suggested implementation begins when the NTS call termination market review had been finalised. However, another respondent suggested a minimum value would be required between price points to better manage unnecessary proliferation of price points.
- A4.124 It was considered by one CP that the implementation arrangements and structure of 0845/0870 under the new regime should mirror that of the 0844/0871 regime. It suggested that new price points and numbers be introduced consistently in terms of timescales. Another CP suggested that the timescales should match those of BT announcing retail price changes. One CP would only support the introduction of multiple chargebands after implementation issues had been addressed. In addition, UKCTA and two other CPs wanted arrangements to be harmonised for the introduction of new services, as the current arrangement allowed BT to launch new NTS numbers in a shorter timeframe than other CPs. It was argued by another respondent that the current situation where provisioning 10k block took weeks would worsen with finer granularity. It would welcome Ofcom's views as to a new process. UKCTA also felt there would be considerable benefit in restricting the number of retail price bands hosted on 0845 and 0870. BT felt the current processes and timescales for the introduction of new price points for 0844/71 would expand to cover Options 2 or 2a. It noted that these processes have been effective for several years.

ISPs, SPs and other Business Association responses

- A4.125 One respondent suggested the number of price points should not be restricted as this could restrict SP's ability to compete on retail price and effective competition should have the effect of reducing implementation timescales.

Ofcom's Comments

- A4.126 Now that Option 2 is not being proposed, any issues surrounding new price points in 0845/0870 should no longer arise. Instead Ofcom is proposing to implement an interim solution whereby the designation for 0870 would reflect a maximum charge at their present level, (7.91/3.95/1.50 p per minute for 0870 and 3.95/1.00/1.00 p per minute for 0845. In addition BT has indicated its willingness to give an undertaking not to change various charges and the discounts available

to its retail consumers for a period of, at least, one year from the date the interim arrangements come into effect. If after one year, 0870 calls are withdrawn from the scope of the NTS Condition, calls to those numbers may then be eligible for the same discounts and call options available on BT's national geographic calls.

- A4.127 During the interim period for 0870 numbers and based on the undertaking given, BT may seek to change its wholesale charges and the discounts it applies to 0845 numbers after the first year of the interim arrangements. However, any changes BT may make to discounts are unlikely to affect TCPs' termination payments during the two year period of interim arrangements owing to the time it takes for BT to be able to calculate the change to the average Retail Discount Factor resulting from any new or amended discounts.
- A4.128 Under the process for reviewing its discounts BT uses actual call volume and revenue data recorded over a full twelve month period after any new discounts take effect. The net revenue received for 0845 calls (after discounts) is compared with the total revenue BT would have received if all calls were priced at the full headline rate to be reflected in the designations in the Plan (3.95/1/1 p per minute). BT's Retail Discount Factor is the percentage difference between these two figures.
- A4.129 This use of actual revenue data over a full financial year serves to eliminate any seasonal effects but it does also mean that BT may not be able to propose a change to the Retail Discount Factor for 0845 calls for at least one year after any changes to its discounts. By this time Ofcom should have completed its review of future 0845 arrangements.

What 'opting into' discounts means;

Communication Provider Responses

- A4.130 It was suggested that opting in should mean a customer is opted into the full package of discounts available from BT for that number range rather than a complex discount package by discount package option. The CP felt that opting in should be available on every retail rate. SPs on other terminating networks should be able to use any marketing messages associated with the discounts but should understand how these were calculated and when they were due to change. Another respondent proposed that CPs should have the option to opt in or out of BT's retail discounts for 0845/0870 services under Option 2. One CP considered that opting in meant that SPs could choose whether their service should be available for discounts. It was felt by UKCTA and two other respondents that whilst they respected BT Retail's commercial freedom to control its own discount structures, they did not believe these should be imposed on other SPs automatically. Two CPs, as well as UKCTA, wanted further clarification as to what opting into BT's discount structure would entail and in addition, believed that TCPs should be able to withdraw their services from BT's discount structure in an agreed timescale. It was argued that without sufficient safeguards, no other CPs would include their services within BT's discount structure which could leave BT with a competitive advantage. It was noted by another respondent that it chose to opt out of discounts as it reduced revenues and provided little benefit as the OCP set the customer rates.
- A4.131 BT argued that Ofcom's key driver for Option 2 was to provide revenue certainty for TCPs and that it would be inconsistent therefore to continue to apply BT discounts to TCPs charges for NTS. Including discounts would not further

Ofcom's objective of reducing disputes as a result of BT's influence on TCP's revenue. In addition, it felt a lack of distinction between internet access and non-internet access would present BT with significant operational problems

ISPs, SPs and other Business Association responses

A4.132 One respondent underlined that a solution must be devised to prevent BT Retail from gaining unfair advantage from the discounts regime and the exposure of CPs to unpredictable timings, methodology and levels of discounting. It suggested that perhaps Ofcom should consider freezing discount levels during this period or a similar industry agreement could be reached to maintain the levels until implementation.

Ofcom's Comments

A4.133 Here again now that Option 2 is not being adopted, there are no plans to enable TCPs to opt in or out of discounts applicable to 0845 and 0870 calls. There are also no proposals to allow this during the period of the interim arrangements. In relation to 0845, Ofcom would consider this issue if it remains relevant during any review of the position after two years.

Responsibility for payment of transit charges;

Communication Provider Responses

A4.134 One CP felt that the responsibility for transit charge payments needed to be addressed and proposed that OCPs who have control of where to hand the traffic over to BT should bear the cost. Another respondent believed that the rules governing who pays BT's transit charges should be consistent across all NTS numbers. In addition, three respondents suggested the responsibility for payment of transit charges for NTS calls should lie with TCPs. It was argued that the TCP hosted the service and therefore had the overriding commercial interest in having the calls conveyed. It suggested this would be an equitable compromise between OCPs taking on more responsibility for raising consumer awareness for NTS and TCPs taking responsibility for transit charges. Without this compromise, its ability to generate a profit from NTS would be severely impacted.

A4.135 It was argued by one CP that many non-BT OCPs fail to recover their full origination costs and two CPs suggested that as the benefit of revenue sharing is gained by the TCP/SP, TCPs should cover the transit costs. UKCTA felt that a consistent approach was required on all NTS number ranges. Another respondent believed that paying for BT's transit charges should be harmonised with the regime for geographic traffic and that one approach should be adopted for all number ranges. It felt there was a strong economic argument for having the OCPs pay the transit charges and suggested that unless they were made responsible for the cost, they will have no incentive to reduce the transit costs. Another respondent believed the current system should be kept, but where OCPs deviate from standard price points, they should cover the costs of announcements to customers. BT was neutral as to who pays the transit charges for NTS and did not believe that change would be helpful. In addition, BT was unclear why Ofcom would want TCPs to be able to offload revenue uncertainty on to OCPs. It also noted that its transit charges, NIPP data and EBC matrix were all published information, so it was unclear where any uncertainty may arise.

ISPs, SPs and other Business Association responses

- A4.136 To be consistent with 0844/71 calls, it was suggested by one respondent that the OCP should pay the transit charges as they were recovering call costs from consumers. Another respondent felt that there was a need for consistency in transit charging arrangements within the NTS regime. As retail pricing and interconnection arrangements for 0845/0870 would converge with those for 0844/0871, the transit charging regime applied to the latter should be applied to all. It felt the OCP should pay the transit charge for all such NTS calls, on the basis that the responsibility for the call remains with the OCP as it was originated and handed over to the transit network and the OCP was responsible for the retail pricing of the call.

Ofcom's Comments

- A4.137 When Ofcom introduced the 0844 and 0871 ranges as 'new NTS' in 1999 it established the principle that the OCP should reflect any transit charges in their retail price for these calls. This was because Oftel intended that retail prices would comprise the sum of the TCP's required outpayment plus the OCP's originating retention plus any transit charges. In the event, in the interests of simplicity, 0844 and 0871 call prices are set by the TCP having usually chosen a price point from a pricing ladder established by BT. This is much the same as they choose to use the 0845 and 0870 ranges and the current single price point available for each.
- A4.138 This means that there is no real reason for the principle of 'who pays for transit' to differ for 0845/0870 and 0844/0871 calls. Ofcom set the principle that TCP should pay for NTS transit initially on the basis that because the OCP no longer retains any retail profit for NTS calls, the provider who receives the profit should bear the transit costs i.e. the TCP. Otherwise OCPs would face originating calls at a loss or be forced to charge more than BT simply to cover their costs. This could be viewed as discriminatory given that few TCPs have shown any willingness to interconnect directly with other OCPs thereby avoiding any need for transit.
- A4.139 Ofcom considers that this principle should apply equally to the 0844 and 0871 ranges. Ofcom therefore suggests that a single transit payment arrangement should apply for all NTS calls, following the principle of TCP pays.
- A4.140 However, since the 1999 determination, which established the 'new NTS' regime, has lapsed, Ofcom considers that it is now for BT and the NTS industry to discuss and agree any new transit payment arrangements subject to any SMP obligations to which BT is subject.

Mechanism for calculating long/short call duration interconnection payments for 0844 and 0871 calls

Communication Provider Responses

- A4.141 One respondent thought that BT's minimum call fee should be taken account of and had no preference for how this was achieved. Another suggested that the long and short call mechanism for calculating 0845 interconnection payments should be maintained and extended to 0844 as soon as possible. Two further CPs supported the idea of extending arrangements which would correctly distribute the retail minimum call fee revenue. Three respondents and UKCTA further suggested that the 0845 arrangement should be passed on to 0844, 0870 and 0871 ranges. It was suggested that as the implementation of Option 2

required other billing changes, the introduction of a minimum at payment within the scope of interconnect billing changes should also be included. It was felt by another respondent that the current situation was satisfactory and should be extended to all non-geographic numbers. BT proposed that if Option 2 or 2a were implemented, the most suitable process for calculating long/short duration payments for these options, would be to apply the current process adopted to calculate short duration payments of geographic linked 0845 and 0870 calls.

ISPs, SPs and other Business Association responses

A4.142 One respondent believed minimum termination payments of 0845/70 calls would make the NTS regime more consistent. Another respondent supported the request made to BT by the NTS Focus Group to introduce a minimum termination mechanism for 0845/70. It felt the solution should be included within the requirements that would arise from the final decision on NTS made by Ofcom.

Ofcom's Comments

A4.143 The NTS Focus Group has been discussing the issue of the minimum retail call charge for calls made by BT customers, and whether this should be reflected in a minimum termination payment from BT to TCPs for calls to 0844 and 0871 numbers. Under the current NTS regime, this issue also arises for calls to 0845 numbers, and has been addressed using an estimation technique based on long and short call durations.

A4.144 Ofcom understands that agreement has been reached on a methodology for applying short and long duration charges to 0844/0871 calls and that this is in the process of being implemented.

Question 17: Do stakeholders agree with Ofcom's assessment of the steps Ofcom would need to take to implement Options 1, 3, 4 and 5? Do stakeholders consider that any steps were missing or unnecessary?

Consumers and Consumer Group Responses

A4.145 One consumer respondent considered Option 5 to be the most acceptable option but thought it needed further refinement such as a complete ban of revenue sharing except for 09 numbers

Communication Provider Responses

A4.146 One respondent agreed with proposed steps for implementing Options 3, 4 and 5. Another CP agreed that no additional steps were necessary to maintain the status quo, but felt continuing with the current regime was likely to lead to reduced payments to TCPs triggering further disputes. It disagreed with Ofcom's view that it was necessary to conduct a market review only once a period of deregulation had taken place. It argued that it was premature to move from a previously evidence based decision to deregulate 08 and 09 numbers ranges without first conducting another market review. Two respondents disagreed with implementing Options 1, 3, 4, and 5 altogether and one CP had fundamental concerns with implementing Options 3-5 because of adverse effects. Implementing Options 3-5 would change one respondent's entire business model and it believed it would go out of business, as it would have to bill its customers directly to collect revenues. BT stated that Options 3-5 would require billing

development to end revenue sharing and it would expect this to take a minimum of 3 months and to cost £50-100k.

Ofcom's Comments

A4.147 As with its response to the comments received to Question 14, in deciding on the steps needed to implement Ofcom's latest proposals Ofcom took note of those comments and, accordingly, has developed an implementation plan which would put the major changes into effect as quickly as possible which, assuming Ofcom's new proposals are confirmed, allow SPs sufficient time to migrate services where necessary.

Question 18: What views do stakeholders have on combinations of policy options (either as presented in this document or otherwise suggested by stakeholders) that Ofcom should consider for phased changes to the current NTS regime, and what would be the advantages of this phasing?

Consumers and Consumer Group Responses

A4.148 One consumer group suggested that any regime change should occur only once and that any phased changes would lead to confusion amongst consumers. However, another consumer believed that Ofcom should seek to implement Option 2 as soon as possible, followed by Option 4 later on allowing companies time to decide whether to continue to use the benefits of 08 numbers without revenue sharing or to move to 09 numbers to receive payment.

Communication Provider Responses

A4.149 It was felt by one respondent that their Option 2 variant was the most appropriate arrangement to implement, and it believed it was inappropriate to consider phasing of alternative options based on legacy infrastructures. Instead, it felt future NTS regime enhancements should be based on underlying new technology. Another CP believed that combinations of the policy options (other than having a single price point and decoupling 0845/0870 calls from local and national banner) would not meet the criteria or regulatory objectives presented in the consultation. A further respondent believed timing was critical and a balance between allowing de-regulatory 'breathing space' and generating stability as soon as possible was required. It felt the status-quo was unsustainable in the short term as TCPs could not forecast with cost certainty. It considered that Options 3, 4, and 5 would not address the lack of uncertainty and felt there was no merit in the phased approach of any of these options. However, it did suggest that phasing within an option may be valid. It proposed addressing consumer confusion issues as soon as possible to maintain confidence in the NTS market was important. Further it wanted to understand if BT's billing systems could be modified more quickly to enable the opting out of discount schemes in the short term. It stated that although Option 2 remained a long term goal, a single price point would deliver clarity to consumers, certainty to network operators and reduce the regulatory intervention required to resolve disputes.

A4.150 One CP suggested that a phased approach was vital to reform and it would enable the market to move successfully from the status quo to Option 2. Without interim steps, it felt market confidence would decline and it would be very damaging to the sector. It, together with another respondent proposed that phase 1 should end the link between national and local calls and 0870 and 0845 numbers and suggested operators should be permitted to remove their services

from BT's discount structure. It was also suggested that consumers should be advised charges were 4p per minute / per call or 8p per minute / per call. Phase 2 would involve launching multiple chargebands supported by a number portability arrangement (which it proposed did not exceed the previously upper limits) and appropriate consumer awareness campaigns.

- A4.151 A further respondent did not believe it was feasible or practical to create combinations of Options 2-5 as the administrative and operating costs would be prohibitive. Another respondent stated it would like Ofcom to implement Option 2 via a phased approach. BT did not anticipate it necessary to provide combinations of options using a phased process. It believed implementing Option 2a would take 6-9 months from the publication of Ofcom's NTS statement including development of billing systems (3-6 months from publication) and commercial arrangements (6-9 months from publication).

ISPs, SPs and other Business Association responses

- A4.152 THA recognised that SPs may need notice to implement changes and that Options 3-5 would require much longer periods of notice for helplines as funding may be required to change the current systems. Many helplines would not have the contingencies in budget to support such changes within a current or subsequent financial year. THA would encourage Ofcom to choose Option 2 followed by Option 5 if this were found to be preferable.

Ofcom's Comments

- A4.153 In arriving at the latest proposals contained in this second consultation, Ofcom considered whether any interim arrangements were necessary before implementing any changes to 0870 and 0845. Given the strong public concern being voiced about the use of 0870 and the results of Ofcom's research and analysis, Ofcom is of the view that the changes needed to take effect as soon as is reasonably possible whilst granting CPs and SPs the opportunity to revise their business plans and, where necessary to migrate to alternative numbers. In addition, the time provided by the interim period should allow both businesses and organisations the opportunity to minimise their migration costs and disruption to their operations.
- A4.154 In the case of 0845, however, Ofcom was mindful of the effects on ISP services if 0845 numbers were required to revert to geographic rates, in the same timeframe as 0870. Ofcom also noted that wider public concern over 0845 charges was not as great as for 0870 and ISP services operating on 0845 are generally regarded as offering good value. In addition, the potential ISP migration costs would have been significant at a time when broadband penetration compared to pay-as-you-go dial-up internet access. Ofcom therefore proposes to review the situation regarding 0845 numbers towards the end of the two year interim period, to assess the level of continuing demand for pay-as-you-go dial-up internet access, before deciding whether to require 0845 calls to be charged at geographic rates for this range as well.

Other issues raised

Consumers and Consumer Group Responses

- A4.155 There was general concern over whether all companies will soon be using 08 numbers at the expense of geographic numbers. There was a strong feeling that

consumers are being deceived and are not aware of the call charges associated with NTS calls until they receive their telephone bill. A number of consumers mentioned the system was being abused at their expense.

- A4.156 It was felt by some consumer respondents that the documents produced by Ofcom were too complex and lengthy and were difficult to locate on the Ofcom website, and were therefore not sufficiently consumer friendly. It was also felt by some consumers that by having a non-confidential version, they were being denied all the facts which other parties had access to.

Other Regulatory Body Responses

- A4.157 LACORS supported Option 1 supported by the requirement to publish call prices more clearly. LACORS believed that the other options may lead to price increases (Option 2) or a reduction in the number of services available to consumers (Options 3 to 5) which would not be in consumers' interests.

Ofcom's Comments

Migration from geographic to NTS numbers

- A4.158 Ofcom has, for some time monitored the growth in NTS call volumes across the various number ranges and notes that the suspected increase in use of NTS by companies in place of geographic numbers may not be as great as many customers believe. Overall the volume of NTS calls is declining rapidly as Internet users migrate from pay-as-you-go dial-up internet access to Broadband services. Volumes of non- Internet NTS calls are increasing but this growth is more evident for 09 Premium Rate calls than elsewhere in 08.
- A4.159 Ofcom anticipates that the proposal to re-establish the geographic link for 0870 calls, would enable companies to continue to migrate to these numbers in order to take advantage of the intelligent routing and billing facilities offered by NTS. In doing so, however, it is expected that retail call prices would not increase and the company may not receive any revenue share. Assuming Ofcom's new proposals are accepted, consumers would then be able to call 0870 numbers and be charged as if they were geographic calls.

Length and complexity of Ofcom documents

- A4.160 Ofcom is acutely aware that many stakeholders, and in particular consumers, find our consultation documents highly complex and lengthy. This is especially true when we address such a complex issue as the operation of the NTS regime. Ofcom is required to demonstrate clearly to all interested parties that we have carried out rigorous economic analysis of the issues and have fulfilled our legal obligations in reaching our decisions. In doing so we have to explain the analysis and the expected impact of any changes to the regulatory regime.
- A4.161 Where consultations, such as this, are of immediate interest to consumers, Ofcom publishes plain English and Welsh summaries which seek to explain as simply and succinctly as possible what the issues are and how we propose to address them. Plain English and Welsh summaries were provided alongside the October 2004 Consultation and summaries will also follow this consultation document.

Non-confidential documents

- A4.162 Ofcom also wishes to clear up apparent misconceptions about what is meant by confidential and non-confidential versions of consultations or statements. In order to be able to undertake the necessary analyses to support proposals and decisions we occasionally use our information gathering powers to obtain information from stakeholders. Where commercially sensitive information is provided, Ofcom must ensure that this information is not published as competitors would then be aware of these details. Therefore, Ofcom does not publish every piece of supporting evidence we receive.
- A4.163 As a consequence some documents will contain background evidence that is for Ofcom's sight only. In these circumstances we are obliged to publish a non-confidential version of the document in which some of the supporting information will have been blanked out. There is no question of any one group of stakeholders being able to see versions of consultation documents that are not available to all other stakeholders, whilst at the same time Ofcom intends that the blanked out version will give some transparency to all about the basis of its decisions.

Annex 5

List of respondents to the October 2004 Consultation

Consumers and Consumer Groups

A5.1 Ofcom received responses from 74 consumers, including 17 confidential responses, and four consumer groups.

A5.2 Consumers:

- A Funk
- Alan Johnston
- Alan Katz
- Alex Monro
- Andy Cresswell
- Anthony Redhead
- Archie Dickson
- Arvin Flethan
- Bruce Warman
- Charmian McCutcheon
- Chris White
- Claude Stokes
- David Lindsay
- D Jacobson
- DP Astill
- Dr P Knowlson
- E Traynor
- Frank Popely
- Glenn G Collings
- Iain MacCallum
- Ian Bottom
- Ian Walker
- J Futter
- J Shersby
- J Triegaart
- Jack Burrige

- James Burden
- Janet Rohner
- John Adams
- John Galsworthy
- John Stewart
- Jonathan Rawle
- Kevin Kearney
- KS Rao
- Lynden Micros
- Michael Dixon
- Michael Halberstadt
- Mr Z Jenkins
- Mrs A G Feltham
- Mrs R M Dixon
- Nicholas Lawrence
- P S Lang
- Penny Lang
- Peter Platt
- Peter Wickens OBE
- Phil Thompson
- R F Cooper
- Rachel Fenton
- Rev E Pennington
- Richard Emery
- S Galinsky
- Sir Brian Crowe
- Vera Lanaway

A5.3 Consumer Groups:

- Burton Residents Association
- Central Hertfordshire Consumer Group
- National Consumer Council
- The Ofcom Consumer Panel

Other Regulatory Bodies

- A5.4 Responses were received by 2 regulatory bodies:
- The Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS)
 - The Local Authorities Coordinators of Regulatory Services ('LACORS')

Communications Providers

- A5.5 Ofcom received a number of non-confidential responses from members of the telecommunications industry and from representative associations. In addition, Ofcom received 4 confidential responses.
- BT Group
 - Centrica
 - Energis
 - Gamma Telecom
 - IV Response
 - ntl Group
 - Telewest
 - The Premium Rate Association
 - Thus
 - UKCTA
 - Vodafone

ISPs, SPs and other Business Association responses

- A5.6 A number of responses were received by Ofcom from ISPs, SPs and other Business Associations. One confidential response was also received.
- Advertising Association
 - Amplefuture
 - Brightview
 - Communications Management Association
 - Federation of Small Businesses
 - ISPA
 - Telephone Helplines Association
 - Teletext
 - Tiscali

Annex 6

Summary of market research

- A6.1 This section summarises the main findings from the additional market research that Ofcom commissioned since the October 2004 Consultation.
- A6.2 The overarching objective of the post consultation research was to provide evidence to inform and guide future options and policy relating to the NTS framework. In particular:
- To understand consumer experience of, and attitudes towards NTS numbers
 - To explore consumer understanding of the price of NTS calls and ‘revenue sharing’ benefits for businesses
 - To explore consumer attitudes towards a number of options for NTS
 - To explore and understand business use of NTS lines – especially in relation to call time, revenue benefits and propensity to engage in negative business practices
 - To explore company culture in relation to NTS lines and the extent to which businesses understand the consumer perspective
 - To explore the attitudes of businesses that use NTS numbers towards a number of options for NTS.
- A6.3 In addition to investigating the above objectives, mystery shopping research was also commissioned to investigate the issue of extended call holding and revenue generation from NTS numbers. The need for this research was born from consumer concerns that some businesses may be using NTS numbers as a means of revenue generation by extending call holding times. The principal aim of this strand of the research was to measure the length of time it takes to connect to an operator when using 0800, 0845 and 0870 numbers and to compare results across these three types.
- A6.4 A secondary objective was to quantify other details of calls made to 08XXs, by analysing the call process, for example, the number of steps taken to connect to an operator and the number of options available to the caller in the menu system.

Methodology

- A6.5 The post consultation research was conducted in three stages.
- Stage 1: Qualitative research (residential consumers and businesses that have NTS phone numbers)
 - Stage 2: Quantitative research (residential consumers only)
 - Stage 3: Mystery shopping (Businesses that have NTS phone numbers)
- A6.6 The initial qualitative stage was designed to explore and understand attitudes and issues amongst consumers and businesses. The key issues for residential consumers identified were quantified in Stage 2. These two stages are reported together in this annex

- A6.7 The mystery shopping stage occurred concurrently to stage 2 and is reported as a separate section in this annex.

Qualitative Stage 1

- A6.8 The qualitative research amongst both businesses and consumers was conducted by HI Europe and fieldwork was undertaken during May 2005. In total, it consisted of:
- 7 residential consumer focus groups
 - 2 business focus groups (SMEs)
 - 16 business depth interviews with telecoms business decision makers at organisations that have NTS numbers (9 small, 2 medium, 5 large)
- A6.9 As well as investigating understanding and experiences of NTS lines, both the consumer and business qualitative samples were presented with four potential options for the future of NTS numbers. These options were rotated through the sample to make sure that order of presentation did not introduce a constant bias. The first option was always presented in the form of a 'dummy press article', with the following three options presented as concepts. Three of the four options were options considered in the October 2004 Consultation (Options 2, 3 and 4) and the fourth was a new option. The options presented in a simplified form to make them easier to understand and were described as follows (though the names have been changed here to align with the October 2004 Consultation):
- Option 2 - In future, the price of calls to 084 and 087 numbers will not be linked to standard BT rates. Instead, the companies you call (the service provider), will set the price of the call and Ofcom will limit the price range for these calls.
 - Option 3 – In future, only Internet Service providers will be able to receive revenue share from 084 and 087 numbers. There will be an end to revenue share for other businesses using these numbers. These businesses will be free to transfer their 084 and 087 numbers to 09 numbers in order to continue to receive revenue share or could keep their current numbers if they wished to continue to use them without receiving a revenue share.
 - Option 4 – In future, there will be no revenue share for businesses using any 084 or 087 numbers. Under this scheme, the service providers (the companies that you call for the service), will be free to move all their current 084 and 087 numbers to 09 numbers in order to share revenue or could keep their current numbers if they wished to continue to use them without receiving a revenue share
 - Option D – In future, revenue sharing will only be available to businesses using 0844 numbers. There will be no revenue sharing on 0845 or 087 numbers. The service providers (the companies that you call for the service), will be free to transfer their 0845 and 087 numbers to 0844 or 09 numbers, in order to continue to obtain a share of revenue. Revenue sharing on 087 numbers would be withdrawn as soon as possible. Revenue sharing on 0845 numbers would be withdrawn after a period of notice – approximately 12-18 months. Businesses could keep their current 0845 or 087 numbers if they wished to continue to use them without receiving a revenue share.
- A6.10 A more detailed description of Options 2, 3 and 4 is included in Section 2, paragraph 2.17.

Quantitative Stage 2

- A6.11 The core residential consumer issues were followed up in a quantitative omnibus. HI Europe managed this stage and used the ICM Research telephone omnibus survey.
- A6.12 Fieldwork took place during the weekend of 2nd July 2005. 1039 telephone interviews were conducted with a GB representative sample of adults aged 16 years and over.
- A6.13 In response to the first screening question on the questionnaire, 762 individuals from the representative sample were responsible for paying the household landline bills. Responses to all other questions on the questionnaire were based on these individuals.
- A6.14 It should be noted here that in view of the feedback from the qualitative research and the complexity of the proposed options, it was decided that the best way to quantify responses and better inform/guide decisions was to test elements of the options in quantitative research, rather than the options themselves. To this end the elements were presented as a number of agree/disagree statements in the questionnaire.

Mystery shopping Stage 3

- A6.15 As already mentioned, the principal aim of this survey was to measure the length of time it takes to connect to an operator when using 0800, 0845 and 0870 numbers and to compare results across these three types.
- A6.16 This survey was carried out by MORI, between the 8th and 27th June 2005. Just over 600 calls were made to each of 0800, 0845 and 0870 numbers. Where numbers were found to be not accessible/unobtainable, replacement telephone numbers were sourced (again at random). The calls were made to a mix of different business type and company size. An additional boost of large businesses was also included in order to test whether there is a positive correlation between business size and the time taken to connect to an operator.
- A6.17 When quoting results, the total sample is based on 1,708 (i.e. the total number of calls minus those booster records of companies with a turnover £10m+ that were connected). The £10m+ sample is based on a 157 calls.

Residential consumer research

Calling NTS numbers is now an integral part of daily life

- A6.18 Consumers are increasingly using remote methods for 'personal management' (e.g. banking, bill paying, goods purchasing etc.) and as such there is a perception of increasing use of the telephone for such services. This perception of increasing use of the phone (along with the internet) means that consumers perceive that they have more contact with NTS numbers and calling NTS numbers is now an integral part of daily life. Overall 89% of all adult bill payers claim to be aware of at least one NTS prefix after prompting.
- A6.19 0800 and 0845 are the most used and recognised prefixes

- A6.20 The most familiar and most used NTS number by adults responsible for their household telephone landline bills are '0800'. 83% say they have heard of this prefix and three quarters claimed to have called one of these numbers in the last 12 months. The second most familiar and most used number is '0845', recognised by almost two thirds of consumers and used by just over a half.

Awareness and use of 0870 and 090X numbers is significantly lower

- A6.21 Awareness and use of 0870 and 090X numbers are significantly lower, with just over half (55%) of those responsible for their landline bills aware of 0870, and approximately a third (32%) claiming to have used them in the last 12 months. The figures for 090X are lower again - with just under a third (29%) aware and 12% of consumers claiming to use premium rate services.
- A6.22 Younger respondents and those who have internet connections are more familiar with NTS numbers than older respondents and those who are not connected.

Despite relatively high levels of awareness and use there is confusion about NTS call costs

- A6.23 Despite the fact that 61% of those responsible for their landline bills say that they always check their telephone bill, and the relatively high awareness and usage of NTS numbers, the research found that less than half (43%) say they know roughly how much it costs to call 0845 and 0870 numbers from a land line, with a third (32%) of consumers agreeing (9% strongly) with the statement "I have an idea what these types of numbers cost."

Over half of consumers say they would think twice before calling at least one type of NTS number

- A6.24 Over half of residential consumers (55%) agreed that they would think twice before calling at least one type of NTS number from home. The main reasons given were call cost (37%), being unsure of call charge (19%) and concerns relating to premium rate numbers and services (13%).
- A6.25 The qualitative research indicated that overall NTS numbers are a low engagement area for consumers and one which is not of major importance. NTS numbers only seem to come to the fore in relation to media coverage, a particularly bad call experience or a very high bill associated with an NTS number. The quantitative research found that the majority (79%) agreed that every individual has a choice whether or not to use these services.
- A6.26 Consumers voice their frustration about the numbers but these largely relate to the call centre experience/environment rather than the numbers themselves.

One third of residential consumers claim to be aware of revenue sharing

- A6.27 Before the interview only 30% of consumers were aware that companies who use NTS prefixes share call revenue with telephone providers.
- A6.28 Opinions on whether companies should be allowed to revenue share in this way are fairly polarised. 44% of consumer agree (11% strongly) with the statement "Companies that have 0845 or 0870 numbers should be allowed a share of the profits from call costs to help fund the service they provide", and 37% disagree (16% strongly).

- A6.29 The qualitative research indicated that feelings ran quite high on the unsuitability of some businesses revenue sharing on calls. In particular it was felt that commercial organisations with much publicised high profit levels (such as banks), and public sector organisations that were funded by Government should not profit in this way.
- A6.30 Consumers expressed a desire for a reduction in the confusion over NTS call prices, but are not opposed to revenues sharing per se.
- A6.31 With the confusion and misconceptions around the price of calls to NTS numbers consumers welcomed the possibility of the price of calls being capped to a set charge per minute (84%) or reduced to the same price as ordinary calls (79%). Furthermore, 87% of those responsible for landline bills agreed that callers should be told the call price before being connected to the call.
- A6.32 Overall, the qualitative and quantitative research indicated that residential consumers are looking for clarity in order to distil the confusion over call prices rather than being concerned about revenue share per se. When options were presented to respondents in the qualitative research there was no clear preference for a single option, although Option 2 (Ofcom's preferred option from the October 2004 Consultation – see Section 2, paragraph 2.12 for explanation) was the one that was preferred by most. This option was 'safe', in that it was most similar to the status quo so there were no further complications. Anything that was perceived to complicate matters, or introduced additional, or unfamiliar numbers, tended to be rejected by the focus groups. In the quantitative research, the majority also agreed with statements that would give callers clarity over call prices. For example, 79% agreed that the price of calls should be the same as ordinary calls and 84% agreed that the calls should have a set charge per minute.

Business Qualitative Research

The main reasons businesses adopt NTS prefixes are for ease of routing calls, number portability and to aid customers to remember the numbers

- A6.33 Additionally, for smaller companies it was also to hide their geographical location and to give the perception they are larger than they are.
- A6.34 There was little difference between smaller and larger businesses, except that smaller businesses were slightly more likely to see NTS numbers as a real asset to their business than their larger counterparts.

For most, there did not appear to be a profit motive for use of NTS numbers, particularly among the small and medium businesses

- A6.35 Revenue sharing on NTS numbers is not "front of mind" to businesses and some were not aware of this benefit until they got the number. Most businesses did not claim to associate the small revenue gained from 0845 or 0870 numbers as actual income, and most claimed they would not miss it if it was not there. For a minority the revenue share helped fund the services provided but for most it was the convenience to the business that drove the decision to use NTS numbers.

There was some knowledge of 'scams' but most felt these stories were associated with 09 numbers

- A6.36 None of the businesses in the sample admitted to involvement in practices such as prolonging calls and putting callers on hold in order to increase revenue from NTS numbers. On prompting, all acknowledged that it was possible to 'cheat' in this way and some mentioned 'scams'. However these are most often associated with 09 numbers and the general feeling is that only very large businesses with extremely high call volumes would find it worthwhile to be involved.

Businesses acknowledge consumer confusion

- A6.37 Businesses are aware that consumers are confused over the different NTS numbers and the different price of NTS calls. Businesses did not see profit sharing as a real negative for consumers and felt that the price of calls was a bigger issue for consumers rather than revenue sharing.
- A6.38 However very few businesses knew the exact price of NTS calls to their own customers, they described the generic 'local' or 'national' rate rather than exact amounts. Many would favour more clarity on this so that they could better communicate prices to callers.

The majority of businesses want to stay with their existing NTS numbers and would forgo revenue share to do this but would not wish to incur prohibitive costs

- A6.39 When presented, none of the future policy options shown came out as a clear winner. For businesses, Option 2 and Option 4 came to the fore more than the other two options. Both of these options were considered in the October 2004 Consultation (see Section 2, paragraph 2.12 for an explanation of these options). Option 2 was chosen because it was the most similar to the status quo and, most importantly, did not necessitate any of the businesses changing their numbers. This was a particular bonus as even the smallest business felt they would suffer disproportionate costs from NTS number changes – signage, literature, marketing communications and even running a new number past a professional organisation.
- A6.40 Option 4 was also well liked as it was straightforward and with no hidden charges. In relation to this option, most participants claimed they would stay with the same NTS number despite this resulting in no revenue share as long as keeping the number itself was not prohibitively expensive. If, however, the cost of retaining the number and paying for it directly rather than via revenue share (which is how most NTS numbers are currently funded) was deemed to be too high, then the business said they would more likely stop using NTS altogether, rather than change to another NTS number which allowed revenue share.

Mystery Shopping Summary

- A6.41 The principal aim of the mystery shopping was to measure the length of time it takes to connect to an operator when using 0800, 0845 and 0870 numbers and to compare results across these three types in order to understand if there were any significant differences.

There was no significant correlation between call price and call waiting time

- A6.42 Of the 08XX numbers tested (0800, 0845, and 0870), two-thirds got straight through to an operator after dialling and a further 16% connected to an operator via an automated menu system. Just over a fifth did not get through to an operator; instead they were invited to call back, leave details or were cut off.
- A6.43 80% of calls connecting to an operator did so immediately the call was answered. A further 14% connected to an operator in less than a minute via an automated queue or menu system. Less than one in ten (7%) took over one minute before a connected call was handled by a person.
- A6.44 The mean (average) time taken to speak to an operator after the call was connected was 17 seconds for 0845 numbers, 13 seconds for 0870 numbers and 11 seconds for 0800 numbers. There was no significant correlation between call price (with 0800 being free to call from fixed phones and 0870 being more expensive than 0845) and the time it took to get through to an operator.
- A6.45 0800 numbers were more likely to get through to a person immediately on connection and therefore least likely to use an automated system. 0845 numbers were most likely to use an automated menu system before the call was handled by an operator.
- A6.46 For those calls that were connected via an automated queue or menu system, 0800s took longer to get through to a person than 0845s and 0870s (with mean times of 96 seconds, 64 seconds and 59 seconds respectively). This is perhaps indicative of greater efficiency in call handling by 0845 and 0870 numbers rather than an attempt to increase revenue through longer calls; calls to 0800 numbers are free of charge to the consumer.

Call holding times recorded were longer for larger companies than other SMEs

- A6.47 Companies with a turnover of £10m+ took longer to connect to an operator than the 08 market as a whole (the mean time to connect to an operator was 42 seconds and 14 seconds respectively). They were also less likely to be answered immediately by an operator (56% connected immediately, compared to 80% overall) and more were likely to use an automated menu/ queuing system to process calls. Longer call length may be due to the fact that larger organisations offered more services (in terms of the number of menu systems and options per menu) from a single telephone number than was the case for smaller organisation.

Annex 7

Analysis of call price pre-announcements

- A7.1 As discussed in Section 5, one method to improve pricing transparency for NTS calls would be to introduce a requirement for the call tariff to be announced at the start of each call. Ofcom considers that there are three potential technical solutions to the provision of announcements. These are:
- announcements provided by the OCP;
 - announcements provided by the TCP; and
 - announcements provided by the SP.
- A7.2 These options are reviewed below.
- A7.3 In addition to taking its own technical advice, Ofcom has also considered:
- confidential responses to the October 2004 Consultation from BT and NTL in which they provided information on the costs and feasibility of providing announcements as OCPs; and
 - a recent submission from another CP in which it provided information on the costs and feasibility of providing announcements.

OCP announcements

- A7.4 Ofcom considers that OCP announcements would best meet the objective of improving tariff transparency since only OCPs know the tariff that each customer will be charged and are alone able to make a precise announcement of the call tariff. TCPs and SPs do not know the originating network or the tariff package applied to each customer and would therefore have to make generic call tariff announcements such as “calls for BT customers cost Xp per minute, tariffs on other networks may vary”.
- A7.5 In the current generation of public switched telephone network (PSTN) networks that are operated by all large CPs, an Intelligent Network (‘IN’) based solution would be needed to provide either OCP or TCP announcements. Each provider would need to deploy additional IN, announcement and switch hardware and would also incur deployment and integration costs.
- A7.6 Smaller providers, use a variety of switching technologies making it difficult for Ofcom to assess the feasibility and cost of providing announcements. However, as with IN based systems, each provider would need to develop a solution and to deploy additional switching and announcement capacity.
- A7.7 It was not possible to make a detailed estimate of the cost of OCP announcements without a lengthy technical feasibility study with a representative selection of CPs. Ofcom has therefore made a high level estimate based on the costs of standard IN hardware components and the information provided by BT and NTL. Ofcom estimates that OCP announcements for 084 and 087 calls would impose a one-off cost of between £70 million and £100 million, plus additional ongoing operational costs. This figure includes only estimates of the basic IN and switch hardware costs for providers. Each provider would also incur other costs including integration and deployment costs. Ofcom acknowledges

that there is a significant margin of uncertainty in these figures but stresses that this approach is likely to understate (possibly by a considerable margin) the overall cost of an OCP announcement solution.

TCP announcements

- A7.8 As noted above, Ofcom considers that announcements provided by TCPs would provide an inferior solution to OCP announcements due to the generic nature of the announcements. However, given that such generic price information is used in advertisements (see Annex 8) Ofcom has considered the cost and feasibility of TCP and SP announcements.
- A7.9 Ofcom believes that the overall cost to the industry (and ultimately therefore to consumers) of implementing a TCP based announcement solution would be considerably higher than the cost of an OCP based solution. This is because there are approximately four times as many TCPs as OCPs handling NTS calls and the unit-costs of the systems used by CPs to provide announcements have a strong volume dependency.
- A7.10 Another disadvantage of TCP announcements is that they are less efficient in their use of network resources than OCP announcements because originating and transit network circuits would be in-use for the duration of the announcement prior to call completion.
- A7.11 Reconnecting the call after the announcement has been played also requires further development by the industry.

SP announcements

- A7.12 Ofcom considers that SP announcements suffer from two main disadvantages:
- announcements would have to be made after the call is connected and would therefore be chargeable to the consumer; and
 - as indicated above the tariff announcements would have to be generic.
- A7.13 Ofcom is also concerned that it would be difficult for so many SPs to keep their announcements up to date and a proliferation of inaccurate announcements would reduce rather than improve tariff transparency.
- A7.14 Ofcom also considers that SP provided call tariff announcements would be an inefficient way of providing announcements because there are a large number of SPs each of whom would need to implement an announcement solution for relatively low volumes of traffic (compared with the volumes handled by OCPS and TCPS). It has not been possible for Ofcom to make a detailed estimate of the cost to the industry of implementing SP announcements but Ofcom is concerned that the overall cost could be higher than either OCP or TCP announcements.
- A7.15 It is also possible that a requirement to announce call tariffs might place a disproportionately large burden on some, particularly smaller SPs. Whilst some SPs such as large call centres often have systems capable of playing recorded announcements that could potentially support call tariff announcements many others probably don't and would therefore need upgrade their systems. In practice Ofcom would expect that some TCPs would offer to provide announcements for SPs on a commercial basis.

Other factors

- A7.16 As discussed in Section 6 of the October 2004 Consultation, one potential problem with call tariff announcements is that they might interfere with the operation of dial-up ISP services (and other dial-up data services) by interfering with the handshaking process between the caller's modem and the ISP's modem. Since the October 2004 Consultation, Ofcom has had further technical advice that it might be possible for OCPs to modify their announcements software to detect the call-answer tone from the ISP's modem and then to immediately cease the verbal announcement. However, further detailed study would be required to determine whether this approach would work reliably and whether it could be adopted by all OCPs. Also the costs are unknown at present. In Ofcom's view these uncertainties mitigate against the use of tariff announcements on 084 numbers, which are used by the vast majority of ISPs.
- A7.17 Whilst call tariff announcements would undoubtedly be effective at raising awareness of call tariffs, Ofcom is concerned that after a while consumers might find them intrusive or annoying. There is plenty of research indicating that consumers are annoyed by the time it takes to get through to an agent when phoning a call-centre. Although clearly providing useful information, call tariff announcements would never the less increase the time taken for calls to be connected to an agent. Ofcom also has anecdotal evidence that regular users of directory enquiry services find the tariff announcements provided by service providers prior to connecting calls to destination numbers annoying.
- A7.18 In the consumer research, Ofcom asked consumers for their views on call tariff announcements. The survey results show that whilst 87% of respondents would like announcements to be provided, when asked, 42% felt that they would be annoying.

Annex 8

The ASA/CAP guidance

A8.1 In April 2004 Ofcom published a statement entitled “*Calls to 0845 and 0870 numbers: review of retail price and numbering arrangements*” (the April 2004 Statement). This statement was Ofcom’s initial move to address growing concerns over the way in which calls to 0845 and 0870 numbers were priced and advertised. The decisions detailed in the statement were summarised as follows:

- The current link on the BT network between BT's retail price for 0845 and 0870 calls and BT's standard (pre-discount and call package) retail price for geographic local and national calls respectively will remain in place;
- Calls to numbers in the 0844 non-geographic range (which are not linked to BT's standard local rate) will continue to be subject to a price cap of 'up to 5p per minute or per call' on the BT network. However, pricing arrangements for calls to these numbers will be made more flexible within this price cap to give CPs more control over their revenues if they choose to use this range; and
- Ofcom will work with the industry to produce guidance to SPs using 084 and 087 numbers on how these numbers (and in particular, pricing indications for calls to services on these numbers) can be advertised so that they are not misleading to consumers.

A8.2 Since issuing the April 2004 statement, and in pursuit of the undertaking given in the third bullet point relating to the advertising of NTS call prices, Ofcom has held a number of discussions with the Advertising Standards Authority and Committee of Advertising Practice (‘ASA/CAP’). These discussions had the aim of gaining the support of ASA/CAP in establishing guidance for call price advertising under the existing NTS framework. The results of this dialogue are outlined below. Ofcom will continue to work with the ASA/CAP in pursuit of the further consumer protection measures designed to support the new NTS regime established by the NTS Framework Review.

The Advertising Standards Authority (ASA)

A8.3 The ASA is the independent body that endorses and administers the British Code of Advertising, Sales Promotion and Direct Marketing in the UK. The CAP is the self-regulatory body that creates, reviews and enforces the ASA’s rules and guidance.

The existing NTS regime

A8.4 The ASA/CAP have themselves been made increasingly aware of public disquiet over the potentially misleading way calls to 084 and 087 numbers are advertised. The continued use of the terms ‘local’ or ‘national’ call prices will apply in describing 0845 and 0870 charges is considered potentially misleading by consumers and trading standards watchdogs alike. In one recent case the ASA adjudicated against a company advertising its 0870 contact numbers as being priced at national rate³⁷. As a consequence of the increasing disquiet the CAP has recently provided

³⁷ http://www.asa.org.uk/asa/adjudications/non_broadcast/Adjudication+Details.htm?adjudication_id=39587

guidance in March 2005 relating to how NTS call prices should be advertised under existing arrangements³⁸. In this the CAP Copy Advice team advises:

- Marketers should not describe 084 and 087 numbers as ‘local’ or ‘national’.
- Marketers should not be silent on price.
- Marketers are unlikely to know the maximum charges for calling their services made by non-BT phone companies (largely because there are so many of them and their prices change reasonably frequently). If they do, they should state the maximum cost of the call or price per minute (p per minute).
- Those marketers who do not know the maximum cost charged across the different phone companies should state the cost (either per minute or per call) for BT customers. For example, marketers could claim “Calls to 084XX from BT landlines will cost 5p per minute”.
- Marketers who feature several 084 (or 087) numbers in their ads should be careful not to mislead if those numbers are charged at different rates. In such circumstances, marketers should state a maximum cost, either per minute or total call, for BT callers. For example, they could claim “Calls to our customer service line, IT helpline and order line cost up to 5p per minute for BT customers” or similar.
- Marketers should make clear that the price of calls from other phone companies will vary and, if space allows, callers might want to check with their phone company.
- If call charges are likely to change, marketers should avoid media with a long shelf-life. If choosing such media, marketers should give a prominent date at which the stated price applied or will apply.

A8.5 Further guidance was issued in August 2005³⁹, which stated that advertisers must:

- “not describe calls to those numbers as being charged at ‘local’ or ‘national’ rate.
- state the maximum cost of calls to BT customers and indicate that call costs using non-BT phone lines may vary.”

A8.6 Ofcom welcomes this attempt to encourage marketers to be more specific about the prices of calls to 08 numbers acknowledging that the differing prices charged by OCPs and mobiles makes this very difficult. We also welcome the specific instruction not to refer to 084 and 087 numbers as local or national.

A8.7 Ofcom also agrees that it is not acceptable to be silent on price. Our research confirms that most consumers have little idea of the price of these calls and so providing an indication which, in most cases, will be fairly accurate is better than leaving consumers completely in the dark about call prices.

The new NTS arrangements

A8.8 As the provisions of the new regime come into force Ofcom will need to discuss with the ASA/CAP on how NTS call prices should be advertised in future. Assuming the 0870 number range reverts to geographic charging arrangements it will no

³⁸ http://www.cap.org.uk/cap/news_events/news/2005/Hanging+on+the+telephone+on+and+on+and+on.htm

³⁹ http://www.cap.org.uk/cap/news_events/news/2005/Stop+the+call+confusion.htm

longer be possible to simply refer to 084 or 087 in written guidance. For instance 0845 calls will carry a maximum price of 3.95p/1p/1p per minute (depending on the time of day) whilst 0844 calls can be priced at up to 5p per minute but some may be cheaper. Similarly calls to 0870 numbers will be priced at 'your provider's standard geographic calling rate or some other more meaningful description whilst calls to 0871 can be priced at up to 10p per minute but here again some may be cheaper. Furthermore calls to 0871 numbers generally priced above 5p per minute would fall under ICSTIS's control, under the proposed policy, where clear pricing information is an essential requirement.

Annex 9

BT's undertaking

BT wholesale

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11th August, 2005

NTS POLICY CHANGES – COMMERCIAL STABILITY THROUGH THE TRANSITION

Dear Clive

We have spoken recently regarding the possible ways forward that Ofcom is considering for NTS regulatory controls, around 0845 and 0870 services. BT is keen to ensure that any transitional period provides reasonable stability to all parties concerned and that we avoid the unnecessary disputes that have dogged the commercial environment to date.

In order to achieve this stability, BT is ready to make certain wholesale pricing commitments. This proposal, which would take effect upon Ofcom's publication of its final NTS policy statement (the Statement), is predicated on an assumption that Ofcom will implement the following policy changes:

- End BT's NTS call origination obligations in relation to 0870 services, within 12 months of publishing the Statement; and
- Review the pricing and interconnection arrangements for 0845 services, including the option of ending BT's NTS call origination obligations in relation to 0845 services within 24 months of publishing the Statement.

Should the above policy decisions be at the core of Ofcom's proposals in the Statement, BT will undertake to do the following:

- In NTS formula pricing calculations, make no changes to the Minimum Call Fee, Headline Retail Price, Average Discounts, Retail Uplift, or Average Short Call Durations, for BT-originated fixed narrowband 0870 calls, for a period of 12 months from the publication of the Statement;

- In NTS formula pricing calculations, make no changes to the Minimum Call Fee, Headline Retail Price, Average Discounts, Retail Uplift, or Average Short Call Durations, for BT-originated fixed narrowband 0845 calls, for a period of at least 12 months from the publication of the Statement. Thereafter, BT will make any such changes on only one occasion during a period of 24 months from the publication of the Statement; and
- Should there be an adjustment to charges for BT's Network Charge Controlled conveyance components in the NTS formula, during these 12-month (for 0870) and 24-month (for 0845) windows, BT will reflect this in a change to the per-minute payments to communications providers.

For the avoidance of doubt, BT's actual 0845 and 0870 retail pricing, discounting and call durations may vary during the periods identified above. However, these changes will not affect the per-minute payments made to communications providers, other than at the single pricing review that may occur for 0845 services.

I believe that this proposal gives suitable commercial stability to all communications providers, for a transitional period. The option for a single 0845 wholesale pricing adjustment, to reflect ongoing competition in the retail market, offers sufficient risk mitigation to enable BT to offer this proposal.

Yours sincerely

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cc Gareth Davies (Ofcom)

Annex 10

Links to other Ofcom work on NTS

NTS Call Termination Market Review

A10.1 In parallel with the October 2004 Consultation, Ofcom also published a consultation document on an NTS call termination market review⁴⁰. The market review considered the possible implications for the NTS call termination market of some of the pricing and interconnection policy options raised in the October 2004 Consultation and the issues raised by BT's NCCN 500 (see below). The consultation closed on 7 January 2005.

A10.2 Ofcom is currently considering the responses to the consultation.

The Energis complaint

A10.3 On 1 April 2004 BT issued a Network Charge Change Notice numbered NCCN 500 ('NCCN 500') that raised some of its termination charges for NTS calls with effect from 1 May 2004. The new charges apply to the termination of calls on BT's 0845, 0870 and 0820 'internet for schools' ranges. The NCCN 500 rates are up to 74% higher (depending on call type and time-of-day) than the charges that BT made to OCPs prior to the implementation of NCCN 500.

A10.4 Ofcom has received a complaint from Energis alleging that BT's charges since 1 May 2004, for the termination of calls on the 0870, 0845 and 0820 ranges:

- impose an anti-competitive margin squeeze on Energis;
- discriminate in favour of BT's own business and against Energis in terms of price; and
- are excessive.

A10.5 Energis further alleges that the increased charges set out in NCCN500:

- increase Energis's costs of providing a competing service;
- increase BT's market power in relevant markets; and
- form part of a strategy on BT's part to dilute competition.

A10.6 As set out in section 25 of the Competition Act 1998, Ofcom may conduct an investigation if it has reasonable grounds for suspecting that the Chapter II prohibition has been infringed. In addition to the Chapter II prohibition, Ofcom also has the power to apply Article 82 of the EC Treaty in full.

A10.7 Ofcom opened an investigation into the matters raised by Energis' complaint and will consider whether the charges notified in NCCN 500 constitute an abuse of a dominant position by BT under UK and EC competition law.

A10.8 A number of other communications providers have indicated support for Energis's complaint:

- Cable & Wireless plc

⁴⁰ A copy of the consultation is available on Ofcom's website at: <http://www.ofcom.org.uk/consult/condocs/ntsctmr/?a=87101>

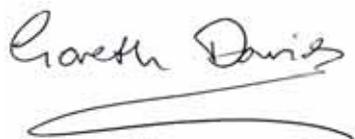
- Centrica plc
- Gamma Telecom Ltd
- Tiscali UK Ltd

Annex 11

Notification: proposal to modify the Plan under section 60(3) of the Act

Proposal for making a Modification under section 56(2) of the Act relating to Part A of the Plan

1. The Office of Communications (“OFCOM”) hereby makes the following proposal for a Modification to the provisions of the Plan under section 56(2) of the Act.
2. The draft Modification is set out in the Schedule to this Notification.
3. The effect of the draft Modification is set out in Section 10 of the accompanying document.
4. The reasons for making the proposal for the Modification are set out in Sections 6, 7 and 10 of the accompanying document.
5. Representations may be made to OFCOM about the proposed draft Modification by **6 December 2005**.
6. A copy of this Notification has been sent to the Secretary of State.
7. In this Notification the 'Plan' means the National Telephone Numbering Plan published by OFCOM from time to time pursuant to section 56 of the Act.



GARETH DAVIES

Competition Policy Director

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

28 September 2005

Schedule

Draft Modification to Part A of the Plan

WHEREAS:

- A. section 56(2) of the Act provides that it shall be OFCOM's duty from time to time review the Plan and make such revisions that they think fit, provided such revisions are made in accordance with section 60 of the Act;
- B. section 60 of the Act applies whereby General Condition 17 is a numbering condition for the time being having effect by reference to provisions of the Plan;
- C. by virtue of the Transitional Provisions, references to the Director in General Condition 17 should be read as references to OFCOM;
- D. Part A1 of the Plan states, amongst other things,:

0845	Special Services basic rate: charged (before discounts and call packages) at BT's Standard Local Call Retail Price for BT customers inclusive of value added tax (the price charged by other Originating Communications Providers may vary)
0870	Special Services higher rate: charged (before discounts and call packages) at BT's Standard National Call Retail Price for BT customers inclusive of value added tax (the price charged by other Originating Communications Providers may vary)

- E. OFCOM wishes to make a Modification to the sections of Part A1 of the Plan identified in recital D above;
- F. for the reasons set out in the Statement accompanying this Modification OFCOM are satisfied that, in accordance with section 60(2) of the Act, this Modification is:
 - 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 the Modification is intended to achieve; and
 - iv) in relation to what it is intended to achieve, transparent;
- G. for the reasons set out in the document accompanying this Modification OFCOM are satisfied that they acted in accordance with the relevant duties set out in sections 3 and 4 of the Act;
- H. a notification of a proposal to make this Modification was given under section 60(3) of the Act on **28 September 2005** ('the Notification');
- I. a copy of the Notification was sent to the Secretary of State;
- J. in the Notification and accompanying consultation document OFCOM invited representations about any of the proposals therein by **6 December 2005**;
- K. by virtue of section 60(5) of the Act, OFCOM may give effect to the proposal set out in the Notification, with or without modification, only if-
- i) they have considered every representation about the proposal that is made to them within the period specified in the notification; and
 - ii) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
- L. OFCOM received responses to the Notification and have considered every such representation made to them within the period specified in the Notification and accompanying consultation document and these representations are discussed in Section [X] of the Statement accompanying this Modification; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

NOW, THEREFORE, OFCOM, PURSUANT TO SECTION 56(2), HEREBY MAKES THE FOLLOWING MODIFICATION:

1. In paragraph 1 of the Definitions and Interpretation section of the Plan the following definitions shall be deleted:

'BT's Standard Local Call Retail Price' means the retail price for a Local Call made by BT customers which operates as the standard retail price before the application of calling packages and discounts as shown on BT's retail price list;

'BT's Standard National Call Retail Price' means the retail price for a National Call made by BT customers which operates as the standard retail price before the application of calling packages and discounts as shown on BT's retail price list;

'Local Call' means a call made from one Geographic Number to another Geographic Number within a limited geographic area;

'National Call' means a call made from one Geographic Number to another Geographic Number that is not a Local Call;

2. In paragraph 1 of the Definitions and Interpretation section of the Plan the following definitions shall be inserted (in alphabetical position):

'Daytime' means 0600 hours to 1800 hours, inclusive;

'Evening' means any time other than Daytime;

'Weekday' means Monday to Friday, inclusive;

3. In Part A1 of the Plan the designations for 0845 and 0870 shall be replaced in their entirety with the following:

0845	<p>Special Services basic rate: charged (before discounts and call packages) at up to:</p> <p>3.95p per minute or per call during Weekday Daytime;</p> <p>1p per minute or per call during Weekday Evenings; and</p> <p>1p per minute or per call other than during a Weekday;</p> <p>for BT customers, set by Terminating Communications Provider inclusive of value added tax (the price charged by other Originating Communications providers may vary)</p>
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0870	<p>Special Services higher rate: charged (before discounts and call packages) at up to:</p> <p>7.91p per minute or per call during Weekday Daytime;</p> <p>3.95p per minute or per call during Weekday Evenings; and</p> <p>1.5p per minute or per call other than during a Weekday;</p> <p>for BT customers, set by Terminating Communications Provider inclusive of value added tax (the price charged by other Originating Communications providers may vary)</p>
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4. In this Modification:

'Act' means the Communications Act 2003;

'Director' means the Director-General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;

'General Condition 17' means General Condition 17 of the General Conditions of Entitlement set by the Director on 22 July 2003 pursuant to section 45 of the Act by way of publication of a Notification pursuant to section 48(1) of the Act;

'OFCOM' means the Office of Communications;

'Plan' means the National Telephone Numbering Plan published by OFCOM from time to time pursuant to section 56 of the Act;

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

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

6. The Interpretation Act 1978 shall apply as if this Modification were an Act of Parliament.
7. Headings and titles shall be disregarded.

[Signature]

GARETH DAVIES

Competition Policy Director

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

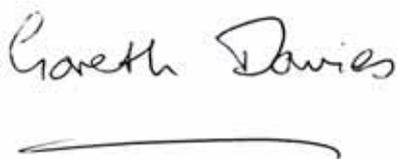
[Date]

Annex 12

Notification: proposal for a direction to amend the application form for 08 numbers under section 49(4) of the Act

Proposal for making a Direction under paragraph 17.9(a) of the Condition relating to an application form for 08 numbers

1. The Office of Communications ('OFCOM') hereby makes the following proposal for a Direction to be given under paragraph 17.9(a) of the Condition.
2. The draft Direction is set out in the Schedule to this Notification.
3. The effect of the draft Direction is set out in Section 10 of the accompanying Consultation document.
4. The reasons for making the proposal for the draft Direction are set out in Section 6, 7 and 10 of the accompanying document.
5. Representations may be made to OFCOM about the proposed draft Direction by **6 December 2005**.
6. A copy of this Notification has been sent to the Secretary of State.
7. In this Notification the 'Condition' means General Condition 17 of the General Conditions of Entitlement set by the Director on 22 July 2003 pursuant to section 45 of the Act by way of publication of a Notification pursuant to section 48(1) of the Act.



GARETH DAVIES

Competition Policy Director

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

28 September 2005

Schedule

Draft Direction under paragraph 17.9(a) of the Condition

WHEREAS:

- A. paragraph 17.9(a) of the Condition provides that when applying for an Allocation or reservation of Telephone Numbers, the Communications Provider shall use an appropriate application form as directed by the Director from time to time as he thinks fit;
- B. by virtue of the Transitional Provisions, references to the Director in the Condition should be read as references to OFCOM;
- C. for the reasons set out in the Statement accompanying this Direction OFCOM are satisfied that the application form in the Annex to this Direction is appropriate for use by Communications Providers when applying for an Allocation or reservation of Telephone Numbers;
- D. for the reasons set out in the document accompanying this Direction OFCOM are satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - i) objectively justifiable in relation to the networks, services, facilities, apparatus or directories 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. for the reasons set out in the document accompanying this Direction OFCOM are satisfied that they acted in accordance with the relevant duties set out in sections 3 and 4 of the Act;
- F. a notification of a proposal to give this Direction was given under section 49(4) of the Act on **28 September 2005** (the 'Notification');

- G. a copy of the Notification was sent to the Secretary of State in accordance with section 50(1)(b) of the Act;
- H. in the Notification and accompanying consultation document OFCOM invited representations about any of the proposals therein by **6 December 2005**;
- I. by virtue of section 49(9) of the Act, OFCOM may give effect to the proposal set out in the Notification, with or without modification, only if-
 - i) they have considered every representation about the proposal that is made to them within the period specified in the notification; and
 - ii) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
- J. OFCOM received responses to the Notification and have considered every such representation made to them within the period specified in the Notification and accompanying consultation document and these representations are discussed in Section [X] of the Statement accompanying this Direction; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

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

- 1. for the time being the application form in the Annex to this Direction shall be used by Communications Providers when applying for an Allocation or reservation of Telephone Numbers starting '08' for Special Services.
- 2. in this Direction-

'Act' means the Communications Act 2003;

'Allocation' shall have the same meaning as in the Condition;

'Communications Provider' shall have the same meaning as in the Condition;

'Condition' means General Condition 17 of the General Conditions of Entitlement set by the Director on 22 July 2003 pursuant to section 45 of the Act by way of publication of a Notification pursuant to section 48(1) of the Act;

'Director' means the Director-General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;

'OFCOM' means the Office of Communications;

'Telephone Number' shall have the same meaning as in paragraph 1 of Part 1 of the Schedule to the Notification published by the Director on 22 July 2003 under section 48(1) of the Act;

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

3. Except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them. Otherwise, any word or expression shall have the same meaning as it has:
 - i) in the National Telephone Numbering Plan published by the OFCOM from time to time pursuant to section 56 of the Act;
 - ii) if and only if, it has no meaning ascribed as mentioned in (i) above, and only if the context so permits, in the Condition;
 - iii) if, and only if, it has no meaning ascribed as mentioned in (i) and (ii) above, and only if the context so permits, in paragraph 1 of Part 1 of the Schedule to the Notification published by the Director on 22 July 2003 under section 48(1) of the Act; and
 - iv) if, and only if, it has no meaning ascribed as mentioned in (i), (ii) and (iii) above, and only if the context so permits, in the Act.
4. The Interpretation Act 1978 shall apply as if this Direction were an Act of Parliament.
5. Headings and titles shall be disregarded

[Signature]

GARETH DAVIES

Competition Policy Director

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

[Date]

**SPECIAL SERVICES APPLICATION - NUMBERS STARTING '08'**

<u>Service Type:</u>	<u>Number range starting:</u>	<u>Number block size:</u>
Freephone Numbers	0800 XXXX	1000
	080 80XX to 080 87XX	10,000
Special Services basic rate: up to and including 5p for BT customers (non-internet)	0844 2XX to 0844 9XX	10,000
Special Services basic rate: up to and including 3.95p/1p/1p depending on day/time for BT customers	0845 XXX	10,000
Special Services higher rate: up to and including 10p for BT customers (non-internet)	0871 2XX to 0871 9XX	10,000
Special Services higher rate: up to and including 7.91p/3.95p/1.5p depending on day/time for BT customers	0870 XXX	10,000
Internet Services Free to Caller	0808 90XX	1000
Internet Services Free to Caller – Flat Rate Internet Access Call Origination (FRIACO) product	0808 99XX	1000
Internet Services incorporating un-metered access up to and including 5p for BT customers	0844 04XX	1000
Non 'BT Discount Scheme' - Internet Services incorporating un-metered access up to and including 5p for BT customers	0844 00XX	1000
Internet Services metered access up to and including 5ppm for BT customers	0844 09XX	1000
Non 'BT Discount Scheme' - Internet Services metered access up to and including 5ppm for BT customers	0844 05XX	1000
Internet Services incorporating un-metered access up to and including 10p for BT customers	0871 04XX	1000
Non 'BT Discount Scheme' - Internet Services incorporating un-metered access up to and including 10p for BT customers	0871 01XX	1000
Internet Services metered access up to and including 10ppm for BT customers	0871 09XX	1000
Non 'BT Discount Scheme' - Internet Services metered access up to and including 10ppm for BT customers	0871 05XX	1000
Internet for Schools (1 block required per Service Provider)	0820 XXXX	10,000
Inbound Routing Codes	08993 XX to 08999 XX	10,000

Definitions and Interpretation

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

- (i) in the National Telephone Numbering Plan published by the Director on 22nd July 2003 pursuant to section 56 of the Communications Act 2003 (the 'Act');
- (ii) if, and only if, it has no meaning ascribed as mentioned in (i) above, and only if the context so permits, in General Condition 17 (entitled 'Allocation, Adoption and Use of Telephone Numbers') in Part 2 of the Schedule to the Notification published by the Director on 22nd July 2003 under section 48(1) of the Act;
- (iii) if, and only if, it has no meaning ascribed as mentioned in (i) and (ii) above, and only if the context so permits, in paragraph 1 of Part 1 of the Schedule to the Notification published by the Director on 22nd July 2003 under section 48(1) of the Act; and
- (iv) if, and only if, it has no meaning ascribed as mentioned in (i), (ii) and (iii) above, and only if the context so permits, in the Act.

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

3. FRIACO (Flat Rate Internet Access Call Origination) means the provision of Flat Rate Internet Access Call Origination via a wholesale unmetered internet access product.

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

<p>1. <u>Your reference (optional):</u></p>	
<p>2. <u>Applicant details and date of application:</u></p> <p>Your name, company name, address, direct telephone, direct fax, direct e-mail, mobile.</p> <p><i>(Where you are acting on behalf of a Communications Provider (eg a consultant, solicitor, etc), and if you have not previously supplied one, you should enclose a letter from that Communications Provider confirming that you are authorised to represent it).</i></p>	<p><u>Date of application:</u></p>
<p>3. <u>Communications Provider details:</u></p> <p>If different from 2. above (eg where you are a consultant, solicitor, etc), provide the name and address of the Communications Provider on behalf of whom you are applying for Telephone Numbers.</p>	

4. Declaration of ‘Public Electronic Communications Network’ or ‘Public Electronic Communications Service’

The information requested in Annex A helps Ofcom to assess your eligibility to be allocated Telephone Numbers.

If you are a provider of a Public Electronic Communications Network:

confirm whether you have previously supplied the information requested in Annex A (or information equivalent to it), to Ofcom’s Numbering Unit; or

if not, you must complete in full all relevant questions in Annex A and submit it along with this form.

If you have previously supplied the information in Annex A, then move onto the next question – you do not need to submit Annex A with this form.

If you are a provider of Public Electronic Communications Services:

you **MUST** complete all relevant questions in Annex A each time you apply for Telephone Numbers and submit it with this form.

(For providers of Public Electronic Communications Networks, please ensure you have previously supplied the information requested, before you confirm this – your application may be rejected if this is not the case).

5. Telephone Numbers required:

When completing the table below, you should:

- i) give a 1st and 2nd choice for each type of Telephone Number block applied for in case the block you've applied for is not available at the time the application is processed;
- ii) where applying for **0844 and 0871 (non-internet)** blocks, select those within the appropriate tariff as indicated on the web site. If there are no available blocks, you should indicate this below alongside the tariff you require. The Numbering Unit will open a new range and then contact you;
- iii) where applying for 0845 blocks, if a tariff other than 3.95p/1p/1p depending on time/day is required, this should be indicated in the tariff column on the application form and the Numbering Unit will contact you;
- iv) where applying for 0870 blocks, if a tariff other than 7.91p/3.95p/1.5p depending on time/day is required, this should be indicated in the tariff column on the application form and the Numbering Unit will contact you; and
- v) ensure that a maximum of 15 blocks are entered on this Application Form. A new Form S8 should be completed for further blocks.

		Number block Type? e.g. Freephone, Special Services basic rate: up to and including 5p for BT customers (non-internet); Special Services higher rate up to 7.91p/3.95p/1.5p, etc (state which)	Code - first 4 digits after initial '0' e.g. 8004 - Freephone, 8446 - Special Services basic rate up to and including 5p etc. (SABC)	Next 2 digits of number e.g. 34 (DE)	Next digit of number (F digit) only required for blocks that are issued in blocks of 1000 numbers – see top of Form (F)	Tariff for each number block (including VAT): for 0844 and 0871 (non-internet) blocks show tariff (to nearest 1p for BT customers) from those tariffs on web site, for 0845 and 0870 blocks, if a tariff other than those on front sheet are required – state tariff	Confirm if BT Discount Scheme or Non 'BT Discount Scheme' will apply to block (where relevant) (see OfTel Direction)	Planned 'In-Service' Date (applications should not be submitted more than 6 months prior to in-service date)	Forecast of expected Adoption in 1 st 12 months (%)	Forecast of expected Adoption in 2nd 12 months (% cumulative)
e.g. 1 st Block	1 st Choice	Freephone	8006	21	3	free to caller		mid Oct 2005	20	80
	2 nd Choice	Freephone	8005	36	2	free to caller		mid Oct 2005	20	80
e.g. 2 nd Block	1 st Choice	Special Services basic rate: up to and including 5p...	8442	34		4ppm	'BT Discount Scheme'	end Nov 2005	15	90
	2 nd Choice	Special Services basic rate: up to and including 5p...	8442	33		4ppm	'BT Discount Scheme'	end Nov 2005	15	90
1 st Block	1 st Choice									
	2 nd Choice									
2 nd Block	1 st Choice									
	2 nd Choice									
3 rd Block	1 st Choice									
	2 nd Choice									
4 th Block	1 st Choice									
	2 nd Choice									

5. continued

		Number block Type? e.g. Freephone, Special Services basic rate: up to and including 5p for BT customers (non-internet); Special Services higher rate up to 7.91p/3.95p/1.5p, etc (state which)	Code - first 4 digits after initial '0' e.g 8004 - Freephone, 8446 – Special Services basic rate up to and including 5p etc. (SABC)	Next 2 digits of number e.g. 34 (DE)	Next digit of number (F digit) only required for blocks that are issued in blocks of 1000 numbers – see top of Form (F)	Tariff for each number block (including VAT): for 0844 and 0871 (non-internet) blocks show tariff (to nearest 1p for BT customers) from those tariffs on web site, for 0845 and 0870 blocks, if a tariff other than those on front sheet are required – state tariff	Confirm if BT Discount Scheme or Non 'BT Discount Scheme' will apply to block (where relevant) (see OfTel Direction)	Planned 'In-Service' Date (applications should not be submitted more than 6 months prior to in-service date)	Forecast of expected Adoption in 1 st 12 months (%)	Forecast of expected Adoption in 2nd 12 months (% cumulative)
5 th Block	1 st Choice									
	2 nd Choice									
6 th Block	1 st Choice									
	2 nd Choice									
7 th Block	1 st Choice									
	2 nd Choice									
8 th Block	1 st Choice									
	2 nd Choice									
9 th Block	1 st Choice									
	2 nd Choice									
10 th Block	1 st Choice									
	2 nd Choice									
11 th Block	1 st Choice									
	2 nd Choice									
12 th Block	1 st Choice									
	2 nd Choice									
13 th Block	1 st Choice									
	2 nd Choice									
14 th Block	1 st Choice									
	2 nd Choice									

15 th Block	1 st Choice									
	2 nd Choice									

6. Service and Market:

For each of the Telephone Number blocks applied for above, give a brief description of the type of Public Electronic Communications Service for which the Telephone Numbers applied for will be Adopted, and the market to be served by the service e.g. calling-card for UK customers, e-fax, internet access, etc.

7. Adoption of existing Telephone Number blocks:

For each type of Telephone Number block applied for above, you should provide details, in the table below, of any other number blocks in the same category (and at the same tariff – where relevant) that you have been allocated to date - consistent with its duty in the Communications Act 2003 to secure best use of numbers Ofcom requires a justification for applying for further numbering capacity where there may be non-utilised numbers.

Number block Type? e.g. Freephone, Special Services basic rate: up to and including 5p for BT customers (non-internet); Special Services higher rate up to 7.91p/3.95p/1.5p, etc (state which)	Code – first 6 or 7 digits after initial '0' – show as SABC DE F (see top of Form for number of digits to specify)			Tariff for BT customers (only needs to be entered for 0844 / 0871 (non-internet) blocks, and 0845/ 0870 blocks if at a tariff other than those on front sheet)	Confirm if BT Discount Scheme or Non 'BT Discount Scheme' applies to the block (where relevant) (see Oftel Direction)	Total Numbers Allocated to End Users: ie, in use or ported out (Numbers or %)	Total Numbers not in use but contracted out (Numbers or %)
	(SABC)	(DE)	(F)				
Freephone	8005	28	6			942	8
Internet Services metered access up to and including 5p for BT customers	8440	95	4			860	35
Special Services up to and including 5p for BT customers (non-internet)	8446	23		4ppm	'BT Discount Scheme'	6540	2050
Special Services up to and including 3.95p/1p/1p for BT customers	8459	56				7560	180

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

Form S8 - Annex A

A1. Confirmation of Status:

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

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

Providers of Public Electronic Communications Networks:

please provide details of:

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

(a diagram may be useful to assist Ofcom in assessing your eligibility for Telephone Numbers)
- b) the Electronic Communications Service which you are intending to provide over that network.

Providers of Public Electronic Communications Services:

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

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

<p>A2. <u>Applications from providers of Public Electronic Communications Services</u></p> <p>If you are applying for Telephone Numbers as a provider of Public Electronic Communications Services, where appropriate Ofcom would usually expect your company to have already taken reasonable steps to obtain a sub-allocation of Telephone Numbers of the type you are applying for from a provider of a Public Electronic Communications Network.</p> <p>a) Have you taken steps to obtain a sub-allocation of Telephone Numbers of the type for which you are applying? If not, would you please provide a justification for that; and</p> <p>b) If you have taken steps, would you provide a brief description of the steps you have taken, and state why did you not obtain a sub-allocation?</p>	
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<p>A3. <u>Interconnection arrangements</u></p> <p>Describe your Interconnection arrangements (or those of the provider of a Public Electronic Communications Network on whose network the Telephone Numbers applied for would be Adopted), if any, with other Communications Providers – a simple network diagram may be useful.</p>	
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(You should e-mail this application form to numbering.applications@ofcom.org.uk)

Annex 13

Stakeholder engagement prior to consultation

- A13.1 The purpose of this Annex is to set out the extent of Ofcom's engagement with stakeholders prior to the publication of this consultation.
- A13.2 Ofcom kept the Ofcom Consumer Panel up-to-date with developments in the months leading to the publication of this document and provided it with an early view of Ofcom's likely preferred option and the outcome of Ofcom's business and consumer research. In addition, Ofcom engaged with the Ofcom Advisory Committee for England.
- A13.3 Between January and August 2005, Ofcom had further consultation discussions with a range of stakeholders, including:
- Advertising Standards Authority/Committee of Advertising Practice (ASA/CAP)
 - Alternative Networks
 - BBC
 - Brightview
 - BT
 - Cable and Wireless
 - The Call Centre Association
 - The Central Office of Information
 - Centrica
 - The Department of Health
 - The Department of Trade and Industry
 - Energis
 - The Home Office
 - The Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS).
 - Internet Service Providers Association (ISPA)
 - IV Response
 - Kingston Communications Limited

- The Metropolitan Police Service
- ntl
- Thus
- Tiscali
- The UK Competitive Telecommunications Association (UKCTA)
- Wanadoo

A13.4 In March/April 2005, Ofcom issued a formal information request under section 135 of the Act to all TCPs that have been allocated 08 or 09 numbers by Ofcom. The purpose of the request was to gather information about how many NTS numbers in are in use, the volumes of traffic they carry and the extent of revenue sharing between TCPs and SPs and resellers.

A13.5 In June/July 2005, Ofcom sent a formal information request under section 135 of the Act to a sample of over 1,000 SPs. The purpose of this second request was to gather information about the types of service being provided by SPs on individual 08 numbers. Ofcom also asked the SPs who received a revenue share to fill in an additional questionnaire that sought their views on the importance of the revenue share to their business and what they might do if revenue sharing was no longer available on their current number.

A13.6 In addition to the one-to-one meetings, Ofcom also gave periodic updates to the NTS Focus Group on Ofcom's progress. The NTS Focus Group is a group consisting of Ofcom and Public Electronic Communications Network Providers who have an interconnection agreement with BT. It meets regularly to act as an Industry forum for discussing and if possible resolving NTS issues. By June 2005, Ofcom was able to give the NTS Focus Group an early view of the NTS policy options that Ofcom was developing which are largely reflected in Sections 5 to 7 of this document.

Annex 14

Analysis of migration costs

- A14.1 As discussed in Section 6, some of the options for change being considered by Ofcom include re-establishing the link between the NTS call price and the geographic call price. If this were to happen, some SPs might migrate to a different NTS number range in order to continue receiving a share of the call revenues, or the benefit in kind they currently receive on their NTS number.
- A14.2 Ofcom has conducted research to estimate the proportion of numbers that might migrate and the associated costs of migration. The one-off migration costs of voice SPs and ISPs have been considered separately because of the particular difficulties and costs associated with migrating pay-as-you-go dial-up internet services. The results of the research and corresponding analysis are reviewed below.

Propensity of SPs to migrate to a new number

- A14.1 Ofcom has obtained information from a variety of sources on the extent to which SPs might migrate if NTS call charges were linked to geographic rates and the regulatory support for revenue sharing were removed. This included obtaining:
- written submissions from CPs, ISPs and other SPs;
 - meetings with a range of CPs and larger SPs;
 - focus group sessions with SPs; and
 - quantitative research covering approximately 1,000 SPs.

The 0845 number range

- A14.2 The evidence shows a very clear picture for 0845 calls, which is that if revenue shares were no longer available, the vast majority of traffic would migrate to another number range, with 0844 being the most likely destination. This is because the bulk of these calls are to pay-as-you-go dial-up internet services, the viability of which depends entirely on the revenue share. The loss of the revenue share would effectively oblige ISPs to migrate their customers onto another range where they could continue to revenue share. We would therefore expect that 85-90% of the 0845 traffic would move to another number range. This assumes that all pay-as-you-go dial-up internet traffic would migrate (as approximately 85% of all 0845 traffic is pay-as-you-go dial-up internet traffic) and that approximately 16% of voice SPs would migrate (as found in the quantitative research with SPs).

The 0870 number range

- A14.3 The evidence for 0870 is very different, though not always entirely consistent.
- Ofcom met with a number of very well-known larger businesses, currently using 0870 numbers for a variety of pre-sales and post-sales services, who told us that they would remain on their existing numbers. This is because the revenue share represents only a small part of their total revenue, and they would prefer to give up the revenue share than to change their numbers. A few of these SPs expressed a desire to dissociate themselves from the revenue share, because of the negative connotations it has in the minds of their customers. Indeed

some stated that they would prefer to operate on a non-geographic number range where revenue sharing was not permitted. When expressing their views, these business users were fully aware of the fact that, if the geographic link was restored, they might have to pay their CPs to receive 0870 calls;

- the evidence from the business focus groups was that the availability of a revenue share was not the main reason why most businesses use NTS numbers, and that few businesses would change their numbers in order to continue to receive a revenue share;
- responses from SPs (using 0870 numbers) to Ofcom's information request:
 - 66% of SPs accounting for approximately 50-55% of traffic said they would absorb the loss of the revenue share, or find another way of recovering their costs;
 - 40% of SPs regard the revenue share they receive as very important or fairly important to their businesses; and
 - 41% of SPs accounting for 50-55% of traffic, said they would move if the revenue share ceased.

A14.4 In addition to the research obtained from stakeholders, ICSTIS extending its remit to cover 0871 numbers, may mean that fewer SPs decide to migrate from the 0870 number range. This is because additional costs would be imposed on SPs as they would be required to pay a levy to ICSTIS in order to operate on the 0871 number range. In addition, the code provisions could be more costly for SPs to administer and cause more disruption compared to remaining on an 0870 number.

A14.5 Because of the conflicting nature of the results of the research, it is difficult to determine the actual percentage of SPs that might migrate. However based on the views expressed, Ofcom considers that it is most likely that between 35% and 45% of SPs (likely to account for approximately 45-55% of traffic⁴¹) might migrate if 0870 numbers were linked back to geographic rates. Ofcom has therefore used these figures to estimate the costs and benefits of restoring the geographic link on this range.

Voice SP Migration costs

A14.1 As explained above, some of the options for change being considered by Ofcom, might result in SPs migrating their services to other NTS numbers, in order to continue to receive a share of the call revenues or benefit in kind. When moving to other numbers, SPs would incur costs that ultimately are likely to be born by consumers, therefore Ofcom undertook additional analysis to estimate the costs involved.

A14.2 If Ofcom were to implement option B4 (linking the NTS call price for 0870 to the geographic call price) there would be an interim period of 12 months for SPs to prepare for the change. This interim period has been taken into account in the cost calculations below. The same assumptions have been made for the 0845 number range, where if Ofcom were to restore the geographic link to 0845 numbers, a one year interim period could be implemented.

⁴¹ All assumed to be voice traffic as ISPs do not tend to operate on the 0870 number range.

Migration costs for Voice SPs

A14.3 The types of migration costs an SP might incur include:

- Replacement or updating of stationery, business directories, websites, marketing material and signage;
- Telecoms costs associated with obtaining a new number and keeping both the old and new numbers active during the switch over;
- Advertising of new NTS numbers;
- Overhead costs associated with making the changes; and
- Loss of business as a result of migration to a new NTS number.

A14.4 Calculating the costs of migration is a very complex task as there are a number of factors which will affect the overall cost to an organisation. These include the decisions made by companies as to what action they would take if they decided to migrate their NTS number. These issues are considered below under each group of costs.

Stationery costs

A14.5 To calculate the one-off migration costs associated with stationery, Ofcom first had to assess what percentage of businesses migrating would require new stationery and then estimate the associated costs.

A14.6 Some SPs may incur design/artwork costs associated with updating letterheads, compliments slips and business cards to show new telephone numbers. The actual number of SPs that would incur these costs would be dependent on a number of factors such as:

- How many businesses use their NTS number as their primary contact number and would include it on their business stationery;
- The number of organisations that would replace their stationery anyway (thereby not incurring additional costs for updating their stationery to reflect new telephone numbers);
- How many organisations use pre-printed headed paper versus those that LaserJet their company details on to letters;
- The number of companies that make extensive use of business cards and the percentage of their employees requiring business cards; and
- How many companies would run down their supplies of stationery over the interim period.

A14.7 In the responses to the SP information request, 50% of respondents stated that they used their NTS number as a general contact point for their organisation. As a result, Ofcom has assumed that a maximum of 50% of NTS telephone numbers could be included on letterheads, compliments slips and potentially on business cards. Therefore if they chose to migrate, these organisations could incur some stationery costs.

A14.8 During the interim period, Ofcom has assumed that 25% of organisations would replace their business stationery anyway and has therefore excluded these organisations from the calculations.

- A14.9 Ofcom is aware that some companies LaserJet their letterheads on to correspondence. As it is difficult to assess the percentage of companies that may do this, it has been assumed that all organisations would require new stationery. Ofcom is aware however that this is likely to overstate the stationery costs associated with migration.
- A14.10 Ofcom has assumed that if the main contact number for an organisation is an NTS number and appears on a letterhead, it will also appear on business cards. Therefore it has been assumed, as above, that 50% of SPs will require new business cards. Further it has been assumed that not all employees would require new business cards. This assumption is based on the fact that some employees e.g. sales personnel, will run down their supply of business cards during the interim period and would therefore require a new supply anyway, and also that other employees e.g. administration and support staff do not make use of business cards. As a result, Ofcom has therefore assumed that there would be some business card costs incurred by organisations as a result of migration.
- A14.11 Ofcom used the business directory data reviewed in the October 2004 Consultation (Annex 6) detailing the different sizes of business sites that use NTS numbers, in order to estimate how much an organisation might spend on new letterheads and business cards. This was because it has been assumed that larger SPs might choose to employ larger, more costly design consultants, whereas smaller businesses may choose to employ lower cost business stationery suppliers.
- A14.12 The research indicated that 24% of NTS numbers were used by sites with more than 100 employees, 29% had 10 to 99 staff and 47% had less than 10 employees.
- A14.13 Ofcom undertook desk research to estimate the costs associated with designing new stationery. The research indicated that design costs associated with letterheads and compliments slips would be in the region of £25-£60 per hour for a standard designer. As discussed above, it has been assumed that over the interim period, organisations would run down their stationery supplies and as a result, they would need to order new stationery. They may however incur design costs to insert their new telephone number on to their stationery and these are the costs Ofcom has taken into account. For business cards, Ofcom conducted further desk research which indicated that their costs could vary significantly. Costs ranged from £9 to over £200 depending on the quality and quantity ordered.
- A14.14 Ofcom has therefore assumed that small businesses, i.e. with less than 10 employees would incur £50 per NTS number to update their letterheads and compliments slips and £45 for business cards. For medium sized and larger organisations, it has been assumed that £100 and £250 respectively would be incurred for letterheads and compliments slips per NTS number changed, and £400 and £675 respectively for business cards⁴².
- A14.15 As discussed above, the actual costs incurred by organisations will be dependent upon how quickly they run down their current supplies and what purchasing decisions they choose to make. As a result, it is difficult to determine what the total migration costs might be and therefore it should be noted that there is a degree of uncertainty associated with these figures.

⁴² Business card costs for larger organisations are higher due to the assumption that more employees would require new business cards.

- A14.16 Nevertheless, assuming that 35% of NTS SPs migrated from the 0870 range to another range, the associated stationery costs would be in the region of £35m and if 45% migrated, it would cost £45m. For the 0845 number range, assuming 16% of voice SPs migrated, the associated costs would be in the region of £5.5m.

Marketing, website, signage and business directory costs

- A14.17 Some organisations could incur costs associated with marketing materials. However Ofcom does not expect organisations to incur any costs in the majority of cases as most marketing material is updated on at least an annual basis. Ofcom is aware however, that some businesses may use marketing material for more than a one year period, but believes that overall across all SPs, the costs associated with updating this information will be minimal. Because of the difficulties associated with estimating what percentage of businesses might use marketing material for longer than one year, Ofcom has not calculated the amount that might be incurred and notes that any costs associated could be in addition to the total costs of migration listed at the end of this annex.
- A14.18 Business directories are updated on an annual basis and as a result, Ofcom does not believe that businesses would incur costs associated with changing their numbers in directories. It could however be argued that companies might lose business if directories are not up to date. Ofcom considers that this can be mitigated as directories update their online entries during the year and companies may choose to run two telephone lines concurrently during the migration period (discussed further in the section below).
- A14.19 Ofcom believes that some businesses would need to update their signage e.g. on fleet vehicles to reflect a new telephone number. It is however, problematic to calculate the potential costs associated. This is because Ofcom cannot confirm with any certainty how many SPs would be affected, how many sites or vehicles might need to be updated and the likely costs this would involve. Ofcom therefore notes that any costs associated with signage could be in addition to the total costs of migration listed at the end of this annex.
- A14.20 A large number of SPs may have their own websites and would need to update these to reflect their new telephone numbers should they migrate. Ofcom considers that as websites are likely to be updated during the interim period anyway, there are unlikely to be any additional costs as a result of migration.

Telecom Costs

- A14.21 To ensure continuity, some SPs may choose to run both old and new numbers during the changeover period, whilst others may prefer to supply recorded announcements on their old number providing their new number. Ofcom has estimated below the percentage of organisations that may choose to do this and the costs associated.
- A14.22 Ofcom would expect that larger SPs with high traffic volumes, would operate both NTS numbers for a certain time period, e.g. for six months and follow this up with call announcements for a further period, thereby incurring additional telecoms costs. Organisations with lower traffic volumes may choose to operate two numbers or provide call announcements for three months or not at all. The assumptions Ofcom has made are detailed below:

- **Organisations with over 1,000 minutes traffic per month** –all organisations take six months line rental, then 33% take a further six months call announcement, 33% take three months call announcements and 33% have no announcements;
- **Organisations with 100-999 minutes per month** - 50% of organisations take six months line rental, then 25% take three months call announcements; 25% of organisations take six months line rental only; and 25% take three months line rental only;
- **Organisations with 10-99 minutes per month** – 50% of organisations take six months line rental; 25% take three months line rental and 25% do nothing; and
- **Organisations with 0-9 minutes per month** – 50% of organisations take three months line rental and 50% do nothing.

A14.23 Ofcom has used the traffic information provided by TCPs in the TCP information request, in order to calculate the number of SPs with different call volumes.

A14.24 It has been assumed that call announcements would cost £75 per quarter and line rental charges would cost £40 per quarter⁴³. In addition, Ofcom would expect that all SPs migrating to a new number will incur a one-off cost of £25 to change their number, which would be imposed by their CP⁴⁴.

A14.25 The total telecom costs associated with 35% of 0870 numbers migrating would be £17m and if 45% migrated, the cost would be £22m. For 0845 numbers, assuming 16% of voice SPs migrated, the cost would be £3m.

Overhead & staff costs

A14.26 Ofcom considers that organisations would incur overhead costs to arrange for their telephone number to be changed and to order new stationery. It has therefore included these costs in its calculations.

A14.27 The costs are based on the assumption that on average it would take ½ a day to arrange for new stationery to be ordered and ½ a day for new telecoms arrangements to be put in place. Ofcom has further assumed an overhead rate of 1.4 with a salary of £20k p.a. Based on these assumptions, if 35% of 0870 numbers migrated, this would equate to £18m, and £24m if 45% migrated. Assuming 16% of voice SPs migrated on the 0845 range, this would cost £3m.

Costs associated with advertising new numbers to customers

A14.28 Some organisations may wish to notify their customers of their new telephone number. This may simply be a mailing campaign informing customers of the new telephone number or it could be a more elaborate campaign. Quantifying the cost of either of these is problematic, as it is difficult to determine whether any advertising or marketing would have taken place without the change in NTS numbers anyway⁴⁵. Ofcom believes that on balance, the costs of informing customers of the new telephone number are likely to be minimal. Ofcom has therefore not calculated the costs associated with advertising and notes that any

⁴³ Source: BT Price list, which states that for its “telemarketing services business starter”, line rental is £30 per quarter and for its “option 104”, line rental is £50. Ofcom has therefore assumed on average the line rental cost will be £40. It should be noted that for high volume lines above 20,000 minutes per month, BT’s provides this price on application.

⁴⁴ Source: BT Price list.

⁴⁵ Ofcom has considered this separately from the stationery, marketing and website costs noted above in paragraphs A14.5 to A14.20.

costs would be in addition to the total costs of migration listed at the end of this annex.

Loss of business costs

- A14.29 It is possible that some organisations may incur a loss of business if their customers are no longer able to contact them on their old number. However, Ofcom believes that this can be minimised as a result of the interim period allowing SPs to plan for the change. SPs can also take measures to mitigate any problems such as operating the old and new numbers simultaneously until calls to the old number reduce to a low level, or by providing changed number announcements.
- A14.30 Ofcom has not calculated any costs associated with loss of business because whilst an individual company could lose business, its customers would use an alternative company instead and from an economic perspective, this would not affect the size or value of the overall market in which the company operated in.

Total migration costs for voice SPs

- A14.31 Taking into account the costs outlined above, Ofcom anticipates that if 30% of organisations were to migrate on the 0870 range, the total one-off cost would be in the region of £70m and if 45% of SPs migrated, the associated one-off cost would be approximately £90m. For 0845 numbers, the one-off migration cost would be £11m assuming that 16% of voice SPs migrated. As noted above, Ofcom considers these indicative costs and the actual costs could be higher or lower.

ISP migration costs

- A14.1 As discussed previously, Ofcom expects that if the link to geographic call costs were re-established for the 0845 number range, all ISPs would choose to migrate to a different number range in order to continue revenue sharing. This is because for pay-as-you-go dial-up internet services, ISPs' business models are reliant on this income as their main revenue stream. ISPs would therefore incur costs associated with migration, such as the cost of contacting customers by email or post to inform them of the migration and implementing new software or providing CDs to customers to upload new dialler software.
- A14.2 One of the difficulties associated with migrating pay-as-you-go dial up internet accounts is that many customers do not keep their customer contact details up-to-date or do not make use of the email accounts provided with their internet accounts. As a result, it is difficult for ISPs to contact all of their customers to inform them of any migration. In many cases, the first a customer might know of the migration to another number, would be that their account ceases to work. Consequently, they will either try to contact their ISP or they may switch to another provider.
- A14.3 An alternative approach that some ISPs have used to migrate customers, is forced-portal technology. When the customer dials up to access the internet, they are forced to download new dialler software before gaining access to the internet. However, if the customer chose to ignore the new dialler software, their account would cease to work and they may switch to another ISP.
- A14.4 Ofcom examined the issues surrounding the migration of NTS services, in particular pay-as-you-go dial-up internet services in its statement entitled "*Calls to*

0845 and 0870 numbers: review of retail price and numbering arrangements" (the April 2004 Statement⁴⁶). In that document, Ofcom came to the view that migration was feasible, but acknowledged that it could be costly and disruptive for ISPs and their customers. Ofcom's view at that time was that most of the difficulties encountered by ISPs when migrating customers could be overcome by adopting a more sophisticated approach to migration, for example by deploying scripts to update the telephone number in customers dialler software.

- A14.5 Ofcom decided to gather more up to date information about the costs of migration of pay-as-you-go dial-up internet services and in June and July 2005, Ofcom met with representatives of the Internet Service Providers Association (ISPA) who provided Ofcom with additional information about migration programmes that five of its members had conducted. The information provided was broadly consistent with the information that Ofcom reviewed when preparing the April 2004 Statement. It shows a wide variation in the direct costs of migration and the proportion of accounts successfully migrated.
- A14.6 One potentially significant change since the April 2004 Statement was that ISPs felt that it will be much more difficult to deploy dialler software successfully since consumers have become wary of diallers due to the publicity surrounding 'rogue dialler' scams. This development would be likely to push migration costs and churn upwards towards the upper limit specified below.
- A14.7 Based on the information reviewed for the April 2004 Statement and the additional information provided by ISPA members, Ofcom has estimated that the direct one-off costs of migrating pay-as-you-go dial-up internet services are typically £6 to £7 per account. These estimates are based on the cost of attempting to contact customers by email, by sending them a CD through the post to upload a new dialler, and also through the use of forced portal technology.
- A14.8 In addition to the migration costs, information reviewed for the April 2004 statement and provided by ISPA, indicates that migration churn is typically between 20% and 25%.
- A14.9 There are currently 5.8 million pay-as-you-go dial-up internet accounts⁴⁷ so Ofcom estimates that the overall cost of mass migration of these services from the 0845 range would be a one-off cost of approximately £33 million to £39 million and that up to 1.5 million consumers would be likely to move to a different ISP as a result. ISPs would also incur additional customer acquisition costs when replacing the customers that are lost through churn.
- A14.10 As well as the costs associated with migration, Ofcom considers that migrating ISP services to other number ranges would be particularly disruptive to members of society that rely on pay-as-you-go dial up internet services to access the internet. It would also be most likely to affect those users that have limited technical knowledge and who would therefore find it more difficult to migrate their service.

⁴⁶ A copy of this document is available on Ofcom's website at:

<http://www.ofcom.org.uk/consult/condocs/0845/?a=87101>

⁴⁷ Source: The Communications Market 2005, Ofcom, July 2005

Annex 15

Service classification for locked-in calls estimate

- A15.1 When gathering information from SPs about the services they provide, Ofcom asked SPs to indicate the types of services they provided (on particular NTS numbers) from a list of generic services types. The list of services is reproduced below. SPs were also allowed to specify other types of service not listed below.
- A15.2 Ofcom classified each service type as either locked-in or not locked-in as shown in the table below. Services were classified as locked-in if callers were likely to have little or no choice but to call a particular number. For example, presales enquiries were classified as non locked-in on the basis that prior to purchasing a product or service, callers would probably be able to choose an alternative supplier. By contrast, callers were assumed to have little choice but to call a particular number for post sales support for products since the product would already have been purchased and the callers would probably need to call the supplier.

Locked in services	Non-locked in services
Account enquiries	General contact point for the organisation
Billing/payment enquiries	Presales enquiries
Complaints	Stock level enquiries
Technical advice/support	Sales enquiries, sales and/or ordering
Orders for spare parts	Catalogue requests
Post sales support for products	Brochure requests
Meter readings	Sample requests
Enquiries about existing orders, including arranging deliveries	Recorded information about your organisation e.g. store locations, opening hours etc
Helpline operated by a charitable organisation	Recorded information services e.g. travel news
Timetable enquiries	Professional advice services
Voicemail or other messaging service	Adult services
Customer care	Chat line service
Making appointments	Voting line
Fault reporting & making appointments for	Competition lines

repairs	
Fax services, including fax broadcast and fax to email services	Dial-up access to a data service other than the internet e.g. access to a commercial database service
	Dial-up internet access
	Audio conferencing service
	International calling services

Annex 16

Glossary

- A16.1 **Adult Services:** Adult services are defined in the Plan as sexual entertainment services. That is an entertainment service of a clearly sexual nature or any service for which the associated promotional material is of a clearly sexual nature, or indicates directly, or implies that the service is of a sexual nature.
- A16.2 **Communications Provider ('CP'):** a person who provides an Electronic Communications Network or provides an Electronic Communications Service.
- A16.3 **Cost-Benefit Analysis ('CBA').** An economic tool used to assess the desirability of a certain course of action by attempting to place a financial value on all the consequences, and comparing the net costs with the net benefits.
- A16.4 **ECS Provider.** A provider of a service consisting in, or having as its principal feature, the conveyance by means of an electronic communications network of signals, except in so far as it is a content service.
- A16.5 **Freephone:** a special services number that is not normally charged to the caller, except where charges are notified to the caller at the start of the call. Freephone numbers begin with 080 (e.g. 0800 and 0808) and also include the legacy 0500 range.
- A16.6 **Pay-as-you-go dial-up internet access:** internet access that uses a dial-up connection over an analogue or ISDN telephone line.
- A16.7 **ICSTIS:** the Independent Committee for the Supervision of Standards of Telephone Information Services, the premium rate service watchdog.
- A16.8 **Impact Assessment ('IA'):** an assessment of the impact of regulatory options on stakeholders as defined by section 7 of the Communications Act.
- A16.9 **ISP: Internet Service Provider.** A company that provides individuals and other companies with access to the internet and other related services.
- A16.10 **National Numbering Scheme ('the Scheme'):** the day to day record of telephone numbers allocated by Ofcom in accordance with the National Telephone Numbering Plan, and as provided for in section 56(3) of the Communications Act 2003.
- A16.11 **National Telephone Numbering Plan ('the Plan'):** a document setting out telephone numbers available for allocation and restrictions on the Adoption and other uses of those numbers, and as provided for in section 56(1) of the Communications Act 2003.
- A16.12 **Network Charge Change Notice ('NCCN'):** a document Issued by BT to notify the industry of changes to BT's charges to the industry.
- A16.13 **NTS: Number Translation Services.** Telephone services using the following numbers: Special Service numbers (including Freephone, special basic rate and special higher rate) and Premium Rate Services numbers ('PRS') (services currently provided under 090 and 091 number ranges). Within these ranges calls

to 0844 04 numbers for Surftime internet access services and calls to 0808 99 for FRIACO ('Flat Rate Internet Access Call Origination') are excluded.

- A16.14 NTS Condition: SMP Condition AA11 set out in Part 2 of Schedule 1 to the Notification which is contained in Annex A of the fixed narrowband, wholesale exchange line, call origination, conveyance and transit markets published by the Director General Of Telecommunications on 28 November 2003 ('the NTS Condition')
- A16.15 NTS Service Provider ('SP'): a provider of voice or data services to third parties using NTS numbers.
- A16.16 Originating Communications Provider ('OCP'): the Communications Provider on whose network a call originates.
- A16.17 Premium rate service ('PRS'): a particular type of Number Translation Service currently provided on the 090 and 091 number ranges.
- A16.18 SMP: Significant Market Power. The Significant Market Power test is set out in European case law, the new EU Communications Directives and the Commission's SMP Guidelines. It is used by the National Regulatory Authorities such as Ofcom to identify those CPs who must meet additional obligations under the Access Directive.
- A16.19 Short Messaging Service ('SMS'): A means by which short text-based messages can be sent to and from digital mobile phones and other devices.
- A16.20 Terminating Communications Provider ('TCP'): the Communications Provider on whose network a call terminates.