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Date: 20 July 2009

Dear Jeff

PRS Scope Review

We welcome the opportunity to comment on the above document, which was issued on 15 May. As a supplier of retail telephony services using available BT wholesale products such as wholesale line rental (WLR), our customers are able to call premium rate numbers. We have not, however, been involved in the more technical industry discussions about how these services are made available and regulated. Rather than respond to all the specific consultation questions we have set out below our comments on three general themes that arise from the consultation discussion.

These are:

- The names and exact role of different industry participants;
- A suggestion for how to improve customer understanding of PRS pricing; and
- Comments on the proposed centralised database of PRS reference information.

We discuss these in turn in separate sections below.

Names and Roles of Industry Participants

Our first comment is that we believe it would be helpful if the roles of different types of industry player could be more clearly distinguished, in particular between infrastructure providers and those companies who do not own infrastructure. For example, the term “OCP” (meaning originating communications provider) sometimes refers to the company with the retail relationship as in paragraph 6.21 “it is their own OCP that sets the retail price for the PRS ...” On other occasions, it refers to a capability of the OCP that implies network ownership – as in paragraph 4.18 “The OCP has to have a connection between its network and the network of the Terminating Communications Provider (TCP) ...”. Whereas there are, as Ofcom notes in the same paragraph, several hundred OCPs in the sense of retailers-only, we believe that the vast majority of retail OCPs use WLR and other regulated BT products and are therefore still using BT as the network OCP. It would be interesting for Ofcom’s figure 9, which shows market shares of OCPs in the retail sense to be re-drawn

showing OCPs in the network sense, as we believe that BT's share would then be shown to be more constant over the years.

Following on from the discussion above, we believe that it would be helpful for Ofcom to distinguish between "network OCPs" and "retail OCPs". We expect that there are only a comparatively small number of "network OCPs" i.e. BT, Virgin Media as a cable operator, the mobile operators and the LLU operators. The distinction is important, especially if Ofcom is considering further regulatory intervention, as one of Ofcom's considerations must be only to apply regulatory obligations on those parties who can actually carry them out. We return to this point in the following section.

Another term that we consider could be clarified is that of "service provider". In the PRS document, this refers to the provider of the PRS service. In other regulatory contexts, "service provider" is used to refer to a communications provider (CP) with the retail relationship with customers to distinguish them from network or infrastructure providers in much the same way as we have discussed above.

We recognise that some of Ofcom's concerns in relation to PRS services are related to content issues. Increasingly, as media and communications converge, we believe that it would be helpful for Ofcom to develop a consistent set of terms for different distinct roles in the market. In our view, this would help clarify what type of regulation is appropriate for the different activities and allow the General Conditions to be written in a more targeted fashion, recognising that some companies may act in a number of different roles in the delivery of some types of service.

In our experience, the key distinction is between retail service provision and network (or infrastructure) provision as different regulatory considerations are relevant to each of these roles. We believe this distinction is being recognised in discussions on next generation access and also in some of the more recent regulatory developments such as General Condition 22, where a broadband network [communications] provider is recognised as different from a CP providing the broadband retail service. To these two main categories of CP, a third can be added for content provision and much of Ofcom's concern about PRS provision seems to fall under this final category.

Addressing Customer Information Requirements

We appreciate Ofcom's concerns about trying to ensure that customers are appropriately informed about the cost of calls to premium rate numbers. As a retail supplier of a telephone service, we have been concerned about the increasingly detailed and prescriptive regulatory burden, dealing with information to be provided to customers about various types of telephone number. We would not support further measures such as pre-call announcements being required from retail OCPs since, as a pure retailer, we have no means within our own control of providing this but must rely on the relevant network OCP (i.e. BT) to provide this. If Ofcom eventually proceeds down the route of requiring network remedies to customer information issues, we strongly advocate that such regulatory remedies should be applied in the first instance to network CPs, who could then incorporate them into the wholesale products provided to the retail suppliers using their networks.

We do, however, have a suggestion as to how information about the likely cost of PRS calls could be conveyed to customers and believe this could be implemented in a relatively light-touch manner.

It appears to us that there are 3 elements in the final cost of the PRS call to a customer – and these reflect the types of CP discussed above:

1. the charge made by the PRS service provider, who contracts with a TCP and possibly various content/information providers in order to provide and market a service to end customers;
2. the charge made by a customer's network OCP for originating the call and connecting it to the PRS number; and
3. potentially, a further charge made by a retail supplier who is not a network OCP and who uses the infrastructure of a network OCP to provide retail telephony services – a retail OCP.

Our proposal is that:

- PRS service providers advertise the price of their element of the charge, adding that “network charges will apply in addition”;
- Those retailers who are also infrastructure providers, such as the mobile operators, provide information in their customer price lists about the additional charge(s) they make for originating calls to PRS numbers and also provide this information to retailers who use their infrastructure on a wholesale basis, if this is applicable; and
- Those retailers who are not infrastructure providers, being provided with sufficiently detailed information from their network OCP, optionally add their own charge and ensure that the information provided on their customer price lists reflects the final additional charge made for a generic PRS call. This could be in addition to the pricing information already provided currently about the final price of calls to PRS numbers.

If this suggestion is feasible, we believe it would have the following advantages:

- It would educate customers about the essence of the chain of costs for PRS calls without making this too complex i.e. final price of a PRS call equals the price of the PRS service plus the price of a call to connect to that service.
- For any one customer using a particular network, they could establish what the “price of a call to connect to a PRS service” would be, which they could bear in mind as an element to be added to the prices advertised for PRS services. Although this price may have some variable components e.g. time of day, which other terminating network is being called etc., their retailer should be able to explain and provide reference material or guidelines.
- It separates the information provision issue between those whose business is PRS provision and those who are providing the infrastructure to access those services so that they each only have to explain the price of the element they are concerned with.
- It avoids providing a reference to “BT” landlines (or any other retailer, as implied by some of Ofcom's proposals) in PRS advertising, all of which is inappropriate in a competitive retail telephony services market.

Centralisation and Coordination of PRS reference information

Within Chapter 6 of the document, Ofcom discusses a couple of approaches to increasing the coordination and centralisation of PRS, following analysis by consultants. These include extending the existing “PRS number checker” (which links numbers with contact details for the PRS service provider) to include more PRS numbers and setting up a central registration scheme for PRS service providers and content providers, which could record reputational information of relevant company directors, for example.

We are very much in favour of a coordinated approach by industry itself to resolving issues throughout the communications market and have argued for this type of approach in response to many individual Ofcom consultations e.g. on customer switching arrangements; maintenance of numbering and directory information; number portability; development of next generation access products to name a few. We are therefore heartened by Ofcom’s comment in paragraph 6.73 that it is “keen to give responsible players within the industry an opportunity to play a role in improving the behaviour of other participants in the industry” and its consideration of a central registration scheme.

We support this approach and, although we cannot comment on the detail of how this would best be set up for PRS services, we agree that the existing independent body PhonepayPlus, already set up on a co-regulatory basis, should probably be involved. In most situations of industry coordination, we believe that co-regulatory arrangements are preferable to self-regulation due to the points that Ofcom discusses in paragraphs 5.62 to 5.67 about non-reputable parties having no incentive to comply with self-regulatory measures. In our view, industry coordination needs to be mandated via a regulatory condition for the benefit of the efficient working of the market and ultimately of consumers.

In relation to PhonepayPlus, we would expect to see industry representation and involvement in the policy decision making of this or future bodies dealing with PRS issues, in order to give industry the role and responsibility referred to in paragraph 6.73. It would then be in a position to carry forward debate and consensus on the more detailed aspects of Ofcom’s questions about what should be included in the central database, provided that appropriate representation and governance arrangements are put in place.

I hope these comments are helpful and would be happy to discuss them further if that would be useful.

Yours sincerely

Aileen Boyd
Regulation Manager