

## **RESPONSE FROM THE ACTION 4 TO OFCOM'S CONSULTATION ON SIMPLIFYING NON-GEOGRAPHIC NUMBERS**

**June 2012**

### Introduction

Action4 welcomes this opportunity to respond to the recent Ofcom consultation on simplifying non-geographic numbers. Once again we have to express our concern about Ofcom's confidence in consumers' understanding of what is conveyed by a prefix. In 2005, in response to the NTS A Way Forward consultation, we stated:

*"However, (Ofcom) should not be too optimistic in expecting a widespread understanding of the cost or service-type meaning of different prefixes. Awareness that 09 means premium rate is not as high as some had hoped, despite this being an EU agreed prefix for premium rate services. True clarity for consumers on pricing will only come about when there is a RRP for premium rate services and telephony per se, preventing originators (including mobiles) from charging more."*

Now, seven years later Ofcom is still trying to squeeze the available codes and tariffs into a recognisable plan. Having said that, we believe that the latest proposal represents a considerable advance on the current situation.

We welcome the fact that Ofcom acknowledges that that an increase from the current £1.53ppm for fixed line telephony is now due.

We also welcome the recognition in 3.52 that SP's have difficulty in clarity of pricing for their consumers due to the lack of transparency in pricing from OCP's.

Action4 believes that the scope of this consultation is appropriate – however Action4 is still concerned that unless a RRP is set out for all telephony then consumer confusion will still continue to be present.

Action4 believes that the history as set out is very helpful and that the rationale of the consultation is just, it will be worth the outcome of this consultation if benefit for both the industry and the consumer are achieved. Although would comment that the length and complexity of the consultation means that we have restricted our comments only to those areas that we feel we are able to respond to as an Association.

We agree with the approach that all NTS numbers should be dealt with in the same manner alongside of all networks whether mobile or fixed. We welcome further consultation on the other pre-fixes as set out.

However, noting that you currently do not plan to review mobile shortcodes; whilst there may not be major consumer issues re pricing at present that is not say in the future this may not be an issue and as such would urge that all NTS are treated in the same way.

***Q4.1 Do you agree that the analysis set out in Section 4 and the supporting annexes which draws on our initial assessment in the December 2010 review, stakeholder comments and the further research undertaken in 2011, appropriately characterises the market , the market failures and the effects on consumers? If not please set out your alternative views.***

It does seem unfair that BT is still regulated beyond other networks but is relied upon as the bench mark for consumer pricing it is not time to review this position, whilst accepting their still dominant position in the market place.

O2 research showing that 4% of consumers would make more calls if they knew the cost must be looked at this would represent a large amount of revenue to the industry and must be worthwhile at looking at.

“The CAB rejected this hypothesis, and argued that a rebalancing of prices would represent a better deal for consumers in general. It highlighted that under the current regime, people who call non-geographic numbers from their mobile phone (who are more likely to be on low incomes) were paying over the odds for such calls, while simultaneously subsidising other elements of the phone market (e.g. handsets, other parts of call packages). The CAB likened this to the personal current account market in which charges paid by vulnerable, low income people were subsidising the ‘free’ banking enjoyed by many more affluent customers.”

We agree with this

The lack of transparency for the cost of calling PRS for consumers from mobiles is a real problem for the industry; as noted low income household use mobiles and it is those that are likely to enter competitions and wish to avail themselves of entertainment services such as tarot therefore the lack of limiting of the cost of calls from mobile is damaging the PRS industry alongside the current restrictions and pricing capping of £1.50 ppm. How many consumers would want to trawl through for example, TalkTalk's 171 page pricing document to find accurate pricing for a call which is an impulse purchase?

We agree with PpP that high costs from mobile and lack of consumer trust which must surely be partly due to the lack price transparency is damaging the market.

“Our remaining provisional conclusions are unchanged. Specifically, we find that consumers’ awareness of the price of making calls to non-geographic numbers is generally poor. This is because callers do not have consistently good access to clear price information across all call providers and/or at the points when they make their calling and subscription decisions. Our fundamental concern is that, as a result, callers tend to overestimate the price of calling non-geographic numbers and, more generally, they tend to be suspicious about NGCs.” We agree with this.

## **Section 5 – Equality impact assessment**

***Q5.1: Do you have any comments on our Equality Impact Assessment? In particular do you agree with our view that our proposals for changes to non-geographic numbers are likely to have an overall positive impact on the equality groups identified in Annex 15?***

As with any new regulation the effects that it has will be down to implementation alongside its rationale.

“a single price structure for other non-geographic number ranges - 084 (including 0845), 087 (including 0870), 09, 118 - where competing services will be able to compete on price (by being able to present an accurate price for calls to their service) as well as brand/service”

We welcome this, however having no price cap for 118 118 is a potential loophole, also currently 0844 even at its current pricing structure could be used for PRS.

“The evidence we have seen supports significant price sensitivity in these ranges. A survey for PPP in 2010 found that around 28% of non-users cited cost as a reason for not using premium rate services. In addition, the same survey found that accurate pricing information was the single most important factor that would help improve trust in premium rate services (given by 74% of phone-paid service users).<sup>42</sup> This significant price sensitivity, combined with current uncertainty around the price of calls and likely over-estimation, means demand for 0871 services is likely to be suppressed. With 09 calls, the evidence set out above suggests consumers do not over-estimate the cost of calls to these numbers as call costs are typically high in this number range. This suggests that an increase in price awareness will not lead to a direct effect on demand. Nonetheless, we consider that prices of 09 calls are high in part because of the market failures identified in this review (see below for more detail on this mechanism). An increase in price awareness in this number range is likely to increase competition between OCPs and between SPs, as well as reduce the vertical and horizontal externalities, which is likely in turn to put downward pressure on prices. This in turn would be likely to lead to an increase in demand for calls, given the evidence on price sensitivity outlined above.”

We would question the logic of this surely clarity of pricing would allow consumer choice and manage the consumers' expectations.

***Q9.1: Do you have any comments on our assessment, and in particular the additional evidence (gathered since the December 2010 Consultation) which we have used to support our assessment, on our provisional conclusion that the unbundled tariff should be applied to the revenue-sharing NGC number ranges?***

Whilst we can understand the rationale for unbundling as your preferred option it is our opinion that this must be alongside clear pricing for the consumer we understand for the industry that unbundling allows more pricing flexibility. We believe a recommended retail price for all telephony is the best solution.

**Q10.1: Do you agree with our proposal that the AC should be allowed to vary between tariff packages but that OCPs should be subject to a tariff principle permitting only one AC for non-geographic calls? If not please explain why.**

See answer to 10.3 below

**Q10.2: Do you agree with our proposed structure for the AC, in particular that: (i) that the AC should be a pence per minute charge only, but can be subject to a minimum one minute call charge; (ii) that the AC should not vary by time of day; and (iii) that the AC can be included as part of call bundles/inclusive call minutes provided that inclusion does not differentiate by number range? If not please explain why.**

See answer to 10.3 below **Q10.3: Do you agree with our proposal not to impose a cap on the AC in the first instance? If not please explain why.**

As long as this does not adversely affect the cost to the callers and means that clarity of pricing can be achieved.

Due to the complexity and depth of the Ofcom document, Action4 has chosen to make some high level comments on the proposals, without entering into debates about matters such as conveyance and commercials which will no doubt be dealt with by the SPs, OCPs and TCPs in their responses.

**Q10.4: Do you agree with our proposed approach for the structure of the SC? In particular that: (i) bespoke SCs should be prohibited; (ii) that no further restrictions on the SC structure should be required (e.g. allowing ppm and ppc SCs, no restriction of ToD charging subject to ability of billing systems to pass through the charges) If not, please explain why and provide evidence if possible.**

We agree that no further restrictions are required consumer protection must be balanced by a competitive market place

**Q10.5: Do you agree with our proposals to impose maximum SC caps for the purposes of protecting the identity of the number ranges? Do you agree that the caps should apply to the 084, 087 and 09 ranges and that they should be set exclusive of VAT in the Numbering Plan? If not please explain why and provide evidence to support your position if possible.**

We agree, however would ask why this is not being applied to DQ services. Surely VAT should be inclusive for consumers

**Q10.6: Do you agree with our proposed cap of 5.833p for the 084 range and 10.83p for the 087 range? If not please explain why.**

We agree with the caps although as a point believe that pricing points on all tariffs would be clearer if they were whole amounts so 6p and 11p inclusive of VAT.

**Q10.7: Do you agree that the number of SC price points should be restricted? Do you agree that that restriction should be somewhere between 60 and 100, and where within that range do you consider would be optimal? Do you have any comments in relation to how Ofcom should decide where in that 60 to 100 range the maximum number of SC price points available should be set?**

We agree with SC restriction and would say the fewer the better as this should allow for less confusion.

**Q10.8: Do you agree with Ofcom's proposed approach to agree the relevant SC price points with industry rather than specifying them as part of the Numbering Plan? Do you have a particular preference for which SC price points are necessary within the different number ranges? What criteria would you propose for the selection of price points? Assumed Handover point ('AHP')**

Agreeing this should be easier if done with the industry and it is more complicated to change the numbering plan. Price points need to reflect the offerings provide and the value given to the consumer.

**Q10.9: Do you agree with our assessment on the location of the AHP on BT's and other CPs' networks? If not, please explain why you disagree.**

This is for the networks to decide we have no particular view.

**Q10.10: Do you agree that for calls that route via a transit network, the TCP should pay for transit? If not, please explain why you disagree. In particular please explain your views on how incentives can be included within an "OCP pays" approach to ensure the TCP seeks to interconnect directly (where this is efficient) and not to reduce its points of interconnection at the expense of the OCP and efficient end to end call routing.**

Again this is a question for the networks although we would say that we believe that paying for transit is the correct approach

**Q10.11: Do you agree with our proposed approach for calls between two non-BT CPs, both for the case when a transit network is used and for when direct interconnection is implemented? If not, please explain why you disagree.**

We agree

**Q11.1: Do you agree with Ofcom's assessment that an unbundled tariff should also apply to the 0845 and 0870 ranges? If not please explain**

We would prefer RRP for all telephony

**Q12.1: Do you agree with our proposal not to mandate the presentation of disaggregated AC and SC charges on customers' bills? Do you agree with our view that it should be up to OCPs to decide the best way to present these charges to their customers on bills OCPs but that we require that at a minimum, the OCPs should include the customer's AC on the bill they receive?**

We believe that mandatory presentation would allow clarity for the consumer.

**Q12.2: Do you agree with the requirement for a central SC database. If so what would be your preferred approach – public sector or private sector provision? If you do not agree with the need for the database what approach for the dissemination and verification of SC would you prefer and why. Are there any other issues with respect to the database you would wish to raise?**

A database would be helpful dependent on cost if there was industry agreement it may be best for an organisation such as BT who hold all data infill for both mobile and fixed to do this.

***Q12.3: Do you agree with the need for reformation of the existing processes for number range building and tariff change notification? If so, what do you consider to be the key characteristic of a revised set of processes? Do you consider that there is a need for regulatory intervention in their establishment, if so why and on what basis should Ofcom intervene.***

We would again state, the more clarity in the industry the better as long as regulatory intervention does not stifle market competition.

***Q12.4: Do you consider that there is a need for additional regulatory intervention in the area of end-users' access to non-geographic numbers, in addition to General Condition 20? If so why and what form should such an obligation take?***

*The more clear obligations are to all parties involved in the value chain the better for the consumer and the industry.*

***Q12.5: What steps / actions do you consider need to be undertaken to ensure changes to the structure and operations of non-geographic numbers are successfully communicated to consumers? Price publication requirements***

We would urge that consumers are notified by all possible means including accurate advertising by SPs, full communication via networks bills and on their websites

***Q12.6. Do you agree with our proposal that existing price publication obligations (with some modifications) are sufficient to ensure that consumers are made aware of their ACs? Do you agree that we would need to specify the AC as a key charge?***

We agree with this alongside some modifications, we also agree with AC being a key charge

***Q12.7: Do you agree with our provisional view that the requirement for SPs to advertise their SCs could be implemented through a condition on SPs that is enforced through an industry Code of Practice and the ASA? Are there any other options (beyond the two outlined) which Ofcom should be considering? What do you consider is the best approach for securing industry commitment and developing a Code of Practice?***

The industry would welcome a clear code of practise; it would seem right the ASA are involved. SPs have struggled re pricing as the consumer may assume that is they that are deliberately not putting clear pricing on advertising or call announcements, when in fact to date certainly with mobile calls they can not be clear as they just do not know what each network will bill their consumers. We would argue against the extension of PpP's remit whilst at the same time recognising the work that they have done, over the many years they have regulated the industry.

Sometimes, as all organisations they take decisions which are not helpful for example with the recent registration scheme last year if you made less than £5k of revenue p.a you did not have to pay a fee. This year for new market entrants this level has been raised to £10k however last years new registrants now have to pay. Why, if my total income p.a is say £250 would I pay £135.00. This will lead to people just not registering. Also charging administrative fees to cases when the SP is proven not have to breached.

**Q12.8: Do you agree internationally originated calls should be charged at the same SC as an equivalent domestic call? If not, please set out your reasons. Do you agree that originators should be able to set a separate AC level for roaming calls in a given country, though the other characteristics of the AC should still apply**

We agree

**Q12.9: We would welcome stakeholder views on our proposed approach for applying the unbundled tariff to payphones. Do you agree that it is appropriate to allow payphones to set a minimum fee for non-geographic calls?**

We agree

**Q12.10: Do you consider there is a need to exempt business to business telephony contracts from some of the constraints of the unbundling regime? Is so what exemptions do you consider appropriate and why are they necessary (please give examples of the conflicts you would identify if exemptions are not provided). To which contracts should the exemptions apply and why? Timing**

We believe clarity is the best solution the more complex any regime is the more likelihood for error, therefore we would say no exemptions.

**Q12.11: Do you agree with our proposal that implementation should take place 18 months from the date of the final statement?**

This would appear a reasonable time frame.

**Q13.1: Do you agree with our estimates of the billing costs for implementing the unbundled tariff, taking into account the discussion in Annex 19? If not, please explain why and provide evidence to support your response, particularly of the level of costs you are likely to incur as a result of our proposals.**

**Q13.2: Do you agree with our estimates of the level of migration and misdialling costs for service providers who may migrate as a result of the unbundled tariff (taking into account the analysis and evidence in Annex 12)? If not please explain why and provide evidence.**

**Q13.3: Do you agree with our estimates of the communication costs of implementing the unbundled tariff? In particular: (i) the costs of OCP communication with their customers; and (ii) the costs of TCP communication with their SP customers. If not, please explain why and provide evidence to**

**support your response, particularly of the level of costs you are likely to incur as a result of our proposals.**

We feel that the networks are best able to answer the above 3 questions directly due to them having detailed information on the costings involved.

**Q13.4: Do you have any comments on our impact assessment for the unbundled tariff? Please provide evidence to support your response.**

No comment

**Q16.1: Do you agree with our assessment of the options for the 080 range? In particular, do you agree with our preferred option of making 080 genuinely free to caller? If not, please explain why.**

We agree with your preferred option with a caveat of the likely costs to industry.

**Q16.2: Do you have any comments on the analysis used to develop the Impact Assessment Range for the mobile origination charge and the Mobile Maximum Price range for 080 calls as set out in Annexes 21 to 25? Please provide evidence to support your comments.**

**Q16.3: Do you agree with our estimates of the level of migration and misdialling costs for service providers who may migrate as a result of our proposal to make the 080 range free to caller (taking into account the evidence and analysis in Annex 12)? If not please explain why and provide evidence.**

**Q16.4: Do you agree with our proposal to treat the 116 ranges in the same way as the 080 range (i.e. designate all as free to caller) as set out in detail in Annex 27? If not please explain why.**

We feel that the networks are best able to answer the above three questions directly due to them having detailed information on the costings involved. We would however say that industry would again be wary of increase charges to themselves or decreasing margins.

**Q17.1: Do you agree with our provisional view that it is appropriate for an access condition to be imposed on all TCPs hosting designated Free to caller numbers requiring them to:**

**(i) purchase wholesale origination services for calls terminating on designated free to caller ranges from any requesting OCP;**

**(ii) to do so on fair and reasonable terms and conditions (including charges);  
and**

**(iii) notify their SP customers of any initial revision to the charges for wholesale origination services within two months of Ofcom imposing the requirement for zero maximum prices.**

**If not do you consider any ex ante intervention is required? Please give your reasons for or against such intervention and your preferred approach.**

We agree

**Q17.2: Do you agree that the access condition does not need to be extended to OCPs, but is effectively binding on both parties? If not please give your reasons.**

We agree

**Q17.3: Do you have any other comments on our proposed implementation approach for making Freephone free to caller? For example, do you consider it necessary for Ofcom to impose a requirement on SPs to publicise that 080 calls are free and do you have any other suggestions for how SPs could be encourage to publish that at the point of call? Are there any other implementation issues which need to be taken into account?**

We believe clarity for the consumer is paramount balanced against industry cost.

### Conclusion

It is a shame that it has take so many years to move from the Ofcom reviews in 2004 and 2005 to this stage, yet, as stated in our introduction, we feel that these suggestions are a move in the right direction.

Action4 feels that the premium rate market is now much more stable than it has been for many years, in terms of a community that wishes to provide true value-added services to members of the public. For these companies to be able to accurately indicate what their part of the service is costing consumers can only be of benefit to them.