



Telephone Numbering

Modifications to the National Telephone Numbering Plan, General Condition 17, the Premium Rate Services Condition and the telephone number application forms within existing numbering policy and to facilitate the increase in VAT from January 2011

Statement

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Section 1

Summary

1.1 This statement sets out Ofcom's decision to modify the documents that we publish in order to fulfil our duties in relation to telephone numbering in Part 2 of the Communications Act 2003 ('the Act'). We set out our proposals to modify these documents in two recent consultations:

- *Telephone Numbering: Proposals for modifications to the National Telephone Numbering Plan, General Condition 17 and the telephone number application forms within existing numbering policy*, published 31 August 2010 ('the August Consultation');¹ and
- *Changes to the Numbering Plan: A proposal for modifications to the National Telephone Numbering Plan to facilitate the increase in VAT² from January 2011*, published 22 October 2010 ('the October Consultation').³

1.2 The modifications are being made to ensure that the documents are accurate and reflect current numbering policy in a consistent manner. No changes to policy or administrative measures have been made and the modifications only directly relate to communications providers ('CPs') applying for the allocation of telephone numbers, the adoption of those numbers and how the maximum retail prices of certain non-geographic numbers are presented in the National Telephone Numbering Plan ('the Numbering Plan').⁴

1.3 The modifications are being made to the following documents, known collectively as 'the Numbering Documents':

- the Numbering Plan, which sets out telephone numbers available for allocation and any restrictions on their adoption or use;
- General Condition of Entitlement 17 ('the Numbering Condition'), which sets out general requirements relating to the allocation, adoption and use of telephone numbers, plus its annex, which sets out telephone numbers available for use or adoption in accordance with their designation;⁵ and
- the telephone number application forms ('the Numbering Application Forms'), which CPs must complete when applying for the allocation of telephone numbers from Ofcom.⁶

1.4 The modifications to the Numbering Documents relate to:

¹ See <http://stakeholders.ofcom.org.uk/consultations/telephone-numbering/>.

² Value Added Tax (VAT).

³ See <http://stakeholders.ofcom.org.uk/consultations/numbering-plan-changes/>.

⁴ See <http://stakeholders.ofcom.org.uk/binaries/telecoms/numbering/numplan201210.pdf>.

⁵ The Numbering Condition is reproduced as an Annex to the Numbering Plan.

⁶ The Numbering Application Forms are accessed from our website at <http://stakeholders.ofcom.org.uk/telecoms/numbering/applying-activating-tele-no/applying-tele-numbers/>. The Numbering Application Forms are for CP use only and are password protected.

- presenting the maximum retail prices of certain non-geographic number ranges exclusive of VAT in the Numbering Plan in advance of the increase in VAT to 20 per cent from 4 January 2011;
 - the addition of new numbers within existing designated numbering resource;
 - amendments to definitions;
 - deletion of obsolete text and numbers;
 - the correction of textual errors;
 - accurate classification of certain number ranges; and
 - ensuring consistent reflection of numbering policy across the Numbering Documents.
- 1.5 We are also modifying the Premium Rate Services ('PRS') Condition to specifically exclude calls to 0843/4 numbers. This modification is to prevent the increase in VAT having the unintended consequence of bringing the numbers above the threshold where they become subject to premium rate regulation through the PRS Condition.
- 1.6 We received seven responses to the August Consultation. The respondents welcomed the consultation to ensure that the Numbering Documents were current and accurate. There was support for all the proposed modifications except for the proposal to extend the length of Communications Provider Identity (CUPID) Codes, which would result in administrative difficulties. We have not proceeded with this proposed modification.
- 1.7 We received 13 responses to the October Consultation. Only one respondent disagreed with the proposed modifications to the Numbering Plan but said that they understood why we were doing it. The other respondents either agreed without reservation or made suggestions about additional action we could take or should have taken whilst undertaking the consultation. Some also expressed concern about the removal of pricing clarity brought about by expressing tariffs as exclusive of VAT.
- 1.8 Only one respondent disagreed with the proposal to remove 0843/4 calls from the PRS Condition saying that all 08 and 09 calls that attract a charge should be strictly regulated.
- 1.9 Having considered all the responses to the two consultations, we have decided to proceed with our specific proposals apart from extending the length of CUPID Codes. To reflect this decision, the Numbering Plan, the Numbering Condition, the PRS Condition and the Numbering Application Forms are being modified with immediate effect.
- 1.10 The reasons for the modifications are explained in the body of this document and the specific text that we are modifying in the Numbering Documents and the PRS Condition is set out in the annexes. Certain statutory procedures apply when we modify the Numbering Documents and the PRS Condition and both the consultations and this statement follow those procedures. The relevant notifications of the modifications and an explanation of how the modifications meet the necessary legal tests are also set out in this document.

Section 2

Introduction and background

- 2.1 Ofcom is responsible for the administration of the UK's telephone numbers. We do this as part of our regulation of the communications sector under the framework established by the Act. The Act transposes the European Union electronic communications regulatory framework into UK law. It provides, among other things, for the publication and modification of certain documents as part of our regulation of telephone numbers. The basis of these documents is explained in paragraphs 2.3 to 2.6 below.
- 2.2 We recently published two consultations proposing modifications to these documents. The August Consultation, which was published on 31 August 2010 and closed on 8 October 2010, proposed changes to the Numbering Documents to ensure that they are accurate and reflect current numbering policy in a consistent manner. The October Consultation, which was published on 22 October 2010 and closed on 19 November 2010, proposed changes to the Numbering Plan to facilitate the increase in VAT from January 2011 and to the PRS Condition to ensure that 0843/4 numbers are not inadvertently subject to PRS regulation as a result of the VAT increase. The proposals put forward in the two consultations are summarised in the remainder of this section.

The Numbering Documents

The Numbering Plan

- 2.3 It is our duty, as required by section 56 of the Act, to publish a Numbering Plan setting out the telephone numbers available for allocation and any restrictions on how they may be adopted or used. We make the latest version of the Numbering Plan available on our website.

The Numbering Condition

- 2.4 Section 58 of the Act provides for the setting of general conditions about the allocation and adoption of telephone numbers. The Numbering Condition sets out general requirements relating to the allocation, adoption and use of telephone numbers. Its annex sets out numbers available for use or adoption in accordance with their designation and without application to Ofcom. The latest version of the Numbering Condition is published as an annex to the Numbering Plan.

The Numbering Application Forms

- 2.5 The Numbering Condition requires Ofcom to make appropriate application forms available for CPs to use when applying for the allocation of telephone numbers. It also requires CPs to use the appropriate form and provide the information required when applying for numbers. Specific forms are provided for different number ranges, currently totalling 16 forms. The forms are coded as 'SX', with 'X' denoting the Numbering Application Form number.⁷

⁷ We refer to the Numbering Application Form number in this document and a reference table for the form number and the form type is provided for reference at Annex 2.

The PRS Condition

- 2.6 Section 120 of the Act provides for the setting of conditions for the purpose of regulating the provision, content, promotion and marketing of premium rate services as defined in section 120(7) of the Act. The PRS Condition sets out that CPs shall comply with (a) directions given in accordance with an Approved Code (i.e. the PhonepayPlus Code of Practice)⁸ by the Enforcement Authority and for the purposes of enforcing the provisions of the Approved Code; and b) if there is no Approved Code, the provisions of the order for the time being in force under section 122 of the Act.

Modification of the Numbering Documents and the PRS Condition

- 2.7 The Act provides for us to review and revise the Numbering Documents and the PRS Condition and sets out the process we must follow to do this. In summary, we must consult on proposed modifications and set out how the proposals meet certain legal tests. Further information on the legal framework is provided at Annex 3.

The August Consultation

- 2.8 The August Consultation set out and consulted on the modifications that we proposed to make to the Numbering Documents within existing numbering policy in order to ensure that these documents are accurate and reflect current policy in a consistent manner. The proposed modifications are summarised below and are explained in more detail in Sections 3 to 5 and Annexes 7 to 9 of the August Consultation.

Modifications to the Numbering Plan

Making more numbers available for allocation

- 2.9 The August Consultation set out our proposals to add certain numbers to the Numbering Plan and to make them available for allocation, providing an additional supply of numbers where a shortage to facilitate the provision of certain services is forecast, specifically by:
- assigning location significance to additional numbers in the 0191 geographic area code for Tyneside, Durham and Sunderland (i.e. local numbers beginning with the digits 0191 7, 0191 8 and 0191 9);
 - designating 27 additional mobile number portability (MNP) codes in the format 76XX. MNP codes facilitate the process by which consumers can retain their existing mobile telephone number while switching provider; and
 - extending the length of CUPID codes from three to four digits. CUPID codes are used for administrative purposes as a means of identifying specific CPs when

⁸ PhonepayPlus is the Enforcement Authority for the premium rate products and services purchased by consumers through fixed and mobile phone bills.

<http://www.phonepayplus.org.uk/output/default.aspx>.

PhonepayPlus publishes and enforces a Code of Practice which contains the rules governing the content and promotion of PRS. The amended Eleventh Edition of the Code of Practice took effect on 28 April 2008. See <http://www.phonepayplus.org.uk/output/code-of-practice-1.aspx>. A draft of the Twelfth Edition of the Code of Practice is available at <http://www.phonepayplus.org.uk/upload/2010-Annex-A-New-Code-of-Practice-September-Edition.pdf>.

requesting and using various electronic communications industry-related services.

Modifying definitions and interpretations

- 2.10 The August Consultation also set out our proposals to modify the ‘Definitions and Interpretation’ section of the Numbering Plan to ensure that the text is current and accurate, specifically by:
- updating the reference to the Companies Act in force in the definition of ‘BT’;
 - amending the definition of ‘Inbound Routing Codes’ to accurately reflect the codes’ use for routing rather than portability purposes;
 - modifying the definition of Reseller Identification (RID) Codes so they may be used for administrative purposes to identify those who resell wholesale services sold via BT in general rather than limiting the specific services for which RID codes may be used;
 - deleting the definition of ‘BT’s Standard National Call Retail Price’ as there is no longer any reference to this pricing arrangement in the Numbering Plan; and
 - modifying the Interpretations section in the Numbering Plan to correct a textual error and insert a reference to the Numbering Condition currently in force rather than a version published on a specific date.

Modifications to the Numbering Condition

Freephone numbers

- 2.11 Freephone numbers in the 0500 and 0800 plus 6-digit ranges are no longer available for allocation from Ofcom as they are not in accordance with the Numbering Plan⁹ and are no longer available for adoption (i.e. they may not be used to provide new services). The Numbering Plan had designated these number ranges incorrectly, in that they were shown as being available for new and existing customers if already allocated (i.e., may still be adopted). We proposed to correct this by setting out the two number ranges in a new section ‘Public Telephone Network Numbers not available for Allocation or Adoption’ in the Annex to the Numbering Condition to ensure that the restrictions on adoption are clear.
- 2.12 The definition of ‘Freephone Number’ in the Numbering Plan is “a number that is reached free of charge to the Customer except where a charge is notified to the End-User at the start of the call”. This definition has been reflected in the designation of 080 numbers but not 0500 numbers. Both are ‘Freephone Numbers’ and we therefore proposed to modify the designation of the 0500 number range in the Annex to the Numbering Condition from “No charge to Caller” to “No charge to Customer (except where charges shall be notified to callers at the start of the call)” to reflect the definition of Freephone Number and to match the current designation of 080 numbers.
- 2.13 This modification was proposed to ensure that the designation of 0500 numbers was consistent with the definition of Freephone Number in the Numbering Plan and

⁹ The Numbering Plan designates 080 numbers in the ‘0’ plus 10-digit format as ‘Freephone Numbers’.

reflected current policy. The proposal had no effect on any future proposals with regard to the definition of 'Freephone Number' and is not related to our review of non-geographic numbers ('the Non-geographic numbers Review') and the consultation published on 16 December 2010 ('the Non-geographic numbers Consultation').¹⁰

Obsolete directory enquiry numbers

- 2.14 The Numbering Plan designates '118XXX' as 6-digit numbers used to access Directory Enquiry Facilities. Previous to 118XXX numbers, '153' was used to provide access to International Directory Enquiry Facilities and '192' was used to provide access to National Directory Enquiry Facilities. Both numbers went out of service on 20 June 2004 and we therefore proposed to delete '153' and '192' from the Annex to the Numbering Condition.

Modifications to the Numbering Application Forms

- 2.15 In the August Consultation, we proposed a number of modifications to the Numbering Application Forms to ensure that all forms are up-to-date, clear in the information that they request from CPs applying for numbers and are consistent with our current policy and with other Numbering Documents.
- 2.16 We proposed the following modifications to all or the majority of the Numbering Application Forms:
- replacing the reference to a specific version of the Numbering Plan in forms' 'Definitions and Interpretation' section with a reference to the Numbering Plan as "published by Ofcom from time to time". This was to ensure that the interpretation of words and expressions in the Numbering Application Forms is based on the Numbering Plan currently in force;¹¹
 - requiring applicants to provide a reference on the completed form if submitting multiple applications, aiding our efficient assessment by alerting us to the need to cross-reference multiple applications;¹²
 - setting out the applicant details required for entry on each form more clearly to assist completion;¹³ and
 - removing the reference to the defunct voluntary register of providers of Public Electronic Communications Networks (PECNs) from the annex of certain application forms.¹⁴
- 2.17 We also proposed modifications to specific Numbering Application Forms. On Form S7 (for mobile, personal and paging numbers beginning with '07'), we proposed to add the number ranges 071 to 074 to reflect their designation in the Numbering Plan and to make clear to applicants the number ranges used for mobile services.

¹⁰ *Simplifying non-geographic numbers: Improving consumer confidence in 03, 08, 09, 118 and other non-geographic numbers*, 16 December 2010. See

<http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geo-numbers/>

¹¹ Modifications proposed to Forms S1, S3, S56 and S12 to S20.

¹² Modifications proposed to all Numbering Application Forms.

¹³ Modifications proposed to all Numbering Application Forms.

¹⁴ Modifications proposed to Forms S3, S56, S12 to S17, S19 and S20.

- 2.18 To further applicants' awareness of the role of PhonepayPlus in the regulation of phone-paid services in the UK, we proposed to add a paragraph to Form S8 (for Special Services numbers beginning with '08'). The paragraph would set out that the promotion and content of services on 087 numbers (with the exception of 0870 Non-Geographic Numbers) is regulated by PhonepayPlus and advise that some services require prior permission. The proposed paragraph replicated that included on Form S9 for Special Services at a Premium Rate.
- 2.19 We proposed to add the sub-range designations for '0910' and '0912-0919' numbers to Form S9 (for Special Services at a Premium Rate, numbers beginning with '09') to reflect their designation for Special Services at a Premium Rate in the Numbering Plan.
- 2.20 We also proposed to remove the 'pay for product' designation from the '0907' sub-range on Form S9, replacing it with the designation "Special Services, open ended time dependent charge or fixed fee up to £1.50 for BT customers", which is applied to the majority of '090' and '091' sub-ranges.
- 2.21 Finally for Form S9, we proposed to correct text in section 7 so that it is clear to applicants that they should provide details of adoption of existing allocations of related telephone numbers.
- 2.22 On Form S12 (for Number Portability Prefix Codes), we proposed removing the references to 'Ofcom's Number Portability Functional Specification', in light of this document, which sets out the detailed technical processes for portability, no longer being a document maintained by Ofcom.
- 2.23 As set out in paragraph 2.9, we proposed to increase the supply of CUPID codes by modifying their structure in the Numbering Plan from three to four-digit codes. We therefore proposed to make a similar amendment to the description of CUPID codes in Form S17.
- 2.24 The increased range of services that may refer to CUPID codes means that some applicants may not be providers of a PECN or Public Electronic Communications Service (PECS). To cover such cases, we proposed to include a question requesting the reason for the application if the applicant was not a provider of a PECN or a PECS and to instruct the applicant that completion of the Form S17 Annex (which requests details of the PECN or PECS provided) was not required. We also proposed to delete the redundant question on national or regional provision of service.
- 2.25 Finally, in accordance with our proposals to modify the definition of RID Codes so they may be used for administrative purposes to identify those who resell wholesale services sold via BT in general, rather than limiting the specific services for which they may be used to those services named in the definition in the Numbering Plan (see paragraph 2.10), we also proposed modifying Form S18 to make the same amendment.

The October Consultation

- 2.26 The October Consultation set out and consulted on the modifications that we proposed to make to the Numbering Plan and the PRS Condition to remove the constraints that currently prevent the increase in VAT from 17.5 per cent to 20 per cent from 4 January 2011 from being added to the retail prices of calls to some 08 and 09 numbers. The proposed modifications are summarised below and were

explained in more detail in Sections 3 and 4 and Annexes 6 and 7 of the October Consultation.

- 2.27 If the Numbering Plan were to remain unchanged BT would not be able to apply the increase in the rate of VAT by raising the retail price of calls by 2.5 per cent. BT would still be required to pay the additional tax and would recover the required amounts by reducing the payments it makes to Terminating Communications Providers ('TCPs') in order to keep retail prices within the VAT inclusive upper limits. TCPs would in turn recover the revenue from their Service Provider ('SP') customers by reducing the amount paid to them in the form of a revenue share.
- 2.28 This would mean that instead of BT retail consumers facing a price increase, as might normally be expected for all other similar goods and services, the increase in VAT would have to be borne by the providers of the various services.

Modification to the Numbering Plan

- 2.29 We proposed to restate the retail prices for 0843/4, 0871/2/3 and 09 numbers in the Numbering Plan as exclusive rather than inclusive of VAT.

Modification to the PRS Condition

- 2.30 In the October consultation, we described how if the changes in this statement went ahead without any change to the PRS Condition then a range of parties associated with 0843/4 services would face new regulatory responsibilities. Service Providers¹⁵ ('SPs') and potentially Information Providers¹⁶ ('IPs') would have new responsibilities for ensuring the appropriate use of the 0843/4 number, while TCPs would have new obligations to undertake appropriate levels of due diligence on those with whom they contract.
- 2.31 With respect to regulating the use of 0843/4 numbers, it is highly likely that PhonepayPlus would ensure the regulatory obligations were similar to those imposed for 0871 providers (recognising the lower risks of consumer harm associated with these numbers when compared to 09 services¹⁷):
- a) pricing information would likely need to be displayed wherever an 0843/4 number appears; and
 - b) there would likely be an obligation to prevent an unfair delay in callers accessing the service (IPs offering 0871 services have an obligation to inform callers of the expected time before their call will be answered).
- 2.32 SPs would also be required to contribute towards the annual levy for PhonepayPlus' operations. In 2010/11 the levy amounted to 0.21 per cent of outpayments made from TCPs to SPs in respect of revenue generated by PRS.¹⁸ It is likely that the inclusion of eligible 0843/4 revenue within the levy calculation would mean that this percentage of

¹⁵ A Service Provider is the first party in a value chain to contract with a Terminating Communications Provider.

¹⁶ An Information Provider is the party using the 0843/4 number. An IP would potentially have new responsibilities if it consented to PhonepayPlus jurisdiction through the 'pass-through' clause under paragraph 8.3.4 of the PhonepayPlus Code of Practice (11th Edition).

¹⁷ Recognising that the revenue raised from the use of 0871/2/3 and 0843/4 numbers is likely to peripheral to the focus of the business operating on that number.

¹⁸ This was a fall from 0.48 per cent in 2009/10 as it was offset by higher fines collected by PhonepayPlus.

outpayments would fall (as the PhonepayPlus budget would be spread across a greater industry revenue base).

2.33 In the October Consultation, we set out that we do not have sufficient evidence to demonstrate that 0843/4 services pose sufficient risks of consumer harm that would justify their regulation by PhonepayPlus; moreover it appeared unlikely that the risk to consumers would increase greatly as a result of the higher VAT rate. We considered that we had a duty to act to ensure that the PRS Condition continued to represent a proportionate and objectively justifiable obligation on the industry.

2.34 Therefore the October Consultation set out our proposal to modify the PRS Condition by either:

- explicitly excluding 0843/4 numbers from the definition of Controlled PRS in the PRS Condition; or
- amending the price thresholds in the PRS Condition to be exclusive of VAT.

2.35 We stated our initial preference for the first option, as we considered that amending the PRS Condition to make clear that 0843/4 numbers costing in excess of 5ppm (VAT inclusive) would be excluded from the definition of Controlled PRS was the simplest means of preserving the current jurisdiction of PhonepayPlus over certain non-geographic number ranges.

Section 3

Responses to the August Consultation

Introduction

- 3.1 The August Consultation set out our proposals to modify the Numbering Documents so that they are accurate and reflect numbering policy in a consistent manner. The proposals are summarised in Section 2 of this document. We posed three specific questions and invited comments by 8 October 2010.
- 3.2 We received seven responses to the consultation. Two responses were marked confidential. The non-confidential responses were submitted by British Sky Broadcasting Group plc ('Sky'); BT plc ('BT'); Colt Technology Services ('Colt'); Gamma Telecom ('Gamma') and Mr Nigel Stevens (a software specialist). Their responses are available on our website.¹⁹

Responses to the August Consultation

- 3.3 Respondents who commented generally on the consultation welcomed its aims and supported the objective of keeping the Numbering Documents accurate, current and consistent.²⁰

Responses to the consultation questions

Question 1: Do you have any comments on the proposed modifications to the Numbering Plan?

Assignment of location significance to additional numbers in the 0191 geographic area code for Tyneside, Durham and Sunderland

- 3.4 BT agreed that the remaining unused 0191 numbers (i.e. numbers beginning with the digits 0191 7, 0191 8 and 0191 9) should only be used to increase the supply of numbers in one or more of the existing 0191 areas (i.e. Tyneside, Durham and Sunderland). However, BT commented that evidence of a shortage of 0191 numbers generally had not been presented in the consultation. BT was unable to comment on whether the best approach would be to assign a third of the remaining numbers to each area now as proposed or to defer the decision until the numbers were needed so that digits could be assigned specifically to meet demand.
- 3.5 BT and Mr Stevens commented on the proposed assignment of the digits to the three areas. They suggested that Tyneside should be assigned the digit '8' rather than the proposed '7' to preserve the existing even-number sequence of 0191 2, 4 and 6. In turn, the digit '7' could be assigned to Sunderland to preserve the odd-number sequence.
- 3.6 Mr Stevens also stressed the need for communication of the new numbers to be clear to avoid misconception that a new area code had been introduced.

¹⁹ <http://stakeholders.ofcom.org.uk/consultations/telephone-numbering/?showResponses=true>

²⁰ Responses from Sky and the two confidential respondents.

3.7 Colt was supportive of the proposal. No other respondents commented.

Mobile Number Portability (MNP) Codes

3.8 Colt commented that the paging number blocks 07659 and 07681 appeared to have been allocated. This was at odds with the position set out in the consultation, which proposed to designate 7659 and 7681 as new MNP Codes (along with 25 other additional MNP Codes),²¹ because the corresponding blocks of paging numbers (i.e. 07659 and 07681) could be protected from allocation to avoid clashing with the MNP codes.

3.9 Mr Stevens agreed with the proposal. No other respondents commented.

Communications provider Identification (CUPID) Codes

3.10 A number of respondents expressed strong concern over our proposal to extend the length of CUPIDs from three to four-digits.²²

3.11 BT's response provided background to the proposal. We consulted on increasing the supply of CUPID Codes in response to a request from Openreach as the use of the codes for administrative purposes had increased over time leading to greater demand. Openreach had suggested increasing the digit length as an appropriate means of increasing supply. However, further analysis since the initial request had revealed that this proposal would have wider ranging and more costly impacts than were initially thought. As a result, Openreach have decided to use CUPID Codes in a different way so that fewer will be required. In light of this, there is no longer a requirement for additional CUPID Codes to be created.

3.12 A number of respondents provided details on the impact of moving from three to four-digit CUPID Codes. Colt explained that extending the digit length would impact many CPs who would need to invoke data/routing amendments in existing network data builds and that the size of this task would vary across providers. The CUPID Code can form an integral part of the build for call routing, and Colt gave the example of its use in routing calls to the '111' Non-emergency Healthcare services number to the provider Cable&Wireless.

3.13 Gamma explained that CUPID Codes' three-digit structure was built into interfaces with BT and was also exchanged between CPs in the provisioning and support of various services, including Emergency Services, number portability and directory enquiry services. Gamma was therefore concerned that there may be considerable cost in implementing a four-digit CUPID Code system and argued that an impact analysis should be undertaken before proceeding any further with this proposal.

3.14 One confidential respondent explained that its specific concern with a change to the CUPID Code digit structure would be the effect on routing of calls to the '101' Non-Emergency number, the '111' number and '123' for the Speaking Clock service. Implications for the way CUPID Codes were used to identify the origin of the call were foreseen if certain four-digit CUPID Codes were used in the future (and these CUPIDs may need to be reserved if we proceed with our proposal).

²¹ New MNP Codes proposed were 7630 to 7639; 7650 to 7659; 7680 to 7681 and 7694 to 7698 – all inclusive.

²² These respondents were BT, Colt, Gamma and the two confidential responses.

- 3.15 The other confidential respondent set out a detailed analysis of how the suggested modification would have a significant impact on CPs' internal facilities as well as interfaces between providers. Its investigation had found that CUPIDs were incumbent in many key systems, including billing, routing and customer management facilities. A change to digit length would likely result in material financial and operational consequences for CPs. Ofcom was strongly urged not to proceed with the proposal before undertaking a comprehensive assessment of the impact and consequences of modifying the CUPID format.
- 3.16 The later confidential response and the response from Sky also requested that we re-examine demand and the effective management of CUPID Codes. The confidential response noted that allocation of CUPID Codes appeared to be around 60 per year (it would appear that this level of demand could be accommodated for around six years from the available stock of CUPID Codes). Any changes in forecast demand should be provided by Ofcom. Sky made the point that Ofcom could manage CUPID Codes more effectively and seek to withdraw those allocated but not in use. Withdrawn codes, after a period of quarantine, could be used to meet new demand. As well as improving the supply of available codes, audits were also important as a consumer protection measure, as the codes were used to identify individual CPs and therefore create wider implications for mis-selling.

Definition of 'Inbound Routing Codes'

- 3.17 Colt suggested inserting "specifically" into the proposed definition of Inbound Routing Code to make clear that the facilitation of routing is the only use of the codes. The definition would then read as follows, with the proposed insertions in bold and deletion in strikeout text:

"'Inbound Routing Code' means a Telephone Number Adopted or otherwise used **specifically** for the **routing** ~~Portability~~ of Geographic Numbers to identify Electronic Communication Services, carriers and End-Users;".

Definition of Reseller Identification (RID) Codes

- 3.18 In commenting on the definition of RID Codes and the potential for increased demand if used for administrative purposes for a broader set of services, Sky made similar points to those raised in relation to CUPID Codes²³ regarding the scope for Ofcom to manage the codes more efficiently and pro-actively seek the withdrawal of unused codes to increase the supply.

Remaining proposed modifications to the Numbering Plan

- 3.19 No comments were received on our proposals to modify the definition of 'BT', the definition of 'BT's Standard National Call Retail Price' or the Interpretations section in the Numbering Plan.

Question 2: Do you have any comments on the proposed modifications to the Numbering Condition?

²³ See paragraph 3.16.

Freephone numbers in the 0500 and 0800 6-digit range

- 3.21 Respondents that commented on our proposals to clarify the restrictions on allocation and adoption of freephone numbers in the 0500 and 0800 6-digit range and to amend the designation of 0500 numbers to match that of other freephone numbers welcomed the proposed modifications.²⁴
- 3.22 A confidential respondent set out its understanding that those networks that charge for calls to freephone numbers already treat 0500 numbers in accordance with the proposed modification to the numbers' designation. That is, CPs that charge for calls to 080 freephone numbers would generally have taken the same approach to 0500 numbers and therefore the proposed modification would not lead to inadvertent consumer harm being caused by a move to charge for calls to 0500 numbers. The respondent asked Ofcom to confirm that this was the case.
- 3.23 Mr Stevens asked for clarification that the proposed designation for 0500 numbers also applied to 0808 freephone numbers.

Obsolete directory enquiry numbers

- 3.24 Mr Stevens commented that many websites still listed the obsolete directory enquiry numbers 153 and 192 despite the numbers being withdrawn from service in 2004. In light of this, it was suggested that Ofcom marks the numbers as "withdrawn from service on 20 June 2004" or "unavailable" to make their status clear, rather than delete the numbers from the Annex to the Numbering Condition.

Question 3: Do you have any comments on the proposed modifications to the Numbering Application Forms?

- 3.25 BT commented that, in line with its concerns raised in relation to extending the digit length of CUPID Codes in the Numbering Plan,²⁵ the proposed modification to Form S17 (for CUPID Codes) to reflect the change in code structure should also be discarded. Although it was not specifically stated by other respondents, it is logical that those who objected to a change in CUPID Code digit length²⁶ would be of a similar view.
- 3.26 Mr Stevens suggested that the modified definition of RID codes could continue to list the existing services for which RID Codes may be used for administrative purposes (i.e. Carrier Pre-Selection (CPS), Wholesale Line Rental (WLR), Local Loop Unbundling (LLU)) and add the text "and other services" to cover future developments.
- 3.27 No other comments were received on the proposed modifications to the Numbering Application Forms.

²⁴ These respondents were Colt, Mr Stevens and one confidential respondent.

²⁵ See paragraph 3.11.

²⁶ These respondents were BT, Colt, Gamma and the two confidential responses.

Other issues raised in responses

- 3.28 BT referred to the practice of providing price ceilings for 08 and 09 numbers in the Numbering Plan as being inclusive of VAT. In order to avoid destabilising the industry when VAT rises to 20 per cent in January 2011, BT had suggested that we consult on measures to address the situation in the August Consultation. However, BT welcomed discussions between Ofcom and industry since its publication and that a consultation on the matter was forthcoming (i.e. the October Consultation).
- 3.29 Mr Stevens' response raised a number of detailed points for our consideration outside the scope of the August Consultation. These generally covered area code names and accuracy of data in the National Numbering Scheme, which is Ofcom's day-to-day record of number block status.²⁷

Ofcom's comments

- 3.30 We welcome respondents support for the objectives of the August Consultation and for engaging in the consultation process through the submission of responses.

Question 1 on proposed modifications to the Numbering Plan

Assignment of location significance to additional numbers in the 0191 geographic area code for Tyneside, Durham and Sunderland

- 3.31 The proposal to assign location significance to the 0191 7, 0191 8 and 0191 9 numbers in the Numbering Plan was in recognition of all other area codes having completed this process (i.e. the local numbers associated with all other area codes in the Numbering Plan have already been give location significance). We wanted to correct this omission regardless of the immediate demand for more number blocks to allocate to CPs in those areas. However, as BT mentions, there is a need to increase the supply of numbers in Sunderland and forecast a need for more numbers in Tyneside and Durham in the future. It is therefore important that we assign the remaining third of 0191 local numbers in readiness to meet demand.
- 3.32 We agree with the suggestion to assign digits with location significance according to the established even and odd number sequence as set out below:
- 0191 7 to Sunderland, in addition to 0191 5
0191 8 to Tyneside, in addition to 0191 2, 4, 6
0191 9 to Durham, in addition to 0191 3
- 3.33 We recognise the point raised by Mr Stevens in careful communication of the new local numbers as we are also aware of ongoing confusion between the assignment of digits to area codes and local numbers in some areas, which can lead to uncertainty over the correct way to layout a number's digits, local significance and misdials. We have, from time to time, sought to raise consumer awareness of correct number layout through articles on our website and will consider further ways of addressing this general issue in the future.

²⁷ See <http://stakeholders.ofcom.org.uk/telecoms/numbering/telephone-no-availability/numbers-administered/>

Mobile Number Portability (MNP) Codes

- 3.34 As mentioned by Colt in its response, the status of certain 076XX paging number blocks means that they are not free to be protected from allocation to avoid clashes with the proposed additional MNP Codes. Paging number blocks 07654, 07659 and 07681 have been allocated to CPs and therefore we have decided not to designate 7654, 7659 and 7681 as MNP Codes.

Communications provider Identification (CUPID) Codes and Reseller Identification (RID) Codes

- 3.35 We have considered the strong objections raised to increasing the digit length of CUPID Codes, plus BT's revised position that additional CUPID Codes are not required at present. We have decided not to proceed with the proposal to migrate from three to four-digit CUPID Codes at this time. If we need to revisit demand for additional CUPID Codes in the future, we will consider options for consultation within the context of information provided in response to this consultation, recognising the various impacts that longer CUPID Codes would have for CPs.
- 3.36 With respect to Sky's comments on scope for efficient management of CUPID and RID Codes, we agree that auditing CPs on their use of allocated numbers and proactive action to seek withdrawal of unused numbers is an effective tool in managing demand and encouraging efficient use of numbers, and one that we use for different number ranges on an ad-hoc basis. We will consider an audit on CUPID Codes in the coming months. However, we do not foresee currently a shortage of RID Codes and the nature of the reseller market means that an audit of these would unlikely yield a sufficient response for such an exercise to be effective in reclaiming unused codes

Definition of 'Inbound Routing Codes'

- 3.37 We agree that the suggested insertion of "specifically" in the definition of 'Inbound Routing Codes' would add further clarification to their permitted use.

Question 2 on proposed modifications to the Numbering Condition

Freephone numbers in the 0500 and 0800 6-digit range

- 3.38 It is our understanding that CPs already treat 0500 numbers in the same way as 080 numbers, in that they make a commercial decision whether to charge for access to 0500 freephone numbers and consider that they may do so provided that the charges are notified to callers at the start of the call. By amending the designation for 0500 numbers in the Numbering Condition, we are seeking to clarify existing practice. We do not consider that currently non-existent charges will arise as a consequence.
- 3.39 The designation of "Special Services – No charge to caller (except where charges shall be notified to callers at the start of the call)" currently applies to all 080 freephone numbers, including 0808 numbers.

Obsolete directory enquiry numbers

- 3.40 We have considered the suggestion of retaining mention of the obsolete directory enquiry numbers 153 and 192 in the Annex to the Numbering Condition with text clarifying that the numbers have been withdrawn. However, the Annex to the Numbering Condition sets out numbers available for use or, where specified,

adoption in accordance with their designation. It would not be in accordance with the use of the Annex to the Numbering Condition to list withdrawn numbers.

Question 3 on proposed modifications to the Numbering Application Forms

- 3.41 As we do not intend to proceed with our proposal to increase the length of CUPID Codes, we no longer propose to modify Form S17 to reflect a revised definition of the codes.
- 3.42 We have considered the suggestion to retain mention of specific services that may use RID Codes for administrative purposes on Form S18 but have decided, to avoid any confusion caused by different descriptions in different Numbering Documents, to use the same wording as used for the definition of RID Codes in the Numbering Plan.

Other issues raised in responses

- 3.43 As explained in Section 2, we published, subsequent to the August Consultation, a separate consultation which addressed the matter of VAT-inclusive price ceilings in the Numbering Plan (i.e. the October Consultation). A summary of responses to the October Consultation is provided in Section 4 of this document.
- 3.44 We thank Mr Stevens for the detailed submission on aspects of the Numbering Plan and the National Numbering Scheme for us to consider. Our Numbering Team will continue to address the issues raised as part of our 'business as usual' management of the UK's telephone numbers.

Section 4

Responses to the October Consultation

- 4.1 The October Consultation set out our proposals to modify the Numbering Plan so that the forthcoming increase in VAT can be applied to the retail prices of calls where the maximum call prices are given in the Numbering Plan as inclusive of VAT. It also proposed a modification to the PRS Condition to avoid unintended consequences in terms of PRS regulation as a result of the rise in retail prices for calls to 0843/4 numbers due to the increase in VAT. The proposals are summarised in Section 2 of this document. We posed two specific questions and invited comments by 19 November 2010.
- 4.2 We received 13 responses to the October Consultation of which 12 have been published on our website²⁸ and the other asked to be treated as confidential.

Responses to consultation questions

Question 1: Do stakeholders agree with Ofcom's proposal to modify the National Telephone Numbering Plan to enable an increase in Value Added Tax to be applied by BT to the retail prices of calls to certain 084, 087 and all 09 numbers?

- 4.3 All but one respondent either strongly supported or said they understood the proposal to modify the Numbering Plan but either had certain reservations or suggested that while we were modifying the Numbering Plan we should use the opportunity to make additional changes (as set out below).

Ofcom should have acted sooner

- 4.4 BT strongly supported the proposal but noted how, when VAT was reduced to 15 per cent in 2008, it had urged Ofcom to amend the Numbering Plan to give VAT exclusive prices to minimise the risk of disruption if VAT were ever raised above 17.5 per cent. The resultant delay in making these changes had created unwelcome uncertainty. BT thus urged Ofcom to *“act more swiftly to minimise operational problems should similar challenges arise in future”*.
- 4.5 Mr N Stevens commented that we should have made these changes before VAT was reduced to 15 per cent in 2008. In this way consumers would have been sure to benefit from the reduction being passed on through reduced prices.

Changes to the prices of sub-ranges

- 4.6 BT also asked that the price designations in the National Numbering Scheme for sub ranges such as '09000' should be amended to be exclusive of VAT.

We should increase maximum prices for PRS calls

- 4.7 Two respondents, Micro Software Computers Ltd and the Premium Rate Association (PRA) suggested that we use the opportunity of this consultation to change the maximum price limit for PRS calls which had been significantly eroded by inflation over time.

²⁸ <http://stakeholders.ofcom.org.uk/consultations/numbering-plan-changes/?showResponses=true>

Our proposed prices are inaccurate

- 4.8 Mr Stevens also commented on how the VAT exclusive price of 8.51p was not exactly double the VAT exclusive price of 4.26p and that the proposed 4.26p VAT exclusive price, after adding the current 17.5 per cent VAT rate on top, exceeds the current 5 pence per minute inclusive of VAT limit by 0.0055p.

We could use telephone numbers as a means of communicating call prices

- 4.9 Mr Stevens also made a number of suggestions about how number ranges could be used to communicate call prices to consumers.

The loss of price clarity

- 4.10 A number of respondents acknowledged or expressed concern about the loss of price clarity brought about by the proposals. BT added that Ofcom could expect an increase in applications for numbers which would have prices at 'round numbers' with VAT added at 20 per cent.

Question 2: Do stakeholders agree with the proposed modification to exclude calls to 0843/4 numbers costing in excess of 5ppm or per call, inclusive of VAT from the definition of Controlled PRS in the PRS Condition?

- 4.11 There was almost unanimous support for the proposal to exclude calls to 0843/4 numbers from the definition of Controlled PRS in the PRS Condition, the one exception being Mr Stevens.

All 08 and 09 calls that generate a revenue share should fall within the PRS Condition

- 4.12 Mr Stevens considered that since consumers generally hate calls to 084X and 087X numbers, *"all 08 and 09 numbers that have an associated cost should be subject to stringent regulation"*.

Will calls to 0871/2/3 numbers fall under the 'prior permission' regime after 4 January

- 4.13 BT noted that the amendments to the PRS Condition to exclude 0843/4 calls from the more rigorous 'prior permission' requirements of the PhonepayPlus Code should perhaps be extended to 0871/2/3 calls, some of which will be charged at more than 10p after 4 January 2011.

Ofcom's comments

- 4.14 We also welcome respondents' general support for the proposals made in the October Consultation and for engaging in the consultation process through the submission of responses.

Question 1 on proposed modifications to the Numbering Plan

Ofcom should have acted sooner

- 4.15 We note the comments that we could have reacted more quickly to the prospect of VAT changing. Because VAT had not exceeded 17.5 per cent since 1991 we

considered that the benefits of being able to provide a degree of price clarity by designating round number maximum prices that were inclusive of VAT, outweighed the risks of VAT increasing. However, in light of the forthcoming increase, we aim to ensure that going forward the wording of the Numbering Plan is sufficiently flexible to accommodate any changes in the rate of VAT in the future.

- 4.16 The temporary loss in pricing clarity will be addressed in our Non-geographic numbers Review.

Changes to the prices of sub-ranges

- 4.17 Unlike the Numbering Plan, the National Numbering Scheme is not a statutory document on which we are required to consult before making changes. It is our day-to-day record of number block status and is designed to provide information about numbers that are free, allocated, protected etc and as such is subject to frequent changes. We will make any necessary modifications to the way price ceilings are associated with sub-ranges in the National Numbering Scheme after the VAT change comes into effect on 4 January 2011.

We should increase maximum prices for PRS calls

- 4.18 Once again this consultation has been undertaken solely to address an issue brought about by a change in Government taxation. Changing the rules that set the maximum prices that BT can charge for calls would have required a longer and more wide ranging consultation. We are, however, addressing the question of price ceilings for PRS calls within our ongoing Non-geographic numbers Review.

Our proposed prices are inaccurate

- 4.19 In quoting the new VAT exclusive prices, for simplicity we rounded the exact prices to two decimal places as is common practice when quoting non-round numbers. Thus we said 4.26p rounded up from 4.255p, which if taken literally would give a price that is ever so slightly higher than 5p with VAT at 17.5 per cent. We fully expect BT and other Originating Communications Providers (OCPs) to understand this and to set prices that are accurate in their consumers' bills.

We could use telephone numbers as a means of communicating call prices

- 4.20 The matter of how call prices can be better communicated was not an issue under consideration in the October consultation. It is included within our proposals in the Non-geographic numbers Consultation and we do not consider it further here.

The loss of price clarity

- 4.21 We understand the pricing transparency concerns and noted these in the October Consultation. We repeat, however, that the modifications to the Numbering Plan to accommodate the VAT increase are only a temporary move to address a specific problem and will only have effect until the decisions on call pricing, that eventually emerge from the Non-geographic numbers Review, are put into place.
- 4.22 We are aware that BT has notified its intention to open new 'round number' tariffs that include VAT at 20 per cent post 4 January 2011, in response to requests already received from SPs.

Question 2 on modifications to the PRS Condition

All 08 and 09 calls that generate a revenue share should fall within the PRS Condition

- 4.23 In our February 2009 statement *Extending Premium Rate Services Regulation to 087 Numbers*,²⁹ we described how subjecting services costing 5p or less to the rigours of PhonepayPlus regulation would represent a disproportion burden on providers of low cost services for which there was little evidence of consumer harm. Since that decision, no further evidence of harm has emerged and levels of complaints, other than about having to pay more than the cost of a geographic call, remain negligible. Call prices alone are not what the regulation of numbers captured by the PRS Condition is designed to address.

Will calls to 0871/2/3 numbers fall under the 'prior permission' regime after 4 January

- 4.24 0871/2/3 calls are already Controlled Premium Rate Services, that definition having been extended to 087 numbers, other than 0870, in our February 2009 statement outlined above. The 'prior permission regime' referred to by BT is a remedy included within the PhonepayPlus Code and is service rather than price specific. Some services using 087 numbers may already require prior permission to operate whereas others using 09 numbers costing more than 10p including VAT may not. This is because the service is not deemed to pose any risk to consumers, e.g. alarm services. Consequently increasing the cost of calling some 0871/2/3 services to more than 10p would not change the extent to which they may be captured by the prior permission regime.

²⁹ <http://stakeholders.ofcom.org.uk/consultations/087prs/statement/>

Section 5

Ofcom's decision and next steps

Introduction

- 5.1 We have considered the seven responses received to the August Consultation and the 13 responses received to the October Consultation and, taking into account that no international obligations have been notified to us by the Secretary of State, we have decided to proceed with all proposed modifications apart from those relating to extending the digit length of CUPID Codes in the Numbering Plan and Form S17.
- 5.2 In light of responses, we have adjusted three proposed modifications to the Numbering Plan – the assignment of location significance to digits in the 0191 area code, the number of MNP Codes designated and the definition of 'Inbound Routing Codes' for the reasons set out in paragraphs 3.32, 3.34 and 3.37 respectively.

Impact Assessment

- 5.3 The August and October Consultations were in effect the impact assessments for the relevant proposals and fulfilled that function. Due to the nature of the proposed modifications being within existing numbering policy and to facilitate an increase in VAT, we did not foresee any impact on stakeholders as a result of implementing the modifications, other than the fact that consumers would be required to pay the increase in VAT. There would not be an inappropriate impact on the revenues of CPs. We did however note that if the proposed modifications went ahead without any change to the PRS Condition, a range of parties associated with services on 0843/4 numbers would face new regulatory responsibilities.
- 5.4 The outcome of our decision to proceed with the modifications (apart from those related to increasing the length of CUPID Codes, that we recognise have an impact and have decided not to implement) will serve to clarify policy and processes for CPs and will contribute to the effective and efficient use of numbers.
- 5.5 We have considered whether there are likely to be any further consequences of the impact of the modifications and we do not consider there to be any. Consumers expect to pay VAT on goods and services. After 4 January 2011, VAT will increase on all other telecoms products, e.g. exchange lines, broadband services and most calls. Making no modification to the Numbering Plan would single out calls to 0843/4, 0871/2/3 and 09 numbers for different treatment.
- 5.6 Furthermore, the impact of retaining the status quo would be detrimental and would likely have a negative, and arguably discriminatory, effect on one section of the Number Translation Service (NTS)/PRS value chain. If this were to happen, the VAT increase would be borne by the providers of those services rather than retail consumers. This is because BT would still have to pay the additional tax to the Exchequer but instead of recovering the revenue from consumers it would be forced to reduce the payments made to TCPs who, in turn, would pass the reduction through to SPs. Meanwhile TCPs and SPs using other numbers would not see any reductions in their revenues which may be viewed as discriminatory.
- 5.7 This is why restating how 0843/4, 0871/2/3 and 09 calls are charged at the retail level will eliminate these unwanted effects of a change in taxation. Consumers will pay the

increase in VAT on all other services provided by their CP and would not expect calls to specific non-geographic numbers to be excluded. The result is that there will be no negative impact on industry which there would otherwise have been.

- 5.8 In the October Consultation, we noted that a failure to amend the PRS Condition would likely lead to several practical difficulties for industry, PhonepayPlus and consumers. This is principally because only a small proportion of 0843/4 services that are priced close to the stated maximum price would now fall within the scope of the PRS Condition and would therefore be subject to additional regulation by PhonepayPlus (i.e. those services that are retailed by BT at between 5ppm and 5.11ppm or per call inclusive of VAT). As such the PhonepayPlus levy on outpayments would only apply to this narrow category of 0843/4 numbers. The regulation of a small subset of 0843/4 numbers would create compliance and enforcement difficulties for PhonepayPlus and would also be likely to cause consumer confusion and limit consumer education activities about the scope of PRS regulation; and, because any additional change in price would be the result of a VAT increase, there is no reason to expect the incentives on suppliers to be any different as a result of this change.

Implementing our decision

- 5.9 In order to implement our decision, we have modified the following documents with immediate effect:

- the Numbering Plan, as set out in Annex 4;
- the Numbering Condition, as set out in Annex 5;
- the PRS Condition, as set out in Annex 6; and
- the Numbering Application Forms, as set out in Annex 7.

- 5.10 We consider that the modifications meet all the required legal tests in the Act³⁰ for the reasons set out below.

How the modifications meet the legal tests

- 5.11 It is our duty, when modifying the Numbering Documents and the PRS Condition (among other documents), to show how we consider that the modification complies with the legal tests set out in section 60(2) of the Act in relation to modifications to the Numbering Plan; in section 47(2) of the Act in relation to modifications to the Numbering Condition and PRS Condition; and in section 49(2) of the Act in relation to modifications to the Numbering Application Forms.

- 5.12 We are satisfied that the modifications meet the tests being:

objectively justifiable, in that they will ensure that the Numbering Documents that we are required to publish as part of our administration of the UK's telephone numbers are accurate and reflect current policy in a consistent manner. They will remove any unintended consequence, from a rise in national taxation, caused by limitations in the wording of the Numbering Plan and the PRS Condition;

³⁰ See Annex 3 for further detail on the legal framework, including the tests for modifying the Numbering Documents and the PRS Condition.

not unduly discriminatory, in that all CPs are subject to the modifications to the Numbering Documents. In relation to excluding VAT from BT's retail call prices in the Numbering Plan, they enable the increase in VAT to be applied uniformly to all retail call prices without affecting any one of the participants in the NTS/PRS value chain, including particular services that happen to operate at the top of the price ranges. Without the modifications, the call revenues of telecoms networks would remain unaffected whilst those of SPs and IPs would fall;

proportionate, in that the modifications to the Numbering Documents are the minimum necessary to ensure that current numbering policy is consistently and accurately reflected in the Numbering Documents and thereby communicated to CPs. The modification to exclude VAT from BT's retail call prices in the Numbering Plan removes from BT the need to introduce a reduction in wholesale charges and enables the implementation of the VAT increase with the minimum of cost. The modification to exclude 0843/4 numbers from the definition of a Controlled PRS in the PRS Condition ensures that SPs using those numbers do not face a disproportionate regulatory burden with little evidence of consumer harm; and

transparent, in that the modifications are explained in this document and the text that we have deleted and inserted in the Numbering Documents and the PRS Condition is set out in the Schedules to the Notifications in Annexes 4 to 7 of this document. The rise in VAT was published in the Government's budget and widely publicised. Also, the effects of the rise in VAT on calls made by BT customers are clearly set out in this document. Furthermore, it is clear that the whole of the 0843/4 number range was not intended to, and now clearly does not, fall within the remit of PhonepayPlus regulation.

- 5.13 We consider that we are fulfilling our general duty as to telephone number functions as set out in section 63 of the Act by:

securing the best use of appropriate numbers, in that the modifications will ensure that policy on the best use of numbers is reflected in a consistent and accurate manner across the Numbering Documents, including the setting out of numbers available for allocation and their relevant designations; and

encouraging efficiency and innovation, in that the modifications ensure that CPs may access consistent and accurate information with regard to the allocation, adoption and use of telephone numbers, which supports efficiency and facilitates innovation. Also, SPs will not have their ability to offer cost effective and innovative services prejudiced by the inappropriate application of retail taxation.

- 5.14 We consider that the modifications to the Numbering Documents and the PRS Condition are consistent with our general duties in carrying out our functions as set out in section 3 of the Act. In particular, we consider that they further the interests of citizens in relation to communications matters and consumers in relevant markets by ensuring that current numbering policy and administration processes are accurately and consistently reflected in the Numbering Documents, thus facilitating CPs in their provision of communications services to consumers. The modifications ensure the continuation of a vibrant market in service provision and remove any likelihood that services might be withdrawn as a consequence of having to bear the costs of a consumption tax or by being subject to an undue burden of Controlled PRS regulation. If this were to occur it would result in detriment to SPs and to consumers for whom services may no longer be available.

- 5.15 In making the modifications, we have also considered the Community obligations set out in section 4 of the Act, particularly the first requirement to promote competition in the provision of electronic communications networks, services and associated facilities. The modifications will facilitate such provision by ensuring that the Numbering Documents and the PRS Condition provide an accurate and clear representation of numbering policy and administrative processes.

Next steps: Further consultation on Forms S8 and S9

- 5.16 In the October Consultation we omitted to include the additional proposal that the changes to price designations should also apply to the Numbering Application Forms for 08 and 09 numbers (Forms S8 and S9) used by TCPs to request the allocation of new number blocks from Ofcom.
- 5.17 To address this oversight, on 2 December 2010 we published an Addendum³¹ to the October Consultation to enable stakeholders to comment on the proposed modification to the wording of Forms S8 and S9, which would apply should the proposals in the October Consultation be implemented. We have only invited comments on the modification to the wording used in Forms S8 and S9, including revised pricing examples, and not on the reasons or principles for the changes to how retail prices should be designated (which were the subject of the October Consultation).
- 5.18 Responses to this additional consultation are due by 5pm on 11 January 2011 and we aim to issue the resultant statement shortly afterwards.

³¹ *Changes to the Numbering Plan – Addendum: A proposal for modifications to the Numbering Application Forms to facilitate the increase in VAT from January 2011*, published 2 December 2010. See <http://stakeholders.ofcom.org.uk/consultations/addendum-numbering-plan/>

Annex 1

List of respondents to the consultations

The August Consultation

A1.1 We received seven responses to the August Consultation, two of which were confidential. The non-confidential responses are available on our website [here](#).

A1.2 The non-confidential respondents to the August Consultation were:

British Sky Broadcasting Group plc ('Sky')

BT plc

Colt Technology Services

Gamma Telecom

Mr Nigel Stevens

The October Consultation

A1.3 We received 13 responses to the October Consultation, one of which was confidential. The non-confidential responses are available on our website [here](#).

A1.4 The non-confidential respondents to the October Consultation were:

AIME

BT plc

Cable & Wireless

COLT

FCS

IVR

Micro Software Computers

PRA

Mr Nigel Stevens

UKCTA excluding Virgin Media

Verizon

Annex 2

Numbering Application Form codes

A2.1 We make a series of Numbering Application Forms available on our website³² for CPs to complete when applying for the allocation of numbers from Ofcom. The forms currently available are set out below for reference:

Form S1 - Geographic numbers (numbers starting with '01/02')

Form S3 - UK Wide Numbers (numbers starting with '03')

Form S56 - Location Independent Electronic Communications Service (numbers starting with '056')

Form S7 - Personal Numbering, Radiopaging and Mobile numbers (numbers starting with '07')

Form S8 - Special Services (numbers starting with '08')

Form S9 - Special Services at a Premium Rate (numbers starting with '09')

Form S10 - Access Codes (e.g. Directory Enquiry (DQ), Indirect Access, etc.)

Form S12 - Number Portability Prefix Codes (NPPCs)

Form S13 - Targeted Transit Codes

Form S14 - National Signalling Point Codes (NSPCs)

Form S15 - International Signalling Point Codes (ISPCs)

Form S16 - Carrier Pre-Selection (CPS) Codes

Form S17 - Communications Provider Identity (CUPID) Codes

Form S18 - Reseller Identity Codes (RIDs)

Form S19 - Mobile Network Codes (MNCs)

Form S20 – Partial Calling Line Identity (PCLI) Codes

³² The Numbering Application Forms are available via a password on our website at <http://stakeholders.ofcom.org.uk/telecoms/numbering/applying-activating-tele-no/applying-tele-numbers/number-application-form-link/>. CPs may register with Ofcom's Numbering Team at numbering.applications@ofcom.org.uk to obtain the access password for the Numbering Application Forms.

Annex 3

Legal framework

The legal framework

A3.1 Ofcom regulates the communications sector under the framework established by the Communication Act 2003 (the “Act”). The Act provides, among other things in relation to numbering, for the publication of the National Telephone Numbering Plan (the “Numbering Plan”) and the setting of General Conditions of Entitlement relating to Telephone Numbers (“Numbering Condition”). It also sets out statutory procedures governing the modification of the Numbering Plan and any General Conditions, as well as the giving of directions under conditions such as the Numbering Condition, for instance in relation to application forms for telephone numbers.

The Numbering Plan

A3.2 Section 56(1) of the Act states that:

“It shall be the duty of OFCOM to publish a document (to be known as “the National Telephone Numbering Plan”) setting out-

a) the numbers that they have determined to be available for allocation by them as telephone numbers;

b) such restrictions as they consider appropriate on the adoption of numbers available for allocation in accordance with the Numbering Plan; and

such restrictions as they consider appropriate on the other uses to which numbers available for allocation in accordance with the Numbering Plan may be put.”

A3.3 The Act provides for Ofcom to review and revise the Numbering Plan. Section 56(2) states that:

“It shall be OFCOM's duty -

a) from time to time to review the National Telephone Numbering Plan; and

b) to make any modification to that plan that they think fit in consequence of such a review; but this duty must be performed in compliance with the requirements, so far as applicable, of section 60.”

A3.4 Section 60 of the Act provides for the modification of documents referred to in the Numbering Conditions (which includes the Numbering Plan) and explains the procedures to be followed in order to conduct this review. Section 60(2) of the Act provides that:

“OFCOM must not revise or otherwise modify the relevant provisions unless they are satisfied that the revisions is -

- a) objectively justifiable in relation to the matter to which it relates;
- b) not such as to discriminate unduly against particular persons or against a particular description of persons;
- c) proportionate to what the modification is intended to achieve; and
- d) in relation to what is intended to achieve, transparent.”

A3.5 Section 60(3) further provides that:

“Before revising or otherwise modifying the relevant provisions, OFCOM must publish a notification -

- a) stating that they are proposing to do so;
- b) specifying the Numbering Plan or other document that they are proposing to revise or modify;
- c) setting out the effect of their proposed revisions or modifications;
- d) giving their reasons for making the proposal; and
- e) specifying the period within which representations may be made to OFCOM about their proposals.”

The Numbering Condition

A3.6 Section 45 of the Act gives Ofcom the power to set conditions:

“(1) Ofcom shall have the power to set conditions under this section binding the persons to whom they are applied in accordance with section 46;

(2) A condition set by Ofcom under this section must be either -

- (a) a general condition....”

A3.7 Section 58 of the Act states that general conditions may include conditions about the allocation and adoption of numbers, including conditions which impose restrictions on and requirements in connection with the adoption of telephone numbers by a communications provider.

A3.8 Section 47 of the Act sets out the test for setting and modifying conditions, while section 48 sets out the procedures for setting, modifying and revoking conditions which includes the publication of a notification setting out the modifications.

A3.9 The test set out in section 47(2) is that the condition or modification is:

- “(a) objectively justifiable in relation to the matters which it relates;
- (b) not such to discriminate unduly against particular persons or against a particular description of persons;

(c) proportionate to what the modification is intended to achieve; and

(d) in relation to what is intended to achieve, transparent.”

The PRS Condition

A3.10 Section 120 of the Act gives Ofcom the power for the purpose of regulating the provision, content, promotion and marketing of premium rate services, to set conditions that bind the persons to whom they are applied.

A3.11 Conditions set under section 120 of the Act may be applied either-

“(a) generally to every person who provides a premium rate service;
or

(b) to every person who is of a specified description of such persons,
or who provides a specified description of such services.”

A3.12 The only provision that may be made by conditions under section 120 is provision requiring the person to whom the condition applies to comply, to the extent required by the condition, with—

“(a) directions given in accordance with an approved code by the enforcement authority and for the purpose of enforcing its provisions;
and

(b) if there is no such code, the provisions of the order for the time being in force under section 122.”

A3.13 Sections 47 and 48 of the Act apply to the setting, modification and revocation of a condition under section 120 as they apply to the setting, modification and revocation of a condition under section 45 (see paragraphs A3.8 and A3.9 above).

The Numbering Application Forms

A3.14 The General Conditions Notification that took effect on 25 July 2003 includes General Condition 17, which contains provisions relating to the allocation, adoption and use of telephone numbers.

A3.15 Clause 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 the Director from time to time as he thinks fit;

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

A3.16 By virtue of the Transitional Provisions, references to the Director in the Numbering Condition should read as references to Ofcom.

A3.17 Section 49(4) further provides that:

“Before the direction, approval or consent is given, modified or withdrawn, a notification must be published -

- a) stating that there is a proposal to give, modify or withdraw it;
- b) identifying the person whose proposal it is;
- c) setting out the direction, approval or consent to which the proposal relates;
- d) setting out the effect of the direction, approval or consent or of its proposed modification or withdrawal;
- e) giving reasons for the making of the proposal; and
- f) specifying the period within which representations may be made about the proposals to the person whose proposal it is.”

Ofcom’s general duty as to telephone numbering functions

A3.18 Ofcom has a general duty under section 63(1) of the Act in carrying out its numbering functions:

- “a) to secure that what appears to them to be the best use is made of the numbers that are appropriate to use as telephone numbers; and
- b) to encourage efficiency and innovation for that purpose.”

General duties of Ofcom

A3.19 The principal duty of Ofcom to be observed in the carrying out of its functions is set out in section 3(1) of the Act as the duty:

- “a) to further the interests of citizens in relation to communications matters; and
- b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.”

Duties for the purpose of fulfilling Community obligations

A3.20 In addition to our general duties and our duty regarding telephone numbers, Ofcom must also take into account the six Community requirements in carrying out its functions as set out in section 4 of the Act. These include the requirement to promote competition in the provision of electronic communications networks and services, as well as the requirement to promote the interests of European citizens.

Annex 4

Modification to provisions of the Numbering Plan under section 60(3) of the Act

Whereas –

- A) section 56(2) of the Act provides that it shall be Ofcom's duty from time to time to review the Numbering Plan and make such revisions that they think fit, provided such revisions are made, so far as applicable, 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 Numbering Plan;
- C) by virtue of the Transitional Provisions, references to the Director in General Condition 17 should be read as references to Ofcom;
- D) Ofcom issued two notifications pursuant to section 60(3) of the Act of proposals to make a modification to the Numbering Plan on 31 August 2010 ('Notification A') and 22 October 2010 ('Notification B');
- E) 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:
- objectively justifiable in relation to the matter to which it relates;
 - not such as to discriminate unduly against particular persons or against a particular description of persons;
 - proportionate to what the modification is intended to achieve; and
 - in relation to what it is intended to achieve, transparent;
- F) for the reasons set out in the statement accompanying this modification Ofcom are satisfied that they acted in accordance with the relevant duties set out in sections 3, 4 and 63 of the Act;
- G) a copy of Notifications A and B were sent to the Secretary of State;
- H) in Notifications A and B and the accompanying consultation documents Ofcom invited representations about any of the proposals therein by 8 October 2010 for Notification A and by 19 November 2010 for Notification B;
- I) by virtue of section 60(5) of the Act, Ofcom may give effect to the proposals set out in Notification A and B, with or without modification, only if:
- they have considered every representation about the proposal that is made to them within the period specified in the notifications; and

- 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 seven responses to Notification A and 13 responses to Notification B and have considered every such representation made to them in respect of the proposals set out in the notifications and the accompanying consultation documents and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose;
- K) in considering whether to make the modification proposed in the notifications Ofcom have complied with all relevant requirements set out in section 60 of the Act.

NOW, THEREFORE, OFCOM, PURSUANT TO SECTION 56(2) HEREBY MAKE THE FOLLOWING MODIFICATIONS:

1. Ofcom in accordance with section 56(2) of the Act hereby makes the following modifications to the Numbering Plan to take effect on the date of publication of this Notification:

Deletions

A. The following text shall be deleted from paragraph 1 of the 'Definitions and Interpretation' section:-

'BT' means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989;

'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;

'Inbound Routing Code' means a Telephone Number Adopted or otherwise used for the Portability of Geographic Numbers to identify Electronic Communication Services, carriers and End-Users;

'Reseller Identification Code' means a three-character alphabetic Telephone Number (eg, 'AAB') that is Adopted or otherwise used for administrative purposes to identify those who resell Carrier Pre-Selection;

B. The following text shall be deleted from paragraph 2 of the 'Definitions and Interpretation' section:-

(i) 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 24 July 2003 under section 48(1) 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 paragraph 1 of Part 1 of the Schedule to the Notification published by the Director on 24 July 2003 under section 48(1) of the Act;

C. The following text shall be deleted from 'Part A Section A1: Public Telephone Network Numbers':

0843 and 0844	Special Services basic rate: charged at up to and including 5p per minute or per call for BT customers, set by Terminating Communications Provider inclusive of value added tax (the price charged by other Originating Communications providers may vary)
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0871, 0872 and 0873	Special Services higher rate: charged at up to and including 10p per minute or per call for BT customers, set by Terminating Communications Provider inclusive of value added tax (the price charged by other Originating Communications providers may vary)
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090 and 091	Special Services at a Premium Rate, that is charged at rates for Customers of BT which are generally either a) higher than 10p per minute up to and including £1.50 per minute including VAT, or b) fixed fee calls costing over 10p, up to and including £1.50 including VAT
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098	Sexual Entertainment Services that are charged at rates for Customers of BT which are a) up to and including £1.50 per minute including VAT, or b) fixed fee calls costing up to and including £1.50 including VAT
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D. The following text shall be deleted from 'Part A Section A3: Network Codes':

7603 to 7622 inclusive 7682 to 7692 inclusive 7991 to 7998 inclusive	Mobile Number Portability Codes
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E. The following text shall be deleted from 'Appendix A: Geographic Numbering – Geographic Area Codes and applicable Geographic Area':-

0191	Tyneside (2,4,6) Durham (3) Sunderland (5)
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Insertions

F. The following text shall be inserted in alphabetical order in paragraph 1 of the 'Definitions and Interpretation' section:-

'BT' means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined in section 1159 of the Companies Act 2006;

'Inbound Routing Code' means a Telephone Number Adopted or otherwise used specifically for the routing of Geographic Numbers to identify Electronic Communication Services, carriers and End-Users;

'Reseller Identification Code' means a three-character alphabetic Telephone Number (e.g., 'AAB') that is Adopted or otherwise used for administrative purposes to identify those who resell wholesale services sold via BT;

G. The following text shall be inserted numerically by sub-section in paragraph 2 of the 'Definitions and Interpretation' section:-

(i) 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 22 July 2003 under section 48(1) of the Act and modified by Ofcom from time to time;

(ii) if, and only if, it has no meaning ascribed as mentioned in (i) 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 modified by Ofcom from time to time;

H. The following text shall be inserted numerically in 'Part A Section A1: Public Telephone Network Numbers':

0843 and 0844	Special Services basic rate: charged at up to and including 4.26p per minute or per call for BT customers, set by Terminating Communications Provider exclusive of VAT (the price charged by other Originating Communications Providers may vary)
0871, 0872 and 0873	Special Services higher rate: charged at up to and including 8.51p per minute or per call for BT customers, set by Terminating Communications Provider exclusive of VAT (the price charged by other Originating Communications Providers may vary)
090 and 091	Special Services at a Premium Rate, that is charged at rates for Customers of BT which are generally either a) higher than

	8.51p per minute up to and including £1.27.66 per minute excluding VAT, or b) fixed fee calls costing over 8.51p, up to and including £1.27.66 excluding VAT
098	Sexual Entertainment Services that are charged at rates for Customers of BT which are a) up to and including £1.27.66 per minute excluding VAT, or b) fixed fee calls costing up to and including £1.27.66 excluding VAT

I. The following text shall be inserted numerically in 'Part A Section A3: Network Codes':

7603 to 7622 inclusive 7630 to 7639 inclusive 7650 to 7653 inclusive 7655 to 7658 inclusive 7680 7682 to 7692 inclusive 7694 to 7698 inclusive 7991 to 7998 inclusive	Mobile Number Portability Codes
--	---------------------------------

J. The following text shall be inserted numerically in 'Appendix A: Geographic Numbering – Geographic Area Codes and applicable Geographic Area':-

0191	Tyneside (2,4,6,8) Durham (3,9) Sunderland (5,7)
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2. In making the modifications, Ofcom have considered and acted in accordance with the six community requirements set out in section 4 of the Act and their duties in section 3 and 63 of the Act.

3. In this modification:

- the 'Act' means the Communications Act 2003;
- 'the Director' means the Director General of Telecommunications as appointed under section 1 of the Telecommunication 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(2) of the Act;
- 'Ofcom' means the Office of Communications;
- 'the Numbering Plan' means the National Telephone Numbering Plan published by Ofcom from time to time pursuant to section 56 of the Act; and

- 'Transitional Provisions' means section 408 and 411 of the Act, the Communications Act 2003 (commencement No 1) Order 2003 and the Office of Communication Act 2002 (Commencement No.3) and Communication Act 2003 (Commencement No 2) Order 2003.
4. Except in so far as the context otherwise require, 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 Numbering Plan.
 5. The Interpretation Act 1978 shall apply as if this Modification were an Act of Parliament.
 6. Heading and titles shall be disregarded.

Signed by Daniel Gordon

Competition Policy Director

A person authorised on behalf of Ofcom under paragraph 18 of the Schedule of the Office of Communications Act 2002.

20 December 2010

Annex 5

Modification to provisions of the General Condition of Entitlement 17 under section 48(2) of the Act

The modification of General Condition 17 on Allocation, Adoption and Use of telephone numbers under section 48(2) of the Act

WHEREAS-

A. the Director General of Telecommunications (the 'Director') issued on 22 July 2003 the General Conditions notification, which took effect on 25 July 2003 by way of publication of a notification pursuant to section 48(1) of the Act;

B. by virtue of the Transitional Provisions; references to the Director in General Condition 17 should be read as references to Ofcom;

C. Ofcom issued a notification pursuant to section 48(2) of the Act on 31 August 2010 setting out their proposals for the modification of General Condition 17 ('the Notification');

D. a copy of the Notification was sent to the Secretary of State in accordance with section 50(1)(a) of the Act;

E. in the notification and accompanying consultation document, Ofcom invited representations about any of the proposals set out therein by 5pm on 8 October 2010;

F. by virtue of section 48(5) of the Act, Ofcom may give effect to any proposals to set conditions as set out in the Notification, with or without modification, where:

(i) they have considered every representation about the proposals 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;

G. Ofcom received seven responses to the Notification and have considered every such representation made to them in respect of the proposals set out in the Notification and the accompanying consultation document; and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose;

THEREFORE-

1. Ofcom in accordance with section 48(1) of the Act hereby makes the following modifications to General Condition 17 on Allocation, Adoption and Use of Telephone Numbers;

2. The modification is set out in the Schedule to this Notification;

3. The effect of, and Ofcom's reasons for making, the modification referred to in paragraph 1 above is set out in the accompanying explanatory statement;

4. Ofcom considers that the modification referred to in paragraph 1 above complies with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to each of the modifications;

5. In making the modifications set out in this Notification, Ofcom has considered and acted in accordance with the six Community requirements in section 4 of the Act, their general duties in section 3 of the Act and their duty as to telephone numbering in section 63 of the Act;

6. The Notification shall enter into force on the date it is published;

7. Copies of this Notification and the accompanying statement have been sent to the Secretary of state in accordance with section 50(1) (a) of the Act;

8. In this Notification:

- 'Act' means the Communications Act 2003;
- 'the Director' means the Director-General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
- 'the Numbering Condition' means General Condition 17 of the General Conditions of Entitlement set by the Director by way of publication of a Notification on 22 July 2003;
- 'Ofcom' means the Office of Communications;
- 'the Numbering Plan' means the National Telephone Numbering Plan published by Ofcom from time to time; and
- '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;

9. 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 Numbering Plan;

10. The Interpretation Act 1978 shall apply as if this modification were an Act of Parliament.

11. Headings and titles shall be disregarded.

12. The schedule to this Notification shall form part of this Notification.

Signed by

Daniel Gordon
Competition Policy Director

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

20 December 2010

Schedule

Modification to General Condition 17 (Adoption, Allocation and Use of Telephone Numbers), which is set out in the Schedule to the Notification under section 48(1) of the Communications Act 2003 published by the Director General of Telecommunications on 22 July 2003:

Deletions

A. The following text shall be deleted from 'Section 1: Public Telephone Network Numbers' in the Annex to the Numbering Condition:-

153*	Access to International Directory Enquiry Facilities until 12.01am on 24 August 2003 (Type A Access Code). From 24 August 2003 until 12.01am 20 June 2004, access to a network message only, advising that Directory Enquiry Facility numbers have changed to 6-digit numbers starting with 118 and advising where the caller may obtain information about the new 118 International Directory Enquiry Facility numbers. This advice must be a freephone number open to all 118 service providers where the caller is given at least one appropriate 118 number on a fair and impartial basis. A specific number may not be provided. The network message must be free-to-caller. (Type A Access Code). Deleted after 12.01am 20 June 2004.
192*	Access to National Directory Enquiry Facilities until 12.01am on 24 August 2003 (Type A Access Code). From 24 August 2003 until 12.01am 20 June 2004, access to a network message only, advising that Directory Enquiry Facility numbers have changed to 6-digit numbers starting with 118 and advising where the caller may obtain information about the new 118 National Directory Enquiry Facility numbers. This advice must be a freephone number open to all 118 service providers where the caller is given at least one appropriate 118 number on a fair and impartial basis. A specific number may not be provided. The network message must be free-to-caller. (Type A Access Code). Deleted after 10.01am 20 June 2004.

B. The following text shall be deleted from 'Section 5: Public Telephone Network Numbers not available for Allocation but which can be Adopted where already Allocated' in the Annex to the Numbering Condition:-

0500	No charge to Caller
0800 (plus 6-digits)	Special Services – No charge to caller (except where charges shall be notified to callers at the start of the call)
0908 and 0909	<i>From 9 November 2007</i> Sexual Entertainment Services at a Premium Rate

Insertions

C. The following text shall be inserted numerically in ‘Section 5: Public Telephone Network Numbers not available for Allocation but which can be Adopted where already Allocated’ in the Annex to the Numbering Condition:-

0908 and 0909	Sexual Entertainment Services at a Premium Rate
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D. The following text shall be inserted in a new ‘Section 6: Public Telephone Network Numbers not available for Allocation or Adoption’ in the Annex to the Numbering Condition:-

6. Public Telephone Network Numbers not available for Allocation or Adoption	
Numbers beginning	Designation
0500	Special Services – No charge to caller (except where charges shall be notified to callers at the start of the call)
0800 (plus 6-digit)	Special Services – No charge to caller (except where charges shall be notified to callers at the start of the call)

Annex 6

Modification to the provisions of the Premium Rate Services Condition under section 120 of the Act

Modification under section 48(2) of the Act to the Premium Rate Services (“PRS”) Condition set under section 120 of the Act

Whereas

- A) OFCOM issued a notification proposing a modification the PRS Condition pursuant to section 48(2) and section 120(5) of the Act on 22 October 2010 (‘the Notification’);
- B) in the Notification and accompanying consultation document, OFCOM invited representations on the proposals set out therein by 19 November 2010;
- C) a copy of the Notification and accompanying consultation document was sent to the Secretary of State in accordance with section 120(6) of the Act;
- D) By virtue of section 48(5) of the Act, OFCOM may give effect to any proposals to modify the PRS Condition as set out in the Notification, with or without modification only if-
 - (i) it has considered every representation about the proposal that is made to it within the period specified in the Notification; and
 - (ii) it has had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
- E) OFCOM received 13 responses to the Notification and has considered every such representation made to them in respect of the proposals set out in the Notification and accompanying consultation document and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose;

Therefore Ofcom gives the following modification

1. OFCOM, in accordance with section 48(1) of the Act hereby makes the following modifications to the PRS Condition as set out in the Schedule to this Notification.
2. OFCOM considers that the modification referred to in paragraph 1 above complies with the requirements of section 120(5) of the Act, as appropriate and relevant to each of the proposals.
3. In making the modifications set out in this Notification, OFCOM has considered and acted in accordance with its general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.
4. The effect of, and OFCOM’s reasons for making, the modification referred to in paragraph 1 above is set out in the accompanying explanatory statement.

5. Copies of this Notification and the accompanying statement have been sent to the Secretary of State in accordance with section 50(1)(a) and section 120(6) of the Act.
6. In this Notification:
 - (i) "the Act" means the Communications Act 2003;
 - (ii) "the Director General" means the Director General of Telecommunications;
 - (iii) "OFCOM" means the Office of Communications; and
 - (iv) "the PRS Condition" means a condition under section 120 of the Act which is set out in the Notification under Section 48(1) and 120(5) of the Act published by the Director General on 23 December 2003.
7. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
8. For the purpose of interpreting this Notification:
 - (i) headings and titles shall be disregarded; and
 - (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
9. The Schedule to this Notification shall form part of this Notification.
10. The modification set out in the Schedule to this Notification shall take effect on 20 December 2010.

Signed by

Daniel Gordon

Competition Policy Director

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

20 December 2010

Schedule

The modification of a condition under section 120 of the Act

The PRS Condition shall be modified as set out below (the added text has underlined and highlighted in yellow for ease of reference):

1. The Communications Provider shall comply with:
 - (a) directions given in accordance with an Approved Code by the Enforcement Authority and for the purposes of enforcing the provisions of the Approved Code; and
 - (b) if there is no Approved Code, the provisions of the order for the time being in force under section 122 of the Act.
2. In this Condition,
 - (a) “Act” means the Communications Act 2003;
 - (b) “Approved Code” means a code approved for the time being under section 121 of the Act;
 - (c) “Communications Provider” means either:
 - (i) a person who:
 - (A) is the provider of an Electronic Communications Service or an Electronic Communications Network used for the provision of a Controlled Premium Rate Service; and
 - (B) is a Controlled Premium Rate Service Provider in respect of that Controlled Premium Rate Service;
 - (ii) a person who:
 - (A) is the provider of an Electronic Communications Service used for the provision of a Controlled Premium Rate Service; and
 - (B) under arrangements made with a Controlled Premium Rate Service Provider, is entitled to retain some or all of the charges received by him in respect of the provision of the Controlled Premium Rate Service or of the use of his Electronic Communications Service for the purposes of the Controlled Premium Rate Service;
 - or
 - (iii) a person who:
 - (A) is the provider of an Electronic Communications Network used for the provision of a Controlled Premium Rate Service; and
 - (B) has concluded an agreement relating to the use of the Electronic Communications Network for the provision of that Controlled Premium Rate Service with a Controlled Premium Rate Service Provider;
 - (d) “Chatline Service” means a service which consists of or includes the enabling of more than two persons (the participants) to simultaneously conduct a telephone conversation with one another without either:
 - (i) each of them having agreed with each other; or
 - (ii) one or more of them having agreed with the person enabling such a telephone conversation to be conducted, in advance of making the call enabling them to engage in the conversation, the respective identities of the other

intended participants or the telephone numbers on which they can be called. For the avoidance of any doubt, a service by which one or more additional persons who are known (by name or telephone number) to one or more of the parties conducting an established telephone conversation can be added to that conversation by means of being called by one or more of such parties is not on that account a Chatline Service, if it would not otherwise be regarded as such a service;

- (e) "Controlled Premium Rate Service" means a Premium Rate Service (other than a service which is only accessed via an International Call) in respect of which:
- (i) the service is obtained through a Special Services Number **(except an 0843/4 number)**, and the charge for the call by means of which the service is obtained or the rate according to which such call is charged is a charge or rate which exceeds 5 pence per minute for BT customers inclusive of value added tax; or
 - (ii) the service is obtained other than through a Special Services Number, and the charge for the call by means of which the service is obtained or the rate according to which such call is charged is a charge or rate which exceeds 10 pence per minute inclusive of value added tax; or
 - (iii) the service is a Chatline Service; or
 - (iv) is Internet Dialler Software operated; or
 - (v) the service is a Sexual Entertainment Service;
- (f) "BT" means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or an subsidiary of such holding companies, all as defined by section 736 of the Companies Act 1985, as amended by the Companies Act 1989 and the Companies Act 2006;
- (g) "Controlled Premium Rate Service Provider" means a person who:
- (i) provides the contents of a Controlled Premium Rate Service;
 - (ii) exercises editorial control over the contents of a Controlled Premium Rate Service;
 - (iii) packages together the contents of a Controlled Premium Rate Service for the purpose of facilitating its provision; or
 - (iv) makes available a facility comprised in a Controlled Premium Rate Service;
- (h) "Dial-up Telephone Number" means the telephone number used by an end user's computer that connects it to the Internet
- (i) "Enforcement Authority" means, in relation to an Approved Code, the person who under the code has the function of enforcing it;
- (j) "Facility" includes reference to those things set out in section 120(14) of the Act;
- (k) "International Call" means a call which terminates on an Electronic Communications Network outside the United Kingdom;
- (l) "Internet Dialler Software" is software that replaces a Dial-up Telephone Number with a different Dial-up Telephone Number; other than where it is used so that:
- ii) an end-user's existing Internet Service Provider replaces the Dial-up Telephone Number;
 - iii) an end-user moves from his existing Internet Service Provider to another Internet Service Provider or is so moved with his consent.

- (m) "Internet Service Provider" means a person who provides end-users, by means of a Dial-up Telephone Number, with connection to the Internet in the ordinary course of its business.
 - (n) "National Telephone Numbering Plan" means a document published by Ofcom from time to time pursuant to sections 56 and 60 of the Act;
 - (o) "Premium Rate Service" shall have the meaning ascribed to it by section 120(7) of the Act;
 - (p) "Sexual Entertainment Service" means 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;
 - (q) "Special Services Number" means a telephone number designated by Ofcom in the National Telephone Numbering Plan as Special Services basic rate, Special Services higher rate or Special Services at a Premium Rate;
3. For the purposes of interpreting this Condition, except in so far as the context otherwise requires, words or expressions shall have the same meaning as ascribed to them in paragraph 2 above and otherwise any word or expression shall have the same meaning as it has been ascribed in the Act.

Annex 7

Modification to the Numbering Application Forms under section 49(4) of the Act

Direction under paragraph 17.9(a) of the Numbering Condition relating to Numbering Application Forms

WHEREAS-

- A. paragraph 17.9(a) of the Numbering 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 Numbering 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 modifications to the application forms set out in the Schedule to this Direction are appropriate and that the application forms are appropriate for use by Communications Providers when applying for an Allocation of Telephone Numbers;
- D. for the reasons set out in the statement accompanying this Direction Ofcom are satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - not such as to discriminate unduly against particular persons or against a particular description of persons;
 - proportionate to what it is intended to achieve; and
 - in relation to what it is intended to achieve, transparent.
- E. for the reasons set out in the statement accompanying this Direction Ofcom are satisfied that they have acted in accordance with the relevant duties set out in sections 3, 4 and 63(1) of the Act;
- F. a notification of a proposal to give this Direction was given under section 49(4) of the Act on 31 August 2010 (the 'Notification');
- G. a copy of the Notification was made available 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 5pm 8 October 2010;
- 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 seven responses to the Notification and accompanying consultation document and have considered every such representation made to them in respect of the proposals set out in the Notification and accompanying consultation document and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose;
- K. In considering whether to make the modification proposed in the Notification Ofcom have complied with all relevant requirements set out in section 49 of the Act;

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

1. for the time being the application forms modified by this Direction shall be used by Communications Providers when applying for an Allocation of Telephone Numbers.
2. In this Direction-
 - 'the Act' means the Communications Act 2003;
 - 'Allocation' shall have the same meaning as in the Numbering Condition;
 - 'Communications Provider' shall have the same meaning as in the Numbering Condition;
 - 'the Director' means the Director-General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - 'the Numbering 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;
 - '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; and
 - '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 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 General Condition 17 (entitled 'Allocation, Adoption and Use of Telephone Numbers') set by the Director by way of publication of a Notification on 22 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 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.
 6. This Direction takes effect on the date it is published.

Signed by Daniel Gordon

Competition Policy Director

A person authorised on behalf of Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

20 December 2010

Annex to Schedule

Deletions

A. The following text shall be deleted from Paragraph 1(i) of the 'Definitions and Interpretation' Section on page 1 of Numbering Application Forms S1, S3, S12, S13, S14, S15, S16, S17, S18 and S19:-

- (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');

B. The following text shall be deleted from Paragraph 1(i) of the 'Definitions and Interpretation' Section on page 1 of the Numbering Application Form S56:-

- (i) in the National Telephone Numbering Plan published by Ofcom on 6 September 2004 pursuant to section 56 of the Communications Act 2003 (the 'Act');

C. The following text shall be deleted from Paragraph 1(i) of the 'Definitions and Interpretation' Section on page 1 of the Numbering Application Form S20:-

- (i) in the National Telephone Numbering Plan published by Ofcom on 28 October 2004 pursuant to section 56 of the Communications Act 2003 (the 'Act');

D. The following text shall be deleted from Section 1 of each Numbering Application Form:-

1. <u>Your reference (optional):</u>	
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E. The following text shall be deleted from Section 2 of each Numbering Application Form:-

2. <u>Applicant details and date of application:</u> Your name, company name, address, direct telephone, direct fax, direct e-mail, mobile.	
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F. The following text shall be deleted from Section A1 in the Annex to Numbering Application Forms S3, S56, S12, S13 Parts A, B and C, S14, S15, S16, S17, S19 and S20.

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.

G. The following text shall be deleted from Section A4 in the Annex to Numbering Application Forms S56, S12, S13 Parts A, B and C, S14, S15, S16, S17 and S19:-

<p><u>A4. Register of providers of Public Electronic Communication Networks</u></p> <p>Ofcom maintains a voluntary register of providers of Public Electronic Communications Networks.</p> <p>a) Is your company listed on this register?</p> <p>b) If so, under which name is your company registered?</p> <p>c) If different from b), what is the 'trading name' under which your company will sub-allocate the Telephone Numbers applied for in this application?</p>	
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H. The following text shall be deleted from below the heading '**APPLICATION FOR**' on page 1 of Numbering Application Form S7:-

MOBILE NUMBERS (STARTING 075/7/8/9)

I. The following text shall be deleted from below the heading '**SPECIAL SERVICES AT A PREMIUM RATE APPLICATION**' on page 1 of Numbering Application Form S9:-

Special Services at a Premium Rate numbers can be applied for under the following categories:

- 0900, 0901 and 0902 **Special Services, time charged calls up to and including 60ppm and total call cost not greater than £5 or fixed fee up to £1 per call (all prices are for BT customers);**
- 0903, 0904, 0905, 0906 and 0911 **Special Services, open ended time dependent charge or fixed fee up to £1.50 for BT customers;**
- 0907 **Special Services pay for product that costs more than £1 in total for BT customers; and**
- 098 **Sexual Entertainment Services at a Premium Rate**

J. The following text shall be deleted from Section 7 of the Numbering Application Form S9:-

7. Telephone Numbers required:

When completing the table below, you should give a 1st and 2nd choice for each type of Telephone Number block applied for in case the block you've applied for is nle at the time the application is processed. You should select the number blocks within the appropriate block type (as shown at the top of this Form) and ensure that a maximum of 15 blocks are entered on this Application Form. A new Form S8 should be completed for further blocks.

K. The following text shall be deleted from below the heading '**NUMBER PORTABILITY PREFIX CODE ("NPPC") APPLICATION**' on page 1 of the Numbering Application Form S12:-

, identified in Ofcom's Number Portability Functional Specification eg. Geographic, Personal Numbering, Mobile, Freephone, Local Rate, National Rate and Premium Rate Service numbers, etc.

L. The following text shall be deleted from Section 5 of the Numbering Application Form S12:-

When completing the table below, you should:

- i) refer to Ofcom's Functional Specification to establish the types(s) of NPPC you require: and
- ii) Ofcom will select the actual codes – you do not need to select the codes.

M. The following text shall be deleted from Section 5 of Numbering Application Form S17:-

5. Telephone Numbers – CUPIDs required:

State:

- a) how many CUPID codes are required (Ofcom will select the actual codes – you do not need to select the codes);
- b) for each CUPID required, state whether the CUPID is for National use or Regional use; and
- c) provide a justification where more than one CUPID code is required.

N. The following text shall be deleted from below the heading '**RESELLER IDENTIFICATION ("RID") CODE APPLICATION**' on page 1 of Numbering Application Form S18:-

Reseller Identification ("RID") Codes are three character alphabetic codes that are used to provide information to the Communications Providers and End-users about

which person is providing Carrier Pre-Selection (“CPS”), Wholesale Line Rental (“WLR”) or Local Loop Unbundling (“LLU”) to End-users.

The RID will be included in the electronic order for CPS, WLR or LLU as appropriate.

Insertions

O. The following text shall be inserted numerically in Paragraph 1 of the ‘Definitions and Interpretation’ Section on Numbering Application Forms S1, S3, S56, S12, S13, S14, S15, S16, S17, S18, S19 and S20:-

(i) in the National Telephone Numbering Plan pursuant to section 56 of the Communications Act 2003 (the ‘Act’) published by Ofcom from time to time;

P. The following text shall be inserted in Section 1 of each Numbering Application Form:-

2. <u>Your reference (required when submitting multiple applications):</u>	
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Q. The following text shall be inserted at the top of Section 2 in each Numbering Application Form:-

2. <u>Applicant details and date of application:</u> All applicants please provide: Your name Company name Company number Address Direct telephone Direct e-mail Mobile (if available) Website (if available)	
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R. The following text shall be inserted below the sub-heading ‘Providers of Public Electronic Communications Networks’ in Section A1 in the Annex to Numbering Application Forms S3, S56, S12, S13 Parts A, B and C, S14, S15, S16, S17, S19 and S20:-

Ofcom needs certain information from you in order to determine whether or not you are a provider of a Public Electronic Communications Network. You will only need to provide this information with your first application.

S. The following text shall be inserted at the top of Numbering Application Form S7:-

MOBILE NUMBERS (STARTING 071-075 and 077-079)

T. The following text shall be inserted below the table setting out the 08 service types on page 2 of Numbering Application Form S8:-

Please note that that the promotion and content of 'Special Services at a Premium Rate' is regulated by PhonepayPlus. This includes services provided on 087 (excluding 0870) numbers. Most services can be provided without PhonepayPlus' prior permission; however, some services that have been found to pose a greater risk to consumers, do require permission. More information on the services that do require prior permission can be found on PhonepayPlus' website at: www.phonepayplus.org.uk/service_providers/setting_up_services/prior_permission.asp

U. The following text shall be inserted below the heading '**SPECIAL SERVICES AT A PREMIUM RATE APPLICATION**' on page 1 of Numbering Application Form S9:-

Special Services at a Premium Rate numbers can be applied for under the following categories:

0900-0902, 0910 and 0912	Special Services, time charged calls up to and including 60ppm and total call cost not greater than £5 or fixed fee up to £1 per call (all prices are for BT customers)
0903-907, 911 and 0913-0919	Special Services, open ended time dependent charge or fixed fee up to £1.50 (including pay for product services) for BT customers
098	Sexual Entertainment Services at a Premium Rate

V. The following text shall be inserted in Section 7 of Numbering Application Form S9:-

7. Adoption of existing Telephone Number blocks:

For each 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 Ofcom's duty in the Communications Act 2003 to secure best use of numbers, we require a justification for applying for further numbering capacity where there may be non-utilised numbers.

W. The following text shall be inserted under the heading '**5. Telephone Numbers (NPPC) required**' in Section 5 of Numbering Application Form S12:-

State the type of NPPC that you require. Note: Ofcom will select the actual codes – you do not need to select the codes.-

X. The following text shall be inserted as Section 5 in Numbering Application Form S17:-

5. Telephone Numbers – CUPIDs required:

State:

- a) how many CUPID codes are required (Ofcom will select the actual codes – you do not need to select the codes);
- b) provide a justification where more than one CUPID code is required; and
- c) if you are not a Public Electronics Communications Network or Service Provider please state the reason why you require a CUPID code (e.g. WLR3). NOTE: you are not required to complete Annex A.

Y. The following text shall be inserted below the heading **RESELLER IDENTIFICATION (“RID”) CODE APPLICATION** on page 1 of Numbering Application Form S18:-

Reseller Identification (“RID”) Codes are three character alphabetic codes that are used to provide information to Communications Providers and End-users about which person is providing wholesale services sold via BT to End-users.

The RID Code will be included in the electronic order for wholesale services sold via BT as appropriate.