



Elizabeth Gannon
Competition Group
Office of Communications
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Head Office
Inveralmond House
200 Dunkeld Road
Perth
PH1 3AQ

Telephone: 01738 456401
Email: aileen.boyd@sse.com

Our Reference:
Your Reference:

Date: 27 June 2012

Dear Elizabeth

Simplifying Non-geographic Numbers

SSE welcomes Ofcom's consultation on the above.

SSE has a retail telecoms business using available wholesale products, including wholesale line rental (WLR) made available on a regulated basis by BT. It is therefore a retail-only Originating Communications Provider (OCP) in the context of the proposed reforms. In its wider business interests – which include electricity and gas supply - SSE uses 08* numbers to enable customers to contact us and is therefore also a “service provider” (SP), as this term is used in the consultation.

As an OCP, while we support the proposals to unbundle the non geographic call service (NGCS) tariffs into a service provider charge and an access charge (AC), we do have concerns about some details of the proposals. These currently include the requirements for an OCP to set only one AC per tariff bundle and to include information on ACs in every customer bill.

As an SP, we welcome the simpler message for consumers that 080 numbers will be free to caller, including from mobiles. However, in using these numbers ourselves for customer contact, we are concerned about the potential for mobile origination costs to be set at unreasonably high levels. In this context, we welcome Ofcom's proposals for wholesale regulation and consider that this should be imposed on relevant OCPs directly. It would be helpful for certainty on these charges to be achieved as soon as possible in the overall implementation period.

Finally, there are a number of references in the document to the need for the industry to work together to coordinate the management of various aspects of the proposed reforms: available service charge price points; the development of a single source of truth for the current set of such charges; and in number range building. Numbering is one of the areas that SSE has previously proposed such industry coordination and we believe this should be backed by independent, transparent and inclusive governance arrangements so that services are provided to the market in a manner which is clearly documented and such that any market player can propose changes to the way things are done. We believe this may be best facilitated under co-regulatory arrangements, given Ofcom's duties under the Act with



respect to numbering and we would certainly encourage Ofcom to remain involved in the process of setting up the required coordination between different market players.

I hope these comments are helpful. Please let me know if you have any queries.

Yours sincerely

Aileen Boyd
Regulation Manager

Response to Consultation Questions

Part A – NGCS market assessment and summary of approach

Section 4 – Summary of concerns

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

Section 5 – Equality impact assessment

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

No comment.

Part B - the Revenue-sharing ranges

Section 9 – Remedies to address the market failures

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

No.

Section 10 - Design of the unbundled tariff

The Access Charge

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

As a retail OCP, SSE supports the concept of an AC that can vary between different retail tariff packages but would like more flexibility than is proposed on setting an AC for a particular tariff package.

We understand Ofcom's wish to have a simple charge message for ACs that retail customers will readily remember but, as a way of controlling our risk exposure for customers making NGCS calls, we would like to be able to apply a fixed percentage to the Service Charge (SC) per tariff package as our AC. Thus, if 10% is chosen as the AC%, a customer would pay an additional 1p on a call with an SC of 10p and an additional 10p on a call with an SC of £1.00. This reflects how we set retail charges currently and we suggest that the variation can be accommodated within the policy of having a simple charging message for customers about the additional AC element of the NGCS call.

If a percentage approach to setting ACs is, for some reason, not possible than we would like to have the ability to set 2 access charges per package to differentiate between low cost/low risk calls and ones of higher cost/risk – although this would involve more complex judgements on how to set the two levels than the % approach.

*Q10.2: Do you agree with our proposed structure for the AC, in particular that:
(i) that the AC should be a pence per minute charge only, but can be subject to a minimum one minute call charge;*

(ii) that the AC should not vary by time of day; and
(iii) that the AC can be included as part of call bundles/inclusive call minutes provided that inclusion does not differentiate by number range?
If not please explain why.

We are content with the outline structure proposed for the AC but would like the pence per minute charge to be calculated per call on a notified % basis as discussed in response to Q10.1 above.

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

We agree with the proposal not to impose a cap on the AC.

The Service Charge

Q10.4: Do you agree with our proposed approach for the structure of the SC? In particular that:

(i) bespoke SCs should be prohibited;
(ii) that no further restrictions on the SC structure should be required (e.g. allowing ppm and ppc SCs, no restriction of ToD charging subject to ability of billing systems to pass through the charges)

If not, please explain why and provide evidence if possible.

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

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

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

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

We have no strong views on the proposed structure of the SC. We note the references in this part of the document to industry agreeing relevant SC price points and support this approach. In our view, the process to agree, maintain and potentially vary these in future should be subject to transparent and inclusive industry governance. We discuss this point in more detail in response to the questions in section 12 of the document.

Assumed Handover point ('AHP')

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

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

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

No comment.

Section 11 – the 0845 and 0870 ranges

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

We agree that the unbundled tariff approach should also apply to these number ranges for consistency. We would hope that the price publication requirements on the service charges for the lowest cost calls within these ranges could be proportionately minimal if supported by general publicity on the relatively low cost of such calls.

Section 12 – Implementation

Customer bills

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

We agree with the proposal not to mandate presentation of disaggregated AC and SC charges on customers' bills and that it should be up to OCPs how to present these call charges on their bills.

We do not agree that OCPs should have to include the customer's AC on the bill as well. Not only are changes to billing a significant cost but space on bills is also at a premium due to the range of other information that must be set out there. In our view, customers will be provided with comprehensive point of sale information covering these charges and have easy telephone or online access to check ACs or any other element of their package charges. Provided that the high level intent for customers to be well informed about these charges is set out, we believe it would be more helpful for Ofcom to indicate, in non-mandatory guidance, various ways in which this could be achieved, rather than prescriptively mandate exactly what should be done. We expand upon this general point in response to Q12.6.

It also occurs to us that Ofcom made the point in the recent switching consultation that some customers do not receive bills – it would therefore seem that some other method of making these customers aware of their AC would have to be found, in any case.

Wholesale issues

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

We agree that a database approach would be the only sensible way to ensure smooth processes relying on a "single source of truth" and allowing look-up of the SC associated with any NGCS number. We expect that private sector provision would be most efficient but are interested in Ofcom's comments at paragraph 12.58 that it already publishes some numbering information in the form of a database. We do not believe it is appropriate for this to only refer to the BT Retail tariff for calling each number range. It continues the pre-eminence of BT's brand in a similar way to the current advertising of some NGCS calls – one of the issues that the NGCS review is addressing with the move to disaggregated tariffs for these calls. In our view, Ofcom should seek a more competitively neutral way of providing information on calling number ranges and could perhaps link into the industry database as this is developed.

The important point about database procurement, management and change control is that it should be a transparently governed process, accountable to the relevant part of the industry. SSE has consistently argued over some years that a co-regulatory industry body be established in order to manage the governance of industry processes and data such as those in the numbering arena. One important aspect of a co-regulatory arrangement – apart from Ofcom’s involvement at high level in the direction of development of the database – is that membership of the body would be compulsory for relevant market players, as would compliance by members with the market processes adopted by the body. Ofcom’s analysis of the “strikingly *ad hoc*” processes around number range development (such that new NGCS numbers become useable by all telephone service customers) demonstrates the need for such governed arrangements to be developed. It appears that, left to its own devices, the communications industry lacks the collective will to become well-coordinated in these areas of market process and therefore a moderate co-regulatory intervention becomes appropriate.

It is clearly important to establish the exact funding and management of central database arrangements and this has been done in other industries¹. In outline, we expect that this could work as follows:

- A General Condition is set on relevant parties to become a member of a body which is set up to manage establishment and governance of the database;
- The rules of the body require payment of fees – perhaps based, for OCPs, on the number of customers served at a particular point in the year;
- To avoid excessive calculation for fees due, perhaps a small *de minimis* fee could be established for the large number of smaller OCPs in the market who require access to the database;
- The funds raised by fees would be used to establish the secretariat for the market body and the initial constitution and change control arrangements;
- Once these enduring arrangements have been developed, the body tenders for provision of a database design and management service;
- Once a commercial provider of the database service has been selected and provided the initial database service, the constitution governs the ongoing management and development of the database including the following areas: formal communication with members of the market body; collection of fees; resolution of disputes; and consideration of any proposed amendments to the current market processes surrounding use of the database.

We would envisage that the market body would have its own website to aid information dissemination and communication with members, This inclusive, governed arrangement for all parties who have a need to use the database appears far preferable to the establishment of ad-hoc “industry working groups” which tend to consist of larger players but do not have any reach towards or legitimacy with smaller players who cannot resource attendance at multiple meetings of this type. It could also form a point of liaison for service provider customers of TCPs who are interested to learn more about numbering developments.

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

¹ For example, electricity market database governance is carried out by an industry body known as MRASCo. Information about its role can be found at the website <http://www.mrasco.com>

Ofcom's description of ad hoc processes in and retrospective application of wholesale tariff change notification accords with SSE's experience as an OCP and we would welcome reform of the processes onto a more regulated basis. We see the key characteristics for a revised set of processes as being:

- a disciplined market process with clear expectations on owners of different aspects of the end-to-end process;
- reasonable notification periods for changes in charges;
- the use of the database discussed above as a single point of truth; and
- the maintenance of change-controlled market documentation with the ability for all interested parties to propose changes to processes so that these are maintained as living, developing documents which are responsive to the needs of the market.

We would welcome Ofcom's involvement in the establishment of such arrangements as we doubt that all relevant parties have the same incentive to make them succeed. Our view on how a governed approach to these matters could be developed is set out in response to Q12.2 above and we would certainly welcome Ofcom's involvement to "get the ball rolling".

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

SSE does not have direct experience of seeking to require other CPs to open number ranges as we operate as a reselling retail OCP on the BT Openreach network.

However, it does appear to us that there is an issue in this area. Given that there is harm to both consumers and potentially to competition from smaller CPs with less negotiating power if other CPs do not cooperate to allow access to number ranges – and that Ofcom refers to these problems being "well documented" – this seems a sufficient basis for regulatory action.

In our view, the whole subject area of wholesale numbering processes should have a greater degree of industry management and control through a governance body, as we have discussed in response to the other questions in this section. This could address both geographic and non-geographic issues and provide: a means for disseminating information about current processes throughout the industry; a forum for discussion on market developments; and a base from which to manage change in an orderly fashion.

Communicating with consumers

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

We agree that Ofcom should take a role here to coordinate the timing and content of communication campaigns and provide materials for smaller CPs to use along similar lines to the "questions and answers" developed to support the future withdrawal of local dialling in certain areas.

Price publication requirements

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

We agree that no further specific obligations should be necessary to ensure that CPs make customers aware of the new access charge, which we accept would be a "key charge" to let customers know about. We would welcome Ofcom's further consideration, as we had proposed in response to the last consultation, of

rationalising the various requirements relating to price publication and removing prescriptive codes of practice in favour of revised high level obligations supported by associated non mandatory guidance. This could achieve both a degree of deregulation and greater clarity on the outcomes that Ofcom wishes to see achieved.

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

We would agree with the less intrusive regulatory option of an industry code of practice approach that could be enforced by the ASA rather than extending the remit of PhonePayPlus.

The need to secure industry commitment could be addressed through the governance arrangements we have proposed in response to the earlier questions in this section for numbering issues generally. We expect that these could require terminating CPs (TCPs) to have contractual obligations with relevant service providers with respect to their advertising of call charges – which we would hope would not be onerous for low value 084* calls. The framework of requirements on communications market participants could thereby be extended contractually to service providers with ASA being an enforcement body in an area where they have already provided guidance on the presentation of advertising information.

Other implementation issues

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

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

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

No comment.

Timing

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

We agree with this.

Section 13 - Impact assessment

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

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

Q13.3: Do you agree with our estimates of the communication costs of implementing the unbundled tariff? In particular:

(i) the costs of OCP communication with their customers; and

(ii) the costs of TCP communication with their SP customers.

If not, please explain why and provide evidence to support your response, particularly of the level of costs you are likely to incur as a result of our proposals.

Q13.4: Do you have any comments on our impact assessment for the unbundled tariff?

Please provide evidence to support your response.

No comment.

Part C - Freephone and 116

Section 16 – Assessment of options

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

We agree with the intention to make 080 calls genuinely free to caller so that this becomes a clearer pricing message for customers. However, that should not entail unreasonably high charges for service providers using these numbers to receive calls from mobile phones.

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

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

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

No comment.

Section 17 - Implementation

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

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

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

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

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

We support Ofcom's intention to produce certainty for service providers using the 080 number range on the implications for their costs if the "free to caller" designation for these numbers goes ahead as Ofcom currently proposes. We also support Ofcom using wholesale regulation to seek to achieve this. Two months from Ofcom's final statement on the matter appears a reasonable timeframe for TCPs to be required to notify their SP customers of the relevant change in charges.

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

One of Ofcom's main concerns set out in section 17 and earlier parts of the consultation is whether wholesale origination charges for 080 numbers will be set at an appropriate level by mobile companies if these numbers are designated "free to caller" and SSE shares this concern. It therefore seems odd for Ofcom to propose that regulation aimed at addressing this is to be imposed on TCPs only. We recognise that

TCPs are the parties who have the contractual relationship with service providers using the 080 numbers, and are the appropriate entities to have the obligation to notify service providers. However, the obligation to reach a commercial agreement for origination charges on fair and reasonable terms and conditions logically applies to both OCPs and TCPs; we believe that both should be given the explicit obligation so that either party can have enforcement action taken against them in the event of failure to reach agreement. Otherwise, regulatory obligations are not being placed on all the appropriate parties who are involved in contributing to a desired outcome.

Q17.3: Do you support an implementation period of either: (i) 12 months; or (ii) 18 months (in line with the implementation of the proposed unbundled tariff)? Please explain your reasoning as well as providing any evidence to support your view.

We can see advantages in both periods and are inclined to favour an earlier implementation, provided that this allows sufficient time for service providers to implement consequential changes.

Q17.4 Do you have any other comments on our proposed implementation approach for making Freephone free to caller? For example, do you consider it necessary for Ofcom to impose a requirement on SPs to publicise that 080 calls are free and do you have any other suggestions for how SPs could be encouraged to publish that at the point of call? Are there any other implementation issues which need to be taken into account?

We do not consider it necessary for Ofcom to impose any further customer communication obligations with respect to 080 numbers. The simple message that 080 number are now genuinely “free to caller” is likely to spread rapidly from general Ofcom, industry and media publicity about the changes once these are implemented. Furthermore, those service providers that choose to stay on the 080 range are likely to be those who would promote the change anyway in order to encourage more calls from mobile phones. Additional regulation to require this in some specific manner does not seem justified at the outset. It could perhaps be considered further by Ofcom if there was later evidence that customers were still not sure of the charging status of the 080 numbers.