



# The 0500 Number Range

Decision to withdraw 0500 telephone numbers

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Statement

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# About this document

This document sets out Ofcom's decision on the future of the 0500 telephone number range.

0500 is a Freephone number range. Like the better-known and more widely-used 080 Freephone numbers, 0500 numbers are used mainly to provide private- and public-sector voice services such as sales, enquiries and consumer helplines. However, in contrast to the 080 range, no new 0500 numbers have been released since 1997/98, and the use of existing 0500 numbers by organisations has been in decline for several years.

This document explains Ofcom's decision to withdraw the 0500 number range from use in three years' time – in particular, why we consider this will best serve the interests of consumers and organisations that use non-geographic numbers, while providing a 'migration path' for current users from 0500 to an alternative Freephone sub-range, 080 85.

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## Section 1

# Executive Summary

- 1.1 0500 is one of the two Freephone ranges currently in operation in the UK. As with the better-known Freephone range 080, calls to 0500 numbers are generally free from fixed lines but commonly charged from mobiles. In most cases mobile charges for calls to 0500 numbers are equal to those for calling 080 numbers.
- 1.2 Created in 1982, the 0500 range has been closed to new allocations since 1997/98. However, 0500 numbers that were already allocated to customers at that time can continue to be used. Vodafone (previously Cable & Wireless) is the only range-holder for 0500 numbers and still operates most active 0500 numbers, although some 0500 numbers have been ported and are now managed by other communications providers.
- 1.3 Importantly, the 0500 range is characterised by far lower consumer recognition than 080 and very low and declining use.
- 1.4 In our recent review of non-geographic numbers we identified clear evidence of market failures on the Freephone ranges (080 and 0500) leading to consumer detriment. In response to this we decided to make the 080 range free-to-call for consumers (from both fixed and mobile phones) with effect from June 2015.<sup>1</sup> However, in that review we identified that 0500, due to its different demand and consumer awareness characteristics required a separate examination.
- 1.5 In our consultations on the 0500 range in October 2012<sup>2</sup> and December 2013<sup>3</sup> we considered options for its future treatment, including maintaining the status quo, aligning it with 080 as a free-to-caller range, establishing a maximum non-zero price to call 0500 numbers from mobile phones, and withdrawing the range.
- 1.6 We have decided that it is appropriate to withdraw the 0500 range as we consider that it would be more effective, appropriate and proportionate in meeting our policy objectives and satisfying our duties than the alternatives. In particular, we consider that this option best addresses the consumer harm that we have identified on the range, including:
  - consumers' poor awareness and understanding of 0500 numbers,
  - a lack of efficiency in the use of these numbers (given that the 0500 range duplicates the characteristics and function of a much better-understood and better-used range, 080), and
  - the long-term decline in the use of the range by service providers.

We also consider that withdrawal would best advance our policy objective of making all non-geographic numbering and pricing more intuitive for consumers.

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<sup>1</sup> The December 2013 NGCS statement is available at <http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geo-no/final-statement>.

<sup>2</sup> Available at <http://stakeholders.ofcom.org.uk/consultations/0500-number-range/>.

<sup>3</sup> Available at <http://stakeholders.ofcom.org.uk/consultations/re-consultation-0500-freephone/>.

- 1.7 We acknowledge that the withdrawal of the range has the potential to create costs for some service providers on the range, in that service providers may need to make changes to their advertising and promotional materials and communicate the change to their callers. However, we consider that the potential costs due to withdrawal are outweighed by the benefits for consumers and service providers. In order to minimise the costs, we have proposed a structured withdrawal which includes:
- an 080 range migration path, with the reservation of the 080 85 sub-range to allow companies, if they so desire, to migrate their existing 0500 services to 080 85 numbers with the same final 6 digits;
  - a three-year transition period to allow companies to choose an optimal time, within that period, for the migration of their services in order to minimise their costs; and
  - the allocation of the 080 85 sub-range to Vodafone, the sole range-holder for 0500 numbers, with obligations to support migration of their own and other communications providers' customers (i.e. customers with ported numbers), with any unused number blocks within the 080 85 sub-range (i.e. unused for migration purposes) reverting to Ofcom after the end of the transition period.
- 1.8 The three-year transition period starts on the date of publication of this statement. The 0500 range will therefore be withdrawn on 3 June 2017.

## Section 2

# Background

## Overview of 0500 number range

- 2.1 As noted in the executive summary, 0500 is one of the two Freephone ranges currently in operation in the UK.<sup>4</sup> As with the much better-known Freephone range 080, calls to 0500 numbers are free to call from fixed lines but commonly charged from mobiles. In most cases charges for mobile calls to 0500 numbers are equal to those for 080 numbers. As with calls to 080 numbers, originating communications providers ('OCPs') may not charge callers for 0500 calls except when a charge is notified to callers at the start of the call, i.e. by a pre-call announcement ('PCA'). Subject to this requirement, OCPs are free to set any price they wish.
- 2.2 Again, as with 080 Freephone numbers, 0500 numbers are used mainly to provide private- and public-sector voice services such as sales, enquiries and consumer helplines, though on a far smaller scale.
- 2.3 In our recent review of non-geographic numbers we decided to make the 080 range free-to-call for consumers (from both fixed and mobile phones) with effect from June 2015.<sup>5</sup> However, we identified that 0500, due its different demand and consumer awareness characteristics, required a separate examination.
- 2.4 Technically, the 0500 range differs from the 080 range in the following ways:
- i) Vodafone – formerly Cable & Wireless Worldwide<sup>6</sup> – is the sole range-holder of the 0500 range, but some service providers ('SPs') have ported their 0500 numbers to other terminating communications providers ('TCPs');
  - ii) the 0500 range has been closed to new allocations since 1997/98. This means that 0500 numbers that were allocated before the range's closure can continue to be used but no new 0500 numbers may be allocated by the range-holder. Use of 0500 numbers is subject to the Code of Practice for numbers in 'closed' ranges, which came into force on 1 December 2001;<sup>7</sup> and
  - iii) 0500 numbers are all 10-digits long unlike the now-standard 11 digits on other non-geographic ranges.<sup>8</sup>
- 2.5 However, more centrally to this review, the 0500 range is characterised by far lower consumer recognition than 080 numbers – only 4% of consumers recognise 0500 numbers as Freephone – and much less use: the total 0500 call volume terminated by Vodafone and BT in 2013 was less than 2% of their combined 080 call volume.

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<sup>4</sup> We set out a fuller history of the 0500 range in our October 2012 consultation – Section 2.

<sup>5</sup> The December 2013 NGCS statement is available at

<http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geo-no/final-statement>.

<sup>6</sup> Cable & Wireless Worldwide was acquired by Vodafone plc in July 2012.

<sup>7</sup> Available at <http://stakeholders.ofcom.org.uk/telecoms/numbering/guidance-tele-no/number-cop-closed>.

<sup>8</sup> Before 1998 all Freephone numbers were 10-digits long. After Oftel's reorganisation of numbering in April 2000, called Big Number Change, new Freephone number allocations became 11-digits long. But 0500 numbers remained 10-digits long.

(We discuss this in more detail in the market overview sub-section). These aspects of the range have prompted this separate review.

## Summary of previous publications

### October 2012 consultation

- 2.6 In the October 2012 consultation we set out our assessment of the options for the regulatory treatment of the 0500 range. The options we considered were:
- to maintain the status quo (Option 1);
  - to align 0500 with 080 as free-to-caller, but as a closed range, when 080 becomes free-to-caller (Option 2);
  - to re-open 0500 as a maximum mobile price ('MMP') range, such that a maximum price of zero applies to fixed-originated calls to 0500 numbers and a maximum price above zero for mobile-originated calls<sup>9</sup> (Option 3); and
  - to withdraw the range (Option 4).
- 2.7 Withdrawing the 0500 range (Option 4) was our preferred option because we concluded provisionally that, on balance, it offered the greatest net benefit: reducing consumer confusion, enhancing the clarity and simplicity of the new regime for Freephone (when the 080 range becomes free-to-caller) for the benefit of consumers and businesses, and rationalising the use of numbers in the National Telephone Numbering Plan ('Numbering Plan'),<sup>10</sup> thus promoting efficiency in the use of numbering resource. We therefore considered that this option would be more effective, appropriate and proportionate in meeting our policy objectives than the alternatives.
- 2.8 We favoured withdrawal over making 0500 free-to-caller in line with 080 (Option 2) because we considered that consumer recognition of and confidence in 0500 would remain relatively poor (even if this were to improve somewhat, it would probably still be significantly inferior to that of 080) and use of the range would continue to decline unless we were to promote its use. However, if we were to promote two free-to-caller ranges then we would risk weakening what should be a clear pricing message about 080 becoming free-to-caller and create the potential for consumer confusion between 0500 and 080. Therefore, we considered that Option 2 would not advance efficient and best use of telephone numbers.
- 2.9 For clarity, we noted in this consultation that we were assuming that our then-preferred proposal for 080, that calls to 080 numbers become free-to-caller, would be implemented; if we did not implement this proposal for 080 then we would review our proposal for 0500 to determine if it should be revised or subject to further analysis.
- 2.10 Our preferred timeframe for the withdrawal of 0500 numbers was two years following the publication of our decision confirming withdrawal.

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<sup>9</sup> This means that SPs do not need to pay a higher origination charge to mobile OCPs since any additional cost caused by mobile origination may be recouped by the mobile OCP from mobile callers via the retail price of such calls.

<sup>10</sup> The Numbering Plan is available at <http://stakeholders.ofcom.org.uk/telecoms/numbering/>.

## December 2013 NGCS statement

- 2.11 On 12 December 2013 we published a statement on the regulation of non-geographic call services ('NGCS') ('December 2013 NGCS statement') setting out our decisions with respect to the 080, 084, 087, 09, 116 and 118 non-geographic number ranges.<sup>11</sup>
- 2.12 This statement confirmed our decision to set a maximum retail price of zero for calls made by consumers, from all telephones, to the 080 and 116 number ranges.<sup>12</sup>
- 2.13 We said that we considered that making 080 and 116 numbers free-to-caller for consumers from all telephones would offer direct benefits to callers and organisations as well as being an important element in restoring trust in non-geographic numbers overall. The change would enable SPs on these ranges to advertise a clear message to consumers that calling these numbers is always free. This would encourage demand for services and improve consumer understanding of the ranges, as well as ensuring vulnerable consumers are not deterred from accessing socially important services provided on these ranges. We noted also that, given the high profile of the 080 number range, we expected this change to contribute significantly to our efforts to improve consumer confidence in non-geographic numbers in general.
- 2.14 We said that the new free-to-caller regime for calls to 080 numbers would take effect on 26 June 2015.

## December 2013 consultation

- 2.15 On the day we published the December 2013 NGCS statement, we also published a second consultation on the 0500 range ('December 2013 consultation'). Our purpose was to address concerns raised by stakeholders, in response to our October 2012 consultation, in relation to two specific aspects of our proposal to withdraw 0500: (i) the legal basis of our proposed withdrawal, and (ii) the implementation of this proposed withdrawal.
- 2.16 We noted that withdrawal remained the best option for the 0500 range in our judgement, but we set out a revised approach to the implementation of the proposed withdrawal in order to reduce the costs and disruption this would cause SPs.
- 2.17 Specifically, we proposed to open a sub-range within the 080 range to provide a migration path for SPs currently using 0500 numbers. Our intention was to reduce the harm to affected SPs from the 0500 range's withdrawal by making it possible for them to migrate their 0500 Freephone services to the much better-recognised 080 range. We sought stakeholders' views on which of two alternative migration paths they preferred, 080 50 or 080 85.
- 2.18 We also said that if we proceeded with a withdrawal of the 0500 range then we would allocate the entire replacement 080X sub-range (to be opened to enable migration) to Vodafone in order to minimise technical difficulties and costs to industry. But we would require Vodafone to replicate current 0500 porting arrangements for any replacement 080X numbers taken up by SPs wishing to migrate. We also proposed that any unused blocks of 10,000 numbers from the 080X sub-range would automatically revert to Ofcom at the end of the transition period.

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<sup>11</sup> The December 2013 NGCS statement is available at <http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geo-no/final-statement>.

<sup>12</sup> 116 numbers are Harmonised European Numbers for services of social value.



- 2.19 In this consultation we proposed a longer withdrawal period of 36 months, rather than 24 months, to give affected SPs more time to prepare for the withdrawal so as to reduce the costs and disruption to them caused by this withdrawal.
- 2.20 As a consequence of the measures proposed in this consultation, we considered that our revised approach to 0500's withdrawal amounted to a numbering reorganisation within the framework of Ofcom's duties and powers in relation to telephone numbering. Thus, we said we would rely on our power to withdraw allocated numbers for the purposes of a numbering reorganisation, set out in section 61(2)(c) of the Communications Act 2003 ('the Act'), for the proposed withdrawal of the 0500 range.

## Market overview

- 2.21 In the October 2012 consultation we set out data gathered from a number of sources which formed the evidentiary basis informing our assessment of the options for the future of the 0500 range.<sup>13</sup> We summarise this data below – while updating the data on the numbers of SPs using 0500 numbers and on 0500 call volume – before presenting stakeholders' comments on our analysis of this information and our response to these comments.

### SPs using 0500 numbers

- 2.22 We noted that, in the context of the UK market for non-geographic calls, the 0500 market was extremely small and in decline,<sup>14</sup> with less than [redacted] [redacted] of the range in use. Vodafone advised us that the number of SPs using 0500 numbers dropped from [redacted] [redacted] in 2007 to [redacted] [redacted] in June 2012, a drop of 19% – this includes those that have ported to other operators.<sup>15</sup> In other words, [redacted] [redacted] SPs left the 0500 range in the five years to 2012. Vodafone said that this data should be considered [redacted] [redacted].<sup>16</sup> Similarly, BT advised us that the number of 0500 SPs that it hosts dropped from [redacted] [redacted] in 2010 to [redacted] [redacted] in end-June 2012, a drop of 18%.<sup>17</sup>
- 2.23 Vodafone provided Ofcom with a list of several SPs on the 0500 range.<sup>18</sup> Only a very small proportion of these matched the description used by Ofcom of 'socially important services' in the April 2012 consultation on non-geographic call services ('April 2012 NGCS consultation').<sup>19</sup> While recognising the limitations of the sample size, we noted that if we were to treat the list from Vodafone as representative, it would suggest that about 4% of SPs on the 0500 range offered 'socially important services'. As part of our research into 0500 SPs we contacted a number of these 'socially important' SPs between June and August 2012. Some of them said they no

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<sup>13</sup> Section 3 of the October 2012 consultation.

<sup>14</sup> The 0500 range can, in theory, accommodate 10<sup>6</sup> (1 million) numbers but, as of October 2012, only [redacted] [redacted] numbers were recorded in Vodafone's Intelligent Network, the network routing system which is used to route calls to non-geographic numbers.

<sup>15</sup> Vodafone's 17 August 2012 response to Ofcom's 16 July 2012 s.135 information request.

<sup>16</sup> Email from Justin Hornby (Vodafone) to Samir Prakash (Ofcom), 11 September 2012. Vodafone informed us that "[redacted] [redacted]". In response to a formal information request from Ofcom in July 2012, Vodafone noted, with reference to the 0500 range: "[redacted] [redacted]". Ofcom's own survey of 35 SPs on the 0500 range revealed that a quarter were no longer using the range – see paragraph 2.33 below.

<sup>17</sup> BT's 27 July 2012 response to Ofcom's 16 July 2012 s.135 information request.

<sup>18</sup> Email from Justin Hornby (Vodafone) to Elizabeth Gannon (Ofcom), 17 January 2012.

<sup>19</sup> For example, health services such as GPs' surgeries, benefit payments services such as access to unemployment or invalidity services and state pensions, social care by the public and private sector – e.g. help lines such as the Samaritans and utilities (gas, electricity and water supply). For more information, see April 2012 NGCS consultation, Part A, paragraph 5.103, page 81.

longer used their 0500 numbers, which may suggest that the number of ‘socially important’ SPs actively using 0500 numbers may be lower than our 4% estimate.

2.24 In April 2014 Vodafone advised us that the number of SPs for whom it hosted 0500 numbers had dropped to [redacted] [redacted].<sup>20 21</sup> Similarly, in April 2014 BT advised us that the number of 0500 SPs it hosted had dropped to [redacted] [redacted] in 2013<sup>22</sup> (from [redacted] [redacted] in 2010). From the consolidated data available to us we conclude that the total number of SPs using 0500 numbers has continued to decrease significantly from June 2012 to end 2013.

## Call volume

2.25 In the October 2012 consultation we noted that the volume of calls to 0500 numbers has been low and is a very small percentage of the volume of calls to 080 numbers. Specifically, in 2010 and 2011 the volume of calls to 0500 numbers terminated by Vodafone represented no more than [redacted] [redacted] of the volume of calls it terminated to 080 numbers. At BT the equivalent figure was [redacted] [redacted].

2.26 We also noted that, on both the BT and Vodafone networks, 0500 was among the least likely non-geographic number ranges to be called by consumers. Almost all of this traffic resulted from calls to just a few dozen numbers. According to BT, call volume attributable to the top 30 0500 SPs that it hosted (selected by call volume) in 2011 was [redacted] [redacted].<sup>23</sup> The equivalent figure for Vodafone was [redacted] [redacted].<sup>24</sup> Therefore, a very large proportion of the total 0500 call volume was generated by calls to a very small number of SPs.

2.27 In April 2014 we obtained similar data from Vodafone and BT for 2012 and 2013.<sup>25</sup> Tables 2.1 and 2.2 present, in consolidated form, the data featured in our October 2012 consultation and the new data obtained.

**Table 2.1: Selected non-geographic call volumes terminated by Vodafone**

Vodafone		03	0500	080	0844/3	0845	0870	0871/2/3	09	118
Terminated call volume (millions of minutes)	2010	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
	2011	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
	2012	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
	2013	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

**Table 2.2: Selected non-geographic call volumes terminated by BT**

BT		03	0500	080	0844/3	0845	0870	0871/2/3	09	118
Call volume terminated (millions of minutes)	2010	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
	2011	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
	2012	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
	2013	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

<sup>20</sup> Vodafone’s 7 April 2014 response to Ofcom’s 11 March 2014 s.135 information request.

<sup>21</sup> [redacted] [redacted]

<sup>22</sup> BT’s 11 April 2014 response to Ofcom’s 11 March 2014 s.135 information request.

<sup>23</sup> BT’s 27 July 2012 response to Ofcom’s 16 July 2012 s.135 information request.

<sup>24</sup> Vodafone’s 17 August 2012 response to Ofcom’s 16 July 2012 s.135 information request. [redacted] [redacted]

<sup>25</sup> Vodafone’s 7 April 2014 response and BT’s 11 April 2014 response to Ofcom’s 11 March 2014 s.135 information request.

- 2.28 The newer data from 2012 and 2013 show again that 0500 call volumes remain very low and are a very small percentage of the volumes of calls to 080 numbers on both the Vodafone and BT networks. Specifically, we note that the total 0500 call volume terminated on both networks has been less than 1.5% of the 080 call volume terminated on them in each of 2010, 2011, 2012 and 2013.
- 2.29 The newer data also show that 19 SPs accounted for 90% of the 0500 call volume terminated in 2013 on the two networks that receive the largest volumes of 0500 calls. The 50 largest SPs (by volume of call minutes received) accounted for slightly more than 94% of the total 0500 call volume terminated on these two networks in 2013. In other words, it remains the case that a very large proportion of the total 0500 call volume is still generated by calls to a small number of SPs.

## Call prices

- 2.30 With respect to call prices for 0500 calls, we noted in the October 2012 consultation that while fixed-line OCPs do not charge for calls to Freephone numbers, most mobile OCPs did charge for such calls.<sup>26</sup> We were not aware of any SP on the 0500 range for which all or most mobile OCPs do not levy a charge for calls, i.e. where the SP has negotiated, directly or indirectly, to have those charges zero-rated. We noted that it was possible that some mobile OCPs charged calls to 0500 numbers differently from calls to 080 numbers; however, based on a sample of mobile tariffs examined in September 2012, we concluded that mobile OCPs price 0500 calls the same way they do 080 calls.
- 2.31 Table 2.3 presents current rates charged by major mobile OCPs for calls to 0500 numbers and, for comparison, to geographic numbers.

**Table 2.3: Current prices for 0500 and geographic calls for major mobile OCPs (ppm)**

Provider:	EE <sup>27</sup>		O2 <sup>28</sup>		Three <sup>29</sup>		Vodafone <sup>30</sup>	
For calls to:	Post-pay	Pre-pay	Post-pay	Pre-pay	Post-pay	Pre-pay	Post-pay	Pre-pay
Geographic numbers	35	30	40	35	20.4 / 25 / 35	3	40	30
0500 numbers	20	20	20.4	15 / 20	15.3	10.2 / 15.3	14	14

Source: Mobile OCPs' websites on 28 April 2014. These represent prices for new customers. There may be differences for customers on existing price plans. Exceptions apply in some cases.

## Consumer awareness

- 2.32 Consumer research commissioned by Ofcom in July 2012, and reported in the October 2012 consultation, pointed strongly to very poor consumer awareness and

<sup>26</sup> October 2012 consultation, paragraphs 3.20-3.22, page 17.

<sup>27</sup> EE call prices (reviewed 28 April 2014): <http://ee.co.uk/help/add-ons-benefits-and-plans/price-and-plans-and-costs/ee-price-plans/pay-monthly/sim-only-price-plan-brochures> and <http://ee.co.uk/help/add-ons-benefits-and-plans/price-and-plans-and-costs/ee-price-plans/pay-as-you-go/ee-pay-as-you-go-price-plans>.

<sup>28</sup> O2 call prices (reviewed 28 April 2014): <http://www.o2.co.uk/help/everything-else/special-numbers>.

<sup>29</sup> Three call prices (reviewed 28 April 2014): [http://www.three.co.uk/\\_standalone/Link\\_Document?content\\_aid=1214305748126](http://www.three.co.uk/_standalone/Link_Document?content_aid=1214305748126).

<sup>30</sup> Vodafone call prices (reviewed 28 April 2014): <https://www.vodafone.co.uk/shop/pay-monthly/call-charges/index.htm> and <http://www.vodafone.co.uk/shop/pay-as-you-go/call-charges/>.

understanding of the 0500 range – both in absolute terms and compared to most other non-geographic number ranges.<sup>31</sup> The relevant findings we noted were:

- 2.32.1 Fifteen percent of telephone users claimed to be aware of numbers starting with 0500. However, only 25% of those who said they were aware of 0500 numbers identified them as Freephone. Therefore, overall 4% of telephone users were aware of and understood that 0500 numbers were Freephone.
- 2.32.2 This level of claimed awareness was significantly lower than that for other number ranges. For example, 57% of consumers claimed to be aware of 080 numbers and 36% of 01 and 02 (geographic numbers). 75% of telephone users either said they had not heard of 0500 numbers or felt unable to give an opinion on how expensive or inexpensive it was to call a 0500 number. By contrast, only 23% said this for the price of calling 0800 numbers.
- 2.32.3 Only 6% said they knew how much it costs to call 0500 numbers (though this does not imply their perception was correct); for 0800, 55% said so.

### **SPs' use and needs**

2.33 In the October 2012 consultation we provided our findings from our interviews with a sample of 35 SPs with 0500 numbers.<sup>32</sup> We noted that these SPs were drawn from a diverse set of industries (including financial services, consumer goods, industrial products and 'socially useful' charities) and a range of organisational sizes (from under 100 staff to over 10,000). We also noted that we contacted a majority of those SPs who collectively accounted for a majority of 0500 call volumes.<sup>33</sup> Our aim was to understand their use of 0500 numbers, the importance of these numbers to their operations and their views on the options we were considering for 0500 numbers. Our main findings were:

- 2.33.1 Over a quarter of these SPs said they no longer operated 0500 numbers. The remaining findings were, therefore, based on those SPs who responded to our questions.
- 2.33.2 Most of these SPs advised us that incoming call volumes on their 0500 numbers were very small compared to their other telephone numbers. The majority said they have more 080 numbers and/or other non-geographic numbers than they do 0500 numbers.
- 2.33.3 The SPs said that the most important feature of 0500 numbers was that they were free to callers (landline callers at least). Most said that they were aware that 080 numbers were better recognised as Freephone by the public and the main reason they continued to operate their 0500 numbers was that they have had their 0500 numbers for a long time and had not experienced an immediate need to change them. A few SPs indicated that they were considering giving up their 0500 numbers within a year.

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<sup>31</sup> A sample of 2,219 16+ adults was interviewed in the UK. Of these, 2,144 said they used a mobile telephone or had a landline telephone within their homes (97% of the overall sample). These respondents constituted the standard base of the research and are referred to as 'telephone users' in the report of the survey, which was published at the same time as the October 2012 consultation and is available at: <http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/omnibus-survey2012.pdf>.

<sup>32</sup> October 2012 consultation, paragraphs 3.16-3.19, pages 14-16.

<sup>33</sup> Based on 0500 call volume data for 2011 provided by Vodafone and BT.

2.33.4 Some SPs said they offer their callers a geographic number alternative, which would fall within free call bundles offered to mobile users unlike current Freephone numbers. This is because, these SPs said, their callers believed SPs were profiting through charges paid by consumers for calling their Freephone numbers from mobiles. Almost all these SPs said that the fact that present-day Freephone was not free to all callers, particularly mobile callers, was a significant weakness in the UK's Freephone system. These SPs said they would welcome intervention to make Freephone simpler, clearer and truly free because that would reduce consumer suspicion – and such a change would be positive for their businesses.

2.34 With regard to our options for reforming 0500, we noted the following:<sup>34</sup>

- i) **Making 0500 free-to-caller:** Most SPs we asked favoured making the range free to all callers, as we had then proposed for 080. This view remained the case if the cost to SPs increased by up to 2ppm with the free-to-caller option. They said they wanted to keep services they offered on 0500 numbers as free as possible; i.e. if 0500 were made free to all callers they would maintain their 0500 numbers, primarily because “doing nothing” in that scenario was the simplest option.
- ii) **Making 0500 an MMP range:** Only one SP supported this option. MMP was perceived as too complex to explain and communicate to consumers; it would also carry the risk of diluting or confusing the message about the simplification of the 080 range. A few SPs said there was a risk that an MMP 0500 range would be perceived as an inferior form of Freephone, or a different type of Freephone, and this could raise consumer suspicion about Freephone numbers generally.
- iii) **Withdrawing the 0500 range:** The SPs we spoke to were not resistant to the 0500 range being withdrawn in principle provided:
  - o they were given adequate time to prepare for the change: to enable them to inform customers and business partners, amend their literature and websites, etc.; and
  - o the transition away from 0500 numbers was carried out in a way which minimised disruption to their incoming calls: e.g. by setting up auto-redirects or caller announcements on their expiring 0500 numbers so that callers were re-directed to their active/live numbers.

Almost all these SPs agreed that disruption would be significantly mitigated by a longer transition period, i.e. two years or longer. If 0500 numbers were withdrawn, most said they would migrate their services to 080 numbers, either 080 numbers they already operated, or new ones.

2.35 We said we drew the following provisional conclusions from this evidence:<sup>35</sup>

2.35.1 SPs on the 0500 range interviewed consider the current Freephone brand flawed (because most Freephone numbers are not free for mobile callers) and welcome reform of the Freephone system as a whole so that consumers have clarity and confidence about which numbers are genuinely free and what charges they will pay. This reinforces our view that

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<sup>34</sup> October 2012 consultation, paragraph 3.18, pages 15-16.

<sup>35</sup> October 2012 consultation, paragraph 3.19, page 16.

simplification and transparency are strongly desired, not only by consumers but also by SPs.

- 2.35.2 There appears to be negligible demand among 0500 SPs to set up 0500 as an MMP alternative to an 080 range that is free to all callers. Some SPs said most consumers would find this too confusing. This suggests a lack of SP demand for a new type of range (MMP).
- 2.35.3 While keeping 0500 identical to 080 was seen as the easiest option (only call charges for SPs would change; SPs would not necessarily have to do anything to maintain their numbers and services), SPs on the range were broadly indifferent to the range being withdrawn, as long as it could be done in a way that would minimise disruption to their business operations. This suggests that for 0500 SPs what is important is that their callers can continue to call them for free, not their 0500 numbers in themselves.
- 2.35.4 Almost all these SPs said they wanted their services to be free to all callers regardless of whether they were able to preserve their 0500 numbers. This reinforces the inference above.

### Stakeholders' comments<sup>36</sup>

- 2.36 BT said that the low use of the 0500 range was due to the range's closure rather than a lack of SP interest.<sup>37</sup> It said that low use was also true of the 03 range and the observation that a large volume of calls is generated by a small number of SPs was not unique to 0500.
- 2.37 BT commented that low consumer awareness was also the case for the 03, 0844, 0871 and 09 ranges; Ofcom had not shown why this issue was critical for 0500.

### Ofcom's response

- 2.38 In response to BT's first point above, we note that while the 0500 range's closure in 1997/98 may explain why the number of SPs on the range could not increase after then, it does not explain why this number *decreased* by 19% between 2007 and 2012 and has continued to decline significantly in the 18 months from June 2012 to end-2013 as noted earlier in paragraph 2.24. Based on the consolidated evidence from 2007 to end-2013, we conclude that the number of SPs with 0500 allocations is continuing to decline significantly. Also, as noted in paragraph 2.33.3, SPs who still use 0500 numbers told us that they do so primarily for legacy reasons. They recognise that 080 numbers are much better recognised.
- 2.39 We do not agree with the analogy drawn by BT between 0500 and the 03 range with respect to call volume, or SPs' use. Although 03 numbers were introduced relatively recently (2007), 03 call volume has grown significantly since then.<sup>38</sup> As noted in the previous paragraph, the number of SPs using 0500 numbers is already very significantly down from 2007. Fewer than 30 SPs account for more than 90% of the 0500 range's call volume; most of these SPs operate many more non-0500 numbers than they do 0500 numbers, and they have little incentive to favour their 0500

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<sup>36</sup> Stakeholders' non-confidential responses to the October 2012 consultation are available at <http://stakeholders.ofcom.org.uk/consultations/0500-number-range/?showResponses=true>.

<sup>37</sup> BT response dated 8 January 2013, page 4.

<sup>38</sup> See Tables 2.1 and 2.2.



numbers over their 080 numbers given the much better recognition of the latter among their customers.

- 2.40 We agree that low consumer awareness applies to some other non-geographic ranges, but this does not itself mean we take an identical approach to the regulation of each of these ranges. Whereas these other non-geographic ranges (e.g. 03) have distinct identities and purposes, the 0500 range serves no distinct purpose today.

## Impact assessment

- 2.41 The analysis and evidence presented in the October 2012 consultation and the December 2013 consultation represent an impact assessment of our decision to withdraw 0500 telephone numbers from use. This statement sets out our final decision, having taken into account all representations on that impact assessment.
- 2.42 Annex 6 of the October 2012 consultation noted that we had conducted an equality impact assessment ('EIA') as part of our April 2012 NGCS consultation<sup>39</sup> and that we did not consider that our proposal for 0500 differed significantly in its impact from those set out in our April 2012 NGCS consultation. In particular, we said that we did not consider that any equality group would be specifically negatively impacted by our 0500 proposal, which would have a positive impact on equality groups overall. In the April 2013 NGCS policy position we included a revised EIA in relation to the decisions we proposed (in that document) to take.<sup>40</sup> In the revised EIA, we remained of the view that the benefits of the changes we proposed in that document would apply equally to all consumers but that there may be some particular benefits for vulnerable consumers due to their greater reliance on social services and the higher preponderance of mobile-only households.<sup>41</sup> We also remained of the view that no particular equality group would be negatively impacted by the decisions to introduce the unbundled tariff and make the 080/116 ranges free-to-caller.<sup>42</sup> None of that analysis, or evidence/reasoning submitted to us during the 0500 consultations, leads us to conclude that our assessment of the impact of the 0500 range's withdrawal in relation to equality groups needs to be changed. In particular, we note that (i) we received no evidence or reasoning to suggest that socially important services would be disproportionately affected by our proposal; (ii) we said in October 2012 that we expected no impact on the tariffs for other number ranges as a result of 0500's proposed withdrawal, and no respondent contested this assessment, and (iii) our limited direct survey of 0500 SPs suggested that the majority of them would migrate their services to 080 numbers – no SP said it would terminate its phone service as a result of 0500's withdrawal.
- 2.43 Therefore, we remain of the view that no equality group would be specifically negatively impacted by the withdrawal of the 0500 range, which will have a positive impact on equality groups overall, and we consider that our EIA conclusions of October 2012 in relation to 0500's proposed withdrawal remain valid.

## Ofcom's duties and powers in relation to numbering

- 2.44 Our duties and powers in relation to telephone numbering are set out in sections 56-63 of the Act.

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<sup>39</sup> Presented in Annex 15 to the April 2012 NGCS consultation.

<sup>40</sup> Presented in Annex 12 to the April 2013 NGCS policy position.

<sup>41</sup> Paragraph A12.16, Annex 12, April 2013 NGCS policy position.

<sup>42</sup> Paragraph A12.17, Annex 12, April 2013 NGCS policy position.

2.45 These include:

- section 56: Ofcom’s duty to publish the Numbering Plan setting out the numbers which Ofcom has determined should be available for allocation as telephone numbers;
- section 58: the General Conditions that Ofcom may make in relation to the allocation and adoption of telephone numbers. These include general conditions which “impose tariff principles and maximum prices for the purpose of protecting consumers in relation to the provision of an electronic communications service by means of telephone numbers...”,<sup>43</sup>
- section 61: Ofcom’s power to withdraw telephone numbers it has allocated in certain, specified cases. The cases in which a withdrawal is authorised are listed in section 61(2) and are:
  - where the person allocated the numbers consents to the withdrawal;<sup>44</sup>
  - the withdrawal is made for the purposes of a transfer of the allocation required by numbering conditions;<sup>45</sup>
  - the withdrawal is made for the purposes of a numbering reorganisation applicable to a particular series of telephone numbers;<sup>46</sup>
  - the withdrawal is made in circumstances specified in the numbering conditions and for the purpose of securing that what appears to Ofcom to be the best and most efficient use is made of the numbers and other data that are appropriate for use as telephone numbers;<sup>47</sup>
  - the allocated numbers have not been adopted during such period after their allocation as may be specified in the numbering conditions;<sup>48</sup>
  - the allocated numbers comprise a series of numbers which have not to a significant extent been adopted or used during such period as may be so specified.<sup>49</sup>
- section 62: Ofcom’s specific powers to withdraw an allocation for the purposes of a numbering reorganisation that is applicable to a particular series of telephone numbers; and
- section 63: Ofcom’s general duty in carrying out its functions under sections 56-62 to secure what it considers to be the best use of numbers and to encourage efficiency and innovation for that purpose.

2.46 The General Conditions that have been set by Ofcom and which relate specifically to the use of telephone numbers, including 0500, include:

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<sup>43</sup> Section 58(1)(aa) of the Act.

<sup>44</sup> Section 61(2)(a) of the Act.

<sup>45</sup> Section 61(2)(b) of the Act

<sup>46</sup> Section 61(2)(c) of the Act.

<sup>47</sup> Section 61(2)(d) of the Act.

<sup>48</sup> Section 61(2)(e) of the Act.

<sup>49</sup> Section 61(2)(f) of the Act.



- General Condition 14, which imposes obligations in relation to the publication of information in relation to charges for calls to certain numbers;
- General Condition 17, which imposes requirements in relation to allocation, adoption and use of telephone numbers; and
- General Condition 20, which requires communications providers to ensure, where technically and economically feasible, that end-users can access European non-geographic numbers.

2.47 As noted above, the Numbering Plan sets out the numbers which Ofcom has determined should be available for allocation as telephone numbers. The 0500 series of numbers are no longer available for allocation and are listed as such in Part C of the Numbering Plan. 0500 numbers are designated as being free to call, unless the caller is notified of charges at the start of the call.

## Section 3

# Decision

## Policy objectives and analytical framework

### Summary of Ofcom's position (October 2012 consultation)

- 3.1 Section 5 of the October 2012 consultation presented our assessment of the options available for the 0500 range. We began by recalling our policy objectives in the wider context of our work on reviewing the NGCS market:<sup>50</sup> “simplifying the non-geographic number ranges, making the pricing structures clearer to consumers and removing confusing and misleading inconsistencies”. We said that an aim of our NGCS review was to make the pricing of calls to such numbers more intuitive for consumers. This means having number ranges which reflect well-defined purposes (that is, being for use for services for which there is demand), and that numbers are as clear and easily understandable to consumers as reasonably possible. We said we wanted to reduce the potential for confusion created by (i) similar-looking number ranges operating services with different price structures, and, conversely, (ii) different-looking ranges not having a distinct identity, in terms of purpose and/or price.
- 3.2 We recalled the evidence set out in section 15 of the April 2012 NGCS consultation – specific to the Freephone ranges (i.e. 080 and 0500) – of the consumer harm that we considered affected those ranges. In particular, we identified three market failures:<sup>51</sup>
- low consumer price awareness;
  - vertical externality,<sup>52</sup> and
  - horizontal externality.<sup>53</sup>
- 3.3 We said that we were concerned that these three market failures were leading to four adverse impacts, specifically:<sup>54</sup>
- reduction in demand;
  - prices not reflecting consumer preferences;
  - loss of access to socially important services; and
  - diminished service availability and SP innovation.

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<sup>50</sup> October 2012 consultation, paragraphs 5.4-5.5, pages 22-23.

<sup>51</sup> October 2012 consultation, paragraph 5.6, page 23.

<sup>52</sup> By this we meant that OCPs are not sufficiently motivated by the preferences of SPs and therefore do not take into account the impact of their call pricing decisions on these SPs when setting their retail prices.

<sup>53</sup> By this we meant that individual OCPs and SPs do not have an incentive to take into account the impact of their pricing on the reputation/brand of the number range, or on non-geographic numbers as a whole. For example, mobile OCPs are unlikely to take into account the impact their pricing behaviour has on consumers' perceptions of the price for calling the same number range from a fixed line.

<sup>54</sup> October 2012 consultation, paragraphs 5.7, page 23.

3.4 We then set out the criteria by which we proposed to assess each option for 0500.<sup>55</sup> To ensure a consistent analytical approach across our consideration of non-geographic number ranges, we used the same criteria for 0500 as we had used (in the April 2012 NGCS consultation) for other non-geographic number ranges. These criteria were informed by the adverse impacts described above:

- consumer price awareness;
- efficient prices;
- service quality, variety and innovation;
- access to socially important services; and
- regulatory burden.

Additionally, given the unique history of the 0500 range as well as our policy objectives, we applied two additional criteria:

- the impact of the option for 0500 on our preferred choice for the 080 range (namely, making 080 free-to-caller), and
- efficiency and best use in relation to telephone numbers.

3.5 The four options for the 0500 range that we assessed were:

- Option 1: Maintain the status quo for 0500;
- Option 2: Make 0500 a free-to-caller range;
- Option 3: Reopen 0500 as an MMP range; and
- Option 4: Withdraw the 0500 range.

3.6 The December 2013 consultation did not revise our policy objectives for the 0500 range or the analytical framework used to assess these four policy options.

### **Stakeholders' comments<sup>56</sup>**

3.7 Vodafone said it questioned the application of the two additional criteria as “apparent tie-breakers” in the process to determine whether 0500 should be made free-to-caller or withdrawn.<sup>57</sup> While it said it was not suggesting that Ofcom was mistaken to include these assessments, it considered that Ofcom should have considered the “validity” of withdrawal first before arriving at a preference to withdraw the range.

3.8 EE said that Ofcom’s framing of the first additional criterion “inappropriately locks-in the predetermined choice on [the] 080 [range]”.<sup>58</sup> EE was opposed to Ofcom’s preference, at that point, for making 080 free-to-caller. EE argued that this criterion should have been framed as “choices made for both ranges should, together, lean to

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<sup>55</sup> October 2012 consultation, paragraphs 5.9-5.11, pages 23-24.

<sup>56</sup> Stakeholders’ non-confidential responses to the October 2012 consultation are available at <http://stakeholders.ofcom.org.uk/consultations/0500-number-range/?showResponses=true>.

<sup>57</sup> Vodafone response dated 3 January 2013, page 2.

<sup>58</sup> EE response dated 13 January 2013, page 7.

the best possible outcome for consumers and SPs". EE also disagreed with our application of the "efficiency and best use of telephone numbers" criterion because, it said, Ofcom had not put forward any evidence that there was a pressing demand for 0500 numbers for any alternative purpose. EE argued that as long as competing services had access to telephone numbers, the issue of efficient use of numbers was not relevant to consumers.

- 3.9 BT said it agreed with the first additional criterion used but did not consider the second appropriate because (i) there was no specific circumstance that justified applying it "uniquely" to 0500 and (ii) 0500 was not the only range with low use.<sup>59</sup>
- 3.10 [redacted] [redacted]<sup>60</sup>
- 3.11 The Federation of Communication Services ('FCS') said that the criteria used were "appropriate and comprehensive", and it supported the use of the additional criteria.<sup>61</sup>
- 3.12 [redacted] [redacted] said the section was "far too wordy" to fully understand the assessment criteria used.<sup>62</sup> Citizens Advice (CAB) agreed with Ofcom's assessment.<sup>63</sup> NetTek<sup>64</sup> and SLA Consultants<sup>65</sup> also agreed with the criteria used. An individual respondent said he disagreed with the criteria used but did not elaborate.<sup>66</sup>

### Ofcom's response

- 3.13 We remain of the view that the two additional criteria are appropriate to the consideration of options for 0500 for the reasons provided in the paragraphs following. We do not consider that the analytical framework used to assess options for the 0500 range was unsound or defective.
- 3.14 080 is evidently the primary Freephone range today, hosting many more SPs and carrying a much larger call volume than 0500.<sup>67</sup> We identified significant consumer harm in the 080 range, which our decision to make that range free-to-caller was designed to address. The purpose of our NGCS reforms is to improve consumer understanding of and trust in the non-geographic ranges generally and, therefore, we are concerned to ensure that our decision in relation to 0500 does not risk complicating or diluting for consumers the implementation of the decision to make 080 calls free.<sup>68</sup> Given the substantial work Ofcom has already done on understanding the problems linked to the 080 range and in determining that making 080 free-to-caller would best address these problems, for us not to consider how our subsequent decision on 0500 would impact on 080 would be illogical and unsound – particularly if there were any risk that the 0500 decision could compromise our work on the 080 range. We disagree with the view that considering the impact of our 0500 policy on the 080 range was inappropriate.

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<sup>59</sup> BT response dated 8 January 2013, page 11.

<sup>60</sup> [redacted] [redacted]

<sup>61</sup> FCS response dated 7 January 2013, pages 2-3.

<sup>62</sup> [redacted] [redacted] response dated 20 December 2012.

<sup>63</sup> CAB response dated 8 January 2013, page 2.

<sup>64</sup> NetTek response dated 25 October 2012.

<sup>65</sup> SLA Consultants response dated 23 October 2012.

<sup>66</sup> [Name Withheld 2] response dated 7 December 2012.

<sup>67</sup> Tables 2.1 and 2.3 allow 080 and 0500 call volumes on the Vodafone and BT networks to be compared for the last four calendar years.

<sup>68</sup> A key part of the implementation of our reform of NGCS will be a communication campaign in 2015 for the benefit of consumers which explains these changes to them.

- 3.15 With respect to the second additional criterion, we note that our duty to secure efficiency and best use in relation to telephone numbers is an ongoing one under section 63 of the Act. All of our decisions in relation to numbering are intended to achieve this objective and explicitly have regard to it. In this case, we also used it as a specific criterion for evaluating the options available. This is appropriate for 0500 because of the range's declining use, closed status and lack of distinct rationale. We have not excluded the use of this criterion, among others, to assess options for other low-use number ranges in future.

### **Consumer awareness of 0500 and the impact of the option for 0500 on our change to 080**

- 3.16 In their responses to our consultations on the 0500 range, some stakeholders questioned our analysis of how poor consumer awareness of 0500 numbers and prices could lead to consumer confusion/harm in the context of 080 numbers becoming free-to-caller. Stakeholders' comments to this effect have been set out below in our discussion of the options for 0500. As this particular issue appears repeatedly in the discussion of Options 1, 2 and 4, we first set out our assessment of this issue before discussing aspects that are specific to each option in the following sub-sections.
- 3.17 As noted above at paragraph 3.1, an overarching policy objective of our work on NGCS has been to make "the pricing structures clearer to consumers" and "removing confusing and misleading inconsistencies". We want telephone numbers to be as clear and easily understandable to consumers as reasonably possible.
- 3.18 In paragraph 2.32 we have summarised the findings of the July 2012 consumer research, commissioned by Ofcom, which identified that consumer awareness of 0500 numbers and call prices is (i) very poor in absolute terms and (ii) much worse than that for 0800 numbers and call prices in comparative terms.<sup>69</sup> From this we inferred that very few consumers presently recognise 0500 numbers as Freephone.
- 3.19 The primary adverse impact that flows from poor consumer awareness of 0500 numbers and prices is that of reduced demand for 0500 calls because consumers are deterred from calling numbers if they are uncertain of the price of such calls. This adverse impact – considered in detail in relation to non-geographic numbers more generally in some of our recent NGCS publications<sup>70</sup> – depresses demand for services carried on such numbers and is not dependent on the price of such calls. Further, we consider there is another adverse impact: the existence of number ranges with poor consumer awareness such as 0500 may have a negative effect on consumers' perception of NGCS as a whole as it may lead them to believe that the non-geographic system includes a number of unknowns or unclear elements.
- 3.20 Notwithstanding this general spillover effect between consumers' poor awareness of 0500 pricing and the NGCS system as a whole, we do not consider there exists at present specific consumer confusion between 080 and 0500 numbers. This is primarily because very few consumers appear to recognise 0500 numbers as Freephone. Though we recognise that consumers who regularly call 0500 numbers are likely to be aware that these are Freephone numbers, these consumers are likely to comparatively few in number.

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<sup>69</sup> These findings were set out in section 3 of the October 2012 consultation.

<sup>70</sup> For example: April 2013 NGCS 'policy position', paragraphs 4.16-4.19, pages 38-39 and Annex 8 (Retail Concerns) of the same document.

- 3.21 If the designation of 0500 numbers was left unchanged *after* 080 numbers become free-to-caller (Option 1) then the consumer confusion that could arise, when 080 becomes free-to-caller, would relate to *those* callers who use 0500 numbers and recognise them as Freephone; they may be confused by a change which breaks 0500's historic link with 080.<sup>71</sup> However, as this group of callers is small, there is a limited risk of this undermining confidence in 080.
- 3.22 If we were to designate 0500 as free-to-caller (Option 2) then this would be a change to the status of the range which we would need to explain to consumers. But promotion of the 0500 range along with that of the change to 080 would create potential for consumer confusion.
- 3.23 First: there would remain a significant risk of comparatively low consumer understanding of 0500 in the longer term (despite our promotion of it as a free-to-caller range) because, unlike 080, 0500 would remain a closed range with very low call volume. Thus, it would not benefit from the improved consumer awareness and understanding that follow from repeated or frequent use, as is the case with more commonly used number ranges.
- 3.24 Second: there is likely to be a direct and unhelpful impact on the 080 range at a time when we are trying to explain its change to free-to-caller status to consumers. Evidence suggests that consumers expect similar-looking ranges to be similar in pricing and purpose, and vice-versa,<sup>72</sup> and consumers perceive a difference at the second digit (e.g. 080 and 0500). This concern is reinforced by the finding we reported in the October 2012 consultation:<sup>73</sup> although only 4% of callers correctly identified 0500 as Freephone, 12% of the total sample surveyed thought that 0500 prices would be the same as 0800 prices; 34% of callers thought that 0500 calls would be more expensive than 0800 calls. This instance of callers expecting different prices based only on the different appearance of number ranges suggests that, despite the overwhelming majority of callers not knowing the prices of 0500 calls, more callers thought or believed that they would be different from the prices of 0800 calls than thought they would be the same. We therefore consider it counterintuitive – and unhelpful for consumers – to have two number ranges that are dissimilar at the second digit but identically priced. If we were to promote 0500 as a free-to-caller range when we are also promoting 080 as free-to-caller, the vast majority of consumers who do not recognise 0500 numbers may wonder why two number ranges that are dissimilar in appearance are serving an identical purpose, and be left confused or suspicious. The net effect of communicating multiple changes to consumers at the same time, when one of those changes is counterintuitive for most consumers (as our evidence indicates), may harm their collective reception or acceptance by consumers. As noted earlier, one criterion of our assessment of options for 0500 is that the option not imperil or adversely affect our reform of 080.

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<sup>71</sup> We noted this in our October 2012 consultation (paragraph 5.16, page 25).

<sup>72</sup> See April 2012 NGCS consultation, Annex 8, paragraphs A8.197-A8.224, pages 44-51 where we discussed evidence that customers are not able to distinguish clearly between number ranges with subtle differences in appearance but significant differences in price. For example, we found (paragraph A8.212) that where callers do not know the prices of calling particular numbers, it seemed plausible that they made inferences from the prices of numbers with a similar prefix. Stakeholders also provided examples of incorrect inferences made by callers due to similarity between numbers at the second digit. We said (paragraph A8.222) that we considered that callers were likely to infer the price of calls to one set of non-geographic numbers based on their knowledge or expectations of the price of calls to some other non-geographic numbers (e.g. those with the same first or first two digits).

<sup>73</sup> October 2012 consultation, paragraph 3.14, pages 12-13.

- 3.25 We note that the consumer confusion we have identified under Option 2 would result from our promotion of 0500 as a free-to-caller range; therefore, it might be argued that this risk of confusion could be avoided if we did not actively promote the new designation for 0500 numbers. However, we consider it inappropriate to maintain a numbering system where we rely on lack of consumer awareness and lack of use to minimise harm. This is also contrary to our policy objectives for NGCS, as set out earlier. Our view is that we should either promote a range to ensure that consumers are able to understand the purpose and pricing of the range (even if we choose not to open it to new applicants) or, if we do not consider that most consumers are likely to recognise and understand a number range then we should consider whether that range is worth preserving. We note again in this respect that an objective of our wider NGCS review is to make the entire non-geographic numbering system clearer and more intuitive for consumers.
- 3.26 If we were to modify the 0500 range to adopt a MMP structure (Option 3), while 080 numbers become free-to-caller, then this is unlikely by itself to lead to significant consumer confusion because very few consumers appear to understand 0500 numbers today. However, those consumers who use 0500 numbers and recognise them as Freephone may be confused by a change which breaks 0500's historic link with 080.<sup>74</sup> Also, reopening the 0500 range to new allocations would increase the scope of this confusion as we would need to promote the range to consumers and explain the change. We consider this confusion is likely to be less than if we were to make 0500 free-to-caller along with 080 (because then our message would be contrary to most callers' intuition and expectation – see paragraph 3.24).
- 3.27 If the 0500 range were withdrawn then the scope for confusion between 0500 and 080 numbers would naturally be eliminated.<sup>75</sup> Callers would not face two number ranges identical in purpose but different in appearance (as they would under Option 2, if we were to make the 0500 range free-to-caller). While the majority of callers today, who do not recognise 0500 numbers, would not be affected in terms of their awareness of 0500 and 080 numbers, those callers who do recognise 0500 as Freephone today would be able to associate free-to-caller more clearly with 080.

## Option 1: Maintain the status quo for 0500

### Summary of our provisional assessment<sup>76</sup>

- 3.28 Under this option the 0500 range would stay as it is today. The range would remain closed and calls to 0500 numbers would continue to be free except where charges are notified to callers at the start of the call, as is done by most mobile OCPs today. Subject to this requirement, OCPs would remain free to set whatever price they wish.
- 3.29 We noted in the October 2012 consultation that the advantage of this option would be that, as no feature of the range would change, SPs and CPs would need to do nothing *in response* to our decision to keep the status quo to maintain their services. Thus, this option would not create regulatory burden.
- 3.30 However, we also noted that this option had several disadvantages:
- it would not address our price transparency concerns, i.e. consumer price awareness in relation to calls to 0500 numbers would remain very poor;

<sup>74</sup> We noted this in our October 2012 consultation (paragraph 5.64(ii), page 35).

<sup>75</sup> We noted this in our October 2012 consultation (paragraph 5.84, page 39).

<sup>76</sup> October 2012 consultation, paragraphs 5.25-5.29, pages 27-28.

- the vertical and horizontal externalities<sup>77</sup> would not be addressed, therefore efficient prices would not result;
  - the number of service providers and services on the range would remain limited and may decrease, thus service quality, variety and innovation, and access to socially important services would not improve and may worsen slightly; and
  - as the range would not re-open, it would remain under-utilised; this would not represent efficiency and best use in relation to telephone numbers.
- 3.31 We also said that if we went ahead with our proposal to make the 080 range free-to-caller (which we did in December 2013), there would be a risk of creating additional consumer confusion by the existence of a number range which previously was the same as 080 but subsequently would be treated differently. This confusion could potentially dilute the impact of our message for 080 – although we recognised it was only likely to do so for the small group of consumers who make 0500 calls and/or have awareness of the 0500 range as being Freephone. Therefore, we did not expect significant impact from this option on our preferred choice for 080.
- 3.32 More broadly, this option would contradict our goal of simplifying non-geographic ranges by effectively creating a distinct type of non-geographic range. It would create an additional communication and explanation challenge which could potentially dilute or complicate our message about simplifying the non-geographic ranges.
- 3.33 We also noted that the sample of 0500 SPs we spoke to did not favour this option. Also, the findings of our earlier survey of SPs on the 080 range<sup>78</sup> reinforced our inference that most SPs want Freephone to mean free-to-caller and the differential pricing of fixed and mobile calls is seen by them as disadvantageous to their needs.
- 3.34 For these reasons, we did not consider that maintaining the status quo would satisfy our policy objectives for the 0500 range or for our goal of simplifying non-geographic number ranges to improve consumer confidence.

### **Stakeholders' comments<sup>79</sup>**

- 3.35 Vodafone said that continuing the status quo for 0500 was not a “realistic” option, given Ofcom’s proposal to make 080 free-to-caller.<sup>80</sup>
- 3.36 BT agreed with our assessment of Option 1, noting that it would not address all the issues we had identified and would “unjustifiably” break the link with 080.<sup>81</sup>

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<sup>77</sup> We noted that the pricing of 0500 calls does not address the vertical externality effect, whereby OCPs set prices without taking due account of SP preferences. This would remain if we maintain the status quo. The horizontal externality effect – whereby consumers’ perceptions of the price for calling a number range from a fixed line are adversely affected by the higher prices charged by mobile operators for calls to that range – would also not be addressed by the status quo option. As this option would not change the range at all, and in particular would not improve price awareness, we would not anticipate improvement in the efficiency of 0500 call prices.

<sup>78</sup> October 2012 consultation, paragraphs 3.15.3-3.15.7, pages 13-14.

<sup>79</sup> Stakeholders’ non-confidential responses to the October 2012 consultation are available at <http://stakeholders.ofcom.org.uk/consultations/0500-number-range/?showResponses=true> and non-confidential responses to the December 2013 consultation are available at <http://stakeholders.ofcom.org.uk/consultations/re-consultation-0500-freephone/?showResponses=true>.

<sup>80</sup> Vodafone response dated 3 January 2013, page 1.



- 3.37 EE said it disagreed with our assessment of the impact on 080 of this choice for 0500 because it considered that there was limited scope for consumer confusion between 080 and 0500, “regardless of the relative size of the 0500 range”, because the 0500 range was “not associated as a Freephone range by consumers” as it differs in its first two digits from the 080 range, which provides an easy distinguishing feature.<sup>82</sup> However, EE agreed that retaining a closed number range would not be an efficient use of numbering resource.
- 3.38 Citizens Advice (‘CAB’) said Options 1 and 3 were the “least desirable” because confusion would result for consumers from there being a “second Freephone number range” which would cost to call from mobiles while 080 numbers did not.<sup>83</sup> Also, 0500’s continued existence would complicate the communication of the changes to the 080 range to consumers at large. CAB also said that it was concerned that migration to the 0500 range in response to 080 becoming free-to-caller would undermine the effectiveness of making 080 numbers free from mobiles.

### **Our response**

- 3.39 We acknowledge EE’s comment. As noted above in paragraph 3.31, we recognised in our October 2012 consultation that scope for confusion between 080 and 0500 under this option would be limited to the callers who make 0500 calls and/or have awareness of the 0500 range as being Freephone.

### **Final assessment**

- 3.40 For the reasons summarised in paragraphs 3.30-3.33 (and set out in more detail in paragraphs 5.15-5.29 of the October 2012 consultation), our assessment remains that maintaining the status quo would not advance our policy objectives for the 0500 range or, more broadly, for simplifying non-geographic numbering. Stakeholders who commented directly on Option 1 agreed with us.

## **Option 2: Make 0500 a free-to-caller range**

### **Summary of our provisional assessment<sup>84</sup>**

- 3.41 Under this option a maximum retail price of zero would be set for calls to 0500 numbers regardless of whether those calls were originated from fixed-line or mobile phones. We noted in the October 2012 consultation that if 080 were made free-to-caller then this option for 0500 would mean that there would be no difference in price between calling 080 and 0500 numbers for fixed-line or mobile callers.
- 3.42 However, under this option we would not re-open the 0500 range. It would remain closed to new allocations. We said this was because 080, the primary Freephone range, is far from exhausted. Additionally, 080 is much better recognised and understood among consumers than 0500, a point noted by most 0500 SPs we interviewed. Therefore, re-opening 0500 when there is no need for it and little evidence of demand for 0500 numbers would unnecessarily complicate the message about the simplification of the 080 range and risk confusing consumers.

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<sup>81</sup> BT response dated 8 January 2013, page 11.

<sup>82</sup> EE response dated 13 January 2013, page 12.

<sup>83</sup> CAB response dated 8 January 2013, page 2.

<sup>84</sup> October 2012 consultation, paragraphs 5.42-5.46, pages 31-32.

- 3.43 As with making the 080 range free-to-caller,<sup>85</sup> we would expect an increase in the mobile origination charge for calls to 0500 numbers if the range were made free-to-caller. Our analysis assumed the same Impact Assessment Range for this 0500 option as we had assumed for 080 if it were made free-to-caller (in the April 2012 NCGS consultation):<sup>86</sup> a mobile origination charge of 2.5ppm to 3ppm payable by SPs. The Impact Assessment Range for mobile-originated calls to 080 numbers was subsequently revised to 1.0-3.7ppm in the December 2013 NGCS statement.<sup>87</sup> We do not consider that this materially affects our analysis of this option for the 0500 range as none of the costs and benefits we identified as being associated with making 0500 free-to-caller<sup>88</sup> were sensitive to the level of the origination charge.
- 3.44 We said that this option could improve consumer price awareness more than Option 1 – “free, same as 080” is a simpler message than “free, unless there’s a pre-call announcement” – but we noted that, while 0500 call prices have been “same as 080” since the range’s existence, consumer awareness and understanding of 0500 numbers have been significantly poorer than that of 080 numbers. Also, as 0500 would remain a closed range, hosting few SPs and with low call volume, awareness of the range and its pricing was likely to remain poor.
- 3.45 We also noted that this option would partially address the vertical externality effect by meeting SP demand for the 0500 range to be free-to-caller as well as the horizontal externality effect linked to different prices for fixed- and mobile-originated calls. Therefore, there would be some movement overall towards efficient prices.
- 3.46 With respect to service quality, variety and innovation and access to socially important services, we considered that this option was likely to be neutral as any effect would be attenuated by the small number of SPs on the range and its low call volume.
- 3.47 However, by seeking to promote two free-to-caller ranges – particularly if this includes one range which is closed to new allocations and does not “look” similar to 080 – this option would risk diluting the clarity of the message about the new regime for 080 and undermining the effectiveness of the transition. Thus, the impact of this option on our preferred choice for 080 would be negative (see paragraphs 3.23-3.24).
- 3.48 This option would also continue the need to sustain a range which is slowly declining in use and is likely (due to low use by SPs and low call volumes) to always remain much less well-understood by consumers and SPs. Therefore, it would not represent efficiency and best use in relation to telephone numbers.
- 3.49 However, we noted that this option would be less interventionist than the two following options. Also, it would avoid the complexity that would arise from leaving 0500 unchanged (Option 1) when other non-geographic ranges are all being simplified, including through a new free-to-caller system or an unbundled tariff charging structure. Finally, this option would allow 0500 to benefit from the same simplification and clarification as we had then proposed for 080, which would be a gain for callers and most SPs on the range compared to the status quo. Thus, we did not consider this option would create significant regulatory burden (although we

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<sup>85</sup> April 2012 NGCS consultation, Part C, paragraphs 16.258-16.264, pages 81-83.

<sup>86</sup> April 2012 NGCS consultation, Part C, paragraph 16.116, pages 49-50 Annex 23 of the April 2012 NGCS consultation considers the details of origination payments for a free-to-caller range.

<sup>87</sup> December 2013 NGCS statement, Annex 5, paragraph A5.451, page 198.

<sup>88</sup> October 2012 consultation, paragraphs 5.33-5.46, pages 28-32.

acknowledged it could create costs for a small number of SPs due to a significant incoming mobile-originated call volume or their decision to migrate away).

- 3.50 We provisionally concluded that making 0500 free-to-caller (thus, identical to 080) had certain benefits although it was not without drawbacks in terms of our overarching goal of simplifying non-geographic ranges to improve consumer confidence and our duty to ensure best use of telephone numbers.

### Stakeholders' comments

- 3.51 Vodafone said that the “obvious conclusion” to our consultation should be that 0500 should continue to mirror 080 and become a free-to-caller range.<sup>89</sup> It noted that this was the preferred option of most SPs whom Ofcom had contacted. In response to the December 2013 consultation Vodafone reiterated its preference for Option 2.<sup>90</sup>
- 3.52 BT said Option 2 would be the best option both for SPs and consumers.<sup>91</sup> It said that Ofcom was simultaneously arguing that the continued existence of 0500 undermines 080 as “the free brand” and there is a lack of tariff awareness and little use of 0500; both could not hold together, it suggested. In response to our December 2013 consultation BT reiterated its preference for Option 2, which it said would be best for consumers and SPs.<sup>92</sup>
- 3.53 BT argued that Ofcom had understated the benefits and overstated the costs of Option 2 and made the following comments on Ofcom’s assessment of Option 2:<sup>93</sup>
- 3.53.1 With respect to the consumer price awareness criterion, BT said: (i) although awareness of 0500 was lower than that for 080, this was not inconsistent with data for other ranges, (ii) any lack of awareness of 0500 would not cause consumer harm if 0500 calls were made free-to-caller (an argument also made by Vodafone<sup>94</sup>), (iii) making 0500 free-to-caller alongside 080 would create an opportunity to increase price awareness of 0500, and (iv) given the wide availability of “all you can eat” packages – not only are 080 and 0500 calls free, but calls to many other number types are increasingly becoming free.
- 3.53.2 With respect to the “impact of the option for 0500 on our preferred choice for the 080 range” criterion, BT said it disagreed with Ofcom; if Ofcom were to also make 0500 free-to-caller then the message to customers would be very simple and would be communicated at the same time as the message for 080. That change would offer an opportunity for consumers to get a better understanding of 0500.
- 3.53.3 With respect to the “efficiency and best use in relation to telephone numbers” criterion, BT did not agree with Ofcom’s assessment. BT said the low utilisation of the 0500 number range was due to the fact that 0500 is a closed number range and Ofcom had not suggested how it would otherwise use 0500. BT argued that, given that the 055 and 056 ranges remain open and that the 04 and 06 ranges are entirely unused – and there are “large unused spaces” in other number ranges, it did not believe there was a case

<sup>89</sup> Vodafone response dated 3 January 2013, page 1.

<sup>90</sup> Vodafone response dated 31 January 2014, page 2.

<sup>91</sup> BT response dated 8 January 2013, page 12.

<sup>92</sup> BT response dated 31 January 2014, page 3.

<sup>93</sup> BT response dated 8 January 2013, pages 12-13.

<sup>94</sup> Vodafone response dated 3 January 2013, page 9.

for clearing 0500. On the other hand, forcing customers to change numbers causes immediate tangible detriment.

- 3.54 EE made a number of comments on Option 2:<sup>95</sup>
- 3.54.1 EE said it favoured designating the 0500 range as free-to-caller while concurrently designating the 080 and 116 ranges as MMP. However, it did not favour this option for 0500 if Ofcom were to press ahead with mandating that the 080 and 116 ranges be free-to-caller.
  - 3.54.2 EE said that Options 2 and 4 would force 0500 SPs to make changes to their current arrangements at a point in time mandated by Ofcom. As a consequence some 0500 SPs may decide to close their existing 0500 services. Others may decide to migrate to chargeable number ranges. Both consequences would be negative for consumers (especially landline customers who enjoy free calls to 0500 services) in terms of affordable access to a variety of different services.
  - 3.54.3 EE added that a potential “smooth” migration path (to 0500 as a non-free-to-caller range) for 080 SPs who do not want 080 numbers to become free-to-caller would also be closed off by Options 2 and 4, again with likely negative consequences for consumers in terms of affordable access to a variety of services.
  - 3.54.4 EE said it agreed with Ofcom that regulatory burden would increase under Option 2 as some smaller SPs would face higher call origination charges and would incur migration costs if they moved to another number range.
  - 3.54.5 EE said it agreed with Ofcom that having two Freephone ranges (under Option 2) was problematic; consumers would likely wonder what the point of the two different ranges was. EE also agreed that retaining 0500 as a closed number range would not be an efficient use of numbering resource.
- 3.55 CAB noted that Option 2 had the benefit that 0500 calls would be free to all callers.<sup>96</sup> But, it said, this option would still complicate the message about the changes to Freephone numbers. CAB preferred the withdrawal of 0500 (Option 4) on balance.

## Our response

- 3.56 Although Vodafone made clear that it prefers Option 2 over Option 4 (withdrawal), the bulk of Vodafone’s response to our October 2012 consultation was concerned with questioning the evidence and reasoning Ofcom had presented in favour of Option 4. Therefore, we have responded to all those points made by Vodafone in our discussion of Option 4 or elsewhere as appropriate. (We respond to Vodafone’s observation on SPs’ preference for Option 2 in paragraphs 3.63-3.64 below.)
- 3.57 With Option 2, favoured by Vodafone and BT, the 0500 range would mirror 080 as free-to-caller and therefore we would need to communicate and explain the new designation for 0500 numbers to consumers. We consider that this would lead to consumer confusion as to why two dissimilar number ranges serve an identical purpose, and would dilute the clarity of our announcement that 080 is becoming free-to-caller as a result. This is explained in more detail at paragraphs 3.24-3.25.

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<sup>95</sup> EE response dated 13 January 2013, pages 3-13.

<sup>96</sup> CAB response dated 8 January 2013, page 2.

- 3.58 In relation to consumer price awareness and the harm resulting from poor awareness of 0500 call prices, we disagree with the arguments put forward by BT and Vodafone. Poor consumer awareness of the 0500 call prices matters even when charges are zero as consumers are deterred from calling numbers if they are uncertain of the price of such calls (see paragraph 3.19). While some call bundles/allowances may include free calls to 0500 numbers, unless consumers are *aware* of this the deterrent effect of low price awareness is likely to persist. Finally, we recognise that some other number ranges also suffer from low consumer awareness; but, in determining the best option for the 0500 range we need to consider all of the characteristics of this range. That some other ranges also suffer low consumer awareness does not by itself mean that the same approach is appropriate for all of them.<sup>97</sup>
- 3.59 With respect to efficiency and best use in relation to telephone numbers, we consider that BT is confusing or mistaking the issue of scarcity with that of inefficiency or poor use. We do not claim scarcity of numbering resource in the 0500 range. We believe that a resource may be inefficiently or poorly used even if it were not scarce. Our argument is that the retention of the 0500 range, in circumstances where it is in declining use and has no distinct rationale separate from the much better known 080 range, does not represent efficient and best use of numbers as those terms are ordinarily understood. We do not consider that our duty under the Act to secure the “best use of numbers” and to “encourage efficiency and innovation for that purpose” is dependent on us establishing scarcity or presenting an alternative use of the concerned numbers. Rather, best use can involve ensuring that each number range has a distinct identity reflecting a well-defined purpose and that this is as clear and easily understandable to consumers as reasonably possible. We consider that this approach is consistent with our obligation under the Framework Directive to “encourage efficient use and [ensure] the effective management of... numbering resources”. Option 2 would not address the problem that 0500 has no distinct rationale, declining use and very poor recognition. Our survey of SPs found that SPs who use, or previously used, 0500 numbers understand this well and the majority we interviewed were not opposed to 0500’s withdrawal subject to a suitable implementation period to help them minimise costs (see paragraph 2.34). Further, a few SPs themselves called for 0500’s withdrawal.
- 3.60 We have explained in paragraphs 2.38-2.39 why we disagree with BT’s interpretation of the low use of the 0500 range.
- 3.61 In response to EE’s comment that some SPs may close their services under Options 2 and 4, thus harming consumers, we note again that most 0500 SPs we interviewed advised us that they already operated several other numbers for their customers (paragraphs 2.33.2 and 2.33.4), and we interviewed a majority of the 0500 SPs who account for a majority of 0500 call volume. No SP advised us that they would close their phone service entirely under Options 2 or 4. We recognise that there is a risk that some SPs may move to ranges other than 080 resulting in higher costs for callers – so as not to incur free-to-caller costs – or withdraw their telephone services completely under this option. However, with the evidence available to us we consider this risk to be very small and unlikely to result in significant consumer harm, primarily because most 0500 SPs appear to concurrently operate 080 and other free or low-cost numbers for their callers.
- 3.62 In response to EE’s comment that, under Options 2 and 4, 0500 would be lost as a migration path for those 080 SPs who do not want their 080 numbers to become free-

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<sup>97</sup> We also note that we are still considering the options (as part of our wider review of NGCS) for some of the other lesser known non-geographic number ranges.

to-caller, we note that given 0500's very poor consumer recognition, we do not consider that 0500, either in its current form or as an MMP range (EE's preferred options), would serve as a viable migration path for SPs on 080 who wish to avoid higher call origination charges. As we noted earlier (paragraph 2.34), the SPs we interviewed were substantially opposed to re-opening 0500 as a new type of range, which could lead to increased consumer suspicion.

## Final assessment

3.63 We acknowledge that this option has some advantages:

- it reflects the preference of many SPs whom we spoke to as well as those of Vodafone and BT;
- it would be relatively simple in the sense that it would preserve 0500's historic link with 080. For SPs and consumers who understand and use 0500 numbers, no new complexity would arise as a result of the two ranges being de-linked (as would happen under Options 1 and 3); and
- it could improve price awareness more than Option 1 would.

3.64 However, as follows from our provisional assessment and our response here to stakeholders, we consider that this option has significant disadvantages:

- we would need to promote two free-to-caller ranges which are dissimilar in appearance when the pricing regime of 080 changes in 2015. This is not preferable from a consumer perspective;
- SP use of the range, and consequently consumer recognition, would continue to decline in the longer-term as the range would not be re-opened;<sup>98</sup> and
- as a consequence of the above, the inefficiency and poor use of the 0500 range could only worsen.

3.65 For the reasons summarised above (and set out in more detail at paragraphs 5.33-5.46 of the October 2012 consultation), we consider that Option 4 would, on balance, go further than Option 2 in advancing our policy objectives. Therefore, we have decided against implementing Option 2.

## Option 3: Reopen 0500 as an MMP range

### Summary of our provisional assessment<sup>99</sup>

3.66 An MMP number range would be one where a maximum price of zero is specified for fixed calls and a maximum price above zero for mobile calls to numbers in the range. This means that SPs would not need to pay a higher origination payment to mobile OCPs, since any additional costs of mobile call origination could be recouped from mobile 0500 callers via the retail price of 0500 calls.

3.67 We noted that offering 0500 as an MMP alternative for SPs would mean:

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<sup>98</sup> We note that BT and Vodafone, who favour Option 2, have not argued for 0500's re-opening.

<sup>99</sup> October 2012 consultation, paragraphs 5.68-5.71, pages 36-37.

- i) re-opening the range to new allocations – because if the range is to fulfil its potential as an alternative for those SPs who want to retain free calls for fixed-line callers but cannot afford to pay (higher) mobile origination charges then the range must become accessible to SPs who have not had 0500 numbers before, and
  - ii) deciding which variant or sub-option of MMP to apply to the 0500 range, i.e. either a fixed mobile call price or a price set at the same level as the access charge that would apply to calls to unbundled ranges (which would potentially vary between mobile OCPs).<sup>100</sup>
- 3.68 As this option implies re-opening the range to new allocations, we said that we would need to consider how to make the range, currently allocated to Vodafone, equally available to other CPs. This might be done, for example, by withdrawing the range (or a part of it) from Vodafone for the purpose of transferring the allocation to other CPs, or by making conditions to require Vodafone to make such transfers itself.
- 3.69 As noted earlier, 0500 numbers are 10 digits-long rather than the current standard of 11 digits. Therefore, we would, additionally, need to consider practical issues associated with this. (080 numbers exist in 10-digit and 11-digit variants, though the 10-digit 080 range has been closed to new allocations since 2000/01.)
- 3.70 In assessing the viability of this option, we pointed out that evidence of demand among SPs to make 0500 an MMP range and to re-open it for new allocations was weak. A number of SPs interviewed by us viewed this option as complex for consumers and consequently not attractive for their needs (see paragraph 2.34). This evidence contradicts the hypothesis that this option could remedy the current low and inefficient use of the range. (Given the extremely poor awareness of 0500 among the public, we also said we took a sceptical view of the likelihood that, of those 080 SPs who cannot afford the mobile origination charge of a fully free-to-caller 080 range, many would opt to migrate their services to an MMP 0500 range.) We noted that any improvement in this regard would require significant demand for 0500 as an MMP range and, in the absence of evidence to demonstrate such demand, we must take a sceptical view of this option's ability to improve efficiency and best use in relation to telephone numbers.
- 3.71 For the same reason, we considered that this option was unlikely to improve service quality, variety and innovation on the range or access to socially important services.
- 3.72 While consumer price awareness was likely to improve compared to the status quo, we noted SPs' views that MMP may not be easy to explain to most callers, and those who knew 0500 as Freephone may be left confused/suspicious by the change. We also said that there was a risk that an MMP 0500 range may still be confused with 080 or be perceived as a "lesser" or "inferior" Freephone range by consumers. This perception would depress demand for such a range among SPs. (We considered that this risk was likely to be greater than under the status quo (Option 1), as opening the number range to new allocations could increase consumer use and awareness of the range, thereby increasing the potential for confusion over a new type of range.)
- 3.73 With respect to efficient prices we said that this option could lead to an improvement, but the effects were likely to be relatively small while the range remained low-use.

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<sup>100</sup> April 2012 NGCS consultation, Part C, paragraph 16.215, page 70.

- 3.74 We did not consider that re-opening 0500 as MMP would have a significant net impact on our preferred choice for 080.
- 3.75 Evidence suggested that the cumulative regulatory burden of this option may be material as it was unpopular among SPs and many, if not most, SPs would consider giving up their 0500 numbers in preference for free-to-caller 080 or other numbers.
- 3.76 For these reasons, we were not persuaded that re-opening 0500 as an MMP range would meet our policy objectives for the range itself or for our overarching goal of simplifying non-geographic ranges to improve consumer awareness and confidence.

### Stakeholders' comments

- 3.77 Vodafone said Option 3 was not suitable or realistic for the 0500 range.<sup>101</sup>
- 3.78 BT remarked that it did not believe this option would work well.<sup>102</sup> It reasoned that as 0500 and 080 have always been subject to the “same regulation and commercial model” any option that differentiated between them would confer benefits on “one or the other SP, merely based on whether before 2002 they took [their telephony] service with BT or Mercury/Cable and Wireless”. BT also said that Option 3 would not help Ofcom’s simplification goal.
- 3.79 As noted earlier (paragraph 3.54.1), EE said that – among the options Ofcom had provided for reforming the Freephone ranges in the April 2012 NGCS consultation – it favoured designating 0500 as a free-to-caller range while concurrently designating the 080 and 116 ranges as MMP.<sup>103 104</sup> However, EE said that if Ofcom pressed ahead with making 080 a free-to-caller range then its preference was for “a variant of Option 3”: Re-opening the 0500 range and – EE’s *first preference* – leaving the designation of the range unchanged (i.e. free to caller unless a pre-call announcement is made that the call will be charged), or – *second preference* – designating 0500 as an MMP range with a maximum fixed retail price of zero and a maximum mobile price set equal to the mobile OCP’s access charge for the unbundled tariff ranges.<sup>105</sup> In response to the December 2013 consultation, EE said its preference was the same.<sup>106</sup>
- 3.80 EE made a number of comments on Option 3:<sup>107</sup>
- 3.80.1 EE said it disagreed with Ofcom’s assessment that the MMP concept would be a “significant challenge” to explain to customers. It reasoned that SPs who chose to use the range would have an incentive to explain the concept to customers to maximise use of their number.
- 3.80.2 It said that either of its variants of Option 3 would address the vertical externality effect that Ofcom had identified (see footnote 77) by accommodating the preferences of those SPs who wanted 0500 to remain as it is and those 080 SPs who would prefer to migrate to 0500 to avoid higher origination payments under a free-to-caller regime for 080.

<sup>101</sup> Vodafone response dated 3 January 2013, pages 1 and 8.

<sup>102</sup> BT response dated 8 January 2013, page 13.

<sup>103</sup> EE response dated 13 January 2013, page 3.

<sup>104</sup> EE’s position here was consistent with its response to the April 2012 NGCS consultation.

<sup>105</sup> EE response dated 13 January 2013, pages 4-5.

<sup>106</sup> EE response dated 30 January 2014, page 3.

<sup>107</sup> EE response dated 13 January 2013, pages 5-13.



- 3.80.3 Noting our view that those 0500 SPs who would prefer to offer their consumers a free-to-caller number may migrate away from 0500 once 080 became free-to-caller, EE said it disagreed with this assessment and considered that SPs could market 0500 as an MMP range “with ease”. If the 0500 range was reopened, EE said it could become more popular.
- 3.80.4 EE said that, compared to the other options, Option 3 would minimise the risk of socially important services on the 0500 range withdrawing their services completely, or facing increased costs for operating them.
- 3.80.5 EE argued that under either of its variants of Option 3, with the range reopened to new allocations, the current inefficiency and poor use of the range would be addressed. But EE acknowledged that Option 3 *could* prove to be an inefficient use of numbering resource if the range did not prove popular with SPs. However, it argued that this could only be accurately assessed once Ofcom’s reforms had been implemented and SPs had had a few years to consider their migration options; once a lack of demand from SPs for the 0500 range as an MMP range was established, then it may be appropriate for Ofcom to re-consider options for 0500.

3.81 CAB opposed Option 3 for the same reasons it rejected Option 1 (paragraph 3.37).<sup>108</sup>

### **Our response**

- 3.82 We note that EE’s arguments in favour of Option 3 were implicitly premised on the (i) existence of business demand for and (ii) consumer understanding of an MMP number range and the benefits these would render possible.
- 3.83 Our programme of work on reviewing NGCS identified significant consumer suspicion and detriment in relation to non-geographic numbers and significant difficulties in ensuring consumer and SP recognition and understanding of number range differences. Accordingly, we consider that there would need to be significant evidence of demand to justify the introduction of a new non-geographic pricing structure. The lack of support for this structure from stakeholders and interest from SPs (including the 0500 SPs we interviewed in 2012 to discuss options for 0500) does not persuade us that there would be sufficient demand for 0500 as an MMP range.

### **Final assessment**

- 3.84 For the reasons summarised in paragraphs 3.70-3.76 (and set out in more detail at paragraphs 5.51-5.71 of the October 2012 consultation), we consider that re-opening 0500 as an MMP range would not meet our policy objectives for the range itself or for our overarching goal of simplifying non-geographic ranges to improve consumer awareness and confidence. We note that none of the SPs or CPs (other than EE) who responded to our consultation favoured this option.

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<sup>108</sup> CAB response dated 8 January 2013, page 2.

## Option 4: Withdraw the 0500 range

### Summary of our provisional assessment<sup>109</sup>

- 3.85 The 0500 range has been closed to new allocations since 1997/98, but SPs who secured 0500 allocations in the past have been free to continue using them. Under this option all 0500 allocations would be withdrawn and 0500 numbers would cease to function. We noted that, for SPs who use 0500 numbers to offer services, this option would require that they migrate those services either to alternative numbers that they already operate or to new numbers they obtain from their CPs.
- 3.86 We said that this option would be consistent with our objective of “making the pricing structures clearer and removing confusing and misleading inconsistencies”.<sup>110</sup> This option would simplify and rationalise the use of non-geographic numbers and thus advance efficiency and best use in relation to telephone numbers because it would eliminate a number range
- that no longer appears to have a distinct rationale;
  - for which there is little evidence of demand; and
  - whose existence creates negative horizontal externality effects on demand for 080 and non-geographic call services generally.

We noted that, all other things being equal, best use of numbers was not served by having two number ranges, dissimilar in appearance, serving identical functions when the main number range for this function has not been exhausted as a resource. All active 0500 allocations could be accommodated within the 080 range. (Most 0500 SPs we interviewed said they already operate 080 numbers concurrently.)

- 3.87 We said that the consumer price awareness problem associated with the 0500 range, i.e. very poor understanding of the range and very poor awareness of 0500 call prices, would be rendered immaterial by the withdrawal of the range. Similarly, concerns in relation to efficient prices of 0500 calls would be eliminated by the withdrawal of the range.
- 3.88 Among all the options for 0500, we noted that this would have the most positive impact on our preferred choice for 080 (if that choice were implemented) because (i) it would help consolidate the identity and location of Freephone in the 080 range and (ii) it would allow us to present the public with a very simple message about Freephone becoming free-to-caller. By contrast, maintaining the 0500 range (either as free-to-caller and closed or as MMP and re-opened) – a range which, due to its low-use/low-demand nature, would always have a lower profile among consumers – would risk diluting the message about our reform of Freephone.
- 3.89 Our research among SPs suggested that if the 0500 range were withdrawn most SPs would maintain their Freephone services (by using 080 numbers which most already operated) and other SPs would use other numbers. No SP suggested to us that they would withdraw their service altogether. Therefore, we provisionally concluded that service quality, variety and innovation would not worsen provided SPs wished to continue providing phone services. Although our sample of socially important SPs was too small for us to draw inferences on the impact of withdrawal on access to

<sup>109</sup> October 2012 consultation, paragraphs 5.88-5.99, pages 40-42.

<sup>110</sup> October 2012 consultation, paragraphs 5.88-5.92.

social important services, we said the scope for harm was small as the proportion of socially important services on the 0500 range was less than that on the 080 range and the number of them was likely to be small.

- 3.90 With regard to the regulatory burden caused by withdrawal, we said that for many (if not most) SPs who use the 0500 range migration costs were likely to be limited because many *concurrently* operate 080 or other numbers. We noted that aggregate migration costs caused by withdrawing the 0500 range were uncertain because we did not have sufficient evidence to indicate what proportion of SPs would migrate their services currently on 0500 numbers to the 080 range or to other ranges. Our limited research with 0500 SPs suggested that most of them – even more so those who account for the largest 0500 incoming call volumes – concurrently operate 080 numbers, thus it was not necessary that they would need to replace their expiring 0500 number(s) with new lines. Given the uncertainties in relation to migration costs, we said that we did not consider it possible to seek to estimate these costs precisely. Instead, we wanted to use the consultation process to test our hypothesis that migration costs were not a significant factor that would reduce the attractiveness of our preferred option compared to the other options available. But we noted that many of the SPs we interviewed had themselves indicated to us that (i) they expected their migration costs due to the withdrawal of 0500 numbers to be small and (ii) their migration costs would be further reduced by lengthening the implementation timeframe for such a withdrawal.
- 3.91 On the basis of our assessment of all the options, we provisionally concluded that Option 4 was the best because it would go further than the alternatives, including Option 2, in:
- rationalising telephone numbering to reduce consumer confusion;
  - securing the best use of telephone numbers; and
  - enhancing the clarity and simplicity of the new regime for the 080 range for the benefit of consumers and businesses.

### **Stakeholders' comments**

- 3.92 In response to the October 2012 consultation, Vodafone said it “profoundly disagrees” with Ofcom’s preference to withdraw the range.<sup>111</sup> We noted earlier its preference for Option 2. Vodafone made the following points on Option 4:
- 3.92.1 With respect to consumer awareness, Vodafone acknowledged that recognition of 0500 numbers was “universally poor” but questioned how this could have a detrimental impact on the 080 range. It said that Ofcom had provided little evidence that the lack of knowledge of 0500 pricing could have an impact on the understanding that 080 is free-to-caller.
- 3.92.2 Vodafone also suggested (as did BT, see paragraph 3.53.1) that consumers’ lack of awareness of the price of 0500 calls would not cause harm if they received such calls for free and SPs were happy to pay for receiving such calls.
- 3.92.3 In relation to the cost-benefit analysis, Vodafone said that Ofcom needed to demonstrate a positive cost-benefit analysis for withdrawal but had not

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<sup>111</sup> Vodafone response dated 3 January 2013, pages 1, 6-9.

provided “any tangible or quantifiable benefit” resulting. It said there was no evidence of benefit offered to offset the forced migration of services other than a theoretical benefit to consumer confusion in relation to 080.

- 3.92.4 Vodafone also argued withdrawal would be at odds with Ofcom’s “regulatory precedents” with other number ranges: (i) Ofcom decided against withdrawing 070 despite evidence of serious consumer harm (“call back scams”) and poor consumer awareness because it concluded that the benefits of closure and forced migration were outweighed by the harm of migration costs; (ii) Vodafone said there was no evidence of consumer confusion between the 0500 and 0800 ranges and although there were “undeniable” visual similarities between 0300, 0500 and 0800 – and 0300 has low recognition and call volumes – yet Ofcom had not suggested that 0300 harms 0800 or that 0300 should be withdrawn; and (iii) Ofcom had achieved its regulatory goals for 0870 without withdrawing that range.
- 3.93 In response to the December 2013 consultation, Vodafone said that while Option 2 remained its preference, it considered that many of the “migration and legal failings” it identified with Option 4 in the former consultation had been addressed by Ofcom.<sup>112</sup>
- 3.94 In response to the October 2012 consultation, BT said it did not agree with our assessment of Option 4.<sup>113</sup> (We have summarised BT’s points in relation to our analysis of 0500 market data and Option 2 earlier in this document, and those in relation to our legal powers, duties and tests and the implementation of withdrawal later in this document. Here, we have summarised BT’s points directly related to our assessment of Option 4.)
- 3.94.1 With respect to SPs’ use of 0500 numbers and *their* views, BT commented that most SPs surveyed said they preferred that 0500 be aligned with 080 as free-to-caller when 080 becomes free-to-caller (Option 2). BT also said that if Ofcom argues that SPs recognise that 0500 numbers are much less recognised by consumers than 080 numbers, then this begs the question why these SPs continue using them. BT also said that if 0500 numbers were withdrawn, any replacement numbers SPs would be given would be “far less attractive”; SPs considered their 0500 numbers to be “nice” or “golden”, and Ofcom had not offered them a migration path.<sup>114</sup>
- 3.94.2 BT argued that Ofcom had not performed a proper cost-benefit analysis to show how the cost of customers being forced to change their numbers “stacks up against putative benefits”. Ofcom’s estimated migration cost of £1,000-2,500 per SP may be significant and an unnecessary “cost imposition upon cash-strapped smaller SPs”. BT reiterated its view that the benefits from withdrawal would not outweigh the associated harm and costs in its response to our December 2013 consultation.<sup>115</sup>
- 3.94.3 In response to that consultation, BT also said it did not accept Ofcom’s analysis of consumer harm arising from the continued existence of 0500.<sup>116</sup> If 0500 continued to mirror 080 then the issue of 0500 calls being charged from mobiles would be resolved when 080 became free-to-caller in June

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<sup>112</sup> Vodafone response dated 31 January 2014, page 2.

<sup>113</sup> BT response dated 8 January 2013, page 13.

<sup>114</sup> BT response dated 8 January 2013, page 6.

<sup>115</sup> BT response dated 31 January 2014, page 3.

<sup>116</sup> BT response dated 31 January 2014, page 3.

2015 rather than in 2017 when the 0500 would be withdrawn (under our revised timeframe for the 0500 range's withdrawal – see section 4).

- 3.95 EE made a number of comments on Option 4:<sup>117</sup>
- 3.95.1 With respect to consumer awareness, EE said there was likely to be at least some consumer confusion caused by withdrawal as a result of customers mis-dialling withdrawn or migrated 0500 numbers, e.g. from memory or use of outdated stationary and advertising material.
  - 3.95.2 With respect to price efficiency, EE noted that the price for 0500 calls was typically significantly below the price of geographic calls. If the range were withdrawn and existing 0500 SPs forced to migrate to the 03 range then this would no longer be the case. EE said that the current designation of 0500 promotes price efficiency; withdrawal would remove pricing flexibility.
  - 3.95.3 Withdrawal would entail significant welfare losses if SP services were withdrawn. Withdrawal would also remove a “potentially important migration range” for SPs unwilling or unable to pay call origination charges for zero-rated 080 and 116 calls. EE stressed Ofcom must have the utmost regard to assessing whether SPs on the 0500 range may cease service provision if the range were withdrawn.
  - 3.95.4 EE said that Ofcom's cost-benefit analysis of 0500's withdrawal “may be fundamentally flawed” as it assumed that 080 calls would be zero-rated.
- 3.96 [redacted] [redacted]<sup>118</sup>
- 3.97 Three supported withdrawal,<sup>119</sup> agreeing that this would be in line with the wider aims of Ofcom's NGCS review to simplify non-geographic numbering and improve consumer confidence. Three argued that the 0500 range was increasingly redundant because of small and declining call volume, its closed status and the limited number of SPs still using 0500 numbers.
- 3.98 [redacted] [redacted]<sup>120</sup>
- 3.99 The FCS said our analysis of options was fair and reasonable;<sup>121</sup> withdrawal was correct as it would “simplify and improve understanding of the Freephone ranges”.
- 3.100 A number of SPs, most of whom operate services using 0500 numbers, also responded to our October 2012 consultation.
- 3.101 CAB supported withdrawal.<sup>122</sup> It said that Option 4 was preferable to Option 2 on balance because Option 2 would complicate the message about the changes to Freephone numbers.
- 3.102 National Savings & Investment ('NS&I') agreed that 0500's withdrawal would reduce customer confusion, secure best use of numbers and simplify Freephone.<sup>123</sup> But it

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<sup>117</sup> EE response dated 13 January 2013, pages 5-13.

<sup>118</sup> [redacted] [redacted]

<sup>119</sup> Three response dated 8 January 2013, pages 1-2.

<sup>120</sup> [redacted] [redacted]

<sup>121</sup> FCS response dated 7 January 2013, pages 2-3.

<sup>122</sup> CAB response dated 8 January 2013, page 2.

<sup>123</sup> NS&I response dated 21 December 2012.

noted that withdrawal would have a significant impact on it. It advised us that its primary sales and service numbers were both on 0500 and it receives approximately 3.5 million calls per year on these numbers. Numbers used by customers over several years become "memorable" for them and it considered that such changes would lead to initial customer confusion and marketing and operational effort to inform customers of changes. NS&I would incur "significant additional costs" if 0500 were withdrawn and unless it could access additional funds it would need to divert resource allocated to existing operations and service improvement.

- 3.103 [X] [X] said it did not agree with our proposal.<sup>124</sup> It acknowledged that it did not use 0500 numbers any more "as we stick to the 080 range", but said that for any customer that does still use them it would like them to have the choice. It disagreed with our assessment of consumer price awareness, saying that customers could see their phone bills and decide themselves whether to call 0500 numbers.
- 3.104 Missing People said that, "subject to [the] length of implementation", it understood the case for the proposed withdrawal of the 0500 range.<sup>125</sup>
- 3.105 [X] [X]<sup>126</sup>
- 3.106 SLA Consultants agreed with our proposal, saying that withdrawal would help get the UK's telephone numbering "cleaned up, simplified and more clearly priced".<sup>127</sup>
- 3.107 NetTek said our proposal was "very reasonable".<sup>128</sup>
- 3.108 An individual respondent said that withdrawal would be a "complete waste of money and the current set up is not doing any harm" and would cause disruption to businesses and services using 0500 numbers.<sup>129</sup> Instead, he proposed that the range be "fully re-opened" (but did not suggest what pricing regime should then apply). Another individual respondent said he agreed with our proposal.<sup>130</sup>
- 3.109 We note that no SPs responded to our December 2013 consultation.

## Our response

- 3.110 As a number of stakeholders commented on our cost-benefit analysis of the 0500 range's withdrawal, especially the costs associated with migration that would be incurred by affected SPs, we have reviewed that analysis and present our conclusions on this specific issue below (paragraphs 3.117-3.130). First, we respond to stakeholders' other comments on our proposal to withdraw the 0500 range.
- 3.111 With respect to comments from Vodafone and BT about consumer awareness and harm linked to it, we have noted (paragraphs 3.57-3.58 and 3.22-3.25) that if the 0500 range were preserved as one that mirrors 080 as free-to-caller, we would need to explain this to consumers. We consider that this would lead to consumer confusion and dilute the clarity of our announcement that 080 is becoming free-to-caller. Secondly, as noted earlier, poor consumer awareness of 0500 call prices matters even if these are zero because consumers are deterred from calling numbers when

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<sup>124</sup> [X] [X] response dated 21 December 2012.

<sup>125</sup> Missing People response dated 24 December 2012.

<sup>126</sup> [X] [X]

<sup>127</sup> SLA Consultants response dated 23 October 2012.

<sup>128</sup> NetTek response dated 25 October 2012.

<sup>129</sup> [Name Withheld 2] response dated 7 December 2012.

<sup>130</sup> [Name Withheld 1] response dated 23 October 2012.

they are uncertain of call prices; this depresses demand for services on such numbers to some degree.

- 3.112 With respect to EE's comments about consumer awareness, we consider that any consumer confusion caused by dialling 0500 numbers *after* the 0500 range is withdrawn would be short-lived and, furthermore, could be mitigated by PCAs advising callers that these numbers had expired and/or been migrated. A longer timeframe for withdrawal – as we have now decided (section 4) – would grant SPs more time to inform their customers and to update their promotional material. Finally, by deciding to withdraw the 0500 range now – before 080 numbers become free-to-caller, SPs who choose to move their 0500 services to 080 numbers would be able to communicate this change effectively at the same time as Ofcom's communications campaign to promote 080 becoming free-to-caller in June 2015.
- 3.113 With respect to EE's comment in relation to efficient prices, we note that it is not the case that by the 0500 range's withdrawal 0500 SPs will be forced to migrate their services to 03 numbers. As we noted in paragraph 3.61, most 0500 SPs we interviewed advised us that they already operated several other numbers for their customers (paragraphs 2.33.2 and 2.33.4), and we interviewed a majority of the 0500 SPs who account for a majority of 0500 call volume. It is possible that some SPs may migrate their services to ranges that are more expensive for callers than 0500 at present, but the evidence available to us suggests that the number of SPs doing so is likely to be small and the likelihood of consumer harm even smaller – primarily because most 0500 SPs appear to concurrently operate 080 and/or other free or low-cost numbers for their callers. Therefore, withdrawal is unlikely *in practice* to reduce pricing flexibility (or materially reduce price efficiency).
- 3.114 With respect to EE's comment about welfare losses from 0500's withdrawal, we note that the evidence from SPs that we gathered does not suggest that such losses would materialise. The balance of evidence suggests that most SPs who today operate 0500 numbers also operate other numbers, thus it does not follow that withdrawal of 0500 would lead to them terminating their services altogether. Second, although a significant minority of 080 SPs said that they would withdraw their services if 080 became free-to-caller (to avoid higher call origination charges), we do not consider that 0500, as it is today or as an MMP range, would be the preferred alternative range for migration for such SPs. As we have pointed out earlier, most 0500 SPs recognise that 0500 numbers are very poorly recognised by consumers, who are suspicious about calling numbers they are not familiar with; given the very significant difference in consumer recognition of 0500 and 080 call pricing, we do not consider that 0500 would be the preferred destination for services leaving 080.
- 3.115 In response to CPs' comments on SPs' views of Option 4, we note that, though most SPs we surveyed preferred Option 2, the majority were relaxed about withdrawal provided it was done in a way that would minimise their costs. As observed in section 2, many 0500 SPs recognise the poor consumer recognition of 0500 numbers and understand the case for withdrawal. Our sampling of SPs found that few considered their numbers "attractive". Nevertheless, under our revised approach to withdrawal (section 4), those SPs who wish to retain 0500 numbers that they consider "golden" or "attractive" will be able to migrate to a similar number in the 080 range. The answer to BT's question as to why 0500 SPs continue to use 0500 numbers is (i) 0500 SPs are continuing to desert the 0500 range (data on the significant decline in the number of SPs using the 0500 range is in paragraphs 2.22-2.24) and (ii) those SPs whom we surveyed told us that they regard their 0500 numbers as "legacy numbers", they had no particular reason to give them up – but had no desire for new

0500 numbers either, and some of *their* customers stick with numbers they have successfully used before.

- 3.116 With regard to Vodafone's remarks about "regulatory precedents", we consider that different considerations apply to the 070 and the 0500 ranges, and we are still considering options for 070. We know that consumers expect similar-looking ranges to be similar in pricing and purpose, and consumers perceive a difference at the second digit (e.g. 080 and 0500) (see paragraphs 3.24-3.25). Therefore, it is counterintuitive – and unhelpful for consumers – to have two number ranges that are dissimilar at the second-digit but are identically priced. This creates scope for suspicion about call pricing. Vodafone said 0300, 0500 and 0800 "look similar" and therefore, by Ofcom's logic (according to Vodafone), 0300 could harm 0800. This is not Ofcom's view; these ranges are dissimilar at the second digit, which would lead consumers to expect these ranges to have distinct purposes and distinct pricing. Secondly, in contrast to 0500, 0300 has a distinct purpose and growing use. Therefore, we consider that the scope for consumer confusion between 0300 and 0800 is limited. Again, the concerns in relation to 0870 have been different from those for 0500, therefore we do not consider that our approach to 0870 should constrain our approach to 0500. In the context of our duties in relation to telephone numbering, we do not consider that our approach to the 0500 range is inconsistent with that towards other number ranges.

#### Cost-benefit analysis of withdrawal

- 3.117 We explained in our October 2012 consultation why our impact assessment of the proposal to withdraw 0500 numbers could not feasibly be a fully quantified one:<sup>131</sup>
- With the data available to us then we could not confidently estimate the costs that may arise. We noted significant uncertainty about the number of SPs actively using 0500 numbers, the number of those that would need to migrate their services to a different number range and the ranges to which they might migrate.
  - The benefits that we considered would result from our proposal were not easily quantifiable. These relate to the removal of numbering inconsistency, the reduction of the potential for consumer confusion, and the clarification of the identity and location of Freephone. We noted that the evidence we had of consumer perception and SPs' opinions gave us confidence that these were benefits that would lead to improved consumer confidence in, and increased use of, non-geographic telephone numbers. But we said we could not estimate the quantum of increase in consumer demand and/or use that would follow.
- 3.118 We said that, however, we had conducted a qualitative assessment of the benefits and set out their impacts on consumers, SPs and CPs. We considered this sufficient to enable stakeholders to assess the likely impact of our proposal.
- 3.119 With respect to the assessment of costs, we referred to the quantitative analysis in the April 2012 NGCS consultation in relation to migration costs, mobile origination costs and the impact on the profits of OCPs due to fixed-mobile substitution where relevant. In that consultation we had estimated that migration costs per SP could range in the region of £1,000-£2,500.<sup>132</sup> We had selected a relatively wide range in the April 2012 NGCS consultation in the light of the considerable uncertainties

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<sup>131</sup> October 2012 consultation, paragraph 5.97, page 42.

<sup>132</sup> April 2012 NGCS consultation, Part C, paragraph 16.205, pages 67-68 and Annex 12, pages 150-167.



around any estimate of such costs.<sup>133</sup> (We used the same assumptions regarding migration costs per SP in our December 2013 NGCS final statement.)

3.120 With respect to the 0500 range, we noted that there were additional complexities that would render a similar estimate more uncertain:<sup>134</sup>

- Vodafone had advised us that [redacted] [redacted].<sup>135</sup>
- In our interviews with 0500 SPs, a clear majority said they also operated 080 and/or other non-geographic numbers concurrently, thus it was not necessary that they would need to replace any expiring 0500 number(s) with new lines. Although the sample of 0500 SPs interviewed was small, this finding may be indicative of wider co-use of 0500 numbers with 080 and other numbers.<sup>136</sup>

3.121 For this reason we did not consider it possible to seek to estimate precise migration costs. Instead, we sought to use the consultation process to test our hypothesis that migration costs were not a significant factor that would reduce the attractiveness of our preferred option compared to the other options available.

3.122 Our October 2012 consultation therefore explicitly invited SPs to share with us their views on migration costs.<sup>137</sup> But we note that:

- No SP in its response provided us its own estimate on what its costs might be as a result of the 0500 range's withdrawal.
- No SP responded to the December 2013 consultation.
- The CPs who said they disagreed with our impact assessment did not provide us any alternative data or evidence – whether quantitative or qualitative – by means of which we could modify or improve our assessment of costs.
- Also, contrary to what [redacted] [redacted] suggested, we asked each 0500 SP we interviewed (prior to our October 2012 consultation) to give us estimates, or some idea, of spending linked to their 0500 numbers and the costs they considered would arise in the event of migration. Almost all these SPs said they would find it too hard to estimate such costs; some said they had “no idea”. Only one large SP provided us a figure, adding that it considered the cost “not significant”.

3.123 Thus, our analytical base for the impact assessment of the 0500 range's withdrawal remains reliant on the evidence and analysis on migration costs that we have presented in recent Ofcom publications on NGCS. We summarise this here before drawing our conclusion on the costs and benefits of withdrawal.

3.124 As noted above, the migration cost per SP estimate of £1,000-£2,500 was drawn from our analysis in the April 2012 NGCS consultation. We selected a relatively wide range in the light of the considerable uncertainties around any estimate of such costs. This estimate was itself a revision of that which we had set out in the

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<sup>133</sup> April 2012 NGCS consultation, Annex 12, paragraph A12.74.

<sup>134</sup> October 2012 consultation, paragraph 5.81, page 38.

<sup>135</sup> Email from Justin Hornby (Vodafone) to Samir Prakash (Ofcom), 11 September 2012 and Vodafone's 17 August 2012 response to Ofcom's 16 July 2012 s.135 information request.

<sup>136</sup> We consider that this factor is relevant in the case of those SPs who do not promote their 0500 numbers, or promote them less than their other numbers, as it suggests that they would be less likely to incur migration costs due to the withdrawal of their 0500 numbers.

<sup>137</sup> October 2012 consultation, paragraph 5.82, page 39.

December 2010 NGCS consultation. Table 3.1 below shows how we revised (in the April 2012 NGCS consultation) the cost components which make up an average SP's total migration cost based on responses to the December 2010 NGCS consultation and further analysis.<sup>138</sup> The revisions are explained in more detail at paragraphs A10.72-A10.77, Annex 10 of the April 2013 NGCS policy position.

**Table 3.1: Categories of migration cost for an SP**

Migration cost category	2010 estimate of average cost per firm (excludes reductions due to the time at which firms migrate)	Revised position in the April 2012 NGCS consultation
Replacing stationery	£337	Lower
Replacing advertising / promotional material	£58 - £116	Significantly higher
Replacing vehicle signage	£8 - £39	Slightly higher
Telecoms costs	£60	Slightly higher
Administrative and other costs	£117	Significantly higher
<b>Total</b>	<b>£580 - £669</b>	<b>£1,000 - £2,500</b>

- 3.125 We revisited this analysis of likely migration costs in the April 2013 NGCS policy position document.<sup>139</sup> We responded to stakeholders' comments in relation to this analysis but given the uncertainties over these costs as well as the great variations among SPs in relation to their potential migration costs, we did not revise again our conclusion on the costs of migration *per firm*.<sup>140</sup> In particular, in response to The Helplines Association and EE, we said that we were not persuaded that the £1,000-£2,500 estimate per SP was an underestimation and we considered that the evidence they had presented was consistent with this estimate.<sup>141</sup>
- 3.126 We noted that our assessment in the April 2012 NGCS consultation had accounted for two factors: (i) SPs that chose to migrate would tend to have somewhat lower migration costs, given that SPs with high migration costs were unlikely to choose to migrate; and (ii) SPs could choose when to migrate, allowing them to coordinate migration with other changes in their business in order to reduce costs.<sup>142</sup> The first factor would lower the average migration cost per SP because SPs with high migration costs, we reasoned, may avoid migration. In the case of the second factor, the implementation period considered was 12-18 months.
- 3.127 In the event of the 0500 range's withdrawal the first factor cited above would not hold because *all* SPs using 0500 numbers would have to either migrate their service or terminate it. But we have previously noted that there was a limit to the extent to which this assumption lowered migration costs.<sup>143</sup> In general, we said, the extent to which the average migration cost for SPs that chose to migrate was lower than the average migration cost for all SPs depended on the extent to which costs and benefits were

<sup>138</sup> April 2012 NGCS consultation, Annex 12, Table A12.5, page 163.

<sup>139</sup> April 2013 NGCS policy position, Annex 10, pages 80-85.

<sup>140</sup> April 2013 NGCS policy position, Annex 10, paragraphs A10.81-A10.86, pages 80-85.

<sup>141</sup> April 2013 NGCS policy position, Annex 10, paragraphs A10.82 and A10.84, page 84.

<sup>142</sup> April 2013 NGCS policy position, Annex 10, paragraphs A10.69, page 81.

<sup>143</sup> April 2013 NGCS policy position, Annex 10, paragraphs A10.85, page 85.

correlated. For this reason, we said, we had placed more weight on the other assumptions we had made, e.g. that SPs would be able to mitigate migration costs by choosing the best time to migrate. In the case of the 0500 range's withdrawal – where we have decided to implement a three-year timeframe for its withdrawal (see section 4) – this second factor gains importance because SPs will have more choice over when exactly they migrate their services and a much longer time period in which to do so, compared to the 12-18 month period that we were considering when we generated our £1,000-£2,500 estimate.

3.128 As we noted in our April 2012 assessment of migration costs,<sup>144</sup> some cost components – e.g. replacement of stationery and of advertising/promotional material – could be significantly reduced by aligning migration with the natural replacement cycle of such materials.<sup>145</sup> We note that stationery and advertising/promotional material are likely to be the most important migration costs. Thus, by offering SPs more choice over *when* to migrate – as our decision does – we consider that we are materially helping affected SPs to minimise the costs to them from the range's withdrawal. To illustrate with examples, we note that, in relation to stationery, SPs contacted by Ofcom during the NGCS review said they replaced their stationery at intervals between six months and two-three years.<sup>146</sup> Similarly, in relation to advertising/promotional material, most SPs contacted by Ofcom during the NGCS review said they replaced their advertising/promotional material at intervals between six months and two years.<sup>147</sup> Thus, the evidence we have suggests that a three-year timeframe would substantially eliminate most time-related or time-sensitive migration costs such as stationery and advertising.

3.129 As was the case in our October 2012 consultation, we do not consider it possible to estimate precise migration costs for the reasons discussed above. Our hypothesis then was that migration costs were not a significant factor that would reduce the attractiveness of our preferred option compared to the other options available. After revisiting our analysis of migration costs, for NGCS in general and 0500 specifically, and in the knowledge that we did not receive evidence (following two consultations) that invalidated or caused us to doubt this hypothesis, we remain of this view. We recognise that some SPs may incur higher costs than others due to withdrawal, but we have sought to understand and consider average or representative costs for SPs. We also consider that the total cost caused by migration is unlikely to be large because, based on information available to Ofcom, we consider that the number of actively used 0500 numbers is likely to be significantly smaller than the remaining number of 0500 numbers still allocated to SPs.

3.130 It remains our judgement that the longer-term benefits of withdrawal, albeit very hard to quantify, are real and support the overarching goal of Ofcom's strategic review of NGCS: to simplify the non-geographic ranges, to make pricing clearer and simpler for consumers and to remove "confusing and misleading inconsistencies" in numbering. We consider that these benefits to consumers and SPs will, in the longer term, outweigh the likely (shorter-term) costs to SPs, particularly given the amendments to our proposal to withdraw (which we presented in the December 2013 consultation). Specifically: a longer timeframe for withdrawal such that SPs may migrate their

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<sup>144</sup> April 2012 NGCS consultation, Annex 12, pages 150-164.

<sup>145</sup> This is consistent with our finding from our informal interviews with SPs on the 0500 range: they told us that costs and disruption by withdrawal would be significantly mitigated by a longer transition period (when we were considering either 18 or 24 months).

<sup>146</sup> April 2012 NGCS consultation, Annex 12, paragraph A12.27, pages 154-155.

<sup>147</sup> April 2012 NGCS consultation, Annex 12, paragraphs A12.39-12.40, page 157.

service at any point of their choice up to three years following the publication of this statement. These details are set out in the next section.

## Final assessment

3.131 We have considered stakeholders' responses to both our consultations on the 0500 range and have revised our approach to our proposed implementation of the withdrawal of the 0500 number range – in particular, a longer, three-year timeframe for the withdrawal and a migration path for all 0500 SPs who wish to avail of this (see section 4). In the light of these changes, the reasoning set out above (and that set out at paragraphs 5.88-5.92 of the October 2012 consultation) and summarised below in our overall assessment, we remain of the view that Option 4 is the best option for the future of the 0500 range with regard to our policy objectives.

## Overall assessment

### Summary of our provisional overall conclusion<sup>148</sup>

3.132 In the October 2012 consultation we stated that withdrawing the 0500 range would go further than the alternatives in:

- rationalising telephone numbering to reduce consumer confusion;
- securing the best use of telephone numbers; and
- enhancing the clarity and simplicity of the new Freephone regime (080) for the benefit of consumers and businesses.

We therefore considered that this option would best advance our policy objective of making non-geographic numbering and pricing more intuitive for consumers.

3.133 We acknowledged that Option 4 (withdrawal) had the potential to create costs for some SPs on the 0500 range. However, we considered that the potential harm associated with Option 4 was outweighed by the benefits for consumers and SPs. Based on evidence before us we considered that this option would be more effective, appropriate and proportionate in meeting our policy objectives and satisfying our duties under the Act than the alternatives.

3.134 Finally, we noted that our provisional conclusion to withdraw the 0500 range was consistent with the policy objectives of our strategic review of non-geographic numbers and the evidence we had set out. In particular, we had set out: (i) clear evidence of consumers' poor awareness and understanding of the 0500 range; (ii) clear evidence of the lack of efficiency in the use of numbers in this range and the long-term decline in the use of the range by SPs; and (iii) findings from our limited research on 0500 SPs which suggested that they appreciated the problems with the present-day Freephone regime as we had presented them and broadly welcomed Ofcom's intervention to simplify and clarify non-geographic numbers and pricing for the benefit of consumers.

## Final decision

3.135 We consider that our provisional overall conclusion on the 0500 range remains valid.

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<sup>148</sup> October 2012 consultation, paragraphs 5.93-5.99, pages 40-42.

- 3.136 In particular, we have received no data or evidence from stakeholders between our October 2012 consultation and today which materially changes our assessment. More recent market data from Vodafone and BT, set out in section 2, confirm that the trends in relation to the declining use of 0500 numbers that we observed in the October 2012 consultation still hold. In addition, the changes that we have made to the implementation of the withdrawal option since the October 2012 consultation (see section 4) will reduce the costs arising from this option, resulting in greater net benefits than we considered in our provisional assessment.
- 3.137 Accordingly, we have decided to withdraw the 0500 number range from use. In section 4 we set out how we intend to implement this withdrawal (i.e. the applicable timeframe and provision of a migration path) and in section 5 we discuss the legal powers we are relying on to effect the withdrawal.

## Section 4

# Implementation

4.1 In Section 6 of the October 2012 consultation we set out how we proposed to implement the withdrawal of 0500 numbers if we were to proceed with that option. In the light of stakeholders' comments we revised elements of our proposal in order to minimise the costs and disruption that withdrawal would cause for affected stakeholders. This revised proposal was set out in the December 2013 consultation. In the following sub-sections we summarise the details we set out in that consultation in relation to the proposed withdrawal of the range, stakeholders' comments on these issues, and our responses to these comments.

## Migration path

### Summary of our proposal

- 4.2 Following our October 2012 consultation BT and Vodafone noted that our proposal to withdraw 0500 numbers had not included the offer of a migration path for services that would be affected by this withdrawal. BT suggested that we open 080 85 as a replacement range if we proceeded with withdrawal so that SPs with 0500 numbers could preserve the last six digits of their 0500 numbers.<sup>149</sup>
- 4.3 In the December 2013 consultation we said that if we withdrew the 0500 range we proposed to open a sub-range within the 080 range to enable affected SPs to migrate their services on 0500 numbers to the 080 range before the withdrawal of 0500 numbers.<sup>150</sup> We said that the provision of a number migration path would help to create a smooth transition process, for the benefit of SPs and consumers, from the old number being withdrawn to a new number for the same service – by providing a set pattern for converting the old number to the new number in the replacement number range, thus making it easier for consumers to deduce the new number.
- 4.4 Due to the absence of any pattern in the spread of active/in-use 0500 numbers across the 0500 range today, the migration path that Ofcom would provide for 0500 numbers would need to be a completely clear (i.e. unallocated) block of 1 million 080 numbers. We noted that such a quantity of contiguous unallocated 0800 numbers did not exist. Therefore, we said, we would need to provide a migration path in a different 080X range. We consulted on two options to create the most recognisable and memorable 080X digit sequence to replace 0500, making clear that we would implement only one of them:
- 080 50 (e.g., the phone number 0500 123456 would become 080 50 123456); or
  - 080 85 (e.g., the phone number 0500 123456 would become 080 85 123456)
- 4.5 We then considered if replacement numbers in the 080X sub-range should be made available to all CPs currently hosting active 0500 numbers or should only be made available to Vodafone (the sole range-holder for 0500 numbers) in response to requests from SPs for migration.

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<sup>149</sup> BT response dated 8 January 2013, page 14.

<sup>150</sup> December 2013 consultation, paragraphs 2.40-2.60, pages 15-20.

- 4.6 We provisionally concluded that if we were to make replacement numbers in the 080X sub-range available to all CPs currently hosting active 0500 numbers then significant technical difficulties could result leading to a substantial risk of significant disruption and costs for affected CPs, which could in turn prejudice their willingness to facilitate telephone number migration for their 0500 SPs.<sup>151</sup> We identified that these issues would not arise if allocations of numbers in the 080X sub-range were restricted to Vodafone. To ensure that 0500 SPs which have ported their number from Vodafone to another CP have access to their “matching” number within the 080X migration sub-range that we make available, we proposed to make it a requirement of the allocation (of the new 080X sub-range) that Vodafone would treat a request from another CP for a number within the migration sub-range as if it were a request for portability made in accordance with General Condition 18. This would mean that Vodafone would be required to port the relevant 080X number to the requesting CP. That CP, in turn, would only be able to use that number for the purpose of enabling its SP to migrate its service from the 0500 range. Effectively, existing porting arrangements for 0500 numbers would be mapped across to the new 080X sub-range by the action of 0500 SPs exercising the option to obtain replacement 080X numbers. (In the case of 0500 numbers for which SPs do not request replacement 080X numbers, those 0500 numbers and associated porting arrangements would expire when the 0500 range was withdrawn.)
- 4.7 We then considered whether the allocation of the replacement 080X sub-range to Vodafone should be subject to further conditions to ensure that best use is made of this sub-range and that it is used efficiently.<sup>152</sup>
- 4.8 Noting the current low use of the 0500 range, both in terms of the few numbers in use and the very low call volume on the range, we explained why it was not feasible to predict which blocks in the 080X replacement sub-range would be required to implement migration for SPs who wished to exercise the option. We noted that, although Vodafone would have the benefit of an allocation of 1 million numbers, it was unlikely to have a use (in the short-to-medium term) of more than [X] [X] of these for migration purposes.<sup>153</sup>
- 4.9 In order to promote the best and most efficient use of numbers we proposed to allocate the entire 080X migration sub-range to Vodafone but make this allocation subject to a time limitation.<sup>154</sup> That limitation would apply unless one or more 080X numbers from within a block of 10,000 numbers was used by an SP migrating from the 0500 range, in which case the allocation of that particular block to Vodafone would not be time-limited. Where Vodafone retained a 10,000 block of 080X numbers at the end of the limitation period, it would be able to make unused numbers within that block available to new SPs which did not previously operate on the 0500 range.
- 4.10 Those blocks of 10,000 numbers within the 080X sub-range which were entirely unused for migration purposes at the end of the limitation period would automatically revert to Ofcom. We said we would consider how best to manage these unused 080X number blocks following their return to Ofcom; we would take account of potential costs and other difficulties that might arise for CPs to determine whether unused blocks in the 080X sub-range should be allocated only to Vodafone, should be

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<sup>151</sup> December 2013 consultation, paragraphs 2.47-2.51, pages 16-18.

<sup>152</sup> December 2013 consultation, paragraphs 2.52-2.58, pages 18-19.

<sup>153</sup> Based on data available to Ofcom on the use of 0500 numbers at the time of the October 2012 consultation.

<sup>154</sup> We said we would rely on our power under section 56A of the Act (as amended) to allocate telephone numbers for a limited period of time.

opened up to other CPs or should be kept unallocated until further consideration by Ofcom.

- 4.11 In order to enable all 0500 SPs to migrate before the withdrawal of 0500 numbers and allow time for a reconciliation of used and unused blocks of 080X numbers, we proposed that the appropriate limitation period for the allocation of the 080X migration sub-range to Vodafone be three years and three months.<sup>155</sup>
- 4.12 While recognising that the new 080X sub-range would be under-used during the migration period, we explained that we considered that our proposed approach would result in a better position ultimately than the current situation with respect to 0500's use. (The 0500 range is closed at present, so only those 0500 numbers that were in use in 1997/98 and have not been given up by their SPs may still be used.) Our proposed approach would address the consumer harm we had identified from the 0500 range and would replace a closed and very poorly-recognised number range with a new sub-range, within the much better-recognised 080 range and fully aligned with it. Following the end of the limitation period, Vodafone would be able to make available to new SPs unused numbers from within the blocks it retained and Ofcom would also consider whether it was appropriate to open up entirely unused number blocks for allocation. These measures would facilitate greater number use than at present. While the 080X migration path would facilitate the withdrawal of the 0500 range in a manner that minimised costs and disruption for SPs and CPs, we considered that the initial allocation of the entire replacement 080X sub-range to Vodafone was the most practical and cost-effective implementation solution. Our aim was to enable migration for all 0500 SPs who wished to exercise the option while also advancing the best and most efficient use of numbers in the longer term. In determining what to do with unused 080X blocks following the withdrawal of 0500, we said we would be mindful of the costs and other impacts on CPs of any decision we take, as we do when we open up any new number blocks or ranges in response to demand for numbering resource.

### Stakeholders' comments

- 4.13 Vodafone said it agreed with our analysis of the technical difficulties associated with migrating active 0500 numbers and welcomed our migration path proposal. It said it preferred 080 85 as the migration path; those of its SPs who expressed a preference for the most part preferred 080 85 because, as numbers beginning 0808 were already in existence, they considered 080 85 numbers would enjoy recognition among callers and would be "more instantly trustworthy".<sup>156</sup> Vodafone said it did not object to our proposed time limitation on the allocation to them of 080X blocks on the condition that Ofcom take the same approach to other CPs' under-utilised number blocks, i.e. reclaim them. Vodafone also asked Ofcom to confirm that, should current charging arrangements in place for geographic number reservations become more widespread and include non-geographic ranges, "special arrangements" would be put in place for the migration ranges.
- 4.14 While BT expressed concerns in relation to discrimination arising from our migration path proposal (discussed in section 5), it said it agreed with our analysis of the technical difficulties if we were to open the migration sub-range to all CPs for the

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<sup>155</sup> As we proposed that the 0500 range should be withdrawn after a three-year migration period (see paragraphs 4.28-4.31 below), our proposed limitation period of 3 years and 3 months was intended to allow a short period, after the end of the migration period, for the reconciliation of used and unused 080X blocks to be carried out.

<sup>156</sup> Vodafone response dated 31 January 2014, pages 2-3.



allocation of replacement numbers.<sup>157</sup> However, it said that Ofcom should check the use of 0500 numbers *before* the allocation of 080X blocks to Vodafone to ensure *only those* 080X blocks that include numbers that *will be* used by SPs are allocated to Vodafone. It preferred 080 85 as the migration path prefix for the same reason as Vodafone. To ensure that all CPs were treated fairly, not only during the limitation period but also afterwards, BT said that Ofcom must not allow Vodafone to use the migration blocks allocated to it for new businesses ever, i.e. not just within the three-year migration period, otherwise undue discrimination would result because Vodafone would get access to a potentially wide range of “golden numbers”. Also, it said, Ofcom must not allocate any unused 080X blocks to Vodafone *after* the three-year period but may open them to other CPs, although its preference was that the 080X sub-range remain closed.

- 4.15 EE said that Ofcom should decide the migration path by giving the “greatest weight to the preferences of those SPs who currently receive the highest volume of minutes terminated on their current [0500] number ranges”.<sup>158</sup>
- 4.16 [redacted] [redacted]<sup>159</sup>
- 4.17 [redacted] [redacted]<sup>160</sup>
- 4.18 An individual respondent noted that, while he agreed with our migration path proposal, the time-limited allocation of 080X blocks to Vodafone that we had proposed “could appear inconsistent” with the manner in which Vodafone’s 0321 Freephone numbers were migrated to 080 80X about a decade ago.<sup>161</sup> He suggested that “it would seem sensible” that the “same rules” apply to migrated 0500 numbers that did to migrated 0321 numbers.

## Our response

- 4.19 In response to Vodafone’s comment that Ofcom should take the same approach to under-utilised blocks (in other number ranges) allocated to other CPs, i.e. that we reclaim them, we note that we have an on-going duty under that Act to secure “efficiency” and “best use” with regard to telephone numbers. For example, in the last 12-18 months we have taken steps to reclaim unused or poorly used 080 number blocks from a number of CPs. Also, we are not currently considering extending geographic charging arrangements to the 080 range.
- 4.20 In response to BT’s suggestion that we check the use of 0500 numbers before the allocation of 080X blocks to Vodafone, we note that we do not consider that checking the 0500 range’s use by SPs *today* would establish reliably which 080X blocks would be needed by Vodafone. Given that much of the 0500 call traffic is low-volume and irregular, and that there may be a significant number of SPs who do not actively use their 0500 numbers while not giving them up, we consider that we would not be able to establish reliably which 080X numbers would be required for migration *in advance of 0500’s withdrawal*.
- 4.21 Also, we do not accept BT’s assertion that undue discrimination would result unless we prohibit Vodafone from using 080X blocks for new business after the migration

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<sup>157</sup> BT response dated 31 January 2014, page 6.

<sup>158</sup> EE response dated 30 January 2014, page 3.

<sup>159</sup> [redacted] [redacted]

<sup>160</sup> [redacted] [redacted]

<sup>161</sup> Response from [redacted] [redacted] dated 14 January 2014.

from 0500 is completed because then Vodafone would have access to a wide range of “golden numbers”. As noted earlier, it not possible to know in advance of migration which new 080X numbers will be hosted by Vodafone, which will be ported to other CPs and which will revert to Ofcom – because this will depend on which SPs exercise the option of migrating their services to new 080X numbers. We noted earlier (paragraphs 2.22-2.25) that less than [redacted] [redacted] of the 0500 range was in use in 2012 and the numbers of SPs using 0500 numbers has continued to decline significantly since then. This renders it unlikely that Vodafone will necessarily gain access to a wide range of “golden numbers”. If, for instance, a significant number of 0500 SPs do not exercise the option of obtaining replacement 080X numbers (for example, because they already use an 080 number in parallel to their 0500 number) then it is possible that few 080X blocks will automatically remain with Vodafone after the limitation period. Any “golden numbers” obtained by Vodafone at the request of migrating 0500 SPs would only replicate the situation today with respect to the corresponding 0500 numbers. We also note that, of those SPs that take up an 080X migration number, some will be serviced by Vodafone and some by other CPs (due to the replication of current porting arrangements). Therefore, we do not consider that the prohibitions BT suggests are required or appropriate to prevent Vodafone gaining a competitive advantage.

- 4.22 We note BT’s preference that Ofcom leave the 080X sub-range closed after the end of the limitation period. As noted in paragraphs 4.10 and 4.12, we will consider how best to manage unused 080X number blocks following their return to us, and will take account of potential costs and other difficulties that might arise for CPs in doing so as well as our duty to secure “efficiency” and “best use” in relation to telephone numbers.
- 4.23 In response to [redacted] [redacted], we note that, for the very reason cited above, we cannot allocate to other CPs those 080X blocks not needed by Vodafone for migration *before the end of the migration period* because we cannot feasibly establish *in advance of 0500’s withdrawal* which blocks those would be. In addition, permitting Vodafone to obtain allocations of migration sub-blocks as and when required for migration (rather than allocating it the entire 080X sub-range upfront) would raise the concern of whether Vodafone would be incentivised to make numbering application requests in cases where the relevant numbers have been ported to other CPs.
- 4.24 In response to [redacted] [redacted], our position is that, before determining what to do with 080X blocks that have not been retained by Vodafone at the end of the limitation period, we want to give due consideration to the costs and other impacts on CPs of any decision we take. Therefore, we do not wish to foreclose options for particular blocks of the 080 85 sub-range until after the end of the limitation period.
- 4.25 In response to the individual respondent’s comment, we note that, although our migration path decision for 0500 differs slightly from Oftel’s treatment of 0321 in 1999/2001 (in particular, the allocation of an 080X sub-range to Vodafone for migration of 0321 numbers was not time-limited), we consider that our approach to 0500 is justified and appropriate given our duties under the Act (which did not apply to Oftel in 1999/2001) for the reasons set out above (paragraphs 4.3-4.12).

## Final decision

- 4.26 Having considered stakeholders’ comments on our migration path proposal, we have decided that the 080 sub-range to be opened to facilitate the migration of 0500 numbers will be 080 85. 080 85 was favoured by all CPs but one who responded to

this question, including the two CPs who host the largest number of 0500 SPs. Vodafone's response also noted that most SPs it consulted preferred 080 85.

4.27 For the reasons set out above (and in more detail in paragraphs 2.47-2.60 of the December 2013 consultation), we have also decided that the entirety of the migration 080 85 sub-range be allocated to Vodafone, subject to the following requirements:

- Vodafone ports to other CPs, upon request from those CPs, any numbers in this sub-range that match expiring active 0500 numbers hosted by those CPs;<sup>162</sup>
- during the migration period numbers in the new 080 85 sub-range are used only by 0500 SPs migrating their services from expiring 0500 numbers;<sup>163</sup> and
- the allocation to Vodafone of each block of 10,000 numbers within the 080 85 sub-range will be subject to a time limitation of 3 years and 3 months, save to the extent that at least one number within the block is taken up by a migrating 0500 SP, in which case the allocation of that block will not be time-limited.<sup>164</sup> After the limitation period is over, Vodafone will be allowed to allocate unused numbers within 080X blocks it has retained to new SP customers.

## Timing of withdrawal

### Summary of our proposal

4.28 In the October 2012 consultation we said we preferred a longer implementation period of 24 months (as opposed to 18 months) for the proposed withdrawal of 0500 numbers because we considered that it would go further in mitigating disruption and minimising costs that may be incurred by SPs as a result of their withdrawal.<sup>165</sup>

4.29 In their responses to the October 2012 consultation several SPs and CPs commented on the costs and disruption that could arise as a result of the 0500 range's withdrawal. While some respondents favoured a quicker implementation, a number of SPs and CPs voiced views favouring a longer implementation period to minimise such costs and disruption (see paragraph 4.32 below). We noted in the December 2013 consultation that these responses were consistent with the findings of the informal interviews we conducted in June-August 2012 with a sample of 35 SPs using 0500 numbers:<sup>166</sup> almost all SPs we interviewed agreed that any disruption caused by 0500's withdrawal would be significantly mitigated by a longer transition period.

4.30 Thus, in the December 2013 consultation, having reflected further on this issue, we proposed a 36-month (three-year) timeframe for implementation.<sup>167</sup> We explained that if we decided to withdraw the 0500 number range then SPs and CPs would have 36 months from the date of our decision in which to migrate services currently on 0500 to another non-0500 number. For SPs who wished to avail themselves of the migration path, the new numbers would need to be secured from their CPs and made

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<sup>162</sup> See proposed amendments to the Numbering Plan in Annex 1 and at paragraph 5.27.

<sup>163</sup> See proposed amendments to the Numbering Plan in Annex 1 and at paragraph 5.27.

<sup>164</sup> We intend to include this restriction in the notification issued by Ofcom to Vodafone recording the allocation of the 080 85 sub-range. Vodafone will be obliged to comply with this restriction by virtue of General Condition 17.4(b).

<sup>165</sup> October 2012 consultation, paragraphs 6.7-6.13, pages 44-45.

<sup>166</sup> October 2012 consultation, paragraphs 3.16-3.19.4, pages 14-16.

<sup>167</sup> December 2013 consultation, paragraphs 2.26-2.63, page 21.

operational by the end of the 36-month period. We said that we considered that a three-year implementation time frame struck an appropriate balance between not delaying the longer-term benefits that would result from addressing the consumer harm we had identified in the October 2012 consultation and mitigating the costs for SPs caused by withdrawal.

- 4.31 We also said that SPs would be free to use their replacement 080X number(s) from the point it was provided to them by their CP. Therefore, SPs would have some freedom (within the three-year implementation period) over when to complete their number migration. They could do this at a time more suitable to their individual requirements: for example, contemporaneous with a new advertising campaign, an update of their website or corporate literature, etc. An SP may also use both the expiring 0500 number and the new 080X migration number concurrently until such time as the 0500 number range was withdrawn.

### Stakeholders' comments

- 4.32 Respondents to the October 2012 consultation expressed a range of views on the desirable timescale for the withdrawal of 0500 numbers.<sup>168</sup> [redacted] [redacted]. Three said it had no strong views in favour of an 18-month or 24-month withdrawal period but said it supported “Ofcom’s efforts to minimise costs and disruption to industry as a whole”. [redacted] [redacted]. NS&I argued that “a long notice period is desirable to minimise disruption”; it favoured two years. Missing People said it supported the “maximum length of time for implementation for the withdrawal of 0500 numbers” and requested a three-year period. [redacted] [redacted]. [redacted] [redacted]. The FCS considered 18 months preferable. NetTek said 18 months should be sufficient whereas SLA Consultants said withdrawal should be carried out as quickly as possible. An individual respondent, who opposed the 0500 range’s withdrawal, said that both 18 months and 24 months were insufficient.
- 4.33 Following the December 2013 consultation, where we proposed a longer, three-year implementation timeframe, most CPs who responded agreed with our revised position.<sup>169</sup>
- 4.34 Vodafone said that three years seemed an “appropriate period”, as did BT. EE said it agreed with the proposed three-year timeframe (with the understanding that the pricing regime for 0500 calls would remain unchanged until 0500 numbers were withdrawn, as noted earlier). [redacted] [redacted]. [redacted] [redacted]. Both individual respondents agreed with the proposed timeframe.

### Final decision

- 4.35 Having considered stakeholders’ comments on this issue, we have decided that 0500 numbers will be withdrawn three years from the date of publication of this statement – i.e. on 3 June 2017. We consider this length of time will grant most SPs enough time to plan the migration of their services to alternative numbers such that they are able to minimise costs and disruption caused by the withdrawal of 0500 numbers.

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<sup>168</sup> Non-confidential responses to the October 2012 consultation are available at: <http://stakeholders.ofcom.org.uk/consultations/0500-number-range/?showResponses=true>.

<sup>169</sup> Non-confidential responses to the December 2013 consultation are available at: <http://stakeholders.ofcom.org.uk/consultations/re-consultation-0500-freephone/?showResponses=true>.

## Call charges during transition

### Summary of our proposal

- 4.36 In the December 2013 consultation we proposed that if we proceeded with withdrawing the 0500 range then the pricing regime for 0500 numbers would remain unchanged until the range was withdrawn.<sup>170</sup> This means that, as at present, OCPs would not be permitted to charge callers for 0500 calls except when their charges are notified to callers at the start of the call – through a PCA. Subject to this PCA requirement, OCPs would remain free to set whatever price they wish.<sup>171</sup>
- 4.37 With respect to the replacement 080X numbers made available to 0500 SPs, we said that these numbers would be subject to the same pricing regime as the rest of the 080 range. This means that they will be Freephone initially. However, when 080 numbers become free-to-caller in June 2015 numbers in this sub-range will also become free-to-caller. The 080 85 migration sub-range will therefore become free-to-caller part way through the three-year migration period for 0500 SPs. If SPs avail of replacement 080 85 numbers after the 080 range has become free-to-caller, then their 080 85 numbers will be free-to-caller from the moment they are active.

### Stakeholders' comments

- 4.38 [redacted] [redacted]<sup>172</sup>
- 4.39 BT, in response to the October 2012 consultation, said that if we proceeded with withdrawal then 0500 call pricing should be left unchanged until the numbers are withdrawn in order to prevent further customer confusion.<sup>173</sup>
- 4.40 EE said that it agreed with our proposed three-year timeframe for the withdrawal of 0500 numbers with the understanding that the pricing regime for 0500 calls would remain unchanged until 0500 numbers were withdrawn.<sup>174</sup> It argued that to change the existing retail pricing arrangement for 0500 calls would cause unnecessary disruption and “commercial uncertainty/damage” for concerned stakeholders.

### Our response

- 4.41 We accept that there is some risk of consumer confusion under both approaches – keeping the charging regime for 0500 unchanged or aligning it to 080 during the migration period when 080 becomes free-to-caller. However, on balance, we consider that it is more appropriate not to change the pricing regime for 0500.

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<sup>170</sup> December 2013 consultation, paragraphs 2.64-2.65, page 22.

<sup>171</sup> BT is currently subject to the NTS Call Origination Condition for calls to 0500 numbers, which has the effect of restricting the price it charges for these calls. As set out in Ofcom's fixed narrowband services markets statement – published 26 September 2013 (<http://stakeholders.ofcom.org.uk/consultations/nmr-13/statement/>) – this condition will expire once the regulatory changes we are proposing to make to the 080 range (to make it free-to-caller) come into effect. On the basis of current proposals, this will remove the regulatory constraint on BT's retail prices for 0500 calls prior to the withdrawal of the range. However, 0500 SPs would have the option of migrating to the 080X sub-range which we are proposing to make available and which will be free to call from all CPs from the point at which the NTS Call Origination Condition falls away.

<sup>172</sup> [redacted] [redacted]

<sup>173</sup> BT response dated 8 January 2013, page 14.

<sup>174</sup> EE response dated 30 January 2014, page 4.

- 4.42 This approach will ensure that the public information campaign about 080 calls becoming free-to-caller remains as simple and clear as possible for consumers. We consider that, absent a positive campaign to promote 0500 as free-to-caller, consumer understanding of 0500 would remain at its current low level. Given the evidence that the overwhelming majority of consumers do not recognise 0500 numbers as Freephone numbers equivalent to 080, a change to 080's pricing would not automatically lead most consumers to assume this change also applied to 0500.
- 4.43 Also, to change the retail price of 0500 calls would increase call origination costs for SPs at the same time as they would be expected to incur migration costs. We consider this would be disproportionate and unnecessary when all 0500 numbers are due to expire by mid-2017 and 0500 use is already very low.

## Final decision

- 4.44 We have decided that the pricing regime for calls to 0500 numbers will remain unchanged from what it is today until these numbers are withdrawn from use in 2017.

## Communication of withdrawal

### Summary of our proposal

- 4.45 In the October 2012 consultation we noted that, if we proceeded with our proposal to withdraw the 0500 range then this would form part of a wider communications campaign about other changes to non-geographic numbering. This wider communications plan, combined with more specific communications activities (e.g. through Ofcom's website, or other consumer groups), would be one way in which we would help ensure that the message that 0500 numbers were being withdrawn would be propagated to consumers. We noted that SPs would want to ensure that their customers could reach them without disruption and therefore they had an incentive to take action during the implementation period to inform their customers and business partners by various means available to them. We invited CPs and SPs to suggest how consumers and SPs could be made better aware of numbering changes.<sup>175</sup>

### Stakeholders' comments

- 4.46 In response to the October 2012 consultation NS&I recommended that Ofcom develop a "targeted campaign supported by press releases and other methods" and that Ofcom should provide "lines to take" for businesses to ensure that clear and consistent communication was provided to consumers. Missing People said that publicity about the changes should either be delivered by Ofcom or that charities should be provided funding for this. [X] [X] said it did not consider consumers needed to be made aware of the withdrawal of 0500 numbers "as this may cause questions that us as organisations will need to answer". Three said that, while it could support generic PCAs for Freephone numbers as a means of driving awareness of the proposed change, SPs should have to pay for bespoke PCAs rather than originating CPs. Several SPs said Ofcom should publicise and explain withdrawal to consumers and provide industry with publicity guidance, e.g. "lines to take".

### Our response

- 4.47 We are not requiring originating CPs to provide callers with PCAs customised for the SP being called.

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<sup>175</sup> October 2012 consultation, paragraphs 6.15-6.17, pages 45-46.

- 4.48 With the 080 range launching as free-to-caller in June 2015, SPs who wish to migrate their 0500 numbers to 080 85 will benefit from the consumer-focused campaign that Ofcom will be coordinating in the lead up to that change.
- 4.49 The withdrawal of the 0500 range will be communicated to organisations and consumers as part of Ofcom's public campaign in 2015 to promote the changes being made to NGCS as a result of Ofcom's December 2013 NGCS statement.

### **Conclusion on how the withdrawal of 0500 will be implemented**

- 4.50 In conclusion, our decision to withdraw the 0500 range will be implemented as follows:
- 0500 numbers will be withdrawn from use three years from the date of publication of this statement, i.e. on 3 June 2017;
  - until then, the pricing regime for calls to 0500 numbers will remain unchanged from what it is today;
  - a new 080 sub-range (080 85) will be opened as a migration path for affected SPs on the 0500 range who wish to preserve their numbers – such that the last six digits of an SP's 080 85 replacement number will match the last six digits of the expiring 0500 number which it replaces;
  - the 080 85 migration path will be allocated in its entirety to Vodafone subject to the requirements that, until 3 June 2017: (i) numbers in the new 080 85 sub-range are used only by 0500 SPs migrating their services from expiring 0500 numbers and (ii) Vodafone ports to other CPs, upon request from those CPs, any numbers in this sub-range that match expiring active 0500 numbers hosted by those CPs; the allocation to Vodafone of each block of 10,000 numbers within the 080 85 sub-range will be subject to a time limitation of three years and three months (i.e. until 3 September 2017), save to the extent that at least one number within the block is taken up by a migrating 0500 SP, in which case the allocation of that block will not be time-limited; and
  - unused blocks of 080 85 numbers will therefore revert to Ofcom three years and three months from the date of publication of this statement (i.e. on 3 September 2017), whereas other blocks will remain allocated to Vodafone without further restriction.



## Section 5

# Legal framework

## Introduction

5.1 In the December 2013 consultation, we stated that the withdrawal of the 0500 range, in conjunction with the provision of a migration 080X sub-range, would amount to a numbering reorganisation. Accordingly, we considered that the appropriate legal basis for the proposed withdrawal of 0500 would be section 61(2)(c) of the Act, namely a withdrawal made for the purposes of a numbering reorganisation applicable to a particular series of numbers.<sup>176</sup> We set out in this section:

- the various legal tests which must be satisfied to exercise such a withdrawal and our view that they would be so satisfied in this case (including our response to relevant stakeholder comments);
- the modifications to the Numbering Plan and the numbering application forms that we have decided to make to implement the withdrawal (including our response to relevant stakeholder comments); and
- in relation to those modifications, the legal tests that must be satisfied and our reasons for considering that they would be so satisfied in this case.

## Legal tests for our proposed withdrawal and numbering reorganisation

### Summary of our position in the December 2013 consultation<sup>177</sup>

5.2 We noted in the December 2013 consultation that:

- we must act in accordance with our general duties in section 3 of the Act and the Community requirements in section 4 of the Act;
- we must satisfy the specific requirements that apply to a withdrawal made under section 61(2)(c), namely:
  - the reorganisation is not such as to discriminate unduly against: (a) particular CPs; (b) particular users of the allocated numbers; or (c) a particular description of such providers or users (section 62(2));
  - the reorganisation provides for the withdrawn allocations to be replaced with allocations of numbers “so nearly resembling the numbers to which the withdrawal relates as the purpose of the reorganisation allows” (section 62(3));
  - we do not require payment for the replacement allocation unless there is an existing requirement on allocatees to make periodic payments in relation to the numbers which are withdrawn (section 62(4) and (5)); and

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<sup>176</sup> December 2013 consultation, paragraph 3.9, page 23.

<sup>177</sup> December 2013 consultation, paragraphs 3.10-3.12, pages 23-24.



- we must comply with our general duty in relation to our numbering functions (section 63) which requires us to secure, in carrying out those functions, what we consider to be the best use of telephone numbers and to encourage efficiency and innovation for that purpose. In addition, we must secure that there is no undue discrimination by CPs against other CPs in relation to the adoption of telephone numbers for purposes connected with the use of an electronic communications network or an electronic communications service.

### No undue discrimination<sup>178</sup>

- 5.3 We noted in the December 2013 consultation that, in withdrawing 0500 numbers, we were proposing to treat the 0500 range differently from the 080 range (which we were proposing should be made free-to-caller). We also recognised that, although there are important features in relation to the use and consumer understanding of 0500 which distinguish it from 080, the key characteristics of the two ranges are the same. Accordingly, we accepted that 0500 and 080 should be treated as comparable situations. Nonetheless we considered that our proposal to treat 0500 differently from 080, by withdrawing the 0500 range, would be objectively justified, when the distinguishing features of the 0500 range<sup>179</sup> are assessed by reference to Ofcom's duty to ensure the efficient use and effective management of numbers.
- 5.4 We stated that the distinguishing features of 0500 meant that the benefits of making the range free-to-caller were lower than those expected to result from making 080 free-to-caller. Furthermore, we considered that there would be scope for confusion about the 0500 range and this could adversely affect the clarity of the free-to-caller message in relation to 080. We said that having two dissimilar looking ranges fulfilling the same function did not represent a good use of numbers, particular given the low usage of the 0500 range. The combination of all these factors led us to propose withdrawal of the range as our preferred option.
- 5.5 On the basis of this assessment, we considered that the proposed withdrawal of 0500 would be objectively justified, taking account of our legitimate policy objectives under section 63, and would not give rise to undue discrimination within the meaning of section 62(2) and our general duty in relation to our numbering functions in section 63 of the Act.
- 5.6 We considered that our proposal to provide a migration path and to impose obligations on Vodafone to replicate current porting arrangements (where an existing 0500 SP wishes to take up the migration path) would ensure that all CPs with 0500 SPs are in the same position as they are presently in relation to the 0500 range and all 0500 SPs are in an equivalent position in terms of access to the 080X migration sub-range. While the allocation of the 080X migration sub-block would only be made to Vodafone, this was due to significant technical difficulties associated with making the range available to other CPs that would risk materially increasing costs and could undermine the intention of making the range readily available to all 0500 SPs wishing to migrate. Further, we proposed measures to limit the extent to which Vodafone

<sup>178</sup> December 2013 consultation, paragraphs 3.14-3.22, pages 24-26.

<sup>179</sup> We described these distinguishing features, namely: (i) 0500 is a closed range and Vodafone (as range holder) holds a significant number of redundant numbers; (ii) there are a declining number of SPs on the 0500 range and call volumes are very low, in contrast to 080 which has the largest proportion of call volumes and active numbers of all the non-geographic number ranges; (iii) a very large proportion of 0500 call volumes are attributable to a small number of SPs, whereas we considered there to be no equivalent concentration on the 080 range; and (iv) survey evidence indicates that consumer awareness and understanding of the 0500 range is materially lower than for the 080 range. For further detail, see the December 2013 consultation, paragraph 3.16, page 25.

permanently retains numbers from the 080X sub-range which it has not used for migration purposes. Thus, to the extent that the allocation of the migration sub-range to Vodafone confers a benefit on it, we considered that it would go no further than is required to enable migration of active 0500 SPs who wish to take up that option and is therefore objectively justified. Accordingly, we considered that the reorganisation we were proposing would not give rise to undue discrimination in accordance with the requirements of section 62(2) of the Act.

#### Replacement of 0500 allocations<sup>180</sup>

- 5.7 We considered that either of the two sub-ranges we were proposing as replacement numbers for 0500 – 08085 or 08050 – would allow users to migrate to a number resembling their own (by retaining the final 6 digits of their existing 0500 number) while at the same time bringing them within the 080 range. We therefore considered that the reorganisation would provide for the withdrawn allocations to be replaced with allocations of numbers so nearly resembling the numbers to which the withdrawal relates as the purpose of the reorganisation allows.
- 5.8 We stated that we were not proposing to require any payment for allocating a replacement 080X number to existing allocatees of 0500 numbers and therefore the third requirement of section 62 would be satisfied.
- 5.9 Accordingly, we considered that the specific requirements in section 62 which apply to a withdrawal made for the purposes of a numbering reorganisation under section 61(2)(c) would be satisfied in this case.

#### Time limited allocation of the 080X migration sub-range<sup>181</sup>

- 5.10 As explained at paragraphs 4.9-4.10 above, we proposed in the December 2013 consultation to impose a time limit on the allocation of the 080X migration sub-range to Vodafone in respect of blocks of 10,000 numbers which are entirely unused by migrating 0500 SPs at the end of the migration period. We proposed that the time limit for any such unused blocks should be 3 years and 3 months from the date of our final decision on the future of the 0500 range (i.e. 3 months after the end of the migration period in order to allow time for reconciliation of used and unused 080X number blocks). We considered that, as required by section 56A(b) of the Act, this time limitation would be objectively justified as the 080X sub-range is intended to be initially used for services migrating from the 0500 range. Where a block of 10,000 080X numbers is entirely unused by such services at the end of the 3 year migration period then it is appropriate that the allocation for the purposes of migration should cease and the numbers automatically revert to Ofcom.

#### Our general duty in carrying out our numbering functions<sup>182</sup>

- 5.11 We considered that the proposal to withdraw the 0500 range would secure what we considered to be the best use of telephone numbers and encourage efficiency and innovation. We explained why it would be necessary to initially allocate the entirety of the migration 080X sub-range to Vodafone, but considered that the reversion of unused number blocks to Ofcom following the end of the transition period would ensure that Vodafone is not permanently allocated a large number of 080 numbers for which it currently has no use. We therefore considered that, taking account of the

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<sup>180</sup> December 2013 consultation, paragraphs 3.23-3.25, pages 26-27.

<sup>181</sup> December 2013 consultation, paragraph 3.26, page 27.

<sup>182</sup> December 2013 consultation, paragraphs 3.27-3.28, page 27.

practical issues associated with enabling the migration of 0500 SPs, the allocation of the 080X migration sub-range to Vodafone in this manner would be consistent with our duty to secure the best use of telephone numbers.

- 5.12 We also noted that our general duty under section 63 of the Act requires us to secure that, in carrying out our numbering functions, there is no undue discrimination by CPs against other CPs. As noted at paragraph 5.6 above, we proposed to implement measures to ensure that all CPs hosting 0500 SPs will be able to secure access for their 0500 customers to a matching number within the 080X migration sub-range. On that basis, we did not consider that the reorganisation would give rise to undue discrimination by CPs against other CPs in relation to the adoption of telephone numbers. We therefore considered that our proposals would be consistent with our duty under section 63 of the Act.

### Ofcom's duties under section 3 and 4 of the Act

- 5.13 We stated in the December 2013 consultation that we were satisfied that the proposed withdrawal of 0500, under our powers in section 61(2)(c) of the Act, would be consistent with our general duties and the specific requirements that apply to such a withdrawal.<sup>183</sup>

### **Stakeholders' comments**

#### Responses to October 2012 consultation

- 5.14 BT noted that a withdrawal of the 0500 range would discriminate unduly against Vodafone because predominantly Vodafone customers use the 0500 range and it would likely suffer disproportionate economic loss as a result of switching away from its numbers and at the same time its service (given that it unnecessarily creates a new decision-point for customers).<sup>184</sup> Similarly, Vodafone stated that any changes to the 0500 range would fall "disproportionately" upon it and its customers.<sup>185</sup>
- 5.15 BT and Vodafone both said that Ofcom's proposal to withdraw 0500 numbers may not be consistent with Ofcom's obligation to act in a way that is proportionate and with a bias against intervention. They said that Ofcom had failed to show it had selected the least restrictive option for achieving its objectives.<sup>186</sup>

#### Responses to December 2013 consultation

- 5.16 In its response to the December 2013 consultation, BT stated again that withdrawal of the 0500 range would disproportionately affect Vodafone and may therefore be argued to discriminate unduly against it. Conversely, it also considered that allocation of the entire 080X migration sub-range to Vodafone would unduly discriminate against other CPs as Vodafone would obtain a competitive advantage through access to a potentially wide range of golden numbers on the new sub-range.<sup>187</sup>

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<sup>183</sup> December 2013 consultation, paragraphs 3.29-3.30, page 27. See also paragraphs 3.48-3.49 of the December 2013 consultation and paragraphs 6.28-6.29 of the October 2012 consultation.

<sup>184</sup> BT response dated 8 January 2013, pages 8-10.

<sup>185</sup> Vodafone response dated 3 January 2013, page 5.

<sup>186</sup> BT response dated 8 January 2013, page 9; Vodafone response dated 3 January 2013, page 8.

<sup>187</sup> BT response dated 31 January 2014, pages 5 and 7.

5.17 Vodafone considered that many of the “migration and legal failings” it had identified with Ofcom’s proposal in the earlier consultation had been addressed.<sup>188</sup>

5.18 [redacted] [redacted]<sup>189</sup>

## Our response

5.19 In response to stakeholders’ comments on the October 2012 consultation, we explained in detail in the December 2013 consultation why we considered that withdrawal of the 0500 range would not result in undue discrimination (summarised at paragraphs 5.3-5.6 above).

5.20 While BT continued to state in its response to the December 2013 consultation that a withdrawal of 0500 would discriminate against Vodafone, it did not provide any more detailed reasoning or engage with the arguments we put forward in that consultation as to why no undue discrimination would arise. We therefore remain of the view that 0500 and 080 should be treated as comparable situations. However, we consider that our proposal to treat 0500 differently from 080 (by withdrawing the 0500 range but making 080 free-to-caller) would be objectively justified when the distinguishing features of the 0500 range are assessed by reference to our legitimate policy objectives (i.e. our duty under section 63 to secure what we consider to be the best use of numbers and to encourage efficiency and innovation for that purpose) and our policy objectives for this project, including addressing the consumer harms we have identified (see paragraph 5.22). In particular, the distinguishing features of the 0500 range are that:

- the benefits of making it free-to-caller (i.e. treating it the same as the 080 range) are lower than those expected from 080;
- the need to promote 0500 as a free-to-caller range (if we were to treat it the same as 080) will result in consumer confusion as to why two dissimilar looking ranges both have the same pricing structure, which would risk diluting the clarity of the free-to-caller message in relation to 080 (see paragraphs 3.24-3.25 above); and
- having two dissimilar looking ranges fulfilling the same function (if we were to make 0500 free-to-caller and treat it the same as 080) does not represent a good use of numbers, particularly given the low use of the 0500 range.

5.21 With respect to undue discrimination against other CPs, we explain at paragraph 4.20 above why we consider that the allocation of the 080 85 sub-range to Vodafone is unlikely to result in it obtaining access to a wide range of “golden numbers”. However, to the extent that the allocation of the migration sub-range to Vodafone confers a benefit on it, we consider that it will go no further than is required to enable migration of active 0500 SPs who wish to take up that option and is therefore objectively justified (see paragraph 5.6 above). Accordingly, we consider that the reorganisation we are proposing would not give rise to undue discrimination against other CPs and is therefore compliant with section 62(2) of the Act.

5.22 Finally, we set out at paragraph 5.23 below why we consider our intervention to be proportionate. In particular, our objectives are:

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<sup>188</sup> Vodafone response dated 31 January 2014, page 2.

<sup>189</sup> [redacted] [redacted]

- to address the market failures and consumer detriment we have identified<sup>190</sup> by making the pricing structure of non-geographic numbers clearer and removing confusing and misleading inconsistencies; and
  - to make the pricing of calls to these numbers more intuitive for consumers – i.e. having number ranges which reflect well-defined purposes (that is, being for use for services for which there is demand), and that numbers are as clear and easily understandable to consumers as reasonably possible. We want to reduce the potential for confusion created by (i) similar-looking number ranges operating services with different price structures, and, conversely, (ii) different-looking ranges not having a distinct identity, in terms of purpose and/or price.<sup>191</sup>
- 5.23 Our proposal to withdraw 0500 is proportionate because none of the other options for this range would satisfy these policy objectives. In particular, Option 2 (making 0500 a free-to-caller range) would result in the retention of two ranges with the same pricing structure but which look different to consumers (080 and 0500). We consider that this would fail to address our objectives of making the pricing structure of non-geographic numbers clearer, removing confusing/misleading inconsistencies and having number ranges that reflect well defined purposes.
- 5.24 In addition, our migration path proposal and increased implementation period are specifically intended to minimise the costs and disruption from 0500's withdrawal to SPs and CPs. As discussed in section [3], we consider that this revised approach for 0500's withdrawal further reduces the costs arising from 0500's withdrawal without delaying the benefits too far into the future.
- 5.25 We have also had regard to the principle that regulatory intervention should be targeted only at cases in which action is needed. However, having identified market failures and consequent consumer detriment on the 0500 range, we consider that it is appropriate for us to intervene. As discussed above, our review of the 0500 range forms part of our wider review of non-geographic numbers, which is intended to simplify these ranges and address consumer confusion about what these numbers mean and how much it costs to call them.

## Legal instruments

### Changes to the Numbering Plan and numbering application forms

- 5.26 We consulted in December 2013 on the legal instruments that we needed to make in order to withdraw the 0500 range under section 61(2)(c) of the Act for the purposes of a numbering reorganisation. The draft legal instruments that we proposed to make were included at Annexes 8 and 9 of the December 2013 consultation.
- 5.27 Specifically, we proposed to amend the Numbering Plan as follows:<sup>192</sup>
- to modify Part B3 to set out the restriction that would apply to the use of 080X numbers, namely that they are only available for use by a customer migrating from a matching 0500 number. We stated that this would be made in accordance

<sup>190</sup> We have evidence of low consumer price awareness and vertical and horizontal externalities and are concerned that these market failures are leading to harm to consumers as a result a reduction in demand, prices not reflecting consumer preferences, a loss of access to socially important services and diminished service availability and SP innovation (see paragraphs 3.2-3.3 above).

<sup>191</sup> October 2012 consultation, paragraphs 5.4-5.5, pages 22-23.

<sup>192</sup> December 2013 consultation, paragraphs 3.34-3.41, pages 28-29.

with our duty in section 56(1)(b) of the Act to set out the restrictions that we consider appropriate on the adoption of numbers available for allocation and that it should be read in conjunction with paragraph 4 of General Condition 17, which requires CPs to comply with all applicable restrictions and requirements as are set out in the Numbering Plan. We proposed that this modification would remain in place for a period of three years;

- to modify Part B3 to set out the requirement that the CP with the allocation of these 080X numbers deal with a request by another CP for a number within that block as if it were a request for portability made in accordance with General Condition 18, in order to enable a customer of the provider making the request to migrate from an 0500 number. We noted that the modification would be made in accordance with section 56(1)(c) (which requires Ofcom to set out in the Numbering Plan “such restrictions as they consider appropriate on the other uses to which numbers available for allocation in accordance with the plan may be put”) and Ofcom’s general duty under section 63 to ensure in carrying out its numbering functions that there is no undue discrimination by CPs against other CPs.<sup>193</sup> We proposed that this modification would remain in place for a period of 3 years;
- to modify Part C5 to remove 0500 and its designation from the list of numbers specified in the table as in use but no longer available for individual allocation. We proposed that this modification would take effect 3 years from the date of our final statement, should we ultimately conclude to proceed with a withdrawal of the range. We considered that we were not precluded from modifying information in the Numbering Plan, where this is appropriate in the light of our other statutory powers and duties. We considered it appropriate to remove the listing of 0500 and its designation from Part C in order to give effect to its withdrawal. In particular, paragraph 3 of General Condition 17 only permits a CP to use or adopt a number listed in Part C of the Numbering Plan in accordance with its designation.

5.28 We also proposed modifications to Form S8 – the numbering application form for numbering beginning ‘08’ - to add the new 080X number range to the list of Freephone numbers which are available for allocation and to exclude the new 080X sub-range from the scope of the questions 6 and 7. We noted that once Vodafone submits its application for this range, no further allocations from the sub-range will be available during the migration period. We considered these modifications to fall within our powers to give a direction for the purposes of a general condition, pursuant to section 49 of the Act.<sup>194</sup> We considered them to be in line with the modifications we were proposing to make to the Numbering Plan and necessary for the effective implementation of those modifications.<sup>195</sup>

## Stakeholders’ comments

5.29 With respect to our proposed changes to the Numbering Plan, [X] [X] queried whether 084/087 to 034/037 migrations will get the same treatment as outlined for

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<sup>193</sup> In applying these powers, we noted that we had also had regard to Part C3 of the Annex to the Authorisation Directive which permits number portability requirements to be a condition attached to a right of use for numbers.

<sup>194</sup> Paragraph 9 of General Condition 17 requires CPs, when applying for an allocation of telephone numbers, to use an application form as directed by Ofcom.

<sup>195</sup> December 2013 consultation, paragraphs 3.42-3.45, pages 29-30.

0500 in Part B3.2.5. It considered that the drafting should be extended to cover that.<sup>196</sup>

- 5.30 With respect to our proposed changes to the numbering application form, BT noted our ongoing project to replace the current paper based forms with an online portal and stated that we should review the online form 08 section to make reference to the 0500 migration range changes.<sup>197</sup>

## Our response

- 5.31 We are not modifying the drafting in the Numbering Plan in relation to 084/087 to 034/037 migrations as it is outside the scope of this project. We are also not aware of any issues arising from the current provisions with respect to these migrations.
- 5.32 In reaching our final decision on our proposals for an online portal and online application form, we will take into account the changes to the S8 application form that we have decided to make in this statement and relect these, as relevant, in the online form.<sup>198</sup>

## Final decision

- 5.33 We have decided to modify the Numbering Plan and the numbering application form, S8. Notifications of the modifications are set out in Annexes 1 and 2, respectively, to this statement. These remain unchanged from the modifications on which we consulted, save for some minor, non-substantive changes to the form of drafting that we proposed to use in section 6 and 7 of the numbering application form S8.

## Legal tests and statutory duties

- 5.34 We may not modify the legal instruments described above unless we are satisfied that the modification is objectively justifiable, not unduly discriminatory, proportionate and transparent.<sup>199</sup> We are satisfied that our modifications meet these requirements.
- 5.35 In particular, we consider the modifications to be:
- 5.35.1 **objectively justifiable**, in that the withdrawal of 0500 numbers will contribute to our objectives of (i) addressing the market failures and consumer detriment we have identified<sup>200</sup>; and (ii) making the pricing of calls to these numbers more intuitive for consumers – i.e. having number ranges which reflect well-defined purposes and numbers that are as clear and easily understandable to consumers as reasonably possible;
- 5.35.2 **not unduly discriminatory**, for the reasons set out in paragraphs 5.3-5.6 and 5.20-5.21 above;

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<sup>196</sup> [X] [X]

<sup>197</sup> BT response dated 31 January 2014, page 8.

<sup>198</sup> We note that some of the changes we are making to Form S8 apply in relation to Vodafone's application for the 080 85 migration range. If Vodafone has already made its application by the time we issue our final decision on the online portal and online application form, then we may decide in that statement that these changes are no longer relevant and it is not necessary to carry them across to the online form.

<sup>199</sup> See section 60(2) in relation to the Numbering Plan and section 49(2) in relation to the numbering application forms. However, we are not required to satisfy ourselves that a direction affecting a general condition is objectively justifiable (see section 49(2A)).

<sup>200</sup> See paragraphs 3.2-3.3 above.

- 5.35.3 **proportionate**, in that the modifications are the minimum necessary to achieve the objectives outlined above. We explained in the October 2012 consultation and in section 3 of this statement why we consider that alternative regulatory approaches would fail to address our concerns in relation to 0500. The provision of a migration path and increased implementation period are specifically intended to minimise the costs and disruption from 0500's withdrawal to SPs and CPs. As discussed in section 3, we consider that our revised approach to 0500's withdrawal further reduces the resulting costs without delaying the benefits too far into the future; and
- 5.35.4 **transparent**, in that the modifications are set out in full in Annexes 1 and 2 and are explained in detail in this statement. Furthermore, the modifications themselves contribute to an increase in transparency for consumers by making the pricing structures associated with non-geographic numbers clearer and more intuitive.
- 5.36 We consider that we are fulfilling our general duty in relation to our telephone numbering functions, as set out in section 63 of the Act, by:
- 5.36.1 **securing the best use of telephone numbers**, in that our modifications will remove a duplicate range serving an identical function when the main range 080 is not exhausted as a resource, thereby ensuring that number ranges have distinct and well-defined purposes and that the pricing of call to non-geographic numbers is more intuitive for consumers;
- 5.36.2 **encouraging efficiency and innovation**, in that our modifications are likely to ensure, as a result of improved price transparency, that consumers are able to make purchasing decisions commensurate with their own individual consumption preferences. We also consider that our modifications will result in improvements in pricing efficiency (in particular, by addressing the horizontal and vertical externalities) and improvements in SPs' incentives to innovate and invest in the NGCS market and to promote their services; and
- 5.36.3 **securing that there is no undue discrimination by CPs against other CPs** in relation to the adoption of telephone numbers, in that our modifications will ensure that the CP allocated the 080 85 migration sub-range will be required to port numbers within the range to other CPs on request so that SPs using an 0500 number will be in an equivalent position in terms of securing access to the sub-range in order to migrate to a matching 080X number.
- 5.37 We also consider that our modifications are consistent with our principal duty under section 3 of the Act, and the Community requirements set out in section 4 of the Act. In particular:
- 5.37.1 we consider that our modifications will result in benefits to **consumers and citizens** (sections 3(1), 3(5) and 4(5)) by addressing consumers' poor awareness and confidence in the pricing of NGCS, improving vulnerable consumers' access to socially important services and encouraging SPs to improve the quality, variety and innovative nature of their services;



- 5.37.2 as explained above, we consider that our modifications will result in improvements in **efficiency, investment and innovation** (sections 3(4)(d));
- 5.37.3 in carrying out our review, we have had regard to the needs of **vulnerable consumers** (section 3(4)(h) and (i)), in particular through our Equality Impact Assessment (see Annex 6 of the October 2012 consultation and paragraph 2.42 above) and by the explicit consideration of the extent to which our decision would impact on vulnerable consumers' access to socially important services;
- 5.37.4 we have had regard to the **opinions of consumers and members of the public generally** (section 3(4)(k)), through consumer surveys, consultation and engagement with various bodies representing consumer interests; and
- 5.37.5 we have also had regard to the principle that regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and to other principles of **best regulatory practice** (section 3(3)). In particular, we have explained in detail in the October 2012 consultation, the December 2013 consultation and in this statement why we consider that regulatory intervention is required, and we explain above why we consider that our decision is proportionate and transparent.

## Annex 1

# Notification of modifications to the provisions of the Numbering Plan under section 56(2) and section 60(5) of the Act

### WHEREAS

- A. General Condition 17 of the General Conditions of Entitlement has effect by reference to the provisions of the Numbering Plan.
- B. 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.
- C. On 12 December 2013, Ofcom published a notification (the "First Notification") of their proposal to modify the provisions of the Numbering Plan, in accordance with section 60(3) of the Act.
- D. In the First Notification and the accompanying consultation document, Ofcom invited representations about any of the proposals therein by 31 January 2014.
- E. By virtue of section 60(5) of the Act, Ofcom may give effect to the proposal set out in the First 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 First 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.
- F. Ofcom received one response to the First Notification and have considered the representation made to them in respect of the proposal set out in the First Notification and the accompanying consultation document.
- G. The Secretary of State has not notified Ofcom of any international obligation of the UK for the purposes of section 60(5) of the Act.

### THEREFORE

- 1. In accordance with sections 56(2) and 60(5) of the Act, Ofcom are modifying the provisions of the Numbering Plan as set out in the Schedules to this Notification.
- 2. Ofcom's reasons for making these modifications, and the effect of the modifications, are set out in the explanatory statement accompanying this Notification.
- 3. Ofcom are satisfied that the modifications comply with the requirements of section 60(2) of the Act.

4. In making these modifications, Ofcom have considered and acted in accordance with their general duty as to telephone numbering functions under section 63 of the Act, their general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act.
5. The modifications:
  - a. in Schedule 1 shall enter into force immediately for a period of 3 years; and
  - b. in Schedule 2 shall enter into force on 3 June 2017.
6. In this Notification:
  - a. “the Act” means the Communications Act 2003;
  - b. “the General Conditions of Entitlement” means the general conditions set under section 45 of the Act by the Director General of Telecommunications on 22 July 2003, as amended from time to time;
  - c. “Ofcom” means the Office of Communications; and
  - d. “Numbering Plan” means the National Telephone Numbering Plan published by Ofcom pursuant to section 56(1) of the Act, and amended from time to time.
7. 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 purposes of interpreting this Notification: (a) headings and titles shall be disregarded; and (b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
9. The Schedules to this Notification shall form part of this Notification.



**Yih-Choung Teh**

**Competition Policy Director**

**3 June 2014**

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

## SCHEDULE 1

1. In Part B, Section B3.2 is modified as shown highlighted in yellow for a period of 3 years, ending on 3 June 2017.

### **B3.2 Non-Geographic Numbers starting 03**

#### **03 numbers**

B3.2.1 Those who Adopt or otherwise use Non-Geographic Numbers starting 03 shall not share with any End-User any revenue obtained from providing a service on those numbers.

B3.2.2 Those who are Allocated Non-Geographic Numbers starting 030 shall assign those numbers only to Subscribers that are public sector bodies or not-for-profit bodies.

B3.2.3 Those Communications Providers who Adopt or otherwise use Non-Geographic Numbers starting 034 or 037 shall only do so for the purpose of providing a service to a Customer who is migrating from a Non-Geographic Number starting 084 or 087 which is exactly identical to the 034 or 037 number except for the second digit (a “matching 084 or 087 number”). A Non-Geographic Number starting 034 or 037 shall not be Adopted or otherwise used by a Communications Provider where no matching 084 or 087 number is in use by a Customer.

#### **080 numbers**

**B3.2.4 Those Communications Providers who Adopt or otherwise use Non-Geographic Numbers starting 08085 shall only do so for the purpose of providing a service to a Customer who is migrating from a Non-Geographic Number starting 0500 of which the final 6 digits are exactly identical to the final 6 digits of the 08085 number (a “matching 0500 number”).**

**B3.2.5 Where a Communications Provider allocated a series of 08085 numbers (‘the Recipient Communications Provider’) receives a request for a number within that series from another Communications Provider for the purpose specified in paragraph B3.2.4, the Recipient Communications Provider must:**

- (a) treat that request as if it were a request for Portability in respect of that 08085 number; and**
- (b) deal with the request in accordance with the requirements of General Condition 18 of the General Conditions of Entitlement.**

## SCHEDULE 2

1. In Part C, Section C5 'Public Communications Network Numbers which have been individually Allocated', the modification marked as a deletion and highlighted in yellow below shall be made to the entry for the number 0500 on 3 June 2017:

0500	<del>Special Services — No charge to caller (except where charges shall be notified to callers at the start of the call). These numbers are no longer available for Allocation. A number within this range may not be Adopted or otherwise used, unless that number was Allocated and assigned to a Subscriber prior to this number range being closed, in which case that particular number may continue to be used for the purpose of serving that Subscriber.</del>
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## Annex 2

# Notification of modifications to the provisions of numbering application form S8

## Direction under paragraph 17.9(a) of General Condition 17 relating to numbering application forms

### WHEREAS

- A. Paragraph 17.9(a) of General Condition 17 requires a Communications Provider applying for an allocation or a reservation of telephone numbers to use an appropriate application form as directed by Ofcom from time to time as they think fit.
- B. On 12 December 2013, Ofcom published a notification (the “First Notification”) of their proposal to give a direction to modify the provisions of the numbering application form S8, in accordance with section 60(3) of the Act.
- C. In the First Notification and the accompanying consultation document, Ofcom invited representations about any of the proposals therein by 31 January 2014.
- D. By virtue of section 60(5) of the Act, Ofcom may give effect to the proposal set out in the First 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 First 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.
- E. Ofcom received one response to the First Notification and have considered the representation made to them in respect of the proposal set out in the First Notification and the accompanying consultation document.
- F. The Secretary of State has not notified Ofcom of any international obligation of the UK for the purposes of section 60(5) of the Act.

### THEREFORE

- 1. In accordance with sections 49(2) and 60(5) of the Act, Ofcom makes the Direction attached to this Notification under paragraph 17.9(a) of General Condition 17.
- 2. Ofcom’s reasons for making this Direction, and the effect of the Direction, are set out in the accompanying explanatory statement.
- 3. Ofcom are satisfied that the Direction meets the requirements of sections 49(2) and 60(2) of the Act.

4. Pursuant to section 49A(1) of the Act, Ofcom is of the opinion that this Direction would not have a significant impact on a market for any of the services, facilities, apparatus or directions in relation to which Ofcom has functions under Chapter 1 of Part 2 of the Act. Ofcom considers that the Direction is not of EU significance pursuant to section 150A(2) of the Act.
5. In making this Direction, Ofcom has considered and acted in accordance with their general duty as to telephone numbering functions under section 63 of the Act, their general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act.
6. A copy of this Notification and the accompanying explanatory statement have been sent to the Secretary of State in accordance with section 49C(1) of the Act.
7. In this Notification:
  - a. "the Act" means the Communications Act 2003;
  - b. "General Condition 17" means General Condition 17 of the general conditions set under section 45 of the Act by the Director General of Telecommunications on 22 July 2003, as amended from time to time;
  - c. "Ofcom" means the Office of Communications.
8. 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.
9. For the purposes 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.
10. The Schedule to this Notification shall form part of this Notification.



**Yih-Choung Teh**  
**Competition Policy Director**

**3 June 2014**

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

**Direction under paragraph 17.9(a) of General Condition 17 relating to numbering application forms**

**PURSUANT TO PARAGRAPH 17.9(a) of GENERAL CONDITION 17, OFCOM DIRECTS THAT:**

1. For the time being, the numbering application form S8, set out in the Schedule to this Direction and modified by the text marked in bold and highlighted in yellow, shall be used by Communications Providers when applying for an Allocation or reservation of Telephone Numbers starting '08'.



Schedule



Form S8

***SPECIAL SERVICES APPLICATION - NUMBERS STARTING '08'***

<b>Service Type:</b>	<b>Number range starting:</b>	<b>Number block size:</b>
<i>Freephone Numbers</i>	0800 XXXX	1,000
	080 80XX to 080 874XX 080 86XX to 080 87XX	10,000
	08085	
<i>Special Services basic rate: up to and including 5p for BT customers (non-internet)</i>	0843 and 0844 2XX to 0844 9XX	10,000
<i>Special Services basic rate: BT's Standard Local Call Retail Price for BT customers</i>	0845 XXX	10,000
<i>Special Services higher rate: up to and including 10p for BT customers (non-internet)</i>	0871 2XX to 0871 9XX, 0872 XXX and 0873 XXX	10,000
<i>Non-Geographic Number: charged at no more than the caller would pay for a call to a Geographic Number with calls to 0870 numbers counting towards inclusive call minutes to Geographic Numbers if the customer has remaining inclusive minutes to Geographic Numbers and included in any discount structures that apply to Geographic Numbers, except where call charges have been published in accordance with General Condition 14.2 or, in the case of Public Pay Telephones, where call charges are displayed in a manner that is reasonably accessible to a caller before making a call.</i>	0870 XXX	10,000

*Continued overleaf*

<i>Internet Services Free to Caller</i>	<i>0808 90XX</i>	<i>1,000</i>
<i>Internet Services Free to Caller – Flat Rate Internet Access Call Origination (FRIACO) product</i>	<i>0808 99XX</i>	<i>1,000</i>
<i>Internet Services incorporating un-metered access up to and including 5p for BT customers</i>	<i>0844 04XX</i>	<i>1,000</i>
<i>Non ‘BT Discount Scheme’ - Internet Services incorporating un-metered access up to and including 5p for BT customers</i>	<i>0844 00XX</i>	<i>1,000</i>
<i>Internet Services metered access up to and including 5ppm for BT customers</i>	<i>0844 09XX</i>	<i>1,000</i>
<i>Non ‘BT Discount Scheme’ - Internet Services metered access up to and including 5ppm for BT customers</i>	<i>0844 05XX</i>	<i>1,000</i>
<i>Internet Services incorporating un-metered access up to and including 10p for BT customers</i>	<i>0871 04XX</i>	<i>1,000</i>
<i>Non ‘BT Discount Scheme’ - Internet Services incorporating un-metered access up to and including 10p for BT customers</i>	<i>0871 01XX</i>	<i>1,000</i>
<i>Internet Services metered access up to and including 10ppm for BT customers</i>	<i>0871 09XX</i>	<i>1,000</i>
<i>Non ‘BT Discount Scheme’ - Internet Services metered access up to and including 10ppm for BT customers</i>	<i>0871 05XX</i>	<i>1,000</i>
<i>Internet for Schools (1 block required per Service Provider)</i>	<i>0820 XXXX</i>	<i>10,000</i>
<i>Inbound Routing Codes</i>	<i>08993 XX to 08999 XX</i>	<i>10,000</i>

**Please note 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](http://www.phonepayplus.org.uk/service_providers/setting_up_services/prior_permission.asp)**

## Definitions and Interpretation

1. Words or expressions shall have the meaning assigned to them in this application form. Otherwise, any word or expression shall have the same meaning as it has –

- (i) in the National Telephone Numbering Plan published by Ofcom pursuant to section 56 of the Communications Act 2003 (the 'Act') and amended from time to time;
- (ii) if it has no meaning ascribed as mentioned in (i) above, in paragraph 1 (Definitions) of Part 1 of the Schedule to the Notification published by the Director General of Telecommunications on 22 July 2003 under section 48(1) of the Act and modified by Ofcom from time to time; and
- (iii) if it has no meaning ascribed as mentioned in (i) and (ii) above, in the Act.

2. The Interpretation Act 1978 shall apply as if this Application Form were an Act of Parliament.

3. FRIACO (Flat Rate Internet Access Call Origination) means the provision of Flat Rate Internet Access Call Origination via a wholesale unmetered internet access product.

*(Applicants should ensure that all sections have been completed where relevant – incomplete Application Forms may not be processed within the 3-week deadline).*

<p><b><u>1. Your reference</u></b> <i>(required when submitting multiple applications)</i></p>	
<p><b><u>2. Applicant details and date of application:</u></b></p> <p>All applicants please provide:          Your name          Company name          Company number          Address          Direct telephone          Direct e-mail          Mobile (if available)          Website (if available)</p> <p><i>(Where you are acting on behalf of a Communications Provider (eg a consultant, solicitor, etc):</i></p> <ul style="list-style-type: none"> <li>• <i>if you have not previously supplied one, you should enclose a letter from that Communications Provider confirming that you are authorised to represent it; <u>and</u></i></li> <li>• <i><u>you are not required to supply the “additional applicant details required if applying for 0871, 0872 or 0873 numbers” referred to below)</u></i></li> </ul> <p><b>and</b></p>	<p><b><u>Date of application:</u></b></p>

**ADDITIONAL APPLICANT DETAILS REQUIRED IF APPLYING FOR 0871, 0872 or 0873 NUMBERS:**

If the applicant is an individual or unincorporated entity, please provide the full name, address and date of birth of that individual or the person(s) responsible for the day-to-day running of the business.

If the applicant is a company, please provide:

- the full company name and Companies House registration number; and
- full name, address and date of birth of each company director as listed at Companies House.

Also provide a copy of the company's current Companies House Appointments Report.

The Appointments Report need only be supplied:

- with your first application requesting this information; and
- on any subsequent application where this information is requested if the Companies House Appointments Report has changed since your last application.

**3. Communications Provider details:**

If different from 2. above (e.g. where you are a consultant, solicitor, etc), provide the name and address of the Communications Provider on behalf of whom you are applying for Telephone Numbers.

**ADDITIONAL COMMUNICATIONS PROVIDER DETAILS REQUIRED IF APPLYING FOR 0871, 0872 OR 0873 NUMBERS:**

If the Communications Provider is an individual or unincorporated entity, please provide the full name, address and date of birth of that individual or the person(s) responsible for the day-to-day running of the business.

If the Communications Provider is a company, please provide:

- the full company name and Companies House registration number; and
- full name, address and date of birth of each company director as listed at Companies House.

Also provide a copy of the company's current Companies House Appointments Report.

The Appointments Report need only be supplied with your first application requesting this information;

<p><b><u>and</u></b>  <u>on any subsequent application where this information is requested if the Companies House Appointments Report has changed since your last application.</u></p>	
<p><b><u>4. Declaration of ‘Public Electronic Communications Network’ or ‘Public Electronic Communications Service’</u></b></p> <p>The information requested in Annex A helps Ofcom to assess your eligibility to be Allocated Telephone Numbers.</p> <p><b>If you are a provider of a Public Electronic Communications Network:</b></p> <p>Confirm whether you have previously supplied the information requested in Annex A (or information equivalent to it) to Ofcom’s Numbering Team; or</p> <p>if not, you <b>MUST</b> complete in full all relevant questions in Annex A and submit it along with this form.</p> <p>If you have previously supplied the information in Annex A, then move onto the next question – you do not need to submit Annex A with this form.</p> <p><b>If you are a provider of Public Electronic Communications Services:</b></p> <p>You <b>MUST</b> complete all relevant questions in Annex A each time you apply for Telephone Numbers and submit it with this form.</p>	<p><i>(For providers of Public Electronic Communications Networks, please ensure you <u>have</u> previously supplied the information requested, before you confirm this – your application may be rejected if this is not the case).</i></p>

## 5. Telephone Numbers required:

When completing the table below, you should give a 1<sup>st</sup> and 2<sup>nd</sup> choice for each type of Telephone Number block applied for in case the block you've applied for is not available at the time the application is processed. You should select the number blocks within the appropriate block type (as shown at the top of this Form). A maximum of 15 blocks may be entered on this Application Form. A new Form S8 should be completed for further blocks.

		<b>Number block Type</b> e.g. Freephone, Special Services basic rate, Special Services higher rate, etc.  (state which)	<b>Code - first 4 digits after initial '0'</b>  e.g. 8004; 8456; 8712  (SABC)	<b>Next 2 digits of number</b>  e.g. 34  (DE)	<b>Next digit of number (F digit)</b>  only required for blocks that are issued in blocks of 1000 numbers – see top of Form  (F)	<b>Tariff for each number block (including VAT):</b>  for 0844 and 0871 (non-internet) blocks show tariff (to nearest 1p for BT customers)	<b>Confirm if 'BT Discount Scheme' or 'Non BT Discount Scheme' will apply to block (where relevant)</b>  (see Oftel Direction)	<b>Planned 'In-Service' Date</b>  (applications should not be submitted more than 6 months prior to in-service date)	<b>Forecast of expected Adoption in 1<sup>st</sup> 12 months</b>  (%)	<b>Forecast of expected Adoption in 2<sup>nd</sup> 12 months</b>  (% cumulative)
	2 <sup>nd</sup> Choice	Basic rate up to and including 5p for BT customers (Non-Internet)	8443	33		4ppm	Scheme'	end June 2011	15	90
1 <sup>st</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
2 <sup>nd</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
3 <sup>rd</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
4 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
5 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									

**5. continued**

		<b>Number block Type</b>  e.g. Freephone, Special Services basic rate, Special Services higher rate, etc.  (state which)	<b>Code - first 4 digits after initial '0'</b>  e.g. 8004; 8456; 8712  (SABC)	<b>Next 2 digits of number</b>  e.g. 34  (DE)	<b>Next digit of number (F digit)</b>  only required for blocks that are issued in blocks of 1000 numbers – see top of Form  (F)	<b>Tariff for each number block (including VAT):</b>  for 0844 and 0871 (non-internet) blocks show tariff (to nearest 1p for BT customers)	<b>Confirm if BT Discount Scheme or Non 'BT Discount Scheme' will apply to block (where relevant)</b>  (see Oftel Direction)	<b>Planned 'In-Service' Date</b>  (applications should not be submitted more than 6 months prior to in-service date)	<b>Forecast of expected Adoption in 1<sup>st</sup> 12 months</b>  (%)	<b>Forecast of expected Adoption in 2<sup>nd</sup> 12 months</b>  (% cumulative)
6 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
7 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
8 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
9 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
10 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
11 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
12 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
13 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
14 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									
15 <sup>th</sup> Block	1 <sup>st</sup> Choice									
	2 <sup>nd</sup> Choice									



**6. Service and Market:**

For each of the Telephone Number blocks applied for above, give a brief description of the type of Public Electronic Communications Service for which the Telephone Numbers applied for will be Adopted, and the market to be served by the service, e.g. calling-card for UK customers, e-fax, internet access, etc.

**With respect to an application for an 08085 block, this requirement only applies where the block will be allocated after 3 September 2017.**

**7. Adoption of existing Telephone Number blocks:**

For each type of Telephone Number block applied for above you should provide details, in the table below, of any other number blocks in the same category (and at the same tariff – where relevant) that you have been allocated to date. Consistent with its duty in the Communications Act 2003 to secure best use of numbers, Ofcom requires a justification for applying for further numbering capacity where there may be non-utilised numbers.

**With respect to an application for an 08085 block, this requirement only applies where the block will be allocated after 3 September 2017.**

Number block Type  e.g. Freephone, Special Services basic rate, Special Services higher rate, etc.  (state which)	Code – first 6 or 7 digits after initial ‘0’ – show as SABC DE F  (see top of Form for number of digits to specify)	Tariff for BT customers  (only needs to be entered for 0844 and 0871 (non-internet) blocks)	Confirm if BT Discount Scheme or Non ‘BT Discount Scheme’ applies to the block (where relevant)  (see <a href="#">Oftel Direction</a> )	Total Numbers Allocated to End Users: i.e., in use or ported out	Total Numbers not in use but contracted out
customers (non-internet)			scheme		

(You should e-mail this application form to [numbering.applications@ofcom.org.uk](mailto:numbering.applications@ofcom.org.uk))

## Form S8 - Annex A

### **A1. Confirmation of Status:**

Ofcom generally only Allocates Telephone Numbers to providers of Public Electronic Communications Networks.

Ofcom may also Allocate numbers, where number resource implications do not preclude allocation, to providers of a Public Electronic Communications Service. Ofcom would also normally expect to see that the provider has arrangements in place for its service to be carried over a network, and, where appropriate, would usually expect the provider to have taken reasonable steps to seek a sub-allocation of Telephone Numbers of the type applied for prior to making the application.

#### **Providers of Public Electronic Communications Networks**

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

Please provide details of:

- a) the Electronic Communications Network on which the Telephone Numbers applied for are intended to be Adopted;

(a diagram may be useful to assist Ofcom in assessing your eligibility for Telephone Numbers)

- b) the Electronic Communications Service which you are intending to provide over that network.

#### **Providers of Public Electronic Communications Services**

In order to determine whether or not you are a provider of a Public Electronic Communications Service, Ofcom needs certain information from you. Please provide details of:

- c) the Electronic Communications Service which you are intending to provide with the Telephone Numbers applied for. Please also provide details of the network on which the numbers you are applying for will be Adopted.

<p><b><u>A2. Applications from providers of Public Electronic Communications Services</u></b></p> <p>If you are applying for Telephone Numbers as a provider of Public Electronic Communications Services, where appropriate Ofcom would usually expect your company to have already taken reasonable steps to obtain a sub-allocation of Telephone Numbers of the type you are applying for from a provider of a Public Electronic Communications Network.</p> <p>a) Have you taken steps to obtain a sub-allocation of Telephone Numbers of the type for which you are applying? If not, would you please provide a justification for that; and</p> <p>b) If you have taken steps, would you provide a brief description of the steps you have taken, and state why did you not obtain a sub-allocation?</p>	
<p><b><u>A3. Interconnection arrangements</u></b></p> <p>Describe your Interconnection arrangements (or those of the provider of a Public Electronic Communications Network on whose network the Telephone Numbers applied for would be Adopted), if any, with other Communications Providers – a simple network diagram may be useful.</p>	

(You should e-mail this application form to [numbering.applications@ofcom.org.uk](mailto:numbering.applications@ofcom.org.uk))

## Annex 3

# Sources of evidence

A3.1 A list of Ofcom research reports, previous consultations and other external reports relevant to this review and which relate to this consultation is provided below. While this list includes the main documents and research reports we have relied upon, it is provided for convenience only and is not intended to be exhaustive.

## Previous Ofcom consultations, statements or determinations

- i) *The 0500 Number Range: Re-consultation on specific elements of Ofcom's proposal for the withdrawal of 0500 Freephone telephone numbers*, 12 December 2013 ('**December 2013 consultation**'), published at: <http://stakeholders.ofcom.org.uk/binaries/consultations/re-consultation-0500-freephone/summary/condoc.pdf>
- ii) *Simplifying non-geographic numbers: Final statement on the unbundled tariff and making the 080 and 116 ranges free-to-caller*, 12 December 2013 ('**December 2013 NGCS statement**'), published at: <http://stakeholders.ofcom.org.uk/binaries/consultations/simplifying-non-geo-no/statement/final-statement.pdf>
- iii) *Simplifying non-geographic numbers – Policy position on the introduction of the unbundled tariff and changes to 080 and 116 ranges*, 15 April 2013 ('**April 2013 NGCS policy position**'), published at: <http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geo-no/>
- iv) *The 0500 Number Range: Proposal for the withdrawal of 0500 Freephone telephone numbers*, 23 October 2012 ('**October 2012 consultation**'), published at: <http://stakeholders.ofcom.org.uk/consultations/0500-number-range/>
- v) *Simplifying Non-geographic Number: Detailed proposals on the unbundled tariff and Freephone*, 4 April 2012 ('**April 2012 NGCS consultation**'), published at: <http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geographic-no/>
- vi) *Simplifying Non-geographic Numbers; improving consumer confidence in 03, 08, 09, 118 and other non-geographic numbers*, 16 December 2010 ('**December 2010 NGCS consultation**'), published at: <http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geo-numbers/>

## Evidence from stakeholders

- i) BT's 11 April 2014 response to Ofcom's 11 March 2014 s.135 information request and 27 July 2012 response to Ofcom's 16 July 2012 s.135 information request
- ii) Vodafone's 7 April 2014 response to Ofcom's 11 March 2014 s.135 information request and 17 August 2012 response to Ofcom's 16 July 2012 s.135 information request

- iii) Informal interviews with 35 SPs who are or were users of telephone numbers on the 0500 range, conducted by Ofcom between July and September 2012

## Other publications

- i) Code of Practice for numbers in 'closed' ranges, in force since 1 December 2001, available at: <http://stakeholders.ofcom.org.uk/telecoms/numbering/guidance-tele-no/number-cop-closed>

## Annex 4

# List of respondents to the 0500 consultations

## The October 2012 consultation

### CPs

- BT
- EE – formerly known as Everything Everywhere
- [redacted] [redacted]
- Three
- [redacted] [redacted]
- Vodafone – response submitted in the name of Cable & Wireless Worldwide (acquired by Vodafone in July 2012)

### SPs

- [redacted] [redacted]
- Citizens Advice ('CAB')
- Missing People
- National Savings & Investments ('NS&I')
- [redacted] [redacted]
- NetTek
- SLA Consultants

### Individuals

- [redacted] [redacted]
- [redacted] [redacted]

### Other

- Federation for Communication Services ('FCS')

## The December 2013 consultation

### CPs

- BT
- EE
- [redacted] [redacted]
- Three
- [redacted] [redacted]
- Vodafone

### Individuals

- [redacted] [redacted]
- Radford, Mr M

## Annex 5

# Glossary

**Call Termination:**

The service provided by a TCP to allow an OCP to connect a call with the intended recipient on that TCP's network.

**Communications Act 2003 ('the Act'):** The Act of Parliament that sets out Ofcom's duties in relation to electronic communications networks and services, and the powers which Ofcom has to discharge those duties.

**Communications Provider ('CP'):**

This is a person who provides an electronic communications network or provides an electronic communications service.

**Free-to-caller:**

This means a number that is accessed at no charge to the customer and, in the case of public payphones, without having to use coins or cards.

**Freephone:**

A number that is reached free of charge to the customer, except where a charge is notified to the caller at the start of the call. 080 numbers (e.g. 0800 and 0808) are currently Freephone (although will become free-to-caller for consumers from 26 June 2015). The 0500 range is also a Freephone range.

**General Conditions:**

Obligations on all Communications Providers imposed by Ofcom in exercise of its powers set out in the Act.

**Geographic number or geographic call:**

A telephone number, or call to a telephone number, where part of the digit structure (beginning with 01 or 02) contains a geographic area code that is used for routing calls to the physical location of the subscriber to whom the number has been assigned.

**National Telephone Numbering Plan ('Numbering Plan'):**

This is a document setting out telephone numbers available for allocation and the restrictions on the adoption and other uses of those numbers, and as provided for in section 56(1) of the Act.

**Non-geographic call ('NGC') or non-geographic number:**

A telephone number, or call to that telephone number, which is used to identify a type of service rather than a geographic location. These services include NTS and PRS numbers. Mobile and personal numbers are also non-geographic numbers.

**Non-geographic call services ('NGCS'):**

A service that is provided by means of a non-geographic number.

**NTS Call Origination Condition:**

SMP Condition 8 set out in Part 3 of Schedule 1 to the Notification which is contained in Annex 1 of the regulatory statement completing Ofcom's review of the fixed narrowband services markets, published by Ofcom on 26 September 2013.



**Number Portability:**

A facility whereby a subscriber can retain their telephone number when they switch CPs.

**Number range-holder:**

A CP that has been allocated a particular block of numbers by Ofcom.

**Number Translation Services ('NTS'):**

Telephone services using the following numbers: Special Service numbers (including Freephone, special basic rate and special higher rate) and Premium Rate Services numbers ('PRS') (services currently provided under 090 and 091 number ranges). Within these ranges calls to 0844 04 numbers for Surftime internet access services and calls to 0808 99 for FRIACO ('Flat Rate Internet Access Call Origination') are excluded.

**Originating Communications Provider ('OCP'):**

The Communications Provider (either fixed or mobile) on whose network a call originates.

**Pre-call announcement ('PCA'):**

This is a pre-recorded message played to the caller before the call is connected setting out how the call will be charged for.

**Premium rate service ('PRS'):**

These are a particular type of service provided on the 090, 091, 098 and 0871/2/3 number ranges. Calls are generally charged above 10p a minute from a BT landline.

**Service Provider ('SP'):**

This is a provider of voice or data services to third parties using non-geographic numbers.

**Terminating Communications Provider ('TCP'):**

The CP on whose network a call terminates.