



The 03 Number Range

Ofcom proposal to confirm that revenue-sharing with callers is not permitted on the 03 number range

EE Limited response to Ofcom's consultation

05 September 2014

Non-Confidential version

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Introduction and executive summary


EE Limited (“EE”) warmly welcomes this extremely sensible consultation proposal from Ofcom to provide valuable legal clarity and certainty to the industry and to users of the 03 number range regarding the permitted uses of the range in line with Ofcom’s policy preferences.

The specifications in Ofcom’s National Telephone Numbering Plan (“NTNP”) and General Condition (“GC”) 17 for the 03 range are unique in requiring originating communications providers (“OCPs”) to, without exception, charge 03 calls to their customers at no more than the customer would pay to call a UK geographic number, including a requirement to ensure that calls to 03 numbers count towards inclusive call minutes if the customer has remaining inclusive minutes to UK geographic numbers, and a requirement to include them in any discount structures that apply to UK geographic numbers.

These uniquely rigid regulatory restrictions on the pricing flexibility of OCPs in relation to 03 calls make it highly inappropriate for terminating communications providers (“TCPs”), service providers (“SPs”), callers or any other third parties to be able to derive commercial or financial benefit through the generation of traffic to the 03 range. This was never Ofcom’s intended purpose for the 03 range, and EE welcomes the clarity proposed to be given in this consultation that this remains the case today and going forwards.

It is clear that there are many other non-geographic ranges, which are not subject to the same unique pricing restrictions on OCPs as the 03 range, which can be used by SPs to generate commercial and financial benefits for themselves and/or share with callers. EE can see no reason why such services need to be conducted on the 03 range, and wholeheartedly agrees with Ofcom’s consultation findings regarding the consumer harm likely to be caused by permitting this – far outweighing any putative benefits to be gained from relaxing the current restrictions.




Notwithstanding the current restrictions on the usage of the 03 range in the NTNP, EE has had first-hand experience of its mobile services being used by callers to access services on the 03 range of the nature described at paragraphs 3.5-3.6 and 3.19 of Ofcom’s consultation. 

It seems to EE that the recent proliferation of such services has, at least in part, been caused by a lack of understanding on the part of those providing such services / hosting 03 numbers regarding the current restrictions on revenue sharing on the 03 range in the NTNP. Whilst the only truly effective way to avoid the 03 range from being abused for inappropriate commercial gain will be to reduce the current large gulf between industry 03 termination rates and geographic termination rates, EE therefore warmly welcomes the legal certainty that Ofcom is proposing to provide through its proposed clarificatory amendments to the NTNP.

It will be important to achieve Ofcom’s aim that the proposed amendment to the NTNP is accompanied by an explanatory statement from Ofcom along the lines currently contained in paragraphs 3.5-3.6 and 3.19 of the consultation document regarding the terms “revenue” and “directly or indirectly share”, but

EE otherwise has no concerns with the suggested wording of the proposed amendment.

Please note that those parts of this response marked with  and highlighted in blue contain commercially sensitive confidential information the disclosure of which is liable to harm EE's legitimate commercial interests, and which accordingly should not be published without EE's prior written consent.

Response to consultation questions

- 1. Consultation question 3.1: Do you agree that the modification to the Numbering Plan that we propose – which would prohibit direct or indirect revenue-sharing with callers and/or end-users by those who use 03 numbers – is appropriate and proportionate to address the conduct of concern that we have described in this document? If not, please explain why.**

Yes, absolutely.

EE firmly agrees with the description of the harmful effects of the revenue sharing conduct captured by Ofcom's proposed clarifications to the NTNP, as set out at paragraphs 3.8 to 3.12 of Ofcom's consultation.



EE further notes that the use of the 03 range for credit generation type services is inherently liable to generate network inefficiencies. Such services are only likely to be commercially attractive to run where (1) the benefit provided to the caller by the SP/TCP is greater than the cost the caller pays to the OCP and (2) the cost to the SP/TCP of providing the benefit to the caller plus the incremental cost of terminating the 03 call is less than the 03 termination revenue paid by the OCP to the TCP/passed through to the SP. For so long as this is the case – i.e. for so long as the caller and TCP/SP are essentially able to pass all of their costs on to the OCP so that they each enjoy a net benefit - these services are inherently liable to encourage irresponsible activity in the form of the generation of inefficiently high traffic volumes to the 03 number dialled.

EE does not agree that there are any benefits for consumers generated by such 03 services – certainly not any which cannot also be generated through services run on other non-geographic ranges in relation to which OCPs have greater retail pricing flexibility than on the 03 range – and most definitely no benefits that would not be likely to be outweighed by the harm identified by Ofcom.

On this basis, we consider Ofcom's consultation proposals to be fully appropriate and proportionate, to be entirely consistent with Ofcom's policy objectives for the 03 range (as well as those of Government) and to be in the best interests of consumers and to secure the best and most efficient use of the 03 number range in the interests of the industry, callers of these numbers and the organisations, government departments and public bodies who use / might in future seek to use 03 numbers.

- 2. Consultation question 4.1: Do you have any comments on the draft modifications to the Numbering Plan that we are proposing, as set**

out in Annex 7? Where you disagree with any of the proposed modifications, please explain why.

EE supports the proposed modifications to the NTNP as set out in Annex 7 of Ofcom's consultation, provided that these modifications are accompanied by an explanatory statement from Ofcom along the lines currently contained in paragraphs 3.5-3.6 and 3.19 of the consultation document regarding the terms "revenue" and "directly or indirectly share". Ofcom should further explain in its accompanying statement that these words are intended to be interpreted broadly, so as to prevent the 03 range from being used for any form of commercial or financial gain by TCPs, SPs or third parties, for so long as the current restrictions on OCP pricing flexibility in relation to the 03 range remain in place – and that Ofcom will take a dim view of any circumvention tactics deployed by TCPs, SPs or third parties in order to try to get around this restriction.