



NON-CONFIDENTIAL VERSION

Vodafone's response to Ofcom's consultation

"Review of mobile donor conveyance charges"

January 2014

Summary and conclusions

Vodafone welcomes the opportunity to respond to this consultation.

We have no objection in principle to Ofcom reviewing the appropriate maximum level of the DCC on a forward looking basis. **[Confidential]**

From a pragmatic commercial perspective, **[Confidential]**¹.

Nevertheless, acceptance that **[Confidential]** DCC may be appropriate prospectively does not imply complete agreement with Ofcom's stated rationale, and approach to certain issues of principle.

For instance, Ofcom talks of the need for industry-wide direction as a means of settling disputes. That may apply to certain other MNOs, but Vodafone itself is not currently party to a dispute with any other MNO.

Moreover, the approach Ofcom has adopted to arrive at particular numbers implies certain views on issues of principle that are questionable and which must not become entrenched in the case of the mobile DCC while Ofcom's parallel view seeks to re-examine the basis for fixed and mobile portability charges from first principles.

There are currently clear inconsistencies of approach between fixed and mobile portability, which we do not believe are objectively justified. **[Confidential]** Similarly, Ofcom's proposal that no portability charge is levied on on-net originated traffic at source contrasts with the adjustment method adopted in relation to the fixed APCC.

[Confidential]²³

[Confidential]⁴

For all these reasons, however Ofcom decides to proceed in the light of the present consultation, we believe Ofcom's wider review should re-consider from first principles what cost-orientation requires without assuming the current (accrued) rubric of GC necessarily remains appropriate, and that Ofcom should take the opportunity to simplify and clarify the GC where appropriate. We also agree that the proposed DCC Direction should only be short term given the wider parallel review, and reserve the right to comment further in that context.

¹ **[Confidential]**

² **[Confidential]**

³ **[Confidential]**

⁴ **[Confidential]**

Consultation questions

Question 1: *Do you agree that it would be appropriate for Ofcom to set a maximum DCC across the mobile industry on a forward-looking basis? If not, please explain why you disagree.*

We note Ofcom's view that it is unlikely that DCCs will remain at a suitable rate across the mobile industry going forward without Ofcom's involvement **[Confidential]** We agree that any new maximum DCC Ofcom may decide to mandate should be forward-looking.

Question 2: *Do you agree with our analysis of the appropriate cost standard and modelling approach? If not, please explain why you disagree.*

We agree that for the purposes of this review Ofcom should maintain the existing "LRIC+" cost standard.

Question 3: *Do you agree with our analysis of the relevant types of cost to take into account? If not, please explain why you disagree.*

Not entirely. We agree that on a forward looking basis transit costs should not be included. However, we query Ofcom's provisional view that costs associated with the Signalling Relay Function (SRF) should be excluded, despite its acknowledgement that they are relevant to the provision of donor conveyance.

Ofcom's proposal to disallow such costs is apparently based on the view that they constitute "Additional Conveyance Costs" within the rubric GC18. However, it is not clear that Ofcom is correct in its assertion that SRF costs fall within this rubric, which was originally drafted by Oftel to cater for quite different circumstances regarding geographic number portability on BT's network in the 1990s. Bearing in mind the overarching requirement to give effect to the principle of cost-orientation, Ofcom should not arbitrarily disallow recovery of categories of cost that it has expressly acknowledged are relevant to the provision of donor conveyance.

The prohibition on recovery of "Additional Conveyance Costs" is a hangover from rubric originally contained in BT's licence under the Telecommunications Act 1984 regime, prior to entry into force of the present General Authorisation regime under the EU Common Regulatory Framework in 2003. The "Additional Conveyance Costs" Oftel (and the MMC) were concerned with at the time were the costs associated with looping calls from a BT DMSU to the original host DLE and back again. They resulted from BT's chosen technical implementation at the time, based on its 'two tier' network architecture.

The mobile number portability solution has never involved equivalent 'call looping' and is inherently more efficient than BT's original technical implementation for geographic number portability. Ofcom's provisional view seems to turn on its belief that SRF look-

up costs are “additional to the costs of conveyance of non-ported calls”⁵. However, it is not clear that this is in fact correct.

For an inbound call, an SRF query needs to be performed irrespective of whether the number turns out to be ported. Similarly, if the comparator is with an off-net call to a mobile number which turns out not to be ported, an MNO [Confidential] which employs call trap will perform a look-up in any event in order to establish that the B number belonging to another MNO’s number range is not, in fact, ported in. This look up is performed in order to prevent call tromboning of ported numbers via the donor network. Providing incentives to efficient investment is one of the key principles of cost recovery, which Ofcom ought not to undermine.

Question 4: *Do you agree with our analysis of the appropriate level of donor conveyance costs (in particular the assumption about MSC processor load)? If not, please explain why you disagree.*

We [Confidential], but note Ofcom’s view that an assumed load of 20 milliseconds per busy hour call attempt implies utilisation of 40% compared to an inbound call rather than Analysys previous 25% assumption. On this basis we presume the 25% MSC processor usage row in table 4.2 is for comparison only and the base case estimate (and sensitivities around that base case) are more relevant in the present context.

Question 5: *Do you agree with our analysis of an efficient cost level? If not, please explain why you disagree.*

We acknowledge the lack of reliable data to underpin Ofcom’s own estimates. We note however, that Ofcom describes the base number as 0.079ppm in the text but presents this as 0.078 ppm in the tables. We presume this is simply due to inconsistent approaches to rounding.

Question 6: *Do you agree with our view that a DCC should not be charged on on-net originated traffic? Are there material obstacles to levying DCCs on only off-net originated calls to ported numbers? If so, what are those obstacles and what would be necessary (including the scale of likely costs) in overcoming them?*

We note Ofcom’s view that there is no need to charge a DCC in relation to on-net originated traffic on the basis that costs may be recovered from retail charges in the same way as costs associated with any ‘normal’ off-net call. (As noted above, we query Ofcom’s assertion that cost-recovery is prohibited on the basis that it would fall foul of the prohibition on recovery of “Additional Conveyance Costs” since this would only be the case to the extent that such costs are indeed additional to the costs incurred for a ‘normal’ off net call.)

While we also note Ofcom’s view that its preferred approach would be to isolate on-net originated calls to ported numbers and suppress the application of a DCC at source,

⁵ See 4.35

[Confidential] and therefore an adjustment of the kind applied to APCCs would be more appropriate.

In the limited time available to respond to this consultation, **[Confidential]** According to Ofcom's discussion at 4.72 it appears that most MNOs say they are not able to identify this traffic precisely (if at all). **[Confidential]**

Beyond that, it seems to us that there are also practical issues of principle that suggest it would not be appropriate or proportionate to isolate on-net originated traffic to ported numbers at source. In particular, only the originating network can know which traffic is originated on-net so the recipient would have to take on trust that this traffic has been excluded for DCC purposes i.e. it won't be able to reconcile DCC eligible vs DCC non-eligible minutes independently of the donor/originating network. In contrast, a standard adjustment avoids this issue (and is more consistent with the approach applied to the fixed APCC).

Question 7: *If an adjustment were to be made to the DCC to account for the fact that it is charged in practice on on-net originated traffic, do you agree with our proposed value for the adjustment factor of 70%? If not, please explain why you disagree.*

If an adjustment is deemed appropriate, **[Confidential]** (although Ofcom has not included a specific question on this issue).

Question 8: *Do you agree with the period over which we are proposing to set a DCC? If not, please explain why you disagree.*

We agree that it would not be appropriate to fix a maximum number for much more than two years ahead, not least in the light of the parallel review of fixed and mobile portability charges and principles.

We note Ofcom's comment that it would be straightforward to update model costs for future years using the 2011 MCT model, but query whether that version of the model would necessarily be appropriate for periods extending beyond the end of the present MCT charge control.

Finally, we note that Ofcom intends to apply the new maximum for the remainder of the 2013/14 financial year as well as the following two financial years. However, given the proximity to the end of the 2013/14 financial year by the time Ofcom finalises its decision we invite Ofcom to consider setting the maximum prospectively from the beginning of FY 2014/15.

Question 9: *Do you have any comments on the wording of the proposed direction in Annex 5 or our view that it satisfies the legal tests set out above?*

As noted above, given the proximity to the end of FY 2013/14, we query the necessity to apply any new maximum for the remainder of this financial year.

In any event, we note that the maximum charges specified at paragraph 1 a, b and c reflect Ofcom's current proposal that the DCC should be limited to a maximum of 50% of the relevant costs and only applied to off-net originated traffic.

For reasons outlined elsewhere in this response, we **[Confidential]** On the other hand, we believe it is more appropriate to deal with on-net originated traffic to ported numbers through an adjustment to the rate applied to all traffic to ported out numbers rather than to require MNOs to eliminate charges on such traffic at source.

Applying these principles to Ofcom's base case numbers would result in a *maximum* DCC of approximately **[Confidential]** ppm applied for two years from April 2014.

Vodafone Limited
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