Directory Enquiries (118) Review

Statement

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Section

Annex

1. Overview

Prices for directory enquiry (DQ) services have risen steeply and most consumers don't know how much they can cost. This is leading to bill shock because consumers are paying more than they expected for these calls. Some consumers are also struggling to pay their bills. To protect consumers, Ofcom has decided to impose a price cap on the amount that DQ providers can charge. This will reduce the price of some of the most well-known DQ services substantially so that prices are closer to what consumers expect to pay and more affordable.

What we have decided – in brief

Prices for some DQ services are high and have risen steeply in recent years. The most well-known DQ service is 118 118 and its prices have risen four-fold for a one-minute call since Q4 2012. It now costs £8.98 for any call up to one minute in length, and £13.47 for a two-minute call. Some other providers charge more than £20 for a two-minute call.

Consumers don't know how much calls cost and say they have no alternative. Ofcom has found that 65% of users said they did not know the cost of calling a DQ service when they last called and 40% of users said they had no alternative options to using DQ services at the time of making the call.

The combination of high prices and poor price transparency means that many users are charged more than they expected to pay. Our research shows that nearly 40% of DQ users (equating to 450,000 individuals) said they were charged more than they expected. High prices mean some consumers struggle to pay their bill.

We have decided to impose a price cap on the amounts DQ providers can charge of £3.65 (inclusive of VAT) per 90 seconds. A cap at this level will bring prices closer to what consumers expect to pay. It will protect consumers by reducing bill shock and improve the affordability of DQ services.

This overview is a simplified high-level summary only. The decisions we have taken and our reasoning are set out in the full document.

Introduction

1.1 Telephone directory enquiry (DQ) services are provided on 118 numbers. They are used by consumers who are looking for telephone numbers for individuals, businesses and public services.

1.2 The provision of DQ services is a small and rapidly declining sector. Between 2014 and 2017, call volumes reduced by just under 40% on average, year on year, and providers have forecast that volume declines will continue. We have found that only a small proportion of consumers use the services and they tend to do so very infrequently.

1.3 Despite these declines in call volumes, we have found that for many of the 1.1 million consumers who still use DQ services, they offer an important means of obtaining the number they need. These consumers often have no alternative because they do not have

internet access or other ways to find the information at the time they need it. As an example, we have found that those aged over 65 are four times as likely as those aged between 16 and 34 to use DQ services and are significantly less likely than DQ users, as a whole, to have access to the internet when they call.

1.4 These consumers are often paying very high prices for their calls. Prices charged by DQ providers have increased substantially in recent years. For example, the cost of a 90 second call (the average length of a DQ call) for the most popular DQ service – 118 118 – has increased from £3.62 in Q4 2012[1] to £11.23 today. There are some DQ services, such as those provided by Telecom2 and Numbers Direct, which cost almost £20 for a 90 second call.

1.5 Consumers are generally not aware of how much DQ calls can cost. There is very little advertising of DQ prices and consumers' understanding of charges has not kept pace with the price increases for some services. Users of DQ services estimate that, on average, DQ calls cost around £2 for the first minute. The average price estimates of those who have not used the service for at least 12 months is even lower.

1.6 High prices, poor price transparency and low consumer awareness of prices have resulted in significant numbers of DQ users experiencing bill shock because they have paid more for these calls than they expected. We have estimated that over a 12 month period, 450,000 adults experienced bill shock in respect of a DQ call and that over that period, DQ users paid £2.4 million more than they expected for these calls.

1.7 For consumers on low incomes, a single DQ call of 90 seconds can cost more than their average weekly expenditure on communications services (including post and internet as well as phone services). For example, the amount charged for a 90 second call by the providers of two DQ services – TNUK (118 118) and Maureen (118 212) - equates to 9% of the weekly disposable income for consumers in the lowest 10% of income group.

1.8 Some consumers don't use DQ services because they are worried about affordability – one in 10 of those who don't use the services say it is because they are too expensive or unaffordable. Of those who do use DQ services, 8% experience affordability issues as a result, either cutting back expenditure on other items, borrowing money from friends or family to pay their bill, delaying payment or defaulting of their bill altogether.

1.9 In view of these findings, we consulted in June this year on our proposal to set a cap on the price DQ providers can charge for their services. We explained that we would do so by exercising our powers under the Communications Act 2003 (the Act) to set requirements which impose maximum prices in relation to the use of numbers for the purpose of protecting consumers.

1.10 We proposed to set the cap by looking at consumer expectations about how much DQ calls cost now and the prices consumers were paying at the beginning of 2013. This was when

[1] This price is based on the nominal price for a 90 second call from a BT landline to TNUK in Q4 2012 of £3.56. This nominal price has been adjusted for inflation using the CPI index and Q3 2018 as the reference period, and an estimate of the inflation adjusted proxy access charges has also been removed (see footnote 37).

we last reviewed the DQ sector and decided there were not sufficient grounds to introduce a price cap at that time. Since that review, prices have risen sharply.

1.11 We received responses to our June consultation from individuals and stakeholders, including DQ providers and consumer groups. Most respondents were supportive of a price cap and agreed that consumers are being harmed. Some respondents suggested our proposals do not go far enough to reduce prices. For example, Age UK suggested some consumers on low incomes may still find prices too high under the cap we proposed.

1.12 Other stakeholders, including The Number UK Limited (TNUK) and Telecom2 – DQ service providers offering some of the most expensive DQ services – disagreed with our assessment and opposed the proposal to cap prices. They suggested that other options should be considered including announcements directing callers to price helplines.

1.13 In view of the evidence that consumers do not shop around and tend to ring the number they can remember, we do not think that further price transparency measures will be effective in improving consumer awareness about how expensive some of the most widely used DQ services are, or lead to them seeking out cheaper services. For example, our research tells us that getting a number quickly is important to DQ callers, so contacting a separate helpline number first is unlikely to represent an effective remedy.

1.14 A number of respondents commented on the level of our proposed cap, with some suggesting it should be lower, and others that it should be higher. We are satisfied that assessing the level of the cap by reference to consumer price expectations is appropriate, so that it is effective in mitigating the risk of bill shock. In light of comments we received, we have obtained more information about prevailing prices for DQ services at the end of 2012 and the beginning of 2013, which has led us to make a slight adjustment to the level of the cap.

1.15 Respondents also raised the impact of the cap on DQ providers and on competition. We have examined these issues and concluded that any adverse consequences are likely to be limited. They are outweighed by the benefits the cap will bring by protecting all DQ users against bill shock and improving the affordability of these calls.

Our decision

1.16 Based on our analysis and, in light of the responses to our consultations, we have decided to implement a price cap on charges for DQ services which are provided on 118 numbers of £3.65 per 90 seconds (including VAT). In order to allow providers time to adjust their prices and billing systems in response to the cap, the cap will take effect on 1 April 2019.

2. Legal framework

Introduction

2.1 In this section, we describe the legal context for our decision. We set out Ofcom's relevant powers and duties for regulating the use of 118 numbers, including its power to set maximum prices.

Ofcom's duties and powers applicable to the use of 118 numbers

2.2 For the reasons set out in this document, Ofcom has decided to impose a maximum price that DQ providers can charge for calling their services on 118 numbers. We have done so by exercising our powers in relation to telephone numbers and in accordance with Ofcom's duties in the Act.

Ofcom's general duties

2.3 As set out in section 3(1) of the Act, Ofcom's principal duty in carrying out its functions is:

a) to further the interests of citizens and consumers in relation to electronic communications matters; and

b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.

2.4 In carrying out its principal duty, Ofcom must have regard to certain, specified objectives and considerations to the extent they are relevant. These include:

- the desirability of promoting competition in relevant markets (s.3(4)(b));
- the desirability of encouraging investment and innovation in relevant markets (s.3(4)(d));
- the vulnerability of those whose circumstances appear to Ofcom to put them in need of special protection (s.3(4)(h));
- the needs of persons with disabilities, of the elderly and of those on low incomes (s.3(4)(i));
- the opinions of consumers in relevant markets and of members of the public generally (s.3(4)(k)); and
- the interests of consumers in respect of choice, price, quality of service and value for money (s.3(5)).

2.5 Ofcom must also act in accordance with the Community requirements in section 4 of the Act.

2.6 Ofcom must have regard in all cases to its regulatory principles that it should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

Ofcom's functions in relation to numbers

2.7 Ofcom's duties and functions in relation to numbers are set out in sections 56 – 63 of the Act.[2] They include Ofcom's duty under section 56 of the Act to publish the Numbering Plan. This is the document which sets out telephone numbers that are available for allocation, restrictions on how they may be used, and requirements which Ofcom considers appropriate for the purpose of protecting consumers, in relation to tariff principles and maximum prices applicable to the use of numbers.

2.8 The Numbering Plan sets out that 118 numbers are only to be used for the provision of DQ services.[3] It also records the restriction that retail prices for consumers calling the numbers are calculated by reference to the applicable access charge and service charge and in accordance with the tariff principles set out in General Condition (GC) B1.21 – B1.27.[4]

2.9 In setting the price cap for the service charge for 118 numbers, Ofcom has exercised its powers under section 56(2) and section 60 of the Act to modify the Numbering Plan. The modification, which is set out at Annex 2, specifies the maximum amount of the applicable service charge for a call to a 118 number. Under section 60(2) of the Act, we are only able to make the modification if we are satisfied that it is objectively justified, not unduly discriminatory, proportionate and transparent. We explain at paragraph 6.26 why these tests are met.

2.10 The price cap specified in the modification to the Numbering Plan is binding on CPs by virtue of GC B1.19 of the General Conditions of Entitlement. This obligation requires CPs to bill consumers for calls to 118 numbers in accordance any applicable maximum price in the Numbering Plan. GC B1.19 was made by Ofcom, exercising its power under section 58(1)(aa) of the Act to set 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*". We explain in Sections 3-5 why the price cap we have set in relation to 118 numbers is required for the protection of consumers.

2.11 GC B1.19 also requires CPs to bill their customers for calls to 118 numbers in accordance with the tariff principles specified in GC B1.21 – B1.27. These require that:

- the retail price is the sum of the access charge (set by the caller's phone provider) and the service charge (the price of the service being called);

[2] In carrying out its functions under section 56 – 62 of the Act, Ofcom must act in accordance with its duty in section 63 of the Act to ensure that the best use is made of numbers, to encourage efficiency and innovation for that purpose and to secure that there is no undue discrimination.
[3] This is binding on CPs by virtue of GC B1.5 of the General Conditions of Entitlement.
[4] The Numbering Plan https://www.ofcom.org.uk/__data/assets/pdf_file/0013/102613/national-numbering-plan.pdf.

- the service charge may not vary according to the CP originating the call and may be set at a pence per minute rate, a pence per call rate or a rate which combines the two;
- where the service charge includes a pence per minute rate, that rate is charged on the basis of the length of the call, rounded to the nearest whole second;
- the service charge is selected from the list of 100 price points maintained by CPs for billing purposes unless the CP consents otherwise.

2.12 Ofcom's specific powers to make and modify general conditions in relation to numbers are set out in sections 57 – 60 of the Act. The matters which may be the subject of a general condition under these provisions include conditions about the allocation and adoption of telephone numbers, including 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…".

Other regulations which apply to the use of 118 numbers and DQ services

Transparency obligations

2.13 General Conditions C1.2 and C2 impose general transparency obligations on CPs, which are applicable to their charges for calls to 118 numbers. Where a CP advertises a 118 number in connection with the provision of a DQ service, General Condition C2.8[5] requires the CP to include the service charge in the advertising, in a prominent position and in close proximity to the number.

2.14 There is a separate numbering condition made under section 59 of the Act which applies to DQ providers and imposes transparency obligations equivalent to those in General Condition C2.8.[6]

DQ services for vulnerable customers

2.15 Under General Condition C5[7], CPs providing publicly available telephone services are required to make available certain facilities for disabled people. These include the provision of free directory enquiries, including the call connect service, for consumers who are unable to use a printed directory because of a disability. Most providers meet this obligation by buying the free (to the caller) 195 DQ service from BT.[8]

Regulation of premium rate services

2.16 DQ services are also controlled premium rate services which are regulated by the Phone-paid Services Authority (PSA) in accordance with its Code of Practice. This has wide-ranging

[5] GC14.11 of the old General Conditions.
[6] See Annex 12, https://www.ofcom.org.uk/__data/assets/pdf_file/0027/57753/annexes.pdf.
[7] General Condition 15 of the old General Conditions.
[8] Under General Condition B2.3, Regulated Providers must supply each of their Subscribers, on request, with a Directory or Directories containing Directory Information on all Subscribers who have been assigned Telephone Numbers by any Regulated Provider for any specified area in the United Kingdom.

rules to protect consumers, including rules in relation to price transparency and complaints-handling.[9] In addition to its Code of Practice, the PSA issues sector-specific guidance and imposes special conditions, where it considers there is a risk of a significant level of consumer harm.

2.17 The PSA has issued guidance in relation to DQ services, which includes a provision specifying that, prior to any further connection being made by the provider, the consumer should be clearly informed of the cost, and have the opportunity to opt out of the connection, for example, by hanging up before they are connected.[10] The PSA has decided to turn this guidance into a special condition, binding on DQ providers.[11]

[9] Phone-paid Services Authority (PSA), 14th Code of Practice. https://psauthority.org.uk/-/media/Files/PSA/For-Businesses/Your-phone-paid-service/Code-of-Practice/PSA_Code_of_Practice_14th_Digital.ashx?la=en&hash=49BE1A6A76303EEBCF254A692015059D4D4171A3.
[10] PSA Sector-Specific Guidance Note, Directory Enquiry Services, paragraph 2.3.
[11] See the PSA's statement on Special Conditions for Directory Enquiries, 28 November 2018.

3. Issues in the DQ sector

Introduction

3.1 118 numbers are telephone numbers that are used exclusively for the provision of DQ services. The sector is in decline, with call volumes falling annually on average by 38% between 2014 and 2017.[12] Over this period, prices have risen steeply. There is poor price transparency as providers have largely stopped advertising their DQ services. As we explain in this Statement, this has led consumers to experience material levels of bill shock because they are paying more than they expect for DQ calls, and some consumers struggle to pay their bills. As a result, we have decided to implement a price cap on charges for DQ services, to protect consumers from these harms.

3.2 In this section, we describe the key features of the DQ sector, how and why it is currently regulated and key developments since 2013, including how prices for DQ services have increased in recent years. We then set out the findings of our consumer survey about consumers that use these services, how and why they do so, and the extent to which they understand how much they are likely to be charged for these calls. We also consider consultation responses and provide a summary of our assessment and conclusions.

DQ providers

3.3 DQ services are retail services provided by telephone to consumers and businesses that give callers the telephone number of the individual, business or public service they are looking for.

3.4 Many DQ providers offer an onward connect service, whereby they will offer to connect a consumer to the number they have requested. For callers using the onward connect service, the caller is charged at the DQ service charge rate for the duration of the call. As a result, the cost of calling a number using call connect is invariably significantly higher than the rate the caller would be charged if they dialled the number directly.

3.5 DQ services are supplied by service providers (SPs). Some SPs are also communications providers (CPs) such as BT, Virgin and O2 but others, such as TNUK, Maureen and Yell, are not.

3.6 By revenue, in September 2017 TNUK accounted for around [✂] of all DQ revenues,[13] while a further 20-30% was accounted for by BT.[14] TNUK also account for the largest volume of DQ calls in the UK, followed by BT.[15] In September 2017, they together

[12] June 2018 Consultation, paragraph 3.8.
[13] Data collected through notices sent in October 2017 under s.135 of the CA03 requiring various telecoms providers to provide call level data from a specified 14 day period (18/09/2017 – 1/10/2017) ('October 2017 Call level data requests'). 118 118 accounted for [✂] of all calls made to TNUK DQ numbers – October 2017 Call level data requests.
[14] 118 500 accounts for [✂] of all calls made to BT DQ numbers – October 2017 Call level data requests.
[15] October 2017 Call level data requests. - [✂].

accounted for [✂] of retail call volumes. O2 and Virgin Media account for a [✂] of call volumes, although their combined share of revenues accounts for just over [✂] of the total sector size by revenue.[16]

Table 1: Percentage share of DQ call volumes and revenues [17]

	TNUK	BT	Virgin	O2	Others
Call volumes	Around 40%	20-30%	[✂]	6%	[✂]
Call revenues	Around 60%	20-30%	[✂]	0.1%	[✂]

Source: information requested from providers formally by Ofcom (2017)

3.7 BT and TNUK also wholesale DQ services to many other DQ SPs, providing call handlers, databases and call centre resources to manage calls for their wholesale customers, which include [✂].

Pricing of DQ services

3.8 The retail price for a call to a 118 number is made up of the service charge and the access charge. This is known as the "unbundled tariff". The service charge is typically set by the SP and represents the price of the DQ service called; the caller's CP sets the access charge, which is the amount charged for the telephone service connecting the call.[18] Our review and the conclusions in this document relate to service charges for 118 calls.[19]

3.9 TNUK's 118 118 number and Maureen's 118 212, have a service charge of £8.98 for the first minute of the call and £4.49 for each subsequent minute; there are 9 DQ services with published service charges of £15.98 for the first minute of the call and £7.99 for each subsequent minute.

3.10 The service charge for a 118 call can be structured in different ways: it may be charged on a per call basis only, at a pence per minute rate only or at a rate which combines a per call charge and pence per minute rate.[20] In addition, the service charge must match a price point available on the billing systems of CPs since it is the caller's CP which bills for the call.

[16] October 2017 Call level data requests.
[17] CP and SP data.
[18] Service charges are typically higher than the CP's access charge, which, based on the prices of the main CPs, range from 10.5ppm to 55ppm. https://www.telecom-tariffs.co.uk/dialdirq.htm Telecom2, 24 seven communications, Mars Communications, Numbers Plus, Numbers Direct, Media Telecom, Dynamic Mobile Billing

[19] In relation to access charges (which apply to the 084, 087, 09 and 118 ranges, Ofcom continues to monitor the level of access charges.
[20] This results in four different charging structures which SPs are able to select when setting their services charges – see Table 1 (page 6) of the June 2018 Consultation.

CPs are required to have at least 100 price points available on their billing systems, which reflect the volume and range of demand from other providers.[21]

Ofcom's 2013 review of 118 numbers and other non-geographic numbers

3.11 Ofcom last looked at the prices for calls to 118 numbers in 2013, in its Non-Geographic Call Services (NGCS) Review,[22] which also examined the regulation of other non-geographic number ranges, including the 080, 084, 087 and 09 ranges. We found that charges for calls to these number ranges were confusing for consumers and that information about prices could be confusing or hard to obtain and that these problems weakened competition.[23]

3.12 As a result of these findings, we introduced a package of remedies which came into effect on 1 July 2015. In relation to the 118 number range (which at the time represented just over 1% of non-geographic call volumes), we introduced the unbundled tariff price structure and additional transparency obligations for CPs and SPs about their charges. The changes required SPs to include their service charge in a prominent position in any promotion or marketing of the DQ service with the 118 number. This requirement was intended to enable consumers to understand the charges and remember them.[24]

3.13 We considered that for the 118 range, in particular, the unbundled tariff and transparency measures would encourage direct competition on the service charge element of the call.[25]

3.14 We anticipated that these changes would provide significant benefits to consumers: clearer prices, better competition between providers, and reinvigorated consumer confidence in using these numbers and in turn, for DQ providers to offer new and innovative services.[26]

No price caps for 118 number range

3.15 In April 2012, when we consulted on the appropriate remedy for the issues we had identified on the 118 range, we proposed caps on the maximum service charge for DQ services of £3 per minute (where the SC comprises or includes a per minute charging rate) and £5 (where the SC comprises a per call charging rate.)[27] These caps were the same level as those we proposed and subsequently implemented for services on the 09 range, which is typically used by premium rate content services, such as chatlines and horoscopes.

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[21] See GC B1.28 – B1.29. As of 31st October 2018, there are 40 price points being used by DQ services on the 118 range. The list of existing 100 price points can be found on BT's website: http://www.bt.co.uk/pricing/current/Call_Charges_boo/FrameworkImpl1350581.htm.

[22] December 2013 statement. The remedies that Ofcom introduced as a result of this review came into effect on 1 July 2015. https://www.ofcom.org.uk/__data/assets/pdf_file/0017/72116/final-statement.pdf.

[23] April 2013 Policy Position, "Part A", paragraphs 1.4 and 1.5 https://www.ofcom.org.uk/__data/assets/pdf_file/0025/58615/part_a.pdf.

[24] April 2013 Policy position, paragraphs 1.20.

[25] April 2013 Policy position, "Part B" paragraphs 8.22 and 8.39 https://www.ofcom.org.uk/__data/assets/pdf_file/0034/57967/part_b.pdf.

[26] April 2013 Policy position, paragraphs 1.23 - 1.24.

[27] July 2012 Consultation. https://www.ofcom.org.uk/consultations-and-statements/category-2/service-charge-caps.

3.16 We proposed that the caps, which were higher than prevailing prices on the 118 range,[28] were needed to guard against the greater risk of bill shock, fraud and bad debt on the range.[29]

3.17 Two SPs objected strongly to the maximum price caps we proposed for the 118 range – TNUK and BT. TNUK contested that prices would rise following implementation of the unbundled tariff and said that the new price structure would increase competition and place a downward pressure on prices. TNUK also contended that service quality, variety and innovation would be damaged by the imposition of the caps.[30] BT said there was no justification for Ofcom's view that there was a material risk of pricing becoming exploitative without capping. BT also considered that the caps would make innovation and development far less likely.[31]

3.18 Having considered their responses (as well as those of other respondents), we decided in 2013 that caps on service charges for DQ services could not be justified at that time. Our reasons included the importance of marketing and brand promotion in driving consumer interest in, and recollection of 118 services, which BT and TNUK had highlighted in their responses. This led us to conclude that the new price publication obligations on service providers could be effective in securing price transparency.

3.19 We also said that there was little evidence of bill shock, and that available evidence suggested that the level of bad debt on the range was lower than average for non-geographic calls, and for all calls.

3.20 We noted that the new unbundled tariff regime could change the nature of existing constraints on retail charges for 118 numbers. Therefore, we said we would monitor the situation, and reconsider the need for regulatory intervention in relation to the pricing of 118 services.[32]

Developments in the DQ sector since 2013

3.21 Since we concluded our the NGCS Review in 2013, prices for DQ services have risen steeply, while there has been a significant decline in call volumes. Since 2015, there has been little or no advertising of DQ services so that there has been very poor price transparency at a time of substantial price rises. These features have been accompanied by an increase in the rate of complaints to Ofcom, and some CPs and SPs have introduced various measures for their customers in response to high charges and customer complaints.

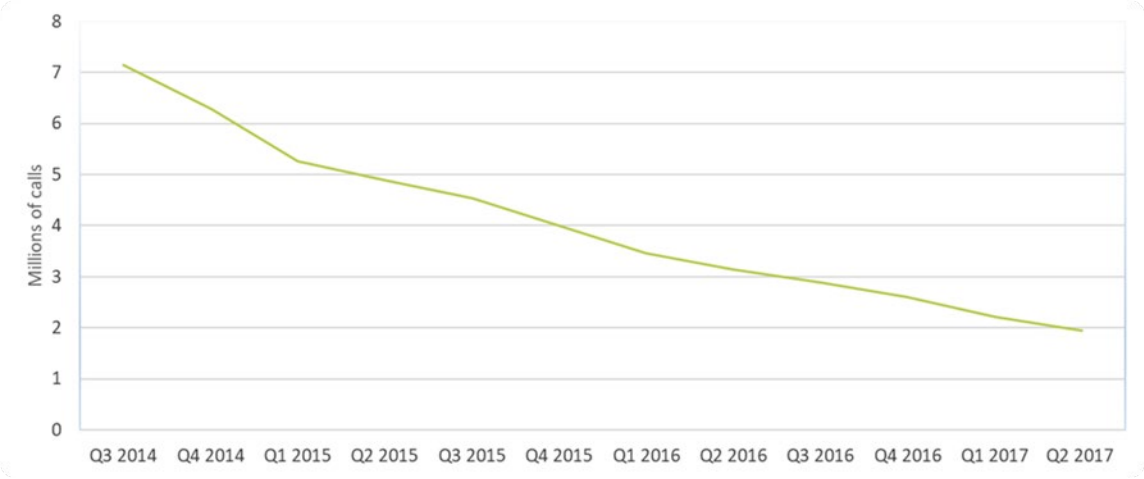
[28] Service Charge Caps for 09 and 118 Services consultation, 25 July 2012, Table 4.3 and para 4.148, https://www.ofcom.org.uk/__data/assets/pdf_file/0031/47767/condoc.pdf.
[29] July 2012 Consultation, paragraphs 4.63 – 4.79 and 4.125 – 4.159.
[30] June 2018 Consultation, paragraph 2.21.
[31] June 2018 Consultation, paragraph 2.22.
[32] April 2013 Policy position, Part B, paragraph 9.95.

Call volumes are in steep decline

3.22 Consumers' use of DQ services is in steep decline. Overall call volumes have reduced from 7.14 million of calls in Q3 2014 to 1.95 million of calls in Q2 2017.[33] This represents an average annual volume decline of 38% between Q3 2014 and Q2 2017.

3.23 Reported DQ revenues have also declined, from £27m in Q3 2014 to £12m in Q2 2017, an average fall of 26% per annum.[34] The slower rate of annual decline in revenues reflects service charge increases over the same period.

Figure 1: DQ total call volumes (2014-2017)



Source: information requested from service providers formally by Ofcom (Sept 2017)

The prices consumers pay for DQ services have risen steeply

3.24 Figure 2 below illustrates the changes in service charges for the six most popular DQ numbers since Q1 2012. As the graph shows, the service charges of the most popular services – TNUK's 118 118 service and BT's 118 500 service – rose substantially from pricing levels in 2012 until June 2018 when BT cut its prices by over 50%. BT now charges £3.10 for a 90 second call. The service charge of a 90 second call to 118 118, has risen from £3.62 in Q4 2012 to the current price of £11.23.[35] [36]

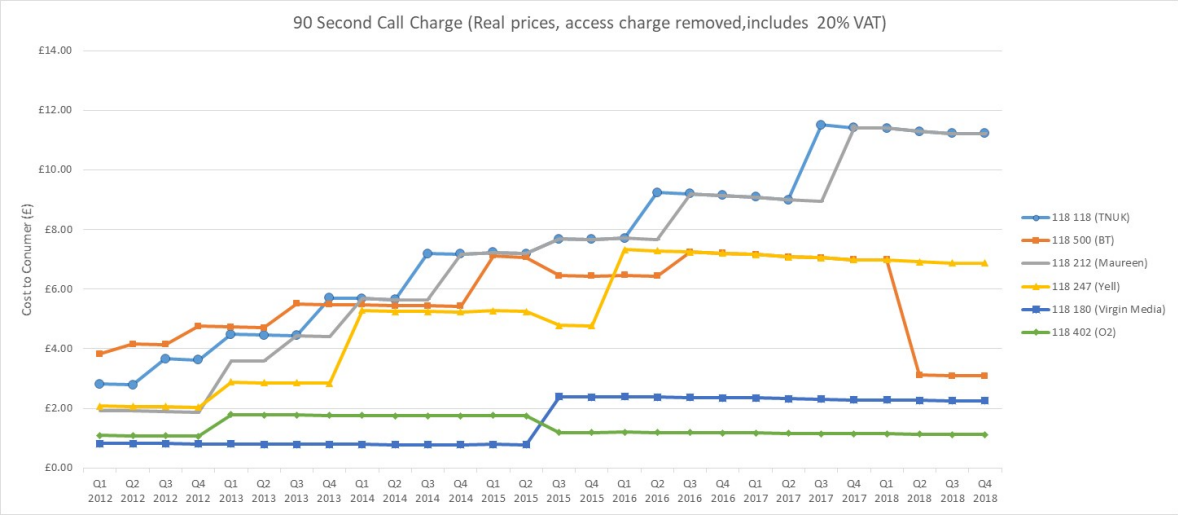
[33] September 2017 DQ provider data. Please note that the number of calls is a representation of the current DQ sector [✂]

[34] September 2017 DQ provider data. Revenues in nominal terms.

[35] The mean average call length for DQ callers was 96 seconds in September 2017. We have rounded this to a 90 second metric across the time period for reasons of comparison. Overall, 50% of calls are about a minute or less (62 seconds), 75% of calls last less than around two minutes (100 seconds) and only 5% of calls are longer than 4.5 minutes (270 seconds).

[36] The Q4 2012 price is adjusted for inflation based on the CPI index, using Q3 2018 as the reference period. Also, all service charges prior to July 2015 have been calculated by deducting the amount representing the best proxy for the access charge for a landline call of 12.5ppm. This proxy access charge is based on the estimate for fixed OCP retention on 118 calls in our 2010 Flow of Fund Study https://www.ofcom.org.uk/__data/assets/pdf_file/0023/69350/flow-funds.pdf.

Figure 2: 90 second service charges 2012-2018[37]



Source: information requested from BT (2017 and 2018) and webarchive data.

3.25 In Table 2, we set out the current service charges for DQ services which account for over 90% of DQ call volumes. .[38]

Table 2: Service charges among SPs that account for over 90% of all call volumes (20 November 2018)

	1-minute charge	90 second charge[39]	2-minute charge
118 118 (TNUK)	£8.98	£11.23	£13.47
118 500 (BT, pre 1 June 18)*	£5.50	£6.88	£8.25
118 500 (BT, post 1 June 18)**	£2.32	£3.10	£3.87
118 180 (Virgin) [40]	£1.50	£2.25	£3.00
118 402 (O2)	£0.75	£1.13	£1.50
118 247 (Yell)	£5.50	£6.88	£8.25
118 212 (Maureen)	£8.98	£11.23	£13.47

[37] All historical figures have been adjusted for inflation based on the CPI index, using Q3 2018 as the reference period. Also, all service charges prior to July 2015 have been calculated by deducting the amount representing the best proxy for the access charge for a landline call of 12.5ppm. This proxy access charge is based on the estimate for fixed OCP retention on 118 calls in our 2010 Flow of Fund Study https://www.ofcom.org.uk/__data/assets/pdf_file/0023/69350/flow-funds.pdf

[38] We are aware of 9 different 118 numbers at present where callers are charged £19.98 for a 90 second call.

[39] The average length of a DQ call is 96 seconds. We therefore use 90 seconds as a metric to present comparative service charges, given that service charges vary in structure across DQ providers, and can change over time (source October 2017 Call level data requests).

[40] Virgin Media provides 10 free DQ calls to its own home phone customers daily. Onward connection restrictions apply. https://help.virginmedia.com/system/templates/selfservice/vm/help/customer/locale/en-GB/portal/200300000001000/article/HELP-2216/Directory-Enquiries-from-your-Virgin-Phone.

118 004 (Telecom2) [41]	£15.98	£19.98	£23.97
118 855 (Post Office)	£1.00	£1.00	£1.00

Source: Ofcom desk research.

*Prior to 1 June 2018 BT's charges for calls to118 500 was £5.50 for the first minute and £2.75 for the second minute.

** From 1 June 2018 BT's charges for calls to 118500 £2.32 for the first minute and £1.45 for the second minute

3.26 As shown in Table 2, there are much cheaper DQ services available. Virgin Media customers can make 10 free calls a day to Virgin Media's DQ services [42,] O2 charges £1.13 for a 90 second call, and BT cut its prices by over 50% from 1 June 2018. BT now charges £3.10 for a 90 second call.

3.27 However, as set out at paragraph 3.41 below, consumers tend not to shop around to find the cheapest service – the majority either call the only number they know or the first number that comes to mind. Only 3% said that they chose a DQ service because it was the cheapest.

3.28 While the prices consumers are paying have risen substantially, we have seen little evidence of material innovation or service development since 2013.[43]

Service charges are rarely advertised

3.29 For those who wish to use DQ services, the improvement in consumer price awareness predicted by DQ providers in 2013 has failed to materialise. Our requirement to publish DQ service charges whenever the 118 number was promoted in connection with the DQ service was intended to improve price transparency. [44] It has not been effective, as there has been little advertising by DQ providers since that requirement was introduced.

3.30 Since July 2015, BT has not advertised its 118 telephone DQ service (including TV/radio, branding and merchandising, sponsorship or public events), other than banner advertising of 118 500 in the BT phonebook published before July 2017.[45]

3.31 TNUK last advertised its DQ telephone service (118 118) at the end of 2015.[46] At this time, the service charge of a one-minute call to 118 118 cost £5.74[47], compared to £8.98 currently (October 2018). Although TNUK currently promotes its online directory service (118118.com) and money service (118118 Money), including via TV sponsorship, which

[41] Ofcom's mystery shopping exercise below tested a separate lower cost number to Telecom2 (118 018).
[42] Virgin media website advice at time of publication https://help.virginmedia.com/system/templates/selfservice/vm/help/customer/locale/en-GB/portal/200300000001000/article/HELP-2216/Directory-Enquiries-from-your-Virgin-Phone.
[43] See paragraphs 5.129 and 5.130
[44] Page 469, Part B: Annex 24: Price Publication Requirements 15 April 2015 Policy Position and consultation. (https://www.ofcom.org.uk/__data/assets/pdf_file/0017/68030/part_b_annex.pdf.
[45] BT's formal information request S135 response, September 2017.
[46] TNUK's formal information request S135 response, September 2017.
[47] Nominal price

helps to promote brand awareness, there is no regulatory obligation to include the DQ service charge in such advertising as the DQ service is not being marketed.

3.32 In relation to onward connect services, the Phone-paid Services Authority (PSA) has set specific guidance for providers whereby they are required to clearly inform callers of the costs of using onward connect before being put through to the number.[48] The mystery shopping exercise (see Annex 8 to the June 2018 Consultation) that we carried out with seven DQ providers indicated that these providers are complying with the PSA's guidance in relation to informing callers of the cost of the call connect service.

CPs have introduced measures to provide information about 118 service charges

3.33 As we discuss at paragraph4.18 – 4.19, some CPs have become sufficiently concerned about the impact of 118 service charges on their customers that they have introduced measures to provide some pricing information to reduce the volume of complaints they receive. In particular, Vodafone and TalkTalk have introduced pre-call announcements (PCAs) informing customers that calls to 118 numbers are charged at a premium rate.

DQ users

3.34 In 2017, we commissioned consumer research, conducted in November 2017, which focused on residential users of DQ services.[49] In this section, we set out our findings about consumers who use DQ services, the reasons for their calls, how they select the DQ service they call, and their awareness about how much calls to 118 numbers cost. The survey also included consumers who had not used DQ services in the last 12 months, to explore why they did not use the services, and to test awareness of DQ providers and the expected cost of calling DQ services.

3.35 We first set these findings out in the June Consultation.[50] Some respondents have commented on the survey evidence and the findings we have drawn from this. We have detailed these comments and our responses to them in Annex 1; we include a summary of the responses we received, and our assessment of them, on the extent to which consumers have access to pricing information in paragraphs 3.48-3.56 below. Having considered all the representations we received, we have not changed our view, based on the results of the consumer survey about how and when consumers use DQ services, that they have a very poor awareness of charges for these services.

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[48] Service specific guidance note – Directory Enquiry Services. https://psauthority.org.uk/-/media/Files/PSA/For-Businesses/Guidance-and-compliance/Explore-our-guidance/Guidance-files/17_Directory-enquiry-services.ashx?la=en&hash=2FA9CFB8D93CB71E4099385FDE9AB6BCF9FF10E7. The PSA has decided to turn this guidance into a special condition – see the PSA's Statement on Special Conditions for Directory Enquiries, 28 November 2018.

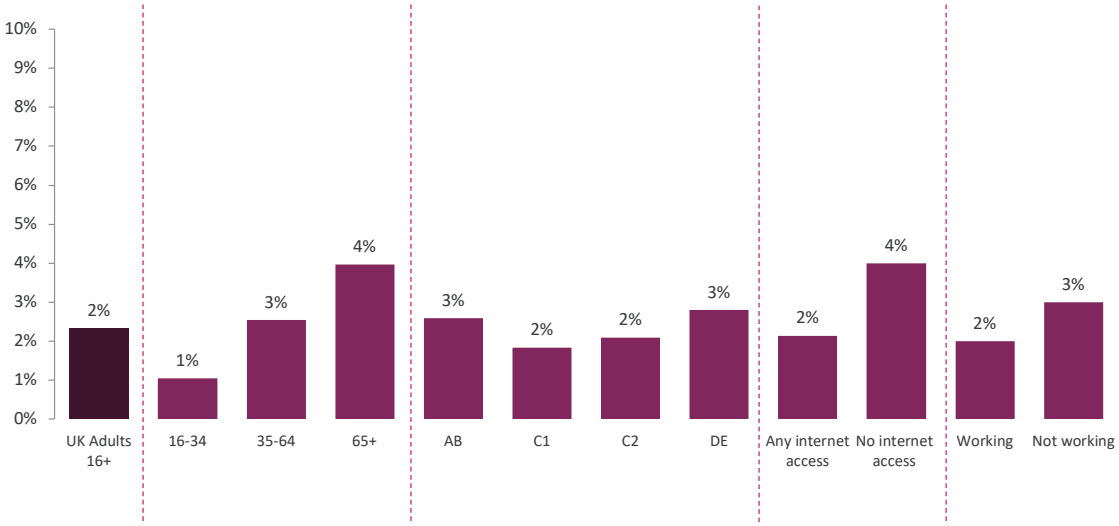
[49] These are people who have called 118 DQ services in the last 12 months using either a personal mobile phone or home fixed/landline (not paid for by a business). A small number of these people have also called 118 DQ services using a phone paid for by a business over the last 12 months – however this is in addition to a personally paid for call.

[50] June 2018 Consultation, Chapter 3.

Profile of DQ users

3.36 Based on the responses to our consumer research, we found 2% of UK adults had used DQ services in the 12 months prior to the research. While DQ use is fairly consistent across age bands, people aged 65+ are significantly more likely to use these services (4%) than those aged 16-34 (1%).[51]

Figure 3: Profile of DQ users



Source – Kantar quantitative research (2017) slide 17

3.37 DQ users call the services infrequently. Of the 2% of the UK adult population that has made a personal call to a DQ service in the past 12 months almost half (46%) have only made 1 call, 27% made 2 calls and 25% made 3 or more DQ calls.[52]

3.38 In terms of the reasons why consumers call DQ services, four in five DQ users (82%) said it was important they received the number they requested, at the time they requested it.[53]

3.39 Our consumer survey showed that the most common numbers requested were those related to health and government/public services (30%) or residential numbers (11%).[54]

Many consumers say they have no alternative but to call a DQ service that they remember to get the number they need

3.40 The June 2018 Consultation presented research that found just over four in ten (42%) DQ users said they did not have an alternative way of getting the number they needed on that

[51] Kantar quantitative research (2017), Slide 17. Our interpretation takes account of the 'effect size' on statistical significance.
[52] Kantar quantitative research (2017). Slide 20.
[53] Kantar quantitative research (2017), slide 27. 82% said it was very or fairly important that they received the number they requested at the time they made the call, 15% said it was 'not important' while 3% did not know or could not remember.
[54] Kantar quantitative research (2017) slide 32. Other responses included 'business numbers' (3%), 'retail' (2%) and 'home maintenance/repairs (2%).

occasion, for example by using the internet or a phone book.[55] DQ users aged 65+ were significantly less likely to have internet access when they made their last call (i.e. 26% of DQ users said they had an internet connection compared to 13% of DQ users aged over 65).[56]

Consumers tend to call the only number they know or the first number that comes to mind

3.41 In terms of selecting a DQ service, the consumer research found that callers tended not to shop around and compare charges between providers. We found that they tended to call the only number they knew or the first that came to mind, with only 3% choosing a particular service because it was the cheapest:

- 31% of DQ users called the only number they knew. A quarter (26%) of DQ users called the first number that came to mind and 14% of DQ users said they called a specific number because they remembered it from advertising.[57]
- 63% of DQ users were able to recall 118 118 without prompting, far more than any other number. One in five (19%) were able to recall BT's 118 500, the next best-known number, without prompting. No other number was named by more than 4% of users.[58]
- Only 3% said they used a particular DQ service because it was the cheapest and only 1% of DQ users said they chose a service because it offered the best service/knowledge.[59]

3.42 As explained at paragraph 3.37, consumers who use DQ services, use them infrequently and therefore have limited opportunity to become familiar with the cost of making a call, particularly given the pattern of regular price increases since 2013 shown at Figure 2. In addition, they only know one or two DQ numbers and so are unlikely to be aware of cheaper alternatives.

Consumer understanding of the level of current DQ prices is very poor

3.43 Consumer awareness of the price of calling DQ services is very poor among both DQ users (those who have used the service in the last 12 month), and non-DQ users (those who have not used the service for at least 12 months) . Our research indicated that around two-thirds (65%) of DQ users did not know the cost of calling a DQ service before they made

[55] Kantar quantitative research (2017), slide 34. To mitigate concerns regarding respondents' ability to recall the event, analysis has been run on more recent DQ users (i.e. used in the last 3 months). The proportions saying they did not have an alternative is not significantly different to the broader sample of DQ users (43% vs. 42%).
[56] Kantar quantitative research (2017), data tables page 214.
[57] Kantar quantitative research (2017). Slide 26.
[58] Kantar quantitative research (2017). Slide 24.
[59] Kantar quantitative research (2017). Slide 26.

their last call. Many of these (43% of DQ users) said they didn't have any idea of the cost at that point. [60, 61]

3.44 Around three in ten non-DQ users were not able to give any estimate of the cost of calling a DQ service from either a fixed or mobile phone, even when provided with a list of potential price ranges.[62] Of those able to respond, the average estimates were significantly below the cost of calls to the most popular DQ numbers. Non-DQ users on average estimated it would cost £1.18 from a home landline and £1.55 from a mobile for a call lasting just under 1 minute. We also found that the average estimates specifically among DQ users were significantly below the cost of calls to the most popular DQ numbers. DQ users estimated it would cost £1.95 for a call from a home landline/fixed telephone and £2.36 from a mobile for a call lasting just under a minute.[63] The service charges of most DQ providers were much higher than these estimates at the time.[64]

[60] These are people who have called 118 DQ services in the last 12 months using either a personal mobile phone or home fixed/landline (not paid for by a business).

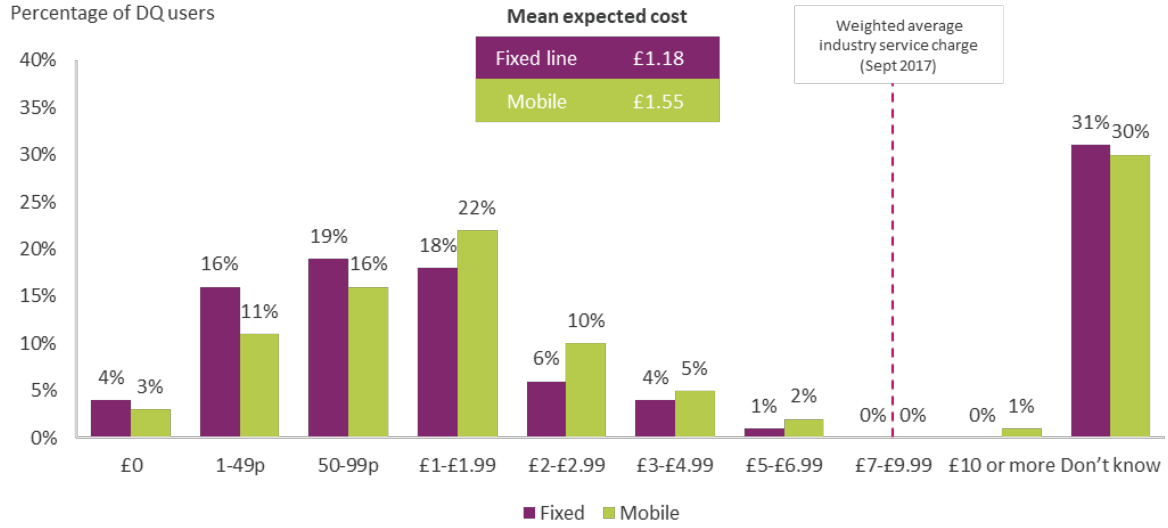
[61] Kantar quantitative research (2017). Slide 48. 43% of DQ users 'did not know the cost and had no idea what it would be', 10% 'did not know the cost but thought it would be good value', 13% 'did not know the cost but thought it would be expensive'.

[62] To measure current awareness of the cost of calling DQ services we asked all respondents (i.e. DQ users and non-users) how much they thought it would cost to make a call lasting just under a minute to a DQ service (from each of a mobile phone and a residential landline). We considered it appropriate to ask both DQ users (who have used DQ services in the past 12 months) and non-users (i.e. not used and personally paid for, in the past 12 months) about their price expectations because DQ use is infrequent – many people who may use DQ services in the future will not necessarily have made a call in the last year.

[63] Kantar quantitative research (2017). Slides 39-43.

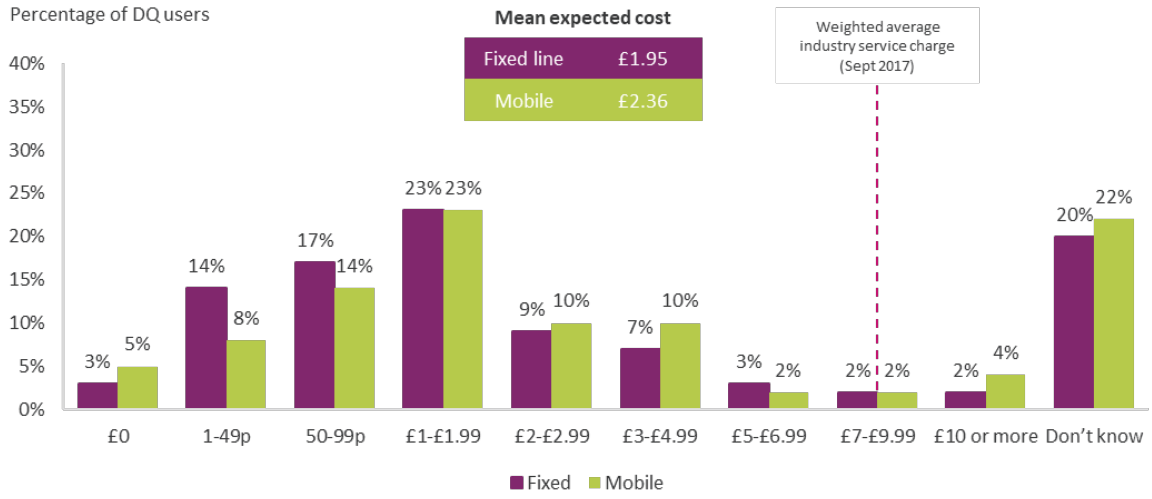
[64] We have looked at DQ prices immediately before the consumer survey. The industry average service charge for a 1 minute call as of September 2017, based on the service charges from BT's price list, was £6.35. The weighted average service charge (based on the number of calls received by each SP) was £7.54. Only 1-2% of respondents gave an answer at the industry average. Even among DQ users, only 2-3% gave a response at the industry average. A further 4-6% of DQ users stated an answer that was higher than the industry average. Kantar quantitative research (2017) slides 40 and 42.

Figure 4: Expected cost of a DQ call (lasting just under 1 minute) from a personal mobile/home fixed line for non-DQ users



Source: Kantar quantitative research (2017). Slides 40, 42.

Figure 5: Expected cost of a DQ call (lasting just under 1 minute) from a personal mobile/home fixed line for consumers who have used DQ services in the last 12 months



Source: Kantar quantitative research (2017). Slides 40, 41.

3.45 DQ call connect services are charged at the DQ service charge rate for the duration of the call and callers are given the applicable service charge rate before they are put through to the number requested. Nonetheless, our research indicates that most DQ users are not clear about the pricing for an onward call connect service. Around nine in ten (86%) DQ users do not understand the pricing for an onward connect call. Just over one third of DQ

users (34%) thought they were charged a fixed connection fee, and/or a per minute rate at the cost that would have applied if they had called directly themselves.[65]

3.46 DQ users who used call connect in the last 12 months did not have a better understanding of the pricing structure for onward call connection, with 81% of these users not understanding the pricing for an onward connect call. Around four in ten (39%) DQ users who had used call connect in the last 12 months thought they were charged a fixed connection fee and/or a per minute rate at the cost that would have applied if they had called directly themselves.

3.47 In the rest of this section, we outline stakeholder comments received on our analysis of the DQ sector, and our assessment of their comments.

Consultation responses on consumer price awareness

3.48 In their response to the June 2018 Consultation, BT accepted that customers calling 118 services may be unaware of the price of the calls, and of the increasing cost of those services over time. BT acknowledged that direct advertising of 118 services is in general very limited. The Communications Consumer Panel (CCP), agreed with our finding that consumer awareness of the price of DQ services is poor.

3.49 A number of SPs, including TNUK, Telecom 2 and IRN Ltd, challenged the basis for our finding about consumer price awareness. TNUK and IRN Ltd said that any lack of consumer awareness as to the pricing of DQ services resulted more generally from the infrequent usage of these services by consumers. They also said that because the survey didn't ask about bill payer status, consumers may not have known the cost of calling a DQ service because they may not have been the one paying the bill.

3.50 TNUK said that the survey evidence was flawed insofar as it was based on calls which may have happened some time ago. They said that consumers could not be expected to recall details such as the price of DQ calls. Finally, TNUK and Telecom2 said that our finding gave insufficient weight to information about pricing which is provided in relation to onward call connection services. Telecom2 also pointed to information about pricing within its written marketing material and available online.

Ofcom's assessment

3.51 As set out at paragraph 3.37 above, the survey evidence reveals that consumers who use DQ services typically do so infrequently. We therefore agree that they have limited opportunity to become familiar with the cost of making a call, particularly given the pattern of regular price increases. The evidence that there is low consumer awareness of DQ prices is also consistent with our finding at paragraph 3.29 that the price of DQ calls is not publicised to any material degree.

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[65] Kantar quantitative research (2017). Slide 46. Results were broadly similar among more recent DQ users (i.e. 84% of DQ users who had used the service in the last 3 months did not understand the pricing for onward call connect.

3.52 Furthermore, our research shows that more recent users are no more aware of the costs of calling DQ services than those calling longer ago. DQ users who called in the last three months expected the cost of a call to DQ from landline was £2.14 (compared to £1.95) and from mobile was £2.53 (compared to £2.36).[66]

3.53 Our survey collected information about whether respondents knew about the payment of their telephone services but did not specifically collect information on whether they were the 'bill payer'. Users of DQ services are not necessarily the bill payer and to exclude DQ users who do not pay bills would provide a restricted understanding of the experience of DQ users and their awareness of the cost of these calls.

3.54 In relation to DQ users who used call connect, the mystery shopping exercise we conducted found that the providers we surveyed were providing call connect pricing information on the call, in line with the PSA guidance. However, our consumer survey found that a substantial majority of callers do not understand how calls using the call connect service are charged: as set out in paragraph 3.46 above, our research showed that 81% of these DQ users who used call connect in the last 12 months did not understand the pricing for on onward call connection. Four in ten (39%) DQ users who had used call connect in the last 12 months thought they were charged a fixed connection fee and/or per minute rate at the cost that would have applied if they had called directly themselves, which is not the case for any provider.

3.55 The pricing information that is provided for callers requesting the call connect service provides useful information about costs for some callers. However, the consumer survey data has led us to conclude that it is not effective in securing widespread understanding of these charges.[67]

3.56 More generally, whilst SPs may provide additional information about the costs of using their DQ services, for example on their websites, our evidence shows that consumer awareness of DQ prices is very poor, which suggests that consumers are unaware that this pricing information is available or do not access it before making a call. This is consistent with our view based on data from the consumers survey, as set out at paragraph A1.75 of Annex 1, that a material proportion of DQ users are unlikely to have the time or inclination to search for relevant pricing information on a website before making the call.

Conclusions on consumers' use of DQ services and price awareness

3.57 Based on the evidence set out in this section, and our assessment of consultation responses, we have concluded that for the small proportion of consumers that use DQ services, they offer an important means of obtaining the telephone number they are seeking. Although there are cheaper services available, consumers tend to call the numbers they most easily remember. For the majority this is one of the more expensive

[66] Kantar quantitative research (2017), Slides 41 and 43.
[67] This may be for some of the reasons set out in paragraph 4.67 of the June 2018 Consultation, including the complex structure of some service charges, callers' inability to estimate the length of a call and the weak numeracy skills of some callers.

services on offer. They make calls infrequently, so have little opportunity to become familiar with prices, particularly given the pattern of regular price increases in the last 6 years. We do not consider that the information that is made available about pricing, such as the PCA when a caller requests the call connect service, and information on DQ providers' websites about their charges is effective at securing widespread price awareness among DQ users.[68]

3.58 Accordingly, we are satisfied that consumers have very poor understanding of the cost of DQ calls. As we explain in the next section, this has led to material levels of bill shock and causes some consumers affordability issues.

[68] We explain in the Annex to this Statement why we consider that price transparency measures proposed by respondents to the June 2018 Consultation would not be effective at improving price awareness (see paragraphs A1.73-A1.80, and A1.84-A1.85)

4. Bill shock and affordability concerns arising from DQ calls

Introduction

4.1 In section 3, we showed that consumers' expectations of DQ prices were significantly below those of the most popular numbers and that many consumers were unaware of the cost of calling DQ services. There is evidence that these features of the DQ sector are causing material levels of bill shock, as well as affordability concerns for some consumers.

4.2 Bill shock is when consumers receive bills which are more than they were expecting. Bill shock in the DQ sector is caused by high prices, poor price transparency and low consumer awareness of how much these calls can cost. DQ call volumes are declining rapidly and only a small proportion of consumers use the services. Those that do often consider they have no alternative to calling a DQ number at the time they make the call and they generally call the first number that comes to mind, rather than shopping around for the cheapest service. As a result, we have found that a significant proportion of callers end up paying more than they expected for their call.

4.3 Most consumers do not use DQ services and one in ten say that this is because the calls are too expensive or unaffordable. For those that do call, the high level of charges for some DQ services has led to some struggling to pay their bill.

4.4 In the following paragraphs, we set out additional evidence about the extent to which consumers experience bill shock after making DQ calls and about consumers who experience affordability issues as a result of making DQ calls.

Bill shock

4.5 Bill shock is when consumers are charged amounts for goods or services that are higher than they expected to pay.[69]

4.6 In the June Consultation, we set out the evidence we had gathered which we said showed that consumers experience a significant degree of bill shock in relation to DQ calls. That evidence comprised: findings from our consumer research in November 2017; complaints analysis; and measures that CPs and SPs have taken in response to customer complaints.

4.7 We received comments from respondents to the June Consultation about our finding that DQ callers experience bill shock and the evidence that we relied on in support. We summarise these comments and our assessment of them in paragraphs 4.29-4.51.

[69] In the consumer survey, we asked consumers how the cost of the call (last call or other call in the past 12 months) compared to their expectations.

4.8 Based on the evidence we have gathered and our assessment of consultation responses, we are satisfied that consumers experience material levels of bill shock in relation to DQ calls generally, and where they use the DQ provider's call connect service.

Around 450,000 DQ users have experienced bill shock

4.9 Our research indicates that 39% of DQ users stated that they paid more than expected on at least one DQ call made in a 12-month period.[70] Based on this, we estimate that in total, circa 450,000 adults in the UK experienced bill shock in relation to a DQ call.[71]

4.10 We found that a similar proportion of DQ users (35%) experienced bill shock on their *last* call. This is made up of 27% of DQ users who said they paid 'a lot more' than expected and 8% who said they paid a little more than expected. 21% paid about what they expected for their last DQ call, and 2% paid less than they expected. Many (41%) DQ users did not know what they paid for their last DQ call.[72] Our conservative estimate is that DQ users have paid around £2.4 million in excess of expectations over the same 12-month period. [73]

4.11 To set DQ bill shock in context, we also asked all respondents whether they had experienced bill shock using telecoms services in the last 12 months, and if so, what caused this (e.g. making more calls than usual, calling or using the phone abroad, texting competitions/gaming or apps). The results showed that one in ten DQ users cited bill shock from calling a DQ service. [74]

4.12 We consider this method of questioning understates the degree of bill shock arising from DQ calls and likely reflects those with more memorable experiences, or those without more prominent bill shock experiences in relation to other types of other telecoms use. In any event, given the evidence that consumers use DQ services infrequently,[75] we consider that this proportion is significant, and consistent with our finding that bill shock arising from DQ calls is material.

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[70] Kantar quantitative research (2017), slide 52.
[71] We calculated this by deriving the share of the UK adult population experiencing bill shock and combining this with the total population of UK adults in 2016 (39% of the 2% of UK adults using DQ services is multiplied by the ONS mid-year 2016 population estimates of UK adults aged 16+). This is a base case estimate rounded to the nearest ten thousand. Our lower bound estimate is 330,000 and the upper bound estimate is 590,000 (both rounded to the nearest ten thousand).
[72] Kantar quantitative research (2017). Slide 49.
[73] This is an estimate rounded to the nearest hundred thousand. It is calculated using the reported rate of bill shock on last call (35%) and the average amount DQ users reported spending in excess of their expectations (£5.443). £5.443 is the mean average estimate based on a relatively small sample of 86 responses (excluding 2 outliers). We consider this is a conservative estimate of bill shock harm because we have excluded responses from users that said they spent greater than £90 in excess of their expectations. We took this approach because they distorted the average, not because we believed them to be inaccurate; further the analysis does not include bill shock on any previous calls in this period (as well as, or instead of the last call).
[74] Kantar quantitative research (2017) data tables, table 1 page 1. Around one in ten (9%) UK adults have experienced at least one incidence of bill shock linked to their use of telecoms services in the 12-month period covered by the research. Prompted codes included in the question were; calling/using phone abroad, higher than usual number of calls, using directory enquiries, texting competitions or gaming/apps, other.
[75] See paragraph 3.37.

Complaints made to Ofcom

4.13 In the Non Geographic Call Services Review in 2012/13, we looked at the number of DQ complaints received by Ofcom. We found that the number of DQ complaints was low in comparison to the volume of calls. We considered this was an indication that bill shock was limited within the sector.[76]

4.14 In our June Consultation, we outlined our analysis of the DQ complaints Ofcom received between October 2015 and September 2017.[77] While we received a similar level of complaints to those observed in the NGCS Review, DQ call volumes have declined significantly since then. Therefore, we found that the rate of complaints as a proportion of call volumes has increased accordingly – we estimated around a six-fold increase in the rate of complaints.

4.15 Further analysis of the DQ complaints Ofcom received between October 2015 and September 2017 indicated that around 70% of complaints related to bill shock.[78] Comparing the number of bill shock related complaints received in 2016 with 2011 (a period covered by the NGCS Review), [79] we estimated that bill shock complaints as a proportion of call volumes have increased significantly – by an estimated five-fold increase.[80]

4.16 Our analysis also showed that where complainants had experienced bill shock and were able to report the cost of the call, 49% of these had reported bill shock on calls costing less than £10. The majority of these being between £5-10 (see Figure 6 below).[81]

4.17 Drawing on information complainants provided to Ofcom about the duration or cost of the call (which is set out in Annex 5 to the June 2018 Consultation), we have concluded that at least half of bill shock complaints Ofcom received about DQ calls in the period October 2015 to September 2017 are in relation to short calls (calls lasting less than 2 minutes). This is in contrast to the previous review period (October 2010 to September 2012) where the majority of bill shock complaints were in relation to onward connected calls. Nevertheless, we continue to see complaints about onward connected calls.

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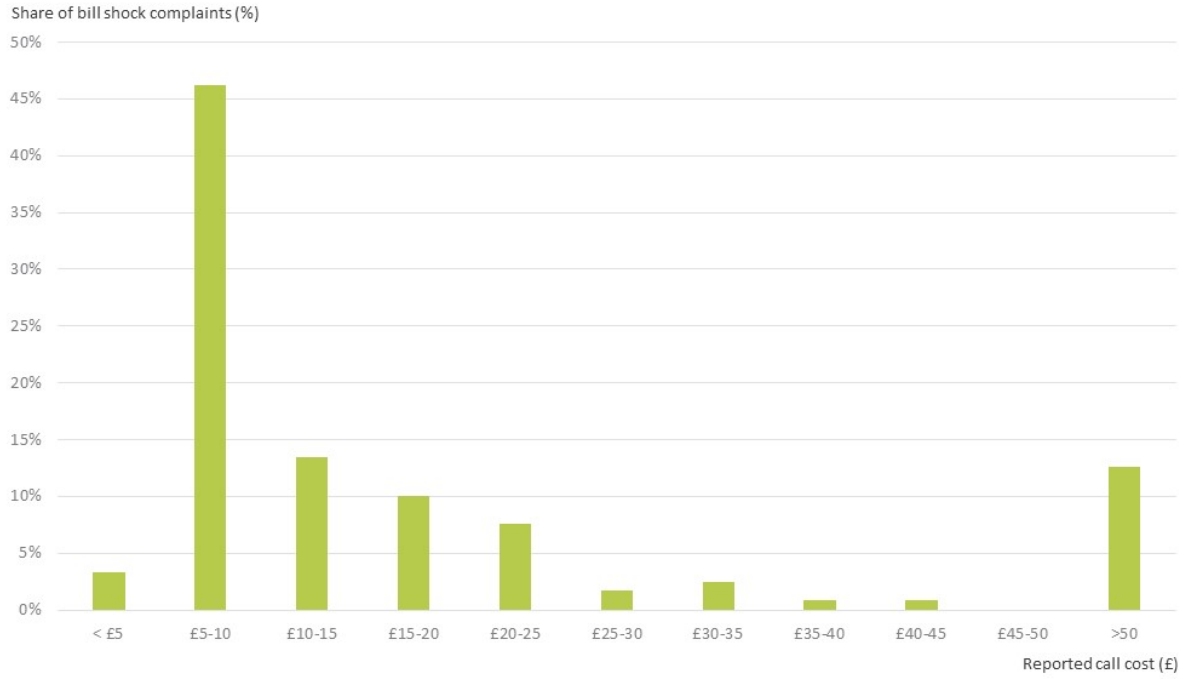
[76] A22.90 https://www.ofcom.org.uk/__data/assets/pdf_file/0017/68030/part_b_annex.pdf
[77] June 2018 Consultation, annex 5.
[78] The remaining 30% of complaints relate to a number of different complaint categories such as fraud, quality of service, high charges in general ('high charges in general' are complaints whereby the complainant has issue with the high charges of DQ services but does not specifically mention making a call or receiving a high bill, 3% of complaints are relating to high charges in general). The second largest complaint category is fraud with c.10% of all complaints relating to fraud. June 2018 Consultation, annex 5.
[79] We chose to compare complaints received by Ofcom during 2016 with those received in 2011 because we have DQ call volume data for 2011, collected via S135s during the last review.
[80] June 2018 Consultation, annex 5.
[81] Of 119 bill shock complaints received by Ofcom between October 2015 and September 2017 (inclusive) where the complaint description includes the amount the complainant was charged for the DQ call, 46% were related to calls costing between £5-10.

Figure 6 Distribution of bill shock complaints by call cost (October 2015 – September 2017 inclusive)



Source: Ofcom contact centre

Bill shock recognised as an issue by communications and service providers

4.18 Some CPs have become sufficiently concerned about the impact of 118 service charges on their customers that they have introduced measures intended to increase price awareness and reduce the volume of complaints they receive. In particular, Vodafone and TalkTalk have introduced pre-call announcements (PCAs) to customers informing them that calls to 118 numbers are charged at a premium rate. We consider that these actions are consistent with significant amounts of bill shock from 118 calls.

4.19 TalkTalk introduced its PCA in April 2016 because it felt that the high service charges that its customers were experiencing, without being given sufficient warning from service providers, was unfair. TalkTalk told us that complaints were being made following calls to 118 numbers because of high charges and that it wanted to avoid, or at least reduce, bill shock experienced by its customers.[82] Vodafone introduced a PCA (in October 2017) after identifying consumer dissatisfaction and increased likelihood of complaints from customers calling non-geographic numbers, including DQ services We discuss PCAs in more detail in Annex 1. [83]

4.20 We also note that both TNUK and BT have introduced voluntary call caps to ensure a consumer is not charged the service charge once a specified limit is reached. TNUK impose a >£20 [✂] call charge cap for users calling 118 118 and 118 888 from all originating networks [✂].TNUK have told us that this is to reduce the number of instances where a

[82] TalkTalk formal information request s135, January 2018.
[83] Vodafone formal information request s135, January 2018.

consumer receives an unexpected charge.[84] BT impose a £20 call cap on calls made by their own landline customers when calling its own DQ service (118 500).[85]

4.21 Some service providers also have compensation policies in place for when consumers are unhappy with the service they have received. TNUK have told us that it attempts to provide at least a partial refund to all complainants. They told us that "over 97% of TNUK complainants receive a refund. Complaints related to cost, unauthorised usage, sensitive calls, vulnerable callers and service quality result in a 100% refund as a matter of policy. Complaints related to large bills without extenuating circumstances are refunded at a level of at least 50% (and up to 100% at TNUK's discretion)."[86] BT also told us that it reviews complaints and requests for refunds.[87]

4.22 While TNUK's compensation policies appear generous, consumers may be unaware that they exist or reluctant to contact an SP to complain for the fear they will incur further high charges.[88] As set out in Annex 5 to the June 2018 Consultation, the number of complaints made by consumers directly to SPs is a very small percentage of the number of consumer experiencing bill shock. This suggests that consumers are unlikely to be drawing upon the compensation policies available to them in large numbers.

Bill shock and call connect

4.23 As set out in paragraph 2.17 above, the PSA has guidance in place which sets out that service providers should clearly inform callers of the costs of using onward call connect before putting them through to the number. It has decided to make this a special condition landing on DQ providers.

4.24 The charges incurred by consumers for using the call connect service substantially exceed the costs of providing the service.[89] Some DQ providers, such as TNUK and Maureen, are charging users as much as £4.49 per minute after the first 60 seconds. Yell charges £2.75 for each additional minute, whereas BT is now charging £1.55 for each additional minute on its 118 500 service.

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[84] TNUK formal information request S135 response, September 2017.
[85] Ofcom/BT meeting (November 2017).
[86] TNUK formal information request s135 response, September 2017. Further detail was provided in subsequent correspondence in June 2018.
[87] BT formal information request s135 response, September 2017.
[88] Because of rules that restrict charges for a consumer helpline, service providers must provide an alternative contact number (on a geographic, mobile, 03 or freephone number) for consumers who want to complain about a DQ service (Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, regulation 41./Part 4 Protection from inertia selling and additional charges).
However, these contact numbers may be difficult to find unless the consumer visits the provider's website. In view of the evidence that we have from the consumer survey about when consumers call 118 numbers and how they select a DQ service, we consider it reasonable to infer that many callers may either not be inclined or are not able to locate the service provider's customer complaints contact number. In such circumstances, a consumer may decide not to make contact via the 118 number to pursue their complaint, for fear of incurring further charges.
[89] Whilst we have not calculated the exact costs of providing onward call connect, our review of the 070 number range assessed the cost of a very similar service (e.g. including call routing and transit). Based on our review of the 070 number range, we estimate costs for switching, call routing, marketing and billing costs for the purposes of the call connect service to be 0.596 pence per minute.

4.25 Our consumer research shows that 30% of DQ users reported that they used the call connect service on their last call.[90,91] The majority do not use the call connect service to make long calls: we estimated in our June 2018 Consultation that approximately 4% of DQ calls currently involve charges of greater than £20, albeit this still amounted to approximately 198,000 calls a year.[92]

4.26 Our research also indicated that the vast majority of DQ users who used call connect in the last 12 months do not understand charges for this service.[93] There is also indicative analysis which suggested that 42% of DQ users who said they used the call connect service during their last call had experienced bill shock.[94]

4.27 As noted above, we have received complaints about bill shock as a direct consequence of the use of onward call connect, with consumers saying they were unaware of the high charges.[95,96] In addition, we used information about the call duration and call cost provided by complainants to estimate that 33% of bill shock complaints concerned onward connected calls, which is in line with the rate of onward call connection.[97] Furthermore, many of the complaints concerned calls which cost significant amounts. Over half (57%) of those complaints related to calls costing £20 or more, with one complainant reporting a bill of over £200 (see table in Annex 5 to the June 2018 Consultation).

4.28 Taken together, the evidence set out in our June 2018 Consultation showed that consumers using the call connect service experienced material levels of bill shock.

Consultation responses

4.29 A number of respondents supported our finding that users of DQ services experience bill shock. Sparta Telecoms reported instances of customers who had received bill shock. A number of individual consumers wrote about their own experiences of bill shock. Age UK highlighted that bill shock can cause anxiety, stress, and intense pressure on people's limited budgets.

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[90] Kantar quantitative research (2017). Slide 29.
[91] Based on data that we have received from TNUK, similarly we found that on average 25% of all of its calls are onward connected. TNUK S135 response, September 2017.
[92] This corresponds to a call of around 6 minutes for a call to BT's 118 500 on the basis of its service charge prior to June 1st 2018 and a call of 3 and a half minutes for TNUK's118 118 service.
[93] See paragraphs 3.45 and 3.46 above.
[94] Kantar quantitative research (2017). Slide 49. This result is indicative due to small sample size (87 weighted/90 unweighted). This compares to 33% of DQ users who experienced bill shock on their last call but didn't use the onward call connect service. However, due to small sample sizes we have large error margins and the difference is not statistically significant.
[95] June 2018 Consultation, annex 5. Comparing the number of complaints we received in 2011 about onward call connect with those received in 2016, and assuming the rate of onward call connect has not changed since 2011 we find that complaints have increased two-fold.
[96] However, the volume of complaints recorded by Ofcom as relating to onward call connect may understate the position as complainants are not asked if they used the call connect service, instead we rely on complainants providing this information spontaneously. June 2018 Consultation, annex 5.
[97] Kantar quantitative research (2017). Slide 29. 30% of DQ users used onward connect on their last call.

4.30 TNUK and some other SPs objected to our findings on bill shock. They challenged the robustness of the survey evidence used to support our findings. We have reviewed the survey methodology in the light of these comments and are satisfied it was appropriate and the findings of the survey are reliable, as set out in more detail at paragraphs A1.24 – A1.31 of Annex 1.

4.31 The following specific comments were made by TNUK and others about our analysis and the evidence we had relied on:

a) in relation to our assessment of bill shock TNUK said that:

- we have overstated the problem of bill shock by considering whether consumers have received bills or charges which are more than they expected to pay, rather than whether they were more than they were willing to pay;[98]
- we had overstated the extent of bill shock insofar as we had included consumers who had paid a "little more than expected". TNUK also said the financial impact of bill shock relative to average spend on telecoms services was minimal; [99]
- we had failed to consider the possibility that consumers may have paid more than expected because of an "*unexpectedly high call length*";[100]
- our finding that consumers using call connect services suffer bill shock contradicted our finding that bill shock partly stems from a lack of transparency as to DQ prices because users of call connect services "*have the best possible information available to them, as they are told the price of the onward call before they are connected*".[101]

b) in relation to our complaints analysis, TNUK said that:

- the number of complaints about DQ services received by Ofcom was low both in absolute terms and relative to other services in the telecommunications sector;[102]
- we had failed to give sufficient weight to more general changes to the pricing structure of calls to non-geographic numbers, including those in the 118 number range, and the impact of those changes on consumer complaints.

c) Telecom 2 and TNUK also commented that our assessment of consumer harm overlooked DQ users' high levels of satisfaction with DQ services.

[98] TNUK non-confidential response, paragraph 8.9.
[99] This point was also made by IRN Limited in their consultation response.
[100] TNUK non-confidential response, paragraph 8.10.
[101] TNUK non-confidential response, paragraph 8.19.
[102] This point was also made by IRN Limited in their consultation response.

Ofcom's assessment of consultation responses

Willingness to pay as a means of assessing bill shock

4.32 TNUK's economic advisers suggested that we should have based harm on consumers' willingness to pay rather than prices above expectations.[103] Willingness to pay measures the maximum amount that a consumer is willing to pay for a product. Where prices are transparent, consumers will never pay above their willingness to pay. Thus, if any customers can be induced to pay more than their willingness to pay, this is evidence of a significant market failure from the lack of price transparency. Further, we disagree that only those consumers who pay a price above their willingness to pay are made worse off; in our view, that is also the case for those receiving an unexpectedly high bill.

4.33 TNUK's economic advisers claimed that a consumer who is willing to pay up to £5 for a product, and pays £5 for the product is not financially worse off simply because they believed the price would be lower.[104] We do not accept this argument. A consumer who expects to pay £2 but receives a bill for £5 is financially worse-off by £3. By paying more than expected, consumers have less to spend on other goods or services, or to save. Bill shock is in effect equivalent to an unexpected reduction in income.

4.34 In our assessment, we have looked at the financial impact on consumers; we have not taken account of harm arising from the consequences of bill shock, for example, the time and effort of complaining, or anxiety caused by having to pay an unexpectedly high bill. Our estimate of the adverse impact on consumers is therefore conservative.

Definition of bill shock

4.35 TNUK claimed that our definition of bill shock based on prices above expectations may overstate consumer harm as it includes those who paid 'a little more than expected'.

4.36 From our research, the percentage of DQ users experiencing bill shock on their last call is 35% (compared to 39% who experienced bill shock on any call). Most of the users experiencing bill shock on their last call said they had a bill that was 'a lot more than expected' (almost 80% of this group/27% of all DQ users) while the remainder of the group (8% of all DQ users) said their bill was 'a little more than expected'.

4.37 This definition is broadly similar to the approach we took in Ofcom's previous research on unexpectedly high bills in the landline and mobile phone markets, in 2013 and 2014.[105] We consider it is reasonable to include users who paid 'a little more than expected' when reporting on total levels of bill shock found by our research. Further, given a large majority

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[103] The CEG Report claims, "that the average difference between the price paid and the price a consumer is willing to pay, would equate to a harm of £0.6 million, one quarter of the amount found by Ofcom." TNUK, Non-confidential response, paragraph 8.9. CEG's calculation relies on assumptions that half the "bill shock" customers would have made the call anyway and that the average WTP of the rest is halfway between the expected price and the actual price. These assumptions mean that CEG's estimate of the value of the harm caused by DQ callers paying above their WTP is 25% of the amount of bill shock caused by callers paying above expected prices.

[104] CEG Report, Non-confidential version, paragraph 43.

[105] Incidence of unexpectedly high bills, 2014, Ofcom.
https://www.ofcom.org.uk/__data/assets/pdf_file/0026/72791/bill_shock_chart_pack.pdf

of users experiencing bill shock on their last call were charged 'a lot more than expected' by providers, we would still find significant levels of bill shock even if we were to narrow our focus to those who paid a lot more than expected.

4.38 In relation to the monetary amount of bill shock experienced by individual consumers, the average amount paid in excess of expectations (£5.44) could be considered low in the context of average telecoms spend. It becomes material, however, when compared to the amounts that consumers expect to pay for DQ calls, as we set out at in Figures 4 and 5 at paragraph 3.44. Further, we consider this to be a conservative estimate since our calculations excluded two outliers who reported paying more than £90 in excess of expectations.[106] Our research findings are that bill shock among DQ users is widespread and the aggregate amount that they paid in excess of expectations over a 12 month period is conservatively estimated to be £2.4 million, which is material.

Call length and bill shock

4.39 We disagree that we had not considered the possibility that consumers may have paid more due to unexpectedly long call length. Long call lengths are most likely to arise where consumers use the call connect service. If bill shock was only due to unexpectedly long calls, we would find that bill shock would be low among those who do not use the call connect service. This is not the case. One third of those who did not use call connect on their last DQ call reported that it cost more than expected, compared to 42% of those who did use call connect.[107] We consider that both these rates are high and show that bill shock does not only arise on long duration calls.

4.40 Our finding that users of DQ call connect services experience bill shock is not contradicted by our finding that lack of price transparency contributes to bill shock. As set out in paragraphs 3.46, our consumer survey found around 80% of users of DQ call connect services did not understand how these services were charged, notwithstanding the pricing information they received.

Complaints data

4.41 In Annex 5 to the June Consultation we included an analysis of complaints data. We explained that there were some limitations in the complaints data as some consumers may be reluctant to complain, and it may not be obvious to the consumer where to direct a complaint about a bill. Given these difficulties, conclusions about the absolute number of complaints to Ofcom as a percentage of calls are to be treated with caution.

4.42 We consider that more weight can be placed on an analysis in the change in the rate of complaints over time as there is no reason to believe that the external factors affecting the numbers of complaints (other than price) have changed. The rate of DQ complaints which Ofcom has received since 2013 as a proportion of call volumes has increased six-fold, with around 70% of complaints during this period relating to bill shock.

[106] See paragraph 4.10, fn 73.
[107] Kantar quantitative research (2017). Slide 49.

4.43 In carrying out our analysis of Ofcom's complaints data, we looked at both how complaints were categorized and the call handlers' notes of the substance of the complaints. We are therefore satisfied that our assessment of the data and the extent to which complaints related to bill shock as opposed to other pricing issues is accurate.

4.44 In relation to TNUK's suggestion that the change to the unbundled tariff may have contributed to the increase in bill shock complaints, the measure was designed to improve consumers' understanding of the amounts they pay to their CP and the SP for the service called and, in the case of 118 calls, did not regulate the level of charges. We therefore do not agree that the change is a contributory factor to increasing rates of complaint about bill shock. Furthermore, the level of complaints received by Ofcom increased substantially in 2013 and remained high in 2014, whereas the unbundled tariff was implemented in July 2015. Therefore, these increases could not have been caused by the unbundling of the tariff.

4.45 Further, for most DQ services, the service charge represents most of the cost of the call. Service charges have increased significantly over time. We therefore consider it reasonable to attribute the increasing rate of bill shock complaints in respect of 118 calls to the service charges set by the provider.

4.46 We note TNUK's point that we had not taken into account its policy of giving a partial refund to all complainants. This does not provide an effective remedy for the issues causing bill shock, specifically high upfront charges which consumers are largely unaware of. Further, as we identified in the June 2018 Consultation, consumers are reluctant to make a complaint, which limits the extent to which TNUK's compensation policy mitigates, to any material degree, the levels of bill shock we have identified.

Consumer satisfaction

4.47 When asked whether they were satisfied with their "last experience" of calling 118 DQ services, 71% of DQ users said they were. However, we do not consider that that this is a reliable guide to the extent to which users were satisfied with the cost of these calls.

4.48 Qualitative interviews were conducted with a small number of respondents who had experienced bill shock and, as Kantar notes, many of these interviewees "*disassociated their view of the service received from their bill experience and seemed to treat these as two different experiences."* The qualitative interviews provide an insight into the different perspectives of individual consumers when asked about their last experience of calling a DQ service and indicate that respondents did not necessarily have cost in mind when answering the question on satisfaction.

4.49 In this context, we note that the question in Kantar's survey which asked if users were satisfied with their last experience (question 12) followed one (question 11) which asked users to pick an answer which best described their DQ experience. The prompted answers all related to service quality, rather than cost. It is plausible, therefore, some respondents had service quality in mind when they answered the satisfaction question, rather than the cost.

4.50 Whether or not respondents took into account the cost of the call when saying whether they were satisfied with the DQ service they received, it does not follow that the bill shock we have found does not cause harm or should be given less weight in our assessment. As we noted earlier, consumers are made worse off by paying more than they expect and this is the case whether or not they were satisfied with their last DQ call experience.

Conclusion on bill shock

4.51 Having considered the responses to our consultation, we remain of the view that looking at all the evidence in the round, consumers using DQ services suffer material levels of bill shock in relation to both long and short calls. This is based on the following:

a) Our research shows expected prices are well below the prices charged by many DQ providers. Our research shows consumers expect a one-minute DQ call to cost them around £2, when the actual cost for many providers, including the most popular number (118 118) is more than 4 times that amount for the first minute;

b) 1 in 10 DQ users identified a DQ call as the source of an unexpectedly high bill when asked about bill shock in relation to telecoms services. This is high when considered in the context of the infrequency with which consumers use these services;[108]

c) When prompted to recall their DQ call/s in more detail, the percentage of DQ callers reporting that they paid more than expected for at least one DQ call in the last 12 months from a DQ call rose to 39% (35% in relation to their last call), of which the large majority stated that they paid 'a lot' more than expected;

d) Complaint rates about bill shock from DQ calls to Ofcom have increased five-fold from 2011 – 2016 when the decline in DQ volumes is taken into account;

e) Two CPs have voluntarily taken action to alert their customers to the cost of these calls.

Affordability

4.52 DQ services can be an important service for some consumers who do not have access to alternatives such as internet search. This may be because they do not have access to the internet at home or on their phone, or they are in situations without access to the internet (e.g. roadside recovery in any area without mobile data coverage).

4.53 As set out in paragraph 3.36 only a small proportion of consumers use DQ services and there is evidence that the high prices charged by some providers is one reason for this. One in ten say that they don't use DQ services because they are too expensive or unaffordable.[109] For consumers who do use DQ services, high charges result in some

[108] Paragraph 3.37.
[109] Kantar quantitative (2017) research, slide 58.

consumers experiencing affordability issues, such as being unable to pay their bill or cutting back expenditure on other goods/services.[110]

4.54 Last year, the service charges of some providers exceeded the average weekly expenditure on all communication services for consumers in the lowest 10% income group.[111] For consumers in the bottom 10% income group, a single DQ call to 118 212 (Maureen) or 118 118 (TNUK) lasting 90 seconds would amount to £11.23, which equates to approximately 9% of their weekly disposable income.[112]

4.55 While there are cheaper DQ services available, the consumer survey showed that most callers tend not to shop around but rely on memory when calling a DQ service.[113] This is likely to exacerbate affordability concerns and becomes particularly concerning if users are not able to access alternatives such as internet search.

4.56 Our research found that some consumers are being deterred from accessing DQ services because of affordability concerns. Among non-DQ users around one in ten (9%) say this is because it is too expensive and 1% say it is unaffordable. Among this sub-group of non-DQ users, 6% said not using a DQ service caused them difficulties in terms of finding the numbers they need.[114]

4.57 Our consumer research evidence suggested that 8% of DQ users, which equates to approximately 100,000 UK adults, say they have faced affordability issues because of using DQ services. [115] This is significantly higher amongst those in lower socio-economic groups (13% C2DE group compared to 3% ABC1 group) and those not working (12%).

4.58 Our consumer research also showed that of the 8% of DQ users experiencing affordability issues:

- Half of these users said they had to cut back expenditure on other things to pay their phone bill;
- A further quarter of these users said that they had to borrow money from family or friends to pay their phone bill; and

[110] In the 2010-13 review of non-geographic numbers we included "Access to directory enquiry services at affordable prices" as one of our criteria for assessing the regulatory options for 118 calls.
[111] Average weekly expenditure on telecommunication services for the lowest 10% income group in 2017 was £7.89. Average weekly household expenditure on communication services is from the ONS and includes expenditure on post, telecoms and internet. A 90 second call to both 118 212 (Maureen) and 118 118 (TNUK) cost between £8.73 and £11.23 during 2017. Source DQ Provider websites.
[112] We note that we are not assuming that consumers make DQ calls on a weekly basis. We are merely considering the impact a single DQ call, in a particular week, might have on the consumer's budget in that week and their ability to plan their spend for that week. Weekly expenditure/income is particularly relevant for those on pre-paid plans and those that get paid on a weekly basis, who may be more likely to be on lower incomes. Source: ONS
[113] See paragraphs 3.41 and 3.42 above.
[114] Kantar quantitative research (2017). Slides 58 and notes on Slide 61.
[115] Kantar quantitative research (2017). Slide 54. 100,000 UK adults (16+) is our base case estimate rounded to the nearest ten thousand and is based on the 8% of DQ users reporting use of DQ services had a negative impact on their household finances. We have also estimated lower and upper limits which gives a range of 60,000 and 160,000 UK adults (16+) (both rounded to the nearest ten thousand).

- the remaining quarter had to delay paying their telephone bill or could not pay their bill at all.[116]

4.59 We also looked at the consumer bad debt that BT has experienced in relation to DQ services. For the financial year 2016/17 consumer bad debt was in excess of [✂] of total revenue from 118 calls.[117] This is higher than the level of bad debt in relation to geographic calls (less than 1%) and all calls (less than 1%). We also observed that consumer bad debt from 118 numbers has decreased as a share of revenue (declined from [✂]) in financial year 2011/12), when one might expect an increase due to the significant increase in prices. We considered that bad debt for BT's own customers may have been mitigated to a large extent by BT's £20 cap on calls to its own DQ service (118 500).[118] TNUK's cap of >£20 may have also contributed to the decline, but to a lesser extent.[119]

Consultation responses

4.60 A number of respondents highlighted the affordability issues that may arise as a consequence of making DQ calls. Age UK commented that bill shock can lead to affordability issues, causing anxiety, stress and intense pressure on people's limited budgets. Some individual consumers wrote to us to outline the affordability issues that they or persons they know had experienced as a consequence of the high cost of DQ services.

4.61 A number of SPs objected to our finding that the high price of DQ services was resulting in consumer harm in the form of affordability issues.

4.62 Some SPs pointed out that DQ services are used infrequently and that it is open to DQ users to switch to cheaper DQ services or to other alternatives. TNUK said that there is no evidence that DQ services are an essential service for consumers generally, or specific groups of consumers, and so questioned the relevance, in policy terms, of any affordability issues which may result from using such service. It also said that only 1% of DQ users reported clear affordability issues, based on the numbers who could not pay their telephone bill.

4.63 TNUK suggested that our finding that high prices and consumer uncertainty about charges may deter some people from using DQ services contradicts our finding that consumers are suffering harm because they are calling DQ services and experiencing bill shock. TNUK contended that the evidence showed that bad debt associated with DQ services had fallen

[116] Kantar quantitative research (2017). Slide 54. Note that 35% of DQ users were unaware of their household's telephony payments.
[117] BT formal information request S135 response, January 2018.
[118] See footnote 85.".
[119] Furthermore, call volumes have declined significantly since 2013 and it is possible that a share of users that no longer use DQ calls would have been those that could not afford to do so. Indeed, our 2017 Kantar consumer research revealed that 9% of the population who have not used DQ services in the past 12 months chose not to so because they either considered it would be too expensive (9%) or because they could not afford to do so (1%). Kantar quantitative research (2017) slide 58.

which could in turn be because consumers were experiencing less bill shock or had greater awareness of DQ prices.

Ofcom's assessment of consultation responses

Availability of alternatives

4.64 As we explain at paragraphs 3.43-3.47, consumers have a very poor awareness of how much calls to DQ services cost. Based on this data, while there are cheaper alternatives to using DQ services, vulnerable consumers, such as those on low incomes, may not consider them before they make a DQ call because they are unaware of how much the call may cost and hence the risk that it may lead to affordability issues.

4.65 The fact that calls are made infrequently is likely to contribute to poor price awareness. For example, a single call to 118 118 (TNUK) or 118 212 (Maureen) – lasting 90 seconds is capable of causing affordability issues, given that the cost equates to approximately 9% of the weekly disposable income of the bottom 10% income group.

4.66 As set out at paragraph 2.4, Ofcom's general duties when carrying out its functions include the requirement to have regard to vulnerability of those whose circumstances appear to Ofcom to put them in need of special protection and to the needs of consumers on low incomes. It is therefore appropriate for us to take account of the affordability issues that arise for some consumers as a consequence of using these services.

Identification of users experiencing affordability issues

4.67 TNUK's assessment that only 1% of users experience affordability issues understates the extent of to which DQ users struggle to pay their bill because of the cost of the calls. TNUK has excluded DQ users that reported having to delay payment of their DQ bill, cut back expenditure on other goods and services, and those that had to borrow money to pay for their DQ bill. On this basis, as set out at paragraph 4.57 above, 8% of DQ users, which equates to approximately 100,000 adults, have faced affordability issues through using DQ services.[120]

Consistency with bill shock findings

4.68 Our finding that high prices deter some people from using DQ services because of affordability issues is based on the responses of non-DQ users (i.e. those who have not used DQ services in the last 12 months) in our consumer survey. Our conclusion that DQ users experience bill shock is based on the evidence set out at paragraphs 4.9-4.28, including, specifically, the responses of DQ users to the consumer survey. We therefore do not consider the findings to be contradictory.[121]

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[120] The approach we have used to identify affordability issues is well established and it is one that Ofcom has used in other contexts. See, for example, Ofcom's assessment of the affordability of universal postal services, where we have noted that "Universal postal prices may be considered unaffordable for a consumer were the consumer frequently to suffer significant adverse consequences as a result of the cost of sending post (e.g. because this means foregoing spend on other items) or, as a result of not sending post and foregoing the value of the communication".
https://www.ofcom.org.uk/__data/assets/pdf_file/0014/10445/affordability.pdf.

[121] Kantar quantitative research (2017). Slides 50-52, 58.

Bad debt data

4.69 As set out paragraph 4.59, we consider the overall caps implemented by BT and, to a lesser extent, TNUK, may have contributed to the decline in the level of bad debt on the 118 range. Contrary to TNUK's assertion, we do not consider it plausible that it results from improved price awareness or less bill shock, in view of the evidence that we have found that consumer price awareness is very poor, and bill shock levels are material.

Conclusion on affordability

4.70 Based on the consumer data set out above, the comparative data on weekly expenditure relative to the cost of the most popular DQ services, and having considered consultation responses, we conclude that a small proportion of callers experience affordability issues when accessing DQ services. This is likely to affect the lowest socio-economic groups and the impact on them may be material.

Misuse

4.71 In the June 2018 Consultation, we expressed concern that the ability to charge high prices for DQ services was increasing incentives for fraud and misuse on the range. Respondents said that the incidence of fraud and misuse on the 118 range was not significant and could be dealt with by the PSA and industry procedures.[122] In the light of these responses, we have concluded that misuse on the 118 range should continue to be tackled by the PSA through policy and enforcement action.[123] We note, however, that one consequence of setting a cap on service charges for DQ calls, is that it should reduce incentives to engage in misuse on the 118 range.

Our conclusions on consumer harm arising from DQ services on the 118 number range

4.72 Having considered the views of respondents to our consultation on our assessment of consumer harm and all the evidence set out in this section and Section 3 in the round, we are satisfied that:

- there is poor price transparency and low levels of consumer price awareness, in a context where prices have increased significantly;
- these features of the sector have manifested themselves in material levels of bill shock for long and short calls to 118 numbers;
- there is evidence that some consumers experience affordability issues; and

[122] TNUK non-confidential response, paragraph 8.22 – 8.23; Telecom2 Response, p.1.
[123] The PSA has decided to make a special condition to enhance its ability to take enforcement action in relation to certain practices involving the promotion of DQ services on inactive geographic numbers. See the PSA's Statement on Special Conditions for Directory Enquiries, 28 November 2018.

- there is some evidence of bad debt which is high relative to bad debt in relation to geographic calls and all calls.

4.73 In view of the extent of bill shock arising from increasing prices and poor price transparency, we are satisfied that there are sufficient grounds to justify regulatory intervention. The affordability concerns we have identified affect a small proportion of DQ users but the financial issues they experience as a result of making DQ calls are likely to be serious for this group of consumers. We have therefore taken these concerns into account in deciding what action to take for the protection of consumers.

5. Remedies to protect consumers

Introduction

5.1 We have decided that a cap of £3.65 per 90 seconds on service charges for DQ calls is an appropriate remedy to protect consumers from bill shock and to mitigate the affordability issues we have identified.

5.2 In the June 2018 Consultation, we consulted on a cap of £3.10 per 90 seconds for 118 service charges, taking account of the evidence we had gathered about consumer expectations about DQ prices and DQ prices in 2012/2013 when we last looked at the sector. As a result of consultation responses, we have gathered more information about prices in 2012/13. We have made an adjustment to the cap we are setting as a result.

5.3 We have also examined the impact of our cap on industry stakeholders, including the two largest providers of DQ services, BT and TNUK and have concluded that it is proportionate.

5.4 In this section, we set out our reasons for imposing a price cap and our assessment of the appropriate level of the cap. We also summarise the responses we received to the price cap proposal in the June Consultation and set out our assessment of them.

Service charge cap

How would a cap address harm?

5.5 In our June 2018 Consultation we proposed a service charge cap to address bill shock and improve the affordability of DQ calls:

a) Bill shock arises from actual prices exceeding consumer expectations. The larger the difference between consumer price expectations and actual prices the greater the monetary amount of bill shock.[124] The steep rise in many prices since 2012/13, coupled with poor price transparency, is likely to have contributed towards poor consumer price awareness and hence to increased levels of bill shock. A cap limits (and in some cases reduces) service charges (and thus prices), and therefore reduces the monetary amount of bill shock.

[124] By monetary amount of bill shock we mean the difference in the price actually paid by consumers and their expected prices. In extreme cases consumers may pay an actual price above their willingness to pay. This is discussed further at paragraphs 4.35 – 4.38 in the previous section.

b) A cap can also improve the affordability of DQ calls by lowering service charges.[125]

5.6 Most respondents, including BT, agreed with our proposal that a price cap was necessary to protect consumers from harm.[126] For example, as a remedy for bill shock, BT said:

"We agree with Ofcom's proposal to impose a cap on the price of 118 Directory Services calls to protect customers from the harm of unanticipated high prices and bill shock."[127]

5.7 As a remedy for mitigating our affordability concerns, the Communications Consumer Panel said:

"*The consultation document sets out a strong argument to support swift action to protect consumers, particularly those in more vulnerable circumstances. Ofcom's consumer research and evidence from complaints to its consumer contact team highlight the need for these services to remain affordable*".[128]

5.8 TNUK, Maureen and Telecom2 disagreed that a price cap was necessary to address harm. TNUK argued that the underlying cause of bill shock was the difficulty that consumers experience in knowing how much they are likely to be charged. TNUK argued that this lack of price transparency would not be addressed by a price cap and therefore that the price cap does not address the harm identified.[129] Instead TNUK, and some other respondents, proposed price transparency measures such as various types of pre-call announcement (PCA). We discuss these transparency measures in detail in Annex 1.[130]

5.9 We disagree with TNUK's argument that a price cap does not address bill shock and our affordability concerns. A price cap has distinct advantages over price transparency measures because it has a *direct* impact on prices. If set at the appropriate level, it can address bill shock by bringing prices closer into line with customer expectations and also improve affordability. Whilst a price cap will not make prices more transparent, it will effectively address bill shock by reducing the difference between consumer expectations and actual prices. Our analysis shows that price transparency measures have not been effective in securing these outcomes.

5.10 In contrast to price transparency measures, a price cap does not require consumers' attention and understanding to be effective or any further action by consumers. It is also binding on service providers. A service charge cap is also able to address affordability issues more effectively than a PCA by limiting the amounts that can be charged for calls. Importantly, in a rapidly declining market, it should also be quicker to implement.[131]

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[125] Affordability issues arise when consumers are unable to pay their bill or have to borrow or cut back on expenditure on other goods/services because of high DQ prices. Affordability is discussed further at paragraphs 4.52-4.70 in the previous section.

[126] Whilst these respondents agreed with the principle of a price cap they disagreed with the proposed level of the cap and suggested alternative price cap levels. These are discussed in detail in 5.64-5.79 below.

[127] BT, non-confidential response, paragraph 2.2.1

[128] Communications Consumer Panel response page 2

[129] TNUK, non-confidential response, paragraph 9.7

[130] See A1.61-A1.72 in Annex 1.

[131] We explain further why alternative remedies are less effective in Annex 1.

5.11 The effectiveness of a cap (i.e. the extent to which it addresses harm) will depend on the exact specification of the cap, particularly the level at which it is set. We consider the specification of the cap in the following sections.

Specification of the cap

June 2018 consultation proposal on level and structure of the cap

5.12 In the June 2018 Consultation, we proposed a price cap of £3.10 (including VAT) per 90 seconds, where the service charge includes a per minute charging rate and £3.10 (including VAT), where the service charge is set on a per call basis. We proposed this level and structure of the cap in the light of the following considerations:

a) **Consumer price expectations**: we said average consumer expectations from the 2017 Kantar research implied service charges for the first minute of a DQ call being no more than £2 (including VAT) and likely somewhat less.[132]

b) **Prices at the time of the 2013 review**: following our review of non-geographic numbers in 2012/2013, we said in the April 2013 Policy Position that we had not found sufficient harm to impose a price cap on 118 calls. Therefore, we considered that there was a strong likelihood that the consumer harm we identified could be reduced by setting a cap in line with prevailing prices in Q1 2013. We said that adjusted[133] prices for calls to 118 500 (BT) and 118 118 (TNUK) in Q1 2013 were around £2 for the first minute.[134]

c) **Flexibility in pricing structure:** Both consumer price expectations and Q1 2013 prices pointed to a cap of around £2 per minute.[135] However, we said that a cap on the per minute charge would limit pricing flexibility so there would be a strong incentive for providers to adopt a single price structure of £2 per minute. We considered this may compromise efficiency, and that consumers may also benefit from a diversity of price structures in the sector. We said that a price cap of around £3 per 90 seconds (the average length for a DQ call) would give SPs greater flexibility in setting their prices.[136]

d) **Increased cap to release an additional price point:** We noted that SPs are restricted to choosing a price point from the 100 price points common to the billing systems of all

[132] June 2018 Consultation, paragraphs 4.9-4.11.
[133] We made inflation adjustments based on CPI using January 2018 as the reference period. Before July 2015 prices were not broken down into access and service charges. Therefore, to make a like-for-like comparison between pre and post-July 2015 prices we made an adjustment to remove an approximation for access charges using revenue retained by the consumer's telecoms provider as a proxy for the access charge before July 2015. Based on our 2010 Flow of Funds https://www.ofcom.org.uk/__data/assets/pdf_file/0023/69350/flow-funds.pdf, we estimated the proxy for access charges to be about 12.5ppm and also adjusted this for inflation.
[134] We said that in Q1 2013 BT charged £1.99 for the first minute and £1.68 per minute for subsequent minutes (including VAT). We said that on this basis, a 90 second call would cost about £2.83. We also said that TNUK's equivalent charges were marginally lower, £1.98 for the first minute and £1.57 per minute thereafter, which we said implied a 90 second call would cost £2.76. Ofcom, June 2018, Consultation paragraphs 4.15-4.17.
[135] June 2018 Consultation, paragraph 4.18.
[136] June 2018 Consultation, paragraphs 4.25-4.27.

CPs. We said that eleven of the higher price points exclusive to 118 services would become redundant under our proposal to cap 118 service charges. However, if we increased the price cap marginally to £3.10 per 90 seconds this would release an additional price point. We also noted that this was the price point BT has chosen for its 118 500 service from June 2018 onwards.[137]

Flexibility in pricing structure

5.13 None of the respondents to our consultation raised any objections to our proposal to set the cap based on a 90-second call (the average call length).[138, 139]

5.14 As we explained in the June 2018 Consultation,[140] we consider that setting a per minute cap would incentivise SPs to set a flat per minute charge up to the level of the cap e.g. £2 for the first and subsequent minutes.[141] By contrast, for most DQ calls, the first minute of the call is more expensive than subsequent minutes.[142] We recognise that incentivising DQ providers to adopt a single charging structure, particularly one that is not currently widely used in the absence of regulation, may compromise efficiency, and that consumers may also benefit from a diversity of price structures in the sector.

5.15 As we also noted in the June 2018 Consultation, a 90 second control is consistent with any of the charge structures which can currently be used for 118 calls.[143] Compliance requires that the total price per 90 seconds, including both any fixed (per call) and any variable (per minute) charges, be no more than the level of the cap, whatever the combination of fixed (per call) and variable (per minute) charges actually adopted.[144] We also consider that the benefits of greater flexibility outweigh any transparency considerations. This is because, firstly, the cap may not be a good guide to actual prices as service providers may not price up to the maximum allowable and, secondly, many consumers may remain unaware of the cap in any case.[145]

5.16 Therefore, we have decided that the price cap on service charges for 118 calls should allow SPs to adopt different pricing structures. A price cap which applies to every 90 seconds of

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[137] We also said that increasing the cap to £3.10 avoided the need for BT to update its service charge again which we considered was disproportionate given that its revised pricing was within the tolerances of our benchmarks. June 2018 Consultation, paragraphs 4.30-4.33.
[138] Based on CP call level data for a two-week period in September 2017.
[139] Daisy raised some clarification issues as to how the 90 second cap would apply, but did not object directly to a 90 second cap. Our response to Daisy's query is at paragraph A1.10 of the Annex to the Statement.
[140] June 2018 Consultation, paragraph 4.26
[141] Any other pricing structure would sacrifice revenue compared with charging £2.00 per minute for each minute. See paragraph 4.26 of our June 2018 Consultation.
[142] For example, service charges for calls to 118 118 (TNUK) are £8.98 for the first minute and £4.49 for subsequent minutes i.e. TNUK adopts a 2:1 ratio between the price for the first minute and subsequent minutes. Pre June 2018, BT also adopted a 2:1 price ratio. Since June 2018 it has continued to maintain a higher price for the first minute, but the ratio is now 1.5:1.
[143] June 2018 Consultation, paragraph 4.27
[144] GC B1.21-B1.27 require that, if a per minute rate is charged, only one per minute rate is permitted throughout the length of the call
[145] June 2018 Consultation, paragraph 4.29

a call achieves this and so we have decided that this is the appropriate basis for the cap that we set.

Consultation responses on the consumer price expectations benchmark

5.17 In relation to the level of the cap, BT suggested we should have relied on willingness to pay research to develop a price level for the cap instead of consumer expectations.[146] BT said that consumers with low price awareness *"may tend to assume a price they would like to pay as opposed to one they might consider reasonable where* [sic] *they offered that as the price. Given that actual prices for products are typically below an individual's willingness to pay (unless there is perfect price discrimination) customers' expectations of prices are usually lower than their willingness to pay. Hence we are concerned that using expectations of prices rather than willingness to pay will understate the true value of the service."*[147]

5.18 TNUK argued that the Kantar survey analysis on price expectations was flawed.[148] TNUK argued that respondents that had called a DQ service more than three months prior to the survey were less able to answer the questions in the survey. Therefore, TNUK stated that we should base our price expectations results only on those respondents that made a DQ call less than three months prior to the survey, and that we should only consider their unprompted responses.[149]

Ofcom's assessment of responses on the consumer price expectations benchmark

5.19 We do not agree that willingness to pay would represent an appropriate benchmark for a price cap intended to protect consumers from bill shock. Bill shock arises when consumers pay more than they expected to pay. By contrast, willingness to pay measures the maximum that consumers would be prepared to pay for a product. As set out in paragraphs 4.32-4.34, where consumers expect to pay a price and then subsequently are charged more than expected, they are worse off even if the price paid was below their maximum willingness to pay. Simply by paying more than expected, consumers have less to spend on other goods or services, or to save. Bill shock is in effect equivalent to an unexpected reduction in income and so is a source of consumer harm. As noted by Age UK in their response, receiving an unexpectedly high bill can also cause anxiety and stress.

5.20 BT suggests that respondents are likely to have stated an expected price below their willingness to pay "given that actual prices for products are typically below an individual's willingness to pay". BT's proposition may be correct in most markets, but not in the context of DQ calls where the relationship between willingness to pay and expectations is unclear. In a market with transparent prices, users would not purchase a product if the price was above their willingness to pay and so the expected prices of users would be below willingness to pay. In the DQ sector, the current price expectations of those who

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[146] BT, non-confidential response, paragraphs 2.2.3-2.2.5.
[147] BT, non-confidential response, paragraph 2.2.5.
[148] TNUK also submitted a report critiquing other aspects of the Kantar survey. Our response to these are in Annex 1.
[149] TNUK states that this would give price expectation of £3.73 per 90 seconds for calls from a landline (vs. £2.93 per 90 seconds for all DQ users). TNUK, Non-confidential response, paragraph 9.20.

have previously made a DQ call may be above their willingness to pay if they have experienced bill shock and adjusted their price expectations accordingly.

5.21 Even if we considered that willingness to pay were an appropriate benchmark for the price cap it would be very difficult to measure. Willingness to pay is an abstract concept and is typically measured by asking consumers hypothetical questions as to whether they would purchase a service at a particular set of prices. Given the inevitably hypothetical nature of these questions, consumers may have difficulty estimating their willingness to pay accurately. In practice, they often tend to overestimate their willingness to pay or the likelihood of carrying out a stated action and this would need to be taken into account, for example by adjusting stated willingness to pay figures. In some circumstances, consumers may even understate their willingness to pay and, in general, calculating the appropriate scale of any adjustment required is not straightforward.[150]

5.22 Willingness to pay is likely to be particularly difficult to estimate in the DQ market where willingness to pay will vary depending on the specific context of the call. Consumers may have low willingness to pay for DQ services most of the time if alternative, relatively low-cost, ways of finding a number are available. However, on other occasions, willingness to pay may be particularly high, for example, in an emergency, or due to specific circumstances e.g. no internet connection on a motorway.[151] Furthermore, some consumers may generally have high willingness to pay due to not having internet access at home or not being able to use the internet (i.e. non-tech savvy consumers). Hence using willingness to pay as a benchmark for an acceptable price may leave some consumers vulnerable to exploitation in general and/or in some circumstances.

5.23 Therefore, we continue to believe that our consumer survey results on consumer price expectations are an appropriate benchmark for setting a price cap that deals with bill shock. Bill shock arises from actual prices exceeding consumer expectations. Therefore, reducing service charges so that actual prices are more closely aligned with consumer expectations will effectively mitigate the risk of bill shock.

5.24 We do not accept TNUK's argument that we should use the price expectations of those consumers that made a DQ call within the last three months only. As set out at paragraph 3.37 above, the survey evidence reveals that consumers who use DQ services typically do so infrequently. We therefore agree that they have limited opportunity to become familiar with the cost of making a DQ call, particularly given the pattern of regular price increases. In view of this pattern of use, we are satisfied that it would not be appropriate to limit our

[150] Aggregate willingness to pay is sometimes used in cost-benefit analyses, e.g. to see if a non-commercial investment is worth making. For example, in Ofcom's consumer switching work we used willingness to pay to estimate the economic benefits of our switching remedy. However, we recognised that the willingness to pay evidence had to be interpreted carefully and we "adjusted stated WTP figures downwards, to reflect the likelihood that some respondents who said they would use Auto-Switch may not actually do so and would therefore derive no value from the introduction of Auto-Switch, even if they had stated a positive WTP for it in our survey." See Ofcom, "*Decision on reforming the switching of mobile communication services*", 19 December 2017, paragraph A4.22 and, more generally, Annexes 4 and 7: https://www.ofcom.org.uk/__data/assets/pdf_file/0026/108953/Consumer-switching-statement-annexes.pdf .

[151] See the discussion of vulnerable consumers and situations in Annex 5 of the June 2018 Consultation.

assessment of consumers' price expectations to those who have used DQ services in the last three months only. We consider that the price expectations of DQ users (in the last 12 months) who were able to provide an estimate are relevant to assessing the level of the cap required to mitigate the risk of bill shock.[152]

Recap on consumer price expectations

5.25 As explained above, we consider that price expectations are an appropriate benchmark for the price cap. We set out below the information on price expectations that we used to inform our decision.

5.26 The 2017 Kantar consumer research asked respondents how much they thought a DQ call of just less than one minute would cost from a landline and a mobile.[153] Around 20% of DQ users and 30% of non DQ users were unable to estimate the cost at all. Table 3 below presents DQ users' average (mean) expected total cost of a DQ call lasting just under a minute, based on the survey responses from DQ users who were able to respond.[154] We have provided the results before and after our adjustment to remove access charges.

Table 3: Average (mean) expected cost for a DQ call of just less than one minute

	Landline (average of survey responses)	Removing landline access charge[155] from survey responses	Mobile (average of survey responses)	Removing mobile access charge[156] from survey responses
DQ users (DQ use within the last 12 months)	£1.95	£1.80	£2.36	£1.81

Source: 2017 Kantar consumer research slides 41 and 43

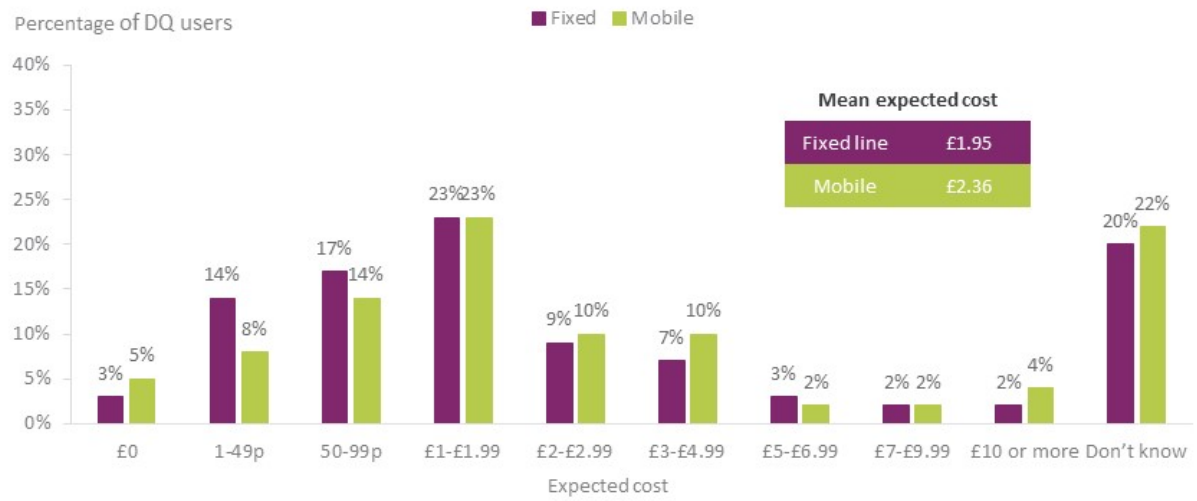
[152] Furthermore, our research shows that expected call costs among recent users are not significantly different to those who called longer ago. DQ users who called in the last three months expected the cost of a call to DQ to be £2.14 from a landline (compared to £1.95) and £2.53 from a mobile (compared to £2.36). Kantar consumer research Slides 41 and 43. Removing access charges gives £1.99 from a landline (compared to £1.80) and £1.98 (compared to £1.81) from a mobile.
[153] The definition of a DQ user is 'those that have made at least 1 call to a DQ service in the 12 months prior to the survey (November 2017) from a home fixed line and/or personal mobile, not paid for by a business'. Non DQ users are those respondents who have not used and personally paid for a DQ call in that 12-month period.
[154] The mean for DQ users would be marginally lower than those reported in this table if we remove a single outlier of £25 from the landline estimate and £50 from the mobile estimate. This consumer experienced bill shock on a DQ call made from a mobile. See Kantar quantitative research (2017) slides 41 and 43.
[155] BT's landline access charge of 15ppm has been removed from the average (mean) total expected price. As of October 2018, BT had an access charge of 15ppm for its standard consumer landline services (see http://bt.custhelp.com/app/answers/detail/a_id/51727/~/how-are-calls-to-08%2C-09-and-118-numbers-charged%3F)
[156] EE's access charge of 55ppm has been removed from the average (mean) total expected cost of a DQ call from a mobile. As of October 2018, EE had an access charge of 55ppm for its pay monthly mobile services and 44ppm for pay as you go and flex customers (see https://ee.co.uk/help/help-new/billing-usage-and-top-up/call-text-and-data-charges/charges-for-calling-non-geographic-numbers)

5.27 This evidence suggests that a service charge cap of around £2 (including VAT) for the first minute would align the total cost of a DQ call with DQ users' average price expectations.

5.28 Figure 7 below shows the distributions of DQ users' price expectations. Setting a cap that is consistent with the average consumer price expectation of around £2 would ensure that a significant share of consumers (about 23%)[157] would pay equal to or less than they expected i.e. eliminating the monetary amount of bill shock for these consumers whilst, for others, the amount of bill shock would be much reduced.[158] The higher the cap, the greater the number of consumers at risk of at least some bill shock, and the greater the amount of the shock in each case.

5.29 Whilst a cap that is slightly higher than the average could still address most of the bill shock we have identified, the shape of the distribution of expected prices means that setting a cap at £3.00 per minute or more would be significantly less effective at addressing the monetary amount of bill shock we identified. Only 14% of consumers expected a one-minute call from a landline to cost £3 or more (see Figure 7below).

Figure 7: Expected total cost of a DQ call (lasting just under 1 minute) from a landline/mobile for consumers who have used DQ services in the last 12 months



Source: 2017 Kantar consumer research slide 50.

5.30 The survey question asked about price expectations for a one minute call. In relation to subsequent minutes, we note that normal practice for telecoms services is for these to be charged at no more than the first minute and we would generally expect this to be reflected in consumers' expectations. For DQ services, many subsequent minutes are part of the call connect services, the charging structure for which is poorly understood. This makes it difficult to draw clear inferences about what consumers would expect to pay for

[157] Based on the proportion of consumers whose expected cost was £2 or more in Figure 7 below. This suggests that about 23% of DQ users calling from a fixed line would pay equal to or less than they expected to pay and about 28% of DQ users calling from a mobile would pay equal to or less than they expected to pay.
[158] A further 23% (of both fixed and mobile callers) had an expected cost between £1 and £1.99.

subsequent minutes using the call connect service given that only a minority (14% of DQ users) understand that they would be charged at the same per minute rate as a call to DQ services.

5.31 To conclude, a cap based on consumer price expectations *alone* would suggest that service charges should be set at around £2 for the first minute.

Prices at the time of the 2012/13 review

5.32 In our June 2018 Consultation, we also placed weight on the conclusions of our review of the DQ sector in 2012/2013, and on our April 2013 Policy Position which stated that there was not sufficient harm to impose a price cap. We said that this suggested that there is a strong likelihood that the consumer harm we identified could be reduced by limiting prices to the levels seen in 2013.[159]

5.33 The basis for this benchmark was the price of calling 118 500 (BT) and 118 118 (TNUK) [160] from a BT landline[161] in Q1 2013. We chose Q1 2013 because it was "*the period when Ofcom was preparing its assessment of the DQ sector immediately prior to our April 2013 finding that there was insufficient evidence of consumer harm to justify a price cap*".[162] The prices used to inform our 2013 benchmark are presented in Table 4 below.

Table 4: 2012/13 price benchmarks presented in Ofcom June 2018 Consultation (based on estimate of Q1 2013 price)

	118 500 (BT)	118 118 (TNUK)
Price first minute	£1.99	£1.98
Price 90 seconds	£2.83	£2.76

** The prices quoted in the June 2018 Consultation and reproduced in this table were for calls from a BT landline, adjusted for inflation and access charges*[163]

5.34 We said that taken together with the evidence on consumer price expectations this pointed "to a cap of around £2 (including VAT) for the first and subsequent minute. *Under*

[159] June 2018 Consultation, paragraph 4.15.
[160] We chose the prices of TNUK and BT as they were and continue to be the largest DQ service providers (accounting for almost 70% of volumes and 90% of revenues in September 2017).
[161] We chose the price from a BT landline as we said the largest share of DQ calls come from BT landlines and the cost of a call from a BT landline was the most common way to express the price for non-geographic calls before service and access charge unbundling.
[162] June 2018 Consultation, paragraph 4.17.
[163] June 2018 Consultation, paragraphs 4.15-4.17.

such an approach the maximum service charge for a 90 second call, which as noted above is about the average length for a DQ call, would be £3 (including VAT).”[164]

Consultation responses to our 2013 prices benchmark

5.35 Some respondents[165] stated that our calculation of the price of calls from a BT landline to 118 500 (BT) and 118 118 (TNUK) in Q1 2013 was incorrect. In the light of these responses, we have gathered further information about historic prices for BT's 118 500 service and TNUK's 118 118 service and looked in more detail at the consumer complaints evidence on which we based our April 2013 Policy Position decision. In the following sub-sections, we:

a) Provide a recap on the 2012/13 review and sequencing of consultations before the publication of the April 2013 Policy Position;

b) Re-evaluate and update prices at the time of the 2012/13 review to take into account the submissions by respondents that our estimates of Q1 2013 prices were incorrect;

c) Re-run our analysis of complaints received by Ofcom in 2012/13 in light of the updated prices;

d) Consider the evidence on which Ofcom decided not to impose a cap in the April 2013 Policy Position; and

e) Conclude on the relevant period and level for the 2012/13 benchmark.

Recap on 2012/13 review and decision not to impose price cap

5.36 In 2010, Ofcom launched a review of non-geographic telephone numbers, which included a review of DQ services on the 118 range (the NGCS review). In 2012, Ofcom published two consultations:

a) Simplifying Non-Geographic Numbers, consultation, 4 April 2012; and

b) Service Charge Caps for 09 and 118 Services: Consultation on maximum Service Charges for PRS and Directory Enquiries services in the unbundled tariff regime, 25 July 2012 (“July 2012 Consultation”)

5.37 In the July 2012 Consultation, Ofcom put forward a proposal to cap DQ service charges at £3.60 per minute (including VAT) and £6 per call (including VAT). However, after considering responses to the July 2012 Consultation, Ofcom published its April 2013 Policy Position which said that “on the basis of the available evidence…the case for imposing a cap on the 118 [service charge] SC does not appear justified at the current time”.[166]

[164] Emphasis added. June 2018 Consultation, paragraph 4.18.
[165] For example, see TNUK's non-confidential response, paragraph 9.19.
[166] See paragraph A22.98, Annex 22, April 2013 Policy Position.

Updated prices at the time of the 2012/13 review

5.38 In the light of responses to our June 2018 Consultation, we have gathered further information about historic prices and have established the following regarding prices at the time of the 2012/13 review:

a) BT's price for its 118 500 service increased in June 2012 and December 2012, but these price increases were not picked up in our estimate of BT's Q1 2013 price.[167] Furthermore, the price for calling TNUK's 118 118 service from a BT landline increased on 1 February 2013 and this price increase was also not reflected in our estimate of TNUK's Q1 2013 price. These increases are shown in Table 5 below.

b) Calls from a BT landline in Q1 2013 were charged by the minute or part thereof, not by the second. Therefore, the price for a 90 second call was higher than our estimates because it was the same as the price for a 2-minute call. The prices of a 90 second/2-minute call before and after the price increases are also illustrated in the Table 5 below.

[167] We were using website archive data for the historical price series which had gaps in the time series.

Table 5: 2012/13 price benchmarks updated to reflect price changes and rounding to the nearest minute (BT landline calls)

	118 500 (BT)			118 118 (TNUK)	
	Dec 2011 - May 2012[168]	Jun 2012 - Nov 2012[169]	Dec 2012 – Jul 2013[170]	Aug 2012 – Feb 2013[171]	Feb 2013 – Nov 2013[172]
Price first minute	£2.07	£2.42	£2.71	£2.02	£2.67
Price for calls between 1 and 2 mins	£3.82	£4.15	£4.75	£3.62	£4.48

Source: Information requested formally from BT. As per the June 2018 Consultation, the prices presented in this table are for calls from a BT landline and have been adjusted for inflation[173] and access charges[174]

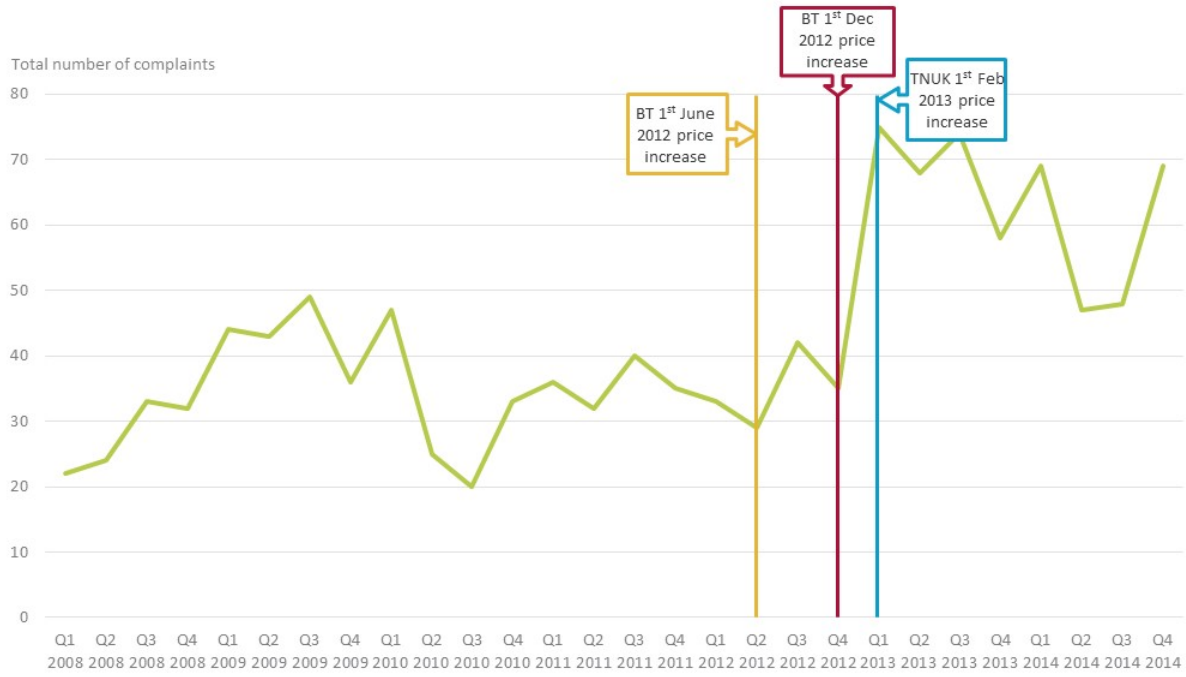
Complaints to Ofcom regarding cost of DQ calls in 2012/13

5.39 Given our updated price information, we have re-examined complaints data for the relevant period and we find that whereas complaints volumes were at broadly similar

[168] The prices presented in this column are the nominal prices in Q1 2012 (of £1.98 for the first minute and £3.67 for 90 seconds) adjusted for inflation using the CPI index and Q3 2018 as the reference period, and an estimate of the inflation adjusted proxy access charges has also been removed (see footnote 37).
[169] The prices presented in this column are the nominal prices in Q3 2012 (of £2.31 for the first minute and £4.00 for 90 seconds) adjusted for inflation using Q3 2018 as the reference period, and an estimate of inflation adjusted proxy access charges has also been removed (see footnote 37).
[170] The prices presented in this column are the nominal prices in Q4 2012(of £2.61 for the first minute and £4.60 for 90 seconds), adjusted for inflation using the CPI index and Q3 2018 as the reference period, and an estimate of inflation adjusted proxy access charges has also been removed (see footnote 37).
[171] The prices presented in this column are the nominal prices in Q4 2012 (of £1.97 for the first minute and £3.56 for 90 seconds) adjusted for inflation using the CPI index and Q3 2018 as the reference period, and an estimate of the inflation adjusted proxy access charges has also been removed (see footnote 37).
[172] The prices presented are the nominal prices in Q1 2013 of (£2.58 for the first minute and £4.37 for 90 seconds), adjusted for inflation using Q3 2018 as the reference period and an estimate of inflation adjusted proxy access charges have also been removed (see footnote 37).
[173] Inflation adjustments are based on the CPI index using Q3 2018 as the relevant reference period.
[174] Before July 2015 prices were not broken down into access and service charges. Therefore, to make a like-for-like comparison between pre and post-July 2015 prices we made an adjustment by removing an estimate of access charges. Based on our 2010 Flow of Funds analysis https://www.ofcom.org.uk/__data/assets/pdf_file/0023/69350/flow-funds.pdf, we estimate the proxy for access charges from a landline to be about 12.5ppm. This is then adjusted for inflation and removed from the real prices.

levels between 2009 and 2012, there was a significant increase in complaints in Q1 2013 with complaints remaining high throughout 2013 and 2014 (see Figure 8 below).[175]

Figure 8: Total number of DQ complaints regarding call charges received by Ofcom on a quarterly basis



Source: complaints received by Ofcom regarding DQ call charges in the period 2008-2014

Evidence on which Ofcom based the decision that there was not sufficient harm to impose a price cap

5.40 We have also reviewed the evidence on which Ofcom based the decision that there was not sufficient harm to impose a price cap in the April 2013 Policy Position.

5.41 We note, in particular, that prices increased in late 2012 (118 500) and early 2013 (118 118), but that the rise in complaints following these increases was not referenced in the April 2013 Policy Position. Indeed, the April 2013 policy position refers back to the complaints analysis in 2012:

> "*there is no history of fraud on the range (contrary to the position on 09) and little evidence of bill shock – as discussed in the July 2012 consultation, the overall level of complaints about 118 numbers is low in comparison to the volume of calls"* and we referred to paragraph 4.52 of the July 2012 consultation which set out our analysis of complaints data: *"In the year ending June 2012, Ofcom only received 86 complaints in relation to charges for DQ services"*.[176]

[175] Numbers of complaints fall in later periods but, given the decline in call volumes, the rate of complaints per thousand calls increases.
[176] See paragraph A22.90 and footnote 524 of Ofcom, April 2013 Policy Position, Annexes https://www.ofcom.org.uk/__data/assets/pdf_file/0017/68030/part_b_annex.pdf

Conclusion on 2012/13 benchmark

5.42 We no longer consider that it is appropriate to use prices in Q1 2013 as the relevant benchmark because:

a) we observe a significant and sustained increase in the level of complaints after the December 2012 (BT) and February 2013 (TNUK) price increases. Prior to Q1 2013, complaints on bill shock had been at broadly similar levels for several years. Whilst there was a small increase in the level of complaints after BT's June 2012 price increase, the later increase was of a much larger magnitude and the increase was more clearly sustained over time.[177]

b) The April 2013 Policy Position and decision not to impose a price cap was based on an assessment of complaints in an earlier period i.e. didn't include an assessment of complaints in Q1 2013 and referenced complaints data prior to June 2012.

5.43 Therefore, we consider that prices *before* the December 2012 and February 2013 price increases, but *after* BT's June 2012 price increase are the most appropriate for this benchmark. We discuss this in further detail in paragraphs 5.47-5.54 below.[178]

Landline vs mobile prices in 2012/2013

5.44 In 2012/13 call charges to DQ numbers were set on a different basis. Each CP set its own charges so the price for calling a particular DQ provider would depend on the CP's charge.

5.45 In its response, TNUK noted that calls from mobiles in 2013 were charged at higher levels than our proposed cap of £3.10 per 90 seconds. TNUK stated that Orange (now EE) and Vodafone were charging £4.50 per 90 seconds for calls to 118 500 (BT) and about £3.75 per 90 seconds for calls to 118 118 (TNUK).[179, 180] However, as explained above, we no longer consider it appropriate to use prices in 2013 as the relevant benchmark.

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[177] In the June 2018 Consultation, we said that "We have been unable to determine the reason for the increase in complaints in 2013/14" but listed some possible contributing factors (paragraph A5.6). These included TNUK's February 2013 price rise, but not BT's June or December 2012 price rises since, as we noted, we were then aware only that BT had increased the price for calling 118500 at some point between Q2 2012 and Q2 2013. The other factors listed related to contemporary advertising campaigns in which prices were insufficiently prominent, the subsequent investigations and media attention (more generally) at the time.

[178] As noted in footnote 37 above these prices have been adjusted for inflation and "proxy" access charges have been removed.

[179] TNUK, non-confidential response, paragraph 9.19

[180] Once adjusted for inflation and a proxy for access charges is removed this gives benchmark prices of between £3.71 and £4.53 (£4.53 for calls from a mobile to 118 500 (BT) and £3.71 for calls from a mobile to 118 118 (TNUK)) which is higher than our proposed cap. Inflation adjustments are based on CPI using Q3 2018 as the reference period. Before July 2015 prices were not broken down into access and service charges. Therefore, to make a like-for-like comparison between pre and post-July 2015 prices we have made an adjustment to remove an approximation for access charges using revenue retained by the consumer's telecoms provider as a proxy for the access charge before July 2015 Based on our 2010 Flow of Funds study, we estimate the proxy for access charges from mobile to be about 22.5ppm. We then adjust this price for inflation before removing it from the inflation adjusted total price. Based on internal notes from industry discussions at

5.46 Furthermore, we continue to believe that it is appropriate to focus on the cost of calls from a BT landline to 118 500 (BT) and 118 118 (TNUK) because:

a) Like now, BT (as a service provider) and TNUK accounted for a significant majority of DQ calls and revenues;

b) The largest share of DQ calls come from BT landlines;[181]

c) The cost of a call from a BT landline was the most common way to express the price for non-geographic calls before service and access charge unbundling; and

d) Older consumers (those aged 65+) are more likely to make a DQ call from a landline than mobile. Indeed, the Kantar consumer survey found that 89% of DQ users aged 65+ made a DQ call from a home landline in the last 12 months (whereas only 11% had made a call from mobile).[182]

Determining the level of the cap

5.47 To determine an appropriate price cap level, we have considered the evidence on both benchmarks in the round. While at the consultation, both benchmarks converged on a price of around £2 for the first minute this is no longer the case. Furthermore, we recognise that a price cap of £3.10 per 90 seconds would have been below the charge for a call of average length of around 90 seconds in 2012.

5.48 We have therefore reviewed the level of the cap and updated our view of the relevant benchmarks. Specifically:

a) **Consumer expectations**: average consumer expectations for the first minute of a call suggest service charges should be around £2 for the first minute (a mean of £1.80)[183].

b) **2012/13 benchmark**: we consider that the relevant prices for the benchmark are those before the rise in complaints in Q1 2013 i.e. BT's price from June to November 2012 of £2.42 for the first minute of a call (£4.15 for 90 seconds) and TNUK's price from August 2012 to February 2013 of £2.02 for the first minute (£3.62 for 90 seconds).

5.49 The price cap we set must be no more restrictive than necessary to mitigate bill shock and the affordability issues we have identified. Setting a cap that is consistent with the average consumer price expectation of around £2 would ensure that a significant share of consumers would pay no more than they expect to pay i.e. eliminating the monetary amount of bill shock for these consumers.

5.50 However, considering the historic pricing and complaints analysis, setting a cap level consistent with average consumer expectations may go further than necessary as it would

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the time of the 2012/13 review we are of the view that most mobile operators including Orange and Vodafone used per second billing rather than rounding to the nearest minute.

[181] 20-40% of calls come from a BT landline in CP call-level dataset, September 2017. Note this is an upper bound as we requested data from the major communications providers rather than all communications providers in the sector.

[182] Kantar quantitative research (2017) slide 23.

[183] Adjusted for access charge.

reduce prices to a level lower than at the time of our previous DQ review when we had found little evidence of bill shock.[184] That is, our complaints analysis suggests that prices can be slightly higher than average expectations before significant bill shock is observed.

5.51 As explained above, our analysis of historic prices and data on complaints about the cost of a DQ call shows that complaints about DQ call charges rose sharply after the price rises in December 2012 and February 2013. This suggests there is a strong likelihood that the consumer harm we have identified could be reduced by seeking to align our cap with prices before these price increases. We have considered four different prices (as set out in Table 5) as benchmarks for setting our cap:

a) BT's adjusted price for the first minute of call before the December 2012 price rise, which was £2.42;

b) TNUK's adjusted price for the first minute of call before the price rise in February 2013, which was £2.02;

c) BT's adjusted price for a 90 second call before the December 2012 price rise, which was £4.15;

d) TNUK's adjusted price for a 90 second call before the February 2013 price rise, which was £3.62.

5.52 Based on an assessment of these prices in the round, we consider that a price cap level of around £3.65 per 90 seconds would be an appropriate level compatible with addressing bill shock effectively. This is because:

a) firstly, we consider that the benchmark prices point to a range of £2.02 to £2.42 for the first minute of the call. Half of all calls made to DQ have a duration of less than one minute.[185]

b) secondly, we consider that the benchmark prices point to a range of £3.62 to £4.15 for a call of average duration (just over 90 seconds). [186]

c) With per second pricing, a charge of £2.42 per minute is equivalent to a charge of £3.63 for 90 seconds. The average duration is 96 seconds (at September 2017), so a call of average duration would cost £3.87 if priced at £2.42 per minute or £3.63 per 90 seconds. A cap of £3.63 per 90 seconds is therefore consistent with the benchmark range in b) as well as a). We then round this to £3.65 to avoid spurious precision.

5.53 We recognise that £3.65 is below BT's price for a 1-2 minute call in late 2012 of £4.15. However, due to changes in billing (CPs are no longer allowed to round to the nearest minute) it is not possible to replicate the 2012 prices exactly. Under our proposed cap and per second billing, calls of duration less than 90 seconds will cost less than the cap of £3.65 but calls of duration closer to 2 minutes will cost more.

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[184] As explained in paragraphs 5.42 above the 2012/13 DQ review was based on an analysis of complaints up to June 2012.
[185] Based on CP call level data September 2017
[186] c33% of calls are between 1-2 minutes.

5.54 In view of the evidence discussed above, we consider that a cap of £3.65 (including VAT) per 90 seconds will reduce bill shock significantly to the lower levels observed during our previous review of the DQ sector and bring actual prices much closer into line with customer expectations. The equivalent figure excluding VAT is £3.04 per 90 seconds.[187]

No separate cap for DQ services which have a per-call service charge but no per-minute rate

5.55 As explained in our June 2018 Consultation, only a small share of 118 services have a per-call charge but no per minute rate.[188] As set out in the June 2018 Consultation, a separate cap applies in the 09 range for numbers which have a per-call charge but no per-minute rate. This was motivated by 09-specific factors such as allowing for parity with other micro-payment methods and accommodating the diversity of services provided over the 09 range.[189] For the reasons given at paragraphs 4.19-4.20 of our June 2018 Consultation, we do not consider these factors are relevant for the 118 range.

5.56 In any case, DQ providers adopting a per call (only) structure have the opportunity to earn broadly the same revenue for an average call as DQ providers adopting different pricing structures do (i.e. up to £3.65 per call including VAT). Therefore, in our view it would not be appropriate to have a separate, higher per call cap for these services.

Exclusive of VAT

5.57 We have presented the figures above including VAT, as some figures (e.g. consumer expectations and complaints) are inclusive of VAT, and more importantly the prices consumers pay will include VAT. However, as VAT rates are subject to change, we believe setting the cap exclusive of VAT would provide greater certainty to DQ providers. We therefore propose setting the service charge cap exclusive of VAT, and so we would set the cap at £3.04167 per 90 seconds excluding VAT, which at the current VAT rate of 20% is equivalent to £3.65 per 90 seconds including VAT.

Assessment of the Cap

5.58 We now consider the effectiveness and proportionality of the cap we are implementing. We first consider its effectiveness in addressing bill shock and affordability concerns before considering its potential impacts on cost recovery for DQ providers, on competition and on innovation for the purposes of concluding on its proportionality. Finally, we discuss implementation costs and other practicalities. For each issue, we first summarise the relevant parts of the June 2018 Consultation before summarising responses and setting out our assessment and conclusions.

[187] More precisely, the figure is £3.04167 per 90 seconds excluding VAT at the current rate of 20%.
[188] These account for about 2% of calls based on Ofcom analysis of CP call-level data in a two week period in September 2017.
[189] See, for example, paragraphs A22.100 to A22.111 of the 2013 Policy Position.

Effectiveness

5.59 We have revised the cap which we proposed in the June 2018 Consultation in the light of consultation responses we received. In our judgement a service charge cap of £3.65 (including VAT) per 90 seconds for a call to a 118 number will protect consumers from harm.

5.60 The cap will bring charges much closer to consumer expectations, significantly reducing bill shock. It will also bring service charges for DQ back to 2012 levels, when the volume adjusted rate of bill shock complaints was one fifth of 2017 levels.[190] In making prices for calls to DQ services significantly cheaper, it will also improve the affordability of DQ calls.

5.61 This cap will reverse the upward trend in service charges that we described in the June 2018 Consultation and prevent further increases. The average service charge for a 90 second call, estimated at £9.43 for the June 2018 Consultation, will fall to no more than £3.65 (including VAT).[191] For 118 118 (TNUK), the number with the largest share by volumes and revenues, the service charge for a 90 second call would fall from £11.23 to no more than £3.65. Similarly, 90 second calls from Maureen and Yell would fall from £11.23 and £6.88 respectively to no more than £3.65.

5.62 The cap should also have a significant impact on the cost of calls involving call connect, which are the most expensive for consumers at present. For example, if the service charge structures and distribution of call lengths remain unchanged, the cap will reduce the share of calls with service charges above £20 from 4% to less than 2%.[192]

5.63 Respondents generally agreed that the cap would be effective in reducing prices and hence bill shock, though some suggested a different level for the cap. Some respondents questioned whether a cap was proportionate and proposed alternative remedies, most often measures intended to increase price transparency such as various types of pre-call announcement. Our response to these proposals is out in Annex 1.

Stakeholders' proposals for alternative cap levels

5.64 In this section we summarise stakeholders' proposals for alternative cap levels, and provide our response and conclusions.

5.65 TalkTalk argued that we should set prices at no more than £1 per 90 seconds which it believed would be sufficient to cover an efficient operator's costs.[193] It argued that this would maximise consumer welfare without provoking the exit of efficient operators, and at

[190] Price comparison is adjusted for inflation and to remove access charges.
[191] Based on Ofcom analysis of call-level data. This is based on the service charges in BT's price list weighted by the number of calls received by each SP according to the call-level data. Note that the £9.43 figure excludes those Virgin Media DQ calls which do not have a service charge. All figures in this paragraph are inclusive of VAT.
[192] For calls with a per call fee and a per minute price the assumption is that the charge for the first minute is twice the price for subsequent minutes.
[193] TalkTalk non-confidential response, paragraphs 1.4, 1.9 and 3.25 – 3.26

the same time incentivise operators to minimise their costs. It argued that we should not be concerned if TNUK exited as a result.

5.66 TNUK also pointed out that, when regulating Openreach, Ofcom generally aims to allow the recovery of efficiently incurred costs.[194] [✂]. TNUK then argued that, [✂], it was much harsher than the pricing approach adopted for Openreach. [✂].

5.67 The approach suggested by TalkTalk is the approach generally used to set charge controls on Openreach in markets where it has SMP. When we set charge controls of this kind, we often aim to bring wholesale charges into line with the costs of an efficient operator because this is the best way to incentivise efficiency of network operators and promote downstream competition.

5.68 By contrast, the objective of the price cap on DQ service charges is not to increase efficiency or promote downstream competition but to protect consumers, primarily from bill shock. Bill shock arises from differences between actual prices and the prices callers expect to pay for a DQ service, not from differences between prices and the costs of provision. It is not necessary to set a cost-based cap in order to address bill shock.

5.69 In addition, the regulation we impose must be proportionate to this objective which means it should be no more restrictive than necessary to address the problem of bill shock. A charge at the level suggested by TalkTalk would be well below average expected DQ call prices and actual prices in 2012 and would therefore be disproportionate for the purposes of addressing bill shock.

5.70 TalkTalk also argued that Ofcom did not make a finding that DQ prices were appropriate or at competitive levels in 2013, arguing that the absence of evidence of bill shock or fraud did not amount to evidence of the absence of these harms.[195] We do not agree with this argument. During our 2013 review of DQ services, we looked at the number of DQ complaints received by Ofcom and found that the number of DQ complaints was low in comparison to the volume of calls. We considered this was an indication that bill shock was limited within the sector.[196] In the light of this, we consider that the current extent of bill shock revealed by our survey is a result of the sharp and regular rises in retail prices which have occurred since late 2012, just prior to publication of the April 2013 Policy Position, combined with poor consumer awareness of prices. This is consistent with our analysis of DQ complaints we received between October 2015 and September 2017, which revealed a six-fold increase in the rate of complaints (relative to volumes) since the NGCS review, with almost 70% relating to bill shock.

5.71 Telecom2 argued that, by making some services uneconomic, the proposed cap would disadvantage those with hearing or learning difficulties. Its main concern was that pressure to cut costs would cause DQ call handlers increasingly to initiate an automated readout

[194] TNUK non-confidential response, Annex 3 paragraphs 95 – 96.
[195] TalkTalk non-confidential response, paragraph 3.5.
[196] June 2018 Consultation paragraph 3.40 and April 2013 Policy Position part B, https://www.ofcom.org.uk/__data/assets/pdf_file/0017/68030/part_b_annex.pdf , paragraph A22.90.

rather than stay on the line to provide assistance. However, it did not provide any evidence that service providers would respond to the imposition of a cap in this way, or that specific groups would be adversely affected if they did. We also note that disabled callers are able to use BT's 195 service, whilst consumers generally are at risk of harm from high prices and bill shock if they call a 118 number.[197]

5.72 IRN said that the proposed cap was discriminatory as it was below the level of the cap on 09 premium rate service (PRS) calls, which can cost up to £3.60 (including VAT) per minute or £6 per call (including VAT). IRN said that 09 PRS calls are more likely to lead to bill shock and may be more expensive due to their greater length.

5.73 BT also said that we should set the cap at the same level as the cap on 09 PRS services because provision of some niche (for example, [✂]) services may become uneconomic at the proposed cap level and because the 09 PRS cap would also allow for inflation and expected future cost increases due to falling volumes.[198] We subsequently asked BT for data on the cost per call of its [✂]. Whilst these costs are significantly higher than those of a standard DQ call, the data showed that the cost of [✂] is not in fact higher than the cap we had proposed.[199]

5.74 The differences between the 09 PRS cap and the cap that we will apply to 118 calls reflect the different natures of the services. As we noted in the June 2018 Consultation, the rationale for the level of the 09 PRS caps was heavily influenced by matters specific to the 09 range, including an assessment of harm stemming from calling numbers on the 09 range and considerations such as enabling 09 PRS providers to continue to offer the full range of services available on the range (e.g. micropayments and higher value entertainment services) and providing sufficient incentives for innovation.[200] By contrast, DQ services are much more homogeneous than 09 PRS services, in particular since the vast majority are provided on a retail or wholesale basis by either TNUK or BT. In addition, some of the considerations which informed the level of the caps we proposed in 2012 no longer appear relevant to DQ calls.[201] Prices have risen significantly, contrary to expectations, and we have not seen evidence of any significant innovation on the range as a result of the high DQ service charges. We consider that caps at the 09 PRS level are not appropriate in that

[197] When consumers make a complaint, we do not ask their age or whether they have disabilities, therefore we cannot accurately estimate the number of complaints from the vulnerable/elderly. Nonetheless some consumers voluntarily provide this information and this is recorded in the complaints description. From this we find that at least 13 of the complaints Ofcom received between October 2015 – September 2017 are from consumers with disabilities and/or mental health issues e.g. dementia; and 20 are from elderly consumers.

[198] BT non-confidential response paragraph 1.5.

[199] BT confidential response to information request dated 7th September 2018. BT provided information [✂].

[200] June 2018 Consultation, paragraphs 4.19 – 4.20.

[201] Even in 2012, we recognised that there were some arguments in favour of a lower cap for DQ services. For example, we said: "*We note however that ensuring the affordability of 118 services would point towards lower rather than higher caps"* but considered that "*the best approach to ensure access to directory enquiry services at affordable prices will be through the introduction of the unbundled tariff remedy, rather than the SC cap*". *Service Charge Caps for 09 and 118 Services,* 25 July 2012, https://www.ofcom.org.uk/__data/assets/pdf_file/0031/47767/condoc.pdf , paragraph 4.158.

they would not adequately address bill shock, creating a significant risk of continued consumer harm.

5.75 We also consider that there is no link between the level of the 09 PRS caps and the cost of niche DQ services, or future increases in DQ costs due to inflation and volume reductions. We consider the implications of possible future changes in costs below, as part of our consideration of proportionality.

5.76 TNUK said that Ofcom had proposed a lower cap than the one it rejected in 2013 (that is, a cap at the same level as the 09 cap), without addressing the concerns identified then, for example that the cap would become a focal point on which prices would tend to converge.[202] However, key to our decision not to set a cap in 2013 was our view that the unbundled tariff and transparency measures we were introducing at that time would bring significant benefits for consumers – better competition between providers, which would keep prices down, and reinvigorated consumer confidence in using the numbers, leading DQ providers to offer new and innovative services.[203] As we have explained, these features have not materialised and instead prices have risen substantially.[204]

5.77 We also consider that the possibility that the cap would become a focal point for prices was primarily a concern when most prices were below the proposed cap, since it could then have led to price increases. Clearly, concerns about possible price increases are now much reduced since the cap we are imposing will require price reductions by the market leader and others. Moreover, even in 2013, the risk that the cap could become a focal point for pricing was regarded as an argument in favour of a lower rather than a higher cap, in order to reduce the resulting harm, and evidence suggested it was not an issue that had arisen from other price caps in practice.[205]

5.78 TNUK also said that Ofcom should not discriminate in favour of BT by setting a cap equal to BT's price after 1 June 2018.[206] The cap proposed in the June 2018 Consultation was set at £3.10 for 90 seconds, slightly higher than the level derived from price expectations and information on 2013 prices, which was about £3.00 for 90 seconds. The adjustment was proposed because it enabled an existing price point to be used, which would avoid unnecessary implementation costs, and was within the tolerances of the benchmarks used.[207] The proposal was therefore pragmatic and promoted efficiency. In any case, as we are now implementing a higher cap of £3.65 per 90 seconds, no adjustment to accommodate BT's SC066 price point (which can also be used by any SP) is necessary and the question no longer arises.

5.79 We are therefore satisfied that the cap we are imposing will be effective in remedying the consumer harm identified.

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[202] TNUK non-confidential response paragraph 2.3
[203] April 2013 Policy Position; Part B, paragraphs 8.22 and 8.39
[204] TNUK's price for a 90 second call, adjusted for inflation and access charges, has risen from £3.62 to £11.23 which is more than three times its pre-Feb 2013 level.
[205] April 2013 Policy Position part B, paragraph 4.138.
[206] TNUK non-confidential response paragraphs 3.2 and 11.2
[207] June 2018 Consultation, paragraph 4.32

Long duration calls

5.80 In the June 2018 Consultation we said that, in deciding how to address the consumer harm we have identified in relation to DQ calls, we had considered whether other remedies might be effective, including a "backstop cap" on the total amount of the service charge that could be charged for an individual call. We discounted this on the basis that it would be ineffective at addressing the harm from shorter calls, which form the vast majority of calls made to DQ services. We noted that, based on a sample of calls made between 18 September to 1st October 2017, 4% of calls incurred a service charge of over £20 and 7.5% of calls incurred a service charge of over £15.[208]

5.81 Some respondents suggested that an additional remedy targeted at long-duration calls was needed. A separate cap for onward call connect at around 10ppm was suggested by Vonage and TalkTalk, due to the lower per-minute costs of onward-connected calls.[209] BT suggested that a total call cap, in addition to a cap per 90 seconds, should be set at £40, in line with the new limits for some other controlled Premium Rate Services set out in the PSA's Notice of Specified Charges and Duration of Calls [210], while the Communications Consumer Panel said it should be set at the cost of a 4.5-minute call (£10.95 at the cap level of £3.65 per 90 seconds).[211]

5.82 TalkTalk's proposal for capping call connect charges appears to be part of its overall proposal to cap charges based on the efficient costs of provision. The motivation for the Vonage proposal seems similar. However, for the reasons set out above (paragraphs 5.68-69), we are not proposing a cost-based cap. The fact that the per minute cost of most onward-connected calls might be lower than the cost of other DQ calls is not directly relevant therefore, since the level of the cap we are imposing is derived from price expectations and 2012 prices, not costs. Prices in 2012 did not differentiate between onward-connected and other calls whilst our survey data on price expectations relate to a call lasting just under one minute only.[212]

5.83 BT's proposal appears to be based on its view that bill-shock "is usually caused by customers who are onward-connected".[213] This is not substantiated by the evidence we have gathered: this shows that the frequency of bill shock on onward-connected calls is similar to that on other calls.[214] In the June 2018 Consultation, using information about the call duration and call cost provided by complainants, we estimated that 33% of the bill shock reported in our consumer survey concerned onward connected calls, which is in line

[208] June 2018 Consultation, paragraphs 4.58 – 4.59
[209] Vonage response paragraph 3 and TalkTalk non-confidential response paragraphs 1.5 and 1.9
[210] https://psauthority.org.uk/for-business/-/media/132A23E33E1443C3B014D7E24350A679.ashx
[211] BT non-confidential response paragraph 1.7, CCP response
[212] We also found that understanding of the pricing for an onward connect call was very limited, June 2018 Consultation paragraph 3.31
[213] BT non-confidential response paragraph 2.2.18
[214] June 2018 Consultation, paragraphs 3.54 and A5.23

with the rate of onward call connection.[215] We also found that 67% of bill shock complaints to Ofcom were not about call connect.[216]

5.84 As we noted above, the cap we are implementing will have a significant impact on the cost of long-duration calls. For example, if the service charge structures and distribution of call lengths remain unchanged, this will reduce the share of calls with service charges above £20 from 4% to less than 2% and a five-minute call would be likely to cost around £8.76 (plus the access charge) including VAT, compared to £26.94 on TNUK's current tariff.[217]

5.85 In addition, there are various measures in place which help to mitigate the risk of consumers incurring high charges from long calls as a result of using a call connect service. These include rules, overseen by the Financial Conduct Authority, which cap the maximum amount that can be charged for content and voice-based services paid for in conjunction with an electronic communications service.[218] Where a CP has notified the FCA that it will apply these rules, the maximum amount that its retail customers can be charged for DQ service charges in one call is capped at £40. Some providers (notably BT and TNUK) already cap the total cost of the call.

5.86 In addition, the PSA has had guidance in place which sets out that service providers should clearly inform callers of the costs of using onward call connect to the caller before putting them through to the number.[219] The PSA has decided to make this guidance a special condition binding on DQ providers.[220]

5.87 Consumers making long duration calls will therefore be protected by our cap of £3.65 per 90 seconds, which significantly reduces the risk of very high bills. In conjunction with our cap, these other measures may also help to reduce the incidence of bill shock on onward-

[215] June 2018 Consultation, paragraph 3.54. 30% of DQ users used onward connect on their last call according to our research.
[216] We concluded that at least half of bill shock complaints Ofcom received about DQ calls in the period October 2015 to September 2017 were in relation to short calls (calls lasting less than 2 minutes). The mean average call length for DQ callers was 96 seconds in September 2017. Overall, 50% of calls are about a minute or less (62 seconds), 75% of calls last less than around two minutes (100 seconds) and only 5% of calls are longer than 4.5 minutes (270 seconds). June 2018 Consultation, paragraph 3.44 and footnote 39
[217] For calls with a per call fee and a per minute price the assumption is that the charge for the first minute is twice the price for subsequent minutes.
[218] A CP connecting DQ calls might be considered to be undertaking a payment service for the purposes of the new Payment Services Directive and would then need to register as a Payment Services Company. However, it can gain exemption from this requirement if it applies a £40 per call maximum service charge cap and meets certain other requirements.
[219] Service specific guidance note – Directory Enquiry Services. https://psauthority.org.uk/-/media/Files/PSA/For-Businesses/Guidance-and-compliance/Explore-our-guidance/Guidance-files/17_Directory-enquiry-services.ashx?la=en&hash=2FA9CFB8D93CB71E4099385FDE9AB6BCF9FF10E7 Our mystery shopping results suggested that 96% of relevant calls reported call connect pricing information being given: June 2018 Consultation paragraphs 3.21 and A5.24.
[220] PSA's Statement on Special Conditions for Directory Enquiries, 28 November 2018.

connected calls.[221] We therefore consider that we should give our charge cap a chance to be effective before concluding that additional remedies are needed.

5.88 We have therefore decided not to impose a specific remedy for long-duration calls in this review.

Cost recovery for DQ providers

5.89 The proposed cap was intended to bring maximum prices into line with actual prices at the time of the 2013 review, adjusted for inflation, and broadly into line with current (average) expected prices from our survey.[222]

5.90 To inform our assessment of the impact on cost recovery, we have examined cost and revenue forecasts provided to us by BT and TNUK in relation to their retail and wholesale DQ businesses. BT and TNUK represent a significant majority of retail DQ volumes and provide wholesale services to several other DQ providers and so we consider this evidence can enable us to form a view on the impact of the cap on cost recovery for the wider DQ sector.

5.91 A service provider will, at a minimum, need to cover the incremental cost of offering a particular DQ service. Incremental costs can be contrasted with common costs such as some selling, general and administrative (SG&A) costs, which are shared between products but not caused by any individual product.

5.92 In the DQ sector, common costs are likely to arise when different services are offered from the same call centre. For example, BT offers multiple services from the call centre that takes 118 calls, including 195 and emergency services. Similarly, both BT and TNUK are likely to incur costs that are common to wholesale and retail services.

The impact on BT

5.93 In the June 2018 Consultation, we said that we considered it unlikely that the cap would affect BT's ability to recover costs. This reflected both our analysis of cost and revenue forecasts provided to us by BT, taking into account both incremental costs and costs including an allocated share of relevant BT overheads, and also evidence from BT's own pricing decisions. In summary, we noted:

a) BT identified the labour costs associated with DQ services, which are likely to be incremental costs, and they amounted to between [✂] per call in 2017/18 and [✂] per call in 2022/23 which was [✂]. [223] If we were to allocate common costs associated

[221] PCAs have drawbacks that would limit their effectiveness in addressing bill shock, by themselves. Nonetheless, we recognise that "a tariff based PCA with service charge information is likely to improve awareness of the charge at the point of call" and that "providing call charge information at the point of call aids decision making": June 2018 Consultation paragraphs 4.65 – 4.67.
[222] In fact, the estimates of 2013 prices in the June 2018 Consultation were incorrect. We have taken into account the corrected figures in reaching a decision on the appropriate level for the cap.
[223] Excluding the labour costs of supplying 195 calls.

with Voice Services in line with the ratio of DQ labour costs to total Voice Services labour costs, as well as including a return on sales of [✂] and those Central IT and overhead costs BT said were relevant to the DQ business, then we estimated that the profitability of BT's DQ business (branded and managed) would vary between [✂] in 2018/19 and [✂] in 2022/23. [224]

b) shortly before we published the June 2018 Consultation, BT reduced the service charge for 118 500 so that a 90 second call costs c£3.10 (including VAT), i.e. at the level of our then proposed cap.

c) BT also provided information on its contracts to provide white label DQ services to other DQ providers. All DQ services managed by BT incurred a per call charge (average of [✂]) and per minute charge (average of [✂] per minute). For services which send customers an SMS with the requested number there is an average charge of [✂] per SMS.[225] We would not expect the charge for these services to be below the incremental cost BT incurs to provide the service, and so these charges are a useful indicator of the cost to BT of providing a DQ service, given that it also provides other services using the same call centres (principally emergency call handling).

5.94 We therefore considered it unlikely that the proposed cap would have an effect on cost recovery for BT. BT has not since suggested, in its response to the June 2018 Consultation or elsewhere, that the proposed cap would not allow it to recover its costs of providing UK DQ calls. It has argued only that a higher cap would be needed for some niche services and to allow headroom for future cost increases. As noted above, BT subsequently provided data [✂] showing that the cost of [✂] was in fact less than the proposed cap. We therefore consider that the price cap will allow BT to recover its costs and so to provide both wholesale and retail DQ services.

The impact on TNUK

5.95 In the June 2018 Consultation, we said that TNUK forecast a sharp decline in volumes, [✂]. Our assessment of the financial information provided suggested that [✂] [226].

5.96 However, in the June 2018 Consultation we placed limited weight on these data. This was because it was unclear whether all the common costs allocated by TNUK to its UK DQ business were causally related to the supply of UK DQ services, [✂] and the forecast cost per call was also particularly sensitive to the scale of the assumed future decline in call volumes, which was uncertain.[227]

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[224] This does not include depreciation but, even if this amount were included per annum, profitability would not be significantly impacted. Please note: BT's DQ information provided included revenues and costs associated with providing 195 services. Our calculations strip out 195 services from revenues (directly) and from costs by prorating costs using volumes.

[225] In addition, BT also [✂].

[226] This analysis did not include a rate of return. If a return on sales of 10% had been included TNUK would [✂].

[227] June 2018 Consultation, paragraph 4.46.

5.97 In its response to the June 2018 Consultation and in subsequent discussions, TNUK provided revised financial projections and further information about its forecasts. As a result of this, we have resolved the issues listed above.

5.98 Taking these issues in turn:

a) Corporate overheads have been removed from the financial forecasts which has reduced SG&A costs by between [✂] per annum. The remaining centrally incurred costs which have been included in the data relate exclusively to the UK DQ business and so form part of the incremental costs of this business. We understand that TNUK's practice is to set its wholesale (white label) prices at a level [✂];

b) For this reason, we accept that [✂];

c) We accept that TNUK's forecast unit costs are sensitive to the forecast rate of volume decline because [✂]. TNUK's volume forecast is based on past trends. TNUK said that the rate of decline of call volumes is unlikely to be significantly affected by price reductions following imposition of the cap, because demand is not highly sensitive to price.[228]

5.99 TNUK said that, [✂]. This is because, as the table and graph below show, [✂].[229]

Table 6 TNUK's average costs per call by year, [✂]

[✂]

Figure 9: TNUK's average costs per call by quarter, [✂]

[✂]

5.100 [✂].

5.101 [✂].[230]

5.102 [✂].

The impact on competition

5.103 In its response to the June 2018 Consultation, TNUK claimed that Ofcom had not properly assessed the impact of the proposed cap on competition. TNUK said that:

> *"Examining the impact on competition, not just at the retail level…but at the wholesale level (and its impacts on white label offerings) is critical when suggesting any regulatory intervention - let alone the most intrusive form of regulation, a price cap."*[231]

[228] TNUK stated that [✂], TNUK response, Annex 3 page 56.
[229] TNUK stated that [✂], TNUK response, Annex 3 page 56.
[230] [✂], TNUK response, Annex 3, p58.
[231] TNUK response, paragraph 10.4.

5.104 The potential for such an impact arises because [✂]. We have considered the impact on competition of the price cap on this basis and set out our views below.

5.105 The impact of the price cap on competition is likely to be limited if price constraints between DQ providers are weak, so that TNUK and other DQ providers effectively price independently of each other. For the purpose of assessing TNUK's comment in the context of our proportionality assessment, we have therefore considered evidence on the strength of the price constraints between TNUK and other DQ providers, as this may have implications for the impact of the price cap. [232]

Competition at the retail level

5.106 Evidence from TNUK's and other DQ service providers' pricing, together with evidence from our survey on callers' lack of both price awareness and price sensitivity, suggests that retail price constraints between DQ providers are weak. The high prices charged by TNUK and the magnitude of its price increases since 2012, while remaining the largest provider, strongly suggest that there was little constraining effect on prices. In addition, consumer price awareness and price sensitivity appear to be low:

- Survey evidence suggests that only 3% of DQ callers chose the number called because it was the cheapest;
- Only 19% of DQ users said they knew the cost of their last DQ call at the time they made it;
- The average estimated price for a one minute call was around £2, compared to TNUK's actual price of £8.98;
- Only 14% of DQ users knew how call connection services are priced;
- 31% of DQ users called the only number they knew, whilst 26% called the first number that came to mind;
- survey evidence also suggests that many consumers use DQ because they do not have access to alternative sources of information at the time/at all. [233]

5.107 We therefore consider that the price cap will not have a material direct impact on price competition at the retail level because evidence suggests that competition in the retail market is not effective in constraining prices, even in the absence of the cap. In addition, any effect on consumers will further be limited because TNUK has told us that [✂]. [234]

[232] As in any market analysis what is important is the identification and taking account of relevant constraints on prices. See, for example, Wholesale Broadband Access Market Review 2018, Statement, 31 July 2018 paragraph 3.5 https://www.ofcom.org.uk/__data/assets/pdf_file/0030/116994/statement-wba-review.pdf.
[233] June 2018 Consultation, paragraph 1.10.
[234] [✂].

Quality of service at the retail level

5.108 TNUK argued that the range of price points in the market reflected differing levels of quality, with competition at both the retail and wholesale levels. It said it [✂].[235]

5.109 It is, in principle, possible for services of different qualities to be sold at different prices in a single market.[236] If this is the case, it is to be expected that there will be a strong positive correlation between price and quality and also a degree of proportionality between the quality and price differences: consumers will not pay a great deal more for a product if the quality advantages it purportedly offers are perceived as trivial.

5.110 In this light, the evidence we have gathered does not support TNUK's contention that the making of calls to 118 118 reflects informed decisions to pay more for a premium quality service. This is because:

- DQ callers choose a service mainly on the basis of ability to remember the number, with little apparent sensitivity to or awareness of either quality and price;
- our mystery shopping exercise found that DQ providers' response rates, time to answer calls, and time taken to provide the number were quite similar and did not suggest a clear association between price and service quality.[237] Whilst TNUK claimed to have observed [✂], it did not provide any evidence to support this claim.[238]
- We also asked BT and TNUK to provide details of their response rates and average time-to-answer over the last year. BT's average speed of answer was [✂]and it was able to provide [✂] of the numbers requested. TNUK's average speed of answer was [✂]and it was able to provide [✂] of the numbers requested. Overall, therefore, TNUK's quality of service is not clearly superior since, although [✂].[239] The evidence suggests that TNUK's high prices do not simply represent a premium for higher quality therefore;
- [✂].

5.111 This evidence does not suggest that there is a strong positive correlation between the price of DQ calls and quality of service at the retail level. Calls to 118 118 do not seem to reflect informed decisions to pay more for a premium quality service: most customers simply call the first number they remember rather than choosing the highest-quality service. The absence of a link between price and quality in the mystery shopper results and in the data provided by SPs (set out above) is also consistent with this.

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[235] TNUK response paragraph 10.1.

[236] For example, Gore *et al* state: "a purchaser of the low price/low quality good may decide to respond to a SSNIP in respect of that product by switching to the high price/high quality good…Even if the high quality product's price is double that of the low quality good, customers may still be marginal between purchasing the two": Gore, D; Lewis, S; Lofaro, A; and Dethmers, F., *The Economic Assessment of Mergers under European Competition Law* (2013), page 96.

[237] Market research report: Mystery shopping (BDRC Continental): https://www.ofcom.org.uk/__data/assets/pdf_file/0031/114799/dq-mystery-shopping.pdf.

[238] TNUK confidential response, paragraph 10.16.

[239] Information provided in response to request of 14th September 2018. BT's data on the percentage of numbers provided were based on a sample of calls.

Affordability and free services

5.112 In its response, TNUK said:

> *"Ofcom's concern about affordability would also not be met. For some low-income consumers, DQ services charged at the level of the cap would still represent a significant cost relative to their weekly disposable incomes, and could be paid for by financial debt.* [✂]."[240]

5.113 TNUK said that it offers a free DQ service which it says is [✂].[241] We understand that the service has been [✂].

5.114 As we explained in the June 2018 Consultation, we found evidence that affordability was an issue for some consumers. DQ calls could impact significantly on disposable income at current prices and, for consumers in the bottom 10% income group, a single DQ call to 118 212 (Maureen) or 118 118 (TNUK) lasting 90 seconds would amount to £11.23, which equates to approximately 9% of their weekly disposable income.[242] Our cap will mean that an average DQ call will equate to around 3% of weekly disposable income instead of 9%, a level much less likely to lead to affordability concerns.

5.115 We consider that usage of TNUK's free service, which receives around [✂] calls per month,[243] is too small-scale to make any material contribution to addressing bill shock or affordability concerns. Consumer awareness of the service is low[244] and the cap will in any case mitigate the risk that consumers pay prices that cause affordability issues.

Competition at the wholesale level

5.116 While retail price constraints are weak, wholesale purchasers are likely to view BT's and TNUK's white-label services (but not other information sources) as close substitutes. TNUK competes with BT to sell to these well-informed buyers [✂].[245] [✂]. TNUK says that this competition has led to improved DQ service quality which may benefit retail customers and we recognise that, in principle, there may be some benefits to retail consumers from wholesale competition.

5.117 However, our assessment is that the value to consumers of any enhancement to service quality brought about by wholesale-level competition is likely to be low. This is because:

- As noted above, DQ callers choose a service mainly on the basis of ability to remember the number, with little apparent sensitivity to or awareness of either quality and price. The value of the difference between the operators' average times-to-answer is also likely to be extremely small. This means that wholesale customers are unlikely to be

[240] TNUK, non- confidential response, paragraph 9.2.
[241] TNUK non-confidential response, paragraph 4.19.
[242] June 2018 Consultation, paragraph 3.60.
[243] TNUK response, Annex 3, paragraph 98.
[244] 63% of DQ users were aware of the 118118 service and 19% were aware of BT's 118500 service. No other service achieved more than 4% awareness: Kantar consumer research slide 24.
[245] TNUK non-confidential response paragraph 10.18.

willing to pay a significant premium for a higher quality service, as their retail customers are also unlikely to do so;

- As noted above, evidence from our mystery shopping exercise and [✂]suggests that DQ providers' performance in respect of response rates, time to answer calls, and time taken to provide the number is quite similar;[246]
- TNUK forecasts that its answer times [✂];
- The BT and TNUK wholesale contracts that we have seen generally [✂]. Rather, a typical requirement seems to be that [✂]. This suggests that purchasers' main concern may be [✂], rather than to achieve [✂] of TNUK's 118 118 service;
- The main driver of BT's and TNUK's wholesale service quality is likely to be these operators' retail services, which use the same facilities as the wholesale services supplied to other SPs, but make up the bulk of their volumes and, [✂];
- TNUK has told us that [✂];
- TNUK has told us that, if we were to implement the cap proposed in the June 2018 Consultation, [✂], we therefore consider that any practical impact of the imposition of the cap will not be material.

5.118 In addition, TNUK accepts that, [✂][247]. If TNUK [✂].[248]

5.119 Finally, [✂] CPs with existing call centres might be able to benefit from such economies. As noted above, one such operator, TalkTalk, has provided cost estimates which are below the proposed cap, which it has argued should be tougher. In some circumstances, operators such as this could be potential entrants to the wholesale DQ market, and hence could act as a constraint on BT wholesale prices and quality of service.

5.120 [✂].

5.121 BT's provision of its wholesale services is subject to ex post competition law. Furthermore, the cap will be in place to constrain retail prices and so consumers will be protected in any event [✂].

No material impact on competition

5.122 We have considered whether the price cap will [✂] and if so, what impact this may have on price competition at the retail and wholesale levels, and on affordability and quality of service. We find that any such impact will be limited because:

- evidence suggests that competition is not effective in constraining retail prices, even in the absence of the cap;

[246] Market research report: Mystery shopping (BDRC Continental): https://www.ofcom.org.uk/__data/assets/pdf_file/0031/114799/dq-mystery-shopping.pdf.

[247] TNUK non-confidential response paragraph 10.7.

[248] Firms in an effectively competitive market are forced to operate efficiently. Indeed the approach to charge control setting described in the TNUK response, Annex 3 paragraph 95 is intended "to mimic the outcome of a competitive market, where the equilibrium price reflects the cost of efficient service provision": *Wholesale Local Access Market Review,* Statement - Volume 2, 28 March 2018, paragraph 5.122 a) ix).

- evidence does not suggest that there is a strong positive correlation between the price of DQ calls and quality of service and most customers simply call the first number they remember rather than choosing the highest-quality service;
- usage of free services is too small-scale to address bill shock or affordability concerns, which the price cap will do much more effectively;
- [✂].

5.123 On the other hand, the cost to consumers of setting the cap at a level [✂]is likely to be high. [✂]. We therefore consider that the benefits [✂] do not, by themselves, justify a cap at the levels necessary to achieve it, which would be substantially above consumer price expectations and would mean that DQ callers would continue to suffer significant levels of bill shock.

Changes to the cap after implementation

5.124 Turning to other issues, we also said that we would not include an adjustment for inflation, although we recognised the risk that the cap could prevent efficient cost recovery at some point in the future if costs per call increase over time. We said that a link to CPI would not be appropriate as DQ call costs were unlikely to be closely related to CPI. We said that it would remain open to us to adjust the cap in future if necessary.

5.125 In its response, BT proposed that we should adopt the 09 PRS cap (£3.60 including VAT per minute) to allow for inflation and future cost increases due to falling volumes, as well as the continued provision of higher-cost niche services.

5.126 Whilst costs may not move strictly in line with the CPI, wages, which make up the bulk of DQ costs, tend to increase over time in both nominal and real terms, reflecting inflation and productivity growth. Price expectations may also reflect price inflation over time. We accept that, if available price points are fixed in nominal terms, some adjustments, perhaps by moving to a higher price point, may be needed at some point in the future.

5.127 However, as noted above, the cost data provided by BT suggests that the cap is sufficient to cover BT's costs and that this is likely to remain the case in the near future, even taking account of the likelihood of further volume reductions which are the main reason for projected increases in unit costs over time. BT itself did not argue that the proposed cap threatened to undermine cost recovery of its 118500 service.[249]

5.128 We have not incorporated an explicit adjustment for inflation therefore but we note that the revised cap we are implementing will provide somewhat greater headroom than the cap proposed in the June 2018 Consultation.

Impact on innovation

5.129 In the June 2018 Consultation we said that we did not expect the cap to have a material impact on innovation because:

- There has been little or no recent innovation despite high charges;

[249] BT non-confidential response to the June 2018 Consultation, paragraph 2.2.6.

- The market is declining suggesting further innovation is unlikely anyway.

5.130 TNUK also drew attention to the fact that the desire to provide incentives for innovative 118 services was one of the factors that persuaded us not to cap 118 services in 2012. In its response, it referred to innovations it had previously made including the provision of international directory enquiry services at the same price as its 118118 service.[250] It also told us about other services it had introduced including the provision of train and cinema times, a DQ voice app and DQ text services. However, demand for all these services appears to be very low and declining (in some cases, to [✂]). In view of the expected decline in the sector, future material innovation appears unlikely.

Other issues

5.131 In paragraphs 4.55 – 4.57 of the June 2018 Consultation, we considered whether there would be any significant practical consequences of imposing a cap. We considered that, as the DQ sector was in decline, a remedy which imposed significant one-off costs would be undesirable. However, we considered that this was unlikely because:

- It should be relatively straightforward for service providers to change prices to comply with the cap;
- The structure of the cap, which applied to the price of a 90 second call, provided sufficient pricing flexibility for SPs;
- Administration costs associated with updating the pricing points for 118 numbers would be small relative to the benefits of the cap and we considered that a four month implementation period would be sufficient;
- Residential consumers account for the majority of DQ calls so any spillover to business users would be small.[251]

With the exception of the four-month implementation period allowed for DQ providers to change their service charges, which we discuss in Section 6, these other issues elicited little response from stakeholders. In our view, imposition of the DQ price cap will not result in any material unavoidable adverse consequences for CPs and DQ providers therefore.

Transparency remedies

5.132 We explained in the June 2018 Consultation that the introduction of a price cap was the most effective way to address the harm that we had identified during our review. Several respondents suggested that in addition to, or instead of, a price cap, we should consider other remedies to address the harm we had identified in the consultation document, notably price transparency measures.

5.133 In the June 2018 Consultation, we explained why we had concluded that pre-call announcements (PCAs) would not be effective at mitigating bill shock or improving the

[250] TNUK non-confidential response, paragraph 4.7.
[251] Ofcom estimates using data obtained from CPs suggests DQ calls made by consumers could account for c80% of all DQ calls (from Q2 2016 to Q1 2017), based on the share of consumer calls among the data from CPs who were able to provide a breakdown between consumer and business volumes ([✂]).

affordability of DQ calls. We summarise our reasons at paragraphs A1.61–A1.65 of Annex 1 to this Statement.

5.134 We have considered the transparency proposals which have been put forward by stakeholders. These include a detailed information remedy proposed by TNUK, involving a PCA and a separate automated helpline to provide price information for DQ callers. Our assessment of these remedies is set out at paragraphs A1.73-A1.80, and A1.84-A1.85 of Annex 1 to this Statement. As we explain, remedies which require callers to search for pricing information on a website or to call a different number in order to access this data are at odds with the key characteristics of DQ services, namely speed and convenience. We consider that consumers are unlikely to make use of them. For the reasons set out in the Annex 1, we have concluded that these alternative transparency measures would not be effective in reducing bill shock or improving the affordability of DQ calls.

Proportionality

5.135 In carrying out our assessment of the proportionality of the revised cap we have considered the effectiveness of the cap in protecting consumers from bill shock and affordability issues and that it goes no further than necessary to achieve these objectives.

5.136 We have also looked at the potential impact of the cap on: cost recovery for DQ providers; quality and innovation; implementation costs; and other practicalities. In its response to the June 2018 Consultation, TNUK said that Ofcom should consider in detail the impact of the cap on competition. We have incorporated this into our assessment of proportionality, as set out above. We have considered whether any adverse effects of the cap are proportionate to the objectives it is intended to achieve.

5.137 Having carried out our assessment of proportionality, we are satisfied that:

- The **effectiveness** of the cap in ensuring that service charges for DQ services are more closely aligned with consumer expectations, in order to reduce bill shock, and by limiting the rates that can be charged by DQ providers, mitigating the risk that these calls cause affordability issues. We are satisfied that the cap will be effective in achieving these objectives and thereby protecting consumers, for the reasons set out in this Section, notably paragraphs 5.5– 5.88;
- The cap is **no more onerous** than is required to achieve its objectives, for the reasons set out in this Section, notably paragraphs 5.14 – 5.57, 5.65 – 5.88 and 5.89-5.131;
- The cap is the **least onerous** measure available to achieve our objectives effectively. As we explain in Section 3, less intrusive measures have not proved effective in improving price awareness or constraining service charges so that they are in line with consumer expectations. For the reasons summarised at paragraphs 5.133 – 5.134 above and in more detail in paragraphs A1.61-A1.85 of the Annex, we are satisfied that other measures that are potentially less onerous, including those put forward by stakeholders, would not be effective in reducing bill shock and mitigating the risk that calls to DQ services cause affordability issues;

- The cap **does not produce adverse effects** which are disproportionate to the objectives it is intended to achieve. We have set out our assessment of the impact of the cap in this Section, notably at paragraphs 5.89–5.131 above. As we explain, we do not consider that there will be material adverse effects. Given the scale of the harm we have identified in relation to DQ calls, to the extent there are limited, adverse effects from the cap we are setting, these are outweighed by the benefits for consumers that it will achieve. In particular, it will protect all retail DQ callers from harm caused by bill shock for the longer term, whilst any effects from an impact on wholesale competition will be limited and not material

5.138 We are therefore satisfied that the cap we are implementing is proportionate.

Our decision

5.139 We have found that there is consumer harm arising from the provision of DQ calls on the 118 number range, which warrants regulatory intervention. Specifically, prices for these calls have risen steeply and there is very poor price awareness, as consumers are largely unaware of how much these calls cost. This has led to consumer harm because they pay more than they expect and some experience affordability issues because of the high prices that some providers charge.

5.140 Accordingly, for the purpose of protecting consumers, we have set a cap on the service charge for 118 calls. Under the cap, the maximum prices (excluding VAT) that a DQ provider can charge are as follows: £3.04167 per 90 seconds, where the service charge includes a per minute rate or £3.04167 per call, where the service charge is set at a per call rate. These maximum prices equate to £3.65 including VAT of 20%.

5.141 The cap will take effect on 1 April 2019. See section 6 for further discussion of implementation issues.

6. Implementation

6.1 In this section, we explain why we have decided that four months is a sufficient period for DQ providers to identify and give effect to a new service charge in compliance with the cap we have set. Taking account of the notice period required under BT's Standard Interconnect Agreement, the price cap will take effect on **1 April 2019.**

6.2 Finally, we explain the legal instrument we have used to give effect to our decision and why we are satisfied that we have met the legal tests for the modification.

Implementation period

6.3 In the June 2018 Consultation, we proposed a four-month implementation period to give DQ providers, whose service charges are currently above the price cap, time to migrate to a new price point. We also took account of the need for speedy implementation in order to reduce the period during which consumers pay more than they expect for DQ calls.

Consultation responses

6.4 The Fair Telecoms Campaign and the Communication Consumer Panel emphasised the importance of ensuring that implementation was completed within 4 months in order to address the scale of consumer harm identified.

6.5 A number of industry stakeholders, including Gamma, O2, Talk Talk and Post Office said that the cap could be implemented within the 4-month period.

6.6 Other respondents raised concerns about the feasibility of the 4 month implementation time period. Virgin Media and BT said that a 4 month implementation period was not realistic, if new price points needed to be introduced in CPs' billing systems to replace those that become redundant once the new price cap is implemented.

6.7 [✂]. Similar issues were raised by an anonymous provider and Telecom2.

6.8 Telecom2 also suggested that time would be needed for changes to marketing and promotions activities, and to ensure compliance with the PSA Code. They also suggest that time would be need for re-training of call centre staff.

6.9 TNUK argued for an implementation period of up to three years to allow it to make a return on its investments, drawing an analogy with the three-year glidepaths often used when setting charge caps on BT TNUK also said that the implementation of the cap would damage the investment incentives of the telecoms industry as a whole.

Ofcom's assessment of consultation responses

Changes to CPs' billing systems

6.10 The price cap we are setting will require DQ providers whose service charges are currently above the cap to migrate to a new price point. Some DQ providers may wish to set a service charge which does not match a price point currently available in CPs' billing systems.

6.11 Under GC B1.28 and B1.29, CPs must have billing systems able to accommodate at least 100 price points in respect of service charges for calls to 118 numbers and other non-geographic number ranges. These price points must reflect on a fair and reasonable basis the service charge proposals of other providers, taking account of the volume and range of these proposals.

6.12 As a result of the price cap we are setting for 118 numbers, 11 price points which are currently available for 118 services will become redundant. As noted, our expectation is that some DQ providers will seek new price points within the cap to replace those that will become redundant. If so, CPs will need to consider such requests and decide which price points to incorporate into their billing systems in accordance with their obligations under GC B1.28 and B1.29. CPs have recent experience of this process on two previous occasions.[252] The selection of new price points in response to requests from DQ providers should be simpler than the previous exercises, given that only 11 price points need to be replaced to accommodate providers on the 118 range.

6.13 Although BT and Virgin Media have said that four months is not long enough to amend the price points in this way, they have not advanced reasons sufficient to justify their views. BT has said that any such process would need to be open to service providers on the 09 range. While we recognise that these service providers may use the opportunity to seek new price points, we do not consider that it is mandatory for BT to invite all 09 service providers to make such proposals or that this provides a reason to delay consideration of proposals from DQ providers beyond the four month implementation period.

6.14 There are already price points available within CPs' billing systems which are below the cap, including some that are close to it. DQ providers are therefore able to migrate to a compliant price point in advance of changes made by CPs to their billing systems. We will expect CPs to take all reasonable steps to act promptly upon requests from DQ providers for new price points within the four month implementation period in order to comply with their obligations under GC B1.98 and B1.29 and ensure that the charges they bill their customers for calls to DQ services are set in accordance with the cap.

[252] These exercises took place as part of CPs' implementation of their obligations following the NGCS Review. The first, which required CPs to establish 80 price points in their billing systems, took place during August 2014 and the final report was published on 1st September 2014. The second, which required CPs to establish a further 20 price points, was conducted between 18th January 2016 and 12th February 2016, with a final report published on 4 March 2016.

Contractual notice periods

6.15 DQ providers which change their service charge in order to comply with the cap are required to give 56 days' notice of the change, in accordance with the terms of BT's Standard Interconnect Agreement (SIA). We consider that the four month implementation period allows sufficient time for this notice period.

6.16 We consider that other contractual changes that providers may wish to make as a result of implementation of the cap are matters for commercial negotiation between the relevant parties and do not provide grounds for delaying the implementation of the price cap.

6.17 Our cap will require some DQ providers to change their service charges. Noting the very limited marketing and promotional activity in this sector, we do not consider that consequential changes in this area, to staff training or to secure compliance with the PSA Code provide grounds for delaying implementation, as suggested by Telecom2.

Return on investment

6.18 In respect of TNUK proposal for a three year implementation period in order to earn a return on its investment, DQ call provision requires few fixed assets and recent investment is likely to have been very limited. We have no reason to believe that TNUK has not had the opportunity to recover their investments made since 2003.

6.19 For the same reason, we do not agree with TNUK's assertion that Ofcom's intervention could damage investment incentives in the telecoms industry as a whole.[253]

6.20 TNUK's analogy with the three-year glidepath used with CPI-X price caps is misplaced. CPI-X caps are generally set to bring prices into line with the forecast costs of a single firm, with the value of X (the slope of the glidepath) determining the rate at which this happens over time.[254] Where the firm's prices are initially above its costs, there is a balance to be struck between cutting prices immediately to maximise the benefits to consumers, and doing so more gradually to give the firm a stronger incentive to reduce costs, which may be of greater benefit to consumers in the longer term.

6.21 These considerations are not relevant to the cap for DQ calls which we have imposed for the purpose of protecting consumers from bill shock, and not to align charges with costs. Moreover, in the circumstances of a rapidly declining DQ call market [✂], there is no realistic prospect of consumers benefiting by allowing higher prices in the short term in order to secure larger long-run cost reductions by TNUK and other DQ operators.[255] The

[253] Where relevant, we seek to regulate in a way that preserves the investment incentives faced by the regulated firm and its competitors. For a recent example in which such considerations were significant, see "*Wholesale local access market review*", Statement Volume 1, 28 March 2018: https://www.ofcom.org.uk/consultations-and-statements/category-1/wholesale-local-access-market-review

[254] The value of X then reflects both the rate at which the firm is expected to reduce its costs over time and the rate at which any initial excess of prices over costs is eliminated.

[255] BT is already pricing below the cap and has told us that its "[✂]", response to the June 2018 Consultation paragraph 1.5.

consumer interest very strongly favours imposing a price cap without a glide path as soon as reasonably practicable to address the harm we have identified.

Conclusion

6.22 For the reasons set out, we are satisfied that four months is sufficient time for DQ providers to change their service charges to comply with the cap and migrate to new price points on CPs' billing systems. As noted, we expect CPs to take all reasonable steps to act promptly upon requests from DQ providers for new price points within the implementation period, in order to meet their obligations under GC B1.98 and B1.29 and ensure that the charges they bill their customers for DQ calls are calculated in accordance with the cap.

Setting the price cap: modification of the Numbering Plan

6.23 We have implemented the price cap on service charges for DQ services by modifying the Numbering Plan. The modification is set out at Annex 2. It requires that the applicable service charge for calls to 118 numbers does not exceed £3.04167 per 90 seconds, where the service charge comprises or includes a pence per minute rate or £3.04167 per call where the service charge is set on a per call basis. The modification specifies the cap in amounts which are exclusive of VAT.

Legal tests

6.24 We have made this modification to the Numbering Plan by exercising our powers under section 56(2) and section 60 of the Act, in accordance with our general duties under section 3 and 4 of the Act and our numbering duties in section 63 of the Act.

6.25 In accordance with section 56(1)(ba) and section 58(1)(aa) of the Act, we are satisfied that the price cap specified in the modification is appropriate for the purpose of protecting consumers in relation to the provision of services by means of 118 numbers, for the reasons set out in this Statement and summarised in paragraph 6.26 below.

6.26 In accordance with section 60(2) of the Act, we are satisfied that the modification is:

- **objectively justifiable.** For the reasons set out in section 3 and 4, we have found that consumers are experiencing material levels of bill shock as a result of paying more than they expect for calls to DQ services on 118 number and some consumers struggle to pay their bills after making a DQ call. As we explain in more detail in paragraphs 5.5-5.88, we are satisfied that the cap we have set will be effective in protecting consumers from bill shock and improving affordability by reducing the amounts that providers can charge for DQ calls;
- **not unduly discriminatory** because it applies to all DQ services on 118 numbers which are retailed to consumers and is binding on all CPs in respect of the amounts they bill their retail customers for calls to these numbers. For the reasons set out in Section 5, notably at paragraphs 5.73 – 5.77, we are satisfied that it is appropriate to set a cap for service charges on the 118 range which is lower than the caps that apply to services on the 09 range. Our decision takes account of the different nature of the services on

each range, as well as the greater homogeneity of DQ services and the lack of significant innovation on the 118 range notwithstanding the higher prices that DQ providers have been able to charge. We are also satisfied that the cap we have set does not favour BT for the reasons set out in Section 5, notably at paragraph 5.78;

- **proportionate.** As explained in Section 5, we are satisfied that the cap is set at the appropriate level to secure significant reductions in retail prices for DQ calls and thereby reduce bill shock and improve affordability. We have considered the impact of the cap on: the cost recovery of DQ providers; competition between DQ providers in relation to service quality; and innovation. We are satisfied the impact of the cap on these matters is limited and is outweighed by the benefits that it will achieve by protecting consumers from paying more than they expect for DQ calls. We are also satisfied that the time we have allowed for implementation of the price cap is reasonable, as set out in this Section, notably at paragraphs 6.3 and 6.10-6.22 above;
- **transparent** in that we have set out in this Statement what the cap is intended to achieve and the reasons why we consider it will be effective.

6.27 We consider that in making the modification to the Numbering Plan, we are acting in accordance with our general duty in relation to our telephone numbering functions, as set out in section 63 of the Act. By protecting consumers from unexpectedly high bills and improving the affordability of DQ services on 118 numbers, the price cap implemented by means of the modification will secure what appears to us to be the best use of 118 numbers. The cap will also encourage efficient use of 118 numbers by reducing incentives to misuse the numbers for the purpose of charging consumers high prices. As we explain at paragraph 5.129-5.130, the cap will have no impact on innovation on the range since there is little prospect of this, given rapidly declining volumes.

6.28 We also consider that our changes 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:

- we consider that the modification will result in significant benefits to consumers and citizens (sections 3(1), 3(5) and 4(5)) by protecting consumers from bill shock and improving the affordability of DQ calls;
- we have considered the impact of the price cap on competition, on innovation and investment incentives (sections 3(1), 3(4) (b) and (d) and 4(3));
- in carrying out our review, we have had regard to the needs of vulnerable consumers, persons with disabilities, the elderly and those on low incomes (section 3(4)(h) and (i)), by the examining the profile of DQ users, looking at how much DQ calls can cost and the extent to which consumers are aware of this, and considering whether these services are affordable to those on low incomes;
- we have had regard to the opinions of consumers and members of the public generally (section 3(4)(k)), through our consumer survey, the June consultation and engagement with various bodies representing consumer interests;

- to the extent the application of the Community requirements in section 4(3) and (5) conflict with each other, we are satisfied that the cap we are imposing, taking account of its level and structure, is the best means of resolving this conflict; and
- 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 explained in the June consultation and in this Statement why we consider that regulatory intervention is required, and we explain above why we consider that our changes are proportionate and transparent.

A1. Response to stakeholder comments

Introduction

A1.1 In this Annex we provide further details about our assessment of stakeholder comments we received in response to the June 2018 Consultation, which informed the findings and decisions set out in the main body of this Statement.

A1.2 The stakeholder comments we address relate to the following issues (which we have ordered, as far as possible, in line with the structure of the Statement):

a) Legal powers and instruments

b) Survey methodology

c) Consumer survey evidence on:

i. DQ service charges

ii. Age profile of DQ users

iii. Access to alternatives to DQ services

iv. Bill shock

d) Qualitative research

e) Pre-call announcements and other price transparency measures

f) Other measures: extended access to 195 services and enforcement

Legal powers and instruments

Stakeholder comments

A1.3 TNUK raised a number of issues about the legal basis for Ofcom's proposal to impose a cap on service charges for DQ calls. In summary, it said:

a) A price cap is a remedy of last resort and Ofcom should consider an information remedy before considering imposing such an interventionist remedy;

b) As a general principle, the European Regulatory Framework does not permit price caps in the absence of significant market power;

c) The power to impose a price cap to ensure consumer protection can only be exercised for the purposes of designating specific services. Any price cap must form part of the designation of the relevant service in the Numbering Plan, such as Freephone;

d) Ofcom must act in ways that do not reduce or distort competition, such as lessening price competition or reducing or eliminating retail or wholesale competition;

e) Ofcom must act consistently with its statutory objectives and duties, including the requirement to act proportionately;

f) Before modifying the Numbering Plan, it must be satisfied that the applicable legal tests are satisfied and that its intervention is not discriminatory;

g) Ofcom must not adopt a measure which has the potential to lead an undertaking to abuse a dominant position, or produces effects similar to abusive behaviour.[256]

A1.4 IRN Limited also queried the legal basis for a price cap on service charges for DQ services. They said that the legal basis for the cap is not "clearly defined" given that "EU law requires competition in DQ markets and such a cap might in the end reduce competition". IRN Limited said that Ofcom's powers to regulate prices are "generally taken to be a remedy of last resort" and to "only be imposed on providers who have significant market power". They contended that we are getting around this issue by imposing the cap via a modification to the Numbering Plan but said that the power Ofcom is relying on to make the modification "was originally intended as a means of defining a number range, e.g. 0800 free numbers, not as a means for regulating prices generally".

A1.5 Telecom2 made a similar observation, saying that the Numbering Plan is not an appropriate means of capping prices. They noted that other caps are in place, for example for premium rate services that do not use the Numbering Plan and said that it is a "misuse" to use the Numbering Plan for this purpose.

A1.6 Daisy said that the cap set by Ofcom should be imposed by reference to 60 second periods.

Ofcom's response

A1.7 We have set out in paragraphs 2.3-2.12 of this Statement Ofcom's legal powers and duties which provide the legal framework and basis for its decision to set a cap on service charges for DQ services on the 118 range. In paragraphs 6.24-6.28, we explain why we are satisfied that the legal tests for making a modification to the Numbering Plan are satisfied and why our decision to impose a cap on service charges for DQ services is in accordance with our general duties in sections 3 and 4 of the Act and our numbering duty in section 63 of the Act.

A1.8 In relation to the observation of TNUK and IRN Limited that a price cap should be a remedy of last resort, we have explained in paragraphs 3.11-3.14 the measures that we took when we last reviewed the sector in 2013 to improve price transparency for consumers. As noted at paragraph 3.17, TNUK and BT both objected to the imposition of caps at that time and TNUK disagreed that prices for DQ services would increase and said that the unbundled tariff would increase competition and place a downward pressure on prices. We have shown at paragraphs 3.24-3.26 that prices of some providers, including TNUK's 118 118 service, have risen steeply since then. We have also found very poor consumer price awareness, as set out at paragraphs 3.43-3.56.

A1.9 Ofcom has found that there are material levels of consumer harm arising from DQ calls. Less intrusive measures have not proved effective in improving price awareness or constraining service charges so that they are in line with consumer expectations. This is a

[256] TNUK non-confidential response, Section 3.

rapidly declining sector and Ofcom considers there is a need to act swiftly in order to remedy the harm it has identified. In the June 2018 Consultation, we considered whether alternative remedies, including PCAs, would be effective in addressing bill shock and our affordability concerns and concluded that they would not be. This remains our position, as set out in paragraphs 5.9-5.10 and that alternative proposals put forward by stakeholders would not be effective either (see paragraphs A1.67 – A1.85 below). We are satisfied that it is appropriate to impose a cap for the reasons set out in Section 5 of this Statement.

A1.10 In relation to Daisy's comment that the cap imposed by means of the modification should be set on a 60 second basis, we explain at paragraph 5.16 that a cap which applies to each 90 seconds of a call allows DQ providers greater flexibility in determining the level of their charges. It is for the provider to decide its per minute service charge rate and whether to have a per call service charge in addition, for the first minute of the call. Whatever rates are selected, the provider must ensure that the service charge does not exceed the cap for the first 90 seconds of the call and that it is compliant with the other tariff principles in GC B1.21 – B1.27. These include the requirement that where the service charge includes a pence per minute rate, that rate is charged on the basis of the length of the call. Thus the same per minute rate which applies in the first 90 seconds of the call will apply for the rest of the call.

A1.11 As explained at paragraph 6.25 of the Statement, Ofcom is exercising its powers under sections 56(1)(ba) and 58(1)(aa) of the Act to impose a cap on service charges for DQ services on the 118 range. These powers are available where Ofcom is satisfied that such a measure is appropriate for the purpose of protecting consumers in relation to the provision of electronic communications service by means of telephone numbers adopted or available for use. The powers are separate from Ofcom's powers under sections 78 – 93 of the Act which are available where Ofcom has made a finding of significant market power.

A1.12 It has been suggested that Ofcom's power to modify the Numbering Plan under section 56(1)(ba) of the Act can only be exercised where a cap forms part of the "designation" of specific services on the number range.[257] This is not the case. The provision imposes a duty on Ofcom to set out in the Numbering Plan requirements that it considers appropriate for the purpose of protecting consumers in relation to tariff principles and maximum prices applicable to numbers. Having determined that a cap is required on service charges set in relation to calls on the 118 range, Ofcom has fulfilled its duty under section 56(1)(ba) of the Act by making the modification to the Numbering Plan at Annex 2.

A1.13 We have examined the impact on competition of the price cap we are setting as part of our proportionality assessment at paragraphs 5.103-5.123 of the Statement. We have found that at the retail level, competition is not effective in constraining prices and that there is

[257] In relation to the analogy that has been drawn with freephone services on the 080 range, there is no "Freephone" designation in the Numbering Plan, as TNUK and IRN Limited appear to suggest. The designation of the 080 number range in the Numbering Plan is "Non-Geographic Number" (the same as the designation for the 118 range) and the requirement that calls to the range are free is recorded as part of the applicable tariff principles and maximum price for the range.

not a strong correlation between price and quality.[258] In terms of wholesale competition, we have concluded that if this does secure benefits for consumers, the cap will not have any material, practical impact.[259] We are therefore satisfied that the cap we are setting will not distort, reduce or eliminate competition to any material degree.

A1.14 For similar reasons, and noting the impact of the cap in providing a hard constraint on retail prices, we are satisfied that the cap does not create potential for an undertaking to abuse a dominant position or produce effects similar to abusive behaviour.

A1.15 We have set out in paragraphs 6.26-6.28 why we are satisfied that the legal tests in section 60(2) of the Act are met and that we have acted in accordance with our duties in sections 3 and 4 of the Act and our numbering duty in section 63 of the Act.

Survey Methodology

A1.16 In June 2017 Ofcom commissioned Kantar Media to conduct consumer research to better understand how consumers used DQ services. Most of the quantitative face to face survey fieldwork took place in November-December 2017. Full methodological details can be found in the technical report.[260]

A1.17 We received a number of responses from stakeholders about technical aspects of the consumer survey evidence, related to the development and design of the survey questionnaire and the samples from which our findings were derived. We set out the issues that were raised and our response before dealing with consultation responses about the consumer survey evidence that relate to specific findings we have made.

Stakeholder responses

A1.18 TNUK criticised Ofcom's consumer survey, stating that the evidence provided was not robust enough to justify the price cap proposal. TNUK state that *"Ofcom's price cap proposal rests largely on a consumer survey which appears to be flawed in a number of important ways, meaning that it is has limited evidential value (and far less value than Ofcom appears to impute to it)."*

A1.19 TNUK commissioned a consultant to review the consumer research undertaken by Ofcom, (the Rodgers Report). The Rodgers Report, and TNUK's submission to our consultation make a number of criticisms regarding the research conducted by Kantar on Ofcom's behalf. These criticisms related to: the quality assurance processes including the lack of formal cognitive testing; the sample size and the base for analysis; use of prompted questions; the period of recall; and an assertion that the profile reported was not balanced. TNUK's conclusion from its review was that the results of the Kantar research are unreliable.

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[258] See paragraphs 5.109-5.111.
[259] See paragraphs 5.122-5.123
[260] Technical report: Directory Enquiry Services (Kantar Media) https://www.ofcom.org.uk/consultations-and-statements/category-1/directory-enquiries-118-review.

A1.20 On the lack of cognitive testing, the Rodgers Report states, *"I would expect to see some testing of the questionnaire before the main fieldwork to ensure that the questionnaire works properly; that respondents understand the questions being asked; and interpret and can answer the questions in a consistent fashion."* The report said that Kantar executives should have monitored a pilot process for the survey questionnaire.

A1.21 In relation to the period of recall and base for analysis, the Rodgers Report questioned *"the validity of findings taken from questions which require respondents to recall specific detail of an event that took place many months in the past (in some cases), and where the event in question (a DQ call) may be of only limited importance to the respondent in the broader context of their lives."*

A1.22 Two other DQ providers raised similar concerns about the sample size and approach. Telecom2 stated that "*the survey used to support the points around harm is flawed and doesn't meet normally expected standards. Too few people were questioned, and the questions asked were often vague."* They added that *"asking people to recall events from up to a year ago will also lead to guessing and consequent inaccuracy*."

A1.23 IRN Ltd raised similar concerns about sample sizes, stating "*the overall sample size is too small at just 326 DQ users,"* adding "*those who said they have been financially affected by DQ call charges is just 26 people."*

Ofcom's response

A1.24 Having carefully considered all the responses we received we remain of the view that our research is robust.

A1.25 The Ofcom survey followed appropriate quality assurance processes. The survey was tested internally and was subject to peer and expert review, within Kantar Media and separately, within Ofcom. Because DQ users (and the sub-groups of DQ users who have used call connect or experienced bill shock) are only a very small proportion of the general population, formal cognitive testing of the entire survey in advance of the fieldwork, as suggested by the Rogers Report, would not have been practicable within a reasonable time frame.

A1.26 The survey was conducted in a small and declining market, which was reflected in the number of DQ users achieved (n=326). Due to the large total sample size (i.e. 12,678 UK adults aged 16+) we are satisfied that the sample of DQ users is broadly representative. We are also satisfied that the study was designed and conducted in a robust and balanced way, using standard market research techniques.

A1.27 The key findings among DQ users who used the service in the last 12 months are based on this representative sample of 326 DQ users. We consider this to be of sufficient size to provide a robust understanding of the experiences of DQ users. Further, analysis takes account of the associated statistical error margin, which at its widest stands at +/- 5.4 percentage points (based on a result of 50%) on this sample of 326 DQ users.

A1.28 In response to TNUK's concerns regarding the use of prompted questions, this is standard practice in market research. This type of question enables researchers to collect data from

respondents who may not be able to spontaneously recall a specific cost or value, but could say it was between £x-£y. The distribution of responses to both spontaneous and prompted responses are broadly similar, which tends to substantiate the reliability of the latter.

A1.29 When designing the survey we gave consideration to respondents' ability to recall the 'event'. We were mindful of the need to, as far as possible, 'step' respondents back through to the event to aid recall. This was balanced with the need to minimise potential bias due to question ordering; and respondent fatigue. The decision not to limit the sample to more recent users meant we were able to obtain valuable insights from a wider group of DQ users.

A1.30 TNUK suggested our analysis should have focused on users who called DQ in the last three months as they would have better recall of the event. Focusing on DQ users who made a call in the last three months would skew the sample to more frequent DQ users[261] and would exclude valid responses from those who made a call longer ago. It is important to understand the views and attitudes of DQ users who called longer ago, given the relatively infrequent use of DQ services that we have found. Users of DQ services in the future will not necessarily have made a call in the last three months, but their expectations of call costs (for example) are nonetheless relevant.

A1.31 For the sake of completeness, we compared the results for DQ users in the last three months with the broader sample and even where the response rate was increased (i.e. a significant reduction in the proportion providing a 'don't know' response) among more recent DQ users, the overall results (e.g. the spread in terms of the type of number being requested, or the average expected cost) did not differ significantly from those among the broader sample.[262]

Consumer survey evidence on:

DQ service charges

Stakeholder comments

A1.32 BT commented that "the price of many of the Service Charge price points used for 118 services is too high".[263] Vonage Limited commented that "prices as much as £8.98 and 15.98 a call cannot possibly be justified".[264] Age UK said that "the examples of high prices highlighted in the review – such as 8.98pm – are shocking".[265]

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[261] Analysis suggest the average number of DQ calls made rises to 3.3 among those who called in the last 3 months
[262] Of the questions tested the only statistically significant differences noted (based on the effective sample size (ESS) at 95% confidence) between more recent DQ users (i.e. used in the last 3 months) and the wider sample (used in the last 12 months) were a reduction in the proportion providing a 'don't know' response to the following questions: type of number requested, whether an alternative was available at the time, cost expectations.
[263] BT non-confidential response, paragraph 2.1.1.
[264] Vonage Ltd response.
[265] Age UK response.

A1.33 TNUK argued that our finding that prices have risen steeply "fails to address the significance of the 'steep' decline in volumes".[266] According to TNUK, this was a "substantial gap" in our analysis because "…Ofcom did not consider properly the underlying market dynamics…[and] because in designing a remedy, Ofcom is 'flying blind' in that it has no view about the root cause of the underlying price rises that have triggered its review".[267]

A1.34 TNUK commented that our finding that prices have risen steeply "does *not identify any market failure*" and that "*consumers exercise a choice to access the non-essential DQ service when they value the speed and convenience it offers*".[268]

Ofcom response

A1.35 The evidence from our consumer survey is consistent with consultation responses that the prices consumers are paying are significantly higher than they expect to pay (as we have set out in detail in Sections 3 and 4).

A1.36 In relation to TNUK's observation about the significance of the decline in call volumes, we do not consider that this explains comprehensively the increases in service charge levels we have observed. Whilst unit costs tend to rise as volumes fall because some costs are fixed with respect to call volumes, TNUK's price increases have outstripped costs and its prices currently and historically are above the level needed for cost recovery by some margin.

A1.37 We accept that there may be several reasons why consumers use DQ services including the benefits that these services offer in terms of speed and convenience. Our research shows that many consumers are experiencing harm as a result of calling 118 numbers, as we explain in Sections 3 and 4 of this Statement.

Age profile of DQ users

Stakeholder responses

A1.38 Age UK observed that older people are particularly unlikely to shop around and switch, especially those who do not use the internet. They pointed out that "…half (47%) of people aged 75+ and a third (35%) of those aged 65-74 are not online".[269]

A1.39 TNUK questioned the relevance of our finding that DQ users aged 65+ were significantly less likely to have internet access when they made their last call. They argued that our consumer evidence does not reveal significant differences as to the extent to which those aged 65+ use DQ services compared with other age groups.[270] IRN Ltd similarly commented that "*DQ user demographics are fairly consistent with population*

[266] TNUK non-confidential response, paragraph 5.7.
[267] TNUK non-confidential response, paragraph 5.8.
[268] TNUK non-confidential response, paragraph, 5.2(a), 5.10 and 5.11.
[269] Age UK Response.
[270] TNUK non-confidential response, paragraph 7.13 and 7.14.

demographics" and that "*not all DQ users are older or vulnerable people, which Ofcom have overemphasised in order to build a case for consumer harm*".

A1.40 TNUK also commented that General Condition 8.2 (provision of printed directories) and General Condition 15 (access to directory information for end-users with disabilities) ensure that there are "*clear and free alternatives for DQ users without access to the internet and for whom a telephone directory is unsuitable*".[271]

Ofcom's response

A1.41 Ofcom's general duties under section 3 of the Act include the requirement when carrying out its functions, to have regard to the needs of the elderly, where that appears to us relevant.[272] Noting the comment from Age UK, we are satisfied it was appropriate for us to take account of our findings from the consumer survey in relation to the use of DQ services by the elderly.

A1.42 As set out in Section 3, our consumer research shows that while DQ use is fairly consistent across age bands, people aged 65+ are significantly more likely to use these services than younger age groups (i.e. aged 16-34). Our survey also found that DQ users in the 65+ age bracket were half as likely to have an internet connection compared to DQ users overall (13% compared to 26% overall); while the proportion of 65+ DQ users who said that they didn't have access to an alternative at the time of the DQ call is similar to that for DQ users generally (45% compared to 42%), it is substantially higher than the proportion of users in the 16-34 age bracket (27%).[273] Older (65+) users are therefore more likely to make use of DQ services than younger age groups and their ability to access alternatives appears to be less.

A1.43 We agree that as a general matter older DQ users may have access to other alternatives, such as printed directories and, if they are visually impaired or otherwise unable to use a printed directory, the free 195 service. We do not consider that this undermines the findings of the consumer survey set out in paragraph A1.46-A1.49

Access to alternatives to DQ services

Stakeholder comments

A1.44 BT commented that our consumer research supported their understanding that DQ services are either used for convenience or because the caller has no alternative for obtaining the number at the relevant time. They said however that we ought to be cautious in assuming that those calling a 118 service are vulnerable.[274] Virgin Media commented that it would be helpful to understand more about the profile of DQ users,

[271] TNUK non-confidential response, paragraph 7.16 and 7.17. GC 8.2 and GC 15 have now become GC B2.3 and GC C5.
[272] Section 3(4)(i) of the Act.
[273] Kantar Media Data Tables, Table 24, p240.
[274] BT non-confidential response, paragraph 2.1.3.

including vulnerable consumers, who switch to other services that offer low or no cost alternatives.[275]

A1.45 TNUK argued that the majority of consumers do in fact have alternatives to DQ services but opt to use DQ services because of the benefits they offer.[276] TNUK made a number of points in this respect:

a) They argued that the survey evidence was flawed because question 14a[277] of the consumer survey was "*vague*" and "*may have been interpreted by respondents in different ways*". They concluded that it was possible respondents had not considered alternative options which had in fact been available, particularly if the call happened several months ago.[278] They suggested this may have been why "…*only 23% of respondents* [to question 15] *said that they could not obtain the number in any other way, and in question 14b only 9% of those answering the question said they had no alternative*".[279] IRN Ltd similarly commented that "*the survey is relying on respondents being able to remember whether there were alternatives for a call that could have been made twelve months ago – and what these alternatives were without prompting*".[280]

b) TNUK observed that our survey evidence equally showed that "…*four in ten users stated that they did have access to an alternative way of getting the number and chose to use DQ services anyway*" and that "*there is nothing to suggest that the majority of those DQ users without internet access would not have chosen DQ services anyway*".[281]

c) They argued it was "*unlikely to be true that alternatives are not available in an absolute sense*". They pointed to a number of possible alternatives to DQ services such as calling another person to ask for the number, calling a cheaper DQ service or using the internet.[282]

Ofcom response

A1.46 We have reviewed the questions which TNUK refers to in the consumer survey about alternatives to DQ use and are satisfied that they were clear and that the responses are not inconsistent. Question 14b was an open question inviting respondents who said that they had no alternative to calling the DQ service to explain why that was the case; 9% gave a general response that they had no alternative while others provided more insight.[283] Question 15 was targeted at respondents who said that they did have an alternative,

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[275] Virgin Media response, p.2.
[276] TNUK non-confidential response, paragraph 7.6(a).
277 Q14A. On that occasion, were there any other ways available to you to get the telephone number you needed rather than calling a directory enquiry service? Q14A
[278] TNUK non-confidential response, paragraph 7.7.
[279] TNUK non-confidential response, paragraph 7.8.
[280] IRN Ltd response, p.2.
[281] TNUK non-confidential response, paragraph 7.9.
[282] TNUK non-confidential response, paragraph 7.10 to 7.12.
[283] Kantar Media Data Tables, Table 25, p249.

asking why they had called the DQ service rather than use the alternative; from this group, 23% said that they could not obtain the number in another way.[284].

A1.47 To better understand the impact recall may have had on the results, we analysed the responses of more recent users i.e. those who called a DQ service in the last 3 months. While recall was improved (i.e. the proportion citing 'don't know' dropped significantly) the proportion stating they had no alternative means of obtaining the number they needed when calling the DQ service was similar to that among the broader sample (43% compared to 42%).

A1.48 There are alternatives to DQ services, such as internet search engines, and this is likely to be a contributing factor to the rapid decline in DQ call volumes and why only a small proportion of the general population use these services. The lack of availability of alternatives appears to be a material factor for why consumers use DQ services: our survey evidence found that a material proportion make calls because they do not consider alternatives to be available to them at the time. Thus, as we have noted, four out of ten considered that they had no alternative means of obtaining the number at the time they made the call. Of the proportion that said that they did have an alternative, 23% of this sub-group said that this alternative did not enable them to the find the number at the time of the call, and a further 7% said that their internet wasn't working at the time.[285]

A1.49 We have not assumed or concluded that this small pool comprises exclusively vulnerable consumers, as BT appears to suggest. Further, our findings do not relate exclusively to vulnerable consumers - we have found that bill shock is widespread among DQ users, as we explain in Section 4. Accordingly, it has not been necessary to look at the profile of vulnerable consumers using low cost alternatives to DQ services, as Virgin suggests.

Bill shock

Stakeholder responses

A1.50 In their consultation response, TNUK argued that our finding that one in ten DQ users had recalled bill shock from calling a DQ service has "greater evidential value" than our finding that 39% of users experienced bill shock on at least one DQ call made in a 12-month period.[286] In their view, the latter finding was unreliable because it was "based on questions that require respondents to recall a level of detail that will be beyond many of them".[287] IRN Ltd similarly commented that we had failed to give enough weight to our finding that one in ten DQ users had recalled bill shock from a call to a DQ service.[288]

A1.51 Gamma Telecom commented that in assessing consumer harm we ought to take into account the total value of the call and said that we had "conflated shock from the total

[284] Kantar quantitative research (2017), Slide 35.
[285] Kantar quantitative research (2017), slide 35.
[286] TNUK non-confidential response, paragraph 8.11 and 8.12.
[287] TNUK non-confidential response, paragraph 8.12. See also paragraph 8.13 to 8.15.
[288] IRN Ltd response p.1.

value of the call with shock relating to the service". Gamma said that the access charge could be a "significant part" of the consumer's bill and suggested that Ofcom should review access charges.[289] A SP who wished to remain anonymous also commented that our consumer research on bill shock failed to differentiate between harm arising from the Access charge and Service charge components of the bill.

Ofcom's response

A1.52 Our survey contained two types of questioning to ascertain the incidence of bill shock related to DQ calls. The first asked about bill shock from any telephone service in the last 12 months, which includes DQ calls. As set out in paragraph 4.12 we consider the finding from this question (i.e. that one in ten experienced bill shock from a DQ call), understates the extent of bill shock from DQ calls. Subsequent questions were designed to prompt DQ users to recall their experience in more detail. Prompting respondents supports recall of less memorable bill shock events, which may have been forgotten or overshadowed by other more recent or more memorable/higher value bill shock events from any other experience in the telecoms market.

A1.53 We disagree that our method of questioning that found that 39% of DQ users had experienced bill shock on any call, and that 35% had experienced bill shock on their last DQ call, was difficult for respondents to answer. Analysis was based on responses to two simple questions: (a) whether their last DQ call had cost more than they had expected; and (b) whether any other DQ call had cost more than expected. This analysis did not require respondents to recall their expectations of the cost of the call nor the actual cost of a call. Analysis of more recent DQ users (i.e. those who called in the last three months) suggests that they were just as likely to say they have experienced bill shock on their last call (34%) as the broader sample (35%).

A1.54 In relation to the comments about the impact of the access charge, our calculation of the monetary amount of bill shock from DQ calls is based on data from the consumer survey about the amounts that consumers expected to pay for these calls and the average amounts that they reported paying. While this data relates to consumer responses in relation to the total cost of the call (ie access charge and service charge), we note that access charges typically represent a small share of the overall cost of DQ services. For example, current access charges are 15ppm from a BT landline and 55ppm from most mobile networks, compared to TNUK's service charge of £8.98 for a 1 minute call to its 118 118 service and BT's service charge of £2.32 for a 1 minute call to 118 500.

A1.55 Further, consumers' expectations about the (total) cost of a DQ call, (ie the access charge plus service charge) is well below service charge levels. For DQ users, the mean expectation in respect of a 1 minute call from a landline is £1.95 and from a mobile is £2.36. This compares to the industry average service charge for a 1 minute call of £6.35 and a weighted average service charge (based on the number of calls received by each SP)

[289] Gamma Telecom response, p.4.

of £7.54.[290] This demonstrates that DQ service charge levels are materially above consumer price expectations, in line with our assessment of the monetary amount of bill shock from the consumer survey data.

A1.56 For the purposes of this Statement, we have not reviewed access charges, which are charged in respect of calls to the 084, 087 and 09 range, as well as 118 numbers.

A1.57 We continue to monitor the level of access charges as we committed to do in the Non-Geographic Call Services Review.

Qualitative interviews

Stakeholder comments

A1.58 In the June 2018 Consultation, we included details of 10 telephone in-depth survey interviews that Kantar Media had carried out among survey respondents who experienced bill shock.[291] TNUK said in their consultation response that these should "*not be relied on as conclusive and provide directional insight only*" and were of "*little evidential value*".[292] The Rodgers Report also questioned the value and sampling of the qualitative research. The report states *"Only ten qualitative interviews were conducted in total, with a heavy emphasis on social DE respondents with only four interviews (all C1s) from other SEG groups."*

Ofcom response

A1.59 Ofcom commissioned the qualitative research, comprising 10 in-depth interviews, from Kantar Media to gain an insight into the experiences of some respondents who had responded to the Kantar survey after experiencing bill shock. The interviews were not statistically representative and were not presented as such.

A1.60 We included extracts from the interviews for illustrative purposes to bring to life examples of consumers who had experienced bill shock. As stated in the June 2018 Consultation, we conducted the interviews *'for further context and obtain personal insights into the harm that resulted from making DQ calls'.*[293] Kantar also made reference to the insights from the interviews for the purposes of providing a possible explanation for certain findings of the consumer survey.[294] We agree with TNUK's observation that they provide "directional insight" only and are not determinative.

[290] Based on service charges on the BT price list, as of September 2017 (before BT's price change in June 2018).
[291] June 2018 Consultation, 3.64, 3.65 and Box 1.
[292] TNUK non-confidential response, annex 2, Rodgers Report, paragraph 37(c).
[293] June 2018 Consultation, paragraph 3.64.
[294] See Kantar quantitative survey (2017), Slide 12 and paragraphs 4.47-4.50

Alternative remedies: pre-call announcements and other price transparency measures

A1.61 In the June 2018 Consultation, we explained why we considered that pre-call announcements (PCAs) and other price transparency measures would not be an effective remedy for bill shock and the affordability concerns that we identified.[295]

A1.62 A PCA is a message containing information about the call cost played at the start of each call, before the caller connects to the DQ provider.[296] In the June 2018 Consultation, we considered two different forms of PCA:

i) a 'generic' PCA that explains that the call is likely to incur a higher call cost than a normal call; or

ii) a 'tariff based' PCA, where the actual call cost is explained to the caller.[297]

A1.63 We said that neither form of PCA would be effective in reducing consumer harm. For *generic* PCAs, we explained that whilst callers would receive a warning about higher costs, the absence of any detail may lead to consumers overestimating call costs and discontinuing the call. This could lead to poor consumer outcomes. If consumers under-consume on the basis that they suspect service charges are high or unaffordable, some DQ providers may not have an incentive to provide cheaper services and those that do are penalised. Applying a generic PCA above a certain service charge threshold could mitigate this risk to some extent but it would increase the costs of implementation.[298]

A1.64 We also concluded that *tariff based* PCAs would not be effective in addressing consumer harm because they had the following limitations:

i) Consumers might not understand or be at risk of misinterpreting the pricing information provided. We noted that the relatively complex pricing structure of service charges for DQ calls could make price comparisons difficult;

ii) Consumers may have difficulty in estimating actual call costs, by underestimating the time they spend on a call or because their numeracy skills are weak;

iii) A message which did not include the access charge would not provide the full cost of the call; and,

iv) A longer message which included all the cost information would add to the complexity of and length of the message. This could frustrate and deter some callers who want a speedy service. It would also extend call length and absent a regulatory solution, would increase call costs and the risk of bill shock.[299]

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[295] June 2018 consultation, paragraph 4.60 to 4.76.
[296] June 2018 consultation, paragraph 4.60 to 4.62.
[297] June 2018 consultation, paragraph 4.60.
[298] June 2018 consultation, paragraph 4.63 and 4.64.
[299] June 2018 consultation, paragraph 4.65 and 4.66.

A1.65 We also referred to a feasibility study that said that the costs of implementing a tariff-based PCA and the time required could be significant.[300]

A1.66 A number of stakeholders commented on our findings in relation to PCAs and three made alternative proposals about measures to improve price transparency which they considered would address consumer harm.

Stakeholder comments

A1.67 Post Office Limited and the CCP agreed with our conclusion that PCAs would not be an effective remedy to address bill shock.

A1.68 IRN Ltd, Telecom2 and TNUK argued in favour of a combination of PCA and information measures, saying that this could be a useful, and more proportionate response to bill shock from DQ calls.

A1.69 IRN Ltd and Telecom2 suggested that a message could be played to callers that signposted them to a website that listed the prices for all DQ numbers so consumers could ascertain the price of the call.

A1.70 TNUK agreed that a tariff-based PCA would be difficult to deliver. In their response, and in a subsequent meeting with Ofcom, they made an alternative proposal for a PCA and information remedy. This entailed a PCA directing callers to a freephone number for an automated service which would provide the cost of the call.

A1.71 TNUK explained how their suggested remedy would work as follows:

i) Consumer dials a 118 number (118 XXX').

ii) Before incurring a service charge, the caller would hear an announcement explaining that call charge information can be found by calling a separate freephone number, which should be memorable.

iii) The consumer would then either:

a) continue with the call and then use, and be charged for, the DQ service they had dialled; or

b) hang up and dial the 0800 number to get more information about the price of the call they were trying to make.

iv) A caller that opted to use the helpline dials the 0800 number and receives another automated message (or gets through to a call centre), where they are prompted to enter the 118 number in order to obtain pricing information.

[300] June 2018 consultation, paragraphs 4.71 – 4.72.

v) The consumer stays on the line while the 118 number is processed and the tariff for the call is announced in an automated message. This would include details such as whether the charge structure includes a per call or per minute charge and whether some of the charges applied at the start of the call or at the start of the second minute. It may also include information about the caller's access charge.

vi) After receiving the price information, the consumer decides if they want to call the 118 number and, if so, redials the 118 number.

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A1.72 Gamma said that Ofcom should investigate the efficacy of the call whispers which have been employed by Vodafone and Talk Talk in response to complaints about calls to non-geographic calls, including DQ services on 118 numbers.[301]

Ofcom's response

A1.73 We do not consider that the forms of PCA suggested by stakeholders would be effective in mitigating bill shock from DQ calls. They would have the limitations we identified in the June 2018 Consultation in relation to tariff based PCAs in terms of effectively conveying pricing information to consumers (as summarised at paragraphs A1.61-A1.65 above). We also consider there are material drawbacks in terms of their convenience and accessibility which may make DQ users unlikely to refer to them.

A1.74 In relation to a PCA directing consumers to a website with information as to DQ prices, as suggested by IRN Ltd and Telecom2, this requires consumers to have access to the internet at the time they make the call. Our consumer survey found that of those DQ users who said that they had no alternative to calling a DQ service, just under a quarter said they had no internet access at the time.[302] Of those that said they did have alternatives, just under 10% said they called the DQ service because they had no internet access at the time.[303] This data suggests that a material number of users would not be able to access website information at the time they make the call.

A1.75 Further, the evidence from the consumer survey about the circumstances in which consumers use DQ services reveals that speed, convenience and ready access to the number requested are key factors driving demand. For example, four in five DQ users (82%) called DQ services because it was important they received the number they requested, at the time they requested it.[304] Of users who had access to other means of obtaining the number, just over a quarter said they used a DQ service because they needed the number quickly while just under 20% cited convenience as the reason they had used the service.[305] This data suggests that a material proportion of DQ users are unlikely to

[301] Penultimate page: Gamma's non-confidential response.
[302] Kantar quantitative research (2017). Slide 37.
[303] Kantar quantitative research (2017). Slide 35 (7% said their internet connection wasn't working and 2% said they had no internet access).
[304] Kantar quantitative research (2017), slide 12.
[305] Kantar quantitative research (2017). Slide 35.

have the time or inclination to search for relevant pricing information on a website before making the call.

A1.76 TNUK's proposed solution is phone-based and so should be more accessible to DQ users than a web-based transparency measure. However, compared to making a single DQ call, accessing the helpline to obtain pricing information would be more time-consuming and less convenient for users. The customer would need to call the 118 number they know first, then the helpline after hearing the message and finally ring the DQ number again, if they are content with the price. As noted in paragraph A1.75 above, the findings from our consumer survey showed that the speed and convenience of DQ services are important to DQ users.

A1.77 We note that TNUK has previously identified speed and convenience as key considerations for DQ users and has voiced concerns that PCAs would adversely affect these and hence the overall customer experience. In its "Response to Ofcom Consultation on Simplifying Non-Geographic Numbers"[306] TNUK stated in 2012 "we believe that it [a PCA] creates a very poor consumer experience which significantly undermines the value of a DQ service to consumers". TNUK went on to state that it had carried out research that indicated "42% of consumers who call 118 118 do so because they were in a hurry and it was the quickest way to obtain the information they needed". From its own research and Ofcom research set out in Ofcom's consultation on non-geographic numbers in April 2012,[307] it concluded that "consumers will be significantly annoyed by first having to listen to an automated announcement, which will therefore have a detrimental impact on the entire DQ consumer experience and potentially their propensity to call in the future". We consider this assessment is equally applicable to its proposed price transparency measures and tends to confirm that DQ users would be unlikely to make use of a pricing helpline.

A1.78 We also note that there are material implementation issues with these price transparency measures. Both would require co-operation with CPs or a regulatory solution in order to ensure that consumers were not charged call costs for the duration of the PCA. They would also require funding to operate the website and helpline and to ensure that the information provided was up-to-date and accurate. Resolving these issues would take time so that the potential for these measures to have any impact on the extent of bill shock from DQ calls within a reasonable time frame is doubtful.

A1.79 In relation to the call whispers that have been implemented by two CPs, we understand that these have led to a reduction in call revenues, potentially because callers have hung up after hearing the PCA. If so, this may tend to confirm our analysis that generic PCAs can result in the under-consumption of services on the basis that callers believe that service charges are high or unaffordable. As noted at paragraph A1.63, this may reduce incentives to provide cheaper services and penalise those that do offer low-cost services. In this context, we note that there does not appear to be any trend to reduce DQ prices as a result of these call whispers.

[306] 27 June 2012, https://www.ofcom.org.uk/__data/assets/pdf_file/0027/76743/the_number_uk_ltd.pdf
[307] https://www.ofcom.org.uk/consultations-and-statements/category-1/simplifying-non-geographic-no?showall=1

A1.80 Given the above and for the reasons set out in our June 2018 Consultation, we do not consider that PCAs, including in the form suggested in the stakeholder responses, would represent an effective solution to addressing the consumer harm which results from DQ calls.

Other transparency measures

Consultation responses

A1.81 TNUK noted that many of the issues that we have identified result from poor consumer awareness of DQ prices and argued that this could be addressed by the use of a "public education campaign" concerning the range of telephone DQ services available and their applicable charges.[308]

A1.82 For example, they suggested that: *"DQ service providers could be obliged to improve the provision of price information on their websites and any other channels used to interact with consumers (in terms of clarity, prominence etc)*".[309] In addition, they suggested introducing "*a requirement that CPs include DQ services information with customer bills*" *or* that "*Ofcom (or the PSA) could help to publicise prices through carrying a price comparison table in a prominent place on its website*."[310]

A1.83 BT said that we ought to amend GC14.10 and GC14.11 (C2.8 of the new General Conditions) and the corresponding obligation under the telephone numbering condition to require DQ providers to advertise the price of their services whenever they refer to a DQ number in marketing, whether or not they are directly marketing their DQ service.[311] They said that this would be an effective remedy to address the risk of harm resulting from lack of price awareness.

Ofcom's response

A1.84 We do not consider that the other transparency measures suggested by TNUK would be effective in improving awareness of DQ prices for DQ users. We have no evidence that the quality of pricing information on providers' websites is a factor for the poor price awareness that we have found among DQ users. Further, for the reasons we have set out in paragraphs A1.75 above, we consider it unlikely that DQ users would search for online pricing information (whether on a provider's website, a price comparison website or on their CP's bill) before making a call.

A1.85 As set out in our June 2018 Consultation, we do not consider that a requirement for DQ providers to advertise the price of their services whenever they refer to a DQ number in marketing would be effective.[312] It would have no impact on the majority of DQ providers who no longer appear to advertise, whilst those within scope might adjust their marketing

[308] TNUK non-confidential response, Annex 1, paragraph A5 and A6.
[309] TNUK non-confidential response, Annex 1, paragraph A7.
[310] TNUK non-confidential response, Annex 1, paragraph A7.
[311] BT non-confidential response, paragraph 2.2.15 to 2.2.17.
[312] June 2018 consultation, paragraph 2.2.17.

strategies and in turn reduce the potential effectiveness of the measure. Further, it may lead to confusion among consumers if call costs are being explained within advertisements that are primarily concerned with promoting non-related services such as financial products.

Other issues raised by stakeholders

Vulnerable consumers

Consultation responses

A1.86 TNUK suggested that the '195 scheme' run by CPs to provide free access to DQ calls should be reviewed by Ofcom to see how it is working in practice and if appropriate, modifying it to ensure that "*a greater number of consumers with few or limited alternatives to DQ services are able to benefit from free or low cost DQ services*". This refers to the requirement under GC C5.7 that CPs make available a free directory enquiry service to users who are not able to use a printed directory due to a visual impairment or other disabilities, in a form which is appropriate to their needs.[313]

Ofcom's response

A1.87 The 195 service is provided free to those with a visual impairment or other disability who are not able to use a printed directory as a result, as required by GC C5.7. The service is therefore fulfilling a particular need for consumers who are unable to use printed directories. In principle, the extension of the scheme to other vulnerable consumers would help to ameliorate any affordability issues for this wider group, but it would not serve to reduce the extent of bill shock from DQ users more generally.

Enforcement

Consultation responses on enforcement

A1.88 TNUK suggested Ofcom could ensure more effective handling of complaints by DQ providers by establishing complaints handling standards which could be supported by the PSA. They also suggested that complaint levels could be published by Ofcom and/or the PSA.

Ofcom's view on enforcement

A1.89 We do not consider that the introduction of complaints handling standards or the publication of complaints levels would be as effective in addressing bill shock or mitigating our affordability concerns. The introduction of complaints handling standards would not assist consumers who did not feel able or are not willing to make a complaint, and those

[313] See also General Condition C5.6 which requires that CPs ensure that this measure is widely publicised, taking into consideration the need to disseminate information in appropriate formats through appropriate channels for End-Users with disabilities.

making a complaint would not necessarily obtain redress notwithstanding any improvement in the way complaints were handled. As set out previously, we have found that many DQ users call these services because it is important they receive number they request, at the time they request it, and it therefore unlikely that these consumers would have the time or inclination to check information on complaints levels before making a DQ call.

A2. Notification of modification to the Numbering Plan

A2.1 General Condition B1 of the General Conditions of Entitlement has effect by reference to the provisions of the Numbering Plan.

A2.2 In accordance with section 60 of the Act, Ofcom is modifying the provisions of the Numbering Plan.

A2.3 The modification to the Numbering Plan is set out in the Schedule to this Notification.

A2.4 Ofcom's reasons for making this modification, and the effect of the modification, are set out in the accompanying statement.

A2.5 Ofcom considers that the modification complies with the requirements of section 60(2) of the Act.

A2.6 In making the modification, 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.

A2.7 The modification in the Schedule shall enter into force on 1 April 2019.

A2.8 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 Ofcom on 19 September 2017, 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.

A2.9 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.

A2.10 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.

A2.11 The Schedule to this Notification shall form part of this Notification.

Signed

Consumer Group Director

29 November 2018

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

SCHEDULE

Modification to take effect on 1 April 2019.

1. In Part A Section A1 'Public Telephone Network Numbers', the modification marked in bold text and highlighted in yellow shall be made to the entry for the number 118XXX:

118XXX	6-digit Non-Geographic Numbers used to access a Directory Enquiry Facility ('Type B Access Codes')	Retail charge to a Consumer of a call calculated by reference to the applicable Access Charge and Service Charge and in accordance with the tariff principles in paragraphs B1.21 – B1.27 of the General Conditions of Entitlement. **The applicable Service Charge must not exceed:** • **304.167 pence per 90 seconds, exclusive of VAT, where the Service Charge comprises or includes a pence per minute rate; or** • **304.167 pence per call, exclusive of VAT, where the Service Charge is set exclusively at a pence per call rate.**

A3. Glossary

Access Charge ('AC') The charge made by the Originating Communications Provider for enabling a call to a non-geographic or service number.

Bad debt A monetary amount owed to a creditor that is unlikely to be paid or certain not to be paid.

Bill shock Where a consumer receives a charge or a telephone bill for a DQ call that exceeds what they expected to pay.

Call whisper A type of pre-call announcement alerting the caller that the call is charged at a premium rate, but without specific price information.

Common costs Those costs which arise from the provision of a group of services but which are not incremental to the provision of any individual service.

Communications Provider ('CP') A person who provides an Electronic Communications Network or provides an Electronic Communications Service.

DQ provider A provider that provides a phone service which finds specific telephone numbers and/or addresses for an individual, residence, business or government entity. The provider is accessed through the number range 118XXX.

DQ user A consumer that contacts a DQ provider on the 118 number range to obtain a number

General Condition ('GC') A general condition imposed by Ofcom under section 45(2)(a) of the Communications Act 2003.

Incremental Cost The cost of producing a specified additional product, service or increment of output over a specified time period. The incremental costs of a service are those costs which are directly caused by the provision of that service in addition to the other services which the firm also produces.

Landline Either a standalone fixed voice service or fixed voice as part of a bundle of services.

Non-geographic numbers Phone numbers which are not linked to a specific location. These include 03, 05, 07, 08, 09, 116 and 118 numbers.

Numbering Plan A document setting out telephone numbers available for allocation and restrictions on the adoption and other uses of those numbers, and as provided for in section 56(1) of the Communications Act 2003.

Onward call connect A service provided by a DQ service provider that automatically connects the caller to their requested number. The service is typically charged at the same pence-per-minute rate as the call to the DQ service provider.

Originating Communications Provider ('OCP') The Communications Provider originating the call.

Phone-paid Services Authority ('PSA') The UK regulator for content, goods and services charged to a phone bill (formerly PhonepayPlus ('PPP')).

Pre-call announcement ('PCA') A pre-recorded message played to the caller setting out how the call will be charged for. A PCA may be made before the call is connected by the Communications Provider originating the call or at the point it is connected to the DQ provider.

Premium rate service ('PRS') Typically a content service provided by means of a non-geographic number (e.g. DQ services on 118 numbers).

PRS Condition A legal instrument set by Ofcom for the purpose of regulating the provision, content, promotion and marketing of premium rate services under section 120 of the Communications Act 2003.

Service Charge ('SC') The charge made by the Service Provider for the service the consumer receives.

Service Provider ('SP') A provider of voice or data services to third parties using non-geographic numbers.

Terminating Communications Provider ('TCP') The Communications Provider on whose network a call terminates, which in this context hosts a DQ service.

Unbundled tariff A tariff structure for 118 number calls that involves the separation of the call retail price into an access charge charged by the Communications Provider originating the call and a service charge charged by the Service Provider.

A4. Equality Impact Assessment

Introduction

A4.1 Ofcom is required by statute to assess the potential impact of all our functions, policies, projects and practices on equality.[314] An equality impact assessment (EIA) also assists us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.

A4.2 Unless we state otherwise in this document, it is not apparent to us that our price cap will have a differential impact on any equality group.

A4.3 Further, we have not considered it necessary to carry out separate EIAs in relation to race or sex equality or equality schemes under the Northern Ireland and Disability Equality Schemes. This is because we anticipate that our regulatory intervention will not have a differential impact on people of different sexes or ethnicities, consumers with protected characteristics in Northern Ireland or disabled consumers compared to consumers in general.

Equality impact assessment

A4.4 We have considered whether the price cap is likely to have an adverse impact on promoting equality. In particular, we have considered whether the price cap is likely to have a different or adverse effect on UK consumers and citizens with respect to the following equality groups: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation, and, in Northern Ireland, political opinion and persons with dependents.

A4.5 The intention behind our approach to the regulation of 118 numbers is to protect consumers from harm by ensuring that prices for DQ services are fair and transparent.

A4.6 To understand how our price cap may affect equality groups, we have considered how different groups in society use DQ services. In particular, we conducted market research that enabled us to assess the potential harm that consumers may experience when using the 118 number range. While our research identifies different levels of use of DQ services by different groups within society, our regulation is aimed at ensuring protection from harm for all consumers in relation to the use of DQ services.

A4.7 We consider that our price cap will not have a detrimental impact on any defined equality group.

A4.8 Rather, we consider that our regulatory intervention will further the aim of advancing equality of opportunity between different groups in society by furthering the interests of all consumers in respect of DQ services.

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[314] Ofcom has a general duty under the 2010 Equality Act to advance equality of opportunity in relation to age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.