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Geographic numbers – safeguarding the future of geographic numbers

We would welcome any comments on the contents of this document which is also available electronically at <http://www.btplc.com/Thegroup/RegulatoryandPublicaffairs/Consultativeresponses/>

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EXECUTIVE SUMMARY

Closing local dialling in the Bournemouth 01202 area code

BT supports Ofcom's proposal to require local dialling to be closed on 1 November 2012, given the shortage of spare number blocks that now exists. However, we believe that Ofcom should give people and industry at least 12-18 months' notice of a firm date for the removal of the local dialling facility in their area rather than less than 6 months as is happening here. In order to help achieve this, we think Ofcom should start to be concerned and consult on closing local dialling when an area code is down to about 70 spare 1k blocks rather than 20, the figure Ofcom previously proposed and to which it seems to be working.

In this response we make comments on and suggest alternative wording for Ofcom's amendments to the regulatory rules

Charging for geographic numbers

We still think that the case for number the charging pilot is weak. Even accepting the case, we think a pilot is premature now, particularly as it comes before the anticipated numbering administration changes that Ofcom is considering. However, our response focuses on constructive suggestions for how the pilot might be implemented in practice. We think Ofcom's overall approach to implementation is sound, though success criteria should be more transparent. We have a number of comments on the details including: -

- As invoices are likely to be lengthy, detailed and complicated, we think it is unrealistic to require them to be paid within 14 days. In our view, 60 days would be more reasonable
- We believe third party CPs using WLR numbers and exported numbers should have to pay for them: we think this could be achieved proportionately
- The level of information Ofcom is seeking to calculate the discount rate for these numbers (details of which company/network is using each of millions of numbers) and ensure the discount can be corroborated needs more work and seems a bit over the top: we are not sure it can work in practice.

Allocation of 100-number blocks

BT supports Ofcom piloting the allocation of one hundred 100-number blocks in each of the eleven five-digit code areas. We suggest changes to Ofcom's proposed amendment to the Numbering Plan to reflect the parameters of the trial as closely as possible to prevent any unintended "creep" – for example across other blocks in the area codes concerned or into other area codes.

Introduction

Ofcom published a further document in March 2012 consulting on the following aspects of geographic numbers:-

- 1 November 2012 as the date on which local dialling in the Bournemouth 01202 area code will be closed
- The final arrangements for introducing number charging in a pilot scheme covering 30 area codes
- The detailed arrangements for making a limited quantity of blocks of 100 numbers available in the eleven area codes with five digit codes.

In this response, we address the five questions set out in Ofcom's March 2012 document.

Closing local dialling in the Bournemouth 01202 area code

Question 1: Do you have any comments on:

- i) our proposal to close local dialling in the Bournemouth 01202 area code on 1 November 2012;*
- ii) our view as to how the proposed modification to the Numbering Plan in relation to closing local dialling in the 01202 area code on 1 November 2012 meets the relevant legal tests in section 60(2) of the Act; or*
- iii) the proposed modification to the Numbering Plan in relation to closing local dialling in the 01202 area code (set out in Annex 7)?*

BT supports Ofcom's proposal to require local dialling to be closed on 1 November 2012. In an ideal world, we believe that Ofcom should give people and industry more notice. However, given the shortage of spare blocks that now exists, we think that the current proposal should be adopted.

However, there is a lesson here. The trigger for local dialling closure should be reviewed. Ofcom has allowed number block supplies to dwindle in the 01202 area code to too low a level before taking appropriate number supply measures. This has meant giving people relatively short notice of the closure date. We think Ofcom should start to be concerned and consult on closing local dialling when an area code is down to about 70 spare 1k blocks rather than 20, the figure Ofcom previously proposed and to which it seems to be working. This will allow for a less rushed approach (the industry and more importantly local customers will have had less than six months' notice to prepare with certainty for Ofcom's currently proposed date should 1 November 2012 proceed).

We think Ofcom should aim to give at least 12-18 months' notice of the closure date. On this basis, and relying on the data shown in Figure A4.1, Ofcom should consult within the next six months or so on a date for closing local dialling within the Middlesbrough, Bradford, Brighton and Aberdeen area codes. In practice, to save consulting more often than necessary, it might be worth adding Swindon,

Milton Keynes and Stoke-on-Trent to that list, even if the closure date chosen ends up being a few months further out for those area codes.

Turning to the proposed modification to the Numbering Plan, we do have some comments. "Subscriber Number" in B3.1.3 appears to have been changed to "Local Number" without explanation. We think however this simply corrects an error in the previous drafting.

Given that Ofcom is proposing that local dialling be removed on 1 November 2012, we suggest the word "after" be replaced by "from", as shown in our suggested wording below. Otherwise, arguably, an absence of local dialling on 1 November would be a breach of the provision.

Also, Ofcom should take this opportunity to tidy up the wording of this provision more generally. It is intended, we believe, to apply to a telephone area code rather than the actual geographic area where the end user dials from (noting that the allocation of a number with a particular geographic area code is not restricted to that area).

Additionally, "End User" does not appear to be defined. As such, it should either:

- not be capitalised
- be defined
- be replaced by "Calling Parties" and defined – this would be consistent with the use of Called Party in the same section, which is defined
- be replaced by "Subscriber", a term that is defined.

As we think it is intended to mean any person making a call, regardless of whether they are party to a contract, we think it should be replaced by "Calling Parties" and appropriately defined, the definition being added within the Numbering Plan.

As such, we suggest B3.1.3 of the Numbering Plan be reworded as follows:-

*"Geographic Numbers shall not be Adopted or otherwise used other than where ~~End-Users from Geographic Numbers in~~ **Calling Parties with the same gGeographic aArea Code** as the Called Party are able to use **dial using** only the Local Number except where:"*

- (i) those numbers are National-Dialling-Only Numbers – see B3.1.6 below; or*
- (ii) ~~End-Users~~ **Calling Parties** are **dialling** from Geographic Numbers **with** ~~in~~ the 01202 Geographic Area Code ~~after~~ **from** 1 November 2012.*

*B3.1.4 Local Dialling shall not be provided from Geographic Numbers **with** ~~in~~ the 01202 Geographic Area Code ~~after~~ **from** 1 November 2012".*

Notwithstanding the drafting suggestions above, we would repeat the observation we made in our previous response about the merits of **requiring** that CPs using geographic numbers must ensure that consumers can use local dialling. We suggest that removing the requirement would be uncontroversial mindful that Ofcom clearly did not feel the facility was so important that it be retained in areas running short of spare number blocks when other alternative number supply measures could have been chosen. We also believe local dialling is not provided today for all location-independent services using geographic numbers. Thus, whilst we think that

the provision of local dialling should be encouraged, we think it should no longer be required.

If it does not remove the requirement, Ofcom might consider how it enforces it; a stronger line might encourage some CPs to take up either 03 or 05 numbers instead of geographic numbering for such services, alleviating some of the pressure on geographic numbering supplies.

Charging for geographic numbers

Question 2: Do you have any comments on:

- i) our view as to how the proposed pilot scheme meets the relevant legal tests in section 47(2) of the Act; and*
- ii) the proposed amendments to GC17 to implement the pilot scheme (set out in Annex 8)?*

Whilst it is clear that Ofcom intends to push ahead with the number charging pilot scheme, we are still not convinced that Ofcom's proposals would materially affect CPs' behaviour in a manner that could not otherwise be achieved by constructive engagement with industry. For example, the evidence suggests that CPs would return unused blocks in areas of shortage without such a charge. We returned hundreds of thousands of unused numbers even before the pilot was mooted simply following dialogue with Ofcom, whilst other CPs returned blocks in response to Ofcom's numbering audit. We still think that Ofcom has not established that the measure is proportionate, in the sense of being necessary to meet the aim of the proposed measure (ie ensuring the availability of numbers).

And we still remain unclear as to the way in which the success of the pilot will be assessed by Ofcom. The reasons given for the lack of success criteria reflect such problems. Ofcom says that it is difficult because (i) different circumstances apply in different area codes which makes it difficult to set generic success criteria; (ii) other measures are proposed at the same time as number charging making it difficult to isolate the impact of charging; (iii) number charging is likely to take time to have an impact; and (iv) definitive criteria might create incentives for CPs to game the system to avoid wider implementation of number charging.¹

This is unsatisfactory. For example, how could Ofcom differentiate between blocks returned because of the number charge and blocks that would have been returned had Ofcom worked with industry to recover those needed to meet demand without charges being in place? This will mean that in two years' time charging will need to be re-examined, but against what? Our reading of the situation is that the pilot will simply be continued unless some major unforeseen consequences arise that are demonstrably detrimental to customers rather than because a case for charging has been proven against an absence of charging.

¹ Paragraph 4.185

Whilst BT understands that Ofcom is determined to proceed with the pilot, the brief situation assessment above demonstrates why Ofcom ought to wait and assess the effectiveness of the administrative measures which we think can avoid the need for imposing any extra costs on the industry. At least delaying the pilot until after the administrative measures that Ofcom is due to consult upon would allow Ofcom to assess any trial in isolation from such measures and Ofcom would have more time to see whether constructive engagement would be effective in recovering unused blocks.

Other than this, we consider that it is imperative that if, in future, Ofcom wishes to consider any extension of number charging that any such consultation includes a full impact assessment to establish that charging is objectively justifiable and proportionate.

Turning to the detailed proposed changes to General Condition 17, we generally believe that it is framed as Ofcom intended. However, we are concerned about Ofcom's number charging invoices being payable within 14 days of receipt.

Ofcom proposes daily charging – even if Ofcom proposed a full £100 annual charge for any 1k block in use at a single date in the year, to keep things simple, 14 days to pay the invoice would be challenging. The invoice would need to be reconciled, authorised and then have to navigate the finance departments of the CPs concerned.

We do not know yet how CPs will respond to the charging pilot, but it is clearly intended to incentivise the more frequent return and allocation of number blocks. The rationale is that insofar as it might make a difference to behaviour, the charge would lead CPs to retain no or very few spare number blocks. We do not think that 14 days would give anything like enough time for CPs to reconcile and pay what are likely to be complicated invoices. These will contain part-year usage with fractions of $x/365$ to be reconciled. Time will be needed to question any possible errors and get responses from Ofcom – BT is likely to have to reconcile charges for up to 10,000 1k blocks across 30 area codes. The annual July number block statement that Ofcom proposes indicating the blocks held at the time, nine months before the relevant invoice, would be unlikely to help.

With this in mind, we would suggest that 60 days would be a more reasonable time scale. It would not impact CPs' overall use of number blocks, and would barely impact the Exchequer. Indeed, there may be benefits to the public purse as Ofcom would have less follow-up activity as more bills would be more likely to be settled on time.

Turning to terminology and definitions, we wonder whether rather than the term "Ported Number", it would be clearer if the term "Exported Number" were used and defined.

Allocation of 100-number blocks

Question 3: Do you have any comments on:

- i) our proposals to make 100 blocks of 100-numbers available for allocation in the 11 five-digit area codes;*
- ii) our submission of how the proposed modification to the Numbering Plan in relation to 100-number blocks meets the relevant legal tests in section 60(2) of the Act; or*
- iii) the proposed modification to the Numbering Plan in relation to 100-number blocks (set out in Annex 7)?*

BT is supportive of Ofcom's proposals to make one hundred blocks of 100-numbers available in these eleven five-digit area codes. However, the parameters of the trial should be defined as tightly as possible in the Plan to avoid unintended "creep" across other blocks in the area codes concerned or into other area codes.

For example, in response to Ofcom's recent number block audit, CPs have been returning a lot of numbering to Ofcom at the 10k level for individual 1k blocks within those blocks simply to be re-allocated to that CP, thereby returning 1k blocks to Ofcom. Whilst Ofcom's intention had been to allocate unused 10k blocks in units of 1k, and not to apply this level of granularity retrospectively, this is in effect what has happened in many areas, including in areas where spare number blocks are relatively plentiful. This is starting to have a worrying impact on the decode capacity at the trunk layer as well as at some local switches. We would ask Ofcom's Numbering Unit to work much more closely with CPs to avoid these problems arising as it could unnecessarily limit what we will be able to do to ease genuine geographic number block shortages elsewhere in future.

Thus, because of such unintended consequences when it comes to granularity of number blocks, we would want it made as clear as possible in the Plan that a further Ofcom consultation would be required before 100-number blocks could be routed between different CPs' networks beyond the specific blocks that Ofcom sets aside here.

With this in mind, we would suggest amending draft para B3.1.9 of the Numbering Plan as follows:-

*B3.1.9 Numbers in geographic areas where a 100-Number Block Status is indicated and a block of that level has been allocated **One hundred 100-number blocks in these area codes have been specified and** shall only be Adopted or ~~otherwise used~~ **allocated to Communications Providers** in units of 100 numbers at a time.*

In the final column of the table at F, shown on page 152 of the consultation, rather than indicating a "Y", we would ask Ofcom to specify the ten 1k blocks set aside for allocation at the 100-number level, other spare blocks still being available at the 1k level. This would reinforce the very essential tight parameters of the trial and at the same time allow blocks of 1k to be allocated where appropriate.

Compensating range-holders for the regulated use of numbers made by third parties

Question 4: Do you agree with our proposed approach for ported and WLR numbers? If not, please explain why you disagree.

We have read Ofcom's analysis of the options. We are pleased that Ofcom has concluded that option 5, the discount approach, is the best way forward if the pilot scheme is to go ahead.

That said, we are disappointed that Ofcom has not adopted one of BT's suggestions to remove the anomaly that third party CPs using WLR can "freeload" relative to BT downstream lines of business and other number range-holders. The same is true for significant net importers of numbers.

We also offer a couple of further comments. Firstly, we accept that Ofcom is trying to strike a balance in calculating the Average Industry Utilisation Rate and is therefore going to require three CPs to provide number block utilisation data. In addition to this, we believe other CPs should be invited to provide similar data **should they so wish**, in order for Ofcom to give itself the best chance to reach a more accurate industry number utilisation figure without unduly burdening industry. To be clear, we accept that the three largest users of geographic numbers should be required to provide the information whereas for other CPs it should be optional.

Secondly, BT has a regulatory obligation to provide public payphones and would ask that numbers used for these should attract a discount.

Implementing number charging in a pilot scheme

Question 5: Do you have any comments on the proposed administrative arrangements for number charging in the pilot scheme as set out in paragraph A4.37?

BT generally supports the principles behind Ofcom's administrative proposals should the pilot go ahead, although we have the following detailed comments and suggestions, addressed in the order that Ofcom sets them out. **Ofcom will note that we have concerns about the practicality of some of the suggestions.**

- We note that charges will accrue on a daily basis. We indicated in our last response that daily charging will make reconciling bills more onerous for little added benefit to CPs or Ofcom. We feel that this also means that it would be near-impossible to reconcile and pay bills within the 14 days proposed – BT will have something near to 10,000 1k number blocks in the area codes concerned. It would be far simpler if there were a snapshot on a particular date that could be used to calculate the charge, and for CPs to pay £100 each for the 1k blocks allocated to them on that date. If Ofcom felt that this would

lead to an unmanageable flurry of activity around that date, different CPs could be given/choose different dates, to stagger the work.

- Given that bills for the April – March year will go out in April, it is not clear what benefit a validation statement in July of the charging year would achieve. It could not be relied upon to help reconcile a bill nine months later.
- Rather than specifying a “snapshot” date of 1 October for a count and details of WLR and exported numbers (should this still be required, proportionate and practicable – see below), Ofcom should allow more flexibility, and ask for the data for any single date between say 1 September and 31 October. An extended window would better allow problems to be resolved should they arise with little if any detriment to Ofcom or the public purse.
- The logistics of providing Ofcom with a list of numbers used by third parties in order to obtain a discount need further consideration. It is important to know exactly what Ofcom needs, as this could be a massive amount of data. Without a clear requirement, we do not know whether we can meet it. If not carefully defined, we may either not give Ofcom what it needs or the data would overwhelm it (there would literally be millions of exported and WLR numbers used by third parties). For example, a number may have been exported to Network X, but Network X may not be the retail provider. Similarly, a WLR provider who takes the number from BT may not be the final retail provider in the chain. In short, thought needs to be given to this so that any requirement is proportionate and practical. The absence of clear criteria explaining the data Ofcom might need and how it might want to use it and the short consultation period mean that we have been unable to properly assess the practicability of what might be required. It is also worth noting that in BT’s case, our number management systems are in the process of being rationalised, and this too creates a degree of uncertainty about what can be provided and when.
- Given the amount of work involved in calculating an utilisation rate for the three CPs concerned, we agree with Ofcom that it should be calculated before the pilot and applied throughout it. At a level of detail, we do not think that “reserved” numbers should count as utilised in the calculation of the rate as the numbers in effect would be unused. Being unused, we do not anticipate onward charging CPs for these numbers so counting them in the utilisation rate would be inconsistent.
- NB – Once a number is exported, if it is subsequently given up by the Subscriber, the number should be returned to the Donor Provider by the Recipient Provider. In the context of number charging, we do not see it as any part of the range-holder’s role to police this although once a number has been returned; it should be removed from the list of exported numbers. In other words, if the range-holder thinks a number is still exported, it could remain on the list of exported numbers even if there is no longer service on that number.