



Promoting efficient use of geographic telephone numbers

Implementing a pilot scheme to charge for certain geographic numbers and making a limited quantity of 100-number blocks available for allocation

(✂ Redacted for publication)

Statement

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Section 1

Summary

- 1.1 This statement concerns geographic telephone numbers – fixed-line telephone numbers that begin with ‘01’ and ‘02’ – and sets out our decisions on measures which seek to ensure that these numbers are used efficiently by communications providers (CPs). This will minimise the need for disruptive and costly measures to address any shortages in supplies of new numbers. Such supplies are needed to support competition and hence enable a wide choice of providers and services for consumers.
- 1.2 Geographic numbers are an increasingly scarce national resource. Although the total quantity of geographic numbers that CPs already hold exceeds likely demand from end-users, individual CPs nevertheless need new allocations from time to time. Our forecast of CPs’ demand shows that, unless we take action, shortages of geographic numbers could occur in some area codes. This would not present a direct risk to the availability of numbers for consumers’ use, but could deny local consumers the full benefits of competition because new CPs would not be able to enter the market, and some established CPs may not be able to expand their services in the area codes affected. We therefore consulted in November 2010, September 2011 and March 2012¹ on measures designed to ensure the ongoing availability of geographic numbers across the UK.
- 1.3 We proposed a set of measures designed to promote more efficient use of geographic numbers and to increase the supply of numbers where they are forecast to run out in the next few years.
- 1.4 In September 2011 we decided that, where a four-digit area code² needs more local numbers, we will increase the supply of numbers by closing local dialling. This means that fixed-line phone users in those areas will need to dial the area code when making local calls. This change to local dialling enables us to release new numbers for use without requiring any changes to existing phone numbers.³ If, in the future, more numbers are needed in that area, we would introduce an overlay code – which would mean that two area codes cover the same geographic area.
- 1.5 Action to increase the supply of numbers in an area code inevitably results in some cost and disruption to consumers, CPs and Ofcom. We have considered how to promote CPs’ efficient use of the existing supply of numbers to reduce or avoid the need for such measures and the resulting impacts.

¹ *Geographic telephone numbers: Safeguarding the future of geographic numbers*: three documents published on 25 November 2010 (‘the November 2010 consultation’), 7 September 2011 (‘the September 2011 statement and consultation’) and 20 March 2012 (‘the March 2012 consultation’). All available at <http://stakeholders.ofcom.org.uk/consultations/geographic-telephone-numbers/>.

² Four-digit area code numbers are in the format 01XXX followed by a six-digit local number. The majority of area codes are in this format.

³ We can create new supplies of local numbers (without changing anyone’s phone number) by stopping the ability to dial a local number without the area code. Doing so will allow us to make new local numbers beginning with ‘0’ and ‘1’ available for use. For example, closing local dialling in the Bournemouth 01202 area code (which will happen on 1 November 2012) would make 01202 0XXXXX and 01202 1XXXXX numbers available for use. We cannot use such numbers while local calls are dialled without the area code because phone networks can confuse them with dialling codes which start with ‘0’, or with numbers for certain services such as 150, 1471 and 118XXX.

- 1.6 In March 2012 we consulted on two specific measures to promote more efficient use of numbers by CPs. Having considered stakeholders' responses to that consultation and refined our proposals, this statement sets out our decisions to:
- introduce number charging in a pilot scheme covering 30 area codes with the fewest number blocks remaining available for allocation; and
 - make 100 blocks of 100 numbers available to allocate to CPs in each of the 11 areas with five-digit area codes.⁴

A pilot scheme to charge for numbers in certain area codes

- 1.7 We expect that charging CPs for their allocated numbers will improve incentives to use numbers efficiently.
- 1.8 Following refinement of our charging proposals set out in the consultations in November 2010, September 2011 and March 2012, and having taken account of all responses to those consultations, we have decided to introduce charging in a pilot scheme covering 30 area codes with the fewest number blocks remaining available for allocation.
- 1.9 The pilot scheme will be introduced on 1 April 2013, with the first charging year ending on 31 March 2014, and will be implemented by way of new conditions in the general condition relating to the allocation, adoption and use of telephone numbers ('GC17'). We intend to begin a review of the pilot scheme around two years after launch.
- 1.10 We have set out the administrative arrangements for implementing the pilot scheme in this statement. Before the launch of the pilot scheme, we will also publish a separate reference document setting out further details on the administrative arrangements so that CPs have all the necessary up-to-date information.

A limited number of smaller number blocks in the 11 five-digit area codes

- 1.11 New supplies of numbers are particularly scarce in the 11 five-digit area codes because their number structure provides only a tenth of the quantity of numbers available in most other area codes. We have investigated the feasibility of addressing the scarcity without affecting consumers in those areas, by making 100 blocks of 100 numbers in each of those area codes available from our existing supplies to CPs requiring new numbers.
- 1.12 Legacy telephone networks have limited capacity to analyse dialled digits in phone numbers to route calls and allocation of smaller number blocks has an impact on this resource. We have taken CPs' assumptions on the likely impact on legacy networks into account and anticipate that the limited nature of the roll out of 100-number blocks should be manageable and should result in more efficient use of those numbers.
- 1.13 We consulted on the general proposition of 100-number block allocations in November 2010 and on the specific proposals in relation to a limited roll out of 100-number blocks in the 11 five-digit area codes in September 2011 and March 2012. Having taken account of all submissions received to the consultations on these

⁴ These are area codes in the format 01XXXX followed by a five-digit local number.

proposals, we have decided to proceed with the limited roll out of 100-number blocks in the 11 five-digit area codes. We have modified the National Telephone Numbering Plan ('the Numbering Plan') accordingly and made 100-number blocks in each of the 11 five-digit area codes available for allocation.

- 1.14 We will monitor the impact of allocation of 100-number blocks on legacy networks and then consider with CPs whether it is desirable and feasible for us to consult on allocating numbers in smaller blocks in other area codes and/or whether any additional numbers in the five-digit area codes should be made available for allocation in 100-number blocks.

Review of our administrative processes for allocating geographic numbers

- 1.15 Separately, we are undertaking a review of our administrative processes for allocating geographic numbers.
- 1.16 As part of that review, we intend to consult on the introduction of a time-limited reservation stage before allocation of numbers to those CPs that have not demonstrated operational readiness to put the requested numbers into use. We also plan to consult on changes to the forms that CPs fill in when applying for the allocation of new numbers which require CPs to give more detailed information which will help us to make our allocation decisions.
- 1.17 We intend to publish a consultation on these proposals later this year.

Section 2

Introduction and background

- 2.1 This section briefly summarises our previous consultations relating to this review of geographic number management and other relevant developments since publication of the March 2012 consultation.
- 2.2 Information on the background to this review, its scope and our approach, including our duties and the regulatory and policy principles which underlie the review, are set out in paragraphs 2.8 to 2.25 of the March 2012 consultation.

Previous consultations

The November 2010 consultation

- 2.3 In the November 2010 consultation we set out the challenges to ensure geographic number availability and what we could do to manage that resource. In light of our forecasts of when we were likely to run out of available number blocks to allocate to CPs in each area code, we planned for the actions required to increase the supply of numbers when and where needed. We recognised that all options for increasing the supply of numbers would necessarily cause some disruption to consumers and businesses and we looked for ways to minimise this.
- 2.4 Our approach was to work with CPs to reduce the need for new supplies by taking measures to drive efficiency in number use and to identify which number supply measures are regarded by consumers as the least disruptive. We put forward a variety of proposals for our ongoing management of geographic numbers to safeguard their availability in the future.

The September 2011 statement and consultation

- 2.5 In the September 2011 statement and consultation we further developed our proposals to manage geographic numbers. We explained that, due to the results of an extensive audit of CPs' number use, the number of area codes forecast to run out of numbers during the next ten years had reduced. Nevertheless, we still predicted the need to increase the supply of numbers in certain area codes from 2012 onwards.
- 2.6 In that document we:
- set out and explained our decision to increase the supply of geographic numbers in four-digit area codes where more numbers are required. We decided to:
 - close local dialling – this means that local fixed-line users would need to dial the area code when calling local numbers. Closing local dialling would allow us to allocate new local numbers in which the first digit after the area code is either '0' or '1'; and
 - if, in the future, further numbers are needed in that area, we would introduce an overlay code – which would mean that two area codes cover the same geographic area;

- consulted on some revisions to our proposal to charge CPs for geographic numbers allocated in certain area codes, including simplifying the charging arrangements to reduce the implementation costs of the pilot scheme;
- consulted on making available a limited supply of 100-number blocks for allocation to CPs in the 11 five-digit area codes; and
- confirmed that in a separate exercise, we would review our administrative processes for allocating geographic numbers to CPs.

The March 2012 consultation

2.7 In the March 2012 consultation we consulted on:

- 1 November 2012 as the date on which local dialling in the Bournemouth 01202 area code will be closed. From that date, local consumers would need to include the 01202 area code when dialling local calls from fixed-line phones;
- the proposed final arrangements for introducing number charging in a pilot scheme covering 30 area codes with the fewest number blocks remaining available for allocation, having provisionally concluded that charging will be introduced;
- the detailed arrangements to make a 100 blocks of 100 numbers available to allocate to CPs in the 11 areas with five-digit area codes; and
- the legal instruments to give effect to these measures.

Developments since publishing the March 2012 consultation

Statement on closing local dialling on 1 November 2012 in the 01202 Bournemouth area code

2.8 We published a statement⁵ on 31 May 2012 ('the May 2012 statement') confirming 1 November 2012 as the date from which the whole number, including the 01202 area code, will need to be dialled when calling from one 01202 number to another from a fixed-line phone (this is already required when calling from a mobile phone). We have modified the Numbering Plan⁶ to require this change to local dialling in the 01202 area code from 1 November 2012.

2.9 Further information on closing local dialling in the 01202 Bournemouth area code can be found on our website at www.ofcom.org.uk/dialthecode.

Revised forecast for geographic number availability

2.10 We provided a forecast of geographic number availability in Annex 2 of the three consultations and the May 2012 statement. We have now updated this analysis for the purposes of this present statement.

2.11 Taking account of the availability of number blocks for allocation as at 29 June 2012 and current number demand trends, we forecast that a further six area codes will run

⁵ *Changes to making local calls in the 01202 area code for Bournemouth, Christchurch and Poole* <http://stakeholders.ofcom.org.uk/binaries/consultations/geo-numbers/statement/statement.pdf>

⁶ Paragraphs B3.1.3 and B3.1.4 of the Numbering Plan.

out of available numbers to allocate to CPs by the end of 2016. They are Aberdeen (01224), Bradford (01274), Brighton (01273), Middlesbrough (01642), Milton Keynes (01908) and Stoke-on-Trent (01782). Based on this, we expect to consult next year on a date for closing local dialling in some or all of these area codes, and on the corresponding modifications to the Numbering Plan. The forecast data also suggests that we will need to close local dialling in a further 42 four-digit area codes within the next decade.

Section 3

Charging for geographic numbers

- 3.1 Our stock of geographic numbers in certain area codes is limited and, if nothing changes, we forecast that we will run out of new numbers to allocate to CPs in 49 area codes within the next ten years, and in a growing number of area codes thereafter. To prevent the supply of number blocks running out, we need to use measures such as closing local dialling and the introduction of overlay codes to increase supplies. These measures inevitably result in some cost and disruption to consumers, CPs and Ofcom.
- 3.2 In order to delay or avoid the need for such measures, we have decided to introduce charges for geographic numbers in order to provide CPs with an incentive to use numbers more efficiently.⁷
- 3.3 In this section we set out our decision to introduce charging on 1 April 2013 in a pilot scheme covering 30 area codes and describe the features of the scheme. The scheme will be implemented by way of new conditions in GC17 ('the Numbering Condition'). We intend to begin a review of it around two years after launch.
- 3.4 The March 2012 consultation set out our final proposals, and, taking account of stakeholder comments, these proposals are unchanged except for the following, which are reflected in the wording of GC17:⁸
- we have made reference to GC18 ('the Number Portability Condition') in the defined term 'Ported Number' to ensure that by 'ported' we mean arrangements that are made in accordance with GC18;
 - we have clarified that no charge is applied to 29 February in any leap year; and
 - we confirm that we will allow a discount to the number charge bill for numbers used for public payphone services which are provided under a universal service obligation (USO).
- 3.5 In response to stakeholders' comments we are also allowing a period of time to examine and reconcile number charge schedules prior to number charge invoices being sent out (see paragraphs A2.30 to A2.34).
- 3.6 This statement gives effect to our proposals pursuant to section 48(A)(7) of the Communications Act 2003 ('the Act').⁹ We believe that the test in section 47 of the Act for setting conditions (proportionality, non-discrimination, transparency and objective justification¹⁰ are met (see further paragraphs 3.126 to 3.134).

⁷ As required by GC17.6.

⁸ We have also made some changes to the information CPs need to provide to Ofcom to claim a discount – see paragraphs A2.46 to A2.54.

⁹ The March 2012 consultation set out our reasons for setting new Conditions in GC17 and their expected effects as required by section 48A(3) of the Act.

¹⁰ Pursuant to section 47(3) of the Act, section 47(2) no longer requires that in setting a condition (as opposed to modifying a condition) Ofcom must be satisfied that it is objectively justifiable. However, as was the case in the previous consultations, for completeness, we have considered whether the pilot scheme is objectively justifiable.

3.7 The analysis and reasoning presented in the statement (and this section in particular) constitutes our impact assessment, as defined in section 7 of the Act, for the decision to introduce charges for geographic numbers allocated to CPs in certain area codes. While it is not possible to conduct a quantitative cost benefit assessment at this stage,¹¹ we consider that, based on economic principles, charging will encourage CPs to use numbers more efficiently and in so doing will help to postpone or avoid number supply measures which are disruptive and result in costs for CPs, consumers and Ofcom (see further paragraphs 3.15 to 3.20).

Ofcom's powers and duties¹²

3.8 In addition to our general duties under sections 3 and 4 of the Act, Ofcom has a duty under section 63(1) of the Act in carrying out our telephone numbering functions to secure that the best use is made of numbers and to encourage efficiency and innovation for that purpose. Ofcom's power to introduce charging for the allocation of geographic numbers is based principally on section 58(1)(g) of the Act, which provides that Ofcom may require payments in respect of the allocation of telephone numbers through a general condition.

3.9 As regards the setting of new conditions, the relevant test for doing so is set out in section 47(2) of the Act. It provides that the new condition must be non-discriminatory, proportionate and transparent.¹³ We discuss in paragraph 3.131 how our decision to charge for numbers meets these tests.¹⁴

3.10 In the March 2012 consultation we asked stakeholders for any comments on:¹⁵

- 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 (as set out in Annex 8 of the March 2012 consultation).*

3.11 In this section we discuss stakeholders' responses to these questions and other comments made in response to the March 2012 consultation. This section is structured as follows:

- i) summary of the pilot scheme;
- ii) rationale for number charging;
- iii) area codes included in the pilot scheme;

¹¹ Given that we do not charge for numbers currently, we cannot estimate the reduction in demand of number blocks as a result of the charge; further, while we know from research that consumers dislike number supply measures, it is not possible to quantify the costs to consumers from those measures which number charging seeks to postpone or avoid.

¹² Also see paragraphs 2.24 to 2.27, 6.20 to 6.27, 6.131 to 6.136 and Annex 6 of the November 2010 consultation, paragraphs 3.21 to 3.24, 6.264 to 6.270 and Annex 7 of the September 2011 statement and consultation and paragraphs 2.16 to 2.19, 4.12 to 4.13, 4.221 to 4.229 and Annex 6 of the March 2012 consultation.

¹³ We have also considered objective justification – see footnote 10 above.

¹⁴ Also see paragraphs 4.221 to 4.229 of the March 2012 consultation.

¹⁵ We also asked stakeholders for comments on the detailed implementation proposals which we discuss in Annex 2.

- iv) review of the pilot scheme;
- v) impact of the pilot scheme on CPs;
- vi) impact of the pilot scheme on consumers;
- vii) implementation and administrative arrangements;
- viii) other stakeholder comments; and
- ix) legal instrument – new conditions in GC17.

3.12 Annex 1 sets out our approach to give CPs a discount on their number charge bill when the CP using the number is different from the range holder as a result of compliance with a regulatory requirement. Annex 2 explains in detail how the pilot scheme will be implemented (including stakeholders' comments on implementation and Ofcom's response), and Annex 6 includes the amended GC17.

Summary of the pilot scheme

3.13 Charging for geographic numbers will be introduced on the basis that charges will:

- apply to 30 area codes in the UK with the fewest number blocks remaining available for allocation. The area codes in the pilot scheme will be listed in Annex 2 of GC17 and will remain fixed at least until after our review of the pilot scheme;¹⁶
- apply per geographic number allocated in the pilot scheme area codes;
- apply whether or not the number is used to provide a service to an end-user;¹⁷
- apply both to numbers in blocks already allocated when the charging scheme commences, and to numbers in blocks that are allocated subsequently;¹⁸ and
- be a daily charge of £0.1/365 per number (i.e. 10 pence per number per year), for each day on which a CP holds the allocation of that number,¹⁹ and be billed in arrears on an annual basis.²⁰

3.14 In establishing charging for geographic numbers, we will also provide that:

- a CP may obtain a discount to its bill for numbers allocated to it but where such numbers are used by a different CP due to a regulatory requirement (but not under a commercial arrangement such as sub-allocation) (see Annex 1);²¹

¹⁶ Discussed in paragraphs 4.76 to 4.109 of the March 2012 consultation.

¹⁷ Discussed in paragraph 6.31 of the November 2010 consultation, paragraphs 6.60 to 6.71 of the September 2011 statement and consultation and paragraphs 4.54 to 4.61 of the March 2012 consultation.

¹⁸ Discussed in paragraphs 6.32 to 6.40 of the November 2010 consultation, paragraphs 6.77 to 6.83 of the September 2011 statement and consultation and paragraphs 4.73 to 4.75 of the March 2012 consultation.

¹⁹ In a leap year no charge is applied for 29 February, i.e. the charge per number always sums to 10p if the number is held for a full year.

²⁰ Discussed in paragraphs 6.48 to 6.65 of the November 2010 consultation, paragraphs 6.143 to 6.175 and A6.6 to A6.11 of the September 2011 statement and consultation, and paragraphs 4.68 to 4.71 and A4.14 to A4.33 of the March 2012 consultation.

- a CP may obtain a discount to its bill for numbers allocated to it and used for a public payphone service under a USO (see paragraphs A1.42 to A1.43);
- the first charging period will be 1 April 2013 to 31 March 2014 inclusive;²²
- revenues from number charges will be paid by Ofcom into the Consolidated Fund of HM Treasury;²³
- Ofcom will continue to recoup its administrative costs associated with number allocation (including number charging) via the annual levy on eligible CPs;²⁴
- we intend to begin a review of the pilot scheme after approximately two years of operation, although we may conduct a review earlier if it becomes clear that there are significant unintended consequences which may harm consumers. Charging would continue during the period of the review.²⁵ Following the review we will consult on the role of number charging going forward (see paragraphs 3.53 to 3.64); and
- the pilot scheme will be implemented by the setting of new conditions in GC17 (see paragraphs 3.117 to 3.134 and Annex 6), which will come into force on 1 April 2013.

Rationale for number charging

- 3.15 There is only a limited supply of geographic telephone numbers available for allocation to CPs in each area code.²⁶ There are different measures we can take to increase the stock of numbers, such as closing local dialling and introducing overlay codes. While such measures may alleviate the number shortage problem they are disruptive and would result in costs for consumers, CPs and Ofcom.²⁷
- 3.16 The rationale, and objective justification, for introducing a charge for geographic numbers is to ensure that CPs have an economic incentive to use geographic numbers efficiently, with the aim of avoiding or postponing the need to introduce measures to increase number supplies. There is little economic incentive to use the available supply of numbers efficiently now, since we allocate geographic numbers to CPs on a 'first-come first-served' basis at no charge. This increases the risk that number supply measures will be needed in more area codes in the future. Whereas introducing number supply measures is a reactive measure, number charging is a preventative measure, i.e. to prevent or delay the introduction of these number supply measures.²⁸

²¹ Also discussed in Annex 3 of the March 2012 consultation.

²² Discussed in paragraphs 4.166 to 4.177 and Annex 4 of the March 2012 consultation;

²³ Discussed in paragraphs 6.67 to 6.68 of the November 2010 consultation, paragraphs 6.176 to 6.187 of the September 2011 statement and consultation and paragraphs 4.193 to 4.208 of the March 2012 consultation.

²⁴ Only relevant CPs with a turnover of £5m or more contribute to Ofcom fees. Discussed in paragraphs 6.69 to 6.71 of the November 2010 consultation and paragraphs 6.177 to 6.187 of the September 2011 statement and consultation.

²⁵ Discussed in paragraphs 4.178 to 4.192 of the March 2012 consultation.

²⁶ See paragraphs 2.6 to 2.11 of the September 2011 statement and consultation.

²⁷ See Annex 3 of the September 2011 statement and consultation for a discussion of the impact of such measures on consumers and CPs.

²⁸ We are also proposing to amend the process for allocating numbers to CPs; however, this does not incentivise CPs to use numbers more efficiently.

- 3.17 We consider that number charging could help improve the efficient management of geographic numbers, and thus reduce demand for them, by:
- ensuring CPs have a stronger incentive to return unused number blocks to Ofcom;
 - improving the utilisation of allocated numbers (e.g. by encouraging CPs to obtain numbers from blocks allocated to other CPs as an alternative to obtaining numbers from Ofcom); and
 - reducing demand for new number blocks that may be used in applications with relatively low value.
- 3.18 We carried out a survey of CEPT administrations²⁹ in 2010 which showed that a charge is levied for geographic numbers already in the large majority of European Union (EU) member states – in some cases to cover the administrative costs of number allocation, but in others also as a means of addressing potential number scarcity. The UK is therefore unusual in not charging for numbers, in particular because number scarcity in certain area codes is a significant issue.
- 3.19 We identified three objectives to guide our proposals in introducing a number charging scheme in the November 2010 consultation.³⁰ These were that the scheme should:
- promote efficient use of numbers;
 - minimise any competitive distortion between existing CPs, as well as between existing CPs and new entrants; and
 - minimise any negative impact on consumers.
- 3.20 In the November 2010 consultation, stakeholders generally considered that these objectives were appropriate.³¹

Proportionality of introducing number charges

- 3.21 In the March 2012 consultation we invited stakeholders to comment on whether the pilot scheme meets the relevant legal tests in section 47(2) of the Act. A number of stakeholders made comments on the proportionality of introducing number charging, which we discuss below (also see paragraphs 3.129 to 3.131).

Stakeholders' comments

- 3.22 BT and Virgin Media argued, consistent with their responses to previous consultations, that introducing number charges was premature and disproportionate because the same results could be achieved by less interventionist means.

²⁹ We surveyed National Regulatory Authorities (NRAs) in 47 other countries that are members of CEPT (European Conference of Postal and Telecommunications Administrations). We have information on 32 charging regimes. See Annex 5 of the November 2010 consultation for further information.

³⁰ See paragraphs 6.29 to 6.30 of the November 2010 consultation.

³¹ Stakeholders' comments on the objectives are discussed in paragraphs 6.25 to 6.57 of the September 2011 statement and consultation.

- 3.23 Virgin Media was concerned that we are not able to predict the extent to which demand for number blocks will be affected by charging, nor able to quantify the potential benefits which meant that Ofcom could not undertake an informed cost benefit assessment. Virgin Media referred to the European Commission impact assessment guidelines,³² which state that:

“Good quality data – facts as well as figures – are an essential part of any impact assessment. You need to define the problem and the baseline scenario, and to identify the impacts of alternative options for dealing with the problem. Particular attention needs to be paid to quality and credibility of data”.

- 3.24 Virgin Media thought that without such data or robust analysis Ofcom should be extremely cautious when proceeding with such an interventionist measure.
- 3.25 BT, Sky and KCOM thought that Ofcom should make improvements to administrative processes for managing geographic numbers and assess their impact before introducing number charges. BT noted that, absent any charge, it had voluntarily returned hundreds of thousands of numbers following dialogue with Ofcom, and that other CPs had also returned blocks of numbers in response to Ofcom’s numbering audit. BT thought that we had therefore not established that the measure was proportionate to meet our aim of ensuring that numbers are available for allocation.
- 3.26 VON thought that introducing a charging regime at this stage would have more negative than positive effects. It thought that charging was unnecessary, disproportionate and potentially damaging to specific sections of industry. VON was particularly concerned about the possible impact on smaller CPs and new entrants (discussed further in paragraphs 3.69 to 3.80 below). VON believed that Ofcom’s alternative measure to allocate smaller number blocks could be sufficient to ensure the ongoing availability of blocks. VON noted that number charges would be passed through to consumers, but Ofcom was not able to assess precisely the effectiveness of introducing number charges at this stage.
- 3.27 KCOM believed that Ofcom should progress administrative measures in conjunction with the overall package of measures to address geographic number scarcity. It urged Ofcom to undertake a formal audit and enforce the return of unused number blocks.
- 3.28 A consumer (Mr Goodman) felt that number charging was disproportionate relative to what it aims to achieve. He thought it was acceptable to attempt improvements and prove these by use of a pilot scheme, but that it was not acceptable to introduce any new charge which would be recovered from consumers.

Ofcom’s response

Cost benefit assessment

- 3.29 Virgin Media thought that the inability to quantify the benefits from introducing number charges meant that Ofcom could not undertake an informed cost benefit assessment and should therefore be extremely cautious when introducing the measure. VON thought that Ofcom was not able to precisely assess the effectiveness of charging.

³² European Commission, Impact assessment guidelines, 15 January 2009, page 18.

- 3.30 We recognise that we do not have definitive evidence of the potential impact of number charging on CPs' demand for number blocks (in part because we do not charge for numbers currently). In addition, while qualitative consumer research has shown that consumers dislike number supply measures³³ which number charging seeks to postpone or avoid, it is not possible to quantify the cost to consumers of these measures. However, we remain of the view, based on economic principles, that charging for numbers will incentivise more efficient number use. The impact we expect is two-fold:
- a reduction in the demand for new number block allocations (because CPs will not demand number blocks if the additional value that they would derive from those numbers is less than the charge, and CPs may seek to use sub-allocated numbers instead of new allocations from Ofcom); and
 - an increase in the amount of number blocks which are available to allocate (because CPs are more likely to return blocks to Ofcom if they are not used, so these can then be reallocated).
- 3.31 We consider that this will benefit consumers by delaying the point in time when we run out of number blocks in any given area, postponing the need for number supply measures which our research has shown that consumers dislike.
- 3.32 We have considered the costs associated with implementing the pilot scheme and have refined our approach to deal with ported and WLR numbers to reduce the implementation costs (see Annex 1). We anticipate that the implementation costs are relatively modest. We expect the costs (arising from on-going number charges and implementation costs) to be passed through to consumers and estimate that the increase to consumers' bills will be less than 10p per exchange line per year in the first year of charging.³⁴ While recognising VON's and Mr Goodman's concern that number charge costs may be passed through to consumers, we consider that this modest cost to consumers is proportionate to the potential benefit of postponing or avoiding the adverse impacts of number supply measures. We discuss the specific case of the 01482 (Hull) area code (where number charges applied to KCOM may only be recovered from customers in the Hull area) in paragraphs 3.46 to 3.52.
- 3.33 We recognise that there is uncertainty around the impact of number charging on demand for number blocks. We have also identified a potential unintended consequence of charging if CPs force consumers to change their numbers in order to return number blocks to Ofcom to avoid charges (see paragraph 3.92). In recognition of these factors we have decided to implement number charging in a pilot scheme in a limited number of area codes, and to begin a review of charging after around two years. In doing so we consider that we are taking a reasonable, proportionate and transparent approach.

Use of administrative measures as an alternative to number charging

- 3.34 BT and Sky thought that Ofcom should make improvements to administrative processes and assess their impact before introducing number charges.

³³ See discussion at paragraphs 6.41 to 6.48 of the September 2011 statement and consultation.

³⁴ The basis for this calculation is set out in paragraphs 3.90 to 3.91.

- 3.35 We will continue to use administrative measures, such as conducting further number audits, to improve the utilisation of numbers as appropriate.³⁵ However, while these measures could be helpful, we do not expect that they can deal with the problem of number block shortage in isolation.³⁶ Unlike number charging, they would not provide an incentive for CPs to return unused number blocks or use the existing stock of numbers more efficiently.
- 3.36 Many number blocks were returned as a result of the number audits in 2011 and 2012, and this has alleviated the pressure of number block shortage in some area codes. The success of the audit may, at least in part, have been due to the proposed introduction of number charging (we first discussed introducing charges for numbers in November 2010). However, even after taking the result of the audit into account, we still forecast that 49 four-digit area codes will require number supply measures in the next ten years, and that 145 four-digit area codes will require number supply measures over the next 15 years. Therefore, number block shortage continues to be a pressing issue in some area codes and is likely to become a concern in a larger number of area codes over time.
- 3.37 In addition, as we have already audited the area codes subject to the most significant shortage a number of times and requested the return of unused number blocks, it is unlikely that further audits of these area codes would yield a significant further return of number blocks in the short-to-medium term. It is also the case that number audits are time-consuming and result in costs to CPs and to Ofcom.
- 3.38 We are reviewing our administrative processes for allocating geographic numbers and plan to consult on proposals later this year. As part of this process, we could try to enforce a more stringent administrative process so that only CPs which could demonstrate a clear requirement for numbers received allocations. However, we consider that it is more effective to provide CPs with an incentive to use numbers efficiently through a market mechanism rather than to rely solely on our administrative processes (which would require greater Ofcom involvement and inevitably involve an element of judgement based on imperfect information) to improve efficiency in CPs' use of numbers.
- 3.39 We will continue to consider the use of our powers to withdraw allocations of numbers. We note, however, that these powers are limited to particular situations, for example, where a CP has engaged in serious or repeated contraventions of the Numbering Conditions (section 61(3) of the Act). We therefore do not consider that it would be appropriate to rely only on these powers to enforce the return of number blocks to address number block shortage. Nevertheless, we continue to encourage CPs to return unused number blocks, particularly through our number audits.
- 3.40 We have considered allocating smaller number blocks to relieve number block shortage and we are implementing a limited roll out of allocations of 100-number blocks in 11 rural areas as part of this statement (see Section 4). At this stage it is not possible to roll out smaller number blocks on a more widespread basis because some CPs with legacy networks face technical constraints in routing calls to numbers allocated in smaller blocks, which means that CPs' ability to support such allocations needs to be assessed on an area-by-area basis. In addition, allocating 100-number

³⁵ We will also consult on introducing a reservation stage in the geographic number allocation process for some applicants (see paragraphs 1.15 to 1.17).

³⁶ See paragraphs 6.36 to 6.39 of the September 2011 statement and consultation and paragraphs 4.33 to 4.38 of the March 2012 consultation.

blocks may not be practical in areas with large populations (where CPs would likely need multiple allocations of 100-number blocks).

- 3.41 We do not want to delay number charging until after any new administrative measures have been implemented because there is a danger that some area codes will run out of numbers, which an earlier introduction of charging could have postponed or prevented.

Area codes included in the pilot scheme

- 3.42 In the September 2011 statement and consultation we proposed that the pilot scheme would include around 30 area codes with the fewest number blocks remaining available for allocation (excluding 11 five-digit area codes where we proposed to roll out a limited number of 100-number blocks). We selected area codes with the fewest number blocks remaining available for allocation because it is more likely that requesting a number block in these area codes will bring forward the need for supply measures in the short term. In selecting the pilot scheme threshold of around 30 area codes we took into account:

- i) the need to ensure that the pilot scheme was sufficiently large to influence CPs' behaviour and uncover potential unintended consequences;³⁷ and
- ii) the need to limit the number of area codes included in the pilot scheme to reduce the impact of any unintended consequences, should they arise.

- 3.43 In the March 2012 consultation³⁸ we discussed stakeholders' responses to that proposal and set out our final proposal that the pilot scheme would include 30 area codes with the fewest number blocks remaining available for allocation.

- 3.44 We estimate that the pilot scheme of 30 area codes will result in charges to 173 CPs, of which 116 CPs will be charged more than £1,000 per year. We estimate that £2.1m of revenues will be raised.³⁹

- 3.45 In Annex 2 we have published the list of area codes included in the pilot scheme; this is also included as an Annex to GC17 (see Annex 6 of this statement). In compiling the list of area codes with the fewest number blocks remaining available for allocation (and in estimating the expected revenues from number charges) we have taken the availability of number blocks as at 29 June 2012 and adjusted for number blocks which we expect to recover as part of the numbering audits but which have not yet been returned. The area codes included in the pilot scheme will remain fixed at least until after our review of the pilot scheme.⁴⁰

³⁷ One such unintended consequence might be CPs disconnecting consumers in order to return a low-utilised number block to Ofcom in order to avoid number charges.

³⁸ See paragraphs 4.86 to 4.109 of the March 2012 consultation.

³⁹ The estimated revenue raised from number charging is calculated as the amount of numbers allocated in the 30 pilot scheme area codes as at 29 June 2012 (and adjusted for expected block returns as part of the audit) multiplied by 10p per number. This represents the upper limit for number charge revenues because we are allowing a discount for ported and WLR numbers (discussed in Annex 1) and therefore the number charge revenues will be less than £2.1m.

⁴⁰ We consider that it is appropriate to continue charging where local dialling is closed in certain area codes in the pilot scheme (such as the 01202 Bournemouth area code), even if the additional supply of number blocks would mean that such area codes would no longer be in the top 30 area codes with the fewest blocks remaining available for allocation (see paragraph 6.134 of the September 2011 statement and consultation).

Stakeholders' comments

- 3.46 KCOM commented on the charging proposals in relation to KC which provides communications services in Hull and East Yorkshire (the Hull area). It noted that at the time of the March 2012 consultation the 01482 (Hull) area code was close to being included in the 30 area codes subject to charging. It was concerned about the impact of including the 01482 area code in the pilot scheme.
- 3.47 KCOM noted that the expectation is that number charge costs will ultimately be passed through to consumers in the form of increased line rental charges and, because CPs tend to adopt national pricing, we assume that number charge costs will be spread across the national customer base. KCOM considered that this assumption does not hold for KC because it only offers services in the Hull area. Thus, if number charging was applied in the Hull area code, then KC could recover this cost just across KC customers in the Hull area. KCOM estimated that the increase in line rental charge for KC customers would be more than 20p per exchange line per year, compared to the average of 6p per exchange line per year where charges for the 30 pilot scheme area codes are spread across the national customer base.⁴¹ KCOM believed that the specific impact in the Hull area warrants additional consideration prior to the inclusion of the Hull area code in the pilot scheme. It urged Ofcom to undertake a formal audit before establishing the area codes included in the pilot scheme and noted that, according to information on the numbering database available on the Ofcom website, there were potentially 43 unused 1,000-number blocks within allocated 10,000-number blocks in the 01482 area code that could be withdrawn.

Ofcom's response

- 3.48 We have updated the list of area codes included in the pilot scheme based on the latest available information as at 29 June 2012. While the list has not changed significantly relative to the indicative list published in Annex 4 of the March 2012 consultation, five area codes have changed,⁴² and we can confirm that the 01482 area code is now included in the pilot scheme.
- 3.49 The method for selecting the area codes included is set out above (see paragraph 3.42).⁴³ In the 01482 area code we estimate that there are 123 blocks available for allocation, and we note that it is forecast to run out of numbers for allocation in 2018 i.e. there is a prospect that number supply measures will be required in the medium term.
- 3.50 We have already conducted a number block audit for all the area codes included in the pilot scheme and many CPs have returned unused number blocks. As noted in paragraph 3.39 above, our powers to withdraw number blocks are limited to particular situations.
- 3.51 We recognise KCOM's concern that number charges levied on KCOM for allocations in the 01482 area code may only be spread across its customers in the Hull area rather than on a national basis. If KCOM passes its number charge costs through to the customers it serves in the Hull area we estimate that the average increase to the bill will be 24p per line per year (KCOM has not provided any information on the

⁴¹ See paragraph 4.154 of the March 2012 consultation.

⁴² There are a number of reasons for this, including ongoing allocations to CPs and because CPs have returned number blocks in some area codes.

⁴³ See also paragraphs 4.100 and 4.101 of the March 2012 consultation.

costs of implementing number charges).⁴⁴ While this is higher than the estimated increase in the average bill of 6p per line per year obtained under the assumption that number charges for the 30 pilot areas are spread across the national customer base, it still only represents 0.2 per cent of KCOM's average revenue per line for the provision of analogue exchange line services in the Hull area.⁴⁵ We consider that this is a relatively modest increase in customers' bills, and do not consider that it would be appropriate to exclude the Hull area from the charging pilot for this reason as KCOM suggests.

- 3.52 We recognise that number charging is likely to have different impacts across CPs (see also the discussion of small versus larger CPs below). However, we think a differential treatment of particular area codes or CPs risks introducing unwarranted discrimination and increasing complexity.

Review of the pilot scheme

- 3.53 In the March 2012 consultation we proposed that we would review the pilot scheme around two years after its launch. We noted that we would continue to levy charges in the pilot scheme area codes while the review is ongoing and this was also likely to be the case following the review unless material unintended consequences arose.

- 3.54 As regards assessing the impact of number charging, we noted that the following types of evidence could be relevant:

- the quantity of number blocks returned in area codes where charging is implemented compared with other area codes (over the same time period);
- the quantity of new number blocks allocated in area codes subject to charging compared with other area codes (over the same time period);
- the profile of demand for number blocks over time in area codes where charging is introduced, i.e. the quantity of blocks allocated before and after the introduction of charging;
- the development of sub-allocation⁴⁶ arrangements between CPs (e.g. any increase in the number of CPs offering or taking sub-allocated numbers after the introduction of charging); and

⁴⁴ The average increase to the bill is calculated by dividing KCOM's number charges for allocations in the 01482 (Hull) area code by the number of lines it provides. We estimate KCOM's charge for number allocations in the 01482 area code at £44,700 per year (based on a 10p per number charge, and number allocations at June 2012) - Source: Ofcom's National Numbering Scheme database, geographic numbers, code and number blocks - 1400 00 to 1599 99 available at <http://www.ofcom.org.uk/static/numbering/index.htm#geog1>.

KCOM provided around 187,000 exchange lines (analogue, ISDN2 and ISDN30) in the Hull area in 2010/11 - Source: KCOM Group PLC Regulatory Financial Statements available at http://www.kcomplc.com/docs/regulatory-pdf/final_statements_2011.pdf

⁴⁵ We estimate KCOM's average revenue per line for analogue exchange line services at £111 in 2010/11 (this excludes any revenues from call origination or call termination). KCOM reported revenues at £20.3m for analogue exchange line services and provided 182,560 analogue exchange lines in 2010/11. Source KCOM Group PLC Regulatory Financial Statement 2011, p 11-12.

⁴⁶ Sub-allocation is a commercial agreement between CPs, where one CP uses numbers which are allocated to a different CP. Sub-allocation may provide CPs with a mechanism to recover some of the cost associated with number charges. Sub-allocation was discussed in paragraphs 6.84 to 6.102 of the September 2011 statement and consultation.

- whether charging had resulted in any unintended consequences (e.g. CPs disconnecting consumers to return number blocks).
- 3.55 We stated that another factor that we could consider is whether the introduction of charging for geographic numbers affects demand for other types of numbers, e.g. non-geographic numbers such as the 03 UK-wide number range.
- 3.56 We also noted that we plan to consult on administrative measures which may reduce the demand for number blocks (see paragraphs 1.15 to 1.17). Any changes arising from this consultation are likely to be implemented around the same time as the charging scheme, so it may be difficult to determine with precision whether number block returns and changes in the demand for number blocks are attributable to administrative measures, charging or a combination of the two.
- 3.57 In the March 2012 consultation we discussed comments on the assessment and review of the pilot scheme in response to the September 2011 statement and consultation.⁴⁷ These responses did not cause us to change our proposals. Some stakeholders made further comments on the review of the pilot scheme in response to the March 2012 consultation, and we discuss these comments below.

Stakeholders' comments

- 3.58 Virgin Media considered that if the charging scheme is a pilot (as opposed to a limited roll out of number charging) then if charging does not materially reduce number block demand in the pilot area codes it should be withdrawn. Otherwise Virgin Media thought that number charging would be an unnecessary and irrational tax on consumers. It thought that Ofcom's intention to continue to levy charges unless material unintended consequences arose was the wrong basis on which to continue to charge for numbers. It thought that Ofcom should justify why the charging regime itself resulted in material benefits and reduced demand for number blocks, and should not assume that success is framed by an absence of harm and unintended consequences.
- 3.59 BT was unclear as to how the success of the pilot scheme would be assessed and considered it unsatisfactory that we have not set out more definitive success criteria. It considered that we would not be able to differentiate between blocks returned because of the number charge and blocks that would have been returned had Ofcom worked with the industry to recover those needed to meet demand without charges being in place. It thought that this made it difficult to assess the impact of number charging (e.g. establishing the correct counterfactual), and our approach meant that charging could continue even if the case for it had not been proven against an absence of charging. In light of this, BT suggested that Ofcom should wait and see whether administrative measures are effective before introducing number charging, or should at least delay the pilot scheme until after the administrative measures have been implemented so that Ofcom can assess the impact of the pilot scheme in isolation.
- 3.60 BT and Magrathea commented that Ofcom should carry out a further consultation if (after the pilot scheme) we propose that number charging is extended to other area codes.

⁴⁷ See paragraphs 4.181 to 4.192 of the March 2012 consultation.

Ofcom's response

Review of the pilot scheme

- 3.61 We intend to begin a review of the pilot scheme around two years after launch and intend that we will evaluate it in the round taking into account the types of evidence referred to in paragraph 3.54 above, if available, to assess the impact of charging on demand for number blocks. As discussed in the March 2012 consultation, we do not think it would be meaningful to provide a more definitive list of 'success criteria' for the pilot scheme.⁴⁸
- 3.62 As part of the scope of that review we will consult on the future of geographic number charging, and we anticipate that we will consider a range of options including, if appropriate, removing number charging altogether, continuing to charge in a specified number of area codes and rolling out charging to all four-digit area codes.

Introduction of number charging and administrative measures at the same time

- 3.63 BT noted that it would be difficult to determine the impact of charging when it is introduced alongside other administrative measures and suggested that we delay the pilot scheme until after the administrative measures are implemented. We agree that both may influence CPs' behaviour to some extent, and that this could complicate the assessment of the impact of number charging on behaviour. However, as discussed in paragraphs 3.34 to 3.41 above, we do not consider that it would be appropriate to delay the introduction of number charging until after any new administrative measures have been implemented because there is a danger that some area codes will run out of numbers, which an earlier introduction of charging could have postponed or prevented.
- 3.64 In addition, we do not consider that administrative measures alone are sufficient to manage number scarcity for the reasons discussed above and in the September 2011 statement and consultation.⁴⁹

Impact of pilot scheme on CPs

- 3.65 As required by section 47(2) of the Act, we have to ensure that our decision to charge CPs 10p per year per allocated number in the pilot scheme area codes is proportionate to what it is intended to achieve and that it will not discriminate between CPs, or that any potential discrimination can be justified.
- 3.66 In this sub-section we discuss three areas:
- the impact on small CPs and new entrants compared with larger CPs;
 - the use of numbers by a CP under a regulated arrangement; and
 - administrative costs of implementing number charging in the pilot scheme.
- 3.67 We have assessed the potential impact of the pilot scheme on CPs and on competition and consider that the impact will be relatively small:

⁴⁸ See paragraphs 4.185 to 4.186 of the March 2012 consultation.

⁴⁹ See paragraphs 6.36 to 6.39 of the September 2011 statement and consultation.

- we estimate that the revenues from the pilot scheme will be around £2.1m⁵⁰ per year which compares to total fixed line revenues of £8,948m in 2011.⁵¹ This means that number charges would only represent 0.02 per cent of CPs' total revenues in 2011;
- looking at the potential cost per line we estimate that the effect of the number charge is also likely to be modest. For illustrative purposes, a CP with an average 50 per cent number utilisation rate⁵² would need to recover 20p per fixed line per year from end users.⁵³ This compares with wholesale costs per line of £99 per year.⁵⁴ Therefore, in this example, number charging would only add 0.2 per cent to fixed line costs (excluding the retail costs) per line;
- based on the information provided by CPs we anticipate the costs of implementing number charges to be relatively modest; and
- we anticipate that number charges in the pilot scheme will apply to 173 CPs with 146 receiving an annual bill of £5,000 or less.

3.68 We have discussed the impact on CPs (including stakeholders' comments) in detail in the previous consultations.⁵⁵ In our view, given the limited impact of introducing number charges in a pilot scheme, as summarised above, the measure is proportionate. Where there is any potential for discrimination between CPs, we believe this is justified taking account of the purpose of the scheme to incentivise the efficient use of numbers and the aim to reduce costs to CPs and to Ofcom (and thereby to consumers) in implementing and administering the pilot scheme.

Impact on small CPs and new entrants compared with larger CPs

- 3.69 In the previous consultations we acknowledged that number charging could affect CPs with lower number utilisation more than CPs with higher utilisation rates. This is because the number charge would apply to every number in a block, but CPs with lower block utilisation have fewer numbers which are actually in use, and fewer customers over which to spread the cost of number charges.
- 3.70 We concluded that, on average, it was likely that larger CPs would have higher utilisation than smaller CPs, but that this was not always the case. In the September 2011 statement and consultation, we calculated the impact of our preferred approach to number charging (i.e. a charge of 10p per number per year for 30 pilot scheme area codes) in relation to gross revenues for the sample of small and medium CPs who responded to an informal information request (issued before the November 2010

⁵⁰ See footnote 39.

⁵¹ <http://stakeholders.ofcom.org.uk/binaries/research/cmr/telecoms/q4-2011.pdf>, table 1.

⁵² A number is deemed to be 'utilised' if it is actively in service or reserved for a specific customer. Numbers which are used to serve customers by a CP different from the number block range holder, e.g. numbers which are ported, sub-allocated or used to provide wholesale line rental, are utilised.

⁵³ Being the cost per 1,000 number block of £100 divided by 500 customers.

⁵⁴ For this illustration we have taken the basic line WLR charge as a proxy for average wholesale costs. For more advanced wholesale lines the charge is greater. Source: <http://www.openreach.co.uk/orpg/home/products/pricing/loadProductPriceDetails.do?data=vZC%2BGHliu80GtUKWLu%2BtzAfqMZEuYNVwUnHGezzgOd1UNelS4WkJBRh6z%2FRUAlt8maxtgrEro1A7%0Aw5V8nzAZpQ%3D%3D>.

⁵⁵ See paragraphs 6.72 to 6.98 of the November 2010 consultation, paragraphs 6.188 to 6.227 of the September 2011 statement and consultation and paragraphs 4.110 to 4.146 of the March 2012 consultation.

consultation).⁵⁶ Twenty of the 34 CPs that provided information had number allocations in the proposed pilot scheme area codes. A 10p per number annual charge would be equivalent to less than one per cent of gross annual revenues for 17 of these 20 CPs. For the remaining three CPs, the estimated impact would amount to between one and two per cent of gross annual revenues. We therefore concluded that our preferred option would appear unlikely to have a significant disruptive impact on CPs' businesses.

- 3.71 We also noted two ways in which CPs could mitigate the impact of low utilisation. First, CPs could return any unused number blocks to avoid charges. Second, CPs with low utilisation of partially-utilised blocks may be able to reduce the impact of charging by sub-allocating numbers to other CPs and charging for this so as to offset the charges for which they were liable.
- 3.72 We thought that new entrants that only require a few numbers in an area might find it more cost effective to obtain numbers via sub-allocation from other CPs rather than by applying for number blocks from Ofcom. Telephony Services Limited noted in its response to the November 2010 consultation that "*Sub-allocation is currently a widely used access to the market for many new entrants*".⁵⁷ We also noted that it might be appropriate for small CPs/new entrants with innovative services to use other types of number for which we are not currently proposing to charge.

Stakeholders' comments

- 3.73 In response to the March 2012 consultation VON made further comments about the impact of number charging on smaller CPs and new entrants. It thought that the additional burden of number charging would create a barrier to entry with negative effects for competition, may entrench traditional business models, cost and revenue structures and retail charging mechanisms already in place, and would have a disproportionate impact on smaller CPs versus traditional CPs for whom the number charges would be close to negligible.
- 3.74 VON disagreed with our suggestion that it might be appropriate for small CPs/new entrants with innovative services to use other types of number for which we are not currently proposing to charge. It noted that the European Union regulatory framework for electronic communications requires numbers to be made available to all public electronic communications services and that the European Commission's information and consultation document on the treatment of Voice over Internet Protocol stated that, "*Any undertaking providing or using electronic communications networks or services has the right to use numbers.*"⁵⁸

Ofcom's response

- 3.75 We looked at the impact of introducing number charges for a sample of small and medium sized CPs and we concluded that it would appear unlikely to have a significant disruptive impact on those CPs' businesses (see paragraph 3.70). We

⁵⁶ See paragraphs 6.221 and 6.222 of the September 2011 statement and consultation.

⁵⁷ Page 6 of the Telephony Services Limited response to the November 2010 consultation.

⁵⁸ European Commission (2004) *Commission Staff Working Document on the treatment of Voice over Internet Protocol (VoIP) under the EU Regulatory Framework. An Information and Consultation Document*. Available at, http://ec.europa.eu/information_society/policy/ecomm/doc/library/working_docs/406_14_voip_consult_paper_v2_1.pdf section 7.1.

suggested a number of ways that CPs could mitigate the impact of low utilisation – that is, to be more efficient in their use of numbers.

- 3.76 The total charge that would be payable to have a 1,000-number block in each of the pilot scheme area codes would be £3,000 per year.⁵⁹ We do not consider that a charge of this magnitude is a significant barrier to entry.
- 3.77 The discount approach we are proposing to adopt (see further paragraphs 3.81 to 3.86 and Annex 1) has the effect that CPs who rent wholesale exchange lines from BT (i.e. through the use of external WLR) would not be charged. Therefore, small CPs that only use WLR with numbers allocated to BT would not face any number charges.
- 3.78 Even in the unlikely event that number charging contributes to a CP's decision to exit the market or consolidate, we consider that this would be unlikely to have a significant impact on consumer choice or competition given that over 300 CPs have been allocated geographic numbers.⁶⁰
- 3.79 To the extent that number charging does have a larger impact on CPs with a lower utilisation rate, we consider that this is justified since the principal objective of introducing number charging is to provide incentives for CPs to become more efficient in the utilisation of numbers.
- 3.80 To clarify, we will continue to make geographic numbers available to all CPs who meet the application criteria. However, the introduction of charging for geographic numbers may mean that some CPs find it more cost effective and efficient to consider supplementary arrangements (e.g. sub-allocation) or the use of other types of numbers to provide their services. This will be a commercial decision for each operator.

Use of numbers by a CP under a regulated arrangement

- 3.81 There are cases where, pursuant to a regulatory requirement, the telephone number that a CP uses to provide a service to a customer is allocated by Ofcom to a different CP.⁶¹ This is the case where:
- the customer's number has been ported from one CP to another CP – a ported number remains allocated to the CP (known as the range holder) which was allocated the relevant block of numbers by Ofcom, even though another CP (known as the recipient provider) is using the number to provide a service to the customer; and
 - the exchange line is supplied using BT's Wholesale Line Rental (WLR) services – WLR lines are usually attached to a number allocated to BT (the range holder), but it is the CP that provides the service to the customer (the retail CP) that uses the number.
- 3.82 In this sub-section we summarise our decision regarding the treatment of ported and WLR numbers for the pilot scheme. A more detailed discussion (including a discussion of stakeholders' comments) is provided in Annex 1.

⁵⁹ Given by: 10p per number x 1,000 numbers x 30 area codes.

⁶⁰ Source: Ofcom's National Numbering Scheme database (CPs with geographic number allocations).

⁶¹ This excludes sub-allocated numbers which involve a commercial agreement between CPs.

- 3.83 In the November 2010 consultation we set out that in both cases we would expect the range holder to pay the number charge to Ofcom, even where some or all of the numbers are used by other CPs. Administratively this is simpler (with lower costs for Ofcom and CPs) than attempting to identify the CP using each individual number and recovering the number charge from it. We also considered that as the range holder is not able to benefit from using allocated numbers due to regulatory requirements, it would be appropriate for the range holder to recover reasonable costs associated with number charging. We proposed some guidance for cost recovery in these circumstances in the November 2010 consultation.⁶²
- 3.84 Stakeholders' responses to the November 2010 consultation indicated that the recovery of charges by the range holder from the CPs using ported/WLR numbers would be costly to implement because changes to their IT systems would be required to calculate bills. Therefore, we proposed two new options in the September 2011 statement and consultation.⁶³ One of those options (the 'discount approach') did not involve the range holder recovering costs from the CP using the ported/external WLR number.⁶⁴ Instead, the range holder would provide Ofcom with a list of ported numbers⁶⁵ and numbers used for external WLR services, and we would apply a discount to the range holder's number charge bill for those numbers. The discount approach would be on an 'opt in' basis, i.e. CPs could choose whether to apply for it or not. If a CP failed to provide the necessary information to claim the discount it would be forgone.
- 3.85 In response to the September 2011 statement and consultation, stakeholders were broadly supportive of the discount approach and indicated that it would reduce the cost and complexity of implementing number charging significantly (see Annex 3 of the March 2012 consultation for a full discussion). Some CPs commented that under the discount approach CPs were not charged for their use of ported/external WLR numbers and this was a potential concern because it meant that CPs would be able to 'free-ride' when their business relied heavily on ported and external WLR numbers. We recognised this concern and its relevance for the requirement that our approach minimises any potential for discrimination between CPs. However, on balance we considered in the March 2012 consultation that our approach was justified for the following reasons:⁶⁶
- administratively, it is a simpler and more cost effective solution (for CPs and Ofcom) than identifying the CP using each number and recovering the number charge from it;
 - recipient CPs using ported/external WLR numbers do not manage or influence the efficient use of the allocated number block which is the underlying rationale for the number charging; and

⁶² See Annex 4 of the November 2010 consultation.

⁶³ See Annex 5 of the September 2011 statement and consultation.

⁶⁴ The discount applies only to WLR lines provided to CPs outside the BT Group (referred to as external WLR lines). No discount applies to WLR lines provided by Openreach to other businesses within the BT Group (e.g. lines used by BT Retail or Plusnet). This is because in the case of such lines BT retains the retail customer relationship and is able to recover the cost of number charges from the end customer.

⁶⁵ General Condition 18 on Number Portability obliges CPs to provide Ofcom with information on ported numbers and the recipient provider if requested to do so.

⁶⁶ For a more detailed discussion see paragraphs A3.25 to A3.37 of the March 2012 consultation.

- the impact on the CPs being charged in the pilot scheme is in our view relatively small, and consequently, there is unlikely to be any adverse impact on competition.

3.86 We have decided to adopt the discount approach as proposed in the March 2012 consultation.⁶⁷ This is discussed in further detail in Annex 1 (including stakeholders' comments to the March 2012 consultation and our response). We have also decided to allow a discount for numbers used for public payphones provided under a USO, recognising that the USO is also a regulatory obligation (see paragraphs A1.42 to A1.43).

Administrative costs of implementing number charging

3.87 In the September 2011 statement and consultation we asked CPs to provide an estimate of the administrative costs of implementing number charging. Some CPs commented that the costs of implementing the pilot scheme were expected to be minor, and a number of CPs noted that adopting the discount approach for ported and external WLR numbers would reduce implementation costs. In light of our decision to adopt the discount approach, and based on responses from stakeholders, we anticipate that the costs of implementing number charges to be relatively modest. Based on the information provided, the one-off implementation cost for [X] is [X].⁶⁸ There will also be some ongoing implementation costs, for example, where appropriate, providing information on ported and WLR numbers to Ofcom to claim a discount (see also paragraph 3.91).

Impact of pilot scheme on consumers

3.88 We have also assessed the potential adverse impact of the pilot scheme on consumers and consider that this will be relatively small. It is relevant to note again in this context that if numbers continue to be used inefficiently by CPs, more area codes might require number supply measures at an earlier date than would otherwise have been necessary.

3.89 The purpose of number charging is to ensure that CPs have an economic incentive to use numbers efficiently, and to take into account the costs associated with increasing number supply when managing and requesting allocations of number blocks. We believe that this will provide long-term benefits to consumers by postponing or avoiding the need for number supply measures, which are disruptive and disliked by consumers.

3.90 We recognise that number charges levied on CPs are likely to be passed through to consumers in higher retail prices. However, the amounts involved are small relative to other costs incurred by CPs and are smaller still compared to average customer spend. Assuming CPs spread the number charge costs of £2.1m⁶⁹ per year across their national fixed line customer base,⁷⁰ the average increase in line rental would be

⁶⁷ We have made some changes to the information CPs need to provide to Ofcom to claim a discount – see paragraphs A2.46 to A2.54.

⁶⁸ For the purposes of illustration, if we assume that the implementation costs are proportional to market shares of exchange lines this gives a rough estimate of the industry set up cost of around [X] in the first year. In 2011, [X] accounted for [X] per cent of UK fixed lines. Source: Ofcom telecommunications market data tables Q4 2011, table 2
<http://stakeholders.ofcom.org.uk/binaries/research/cmr/telecoms/q4-2011.pdf>

⁶⁹ See footnote 39.

⁷⁰ 33.2m exchange lines in 2011 (source: Ofcom telecommunications market data tables, table 2
<http://stakeholders.ofcom.org.uk/binaries/research/cmr/telecoms/q4-2011.pdf>).

approximately 6p per exchange line per year.⁷¹ This represents 0.02 per cent of the average revenue per exchange line (£270 in 2011).⁷²

- 3.91 Offsetting this per line effect is that fact that, where appropriate, CPs will receive a discount for ported numbers (and, in the case of BT, numbers for external WLR lines). A factor potentially adding to the above effect is implementation costs. Based on an approximate industry implementation set up cost of around [X] (see footnote 68), with recovery of this cost across all fixed line consumers in the first year of charging, the expected increase to the bill would be around [X] per exchange line in the first year of charging (in addition to the 6p estimated above). The combined impact on average bills per line would thus be around [X] per cent in the first year of charging. The increase to consumer bills in subsequent years (assuming the number of area codes covered by charging remains constant) would likely be lower because we would expect the ongoing implementation costs associated with number charging to be significantly lower than the initial set up costs.
- 3.92 There is a small risk that CPs with low number utilisation might disconnect customers in order to return number blocks to Ofcom to avoid number charges (resulting in these customers losing their services and telephone numbers). We have sought to manage this risk by introducing charging in a limited number of area codes. If such unintended consequences were to become significant, however, we may commence our review of the pilot scheme earlier than planned.
- 3.93 In addition to the potential costs to consumers in the form of marginally higher bills and consumers forced to change their telephone numbers, we discussed in previous consultations that the following potential costs could also arise:
- CPs may have an incentive to offer consumers numbers from a geographic area code where there is no charge for numbers which could reduce the location significance of numbers;
 - consumers may have less opportunity to obtain a number with a local area code;
 - there may be fewer companies to whom a consumer could switch while retaining their existing number once they had been allocated an 'out of area' number, thereby affecting customer choice; and
 - CPs may re-circulate previously used numbers after a shorter than normal sterilisation period in order to avoid applying for the allocation of new blocks, which could lead to an increase in calls made in error (i.e. to the wrong consumer).
- 3.94 We considered each of these potential costs in the March 2012 consultation.⁷³ Our provisional conclusion was that these impacts did not warrant further modification to our proposals. We did not receive any stakeholder comments on the impact of the pilot scheme on consumers generally in response to the March 2012 consultation.

⁷¹ We discuss the specific case of the 01482 (Hull) area code (where number charges applied to KCOM may only be recovered from customers in the Hull area) in paragraphs 3.46 to 3.52.

⁷² Total industry revenues of £8,948m (in 2011) divided by total exchange lines of 33.2m (in 2011). The purpose of this calculation is to indicate the potential magnitude of the increase to consumer bills due to number charging in the pilot scheme area codes. By contrast the calculation in paragraph 3.67 bullet 2 illustrates the possible impact of number charging in relation to CP wholesale costs.

⁷³ See paragraphs 4.152 to 4.165 of the March 2012 consultation. See also paragraphs 6.232 to 6.243 of the September 2011 statement and consultation.

Nor has our further analysis provided any basis for change to our preliminary conclusion.

- 3.95 Therefore, we adopt our reasoning in the March 2012 consultation as to the nature of the impact on consumers.

Implementation and administrative arrangements

- 3.96 We discussed the proposed administrative arrangements to implement the pilot scheme in Annex 6 of the September 2011 statement and consultation and Annex 4 of the March 2012 consultation. Stakeholders' comments and Ofcom's response on the implementation proposals set out in the March 2012 consultation are discussed in detail in Annex 2.

- 3.97 In summary, we have decided that the administrative arrangements for the pilot scheme are as follows:

- Ofcom will bill CPs for number charges annually and in arrears;
- charges will accrue on a daily basis;
- the charging year will be the 12-month period from 1 April to 31 March;
- the first charging year will be 1 April 2013 to 31 March 2014;
- each CP must provide Ofcom with information on ported, external WLR and public payphone numbers provided under a USO by 1 December, or another date specified by Ofcom, if the CP wants to obtain a discount for that year;
- in mid-April following the end of each charging year a schedule will be issued to each relevant CP, setting out each number block for which a charge is applied, the dates between which the charge has accrued for that block and the applicable charge for each number block. The schedule will include the discount applied to the number charge bill with respect to ported/external WLR/public payphone numbers as applicable and the number charge total for that CP;
- the CP has 45 calendar days (i.e. approximately mid-April to end of May) to examine the schedule and raise any queries with Ofcom; and
- invoices will be issued around mid-June for payment within 14 days of receipt.

Other stakeholder comments

- 3.98 Magrathea agreed in principle with Ofcom's proposal for a charging pilot scheme. However, it was concerned that CPs with low number utilisation might choose to give number blocks back to Ofcom to avoid the charges which means that consumers would be forced to change their numbers. It thought that this outcome could be avoided if Ofcom agreed to accept the return of 100-number blocks.
- 3.99 [X] did not agree with the decision not to introduce charging for mobile numbers at this time. It thought that excluding mobile numbers was discriminatory given the trend towards fixed to mobile convergence and competition from mobile only households.

- 3.100 C&WW, in response to the September 2011 statement and consultation, queried how number blocks in four-digit area codes which have 5-digit local numbers would be treated for the purposes of number charging.⁷⁴ In response to the March 2012 consultation C&WW restated its view that blocks with five-digit local numbers should be charged for as if they were structured efficiently and had six-digit local numbers. Under this proposal, the annual charge per number would be £1 in four-digit area codes which have five-digit local numbers, instead of our proposed charge of 10p per number. C&WW thought that absent this, an economic negative externality is left uncorrected because all CPs need to meet the cost of premature exhaustion of numbers and the ongoing inefficiency of having to open isolated ranges of abnormal length, while the inefficient CP's customers benefit from shorter number lengths. However, C&WW accepted that consideration of this aspect could be deferred until the issue of shorter number lengths is addressed more generically.
- 3.101 VON considered that the 10p per number annual charge proposed by Ofcom represents a substantial amount that is above the European average (of 7p) by a considerable margin.
- 3.102 A consumer (Mr Goodman) disagreed with number charging and considered it a form of backdoor taxation. He thought that if a simulation of number charging is implemented as a virtual procedure without any actual charge being made, then it would not need approval under the Act and the end of year results would be available for analysis without the need to impose a charge on consumers.

Ofcom's response

Allowing CPs to return smaller number blocks

- 3.103 Magrathea thought that CPs should be allowed to return 100-number blocks which would reduce the probability that CPs with low utilisation force consumers to change their numbers in order to return entire 1,000-number blocks.
- 3.104 We have discussed the return and allocation of smaller number blocks in the March 2012 consultation.⁷⁵ For technical reasons, numbers have been allocated in contiguous blocks of 1,000 numbers and it is not possible to return numbers to Ofcom in blocks of less than 1,000 numbers currently. This is because some CPs with legacy networks face technical constraints in routing calls to numbers allocated in smaller blocks, which means that CPs' ability to support such allocations needs to be assessed on an area-by-area basis. Therefore, even if a large amount of 100-number blocks were returned to us, it is unlikely that they could be reallocated to other CPs, which means that these blocks would remain unutilised (thus not help to address number block shortage or achieve our objective in postponing or avoiding the need for number supply measures). We are exploring allocating numbers in smaller blocks and, as discussed in Section 4, we are planning a limited roll out of blocks of 100 numbers in 11 five-digit area codes.
- 3.105 As discussed in paragraph 3.92 above, we recognise that CPs forcing consumers to change their numbers in order to return number blocks to Ofcom is a potential

⁷⁴ For historic reasons, these telephone numbers are somewhat anomalous and have nine digits (excluding the leading '0'), whereas most telephone numbers have ten digits (e.g. a four-digit area code plus six-digit local number). Number blocks in four-digit area codes which only have five-digit local numbers generate one tenth of the amount of numbers compared to blocks with six-digit local numbers.

⁷⁵ See paragraphs 4.33 to 4.34 of the March 2012 consultation.

unintended consequence of number charging. This is one of the reasons why we have decided to introduce number charging in a limited pilot scheme and begin a review around two years after implementation (we may consider reviewing the scheme earlier if unintended consequences arise).

Charging for non-geographic numbers

- 3.106 [X] considered that applying charges to geographic but not mobile numbers was discriminatory. The reason we are proposing to charge for geographic numbers is to encourage efficient number use and thus alleviate number scarcity which is a recognised problem in some geographic area codes. In the November 2010 consultation we proposed not to charge for non-geographic numbers (including mobile numbers) at this time on the basis that we have not identified number scarcity for these types of numbers. Although there are some specific pockets where numbers are relatively scarce, there are currently spare non-geographic sub-ranges that could be opened to meet future demand.⁷⁶ We noted that we would keep this under review.
- 3.107 Geographic numbers have location significance for users, and the evidence suggests that measures to increase the supplies of geographic numbers could result in adverse impacts for consumers and businesses (e.g. overlay codes could diminish the location significance of numbers and could cause confusion). By contrast, non-geographic and mobile numbers have service rather than geographic significance, and the costs and impact associated with expanding supplies of these number ranges are likely to be lower.

Four-digit area codes and five-digit local numbers

- 3.108 C&WW suggested that blocks with five-digit local numbers should be charged for as if they were structured efficiently with six-digit local numbers.
- 3.109 We noted C&WW's suggestion in the March 2012 consultation. We discussed that we could try to encourage CPs to move consumers from five- to six-digit local numbers (thus increasing the number supply) by charging more for five-digit local numbers as proposed by C&WW. However, converting these blocks from five- to six-digit local numbers would generate disruption for consumers because local numbers in use would change (i.e. an additional digit would be added to the beginning of the local number). We noted in the September 2011 statement and consultation that we would monitor demand in these area codes and decide in due course whether a number change might be necessary, taking into account the impact this would have on consumers.⁷⁷
- 3.110 In the meantime we do not plan to charge a higher price for five-digit local numbers because, in light of the consumer effects noted above, we are not convinced that we want to incentivise CPs to move to six-digit local numbers in these area codes. It is also possible that closing local dialling and introducing overlay codes (where necessary) would be a less disruptive way to expand number supply if necessary. A more detailed discussion around why we do not favour options which involve

⁷⁶ For example, if available numbers in the currently designated 'Special Services' number ranges 080, 084 and 087 run out, we can designate other 08X number ranges to provide more numbers. Similarly, if available numbers in the 090 and 091 'Special Services at a Premium Rate' ranges become scarce, we can provide additional premium rate numbers from the 092 to 097 ranges.

⁷⁷ See paragraph 4.145 of the September 2011 statement and consultation.

changes to existing telephone numbers is provided in the September 2011 statement and consultation.⁷⁸

Level of the charge

- 3.111 VON considered that the 10p per number annual charge represented a substantial amount, being above the European average of 7p per number per year by a substantial margin.
- 3.112 We discussed our reasoning for proposing a number charge of 10p per number per year in detail in the previous consultations.⁷⁹ In principle, the number charge should reflect the costs to CPs, consumers and Ofcom of measures to increase number supplies. However, in practice it is not possible for us to accurately quantify the costs of expanding number supplies, particularly those borne by consumers.
- 3.113 In the absence of reliable evidence on the cost of increasing number supplies we have used the level of the number charge in other countries to inform our view of the appropriate charge in the UK. We considered the circumstances prevailing in the UK, and thought that the annual charge in the UK should be slightly higher than the European average (of 7p per number) because:
- number scarcity is a particular problem in the UK, potentially greater than in other European countries (i.e. number supply measures are likely to be needed sooner); and
 - the UK charge would be targeted at area codes where the fewest number blocks remain available for allocation, whereas our understanding is that the charges in other European countries tend to be applied across the country and are nationally averaged.
- 3.114 As noted above, we consider that an annual charge of 10p per number in the 30 pilot areas is likely to have a limited impact on the costs faced by CPs and consumers (see paragraphs 3.67 and 3.90 to 3.91).

Virtual simulation of number charges

- 3.115 Mr Goodman considered that number charging was a form of tax and suggested the impact of charging could be assessed via a virtual procedure, with no actual charges levied.
- 3.116 The purpose of charging for numbers is to encourage efficient number use, not to act as a form of taxation. We consider that a virtual simulation of number charging would not encourage efficient number use. Unless actual charges are levied on numbers CPs will not face an incentive to use them more efficiently.

Legal instrument – new conditions in GC17

- 3.117 In Annex 8 of the March 2012 consultation we set out the proposed amendments to GC17 (by way of new conditions) to implement the pilot scheme. We asked stakeholders to comment on these amendments.

⁷⁸ See paragraphs 4.9 to 4.30 of the September 2011 statement and consultation.

⁷⁹ See paragraphs 6.48 to 6.65 of the November 2010 consultation, paragraphs 6.143 to 6.175 of the September 2011 statement and consultation and paragraphs 4.68 to 4.71 of the March 2012 consultation.

Stakeholders' comments

- 3.118 Most stakeholders thought that the proposed amendments to GC17 were fit for purpose and had only limited comments. Where relevant to implementation, these are also discussed in Annex 2.
- 3.119 We proposed that the number charging invoice should be paid within 14 days of receipt. BT, C&WW and [X] were concerned that this provided insufficient time to reconcile and verify the invoice and authorise payment. They suggested that a timescale of between 30 to 60 days would be more appropriate.
- 3.120 C&WW noted that GC17 did not define the term 'ported'. C&WW thought that this might lead CPs to seek to limit their exposure to number charges by, for example, portraying numbers which are sub-allocated as ported numbers. C&WW therefore suggested that the defined term 'Ported Number' should refer to GC18 which contains the relevant legal definitions. BT thought it might be clearer if the term 'Exported Number' was used and defined.
- 3.121 BT noted that it has a regulatory obligation to provide public payphone services and requested that numbers used for public payphones attract a discount to the number charge bill.

Ofcom's response

- 3.122 As regards payment, we agree that the schedule accompanying invoices will be detailed and contain information on a large quantity of number block allocations for many CPs. In recognition of the points raised, we agree that a longer period to examine and reconcile number charge schedules is reasonable. In light of this we have introduced an extra stage for CPs to check the schedules prior to the invoices being sent out. After this checking stage invoices will be sent out for payment within 14 days. This is discussed in paragraphs A2.30 to A2.34.
- 3.123 In the defined term 'Ported Number' we have made reference to GC18 to ensure that by 'ported' we mean arrangements that are made in accordance with GC18. The term 'ported' is consistent with the terminology used in GC18 (the term 'exported' is not used).
- 3.124 We noted in the September 2011 statement and consultation that we would not apply charges to numbers used for public payphone services, and BT reiterated this point in its response to the March 2012 consultation. We now confirm that numbers used for public payphone services which are provided under a USO will attract a discount, and this is reflected in the wording of GC17 (see further paragraphs A1.42 to A1.43 and Annex 6).
- 3.125 In addition, to note that we have added a footnote in GC17 to make clear that as the daily charge is £0.1/365, it does not apply on 29 February in a leap year.

Duties and legal tests

- 3.126 We set out the legal framework which describes our powers to raise charges for numbers under the Act in the November 2010 consultation.⁸⁰ In the September 2011 statement and consultation and March 2012 consultation, we set out how we

⁸⁰ See paragraphs 6.20 to 6.27 of the November 2010 consultation. Also see paragraphs 2.24 to 2.27 of the November 2010 consultation which sets out our regulatory duties.

considered our proposals for number charging would likely meet Ofcom's duties and relevant legal tests in the Act. As explained in the September 2011 statement and consultation and March 2012 consultation, we consider that a decision to charge CPs for geographic numbers in area codes with the fewest number blocks remaining available for allocation is consistent with our general duties in carrying out our functions as set out in section 3 of the Act.⁸¹

- 3.127 In particular, we consider that charging on this basis furthers the interests of citizens in relation to communications matters and consumers in relevant markets by ensuring that geographic numbers are being used efficiently and thus remain available for allocation to different CPs in all area codes in the UK, facilitating CPs in their provision of communications services to consumers and citizens, and promoting competition and choice for consumers in the long term.
- 3.128 In reaching our decision, we have also taken into account the Community requirements set out in section 4 of the Act, particularly the first requirement to promote competition in the provision of electronic communications networks, services and associated facilities through the ongoing availability of geographic numbers for allocation to CPs and use by consumers.
- 3.129 Section 58(1)(g) of the Act states that Ofcom may require payments in respect of the allocation of telephone numbers through a General Condition. We will implement the pilot scheme through the setting of new conditions in GC17. In doing so, we need to satisfy the tests set out in section 47(2) of the Act. These are that each condition must be:
- not such as to discriminate unduly against particular persons or a particular description of persons;
 - proportionate to what the condition is intended to achieve; and
 - in relation to what it is intended to achieve, transparent.
- 3.130 Section 47(2), as amended by the Electronic Communications and Wireless Telegraphy Regulations 2011, no longer requires that when setting conditions Ofcom needs to be satisfied that these are objectively justifiable in relation to the networks, services or facilities to which it relates. However, for completeness, we set out below why we consider that, in any event, the measure is objectively justifiable (also see paragraphs 3.15 to 3.20 on the rationale of number charging).
- 3.131 We consider that introducing the pilot scheme meets the above tests for the following reasons:
- (i) **objective justification** – the objective of the pilot scheme is to ensure that CPs have an economic incentive to use numbers efficiently⁸² in order to delay or avoid the need for disruptive and costly number supply measures to meet the demand for geographic numbers in certain area codes.⁸³ The area codes included in the pilot scheme have been selected on an objective basis (i.e. on the basis of the amount of number blocks remaining available for allocation).

⁸¹ See paragraph 6.264 of the September 2011 statement and consultation and paragraph 4.221 of the March 2012 consultation.

⁸² CPs are required under GC17.6 to secure that numbers are used effectively and efficiently.

⁸³ See paragraphs 6.41 to 6.48 of the September 2011 statement and consultation.

- (ii) **non-discrimination** – we consider that the introduction of the pilot scheme is non-discriminatory because charges would apply equally to all CPs who have number allocations in the relevant area codes.
- it has been questioned whether it is equitable to charge some CPs for numbers (due to their area of operation, or because they are fixed-line rather than mobile operators) while others would continue to use their numbers for free. Our case for introducing the pilot scheme is based on the fact that geographic numbers are scarce in a number of area codes. We will continue to monitor number supply issues for other area codes and number types and consider in each case whether it is appropriate to take action.
 - number charging may create a disadvantage for CPs with low number utilisation across their allocated blocks relative to those with high utilisation because they have fewer customers from whom to recover the costs incurred from charges for geographic numbers. If this is the case, we consider that this is justified since the principal objective of introducing number charging is to provide incentives for CPs to improve number utilisation rates. We have set out in paragraphs 3.71 to 3.72 a number of ways in which CPs with low utilisation could reduce the impact of charging.
 - our approach means that CPs using numbers under a regulated arrangement (porting and external WLR) will not be charged for numbers, whereas the range holder will be charged for numbers allocated.⁸⁴ We recognise that this could result in an advantage for CPs primarily using ported and external WLR numbers because they would have lower wholesale costs. However, we consider that for the pilot scheme there would not be any material (if any) impact on competition as the amounts involved are small. Also, significantly, it is the range holder that manages the use of number blocks, not the CP using the number under the regulated arrangement. Finally, it would create an additional administrative burden on Ofcom to recover charges from the CP using the number, and our costs would ultimately be passed on to CPs through our administrative fees.
- (iii) **proportionality** – we are introducing charging in a limited number of area codes and have set the charge at a relatively low level in order to limit the impact on CPs and consumers. Taking account of the information provided by CPs on the costs of implementing the pilot scheme, our view is that number charging in the pilot scheme is a proportionate approach in relation to the aim of improving the efficiency of number use.
- as set out in this section, the overall impact of charging under the pilot scheme is relatively small. The total revenues raised would be in the order of £2.1m⁸⁵ per year which compares with total fixed-line industry revenues of £8,948m in 2011. (See further paragraphs 3.65 to 3.87 for the potential impact on CPs and paragraphs 3.88 to 3.95 for the potential impact on consumers).

⁸⁴ The range holder will however receive a discount to its bill for ported or external WLR numbers reflecting the cost to the CP 'per number used' (see Annex 1).

⁸⁵ See footnote 39.

- we have refined our original proposals in order to reduce the implementation costs for CPs (see paragraphs 3.81 to 3.86 and Annex 1 for a description of the discount scheme).
 - we are introducing charging in area codes with the fewest number blocks remaining available for allocation. Because this concerns only 30 area codes (out of 610), we anticipate that if there were to be any unintended consequences, their impact will be limited.
- (iv) **Transparency** – the detail of our approach and the underlying reasoning was set out in three consultations. Having considered stakeholders’ responses to these consultations we have made a decision to implement number charging in a pilot scheme by amending GC17 (and specifically, by setting new conditions).

3.132 As regards process, the March 2012 consultation (which included the proposed amendments to GC17 at Annex 8) was published pursuant to section 48A(3) of the Act which provides that Ofcom must publish a notification (a) stating that it is proposing to set, modify or revoke conditions; (b) setting out the effect of those conditions, modifications or revocations; (c) giving reasons for making the proposal; and (d) specifying the period within which representations may be made to Ofcom about the proposal. Section 48(A)(7) of the Act states that following the notification, and having considered every representation about the proposal made to it, Ofcom may give effect to the proposal with any modifications that appear to it to be appropriate,⁸⁶ which we are doing by way of this statement.

3.133 In addition, we also consider that we are fulfilling our general duty as to telephone number functions as set out in section 63 of the Act by:

- **securing the best use of telephone numbers**, in that charging for geographic numbers encourages CPs to use numbers efficiently and take the costs associated with using numbers into account when deciding on their allocation requests; and
- **encouraging efficiency and innovation**, in that charging ensures that CPs have an economic incentive to use geographic numbers efficiently and may delay or avoid the need to make more new numbers available. This can help to ensure that a lack of numbers does not constrain competition and/or innovation.⁸⁷

3.134 In conclusion, we consider that our decision to implement the pilot scheme meets the relevant legal tests as set out above.

⁸⁶ In light of stakeholder comments we have made some amendments to the proposals set out in the March 2012 consultation.

⁸⁷ For example, the introduction of overlay codes could disadvantage CPs allocated the new area code versus CPs who already have allocations of the existing area code. Initially the new area code will be less familiar and businesses may be less keen to take numbers with the new area code because they will be perceived as being less ‘established’.

Section 4

Allocation of 100-number blocks

Introduction

- 4.1 In this section we look at how a change to the way that we allocate numbers in a limited set of area codes could result in more efficient use of numbers and delay (or potentially avoid) the need for number supply measures in the area codes concerned. The change involves making a limited quantity of smaller number blocks available for allocation to CPs in 11 areas with five-digit area codes.
- 4.2 First we set out the proposal put forward in the March 2012 consultation for the limited roll out of blocks of 100 numbers. This proposal included a draft notification of modifications to the Numbering Plan in order to define and implement 100-number blocks. Following that, we summarise stakeholders' responses to the proposals and explain how we have taken these into account.
- 4.3 We then consider our position and set out what we plan to do next. We have decided to proceed with our proposal to make up to 100 blocks of 100 numbers available for allocation in each of the 11 areas with five-digit area codes. We have modified the Numbering Plan to bring this decision into effect.⁸⁸

The proposal for smaller number blocks in the March 2012 consultation

Allocation of 100-number blocks could improve utilisation of allocated numbers

- 4.4 We allocate contiguous blocks of geographic numbers to CPs by area code. In the vast majority of area codes, the size of number block for allocation is 1,000 numbers.
- 4.5 The number block size is determined by routing constraints in some long-established networks. Telephone networks analyse the digits of dialled phone numbers to decode the necessary information for routing and tariffing of calls. Some older networks use equipment designed many years ago to perform this function. The limited capacity of that equipment restricts the number of digits of each dialled phone number that those networks can decode into routing information. This means that the minimum size of block that we can allocate to any CP must be sufficiently large to accommodate these restrictions, otherwise calls could not be routed successfully by the older networks.
- 4.6 Allocations of 1,000 numbers may be larger than some CPs require in some areas, leading to inefficiency in number use. While any of the numbers from a block are in use, the CP to whom the block has been allocated cannot return the remaining unused numbers in that block to us for allocation to another CP. Allocation of numbers in blocks smaller than 1,000 numbers would therefore enable some CPs to obtain an allocation of numbers that more closely matches their needs. Given the potential to increase efficient use of numbers, we decided to examine the feasibility of allocating smaller number blocks as part of our review of geographic number management.

⁸⁸ See Annex 7.

- 4.7 In the November 2010 consultation we concluded that, due to network routing constraints, it would not be justifiable to reduce the common number block allocation size from 1,000 numbers in most Conservation Areas and 10,000 numbers in Standard Areas.⁸⁹ Nevertheless, we considered that a limited number of blocks of 100 numbers might be supported by the available network decoding resources, although the extent of this was difficult to determine
- 4.8 Recognising the uncertainty regarding the extent of spare digit decoding resources available in legacy networks, we looked at the feasibility of a limited roll out of smaller blocks to help CPs who face network constraints to better understand the pressure of smaller blocks while containing the impact.

Five-digit area codes for the limited roll out of 100-number blocks

- 4.9 The Numbering Plan contains 11 area codes in the format '01XXXX' plus five-digit local numbers. These area codes have a particular scarcity of numbers due to this code and number structure, which provides only 79,000 numbers in each area code.⁹⁰ In contrast, four-digit area codes (the general area code structure) have ten times the quantity, with 790,000 numbers available.
- 4.10 In the November 2010 consultation we considered alternative responses to increasing the supply of number blocks in the five-digit area codes. This was because closing local dialling would generate a relatively small quantity of additional numbers in five-digit area codes and we considered that introducing an overlay code would be a disproportionate solution given the relatively few customers served in those area codes.⁹¹
- 4.11 We considered that allocating smaller blocks of numbers might have a role to play in matching allocated block size to realistic customer demands. Demand for numbers in the five-digit area codes is mainly driven by CPs wanting the ability to offer a service in those locations rather than a realised consumer requirement for numbers, and smaller number blocks could more effectively meet this objective.
- 4.12 We therefore looked at whether introducing 100-number block allocations in the five-digit area codes could potentially postpone the need for supply measures and their associated disruption for local consumers. We concluded that they were likely to do so for a considerable time and that allocating smaller number blocks would enable us

⁸⁹ A 'Conservation Area' is defined in the Numbering Plan as "a geographic area that Ofcom believes has a realistic expectation of number exhaustion within the next five years". Numbers are allocated in blocks of 1,000 in Conservation Areas. A 'Standard Area' is defined in the Numbering Plan as "a geographic area that Ofcom believes does not have a realistic risk of exhaustion within the next five years". Numbers are allocated in blocks of 1,000 in Standard Areas. Further information is provided in paragraphs A1.46 to A1.50 of the March 2012 consultation.

⁹⁰ The area code and local number structure of a five-digit area code provides 100,000 numbers in the format 01XXXX 00000 to 99999. However, this reduces to 79,000 numbers, as local numbers beginning with '0' and '1' can not be used for technical reasons while local dialling is allowed, and local numbers beginning with '99' are protected to avoid misdials to the '999' emergency number.

⁹¹ We proposed an alternative number supply measure in the November 2010 consultation. This measure was to merge each five-digit area code with its corresponding four-digit area code to create numbers with four-digit area codes and six-digit local numbers. However, we recognised that this solution would disrupt consumers in the relevant areas as a number change would be required and the more specific location significance inherent in each number would be diminished. We therefore considered whether alternative measures that would not affect local consumers could be introduced to increase the supply of number blocks available for allocation in the five-digit area codes.

to make best use of the numbers that remain available for allocation in those area codes.

- 4.13 Figure 4.1 below illustrates the number of 1,000-number blocks which remain available for allocation in the 11 five-digit area codes as at 29 June 2012 and the effect of 100 blocks of 100-numbers on number block availability in each of those area codes.

Figure 4.1 Block availability in the five-digit area codes following 100-number block roll out

Area code	Area	1,000-number blocks available as at 29 June 2012	Following 100-number block implementation		
			100-number blocks	1,000-number blocks	Total number of blocks
013873	Langholm	17	100	7	107
019467	Gosforth	19	100	9	109
015394	Hawkshead	19	100	9	109
015242	Hornby	20	100	10	110
015395	Grange over Sands	23	100	13	113
017687	Keswick	25	100	15	115
016973	Wigton	31	100	21	121
017683	Appleby	32	100	22	122
015396	Sedbergh	35	100	25	125
017684	Pooley Bridge	41	100	31	131
016974	Raughton Head	46	100	36	136

- 4.14 We estimate that the provision of 100 blocks of 100 numbers in each of the five-digit area codes would extend number availability in those area codes for 21 years on average. Langholm (013873), the first of the five-digit area codes predicted to run out of 1,000-number blocks, is forecast to have sufficient numbers to meet demand for 13 years if 100 blocks of 100-numbers are made available.

The 100-number block allocation proposal in the March 2012 consultation

- 4.15 In the March 2012 consultation we sought stakeholders' views on the details of our proposal to introduce 100-number block allocations in each of the 11 five-digit area codes. This is summarised below:
- the area codes to have a limited roll out of 100-number blocks are:
 - Appleby (017683); Gosforth (019467); Grange-over-Sands (015395); Hawkshead (015394); Hornby (015242); Keswick (017687); Langholm (013873); Pooley Bridge (017684); Raughton Head (016974); Sedbergh (015396) and Wigton (016973);
 - we would make up to 100 blocks of 100 numbers (i.e. 10,000 numbers) available for allocation in each five-digit area code;

- the 100-number blocks would be taken from unallocated 1,000-number blocks;
- we would make one 1,000-number block available for allocation as ten blocks of 100 numbers at a time;
- once allocated in blocks of 100, the numbers would remain in that size unit;
- numbers would also continue to be available for allocation in blocks of 1,000 numbers in these area codes;
- a CP applying for the number allocation would need to justify the appropriate block size (i.e. 100- or 1,000-number block) for allocation by stating the predicted demand for numbers on the form which CPs must complete when applying for allocation of telephone numbers;
- applications for 100-number blocks would be considered in accordance with our general requirements under our 'first-come first-served' system and any future changes to our allocation process that we may make subject to consultation;
- we proposed to modify the Numbering Plan in order to implement the allocation of 100-number blocks and to set out in Appendix A the area codes in which 100-number blocks would be made available for allocation; and
- the proposal is limited to the allocation of 100-number blocks and does not extend to withdrawal of unused allocated numbers in 100-number block units.

Responses to the March 2012 consultation

- 4.16 We asked stakeholders for comments on our proposal to make 100 blocks of 100-numbers available for allocation in the 11 five-digit area codes.
- 4.17 We received nine submissions⁹² on this proposal. The points raised and our responses are set out below.

Stakeholders' comments

Agreement with proposals for allocation of a limited number of 100-number blocks

- 4.18 All stakeholders who commented on 100-number block allocation agreed or had no objection to the proposals, apart from one consumer (Mr Goodman).
- 4.19 Mr Goodman considered that Ofcom had too much administrative control over number allocation as telephone numbers were a national asset. Mr Goodman argued that CPs should be able to obtain a number block allocation within 24 hours of request and at no cost.

Parameters for the limited roll out of 100-number blocks

- 4.20 BT supported the proposals to make 100 blocks of 100 numbers available for allocation in the 11 five-digit area codes. However, BT argued that the parameters of the limited roll out should be defined as tightly as possible in the Numbering Plan to avoid unintended 'creep' across other blocks in the area codes concerned or into additional area codes. BT explained that the unintended consequences of Ofcom's

⁹² Those respondents were BT, C&WW, KCOM, Magrathea, Sky, VON, [3<] and two consumers.

increasingly granular approach to number block allocation and withdrawal have had an impact on the decoding capacity in the trunk layer of BT's network as well as in some local switches. BT asked that Ofcom's Numbering Unit work more closely with CPs to try to avoid these problems arising and in the future focus the finite decoding resource on the most critical areas of number block shortage.

- 4.21 VON supported the proposal to allocate smaller number blocks and considered such action would ensure the ongoing availability of number blocks in the area codes proposed. However, VON would have preferred to see this measure implemented across the UK rather than on a localised basis. VON argued that this would have a positive impact on lowering barriers to entry, particularly for smaller and innovative CPs and would reduce the cost to CPs of acquiring number blocks in area codes where charging is implemented (presuming that a 100-number block would cost a tenth of a 1,000-number block).
- 4.22 Sky also supported the proposals for allocating 100-number blocks in the five-digit area codes and considered that we should be able to accept the return of allocated numbers in blocks of 100. Sky argued that this would enable more unused numbers to be returned to Ofcom and made available for new allocations, thereby increasing the supply of number blocks for CPs who need them.

100-number blocks in Hull (01482) area code

- 4.23 KCOM agreed with the 100-number block proposals for the five-digit area codes and argued that we should consider implementing 100-number block allocations in the Hull (01482) area code as a means for increasing the supply of number blocks.
- 4.24 KCOM argued that the impact of closing local dialling in the 01482 Hull area code would be more pronounced than in the rest of the UK due to the high population density and significant volume of local calls in that area. Also the absence of a wider choice of fixed-line providers for residential customers in the Hull area meant that customers would wrongly believe that the need for number supply measures was caused by KCOM. KCOM argued that a specific review of the 01482 area code is warranted with alternative solutions for increasing number supply sought, such as the allocation of smaller number blocks, to ensure that Hull residents are not unduly disadvantaged compared to residents in the rest of the UK.

Ofcom's response

Agreement with proposals for allocation of a limited number of 100-number blocks

- 4.25 We welcome stakeholders' support for the 100-number block proposal. We recognise the impact on CPs of such a measure, particularly on those with legacy networks, and value CPs' commitment to implement the necessary network changes to route calls made to numbers allocated in smaller blocks.
- 4.26 In answer to Mr Gooidman's concern that Ofcom has too much administrative control over telephone numbers, it is our duty under the Act to manage the UK's telephone numbers. We are responsible for ensuring that sufficient numbers are available to meet demand and for setting the policy on how numbers may be used. We allocate blocks of numbers to CPs using a rule-based process. This has benefits for all stakeholders, as it contributes to ensuring effective and efficient use of numbers which helps to limit the need for measures to address number shortages.

Parameters for the limited roll out of 100-number blocks

- 4.27 We acknowledge that CPs' commitment to 100-number block allocations is based on the specific parameters of the limited roll out which we proposed in the March 2012 consultation. BT in particular has raised concerns should the parameters be widened without further consultation. We have recognised the legacy network limitations during our review of geographic numbering and have been clear during the consultation on 100-number blocks that if we proceed we will work with CPs to implement this measure in a manner that minimises the impact on their networks. This includes defining the parameters of the initial 100-number block roll out (as set out in paragraph 4.15 above) and not extending these limitations without further consultation. Further consideration of how this commitment is reflected in the Numbering Plan is discussed in paragraphs 4.46 to 4.50.
- 4.28 We agree with VON that allocation of smaller number blocks across a wider selection of area codes could more closely align CPs' requirement with block allocation size. However, as explained in the March 2012 consultation⁹³ in answer to stakeholders' comments, we have taken into account the uncertainty over the impact on legacy networks from routing calls to numbers allocated in 100-number blocks and we agree with CPs likely to be affected by decoding constraints that it would be appropriate to proceed with a very limited roll out to assess the impact and understand the implications better.
- 4.29 The proposal for roll out of 100-number blocks relates only to new allocations, i.e. allocations made from 18 July 2012 onwards, in the 11 five-digit area codes. We have not included the ability to withdraw unused 100-number block units from numbers allocated at the 1,000- or 10,000-number block level. Ofcom is able to accommodate this action and agree with Sky that to do so would likely increase number utilisation levels in those area codes. However, it would result in many more 1,000-number blocks divided into 100-number block units, and this would use more of the legacy networks' limited decode resource, the impact of which is untested for 100-number blocks.
- 4.30 We consider that making 100 blocks of 100 numbers in each of the 11 five-digit area codes available for allocation should meet demand for smaller number blocks in those area codes for a considerable period. Until the impact of routing calls to numbers allocated in 100-number blocks has been assessed, we do not consider that it would be an effective use of decoding resources to withdraw unused 100-number block units and make these available for new allocations. However, this may be considered in the future during any review of 100-number block allocations and subject to consultation.

100-number blocks in the Hull (01482) area code

- 4.31 We recognise that KCOM is the main provider of services to residential and business customers in the Hull area. We also note KCOM's remarks on the high incidence of local calls.
- 4.32 According to our current forecast of number availability, we forecast that we currently have sufficient 01482 numbers to meet CPs' demand until at least 2018. As with all area codes facing exhaustion of our current supplies of numbers, we would prefer to implement measures which do not involve disruption to consumers where this is

⁹³ See paragraphs 5.25, 5.27 to 5.29 and 5.48 of the March 2012 consultation.

reasonable and feasible, including allocation of smaller number blocks as a solution to meeting demand for numbers.

- 4.33 As explained in paragraphs 4.9 to 4.15 we consulted on allocating a limited quantity of 100-number blocks in the 11 five-digit area codes due to the specific characteristics of those area codes (which includes a relatively small population served by the area code and therefore low consumer demand for numbers). As KCOM mentions, the area served by the 01482 area code has a dense population and we consider that such area codes may not be suitable for 100-number block allocations because we think CPs may need multiple 100-number blocks to meet demand and therefore the limited decode resource would not be used effectively. However, we may consider the case for extending 100-number block allocations to more area codes (including 01482) in the future during any review of 100-number block allocations and subject to consultation.

Decision on allocating 100-number blocks

- 4.34 The scarcity of numbers in the 11 five-digit area codes is particularly acute because their area code and local number structure provides a tenth of the numbers available in most other area codes. We have investigated the feasibility of addressing this shortage of number blocks without affecting consumers in those areas by allocating numbers more efficiently, making available 100 blocks of 100 numbers from our existing supplies to CPs requiring new numbers in each of those area codes.
- 4.35 We consulted on the general proposition of 100-number block allocations in November 2010 and on the specific proposals in relation to a limited roll out of 100-number blocks in the 11 five-digit area codes in September 2011 and March 2012. We have taken CPs' assumptions on the likely impact into account and anticipate that the limited nature of the roll out of 100-number blocks should be manageable and should result in more efficient use of the relevant numbers.
- 4.36 Having taken account of all submissions received to the consultations on these proposals, we have decided to proceed with the limited roll out of 100-number blocks in the 11 five-digit area codes within the parameters set out in paragraph 4.15 above.
- 4.37 The 100 blocks of 100 numbers specified in each of the 11 five-digit area codes are set out in Annex 3.
- 4.38 We will monitor the impact of 100-number blocks on legacy networks and then consider with the industry whether it is desirable and feasible for us to consult on allocating numbers in smaller blocks in other area codes and/or whether any additional numbers in the five-digit area codes should be made available for allocation in 100-number blocks.

Duties and legal tests

- 4.39 In order to implement the allocation of 100-number blocks in the five 11-digit area codes, we consulted in the March 2012 consultation on modifications to the Numbering Plan⁹⁴ in order to:
- define a '100-Number Block Area';

⁹⁴ Annex 5 sets out the procedure in the Act for consulting on modifications to the Numbering Plan.

- set out restrictions for the adoption of numbers allocated at the 100-number block level; and
- set out which area codes are ‘100-Number Block Areas’ in addition to having ‘Conservation Area Status’ (i.e. which area codes have numbers available in blocks of 100 and 1,000).

4.40 We looked at how a limited roll out of 100-number blocks would likely meet Ofcom’s duties and relevant legal tests in the Act in the September 2011 statement and consultation.⁹⁵ We further considered how the detailed proposals would meet those duties and tests in the March 2012 consultation⁹⁶ and sought stakeholders’ comments.

4.41 Specifically, we asked stakeholders for comments on:

i) our view 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; and

ii) the proposed modification to the Numbering Plan in relation to 100-number blocks as follows:

- definition of ‘100-Number Block Area’ (in the ‘Definitions and Interpretation’ section):-

‘**100-Number Block Area**’ means a geographic area in which 100-number blocks have been made available for allocation;

- restriction in the use of a numbers in 100-Number Block Areas (in new paragraph B3.1.9):-

100-Number Block Areas

B3.1.9 Numbers in geographic areas where a 100-Number Block Status is indicated and a block of that level has been allocated shall only be Adopted or otherwise used in units of 100 numbers at a time.

- insertion of a column in ‘Appendix A’ to indicate the 100-Number Block Areas through the placing of a ‘Y’ alongside the applicable area codes.

Stakeholders’ comments

4.42 C&WW and [§<] agreed that our proposal met the relevant legal tests and agreed with our proposed modification to the Numbering Plan.

4.43 BT suggested changes to the proposed modification to the Numbering Plan in order to reflect the parameters of the initial roll out as closely as possible. Specifically, BT suggested that our proposed text for new paragraph B3.1.9 of the Numbering Plan be modified as follows:⁹⁷

~~“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**

⁹⁵ See paragraphs 5.202 to 5.210 of the September 2011 statement and consultation.

⁹⁶ See paragraphs 5.76 to 5.85 of the March 2012 consultation.

⁹⁷ BT suggested the deletion of text in strikethrough font and the addition of text in bold font.

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.”

- 4.44 BT also suggested that the proposed column for addition to Appendix A to indicate 100-Number Block Areas should specify the ten 1,000-number blocks set aside for allocation at the 100-number block level. BT argued that, rather than simply inserting a ‘Y’ in this column, specifying the specific number blocks would reinforce the tight parameters of the limited roll out in accordance with the proposal on which Ofcom consulted.
- 4.45 A consumer (Mr Goodman) considered that the proposed modification to the Numbering Plan was not objectively justifiable in what it was intended to achieve and considered it a disproportionate measure as Ofcom placed too much administrative control on number allocation.

Ofcom’s response

- 4.46 BT argued that the Numbering Plan should set out the parameters of the 100-number block roll out and should state explicitly that a limit of 100 blocks of 100 numbers are available for allocation in each of the 11 five-digit area codes.
- 4.47 We have considered BT’s suggested amendments to our proposed text for paragraph B3.1.9 of the Numbering Plan. We agree with the principle of specifying that only 100 blocks of 100 numbers are available for allocation in each of the five-digit area codes and we have modified the proposed text for paragraph B3.1.9 accordingly. We have also added the location where the 100-number blocks are specified, which is the numbering database on our website (known as the National Numbering Scheme).⁹⁸ We have not included BT’s suggested reference to the numbers being allocated to CPs, as this relates to Ofcom’s allocation of numbers rather than a restriction in the adoption of telephone numbers.
- 4.48 The revised text for paragraph B3.1.9 in the Numbering Plan is as follows:

100-Number Block Areas

“B3.1.9 One hundred blocks of 100 numbers in each 100-Number Block Area have been specified in the National Numbering Scheme. These blocks shall only be Adopted in units of 100 numbers at a time.”

- 4.49 BT suggested specifying the blocks available for allocation at the 100-number block level in the Numbering Plan by setting these out in the proposed column in Appendix A. As explained above, we have decided to specify the 100-number blocks in the National Numbering Scheme. We consider this to be more appropriate than in the Numbering Plan, as the National Numbering Scheme sets out the detailed data on the allocation and availability of telephone numbers. For reference, the 100-number blocks specified in the National Numbering Scheme are set out in Annex 3.
- 4.50 As a consequence of BT’s suggestion to define the parameters of the 100-number block roll out and our decision to refer in paragraph B3.1.9 of the Numbering Plan to the blocks being specified in the National Numbering Scheme, we noted that the term

⁹⁸ The National Numbering Scheme is available on the Ofcom website at: <http://stakeholders.ofcom.org.uk/telecoms/numbering/telephone-no-availability/numbers-administered/>

'National Numbering Scheme' was not defined in the Numbering Plan. We have rectified this by including the following in the 'Definitions and Interpretation' section of the Numbering Plan:

'National Numbering Scheme' means the detailed data published by Ofcom and updated from time to time in relation to the Allocation and availability of Telephone Numbers;

Decision on legal tests and modification to the Numbering Plan

- 4.51 We now consider our decision to allocate 100-number blocks in the 11 five-digit area codes with respect to Ofcom's duties and the relevant legal tests in the Act.⁹⁹
- 4.52 We consider that our decision for a limited roll out of 100-number block allocations is consistent with our duties in carrying out our functions as set out in section 3 of the Act. In particular, we consider that the decision furthers the interests of citizens in relation to communications matters and consumers in relevant markets by ensuring that best use is made of the limited geographic numbers remaining available for allocation in the 11 area codes that form the initial roll out of 100-number blocks and that the numbers are used effectively and efficiently. This decision helps to ensure that geographic numbers remain available for allocation to CPs in the 11 area codes proposed, thus facilitating CPs in their provision of communications services to citizens and consumers, and promoting competition and choice for consumers.
- 4.53 The allocation of smaller number blocks in the 11 five-digit area codes also aims to further the interests of citizens and consumers by prolonging the availability of existing geographic numbers and thereby delaying the need for number supply measures (which can be disruptive and costly for consumers). By allocating smaller number blocks, we forecast that we could delay the need for number supply measures in the 11 five-digit area codes for a minimum of 13 years and for 21 years on average. Through the allocation of 100-number blocks, we expect that consumers' demand for numbers in these area codes would be met in a way that has no adverse impact on consumers.
- 4.54 In reaching our decision, we have also taken into account the Community obligations set out in section 4 of the Act, particularly the first requirement to promote competition in the provision of electronic communications networks, services and associated facilities through the ongoing availability of geographic numbers.
- 4.55 We have modified the Numbering Plan in order to implement this measure. Section 60 of the Act provides for the modification of documents referred to in the Numbering Conditions (which includes the Numbering Plan). Under section 60(2) we may only modify the Numbering Plan if we are satisfied that the revision is:
- objectively justifiable in relation to the matter to which it relates;
 - not such as to discriminate unduly against particular persons or against a particular description of persons;
 - proportionate to what the modification is intended to achieve; and
 - in relation to what is intended to achieve, transparent.

⁹⁹ We set out the legal framework in Annex 5.

4.56 We consider that the decision to proceed with a limited roll out of 100-number blocks meets these tests in the following manner:

- **objectively justifiable** - it is Ofcom's general duty in administering numbers to ensure their best use. We consider that the decision is objectively justifiable as it would further best use of numbers by more closely aligning allocation block size to likely demand and thereby improving utilisation in the relevant area codes;
- **non-discriminatory** – we have concluded that the allocation of a limited number of blocks of 100 numbers would not be discriminatory for the following reasons:
 - i) blocks of 1,000 numbers will remain available for allocation alongside 100-number blocks so that the appropriate block size to meet a CP's justified demand remains available for allocation. CPs will therefore not be unduly constrained by the introduction of 100-number blocks and by doing so, our decision to make smaller blocks available will not discriminate against CPs with a justified demand for the allocation of a larger block of numbers; and
 - ii) a limited roll out of 100-number blocks will help CPs and Ofcom assess the impact on CPs of routing calls to numbers allocated in blocks of 100 numbers. We anticipate that CPs operating legacy networks will experience the greater impact. We have consulted on the proposals with those CPs and consider that the limited roll out should not prove discriminatory;
- **proportionate** – in that it is the general objective of our review of geographic numbers to ensure that they are available to support competition in fixed-line voice services across the UK for the foreseeable future. The policy principles¹⁰⁰ that guide how we meet this objective are that:
 - i) the numbers consumers want are available when they are needed;
 - ii) the numbers consumers currently use are not changed if this is avoidable;
 - iii) the meaning which numbers provide to consumers is protected;
 - iv) number allocation processes support competition and innovation; and
 - v) consumers are not avoidably exposed to abuse.

The modifications to the Numbering Plan have made a limited quantity of smaller number blocks available for allocation. This measure has increased the supply of geographic number blocks in the 11 five-digit area codes. This will contribute to the meeting of our objectives set out above by ensuring that geographic numbers are available in the relevant area codes when needed, that numbers currently used in those area codes are not changed as a solution to number demand, that location significance is protected and that number blocks are available to support competition and innovation;

We have consulted CPs on the potential costs and timescales involved in the proposal.¹⁰¹ From CPs' responses, we have concluded that the potential costs

¹⁰⁰ See paragraphs 2.23 to 2.25 of the March 2012 consultation for more detail on our policy principles for managing geographic numbers.

¹⁰¹ See question 3 in the September 2011 statement and consultation and the summary of responses to that question in paragraphs 5.37 to 5.42 and 5.55 to 5.58 of the March 2012 consultation.

and implementation lead time would not be a barrier to implementing our decision for 100-number blocks and consider this to be an appropriate and proportionate approach to increasing the supply of number blocks in five-digit area codes; and

- **transparent** – in that the purpose of introducing 100-number blocks has been set out in this document and was the subject of earlier consultation in November 2010, September 2011 and March 2012. In the area codes concerned, we aim to make better use of the available numbers by more closely matching likely demand to allocation block size. By improving utilisation of numbers, we predict that we can delay the need for number supply measures in those area codes.

4.57 In addition, by this decision we consider that we are fulfilling our general duty as to telephone number functions as set out in section 63 of the Act by:

- **securing the best use of telephone numbers** – the numbers remaining available for allocation in the area codes subject to the roll out of 100-number blocks are particularly scarce due to the limited quantity of numbers created by their particular area code and local number structure. Action targeted to address this situation is required. This decision will ensure the best use of numbers remaining available for allocation in the area codes concerned, in a manner that has no impact on citizens and consumers in those area codes; and
- **encouraging efficiency and innovation** – smaller number blocks can more efficiently meet the numbering requirements of some CPs in the area codes concerned.

Section 5

Next steps

5.1 In this statement we have discussed how two specific measures to increase CPs' efficient use of geographic numbers could help meet the challenge of ensuring that numbers remain available for allocation to CPs. In this section we set out the next steps for implementing our decisions.

Summary of our decisions

5.2 In this document we have concluded on:

- the final arrangements for introducing number charging in a pilot scheme covering 30 area codes with the fewest number blocks remaining available for allocation; and
- the detailed arrangements to make 100 blocks of 100 numbers available to allocate to CPs in each of the 11 areas with five-digit area codes.

Decision to introduce number charging in a pilot scheme

5.3 Following refinement of our proposals to charge CPs for geographic numbers that they have been allocated in certain area codes, we have concluded that we will introduce charging in a pilot scheme covering 30 area codes with the fewest number blocks remaining available for allocation.

5.4 The pilot scheme will be introduced on 1 April 2013 and will be implemented by way of new conditions in GC17 (see Annex 6). We intend to begin a review of the pilot scheme around two years after launch.

5.5 The administrative arrangements for implementing the pilot scheme are set out in Annex 2 of this document, and we will publish a separate reference document on these arrangements before launch of the pilot scheme to ensure that CPs have the necessary and up-to-date information.

Decision to make 100 blocks of 100 numbers available for allocation in the 11 five-digit area codes

5.6 Following investigation into the feasibility of allocating a limited supply of smaller number blocks in the 11 five-digit area codes, as set out in the November 2010 consultation, the September 2011 statement and consultation and the March 2012 consultation, we have concluded that we will make 100 blocks of 100 numbers available for allocation in each of the following area codes:

Appleby (017683); Gosforth (019467); Grange-over-Sands (015395); Hawkshead (015394); Hornby (015242); Keswick (017687); Langholm (013873); Pooley Bridge (017684); Raughton Head (016974); Sedbergh (015396) and Wigton (016973).

5.7 We have modified the Numbering Plan in order to implement this decision.

Next steps

Preparation for pilot scheme launch

- 5.8 Later this year we will request information from BT, C&WW and Virgin Media on their average utilisation rates across number blocks allocated in the pilot scheme area codes. This information will be used to calculate the average industry utilisation rate benchmark for the discount applied to ported numbers. BT's average utilisation rate will be used to calculate its discount (should it choose to apply for it) for external WLR and public payphone numbers. If KCOM plans to apply for a discount for its public payphone numbers provided under a USO, it will need to supply Ofcom with its average utilisation rate across number blocks allocated in the 01482 Hull area code in order for us to calculate its discount.
- 5.9 As mentioned, we will publish a standalone reference document on our website setting out the administrative arrangements for the pilot scheme in detail. We will notify relevant CPs directly when it is available. This document will contain the average industry utilisation rate benchmark. BT's and KCOM's average utilisation rates are confidential.

100-number blocks available for allocation in the five-digit area codes

- 5.10 One hundred blocks of 100 numbers in each of the five-digit area codes have been specified in the National Numbering Scheme. One block of 1,000 numbers has been opened for allocation as ten 100-number blocks in each of the five-digit area codes. The remaining 100-number blocks are protected and will be made available for allocation as required up to the limit of 100 blocks of 100 numbers in each five-digit area code.

Review of our administrative processes for allocating geographic numbers

- 5.11 Separately, we are undertaking a review of our administrative processes for allocating geographic numbers. As part of that review, we intend to consult on the introduction of a time-limited reservation stage before allocation of numbers to those CPs that have not demonstrated operational readiness to put the requested numbers into use. We also plan to consult on changes to the forms that CPs fill in when applying for the allocation of new numbers which require CPs to give more detailed information which will help us to make our allocation decisions. We intend to publish a consultation on these proposals later this year.

Annex 1

Approach to number charges when the CP using the number is different from the range holder

Introduction

- A1.1 We discussed in Section 3 that there are cases where, for regulatory reasons, a CP provides a service to a customer using a number which has been allocated by Ofcom to a different CP. We have identified the following cases where this situation arises:
- the customer's number has been ported from one CP to another CP - a ported number remains allocated to the CP (known as the range holder) which was first allocated the number by Ofcom, even though another CP (the recipient provider) is using the number to provide a service to the customer; and
 - the exchange line is supplied using BT's Wholesale Line Rental (WLR) services – WLR lines are usually attached to a number allocated to BT (the range holder), but it is the CP that provides a service to the customer (the retail CP) that uses the number.
- A1.2 In summary, we have decided that the range holder can apply for a discount where numbers allocated to it are used by a different CP. Each CP is invited to provide Ofcom, by a specified date, with specific information on numbers which are ported out (and BT is additionally invited to provide a list of numbers used for external WLR), and we will apply a discount to the range holder's number charge bill for these numbers. We will also allow a discount to the number charge bill for numbers used for public payphone services which are provided under a USO.

Background

The November 2010 consultation

- A1.3 In the November 2010 consultation we considered that the range holder should pay a number charge to Ofcom, including in circumstances where the particular number is used by another CP under a regulated requirement. Administratively, this is a simpler solution (with lower administrative costs for CPs and Ofcom) than determining which CP is using each individual number in a number block and recovering a number charge from them.¹⁰²
- A1.4 We considered that where the range holder is not able to benefit from using some of its allocated numbers in a block, it may be appropriate for the range holder to recover reasonable costs associated with number charging from the CP using the number. This reflects the fact that the range holder would effectively be paying for a resource from which another CP is benefitting (and preventing the range holder from using the resource).

¹⁰² Under General Condition 18 CPs are obliged to provide Ofcom with information on ported numbers and the recipient provider if requested to do so.

- A1.5 In Annex 4 of the November 2010 consultation we assessed three options for 'cost recovery' for the range holder as follows:

Option 1: The range holder recovers a cost per number from the CP serving the customer equal to the charge per number set by Ofcom.

Option 2: The range holder recovers a cost per number from the CP serving the customer based on average utilisation of numbers by the range holder across all numbers allocated to it in all pilot scheme area codes. For example, if Ofcom sets the number charge at 10p per number per year for a block of 1,000 numbers, and the range holder is using 50 per cent of the numbers to provide a service to a customer, then the cost recovery per number per year would be 10p/50 per cent = 20p.

Option 3: The range holder recovers a cost per number from the CP serving the customer based on the range holder's utilisation of the numbers it has been allocated in each pilot scheme area code.

- A1.6 In response to the November 2010 consultation stakeholders generally accepted that the range holder should be able to recover costs from the CP using the number. However, some stakeholders commented that this approach would be potentially complicated and costly to implement because systems development would be required to calculate the cost recovery amount and bill for it.

The September 2011 statement and consultation

- A1.7 In light of these comments we consulted on two further options in the September 2011 statement and consultation aimed at reducing implementation costs:

Option 4: Reciprocal approach - CPs recover costs from each other on a reciprocal basis based on BT's average utilisation of numbers in pilot scheme area codes.

Option 5: Discount approach - The range holder obtains a reduction to the number charge bill in relation to ported and external WLR numbers. To obtain a reduction, the range holder would provide Ofcom with a list of numbers which are ported or used for external WLR, and a discount would then be applied to the bill for these numbers.

For WLR numbers, the discount would only apply for those attached to WLR lines provided to CPs outside the BT Group (referred to as 'external WLR' lines). No discount would apply to WLR lines provided by Openreach to other businesses within the BT Group (e.g. lines used by BT Retail or Plusnet). This is because in the case of such lines BT retains the retail customer relationship and is able to recover the cost of number charges from the end customer.

We considered that the discount should reflect the actual cost of using the number which depends on the number utilisation rate of the range holder.¹⁰³ This reflects the fact that a CP can only recover the number charge costs from numbers actually used by its customers, therefore the discount should reflect the cost that the range holder would recover through its retail pricing if its own customer were using the number. However, we also recognised that calculating a bespoke discount for each CP based on its own number utilisation would increase the complexity and

¹⁰³ We define number utilisation in paragraph A2.12.

implementation costs (for us and CPs). In light of this we proposed that the per number discount for ported and external WLR numbers should be calculated using a single figure – that being BT's average utilisation.

A1.8 In response to the September 2011 statement and consultation CPs generally welcomed Option 5, noting that it would reduce the implementation costs in relation to Options 1 to 4 (a full discussion of stakeholders' comments and our responses is provided in Annex 3 of the March 2012 consultation).

The March 2012 consultation

A1.9 We proposed to adopt Option 5 in the March 2012 consultation. In that consultation we proposed one amendment to the method to calculate the discount for ported numbers. Instead of using BT's average utilisation rate to calculate the discount for ported numbers we proposed to use a industry average utilisation rate benchmark that is calculated as a weighted average of the number utilisation rates of the three CPs with the largest number allocations in the pilot scheme area codes (discussed in the March 2012 consultation¹⁰⁴ and in paragraphs A1.22 to A1.32 below).^{105 106} Consistent with the proposals in the September 2011 statement and consultation, we proposed to use BT's average utilisation rate to calculate the discount for external WLR numbers on the basis that BT is the sole range holder for these numbers, and the discount rate would not be visible to external parties (i.e. the invoice would be issued by Ofcom to BT).

A1.10 In summary, we proposed that:

- the discount for ported numbers (including numbers ported from BT) would be calculated using an industry average utilisation rate based on a sample of three CPs which have the largest number of allocations in the 30 area codes included in the pilot scheme.
- the discount for external WLR numbers would be calculated using BT's average utilisation rate.

A1.11 In the March 2012 consultation we also clarified that the discount would not apply to numbers ported between CPs which are part of the same group of companies (for the same reason as the discount would not apply to WLR lines provided by Openreach to other businesses within the BT Group, noted above).

A1.12 We asked stakeholders:

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

¹⁰⁴ See paragraphs A3.48 to A3.58 of the March 2012 consultation.

¹⁰⁵ The three CPs that would be required to provide utilisation are BT, Virgin Media and C&WW.

¹⁰⁶ For example, if the industry average utilisation rate was 50%, each range holder would receive a discount of 20p per year per number ported to another CP (calculated as 10p divided by 50%). So, if a CP is range holder for 100 numbers with pilot scheme area codes which are ported to other CPs, the total annual discount would be 20p x 100 numbers = £20.

- A1.13 Having considered stakeholders' comments (discussed in detail below) we have decided to implement Option 5, i.e. the discount approach, as set out in the March 2012 consultation, for ported and WLR numbers.¹⁰⁷

Responses to the March 2012 consultation

Stakeholders' comments

- A1.14 Stakeholders continued to broadly support adopting Option 5 for ported and WLR numbers. SSE and C&WW agreed with the approach. BT and [3<] agreed with the discount approach but had specific comments on the utilisation rate used to calculate the discount for ported numbers. Virgin Media also commented on the utilisation rate for ported numbers. No stakeholders commented on the use of BT's average utilisation rate to calculate the discount for external WLR numbers.
- A1.15 BT accepted that Ofcom was trying to strike a balance in using an industry average utilisation rate based on information from three CPs to calculate the discount for ported numbers. However, in addition to this, it thought that other CPs should be invited to provide utilisation information should they so wish, in order to reach a more accurate industry utilisation figure without unduly burdening industry.
- A1.16 [3<] raised some conceptual and administrative issues with using an industry average utilisation rate for ported numbers. It thought that the approach was arbitrary and that industry benchmarks could be challenged/were contentious. It would prefer that its discount reflected its own utilisation rate noting that this meant it would have greater regulatory certainty around the level of the discount. It also suggested that the discount should increase with higher utilisation to act as an incentive to use numbers more efficiently. It noted that, as constructed, the discount falls as the utilisation of the three CPs used to calculate the rate increases. It struggled to understand this as a fair and reasonable concept. However, it appreciated the complexities of the issue and supported Ofcom in resolving them with the proposed approach.
- A1.17 Virgin Media thought that the industry average utilisation rate should be representative of the whole of industry and not just based on three CPs. It noted that larger CPs are likely to have a higher utilisation rate resulting in a lower discount. It considered that Ofcom had not factored in that BT accounts for the vast majority of number allocations in the pilot areas, with all the remaining CPs having less than 10 per cent share (including Virgin Media and C&WW). It considered it inequitable that other CPs such as KCOM and Gamma would not be required to provide utilisation information. It also noted that Virgin Media Limited, Virgin Media Wholesale and Eurobell do not hold allocations in all 30 prospective pilot scheme areas, whereas Gamma, Sky and Magrathea do.
- A1.18 Overall Virgin Media thought that the average utilisation rate should be calculated using a wider group of CPs and accurately reflect the different sizes/utilisation rates of CPs' customer bases and the range of number allocations in the pilot areas.
- A1.19 In response to the September 2011 statement and consultation BT raised a concern that those CPs actually using ported and external WLR numbers would not face charges. It therefore suggested that we directly charge the CPs using the numbers or provide a 'double discount' to the range holder to provide them with a similar

¹⁰⁷ We have made some changes to the information CPs need to provide to Ofcom to claim a discount – see paragraphs A2.46 to A2.54.

level of 'benefit'. In response to the March 2012 consultation BT expressed disappointment that we had not adopted either of these suggestions.

- A1.20 KCOM agreed with Option 5 for ported numbers, however, it argued that WLR numbers are very similar to sub-allocated numbers and the range holder could recover number charge costs directly from the CPs using the numbers. For the sake of reduced complexity for the pilot it agreed that the recovery of number charge costs through WLR pricing may not be warranted. KCOM expected the approach for WLR numbers to be revisited if number charging is adopted beyond the pilot scheme.
- A1.21 BT noted that it has a regulatory obligation to provide public payphone services and asked that numbers used for these should attract a discount.

Ofcom's response

Using individual CPs' utilisation rates to calculate a bespoke discount

- A1.22 [3<] suggested that CPs should be able to provide their own utilisation rates so Ofcom could calculate a bespoke discount for each CP. We discussed using individual CP utilisation rates to calculate the discount in the March 2012 consultation.¹⁰⁸ The advantage of this approach is that the discount for each CP would directly reflect its cost per number used. However, we considered that there are two disadvantages which in our view outweigh the advantages:
- CPs may be incentivised to provide a low utilisation rate to obtain a bigger discount; and
 - it would result in a significant administrative burden on CPs as a whole (because every CP claiming a discount would need to calculate its own utilisation rate) and Ofcom (because we would need to calculate a bespoke discount based on the utilisation rate for each CP and check the accuracy of the information provided from a potentially large number of CPs).
- A1.23 As BT suggested, we could allow CPs the opportunity to 'opt in' to submitting a utilisation rate should they wish to do so, and this would reduce the burden on CPs relative to an approach where all CPs had to submit a utilisation rate. However, as indicated above, given that CPs would have an incentive to provide a low utilisation rate to obtain a bigger discount, Ofcom would need to verify that each utilisation provided was accurate, and this would be a significant resource burden on Ofcom. We are therefore not minded to adopt this approach.
- A1.24 We do not consider that using an industry average utilisation rate will result in significantly greater uncertainty for CPs. The industry average utilisation rate will be calculated and published in advance of the launch of the pilot scheme which will provide CPs with certainty as to the discount for each ported number. In addition, the industry average utilisation rate will not change during the pilot scheme.
- A1.25 As the industry average utilisation rate will be calculated by Ofcom we do not see the method of calculation as a source of disagreement between CPs. We have set out the method for calculating the industry average utilisation rate (see paragraph A2.12).

¹⁰⁸ See paragraph A3.53 of the March 2012 consultation.

Including a larger number of CPs in the industry average utilisation rate benchmark

- A1.26 BT suggested that we could include CPs in the calculation of the weighted average utilisation rate on an 'opt in' basis. We have decided not to adopt this approach because we are concerned about the resource burden on Ofcom to verify the accuracy of the utilisation rates (see paragraph A1.23 above).
- A1.27 Virgin Media argued that we should include a greater number of CPs when calculating the industry average utilisation rate. It thought that by only including the three largest CPs the rate would not be reflective of industry, and the larger CPs are likely to have a higher utilisation rate (and therefore a lower discount would apply). It also considered it unfair that CPs such as KCOM, Gamma and Sky would not be required to provide utilisation information. Virgin Media noted that the industry average utilisation rate would be skewed towards BT who is allocated most number blocks in the pilot scheme area codes.
- A1.28 The purpose of the industry average utilisation rate is to calculate the discount for ported numbers. We recognise that the weighted average utilisation rate is likely to be skewed towards BT's utilisation rate, since BT has the largest allocation of geographic numbers. However, we do not consider that this is inappropriate as BT is also the range holder with the largest amount of ported out numbers. By way of illustration, in a formal information request in 2010, larger CPs were asked to provide information on ported out numbers for 19 area codes which would be captured by the pilot scheme. BT had around [redacted] ported out numbers across the 19 area codes. By comparison, the CP with the second largest amount of ported out numbers was Virgin Media at [redacted]. Smaller CPs are likely to have relatively few ported out numbers in the pilot areas, and will thus not be substantially impacted by the use of an industry average utilisation rate based on the utilisation rates of larger CPs.
- A1.29 It is the case that our approach means that only three CPs will be required to provide utilisation information to Ofcom. We have sought to minimise the burden on these CPs by requesting that utilisation information is only provided once for the pilot scheme.
- A1.30 Virgin Media noted that it does not have allocations across all the area codes potentially included in the pilot scheme. We do not consider this to be an issue as the industry utilisation rate represents an average across the pilot scheme area codes and is weighted according to total number blocks allocated to each CP. It is not necessary to have number allocations in all area codes.

Providing an increased discount for CPs with a higher utilisation rate

- A1.31 [redacted] suggested that the discount should be increased with higher utilisation to encourage CPs to use numbers more efficiently. Our overall objective in introducing number charges is to encourage CPs to use numbers more efficiently. We believe that applying a charge for each number in an allocated block (net of any discount for ported/external WLR/public payphone numbers) is sufficient to achieve this aim.
- A1.32 The discount for ported numbers is not directly aimed at encouraging efficient utilisation. The purpose of allowing a discount for ported numbers is to reflect the fact that the range holder is facing a charge for a resource which another CP is using, and the discount should therefore reflect the cost of the number charge that the range holder would recover through its retail pricing if its own customer were using the number. This means the discount falls as number utilisation increases,

because the range holder is able to recover the number charge costs across a larger number of customers. For these reasons we do not propose to adopt the approach suggested by [X].

Ofcom directly charging CPs using ported/external WLR numbers or providing a double discount to the range holder

- A1.33 BT suggested that not charging CPs for the use of ported/external WLR numbers was unfair. It suggested that Ofcom should directly charge CPs using ported/external WLR numbers or provide the range holder with an additional discount so the range holder and the CP using the number would have a similar level of benefit.
- A1.34 We discussed these suggestions in the March 2012 consultation.¹⁰⁹ We recognised that not charging the CPs using ported/external WLR numbers would benefit these CPs. However, on balance we were not minded to adopt either of BT's suggestions and we maintain this view for the reasons set out below.
- A1.35 We are not minded to directly charge the CP using ported/external WLR numbers because it would create a significant administrative burden for Ofcom and for CPs. We would need to request information from all CPs who have ported numbers in pilot scheme area codes (and from BT for external WLR use in these area codes), analyse each return to identify which CPs are using the numbers and then collate the numbers used by each provider across all the range holders' returns. For external WLR we would likely have to charge a significant number of additional CPs. Current indications are that we would charge 173 CPs for number allocations in the pilot scheme area codes and it is likely that significantly more CPs use external WLR in these area codes than have number allocations (we do not have information on the number of CPs using external WLR in the pilot scheme area codes, however, around 400 CPs use WLR across the UK).¹¹⁰
- A1.36 We recognised that providing an additional discount to the range holder would reduce the administrative burden compared to charging CPs directly. However, we consider that any possible advantage from CPs using ported or external WLR numbers (i.e. because such CPs would not be charged for the use of such numbers) is not likely to have a material impact on competition between CPs for the pilot scheme. As noted in Section 3, number charge costs are small in relation to wholesale costs (and even smaller when factoring in retail costs) so any possible impact on competition between CPs is likely to be small.
- A1.37 We were also concerned that providing an additional discount could reduce the overall bill for number blocks to the extent that it undermines our objective in encouraging efficient number use (i.e. the amount billed could become relatively trivial and fail to encourage CPs to use numbers more efficiently).

Using a different approach for WLR

- A1.38 KCOM thought that WLR and sub-allocated numbers were very similar and suggested that BT could recover number charge costs for WLR numbers through WLR pricing.

¹⁰⁹ See paragraphs A3.25 to A3.34 of the March 2012 consultation.

¹¹⁰ Information provided from Openreach to Ofcom.

- A1.39 We consider that there is a fundamental difference between WLR and sub-allocated numbers. Sub-allocated numbers are provided as part of a commercial agreement negotiated between the relevant parties. By contrast WLR is provided pursuant to a regulatory obligation, and the WLR line rental charge is currently subject to a charge control.
- A1.40 In any case, we discussed including number charge costs as part of the WLR price in the March 2012 consultation.¹¹¹ Such an approach might be considered more equitable because CPs using WLR would face number charge costs in the same way as CPs who have been allocated numbers by Ofcom. However, it would not significantly help to achieve our objective in encouraging efficient number use because it is BT, not the retail provider, which manages the number block (from which the WLR numbers along with numbers used by BT itself are assigned). In addition, it could increase the billing costs for BT because it does not currently have the functionality to bill other CPs for numbers. Implementing such functionality could be complex because the number charges would only be levied for WLR lines in pilot scheme area codes, BT would need a means to separate each WLR CP's lines into those that are in pilot scheme area codes and those that are not, and apply the number charges accordingly.
- A1.41 On balance, we decided that the additional complexity and administrative cost of recovering number charge costs through WLR pricing was not warranted, at least for the pilot scheme.

Providing a discount for numbers used by public payphone services under a USO

- A1.42 BT noted that it has a regulatory obligation to provide public payphone services and requested that numbers used by public payphones attract a discount.
- A1.43 We noted in the September 2011 statement and consultation that we would not apply number charges to public payphones.¹¹² We confirm that payphone numbers provided under a USO in the pilot scheme area codes will be eligible for a discount. BT and KCOM (the two CPs with a USO in the UK) will be invited to provide the total amount numbers used for payphones to Ofcom to obtain a discount to the number charge bill in accordance with the timescales for applying for a discount for ported and external WLR numbers. For BT the discount will be calculated using BT's average utilisation across the 30 pilot areas. KCOM will need to provide its average utilisation across the 01482 (Hull) area code to obtain a discount for its public payphone numbers. In this case, we consider that using each CP's average utilisation rate to calculate their individual discount is appropriate because BT (in the UK excluding Hull) and KCOM (in Hull) are the sole rangeholders for public payphone numbers provided under a USO. This has been reflected in the wording of GC17 (see Annex 6).

Conclusion

- A1.44 Having considered stakeholders responses we have decided to implement Option 5, i.e. the discount approach, to deal with ported, external WLR and public payphone numbers provided under a USO. In response to the March 2012 consultation, some stakeholders suggested alternative methods to construct the utilisation rate used to calculate the discount for ported numbers. We have

¹¹¹ See paragraphs A3.35 to A3.37 of the March 2012 consultation.

¹¹² See footnote 198 of the September 2011 statement and consultation.

discussed these suggestions above and have decided to maintain the approach set out in the March 2012 consultation.

A1.45 In summary, our decision is as follows:

- the discount for ported numbers will be calculated using an industry average utilisation rate based on a sample of three CPs which have the largest number allocations in the 30 area codes included in the pilot scheme, and which together account for a substantial majority of allocated blocks in those area codes.
- the discount for external WLR will be calculated using BT's average utilisation rate across the 30 pilot scheme area codes.
- the discount for public payphone numbers provided under a USO in the UK excluding the 01482 (Hull) area code will be calculated using BT's average utilisation rate across the 30 pilot scheme area codes.
- the discount for public payphone numbers provided under a USO in the 01482 (Hull) area code will be calculated using KCOM's average utilisation rate in the 01482 (Hull) area code.

A1.46 We will review this approach as part of the review of the pilot scheme.

A1.47 Further information on how the utilisation rates for the discount approach will be calculated, and the administrative arrangements for applying for a discount, is set out in Annex 2.

Annex 2

Implementing number charging in the pilot scheme

Introduction

- A2.1 In Section 3 we set out our decision to introduce a pilot scheme to charge CPs for geographic numbers in certain area codes and explain the method for calculating the charge, which includes the application of a discount if appropriate. This annex focuses on the administrative arrangements for implementing the pilot scheme.
- A2.2 We consulted on our billing assumptions for the proposed pilot scheme in the September 2011 statement and consultation.¹¹³ We took stakeholders' comments on those assumptions into account and set out our further proposals for implementing the pilot scheme in the March 2012 consultation.¹¹⁴
- A2.3 We summarise stakeholders' comments on the March 2012 consultation below and provide our response before setting out the final administrative arrangements for implementing the pilot scheme, including the area codes covered by the scheme.
- A2.4 The pilot scheme will be implemented as proposed in the March 2012 consultation, with the some modifications. In summary, these modifications (which are explained in more detail below) are as follows:
- CPs with allocated numbers in pilot scheme area codes which are used to provide public payphone services under a USO may apply for a discount to the number charge bill in respect of those numbers (see paragraph A1.43);
 - CPs applying for a discount (either for ported, external WLR and/or public payphone numbers) will need to provide Ofcom with specific information on the total amount of each of such numbers as at a date chosen and specified by the CP between 1 September and 31 October of that charging year. For ported and external WLR numbers, the amount of each of such numbers will need to be broken down as follows:
 - by each recipient CP for ported numbers;
 - by each retail CP for external WLR numbers; and
 - for public payphone services under a USO, the total amount of numbers must be provided;
 - we will provide a draft schedule to CPs to enable them to reconcile the bill and raise any queries with Ofcom ahead of issuance of the final schedule and invoice for payment. The draft (and then final) schedules will contain a list of all the number blocks held by the CP for which a charge is applied, the time period for which the blocks have been held, the calculation of any discount (if relevant) and the total number charge to be paid by the CP.

¹¹³ See paragraphs A6.6 to A6.11 of the September 2011 statement and consultation.

¹¹⁴ See Annex 4 of the March 2012 consultation.

A2.5 We will publish a standalone reference document containing further details on the administrative arrangements for implementing the pilot scheme before the start of the first charging year on 1 April 2013 so that CPs have the necessary and up-to-date information. We will notify relevant CPs when this document is available on our website.

Area codes included in the pilot scheme

A2.6 We have decided to introduce number charging in a pilot scheme covering 30 area codes with the fewest number blocks remaining available for allocation as at 29 June 2012. The number of blocks available for allocation has been adjusted to include CPs' confirmed but still outstanding block returns following Ofcom's number audits in 2011 and 2012.

A2.7 We provided an indication of the potential area codes for inclusion in the pilot scheme in the September 2011 statement and consultation and updated this list in the March 2012 consultation.¹¹⁵ We included 50 area codes in those indicative lists to provide information on those area codes that might be included in the pilot scheme following movement in allocation levels over the intervening months. The final list of area codes included in the pilot scheme is set out in Figure A2.1; this is also set out in Annex 2 to GC17 (see Annex 6 of this document).

A2.8 The pilot scheme area codes do not include the 11 five-digit area codes. As discussed in Section 4 (and paragraphs 4.7 and 4.8 of the March 2012 consultation), number block scarcity in the five-digit area codes is a result of the area code and number digit structure, which means there is only a tenth of the numbers available compared to four-digit area codes. In order to increase the supply of available number blocks for allocation in five-digit area codes, we will roll out a limited quantity of 100-number blocks in these area codes. Even after implementation of this measure, between 107 and 136 number blocks remain available for allocation in each area code, which means that some of the 11 five-digit area codes would fall within the 30 area codes with the fewest number blocks remaining available for allocation. However, given that five-digit area codes are used in areas with relatively small populations (i.e. comprising less than 21,000 people in each area¹¹⁶), there is a lower realised consumer demand for numbers. The shortage of number blocks available for allocation is therefore less of a pressing issue than in four-digit area codes and we consider it more appropriate to focus the pilot scheme on the four-digit area codes.

¹¹⁵ See Figure A6.1 in the September 2011 statement and consultation and Figure A4.1 in the March 2012 consultation.

¹¹⁶ Source: the 2001 Census.

Figure A2.1 Area codes included in the pilot scheme

	Area	Area code	Number of 1,000-number blocks available as at 29 June 2012 (adjusted to take account of confirmed returns following audit)	Year forecast to run out of existing numbers
1	Bournemouth	01202	14	2012
2	Bradford	01274	41	2014
3	Middlesbrough	01642	43	2014
4	Brighton	01273	45	2014
5	Aberdeen	01224	60	2015
6	Swindon	01793	67	2017
7	Milton Keynes	01908	72	2015
8	Stoke-on-Trent	01782	81	2014
9	Oxford	01865	87	2017
10	Swansea	01792	88	2017
11	Colchester	01206	96	2018
12	Luton	01582	98	2020
13	Northampton	01604	101	2018
14	Norwich	01603	103	2018
15	Cambridge	01223	104	2019
16	Plymouth	01752	104	2019
17	Derby	01332	105	2022
18	Dudley	01384	118	2020
19	Warrington	01925	118	2021
20	Blackpool	01253	121	2018
21	Dundee	01382	121	2020
22	Hull	01482	123	2018
23	Southend-on-Sea	01702	124	2019
24	Wolverhampton	01902	130	2019
25	Slough	01753	131	2020
26	Guildford	01483	134	2020
27	Gloucester	01452	135	2021
28	Wakefield	01924	135	2021
29	Camberley	01276	136	2024
30	Preston	01772	136	2021

Administrative arrangements for implementing the pilot scheme

A2.10 In this sub-section we first set out the administrative arrangements for implementing the pilot scheme as proposed in the March 2012 consultation. We then summarise stakeholders' comments on these proposals and provide Ofcom's response, before presenting the final administrative arrangements for implementing the pilot scheme.

Proposals in the March 2012 consultation

A2.11 To recap, the proposals in the March 2012 consultation regarding the administrative arrangements to implement the pilot scheme were as follows:

- i) Ofcom will bill CPs annually and in arrears;
- ii) charges will accrue on a daily basis;
- iii) the charging year will be the 12-month period from 1 April to 31 March;
- iv) the first charging year will be 1 April 2013 to 31 March 2014;
- v) from April 2013, each relevant CP will be asked to provide appropriate contact details for invoice validation and payment purposes;
- vi) during July of each charging year, each relevant CP will receive a 'Validation Statement' setting out their current number allocations in the pilot scheme area codes. It will include a draft invoice for the number charge at the end of the charging year if nothing changes in terms of number allocations in the intervening period, and if the CP does not apply for a discount to the bill in relation to ported or external WLR numbers;
- vii) also in July of each charging year, CPs will be instructed on how to apply for a discount to their number charge in relation to their allocated numbers that have been ported to another CP or used for the provision of external WLR as at 1 October of that charging year. A list of such numbers would need to be provided to Ofcom by 1 December if the CP wants to apply for a discount for that charging year;
- viii) during the last quarter of the charging year we will verify a sample of discount applications by cross-checking with recipient CPs (for ported numbers) and retail CPs (for external WLR numbers) that the numbers listed by the range holder have in fact been ported or used for WLR respectively. Discrepancies may result in the discount being withheld;
- ix) invoices for number charges will be dispatched to CPs during April 2014 and in April each year thereafter. Each invoice will include a schedule listing each number block for which a charge is applied, the time period for which the charge has accrued for that block and the applicable charge for each number block;
- x) invoices will be issued for full payment within 14 days of receipt in accordance with the proposed new conditions in GC17; and

- xi) payment by direct debit is strongly encouraged. CPs will be provided a Direct Debit instruction for completion. The online payment system will also be available to CPs issued a bill of £5,000 or less.¹¹⁷

A2.12 Further:

- i) the discount for ported numbers will be calculated using an average industry utilisation rate benchmark based on number utilisation rates across the 30 pilot scheme area codes for the three CPs with the largest quantity of numbers allocated in those area codes. Those CPs are BT, C&WW and Virgin Media. The utilisation rate of each of the three CPs will be weighted according to its number allocations in the pilot scheme area codes to calculate the industry average benchmark;
- ii) the discount for external WLR numbers will be calculated using BT's average utilisation rate across numbers allocated to it in the pilot scheme area codes;
- iii) prior to April 2013, we will undertake the necessary data gathering from BT, C&WW and Virgin Media to calculate the utilisation rates for the discounts. The calculation will be conducted prior to the start of the first charging year and is fixed until after the review of the pilot scheme;
- iv) for the purpose of calculating the utilisation rate, the following assumptions apply:
 - o a number is deemed to be 'utilised' if it is actively in service or reserved for a specific customer (this includes numbers which are used to serve customers by a CP different to the number block range holder, e.g. numbers which are ported, sub-allocated or used to provide wholesale line rental);¹¹⁸
 - o the utilisation rate for each CP is calculated as the total utilised numbers divided by total numbers allocated; and
 - o a single utilisation rate will be calculated across all number blocks allocated in the pilot scheme area codes. The utilisation rate will be calculated once and is fixed until after the review of the pilot scheme.

Stakeholders' comments

A2.13 We received comments on the proposed administrative arrangements for implementing the pilot scheme from four stakeholders.¹¹⁹

Payment period

A2.14 In the March 2012 consultation we proposed that the number charge invoices would be issued to CPs for full payment within 14 days of receipt of the invoice. We considered that this approach was appropriate for assets paid for in arrears, as the

¹¹⁷ The invoice will be issued post application of any discount for ported or WLR numbers. Therefore the online payment system will be available to CPs whose bill is £5,000 or less once the discount has been applied.

¹¹⁸ The proposed definition of 'utilised' here applies only for the purposes set out in this document.

¹¹⁹ BT, C&WW, KCOM and [redacted].

CP has already had the benefit of the number allocation for the period covered by the payment.¹²⁰

- A2.15 BT, C&WW and [X] argued that 14 days was not a reasonable or realistic time period to reconcile and approve payment. BT and C&WW pointed out that the detailed schedules would need to be reconciled, queries raised with Ofcom, payment authorised and then processed by the finance departments of the CP concerned. The invoices were likely to be complex, with some number blocks attracting part-year charges and a detailed discount structure. BT considered that it was likely to have to reconcile charges for up to 10,000 blocks across the 30 area codes in the pilot scheme. BT also pointed out that a longer payment timescale could reduce Ofcom's work in chasing late payments as more bills were likely to be settled within the payment timescale.
- A2.16 A range of alternative payment timescales were put forward by the three CPs that raised concerns. BT suggested that 60 days would be more reasonable. It did not consider that such longer payment period would affect CPs' response to number charging and their overall use of number blocks. C&WW suggested 56 days. [X] stated that, except in circumstances where there is substantial credit risks involved with a counterparty, industry usually works to 30 days.

Accrual of charges on a daily basis

- A2.17 We proposed that charges would accrue on a daily basis. Under this approach, a daily charge of 10p/365 per number would accrue for each day in the charging year that relevant number blocks are allocated to a CP.
- A2.18 BT considered that daily accrual would make reconciliation of invoices more onerous and added complexity with little added benefit for Ofcom or the CP allocated the numbers. Instead, BT argued that it would be far simpler to take a snapshot of number allocation on a particular date in a charging year and use this to calculate the annual charge, i.e. CPs would pay 10p for each relevant number allocated to them on that date. If Ofcom was concerned that CPs might potentially wait to seek allocations post the snapshot date, which may create a large increase in workload for Ofcom in processing an increase in numbering applications, then we could stagger this effect by specifying different snapshot dates for different CPs, or allowing CPs to choose different snapshot dates during the charging year.
- A2.19 C&WW considered that daily accrual of charges created an undue administrative burden and preferred an application of the charge on a monthly basis. This argument was based on C&WW's planned reliance on the National Numbering Scheme database on Ofcom's website to validate and reconcile the charging invoice, which lists only the month and year of allocation and not the day.

Non-payment of charges billed in arrears

- A2.20 We proposed that charges for number blocks would be billed in arrears. [X] considered (as it did in its response to the September 2011 statement and consultation¹²¹) that based on its own experience Ofcom may have difficulty in recovering monies from certain CPs if it billed for charges in arrears. However, as Ofcom continued to prefer this approach, [X] urged us to avail ourselves of all powers at our disposal to follow-up on any infringement. It asked that we outline a

¹²⁰ See paragraphs A4.50 and A4.53 of the March 2012 consultation.

¹²¹ See paragraphs A4.15 and A4.29 in the March 2012 consultation.

robust enforcement regime for non-payment as it was unclear on the terms of criminal or civil sanctions that would be available to us beyond financial penalties imposed under the Act.

Validation Statement

- A2.21 As part of the detailed arrangements for administering the pilot scheme, we proposed that during July of each charging year a 'Validation Statement' would be sent to all CPs with number blocks allocated in any of the pilot scheme area codes. The Validation Statement would set out the CP's relevant current allocations and would include a draft invoice of the annual number charge for the end of the charging year if nothing changes in the intervening period (i.e. if no further number blocks are allocated to that CP or returned in pilot scheme area codes and the CP does not apply for a discount in relation to ported/external WLR numbers).
- A2.22 BT questioned the value of the Validation Statement, given that it would be issued nine months ahead of the actual invoice. BT considered this meant it could not be used to help reconcile the final bill.

Discount applied to ported/external WLR and public payphone numbers

- A2.23 In the March 2012 consultation, we proposed that discounts may be applied to a CP's allocated numbers that are ported/used for external WLR as at a specific day during the charging year. The 'snapshot' date was proposed as 1 October of each charging year, being the mid-point of the charging period.
- A2.24 We proposed that CPs who wanted to apply for a discount to their number change bill for ported/external WLR numbers would need to provide a list of all the relevant numbers to Ofcom when making the application for the discount, including the name of the CP using each number. This list would need to be supplied to Ofcom by 1 December of that charging year for the discount application to be considered. We proposed to cross-check a sample of discount application data with the CP listed as using the ported/external WLR number.
- A2.25 BT requested greater flexibility for CPs to provide data on ported/external WLR numbers. Rather than a single 'snapshot' date of 1 October, BT suggested having a window period (e.g. between 1 September and 31 October) during which each CP could select a convenient date on which to take its snapshot. This would make it easier for the CP to resolve any problems that might arise and to plan for the data collection.
- A2.26 BT expressed some concerns over the logistics of a CP supplying a list of numbers used by third parties in order for it to obtain a discount for ported/external WLR numbers. BT asked for a better explanation of what information Ofcom needed and what we intended to do with it to understand whether the requirement was proportionate. BT noted that lists of ported/external WLR numbers would result in large quantities of data which Ofcom would be required to handle, and the request sounded excessive for a checking exercise. It also pointed out practicalities in providing information that we could use to verify number use by third parties as the CP listed as using the ported/WLR number may not be the final retail provider in the chain (i.e. not the provider with the retail relationship with the end user).
- A2.27 In determining what constitutes a 'ported' number for the purposes of applying for a discount, BT pointed out that it would consider that a number remained ported until such time as the recipient CP informed it (as the range holder) otherwise. For

instance, when a customer who has ported a number ceases service on that number, the number should be returned by the recipient CP to the range holder. However, BT pointed out that it was not the range holder's duty to police the ongoing use of ported numbers. KCOM suggested that if all numbers in a block are ported to the same recipient CP, then the whole block should be transferred so that CP becomes the range holder, and it would therefore be liable to pay the number charge for the block.

A2.28 With respect to calculating the utilisation rates used for the discounts, [X] commented that it was concerned over the lack of specific guidance provided as to what numbers Ofcom considered as being 'in use' and 'efficiently utilised'. BT considered that reserved numbers should not count as utilised as the numbers would not be in use, and therefore the CP could not onward charge customers to recover the associated number charge. BT subsequently clarified that its understanding of 'reserved' numbers was numbers earmarked for service provision to a customer whose contract would commence at a later date.

A2.29 As discussed in Annex 1,¹²² BT noted that it has a regulatory obligation to provide public payphone services and asked that numbers used for such services should attract a discount.

Ofcom's response

Payment period

A2.30 We have taken into account CPs' comments on the need for a reasonable and realistic timeframe to reconcile invoices, resolve any queries and arrange for payment to Ofcom. We agree that for many CPs the schedule that will accompany invoices will be detailed and will contain information on a large quantity of number block allocations. We therefore agree that a longer period to examine and reconcile number charge schedules is reasonable.

A2.31 We have developed an alternative approach which we have discussed with the three CPs that raised concerns about the payment period. This approach separates the reconciliation process from the invoice payment process. We consider that this separation reflects the division in the numbering and finance orientated tasks involved.

A2.32 The payment process will be as follows:

- in mid-April, following the end of each charging year, a draft schedule is issued to each relevant CP, setting out a list of number blocks for which a charge is applied, the time period for which the blocks have been held, the calculation of any discount applied for ported/external WLR and/or public payphone numbers (if relevant) and the total number charge to be paid by the CP;
- the CP has 45 calendar days (i.e. approximately mid-April to end of May) to examine the schedule and raise any queries with Ofcom (if CP does not respond and no queries are raised, Ofcom will proceed to issue the schedule in unamended form);
- Ofcom will aim to resolve all queries and issue CPs with their final schedule and invoice (with any amendments as appropriate) during the following 15 calendar days (i.e. by mid-June); and

¹²² See paragraphs A1.21 and A1.43.

- invoices will be issued for full payment within 14 days as reflected in the wording of the new conditions in GC17.¹²³

A2.33 We believe that the process outlined above is appropriate and reasonable because:

- it provides CPs with a longer period to reconcile detailed schedules and raise queries with Ofcom;
- it separates out the numbering and finance related tasks, which are likely to be dealt with by different teams within the companies and within Ofcom (i.e. the Numbering Team will deal with queries regarding the draft schedules, including the number allocations, and the Finance Team will deal with queries regarding the invoice and payment of the invoice);
- queries regarding the draft schedule can be resolved ahead of issuing the final invoice for payment, which avoids subsequent reconciliation issues and the potential need for credit notes; and
- it provides an opportunity for CPs to give their finance department prior notice of the invoice and the amount to be paid, given that reconciliation will be completed ahead of the issuance of the invoice. This should help to facilitate payment within 14 days of receipt of the invoice, as required by GC17.

A2.34 We have discussed the above approach with the three CPs that raised concerns about the payment period. Those CPs agreed that the principle of splitting the schedule reconciliation and the invoice payment process was sensible, and they broadly welcomed the revised approach to the payment process.

Accrual of charges on a daily basis

A2.35 Number charging is designed to incentivise CPs to use numbers more efficiently. As explained in the March 2012 consultation,¹²⁴ we consider that daily accrual provides the best incentive for CPs to return allocated blocks that are no longer required as soon as possible. Charges that accrue on another basis may create perverse incentives for CPs to retain number blocks for longer than required.

A2.36 We considered BT's alternative suggestion of using one snapshot date of number block holdings to calculate the annual charge for each CP. We do not agree that this is an appropriate approach to deliver the incentive of more efficient number use on an on-going basis as it does not encourage the return of number blocks in order to reduce the associated charges, apart from likely activity around the snapshot date.

A2.37 In our view, whether the charges accrue on a daily, weekly, monthly or another basis should not create an additional administrative burden as it relates to the calculation rather than the frequency of any billing actions. BT argued that daily accruals would make reconciliation of bills more onerous than using an annual snapshot date for calculation of the number charge. We consider that this depends on how CPs configure their systems to record number block allocation and interrogate that information to reconcile bills.

A2.38 We also considered C&WW's preference for monthly accrual as this would be consistent with the allocation data provided in the National Numbering Scheme on

¹²³ See Annex 6 for the Notification of new conditions in GC17.

¹²⁴ See paragraph A4.30 of the March 2012 consultation.

the Ofcom website which would help with the reconciliation of invoices. Noting this, we have adjusted the National Numbering Scheme to show the day as well as the month and year of each number block allocation. We have confirmed with C&WW that this satisfies its requirements and that it had no other concerns with daily accrual.

A2.39 On the basis of the above, we maintain our position that daily accrual of charges is appropriate.

Non-payment of charges billed in arrears

A2.40 In the March 2012 consultation¹²⁵ we proposed that the annual bill would relate to the previous charging year. Billing in arrears allows for a simpler and more accurate billing process compared to billing in advance as it removes the need for complicated reconciliation at the year end. We also noted that most CPs who commented on this proposal agreed that annual billing in arrears was preferable to reduce administrative work.

A2.41 [~~3~~] argued for billing in advance due to concerns about the creditworthiness of some CPs. Having looked at this approach, we consider that it would be a considerable increase to CPs' and Ofcom's work in order to reconcile pre-payment with actual number holdings (and applying the discount) and to apply credit, or debit, as the case may be, at the end of the charging year. We will monitor CPs' payment behaviour and consider any case for change as part of the review of the pilot scheme.

A2.42 In the March 2012 consultation¹²⁶ we set out the actions that Ofcom could take to require CPs to pay number charges. If a CP does not pay the charge within the payment period, this will constitute a breach of a General Condition, and Ofcom has the power to take action in respect of such breach, pursuant to sections 96A to 96C of the Act, including the imposition of specific requirements and a penalty, if appropriate.

A2.43 In addition, section 58(9) of the Act provides that payments that are required to be made to Ofcom in respect of number allocations (pursuant to section 58(1)(g)), must be paid as soon as they become due in accordance with the conditions imposing the obligation to pay, and, if not so paid, are to be recoverable by them accordingly. This means that Ofcom may bring civil proceedings for recovery of a debt due. Ofcom already follows this route in other areas, such as the recovery of unpaid licence fees or penalties¹²⁷ and in some instances outsources the debt recovery process to third parties.

Validation Statement

A2.44 BT questioned whether the Validation Statement was necessary. While adding a step in the process, we consider that the Validation Statement will provide value to CPs and Ofcom in streamlining the final billing and payment process, in particular for the first and second charging years when the process is new. The Validation Statement will be sent to all relevant CPs in July of the current charging year and will provide an opportunity for CPs to familiarise themselves with the format of the invoice and schedule which should help with planning the reconciliation process in the following

¹²⁵ See paragraphs A4.28 and A4.29 of the March 2012 consultation.

¹²⁶ See paragraphs A4.53 to A4.55 of the March 2012 consultation.

¹²⁷ For example, see section 346 of the Act.

year. The Validation Statement will also help Ofcom to verify CPs' contact information and ensure CPs are put on notice that charging is taking place.

A2.45 We have therefore decided to retain the Validation Statement for the pilot scheme and will consider its value as part of the review.

Discount applied to ported/external WLR and public payphone numbers

A2.46 We want to make the process for applying for a discount as practicable as possible for CPs. With this in mind, we have examined BT's suggestion of having a time period during which a CP can choose the specific date on which to check the status of ported/external WLR/public payphone numbers rather than Ofcom specifying the date. We agree that this is a sensible approach. We consider that BT's suggested range of 1 September to 31 October of each charging year is appropriate as it provides a month either side of the suggested 'snapshot' date of 1 October.

A2.47 We have also considered further the process CPs must follow to supply the information on ported/external WLR/public payphone numbers to Ofcom by 1 December of each charging year if they wish to apply for a discount to the number charge bill. We understand from BT's submission that it would simplify the administrative process if the CP's total amount of each of its ported/external WLR/public payphone numbers separated according to the CP using the numbers was required, rather than a list containing each individual number.

A2.48 The purpose of requesting the list of individual numbers was to give Ofcom a sufficient level of confidence that the information provided by CPs applying for a discount is accurate (by making CPs examine the information in more detail) and it would assist Ofcom in the verification process.

A2.49 Nevertheless, taking account of stakeholders' comments, in order to simplify the process for CPs for the pilot scheme we have amended the discount application process in this regard. CPs applying for a discount (for ported, external WLR and/or public payphone numbers) will need to provide Ofcom with specific information on the total amount of each of such numbers as at a date chosen and specified by the CP between 1 September and 31 October of that charging year. The amount of each of such numbers will need to be broken down as follows:

- by each recipient CP for ported numbers;
- by each retail CP for external WLR numbers; and
- for public payphone services under a USO, the total amount of numbers must be provided.

A2.50 CPs must also explain the method for collecting the data (e.g. details of relevant interrogation of IT systems).

A2.51 We will cross-check and verify a sample of the discount applications. We will do this by using our information gathering powers under the Act to ask a sample of recipient and retail CPs (as confirmed by the CP making the discount application as using the numbers under porting or WLR arrangements) to confirm that this is the case, and to inform us of the quantity of numbers used. The information will be requested as at a future date, as we recognise that CPs may not hold such information retrospectively. This means that we will need to compare information on number status as at two different dates, but we believe this will still allow us to achieve a sufficient level of

confidence in the verification exercise, and we can follow-up on any discrepancies with the CP making the discount application.

- A2.52 To confirm, if we are not satisfied with the information provided (for example, there are discrepancies in the data following the verification exercise), we may decide not to apply the discount for the relevant CP.
- A2.53 We recognise that the range holder can only provide us with information it holds on the CP using the ported or external WLR number and that this might not be the final retail CP. Nevertheless, we consider that the information available should be sufficient for our purposes and we can assess whether this meets our needs during the review of the pilot scheme.
- A2.54 On a similar point, as regards determining what constitutes a ported number for the purposes of applying for a discount, we agree with BT that a range holder can only act on information available. If a ported number is no longer used by the subscriber but the recipient CP has failed to inform the range holder of such, then the range holder will still consider the number as ported.
- A2.55 As for KCOM's comment on transfer of number blocks if all numbers in use are ported to the same recipient provider, Ofcom can facilitate this process. However, a request for transfer must be made by both CPs (i.e. the range holder and the recipient CP).
- A2.56 Regarding further clarification on the definition of 'utilised' numbers, we emphasise that the definition is only for the purposes of calculating the discount applied to ported/external WLR and public payphone numbers. It is a measurement of numbers in use from an allocated block and does not include any assessment of whether that use is considered 'efficient'. Only three CPs need to provide utilisation figures to Ofcom to calculate the average industry utilisation rate benchmark, and we will provide guidance to those CPs on an individual basis if necessary to ensure consistency in approach. We can also advise KCOM should it wish to apply for a discount for public payphone numbers provided under a USO.
- A2.57 The proposed definition of 'utilised' in the March 2012 consultation included reserved numbers. We have considered BT's argument that reserved numbers should not be included as charges could not be recovered from end users for those numbers. We consider that if numbers are reserved for the future use of a specific customer (for instance, by a customer reserving contiguous numbers for future expansion), then that customer has the option over the use of the numbers and CPs could, if they wish, onward charge that customer for the numbers. We note from clarification with BT that it assigned a different meaning to 'reservation' of a number. We therefore consider that such detail is better discussed directly with the relevant CPs if necessary to ensure consistency in understanding of terms and calculation of utilisation rates. We have decided to retain the definition of 'utilised' as proposed in the March 2012 consultation.
- A2.58 As regards applying a discount for public payphone numbers provided by a CP under a USO, see paragraph A1.43.

Decision on final administrative arrangements for implementing the pilot scheme

- A2.59 The final administrative arrangements for implementing the pilot scheme will be as set out in paragraphs A2.11 and A2.12 above, with the following adjustments:

- CPs providing public payphone services under a USO (i.e. BT in the UK excluding Hull, and KCOM in Hull) may apply for a discount to their number charge bill in relation to those numbers. The discount will be calculated using that CP's average utilisation rate across its allocated numbers in the pilot scheme area codes covered by the USO;
- CPs applying for a discount for ported/WLR/public payphone numbers provided under a USO will need to provide Ofcom with information on those numbers as at a date chosen and specified by the CP between 1 September and 31 October of that charging year;
- the information provided by CPs on ported/WLR/public payphone numbers provided under a USO will be the total amount of numbers used under such arrangements respectively across the pilot scheme area codes, provided as separate totals for each recipient CP for ported numbers and each retail CP for external WLR numbers, including the method for gathering the data; and
- a draft schedule will be sent to CPs in mid-April following the end of each charging year to allow for reconciliation and raising of any queries ahead of dispatching the final schedule and invoice in mid-June.

A2.60 We will publish a standalone reference document on the administrative arrangements for implementing the pilot scheme on our website before the launch of the pilot scheme and will notify relevant CPs of its publication. This document will set out the details of the process for charging, supporting information, relevant links and contacts for more information. It will also include the average industry utilisation rate benchmark used for the discount for ported numbers. We will update this document on an on-going basis as and when appropriate.

Annex 3

List of 100-number blocks

- A3.1 Figure A3.1 below sets out the 100 blocks of 100 numbers in the 11 five-digit area codes specified in the National Numbering Scheme.
- A3.2 The initial ten blocks of 100-numbers available for allocation in each five-digit area code are set out in the first row for each area code.

Figure A3.1 100-number blocks specified in each five-digit area code

Langholm	Hornby	Hawkshead	Grange-over-Sands
01387 35 10 - 19	01524 23 30 - 39	01539 45 40 - 49	01539 52 10 - 19
01387 35 20 - 29	01524 24 40 - 49	01539 45 50 - 59	01539 52 20 - 29
01387 35 30 - 39	01524 24 50 - 59	01539 45 60 - 69	01539 52 40 - 49
01387 35 40 - 49	01524 24 60 - 69	01539 45 70 - 79	01539 52 60 - 69
01387 35 50 - 59	01524 24 70 - 79	01539 45 80 - 89	01539 52 70 - 79
01387 35 60 - 69	01524 24 80 - 89	01539 45 90 - 99	01539 52 90 - 99
01387 35 70 - 79	01524 25 30 - 39	01539 47 00 - 09	01539 54 20 - 29
01387 35 80 - 89	01524 25 40 - 49	01539 47 20 - 29	01539 54 30 - 39
01387 35 90 - 99	01524 25 60 - 69	01539 47 30 - 39	01539 54 40 - 49
01387 38 70 - 79	01524 25 70 - 79	01539 47 40 - 49	01539 54 50 - 59
Sedburgh	Wigton	Raughton Head	Appleby
01539 64 50 - 59	01697 33 40 - 49	01697 42 70 - 79	01768 33 00 - 09
01539 64 60 - 69	01697 33 50 - 59	01697 42 80 - 89	01768 33 20 - 29
01539 64 70 - 79	01697 33 60 - 69	01697 42 90 - 99	01768 33 30 - 39
01539 64 80 - 89	01539 33 70 - 79	01697 43 10 - 19	01768 33 40 - 49
01539 64 90 - 99	01697 33 80 - 89	01697 43 20 - 29	01768 33 50 - 59
01539 65 10 - 19	01697 33 90 - 99	01697 43 30 - 39	01768 33 60 - 69
01539 65 20 - 29	01697 34 00 - 09	01697 43 40 - 49	01768 33 80 - 89
01539 65 30 - 39	01697 34 60 - 69	01697 43 50 - 59	01768 34 80 - 89
01539 65 40 - 49	01697 34 70 - 79	01697 43 60 - 69	01768 34 90 - 99
01539 65 50 - 59	01697 34 80 - 89	01697 43 70 - 79	01768 35 60 - 69
Pooley Bridge	Keswick	Gosforth	
01768 43 20 - 29	01768 72 10 - 19	01946 73 20 - 29	
01768 44 70 - 79	01768 72 20 - 29	01946 75 10 - 19	
01768 44 80 - 89	01768 72 30 - 39	01946 75 20 - 29	
01768 45 10 - 19	01768 72 40 - 49	01946 75 40 - 49	
01768 45 20 - 29	01768 72 50 - 59	01946 75 50 - 59	
01768 45 30 - 39	01768 72 60 - 69	01946 75 60 - 69	
01768 45 40 - 49	01768 72 70 - 79	01946 75 70 - 79	
01768 45 50 - 59	01768 73 30 - 39	01946 75 90 - 99	
01768 45 60 - 69	01768 74 80 - 89	01946 76 80 - 89	
01768 45 70 - 79	01768 74 90 - 99	01946 76 90 - 99	

Annex 4

Respondents to the March 2012 consultation

- A4.1 We received 14 responses to the March 2012 consultation, 11 of which referred to the proposals for charging for geographic numbers and/or 100-number blocks. One response is confidential. The non-confidential responses are available on our website [here](#).
- A4.2 Non-confidential responses on the proposals for charging for geographic numbers and/or 100-number blocks were received from the following organisations:
- British Sky Broadcasting Group plc ('Sky')
 - BT plc (BT)
 - Cable&Wireless Worldwide ('C&WW')
 - KCOM Group plc ('KCOM')
 - Magrathea
 - SSE plc
 - The Voice on the Net Coalition Europe ('VON')
 - Virgin Media
- A4.3 Non-confidential responses on the proposals for charging for geographic numbers and/or 100-number blocks were received from the following individuals:
- Mr C Goodman
 - Mr J Morrish

Annex 5

Legal framework

The legal framework

A5.1 Ofcom regulates the communications sector under the framework established by the Communication Act 2003 (the 'Act'). The Act provides, among other things in relation to numbering, for the publication of the National Telephone Numbering Plan (the 'Numbering Plan') and the setting of General Conditions of Entitlement relating to Telephone Numbers ('Numbering Condition', or 'GC17'). It also sets out statutory procedures governing the modification of the Numbering Plan and any General Conditions.

Ofcom's general duty as to telephone numbering functions

A5.2 Ofcom has a general duty under section 63(1) of the Act in carrying out its numbering functions:

“a) to secure that what appears to them to be the best use is made of the numbers that are appropriate to use as telephone numbers; and

b) to encourage efficiency and innovation for that purpose.”

Principal duties of Ofcom

A5.3 The principal duty of Ofcom to be observed in the carrying out of its functions is set out in section 3(1) of the Act as the duty:

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

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

Duties for the purpose of fulfilling Community obligations

A5.4 In addition to our general duties and our duty regarding telephone numbers, Ofcom must also take into account the six Community requirements in carrying out its functions as set out in section 4 of the Act. These include the requirement to promote competition in the provision of electronic communications networks and services, as well as the requirement to promote the interests of European citizens.

The Numbering Plan

A5.5 Section 56(1) of the Act states that:

“It shall be the duty of OFCOM to publish a document (to be known as “the National Telephone Numbering Plan”) setting out-

a) the numbers that they have determined to be available for allocation by them as telephone numbers;

- b) such restrictions as they consider appropriate on the adoption of numbers available for allocation in accordance with the plan;
- ba) such requirements as they consider appropriate, for the purpose of protecting consumers, in relation to the tariff principles and maximum prices applicable to numbers so adopted or available for allocation; and
- c) such restrictions as they consider appropriate on the other uses to which numbers available for allocation in accordance with the plan may be put.”

A5.6 The Act provides for Ofcom to review and revise the Numbering Plan. Section 56(2) states that:

“It shall be OFCOM’s duty -

- a) from time to time to review the National Telephone Numbering Plan; and
- b) to make any modification to that plan that they think fit in consequence of such a review; but this duty must be performed in compliance with the requirements, so far as applicable, of section 60.”

A5.7 Section 60 of the Act provides for the modification of documents referred to in the Numbering Conditions (which includes the Numbering Plan) and explains the procedures to be followed in order to conduct this review. Section 60(2) of the Act provides that:

“OFCOM must not revise or otherwise modify the relevant provisions unless they are satisfied that the revisions is -

- a) objectively justifiable in relation to the matter to which it relates;
- b) not such as to discriminate unduly against particular persons or against a particular description of persons;
- c) proportionate to what the modification is intended to achieve; and
- d) in relation to what is intended to achieve, transparent.”

A5.8 Section 60(3) further provides that:

“Before revising or otherwise modifying the relevant provisions, OFCOM must publish a notification -

- a) stating that they are proposing to do so;
- b) specifying the Plan or other document that they are proposing to revise or modify;
- c) setting out the effect of their proposed revisions or modifications;
- d) giving their reasons for making the proposal; and
- e) specifying the period within which representations may be made to OFCOM about their proposals.”

The Numbering Condition

A5.9 Section 45 of the Act gives Ofcom the power to set conditions:

“(1) Ofcom shall have the power to set conditions under this section binding the persons to whom they are applied in accordance with section 46;

(2) A condition set by Ofcom under this section must be either -

(a) a general condition....”

A5.10 Section 58 of the Act sets out that general conditions may include conditions about the allocation and adoption of numbers; these include conditions which impose restrictions and requirements on communications providers in connection with the allocation and adoption of telephone numbers.

A5.11 In particular, section 58(1)(g) provides that general conditions may include conditions which:

“require payments of such amounts as may be determined by Ofcom to be made to them by a person in respect of the allocation to him of telephone numbers”.

A5.12 Section 58(6) provides that general conditions providing for payments to be made to Ofcom pursuant to section 58(1)(g):

“a) must set out the principles according to which the amounts of the payments are to be determined;

b) may provide for the payments to consist of a lump sum in respect of a particular allocation or transfer or of sums payable periodically while an allocation remains in force, or of both;

c) may provide for the amounts to be determined by reference to —
...(ii) any other factors...as Ofcom think fit.”

A5.13 Section 47(2) of the Act sets out the test for setting or modifying conditions. The condition or modification must be:

“(a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates (but this paragraph is subject to subsection (3));

(b) not such to discriminate unduly against particular persons or against a particular description of persons;

(c) proportionate to what the condition or modification is intended to achieve; and

(d) in relation to what is intended to achieve, transparent.”

A5.14 Section 47(3) states:

“Subsection (2)(a) does not apply in relation to the setting of a general condition”.

A5.15 Section 48 of the Act sets out the procedure for setting, modifying and revoking conditions. According to section 48(2), where section 48(A) applies, Ofcom must

comply with the requirements set out in sections 48(A) and 48(B) before setting, modifying or revoking any conditions.

A5.16 Section 48(A) applies, among other things, where Ofcom proposes to set, modify or revoke:

“...b) any other conditions set under section 45 where what is proposed would, in Ofcom’s opinion, have a significant impact on a market for any of the services, facilities, apparatus or directories in relation to which they have functions under this Chapter.”

A5.17 Section 48A(3) provides that Ofcom must publish a notification:

“a) stating that they are proposing to set, modify or revoke the conditions that are specified in the notification;

b) setting out the effect of those conditions, modifications or revocations;

c) giving their reasons for making the proposal; and

d) specifying the period within which representations may be made to Ofcom about their proposal.”

A5.18 The consultation period must be no less than one month after the day of the publication of the notification (section 48A(4)), unless there are exceptional circumstances.

A5.19 Section 48(C)(1) provides that Ofcom must send to the Secretary of State a copy of every notification published under section 48A(3).

Annex 6

Notification of the setting of new conditions under section 48(1) of the Communications Act 2003

SETTING NEW CONDITIONS UNDER GENERAL CONDITION 17 REGARDING THE PAYMENT BY COMMUNICATIONS PROVIDERS TO OFCOM OF CHARGES FOR THE ALLOCATION OF CERTAIN GEOGRAPHIC NUMBERS

BACKGROUND

- A. The Director General of Telecommunications published on 22 July 2003 a notification (as subsequently amended) setting general conditions under section 45 of the Act which took effect on 25 July 2003. Since July 2003, general conditions so set have been modified on several occasions and new general conditions have been set by Ofcom (collectively, the “General Conditions”).
- B. On 20 March 2012, Ofcom published a consultation in accordance with section 48(A)(3) of the Act which contained a notification proposing to set new conditions under General Condition 17 regarding the payment by Communications Providers to Ofcom of charges for the allocation of certain geographic numbers.¹²⁸
- C. Ofcom invited representations on the proposals contained in its consultation, including the notification, by 2 May 2012.
- D. Ofcom received ten responses to the consultation,¹²⁹ and having considered every such representation made in respect of the proposals set out in the consultation, this present Notification and accompanying statement now implement the proposals with appropriate modifications, in accordance with section 48(A)(7).

DECISION

1. In accordance with section 48(1) of the Act, the new conditions are set out in the Schedule to this Notification together with the resulting changes to the remainder of General Condition 17. The new conditions shall enter into force on the date of the statement.
2. The effect of, and Ofcom’s reasons for setting, the new conditions are set out in the statement, and Ofcom is satisfied that the setting of the new conditions complies with the requirements of sections 45 to 49C of the Act, as appropriate and relevant, including the test in section 47. In addition, Ofcom has considered and acted in accordance with its

¹²⁸ “Geographic telephone numbers: Safeguarding the future of geographic numbers, Further Consultation” dated 20 March 2012, <http://stakeholders.ofcom.org.uk/binaries/consultations/geographic-numbers/summary/condoc.pdf>. The notification is contained in Annex 8.

¹²⁹ <http://stakeholders.ofcom.org.uk/consultations/geographic-telephone-numbers/?showResponses=true>.

duty in section 63 as to telephone numbering functions and its general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.

3. Copies of this Notification and the statement have been sent to the Secretary of State in accordance with section 48C(1) of the Act.
4. In this Notification:
 - (a) “the Act” means the Communications Act 2003;
 - (b) “General Conditions” means the general conditions set by the General Conditions Notification as amended;
 - (c) “Ofcom” means the Office of Communications.
5. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expressions shall have the same meaning as it has in the General Condition Notification and otherwise any word or expression shall have the same meaning as it has in the Act.
6. For the purpose of interpreting this Notification: (a) headings and titles shall be disregarded; and (b) the Interpretation Act 1978 shall apply as if this Act were an Act of Parliament.
7. The Schedule to this Notification shall form part of this Notification.

David Stewart

Competition Policy Director

18 July 2012

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

SCHEDULE

NEW CONDITIONS ADDED TO GENERAL CONDITION 17: CHARGING FOR SPECIFIED GEOGRAPHIC NUMBERS

The new conditions and resulting changes to the remainder of General Condition 17 are marked in bold in the following text.

17. ALLOCATION, ADOPTION AND USE OF TELEPHONE NUMBERS

General Prohibitions on Adoption and Use

- 17.1 A Communications Provider shall not Adopt Telephone Numbers from the National Telephone Numbering Plan unless:
- (a) the Telephone Numbers have been Allocated to the Communications Provider;
 - (b) the Communications Provider has been authorised (either directly or indirectly) to Adopt those Telephone Numbers by the person Allocated those Telephone Numbers.
- 17.2 The Communications Provider may only use a Telephone Number from the National Telephone Numbering Plan where that Telephone Number has been Allocated to a person, unless the use in question is for the purposes of indicating that the Telephone Number has not been Allocated.
- 17.3 The Communications Provider may only use (or, where specified, Adopt) a Telephone Number listed in **the Annex 1** to this Condition where such use or Adoption is in accordance with the designation attributed to that Telephone Number in **the Annex 1**.

Requirements in Connection with the Adoption of Telephone Numbers

- 17.4 The Communications Provider shall have a Numbering Plan for such Telephone Numbers as Ofcom may Allocate to it from time to time. Except where Ofcom otherwise consents in writing, such Numbering Plan shall be consistent with the National Telephone Numbering Plan. When applying for Telephone Numbers, the Communications Provider shall provide such details of its Numbering Plan to Ofcom as are relevant to the application.
- 17.5 The Communications Provider shall install, maintain and adjust its Public Electronic Communications Network so that it routes Signals and otherwise operates in accordance with the National Telephone Numbering Plan and any Allocation of Telephone Numbers made by Ofcom from time to time.
- 17.6 Where Telephone Numbers have been Allocated to the Communications Provider, that provider shall secure that such Telephone Numbers are Adopted or otherwise used effectively and efficiently.
- 17.7 The Communications Provider shall not unduly discriminate against another Communications Provider in relation to its Adoption or use of Telephone

Numbers for purposes connected with the use by that other Communications Provider, or its Customers, of any Electronic Communications Network or Electronic Communications Service.

- 17.8 The Communications Provider shall take all reasonably practicable steps to secure that its Customers, in using Telephone Numbers, comply with the provisions of this Condition, where applicable, and the provisions of the National Telephone Numbering Plan.

Requirements in Connection with the transfer of use of Allocated Telephone Numbers¹³⁰

- 17.9 The Communications Provider shall not transfer use of Telephone Numbers from the National Telephone Numbering Plan unless:
- (a) the Telephone Numbers have been Allocated to the Communications Provider; or the Communications Provider has been authorised (either directly or indirectly) to Adopt those Telephone Numbers by the person Allocated those Telephone Numbers;
 - (b) the telephone numbers are used in accordance with the National Telephone Numbering Plan; and
 - (c) the Telephone Numbers are Adopted or otherwise used effectively and efficiently.

Application for Allocation or Reservation of Telephone Numbers

- 17.10 When applying for an Allocation or reservation of Telephone Numbers, the Communications Provider shall: (a) use an appropriate application form as directed by Ofcom from time to time as it thinks fit; (b) provide such information as is required by such application form; and (c) provide to Ofcom, on request, any other information considered by Ofcom to be relevant to the application, and the supply of which does not place an undue burden on the Communications Provider.
- 17.11 Ofcom will determine, taking into account the provisions of the National Telephone Numbering Plan, any application for Telephone Numbers by the end of the period of three weeks after the date of the receipt by it of the completed application form. Where Ofcom has required any additional information under paragraph 17.9(c) in relation to any application, Ofcom will determine the application by the end of the period of three weeks after the date of the receipt by it of that additional information.

Allocation of Telephone Numbers for a limited period¹³¹

- 17.12 Ofcom may Allocate Telephone Numbers to the Communications Provider for a limited period only if the duration is appropriate for the service concerned in view of the objective pursued and taking due account of the need to allow for an appropriate period for investment amortisation.

¹³⁰ Changes to the General Conditions and Universal Service Conditions (Implementing the revised EU Framework), Statement and Notification, 25 May 2011, inserting new General Condition 17.9 on transfer and use of Allocated Telephone Numbers.

¹³¹ Changes to the General Conditions and Universal Service Conditions (Implementing the revised EU Framework), Statement and Notification, 25 May 2011, inserting new General Condition 17.12 and 17.13 on Allocation of Telephone Numbers for a limited period.

- 17.13 Where Telephone Numbers are Allocated to the Communications Provider by Ofcom for a limited period of time, Ofcom may withdraw any such Allocated numbers at the end of the set period.

Charging for Specified Geographic Numbers¹³²

17.14 The Communications Provider shall pay to Ofcom any applicable Annual Number Charge within 14 days of receipt of an invoice from Ofcom.

17.15 The Annual Number Charge will be billed annually in arrears following the end of each Charging Year.

17.16 The Annual Number Charge for a Communications Provider shall be:

- (a) the charges applicable to that Communications Provider calculated in accordance with paragraph 17.17; less**
- (b) any reduction applicable to that Communications Provider calculated in accordance with paragraph 17.18.**

17.17 In respect of each Specified Geographic Number the Communications Provider must pay £0.1/365 for every day within the Charging Year for which that Specified Geographic Number is Allocated to it. Such amounts are payable irrespective of whether or not a Specified Geographic Number has been Adopted or is in use.

17.18 If relevant, the amount of any reduction for a Communications Provider in respect of a Charging Year shall be:

- (a) (the total number of the Communications Provider's Ported Numbers) x £0.1 ÷ (the Average Industry Utilisation Rate); plus**
- (b) (the total number of the Communications Provider's WLR Numbers) x £0.1 ÷ (the BT Average Utilisation Rate); plus**
- (c) (the total number of the Communications Provider's Public Payphone Numbers) x £0.1 ÷ (the Communications Provider Average Utilisation Rate).**

17.19 If any reduction calculated pursuant to paragraph 17.18 exceeds the charges applicable to that Communications Provider calculated in accordance with paragraph 17.17, the Annual Number Charge shall be zero.

Withdrawal of a Number Allocation

17.20 It is hereby declared that Ofcom may withdraw an Allocation of Telephone Numbers from a Communications Provider where: (a) the Communications Provider has not Adopted those Telephone Numbers within six months, or such other period as Ofcom may from time to time direct, from the date on which the Telephone Numbers were Allocated, or (b) in relation to an Allocation of a series of Telephone Numbers, the Communications Provider has not Adopted those Telephone Numbers to any significant extent within six months, or such other period as Ofcom

¹³² Promoting efficient use of geographic telephone numbers, statement dated 18 July 2012. General Conditions 17.14 to 17.19 will come into force on the date of the statement.

may from time to time direct, from the date on which the series of Telephone Numbers was Allocated.

Requirements in connection with the use of telephone numbers¹³³

17.21 Where Customers of a Communications Provider are making calls to UK-wide Numbers (03)¹³⁴, Harmonised numbers for harmonised services of social value (116XXX numbers)¹³⁵ or Non-Geographic Numbers starting 0870¹³⁶, the Communications Provider shall comply with the designations for those numbers in the National Telephone Numbering Plan.

17.22 For the purposes of this Condition:

(a) “Affiliated Company” means any subsidiary or holding company of the Communications Provider, or any subsidiary of a holding company of the Communications Provider, all as defined in section 1159 of the Companies Act 2006;

(b) “Annual Number Charge” is a charge invoiced by Ofcom to a Communications Provider in respect of a Charging Year and is calculated in accordance with paragraph 17.16;

(c) “Average Industry Utilisation Rate” means the weighted average utilisation rate of Specified Geographic Numbers for the industry as calculated by Ofcom and notified to Communications Providers prior to the first Charging Year;

(d) “BT” means BT Group plc;

(e) “BT Average Utilisation Rate” means the average utilisation rate of Specified Geographic Numbers Allocated to BT as calculated by Ofcom and notified to BT prior to the first Charging Year;

(f) “Charging Year” means the 12 month period beginning on 1 April and ending on 31 March (excluding 29 February in any leap year), and the first Charging Year shall be 1 April 2013 to 31 March 2014;

(g) “Communications Provider” means a person who provides an Electronic Communications Network or an Electronic Communications Service;

(h) “Communications Provider Average Utilisation Rate” means the average utilisation rate of Specified Geographic Numbers Allocated to the relevant Communications Provider as calculated by Ofcom and

¹³³ Raising confidence in telephone numbers: amending General Condition 17, Notification, 31 May 2007 - inserted new condition 17.12 and renumbering 17.12 to condition 17.13.

¹³⁴ Review of the 070 personal numbering range, statement and notification (and correction), 27 February 2009 – deleted “or Personal Numbering Service (070) numbers”.

¹³⁵ Statement on Harmonised European numbers for services of social value – Allocation and charging arrangements for 116 numbers in the UK including modification to General Condition 17 – deleted the word “either” and added the words “or Harmonised numbers for harmonised services of social value (116XXX numbers)” into 17.12.

¹³⁶ Changes to 0870, Statement and notification of 23 April 2009, with effect from 1 August 2009, amending condition 17.12, replacing the word “or” before “Harmonised” with “,” and inserting “or Non-Geographic Numbers starting 0870” after “(116XXX numbers)”.

notified to the Communications Provider prior to the first Charging Year;

- (i) “Geographic Area Code” has the meaning given to it in the National Telephone Numbering Plan;**
- (j) “Geographic Number” has the meaning given to it in the National Telephone Numbering Plan;**
- (k) “Numbering Plan” means a plan describing the method used or to be used for the Adoption of a Telephone Number by the Communications Provider;**
- (l) “Ported Number” means a Specified Geographic Number Allocated to the Communications Provider which Ofcom is satisfied (pursuant to information received from the Communications Provider by 1 December of the Charging Year (or such other date as Ofcom notifies prior to the start of the Charging Year)) was on a particular day (as specified by the Communications Provider) between 1 September and 31 October of the Charging Year (or such other time period as Ofcom notifies prior to the start of the Charging Year) subject to an arrangement under which that Communications Provider had ported, in accordance with GC 18, that Specified Geographic Number to a person who was not an Affiliated Company;**
- (m) “Public Payphone Number” means a Specified Geographic Number Allocated to the Communications Provider which Ofcom is satisfied (pursuant to information received from the Communications Provider by 1 December of the Charging Year (or such other date as Ofcom notifies prior to the start of the Charging Year)) was on a particular day (as specified by the Communications Provider) between 1 September and 31 October of the Charging Year (or such other time period as Ofcom notifies prior to the start of the Charging Year) in use in respect of a Public Pay Telephone service provided under a Universal Service Obligation;**
- (n) “Specified Geographic Number” means a Geographic Number (identified by the Geographic Area Code) set out in Annex 2;**
- (o) “WLR” means Wholesale Line Rental, a regulated wholesale service sold by BT, which is used by the Communications Provider to provide retail customers with exchange lines and, in turn, access to other narrowband telephony services (for example, telephone calls, facsimile and dial-up internet access);**
- (p) “WLR Number” means a Specified Geographic Number Allocated to the Communications Provider which Ofcom is satisfied (pursuant to information received from the Communications Provider by 1 December of the Charging Year (or such other date as Ofcom notifies prior to the start of the Charging Year)) was on a particular day (as specified by the Communications Provider) between 1 September and 31 October of the Charging Year (or such other time period as Ofcom notifies prior to the start of the Charging Year) subject to an arrangement under which that Communications Provider was providing WLR to a person who was not an Affiliated Company.**

Annex 1 to Condition 17

List of Telephone Numbers available for use, or, where specified, Adoption, only in accordance with designation, under paragraph 17.3 of Condition 17: Allocation, Adoption and Use of Telephone Numbers.

[Note: the contents of Annex 1 are not subject to any further modification and are therefore not reproduced here.]

Annex 2 to Condition 17

Geographic Numbers which are Specified Geographic Numbers for the purposes of General Condition 17

1. Specified Geographic Numbers identified by Geographic Area Code:	
Geographic Area Code	Area
01202	Bournemouth
01274	Bradford
01642	Middlesbrough
01273	Brighton
01224	Aberdeen
01793	Swindon
01908	Milton Keynes
01782	Stoke-on-Trent
01865	Oxford
01792	Swansea
01206	Colchester
01582	Luton
01604	Northampton
01603	Norwich
01223	Cambridge
01752	Plymouth
01332	Derby
01384	Dudley
01925	Warrington
01253	Blackpool
01382	Dundee
01482	Hull
01702	Southend-on-Sea
01902	Wolverhampton
01753	Sough
01483	Guildford
01452	Gloucester
01924	Wakefield
01276	Camberley
01772	Preston

In this Annex, any word or expression shall have the same meaning as it has in General Condition 17 or the National Telephone Numbering Plan.

Annex 7

Notification of modification to provisions of the Numbering Plan

NOTIFICATION MODIFYING PROVISIONS OF THE NUMBERING PLAN SET OUT IN THE SCHEDULE TO THIS NOTIFICATION UNDER SECTION 60 OF THE COMMUNICATIONS ACT 2003

BACKGROUND

- A. Section 56(2) of the Act provides that it shall be Ofcom's duty from time to time to review the Numbering Plan and make such revisions that they think fit, provided such revisions are made, so far as applicable, in accordance with section 60 of the Act;
- B. On 20 March 2012, Ofcom issued a notification pursuant to section 60(3) of the Act of a proposal to make a modification to provisions of the Numbering Plan ('the Notification').
- C. A copy of the Notification was sent to the Secretary of State.
- D. Ofcom invited representations on the proposals contained in the Notification and accompanying consultation document by 2 May 2012.
- E. By virtue of section 60(5) of the Act, Ofcom may give effect to the proposals set out in the Notification, with or without modification, only if:
- they have considered every representation about the proposal that is made to them within the period specified in the notifications; and
 - they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
- F. Ofcom received nine responses to the Notification and have considered every such representation made to them in respect of the proposals set out in the Notification and the accompanying consultation documents and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose;
- G. For the reasons set out in the statement accompanying this modification Ofcom are satisfied that, in accordance with section 60(2) of the Act, this modification is:
- objectively justifiable in relation to the matter to which it relates;
 - not such as to discriminate unduly against particular persons or against a particular description of persons;
 - proportionate to what the modification is intended to achieve; and
 - in relation to what it is intended to achieve, transparent;

- H) For the reasons set out in the statement accompanying this notification Ofcom are satisfied that they acted in accordance with the relevant duties set out in sections 3, 4 and 63 of the Act;
- I) In considering whether to make the modification proposed in the Notification Ofcom have complied with all relevant requirements set out in section 60 of the Act.

DECISION

1. In accordance with section 56(2) of the Act, Ofcom hereby makes the modification to the provisions of the Numbering Plan set out in the Schedule to take effect on the date of the publication of this notification.
2. In making the modification in the Schedule Ofcom have considered and acted in accordance with the six Community requirements in section 4 of the Act as well as performed their general duties under section 3 of the Act and their duty as to telephone numbering in section 63 of the Act.
3. In this modification-
 - 'the Act' means the Communications Act 2003;
 - 'Ofcom' means the Office of Communications; and
 - 'Numbering Plan' means the National Telephone Numbering Plan published from time to time by Ofcom.
4. Except in so far as the context otherwise require, words or expressions shall have the meaning assigned to them otherwise any word or expression shall have the meaning it has in the Act, or if it has no meaning there, in the Numbering Plan.
5. 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.
6. The Schedule to this notification shall form part of this notification.

Signed by

David Stewart
Competition Policy Director

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

18 July 2012

Schedule

A. The following text shall be inserted alphabetically in the 'Definitions and Interpretation' section;-

'100-Number Block Area' means a geographic area in which 100-number blocks have been made available for Allocation as indicated in Appendix A of this Plan;

'National Numbering Scheme' means the detailed data published by Ofcom and updated from time to time in relation to the Allocation and availability of Telephone Numbers;

B. A new paragraph B3.1.9 (including sub-heading) shall be inserted in the Numbering Plan in 'Part B: Restrictions for the Adoption of Telephone Numbers' under 'B3: Specific Restrictions on Telephone Numbers':-

100-Number Block Areas

"B3.1.9 One hundred blocks of 100 numbers in each 100-Number Block Area have been specified in the National Numbering Scheme. These blocks shall only be Adopted in units of 100 numbers at a time."

C. The following column shall be inserted in 'Appendix A: Geographic Numbering – Geographic Area Codes and applicable Geographic Area' to the right of the column entitled 'Conservation Status':-

100- Number Block Area ²
--

² 100-Number Block Area is indicated as 'Y'

D. The following text (shown in bold font for indicative purposes) shall be inserted numerically by Geographic Area Code in 'Appendix A: Geographic Numbering – Geographic Area Codes and applicable Geographic Area':-

Geographic Area Code	Geographic Area	Conservation Status	100-Number Block Area
013873	Langholm	Y	Y
015242	Hornby	Y	Y
015394	Hawkshead	Y	Y
015395	Grange over Sands	Y	Y
015396	Sedbergh	Y	Y
016973	Wigton	Y	Y

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016974	Raughton Head	Y	Y
017683	Appleby	Y	Y
017684	Pooley Bridge	Y	Y
017687	Keswick	Y	Y
019467	Gosforth	Y	Y