



Changes to the Numbering Plan - Addendum

A proposal for modifications to the Numbering
Application Forms to facilitate the increase in VAT from
January 2011

Consultation

Publication date: 2 December 2010

Closing Date for Responses: 11 January 2011

Contents

Section		Page
1	Introduction	2
2	Changes to the Numbering Forms	3
Annex		Page
1	Responding to this consultation	8
2	Ofcom's consultation principles	10
3	Consultation response cover sheet	11
4	Consultation question	13
5	Numbering Application Form codes	14
6	Legal framework	15
7	Notification of proposed modification to the provisions of the numbering application forms under section 49(4) of the Act	17

Section 1

Introduction

- 1.1 On 22 October 2010 we published a consultation entitled “**Changes to the Numbering Plan** - A proposal for modifications to the National Telephone Numbering Plan to facilitate the increase in VAT from January 2011”. This document proposed a change to the way the prices of calls to 0843/4, 0871/2/3 and 09 numbers are designated in the National Telephone Numbering Plan (“the Plan”). This was so that the forthcoming increase in VAT can be applied to the retail prices of calls to those numbers.
- 1.2 In making this proposal we omitted to include an additional proposal that the changes should also apply to the Numbering Application Forms (“the Forms”) used by Terminating Communications Providers (“TCPs”) to request the allocation of new numbers by Ofcom.
- 1.3 To address this oversight we are issuing this Addendum to the earlier consultation to enable stakeholders to comment on the proposed changes to the wording of the Forms which would apply should the proposals in the earlier consultation be agreed. Please note we are only inviting comments on the changes to the wording used in the Forms, including revised pricing examples, as we have separately sought views on the reasons or principles underpinning the proposed changes to how retail prices should be designated.
- 1.4 Responses to this additional consultation should be sent to Geoff Brighton at Ofcom by 5pm on 11 January 2011. Full details of how to respond can be found at Annex 1 to this document.
- 1.5 We understand that these proposed changes to the Forms will not be in place when the VAT increase comes into effect. This will not prevent TCPs from increasing VAT on calls to existing 08 and 09 numbers but will instead delay the ability of TCPs to obtain new 08 and 09 number ranges for a short time until the revised Forms are available.

Section 2

Changes to the Numbering Forms

Background

The October Consultation

- 2.1 On 22 October 2010 Ofcom published a consultation document entitled “**Changes to the Numbering Plan** - A proposal for modifications to the National Telephone Numbering Plan” (“the Plan”)¹ to remove the constraints that will prevent the increase in VAT from January 2011² from being added to the retail prices of calls to some 08 and 09 numbers (“the October consultation”). This document set out our proposal to modify the Plan to enable the increase in VAT to be applied by BT to the retail prices of calls to 0843/4, 0871/2/3 and 09 numbers.
- 2.2 The reasons behind the proposed changes were set out in the October Consultation and comments were sought from stakeholders by 19 November. The comments received are being considered and we plan to issue a statement setting out our decision in the matter in December.
- 2.3 In consulting on changes to the Plan we are also required to consult on any consequential changes to the Numbering Application Forms (“the Forms”). Accordingly we are publishing this addendum to the October consultation in which we propose a series of deletions and subsequent insertions to Forms S8 and S9 respectively. These can be found in Annex 7 at the end of the consultation document.

Modification of the Plan

- 2.4 Section 1 of the Plan lists the various ranges of telephone numbers, what they are to be used for and, in certain cases, the maximum call charges from BT lines. These maximum prices caps were put in place specifically for consumer protection purposes to give an unequivocal message about the most BT customers can expect to pay to call those numbers. The prices are given as inclusive of VAT for added transparency.
- 2.5 At present the retail prices charged by BT for calls to 0842/3/4, 0871/2 and 09 calls are given in the Plan as:
- 2.6 For 0843/4:

“Special Services basic rate: charged at up to and including 5p per minute or per call for BT customers, set by Terminating Communications Provider inclusive of value added tax (the price charged by other Originating Communications providers may vary)”
- 2.7 For 0871/2/3:

“Special Services higher rate: charged at up to and including 10p per minute or per call for BT customers, set by Terminating Communications Provider inclusive of

¹ <http://stakeholders.ofcom.org.uk/binaries/telecoms/numbering/numplan280710.pdf>

² <http://stakeholders.ofcom.org.uk/consultations/numbering-plan-changes/>

value added tax (the price charged by other Originating Communications providers may vary)”

2.8 and for 09

“Special Services at a Premium Rate, that is charged at rates for Customers of BT which are generally either a) higher than 10p per minute up to and including £1.50 per minute including VAT, or b) fixed fee calls costing over 10p, up to and including £1.50 including VAT”.

- 2.9 The maximum prices are not charge controls. The levels were set in the interests of consumer protection by giving an unambiguous message about the maximum prices customers of BT could expect to pay for these calls. Giving prices in the Plan that were inclusive of VAT was designed to appear more user-friendly, but in an environment where VAT is subject to change this needs revisiting.
- 2.10 When VAT was reduced from 17.5% to 15% in March 2008 most fixed and mobile communications providers passed the reduction on to their consumers. This reduction was reversed when VAT returned to 17.5% in December 2009.
- 2.11 On 22 June 2010 the Chancellor of the Exchequer issued a special budget statement that included a number of fiscal measures including the notification of an increase in the rate of VAT from 17.5% to 20% with effect from 4 January 2011. Like similar services, this increase will apply to all telephone services including chargeable calls. Accordingly if the Plan and Forms were to remain unchanged BT would not be able to apply the VAT increase by raising the retail price of the calls by 2.5% but would recover the required amounts by reducing the payments it makes to Terminating Communications Providers (“TCPs”) and consequently available in the form of a revenue share with their Service Provider (“SP”) customers.
- 2.12 This means that instead of BT retail consumers facing a price increase, the increase would have to be borne by the providers of the various services.
- 2.13 Additionally, because the termination payments made by BT are generally used as the standard by other TCPs, SPs will be forced to accept reduced revenues even where OCPs’ maximum retail prices are not set out in the Plan. We estimate this reduction could amount to as much as £18m³ based on revenues reported in 2009.
- 2.14 We were also concerned about the loss of consumers’ price transparency from the loss of the clear price statements of 5p, 10p and £1.50 inclusive of VAT. The simplest means of amending the Plan is to state the maximum prices for each of the 084, 087 and 09 number ranges that are exclusive, rather than inclusive, of VAT. Thus those prices will now become 4.26p, 8.51p and 127.66p exclusive of VAT respectively. After 4 January 2011, the VAT inclusive maximum prices will become 5.1p 10.2p and 153.2p respectively.
- 2.15 These changes are viewed as a short term measure since we will be addressing transparency and other consumer policy issues as part of our broader review of NGCS on which we will be consulting shortly with a view to making permanent changes to the Plan after mid 2011.

³ Aggregated confidential revenue data provided by OCPs in response to Ofcom Information requests

The Numbering Application Forms

- 2.16 The the Forms are available from the Numbering section of the Ofcom website⁴ to TCPs seeking new or additional number ranges on which to host services. These set out what each range is to be used for or what types of services can use them.
- 2.17 The Forms also set out the maximum prices that apply to each range where these prices are specified in the Plan. For this reason when changing the wording or prices applying to numbers in the Plan we also need to make consequential changes to the wording in the Forms.

Impact Assessment

- 2.18 We have not carried out a separate Impact Assessment on our proposals. Because the proposed modifications are within existing numbering policy, we do not foresee any impact on stakeholders as a result of the implementation of the proposals other than the fact that consumers will be required to pay the increase in VAT. There will not be an inappropriate impact on the revenues of communications providers.
- 2.19 We have also considered whether there are likely to be any further consequences of the impact of the proposed changes and we do not consider there to be any. Consumers expect to pay VAT on goods and services. After January 4th 2011 VAT will increase on all other telecoms products e.g. exchange lines, broadband services and most calls. Making no changes to the Forms would single out calls to 0843/4, 0871/2/3 and 09 numbers for different treatment.
- 2.20 Further the impact of retaining the status quo would be detrimental and is likely to have a negative, and arguably discriminatory, effect on one section of the value chain. If this were to happen, the VAT increase would be borne by the providers of those services rather than retail consumers. This is because BT will still have to pay the additional tax to the Exchequer but instead of recovering the revenue from consumers it would be forced to reduce the payments made to TCPs who, in turn, will pass the reduction through to SPs. Meanwhile TCPs and SPs using other numbers would not see any reductions in their revenues which may be viewed as discriminatory.
- 2.21 This is why restating in the Forms how 0843/4, 0871/2/3 and 09 calls are charged at the retail level will eliminate these unwanted effects of a change in taxation. The result is that there will be no negative impact on industry which there would otherwise have been.

Consultation Period

- 2.22 We are consulting for a period of 4 weeks (plus an allowance for the Christmas and New Year break) on this occasion because this further notification is being published as a direct result of the changes to the Plan set out in the October consultation, the principles underpinning which we consulted on in that consultation.
- 2.23 Those same principles support the proposed changes to the Forms as set out in this consultation document.

⁴<http://stakeholders.ofcom.org.uk/telecoms/numbering/>

- 2.24 Ofcom's Legal Duties The General Conditions Notification that took effect on 25 July 2003 includes General Condition 17, which contains provisions relating to the allocation, adoption and use of telephone numbers.
- 2.25 Clause 17.9 states that:
- “When applying for an Allocation or Reservation of Telephone Numbers, the Communications Provider shall:
- (a) use an appropriate application form as directed by the Director from time to time as he thinks fit;
- (b) provide such information as is required by such application form (...).”
- 2.26 By virtue of the Transitional Provisions, references to the Director in the Numbering Condition should read as references to Ofcom.
- 2.27 Section 49 of the Communications Act 2003 (“the Act”) applies where a condition set under section 45 of the Act has effect by reference to directions, approvals or consents given by a person and that person is proposing to modify or withdraw a direction, approval or consent so as to affect the condition's operation.
- 2.28 Section 49(4) further provides that:
- “Before the direction, approval or consent is given, modified or withdrawn, a notification must be published –
- a) stating that there is a proposal to give, modify or withdraw it;
- b) identifying the person whose proposal it is;
- c) setting out the direction, approval or consent to which the proposal relates;
- d) setting out the effect of the direction, approval or consent or of its proposed modification or withdrawal;
- e) giving reasons for the making of the proposal; and
- f) specifying the period within which representations may be made about the proposals to the person whose proposal it is.”
- 2.29 It is our duty, when proposing these modifications to the Forms to show how we consider that our proposals comply with the legal tests set out in section 49(2) of the Act.
- 2.30 We are satisfied that the proposed modifications to the Forms meet the tests being:
- **objectively justifiable**, in that they remove an unintended consequence, from a rise in national taxation, caused by a limitation in the wording of the Forms.
 - **not unduly discriminatory**, in that they enable the increase in VAT to be applied uniformly to all retail call prices without affecting any one of the participants in the NTS/PRS value chain. Without the changes the call revenues of telecoms networks would remain unaffected whilst those of service and information providers would fall.

- **proportionate**, in that it removes from BT the need to introduce a reduction in wholesale charges and enables the implementation of the tax increase with the minimum of cost.
- **transparent**, insofar as the rise in VAT was published in the government's budget and widely publicised. The effects of the rise in VAT on calls made by BT customers and the Notification modifying the Forms are clearly set out in this document.

2.31 We consider that we are fulfilling our general duty as to telephone number functions as set out in section 63 of the Act by:

- i) **securing the best use of appropriate numbers**, in that the proposed modifications would not have any impact on the best use of numbers; and
- ii) **encouraging efficiency and innovation**, in that service providers will not have their ability to offer cost effective and innovative services prejudiced by the inappropriate application of retail taxation.

2.32 We also consider we are fulfilling our general duties as set out in Sections 3 and 4 of the Act, particularly in furthering the interests of consumers in relevant markets and by promoting competition in the provision of electronic communications networks, services and associated facilities. Our proposals ensure the continuation of a vibrant market in service provision and remove any likelihood that services might be withdrawn as a consequence of having to bear the costs of a consumption tax. If this were to occur it would result in detriment to SPs and to consumers for whom services may no longer be available.

Notifications of proposed modifications to the Numbering Application Forms

2.33 The Notification of the proposed modifications to the Forms is set out in Annex 7 of this consultation document.

Question

2.34 Ofcom is thus seeking stakeholders' comments on the revisions to the wording of the Forms as set out in the Notification at Annex 7 of this consultation document:

Do stakeholders agree that the changes to the text in Forms S8 and S9 of the Numbering Application Forms accurately reflect the changes to the Numbering Plan as proposed in the October consultation?

Next steps

2.35 The deadline for responses to this consultation is 11 January 2011. Taking into account all submissions received by that date, we will decide whether to implement the modifications (either as proposed or with amendments). We expect to publish our statement on our proposed modifications to the Forms in January 2011. We acknowledge that this will be a short time after the VAT increase takes effect but consider that this will only marginally delay the ability of TCPs to apply for new numbers priced at the maximum limit for each of the specified number ranges. Services priced below the range maxima are unaffected by our proposals.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 11 January 2011**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <https://stakeholders.ofcom.org.uk/consultations/addendum-numbering-plan/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email geoff.brighton@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Geoff Brighton
Competition Group
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.

- A1.5 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.6 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Geoff Brighton on 020 7783 4175.

Confidentiality

- A1.7 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.8 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.9 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.10 Following the end of the consultation period, Ofcom intends to publish a statement in January 2011.
- A1.11 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.12 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.13 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.14 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email vicki.nash@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

☐

Name/contact details/job title

☐

Whole response

☐

Organisation

☐

Part of the response

☐

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

☐

Name

Signed (if hard copy)

Annex 4

Consultation question

Sub heading

- A4.1 Ofcom is seeking stakeholders' comments on the revisions to the wording of the Numbering Application Forms as set out in the Notification at Annex 7 of this consultation document:

Do stakeholders agree that the changes to the text in Forms S8 and S9 of the Numbering Application Forms accurately reflect the changes to the Numbering Plan as proposed in the October consultation?

Annex 5

Numbering Application Form codes

A5.1 We make a series of Numbering Application Forms available on our website⁵ for communications providers to complete when applying for the allocation of numbers from Ofcom. The forms currently available are set out below for reference:

Form S1 - Geographic numbers (numbers starting with '01/02')

Form S3 - UK Wide Numbers (numbers starting with '03')

Form S56 - Location Independent Electronic Communications Service (numbers starting with '056')

Form S7 - Personal Numbering, Radiopaging and Mobile numbers (numbers starting with '07')

Form S8 - Special Services (numbers starting with '08')

Form S9 - Special Services at a Premium Rate (numbers starting with '09')

Form S10 - Access Codes (e.g. Directory Enquiry (DQ), Indirect Access, etc.)

Form S12 - Number Portability Prefix Codes (NPPCs)

Form S13 - Targeted Transit Codes

Form S14 - National Signalling Point Codes (NSPCs)

Form S15 - International Signalling Point Codes (ISPCs)

Form S16 - Carrier Pre-Selection (CPS) Codes

Form S17 - Communications Provider Identity (CUPID) Codes

Form S18 - Reseller Identity Codes (RIDs)

Form S19 - Mobile Network Codes (MNCs)

Form S20 – Partial Calling Line Identity (PCLI) Codes

⁵ The Numbering Application Forms are available via password on our website at <http://stakeholders.ofcom.org.uk/telecoms/numbering/applying-activating-tele-no/applying-telenumbers/number-application-form-link/>

Communications Providers may register with the Numbering Team at numbering.applications@ofcom.org.uk to obtain the access password for the Numbering Application Forms.

Annex 6

Legal framework

The legal framework

- A6.1 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”). It also sets out statutory procedures governing the modification of the Numbering Plan and any General Conditions, as well as the giving of directions under conditions such as the Numbering Condition, for instance in relation to application forms for telephone numbers.
- A6.2 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; 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.”
- A6.3 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.
- A6.4 Section 58 of the Act states that general conditions may include conditions about the allocation and adoption of numbers, including conditions which impose restrictions on and requirements in connection with the adoption of telephone numbers by a communications provider.
- A6.5 The General Conditions Notification that took effect on 25 July 2003 includes General Condition 17, which contains provisions relating to the allocation, adoption and use of telephone numbers.
- A6.6 Clause 17.9 states that :
- “When applying for an Allocation or Reservation of Telephone Numbers, the Communications Provider shall:

- (a) use an appropriate application form as directed by the Director from time to time as he thinks fit;
 - (b) provide such information as is required by such application form (...)
- A6.7 By virtue of the Transitional Provisions, references to the Director in the Numbering Condition should read as references to Ofcom.
- A6.8 Section 49(4) further provides that:
- “Before the direction, approval or consent is given, modified or withdrawn, a notification must be published –
- a) stating that there is a proposal to give, modify or withdraw it;
 - b) identifying the person whose proposal it is;
 - c) setting out the direction, approval or consent to which the proposal relates;
 - d) setting out the effect of the direction, approval or consent or of its proposed modification or withdrawal;
 - e) giving reasons for the making of the proposal; and
 - f) specifying the period within which representations may be made about the proposals to the person whose proposal it is.”

Ofcom’s general duty as to telephone numbering functions

- A6.9 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.”

General duties of Ofcom

- A6.10 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

- A6.11 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.

Annex 7

Notification of proposed modification to the provisions of the numbering application forms under section 49(4) of the Act

Proposal for making a Direction under paragraph 17.9(a) of General Condition 17 relating to numbering application forms

1. Ofcom hereby makes the following proposal for a Direction to be given under paragraph 17.9(a) of General Condition 17.
2. The draft Direction is set out in the Schedule to this Notification.
3. The reasons for making the proposal and the effect of the draft Direction are set out in the accompanying consultation document.
4. Representations may be made to Ofcom about the proposed draft Direction **by 5pm on 11 January 2011**.
5. Copies of this Notification have been made available to the Secretary of State.
6. Except as otherwise defined in this Notification, words or expressions used shall have the same meaning as they have been ascribed in the Act.
7. In this Notification:
 - “Act” means the Communications Act 2003;
 - “General Condition 17” means General Condition 17 of the General Conditions of Entitlement set by the Director on 22 July 2003 pursuant to section 45 of the Act
 - by way of publication of a Notification pursuant to section 48(1) of the Act;
 - “Director” means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1994; and
 - “Ofcom” means the Office of Communications.

Signed by Daniel Gordon

Competition Policy Director

A person authorised on behalf of Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

2 December 2010

Schedule

Draft Direction under paragraph 17.9(a) of General Condition 17

WHEREAS

- A. paragraph 17.9(a) of General Condition 17 provides that when applying for an Allocation or reservation of Telephone Numbers, the Communications Provider shall use an appropriate application form as directed by the Director from time to time as he thinks fit;
- B. by virtue of the Transitional Provisions, references to the Director in General Condition 17 should be read as references to Ofcom;
- C. for the reasons set out in the Statement accompanying this Direction, Ofcom are satisfied that the modifications to the numbering application forms in the Annex to this Direction ensure that the numbering application forms are appropriate for use by Communications Providers when applying for an Allocation or reservation of Telephone Numbers;
- D. for the reasons set out in the Statement accompanying this Direction Ofcom are satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - not such as to discriminate unduly against particular persons or against a particular description of persons;
 - proportionate to what it is intended to achieve; and
 - in relation to what it is intended to achieve, transparent.
- E. for the reasons set out in the Statement accompanying this Direction Ofcom are satisfied that they have acted in accordance with the relevant duties set out in sections 3 and 4 of the Act;
- F. a notification of a proposal to give this Direction was given under section 49(4) of the Act on 2 December 2010 (the 'Notification');
- G. a copy of the Notification was made available to the Secretary of State in accordance with section 50(1)(b) of the Act;
- H. in the Notification and accompanying consultation document Ofcom invited representations about any of the proposals therein **by 5pm 11 January 2011**;
- I. by virtue of section 49(9) of the Act, Ofcom may give effect to the proposal set out in the Notification, with or without Modification, only if –
 - i. they have considered every representation about the proposal that is made to them within the period specified in the notification; and
 - ii. 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;

- J.** Ofcom received X responses to the Notification and have considered every such representation made to them in respect of the proposals set out in the Notification and accompanying consultation document and the Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for this purpose;
- K.** In considering whether to make the modification proposed in the Notification Ofcom have complied with all relevant requirements set out in section 49 of the Act;

NOW, THEREFORE, OFCOM PURSUANT TO PARAGRAPH 17.9(a) OF GENERAL CONDITION 17, HEREBY DIRECT THAT-

1. Ofcom in accordance with Condition 17.9(a) hereby direct that for the time being the numbering application forms modified as set out in the Annex to this Direction shall be used by Communications Providers when applying for an Allocation of telephone numbers.

2. In this Direction-

'the Act' means the Communications Act 2003;

'Allocation' shall have the same meaning as in General Condition 17;

'Communications Provider' shall have the same meaning as in General Condition 17;

'General Condition 17' means General Condition 17 of the General Conditions of Entitlement set by the Director on 22 July 2003 pursuant to section 45 of the Act by way of publication of a Notification pursuant to section 48(1) of the Act and modified by Ofcom from time to time;

'the Director' means the Director-General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;

'Ofcom' means the Office of Communications;

'Telephone Number' shall have the same meaning as in paragraph 1 of Part 1 of the Schedule to the Notification published by the Director on 22 July 2003 under section 48(1) of the Act;

'Transitional Provisions' means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003 and the Office of Communications Act 2002 (Commencement No.3) and Communications Act 2003 (Commencement No 2) Order 2003.

3. Except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them. Otherwise, any word or expression shall have the same meaning as it has –

i. in the National Telephone Numbering Plan published by Ofcom from time to time pursuant to section 56 of the Act;

ii. if, and only if, it has no meaning ascribed as mentioned in (i) above, and only if the context so permits, in General Condition 17 (entitled 'Allocation, Adoption

and Use of Telephone Numbers') set by the Director by way of publication of a Notification on 22 July 2003 under section 48(1) of the Act and modified by Ofcom from time to time;

iii. if, and only if, it has no meaning ascribed as mentioned in (i) and (ii) above, and only if the context so permits, in paragraph 1 of Part 1 of the Schedule to the Notification published by the Director on 22 July 2003 under section 48(1) of the Act and modified by Ofcom from time to time; and

iv. if, and only if, it has no meaning ascribed as mentioned in (i), (ii) and (iii) above, and only if the context so permits, in the Act.

4. The Interpretation Act 1978 shall apply as if this Direction were an Act of Parliament.
5. Headings and titles shall be disregarded.
6. This direction takes effect on the date it is published.

Signed by Daniel Gordon

Competition Policy Director

A person authorised on behalf of Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

[insert date]

Annex to Schedule

Deletions

A. The following text shall be deleted from Pages 1 and 2 of Numbering Application Form S8 in the column headed **Service Type**: in the table under:

SPECIAL SERVICES APPLICATION - NUMBERS STARTING '08'

Special Services basic rate: up to and including 5p for BT customers (non-internet)

Special Services higher rate: up to and including 10p for BT customers (non-internet)

Non 'BT Discount Scheme' - Internet Services incorporating un-metered access up to and including 5p for BT customers

Internet Services metered access up to and including 5ppm for BT customers

Non 'BT Discount Scheme' - Internet Services metered access up to and including 5ppm for BT customers

Internet Services incorporating un-metered access up to and including 10p for BT customers

Non 'BT Discount Scheme' - Internet Services incorporating un-metered access up to and including 10p for BT customers

Internet Services metered access up to and including 10ppm for BT customers

Non 'BT Discount Scheme' - Internet Services metered access up to and including 10ppm for BT customers

B. The following text shall be deleted from the 2nd column in Table 5 on Page 6 of Numbering Application Form S8:

Up to and including 10p for BT customers (Non-internet)

Up to and including 10p for BT customers (Non-internet)

C. The following text shall be deleted from the 6th column in Table 5 on Pages 6 and 7 of Numbering Application Form S8:

Tariff for each number block (including VAT)

4ppm

4ppm

Tariff for each number block (including VAT)

D. The following text shall be deleted from the 1st column in Table 7 on Page 8 of Numbering Application Form S8:

Internet Services metered access up to and including 5p for BT customers

Special Services up to and including 10p for BT customers (non-internet)

E. The following text shall be deleted from the 5th column in Table 7 on Page 8 of Numbering Application Form S8:

4ppm

F. The following text should be deleted from Page 1 of Numbering Application Form S9 under the heading **Special Services at a Premium Rate Application**: Special Services at a Premium Rate numbers can be applied for under the following categories

0900, 0901 and 0902	Special Services, time charged calls up to and including 60ppm and total call cost not greater than £5 or fixed fee up to £1 per call (all prices are for BT customers);
0903, 0904, 0905, 0906 and 0911	Special Services, open ended time dependent charge or fixed fee up to £1.50 for BT customers;
0907	Special Services pay for product that costs more than £1 in total for BT customers; and
098	Sexual Entertainment Services at a Premium Rate

G. The following text shall be deleted from the 2nd column in Table 5 on Pages 4 and 5 of Numbering Application Form S9:

Time charged <= £5 Call-cap for BT customers

Time charged <= £5 Call-cap for BT customers

Pay for product > £1 for BT customers

Pay for product > £1 for BT customers

e.g. time charged <= £5 Call-cap for BT customers block, Pay for Product, Sexual Entertainment, etc.

H. The following text shall be deleted from the 5th column in Table 5 on Pages 4 and 5 of Numbering Application Form S9:

Tariff for each number block for BT customers (including VAT):

50ppc

50ppc

60ppm

60ppm

£1.20pc

£1.20pc

Tariff for each number block for BT customers (including VAT):

I. The following text shall be deleted from the 1st column in Table 7 on Page 6 of Numbering Application Form S 9:

e.g. time charged <=£5 Call-cap for BT customers block, Pay for Product, Sexual Entertainment, etc.

Time charged <= £5 Call-cap for BT customers

J. The following text shall be deleted from the 3rd column in Table 7 on Page 6 of Numbering Application Form S9:

Tariff for BT customers

50ppm

£1pm

Insertions

K. The following text shall be inserted in Pages 1 and 2 of Numbering Application Form S8 in the column headed **Service Type:** in the table under:

SPECIAL SERVICES APPLICATION - NUMBERS STARTING '08'

Special Services basic rate: up to and including 4.26p for BT customers (non-internet)

Special Services higher rate: up to and including 8.51p for BT customers (non-internet)

Non 'BT Discount Scheme' - Internet Services incorporating un-metered access up to and including 4.26p for BT customers

Internet Services metered access up to and including 4.26ppm for BT customers

Non 'BT Discount Scheme' - Internet Services metered access up to and including 4.26ppm for BT customers

Internet Services incorporating un-metered access up to and including 8.51p for BT customers

Non 'BT Discount Scheme' - Internet Services incorporating un-metered access up to and including 8.51p for BT customers

Internet Services metered access up to and including 8.51ppm for BT customers

Non 'BT Discount Scheme' - Internet Services metered access up to and including 8.51ppm for BT customers

L. The following text should be deleted from the 1st column in Table 5 on Page 6 of Numbering Application Form S8:

Up to and including 8.51p for BT customers (Non-internet)

Up to and including 8.51p for BT customers (Non-internet)

M. The following text should be inserted in the 6th column in Table 5 on Pages 6 and 7 of Numbering Application Form S8:

Tariff for each number block (excluding VAT)

3.4ppm

3.4ppm

Tariff for each number block (excluding VAT)

N. The following text shall be inserted in the 1st column in Table 7 on Page 8 of Numbering Application Form S8:

Internet Services metered access up to and including 4.26 p for BT customers

Special Services up to and including 8.51 p for BT customers (non-internet)

O. The following text shall be inserted in the 5th column in Table 7 on Page 8 of Numbering Application Form S8:

3.4ppm

P. The following text should be inserted in Page 1 of Numbering Application Form S9 under the heading **Special Services at a Premium Rate Application**: Special Services at a Premium Rate numbers can be applied for under the following categories:

0900, 0901 and 0902	Special Services, time charged calls up to and including 51.06ppm and total call cost not greater than £5 or fixed fee up to 85.11p per call (all prices are for BT customers and are exclusive of VAT);
0903, 0904, 0905, 0906 and 0911 0907	Special Services, open ended time dependent charge or fixed fee up to £1.27.66 exclusive of VAT for BT customers; Special Services pay for product that costs more than 85.11p exclusive of VAT in total for BT customers; and
098	Sexual Entertainment Services at a Premium Rate

Q. The following text shall be inserted from the 2nd column in Table 5 on Pages 4 and 5 of Numbering Application Form S9:

Time charged <= £4.26 Call-cap for BT customers

Time charged <= £4.26 Call-cap for BT customers

Pay for product > 85.11p for BT customers

Pay for product > 85.11p for BT customers

e.g. time charged <= £4.26 Call-cap for BT customers block, Pay for Product, Sexual Entertainment, etc.

R. The following text shall be inserted in the 5th column in Table 5 on Pages 4 and 5 of Numbering Application Form S9:

Tariff for each number block for BT customers (excluding VAT):

42.55ppc

42.55ppc

51.06ppm

51.06ppm

£1.02.13pc

£1.02.13pc

Tariff for each number block for BT customers (excluding VAT):

S. The following text shall be inserted in the 1st column in Table 7 on Page 6 of Numbering Application Form S9:

e.g. time charged <=£4.26 Call-cap for BT customers block, Pay for Product, Sexual Entertainment, etc.

Time charged <= £4.26 Call-cap for BT customers

T. The following text should be inserted in the 3rd column in Table 7 on Page 6 of Numbering Application Form S9:

Tariff for BT customers (excluding VAT)

42.55ppm

85.11ppm