Title:

Mrs

Forename:

Jacqui

Surname:

Brookes

Representing:

Organisation

Organisation (if applicable):

Federation of Communication services

Email:

[redacted]

What do you want Ofcom to keep confidential?:

Keep nothing confidential

If you want part of your response kept confidential, which parts?:

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

Ofcom should only publish this response after the consultation has ended:

Yes

Additional comments:

FCS welcomes and supports Ofcom?s proposals. We would like to make the following comments which amplify the points made by FCS in response to the earlier consultation in May 2009.

We agree that Ofcom?s proposals for capping MTRs, based on some measure of cost, will lead to better outcomes for consumers and should follow the EC recommendations.

Mobile Call Termination is one area where Ofcom is right to continue regulation in the public interest. Ofcom has assessed that the market will be able to cope with the changes. With growth in bundled services and mnos also selling fixed line services the telephony market is becoming unbalanced; the mnos are enjoying the protection of high MTR. As it is the glide path proposed in the consultation is still generous to them

There is a distinct asymmetry in the mobile market. There are 3/4 larger vertically integrated companies, a number of smaller and new entrant operators, several MVNOs/SPs and resellers. Wholesale mobile call termination rates illustrate the mobile market deficiency as they currently favour the incumbents and distort competition. Entry into the mobile market is difficult at the network level as spectrum due for release suitable for new mobile telephony services remains unassigned due to legal challenges. Market entry at MVNO level is only possible for major brands. At the reseller level wholesale rates are not competitive and the flip flop of tariff changes at short notice is disruptive and costly to this sector and their customers

On behalf of those smaller companies that have been able to enter the mobile market, despite significant barriers, we recommend that there should be a different glidepath which is up to 2 years longer to account for the asymmetry

We agree that regulation is necessary as MTRs are unlikely to fall on their own. FCS members have sought to agree negotiated rates with the large mnos and failed; they had to ask Ofcom to resolve their dispute. This process is time consuming to the benefit of the incumbents that are already in the market
.
Regulatory certainty and call price transparency are continuing themes for FCS members and their customers; we welcome Ofcom?s intention to ensure clearly defined prices and timescales.

Question 3.1: Do you agree with our views on whether and when new MCPs should form separate markets? Are there any factors we have not considered which should inform this view?:

we agree that MCPs form a seaprate market

Question 3.2: Are there any other types of providers we should also consider?:

not at present

Question 3.3: Do you agree with our views on the specific call types that should be included in the market? Are there any factors we have not considered which should inform this view, resulting in call types other than those identified being either included or excluded from the market?:

we have nothing further to add

Question 3.4: Do you agree with our view of that the geographic market for each of our proposed markets should be the area of the UK within which the MCP provides and can set a charge for mobile voice call termination services?:

yes

Question 4.1: Do you agree with our view? Or are there other developments, not considered elsewhere in this consultation document, for potentially removing the underlying causes of SMP?:

yes we agree.
Ofcom should also review the relation between voice, SMS and data as we have requested for several years.

Question 4.2: Do stakeholders have any comments on the analysis set out in this section?:

we generally agree with Ofcom's analysis

Question 4.3: Are there any other providers with SMP that we have not identified?:

none that we have identified

Question 4.4: Do stakeholders agree with our proposed SMP assessment for the period until 2014/15?:

for the large MNOs this time scale is very generous

Question 5.1: Do stakeholders agree with the identified harm to consumers of excessive termination rates in the period 2011 to 2015?:

for the current situation, we agree that there is consumer harm and a negative impact on other players in the telephony market

Question 5.2: Do stakeholders consider there to be any other forms of relevant consumer harm that we have not identified?:

the customers of resellers suffering from flip flop can also experience harm

Question 7.1: do stakeholders agree with Ofcom?s view regarding the need for transparency in MCT charges?:

yes

Question 7.2: Do stakeholders agree with our preliminary view on application of a condition requiring network access to be provided on F&R terms?:

yes but in any dispute between large MNOs and smaller players Ofcom should now consider the asymmetry between them in reaching a conclusion

Question 7.3: what are your views on the need for an ex ante undue-discrimination condition for the period of the next review?:

we fully support an ex ante undue discrimination clause and effective enforcement

Question 7.4: Do stakeholders believe that there are any circumstances or situations where the UK differs from other EU markets to the extent that would support a departure from following the EC Recommendation?:

no and the UK should follow the EC recommendation

Question 7.5: do you agree with Ofcom?s proposals for its preferred set of remedies for the provision of MCT services?:

yes

Question 9.1: Do you agree that a four-year period for the SMP remedies is appropriate?:

There are two communities that have different opinions

1 The smaller companies- new entrants and non national service providers - have a distinct asymmetry to the larger 4 mnos.
Smaller mobile entities should have a different glide path- additional 2 year over the incumbent 4 mnos,.

2 Consumers are keen to see earlier reduction in mtrs to gain benefits earlier- Ofcom should monitor consumer prices during this period of financial restraint

Question 9.2: Do you agree with our proposed modelling approach, as discussed in this section, the supporting annexes and the actual model? If not, please discuss the specific proposals you disagree with.:

we generally agree

Question 9.3: What is your view of the harm caused by flip-flopping? Please provide evidence to support your response.:

Mobile price changes to CPs and resellers, who have to buy minutes on terms for resale, face significant problems in having to respond to flip flop. The notice they receive from the mobile operators is often 30 days which is insufficient for them to advise their customers and alter their billing runs so they have to absorb the additional expense.

Other pricing changes to resellers are occurring frequently, but the MNO cost bases are not changing; resellers are very concerned at this arbitrary activity which has the outcome of additional costs to the reseller sector

Question 9.4: Do you agree with our preferred option for resolving the issue of flip-flopping ? i.e. charge changes restricted to the first day of each quarter and a 20% cap on individual time of day rate increases? If not, why not? Which is your preferred option and why? You may want to include discussion of the following in your response: the specifics of each option, e.g. the 20% cap in our preferred option, the effectiveness of the options in addressing the objectives, the practicalities of the options for you, any disadvantages/adverse effects of these options for you, and any other information or views that you feel are relevant to preventing flip-flopping.:

yes this is a step in the right direction

Question 9.5: Are there other, more proportionate solutions that we should consider?:

we have no proposals at this time

Question 9.6: Is it clear which types of calls are included in, and which types are excluded from, the new charge control and in turn the compliance calculation? If not, which call types do you want clarified?:

yes

Question 9.7: Is Ofcom taking the right steps to monitor compliance?:

Ofcom is advised to demonstrate a proactive approach to compliance and timely action.

Other issues that should have been included in a full mobile market review include why there is no national roaming- try making an urgent call on the Isle of Skye or the Outer Hebrides

Question 9.8: Are MCPs able to provide the information required to demonstrate compliance and for Ofcom to monitor compliance?:

no comment

Question 9.9: Do you agree with the conclusions of our distributional impact assessment?:

we generally agree

Question 9.10: Do you agree with our EIA, that reducing MTRs will have no significant impact on any specific identifiable group? If you disagree with this

statement we would welcome any evidence you hold showing why this statement might be incorrect.:

yes