

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Review of the 070 personal numbering range

To (Ofcom contact): Lester Mak

Name of respondent: Howard Erdunast, BT Group Regulatory Affairs Department

Representing (self or organisation/s): BT

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

Name/address/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

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I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

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Name

Signed (if hard copy)



6 January 2009

BT'S RESPONSE TO OFCOM'S CONSULTATION "REVIEW OF THE 070 PERSONAL NUMBERING RANGE"

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

Comments should be addressed to Howard Erdunast, BT Group Regulatory Affairs Department, pp C81, BT Centre, 81 Newgate Street, London EC1A 7AJ, or by e-mail to howard.erdunast@bt.com.

Introduction

1. Telephone numbers starting with the digits 070 are designated by Ofcom as Personal Numbers. These are intended to be used by customers as a single telephone number on which they can be contacted, more or less regardless of where they are, and/or on different devices. As Ofcom indicated in its 2006 review of telephone numbering “Safeguarding the Future of Numbering”, the range has been extensively misused for scams, a consequence of the higher termination rates available on the range. As a result, and in particular because it was felt that customers seeing a 070 number or Calling Line Identity (CLI) might have confused them with well trusted 07 mobile numbers and been scammed into dialling them, Ofcom suggested that one way of reducing the potential for consumer harm was to close 070 and open another numbering range, 06, to allow potential callers to better distinguish between the two call types and thereby decide whether to make calls.

2. BT welcomes the current Ofcom review, and the conclusions it reaches. BT maintained when it responded to the 2006 review that opening one of only two untouched 0X number ranges for such a niche service would not constitute best use of the numbers. Additionally, given the underlying problems leading to the contemplation of change, such a move was likely to give the whole 06 numbering space a poor reputation, rendering the remainder of the range unattractive for future applications. BT therefore particularly welcomes Ofcom’s conclusion that opening the 06 number range would be a disproportionate response to the problems, and unlikely alone to resolve them.

Ofcom’s proposals

3. BT believes that Ofcom is right to support PhonepayPlus’ efforts in relation to 070. Likewise, requiring originating providers to publish their tariffs for calls to 070 numbers to the same standard as tariffs to calls to 08 and 09 NTS numbers would be a proportionate measure.

4. BT also believes that reviewing the current guidance on acceptable use of 070 Personal Numbers would be a good way of informing all parties what to expect from 070 numbers, and ensure that the benchmark for assessing potential breaches remains clear and fit for purpose.

5. BT also notes and welcomes the formal removal of the 2007 requirement of a free to caller pre-call tariff announcement to be applied to calls to 070 numbers which may cost callers more than 20p per minute or a 20p fixed fee. Leaving aside the announcement’s interaction with the services to which Ofcom refers that led to the suspension of the requirement (which arguably are not services that under the Guidelines are suited to the Personal Numbering range), BT believes that the announcements added little value as

the technology available does not economically allow full and clear tariff information to be provided, and would be annoying to regular callers of 070 numbers as, again, the technology does not allow callers to switch off the announcements.

Further options Ofcom might consider

6. There seems to be a matter of public policy to be considered by Ofcom that would potentially address the problem. That is, if a recipient wants the convenience of being called on a single number wherever they are, should the cost fall on the prime beneficiary, that is, the recipient rather than the caller as is usually the case with these services today? The balance does not seem to be right, and it is this fact that has been abused in the past.

7. The abuse of 070 numbers arises because calls to 070 numbers generally cost callers considerably more than it costs to call most other numbers in the UK numbering scheme. Calls to 070 numbers usually contrast calls to other more expensive NTS numbers, where consumers may recognise the added value they are receiving, by way of, for example, information or entertainment delivered by the number. However, 070 numbers are functionally generally more like geographic or mobile numbers, in the sense that they are solely intended to facilitate two parties communicating with each other without the purchase of content within the call charge. It seems to BT that whilst the higher termination rate was originally intended to cover mobile or international termination rates, it has been in some cases exploited by less scrupulous recipients and providers. In effect, therefore, at best, 070 numbers provide a facility whereby the caller pays for the called party's call forwarding facility. At worst, simple low cost services are provided behind 070 numbers, the caller pays a premium, and the excess charges are distributed between the parties involved in receiving the call, this despite Ofcom's attempts to prohibit revenue sharing on 070 numbers. The potential availability of such easy revenue creates the incentives that lead to the sort of scams that most of industry and customers consider unacceptable relying on the caller having little option but to call the number they see or are given.

8. BT would suggest that Ofcom considers whether the public interest would be supported by 070 becoming more of a called party pays range, or at least whether there should be a retail price and termination rate ceiling for Personal Numbering. If the latter, a 8ppm termination rate might represent a suitable ceiling, allowing retail rates below 10ppm, thereby to some extent balancing the interests of both parties to a call, and as Ofcom points out, reflecting the falling mobile termination rates that higher tariffs to 070 numbers were intended to cover. It is worth noting that today there appear to be NO termination (or in fairness, origination) rate constraints in 070. It seems inadvisable that this should be left unchecked. Even the 09 PRS number range has a tariff cap.

9. BT believes that there are other measures Ofcom should consider, to protect callers. For example, we would suggest that there should be a specific prohibition on ringing tone being applied by the destination end user, and therefore charged for, once calls have been answered. There have been instances when customers have held on to what they believed were unanswered calls, when in fact they had been connected and charged.

10. Once Ofcom has allocated number blocks to terminators at a particular rate, there should be a prohibition on those being changed to a higher rate. Should the terminator require higher rate numbers, they should apply to Ofcom for them rather than converting existing allocations. Unless such a prohibition (or restriction on the extent of the tariff variation) exists, there is the possibility that callers could be charged more than they would have expected, by a very significant factor.

11. The majority of the AIT retentions in the 070 range have related to scams in fixed fee ranges. For example, there have been four recent cases investigated by PPP and closed down under the Emergency procedures that all involved fixed fee 070 numbers (shown at Annex 1 of this response). BT believes that in the interests of consumers, Ofcom should seriously consider specifically prohibiting single drop charge tariffs in 070 (other than potentially a very small call set up fee), as they seem to serve little purpose for genuine users of the range and have proven so attractive to scammers.

Number migration

12. BT welcomes Ofcom's position that it would prefer not to force number changes on 070 users. Should as a result of responses to this consultation Ofcom reach a different conclusion, BT would suggest using an open 0X range, as the size of the 070 market (Ofcom quotes £32m) does not merit the opening of a new 0X range when only two are spare. Better options include:-

- Numbers could be migrated to an 09X range. The obvious way would be to replace 070 with 097. The benefit of this would make the generally higher call prices more transparent to callers. The downside would be that legitimate users may be inconvenienced because calls to 09 numbers are sometimes barred, and barring may not always readily be adjustable to allow access to just one sub-range.
- Alternatively, numbers could migrate to the 03 or 08 ranges. A similar migration path could be facilitated, migrating 070 unused 03 or 08 ranges. In so doing, this would end the potential for the exploitation of the higher termination rate but would allow the customer a migration path. Before taking such a route, Ofcom should consider carrying out the public policy review suggested above.
- Make more than one of the above options available to 070 users

Responses to Ofcom's questions

Question 1: Do you agree with our analysis of consumer detriment on the 070 number range?

BT broadly agrees with Ofcom's assessment of consumer detriment but questions the validity of the underlying assumption from which flows the potential for detriment. That is, BT would question whether the caller should in effect subsidise the called party's chosen method of receiving calls, to the point where in some cases the called party may receive a financial inducement for receiving calls. BT believes that fairer outcomes should be sought, certainly if the currently proposed measures do not serve to clean up the range.

Question 2: Do you agree that the costs outweigh the benefits in relation to closing the 070 number range and migrating users to an alternative range?

BT agrees that the case for a forced number migration to a new number range is very weak.

However, another option open to Ofcom would be to prohibit further allocations of 070 numbers to end users by closing the range, but to allow existing users to continue using their numbers. That way, new allocations to end users could be made in a range that Ofcom concluded was more suitable, such as 03, 08 or 09. That way, a potential benefit accrues over time as the number of 070 numbers in use is immediately capped to the existing level and usage (and detriment) dwindles as new users take up similar services in more appropriate ranges. Thereby the costs of migration can be avoided.

Question 3: Do you agree that Ofcom should keep the 070 range open and monitor the market in light of enforcement action by PhonepayPlus?

BT believes that the case for closing the 070 range is very strong, especially if closure means only prohibiting new allocations without requiring existing users to change numbers, thereby eliminating migration costs from the cost/benefit equation, but would sympathise with Ofcom if it gave the PN industry one last chance to eliminate residual problems and exploitation of revenue share, albeit by other names. BT has explained elsewhere in this response what we consider to be proportionate measures Ofcom could consider in addition to those proposed in its consultation.

Question 4: Do you agree that Ofcom should require OCPs to give greater prominence to the cost of calling 070 numbers in published price lists and promotional material?

BT is uncomfortable with the wording of this question. We believe it is appropriate for price publication requirements for 070 to mirror those for 09 numbers. But that does not necessarily mean giving greater prominence if the originator is already doing this.

Question 5: Do you agree that Ofcom should amend its guidance to ensure that PNS providers carry out appropriate due diligence of sub-allocatees of personal numbers?

BT believes that it is appropriate for 070 providers to apply the new Consumer Protection Test for Numbers, as specified in the Statement following Ofcom's Consultation. However, where there is no evidence that numbers have been abused by particular service providers or end users, BT would suggest that retrospectively applying the test to existing users would not be proportionate.

An additional circumstance where due diligence should apply to existing users is where an AIT retention has been proposed in the past 24 months.

Question 6: Do you agree that Ofcom should not bar the presentation of 070 CLI? Please provide evidence to support your response

BT strongly agrees that technical measures to prevent the display of 070 CLIs by originators are not likely to be cost justified. However, BT would suggest that a more proportionate measure that Ofcom should consider is for the CLI Code of Practice to be amended so that it specifies that 070 numbers should be subjected to the same strictures as 09 numbers – which appear to have succeeded in 09 CLI dumping not being a problem. Given that the purpose of 070 numbers is for users to receive calls wherever they are, it is difficult to see a strong justification in the context of the level of mis-use in the range for the 070 CLI to be made available on outbound calls, over-riding the network CLI that would be transmitted if no action were taken.

It would therefore seem appropriate to amend the third bullet point of para 6.10 of the CLI Guidelines as follows:-

- **it must not be a number that connects to a Premium Rate Service prefixed 09, a Personal Number prefixed 070 or to a revenue sharing number that generates an excessive or unexpected call charge (NB the exploitation of a Presentation Number to generate revenue-**

sharing calls may constitute persistent misuse of an Electronic Communications Network or Electronic Communications Service

The reason for doing so is that it seems to have been effective in the context of PRS numbers and one of the main scams on 070 ranges arises from the increased use by consumers of missed numbers lists to return calls. The PhonepayPlus news alert dated 11 December 2008 (at Annex A) which instigated Emergency Procedures shows that the problem is still with us. BT believes that there are suitable measures that legitimate users of 070 numbers could take so as not to experience undue detriment by such a proposal.

Question 7: Should services provided by, for example, Hospedia, Premier Telesolutions and Trader Media be provided on an alternative number range to 070? Please provide any evidence to support your views.

BT does not have strong views on this matter. However, given the public disquiet on the matter, BT would simply suggest that it sees no reason why these services could not be provided more transparently behind other number ranges, as suggested elsewhere in this response.

Question 8: Do you agree that Ofcom should withdraw formally the requirement for pre-call announcements on 070 Personal Numbers?

Yes.

ANNEX 1

From: PhonepayPlus [mailto:postoffice@phonepayplus.org.uk]
Sent: 11 December 2008 09:59

Subject: PhonepayPlus news alert: Emergency procedure investigations



News alert

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EMERGENCY PROCEDURE INVESTIGATIONS

PhonepayPlus, the phone-paid services regulator, has launched four separate investigations following complaints from members of the public.

The complaints relate to consumers receiving missed calls to both landlines and mobiles from 070 prefixed numbers. These calls are terminated after one ring which prompts the consumers to call back. Depending on the service, consumers have reported hearing a continuing recording of a ringing tone, or have been connected to a voicemail messaging facility, upon callback.

Having contacted the network operators through whose networks the four services operate, PhonepayPlus has been advised by those networks that the service providers for each individual investigation, responsible under the PhonepayPlus Code of Practice to be:

- H. Navaneeth
- K. Felix J. Paul
- T. Jaya Kandan
- Mr Jaswinder Singh

Due to the very serious nature of the alleged breaches of its Code of Practice, PhonepayPlus has invoked its emergency procedure to bar access to numbers associated with the four services with immediate

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effect.

The bar on access applies to all numbers on which the four services have been operating. In addition, all revenues payable to the four service providers have been withheld by their individual network operator pending the outcome of the investigation.

PhonepayPlus regulates premium rate service providers, which are defined in paragraph 11.3.6 of the PhonepayPlus Code of Practice (Eleventh Edition Amended April 2008).

Background

The four services are charged at 50 pence per call, plus 3.95 pence per minute at all times from landlines, and potentially considerably more from mobile phones. These services are brought to the attention of consumers when they receive a missed call to either their landline or mobile which is terminated after one ring. The CLI (Caller Line Identification) is available when the recipient of the call either views the incoming CLI display or calls '1471' to find out the number of the caller. In each investigation, the specific CLI numbers vary but originate from 070 prefixed numbers.

Within each investigation, consumers appeared to have called the CLI, expecting it to be a genuine missed call, at which point they were charged from the commencement of the ringing tone heard. PhonepayPlus is concerned about the volume of calls made to members of the public. PhonepayPlus believes that the services in question offer no value to consumers and that the use of emergency procedure is necessary to promptly remedy the apparent harm to consumers.

Our concerns

Our investigations initially focus on the following paragraphs of the PhonepayPlus Code of Practice (11th Edition Amended April 2008):

- Misleading (Paragraph 5.4.1a) - due to the apparent misleading nature of the service.
- Pricing Information (Paragraph 5.7.1) - due to the apparent lack of pricing information within the promotion of the service.
- Contact Information (Paragraph 5.8) - due to the apparent lack of non-premium rate contact information within the promotion of the service.
- Inappropriate promotion (Paragraph 5.12) - due to the apparent unsolicited missed calls.

The investigation into 'Jaswinder Singh' also focuses on the following paragraph, in addition to the above paragraphs, of the PhonepayPlus Code of Practice (11th Edition Amended April 2008):

- Legality (Paragraph 5.2) - due to evidence suggesting that consumers were registered with the Telephone Preference Service at the time of receiving the missed calls.

Next steps

In the cases of H. Naveneeth, K. Felix J. Paul and T. Jaya Kandan, we have written to Cheers International Sales Limited, the Network Operator, as well as the three Service Providers, setting out our concerns.

In the case of Mr Jaswinder Singh, we have written to Starcomm Limited, the Network Operator, as well as the Service Provider, setting out our concerns.

Under paragraph 8.3.3 of the Code of Practice, we have also requested further information from the service providers to assist our investigation. They have until 16th December 2008 to respond.

We aim to adjudicate on all investigations dealt with under the emergency procedure within 10 working days of the service provider's response to the alleged breaches raised.

However, this timeframe may vary depending on the complexity of the case and on whether there is a need to request more information.