



Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

This document includes a consultation on a notification of proposed modifications to General Condition 14 on consumer information and handling customer complaints and enquiries for Number Translation Services and Premium Rate Services

Consultation

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Contents

Section		Page
1	Summary	1
2	Introduction	3
3	The Issues and Ofcom's Proposals	7
4	Consultation on the Notification of modifications to General Condition	
14		15

Annex		Page
1	Responding to this consultation	22
2	Ofcom's consultation principles	24
3	Consultation response cover sheet	25
4	Consultation questions	27
5	Notification and guidelines	28
		34

Section 1

Summary

- 1.1 Ofcom's (the Office of Communications) principal duty, in carrying out its functions, is to further the interest of citizens in relation to communications matters and to further the interests of consumers in relevant markets, where appropriate, by promoting competition. Effective competition delivers choice and lower prices to consumers as well as opportunities for new services and providers. However, consumers may need protection from adverse consequences of competition if they arise.
- 1.2 This consultation sets out Ofcom's proposals for modifications to General Condition 14 on code of practice and Dispute Resolution (GC 14), issued under section 45 of the Communications Act 2003 ("the Act") in relation to two matters. First, it deals with the recommendations in the Ofcom report to the Department of Trade & Industry ('DTI'), "The Regulation of Premium Rate Services", issued on 9 December 2004 ('the Ofcom report')¹. The review was triggered by growing concern over the problem of 'rogue' internet diallers and other such problem services, and the extent to which the current regulatory regime was able to deal effectively with problems of this kind.
- 1.3 During the course of the review, Ofcom identified a number of problems with the current regulation of Premium Rate Services ('PRS'), and our report made a number of detailed recommendations which, it was anticipated, would significantly reduce the scope for consumer detriment and restore consumer confidence in the PRS industry.
- 1.4 One such recommendation concerned the current arrangements for dealing with consumer enquiries regarding PRS which, in Ofcom's view, were no longer sustainable, and did not provide an adequate basis for consumer protection. As noted in the Ofcom report and set out in this explanatory memorandum, the scope for consumer detriment arising from PRS was considerable, and consumers would be better able to protect themselves if they were well informed.
- 1.5 Ofcom therefore recommended that Originating Communications Providers ('OCPs'), assisted by Terminating Communications Providers ('TCPs'), should take on more responsibility for handling general PRS enquiries and for dealing with number check queries. Ofcom also recommended that this should be achieved by amending the obligations on OCPs under GC 14 and related guidance to require OCPs to produce a code of practice which would include the provision of practical information relating to the nature of PRS, and their costs and availability to consumers, e.g. information regarding call barring facilities, number checking etc.
- 1.6 The second matter to which this consultation relates is Number Translation Services ('NTS'). NTS calls are calls to numbers identified in the National Telephone Numbering Plan ('the Plan') as Special Service numbers (broadly, numbers that start with 08 or 09). Ofcom has also taken this opportunity to further modify GC 14 in relation to existing obligations under GC 10 relating to the Transparency and Publication of Information (specifically GC10.2(d)(ii)) in so far as those obligations relate to NTS calls. This follows further research into consumer awareness of the prices of calls to 08 NTS numbers arising out of comments received to Ofcom's first NTS consultation, as part of its ongoing NTS Framework Review, entitled "NTS: options for the future", issued on 22 October 2004². The results of this research are discussed in more detail in Section 2 of this consultation and revealed very low levels

¹ http://www.ofcom.org.uk/telecoms/ioi/nwbnd/prsindex/ntsprsdti/prs_review.pdf

² http://www.ofcom.org.uk/consult/condocs/ntsoptions/nts_future/nts_future_op.pdf

of consumer knowledge about the prices charged by OCPs for calls to 084 and 087 numbers. This is exacerbated by the lack of visibility of NTS call prices in OCPs published price lists.

- 1.7 The modification to GC 14 for NTS calls requires fixed and mobile OCPs to modify their codes of practice to ensure NTS call prices are given greater prominence in published price lists and in promotional material for different service packages, so that they are not hidden. The information provided should include clear statements of whether or not discount schemes apply to NTS calls.

Consultation

- 1.8 Ofcom is inviting written views and comments by 5pm on 6 December 2005, on the Notification and proposed modifications to GC 14 on code of practice and Dispute Resolution, which is set out at Annex 5, which set out for NTS and PRS:
 - the obligation to establish and maintain codes of practice in accordance with guidelines on the provision of information and dealing with enquiries, and to comply with the provisions of those codes;
 - the obligation to provide codes of practice on request, and free of charge, to customers.
- 1.9 Details of how to respond on each of these issues can be found in Annex 1.
- 1.10 Ofcom will give careful consideration to all comments received during the consultation period, and in light of the comments received may give effect to the proposals set out in this document, with or without modification, by publication of a Notification and explanatory statement. Ofcom expects to publish the Notification and explanatory statement in the spring of 2006.

Effective date

- 1.11 Subject to the outcome of the consultation, Ofcom proposes that the requirement upon OCPs who originate calls to NTS and PRS to establish, maintain and comply, under set guidelines, with codes of practice on the provision of information and dealing with enquiries and to comply with the provisions of those codes, will take effect one month from the date of publication of the Notification and explanatory statement.

Section 2

Introduction

PRS and the current regulatory regime

- 2.1 PRS offer some form of content, product or service via fixed and mobile telecoms lines. These may be accessed as conventional voice services or using SMS text, fixed-line telephones, PCs (eg via e-mails, the internet and bulletin boards), mobile phone or interactive digital TV. Services include TV voting lines, competitions, scratchcards, adult entertainment, chat lines, business information services, technical helplines, mobile phone ringtones and game downloads, horoscopes and interactive TV games.
- 2.2 UK-based PRS telephone numbers are typically prefixed by '09' although similar, and in some cases identical, services are increasingly being offered on numbers outside this range, including those prefixed by '08' as well as access codes. In the case of mobile services, PRS can be accessed via short codes (usually starting with an '8' or '6') or via the phone's screen menu without the need to dial a number. Directory enquiry services (on 118xxx) also fall within the definition of premium rate services for the purposes of the Act.
- 2.3 These services vary in cost typically between 10 pence per minute (ppm) or per call up to £1.50 per minute or per call (for BT customers). In most cases the bulk of the revenue from calls to such services goes to the SPs who are responsible for the content, product or services provided or who act as resellers or aggregators on behalf of a number of such providers. The SPs are responsible for compliance with the bulk of the obligations imposed by the code of practice. The remainder of the revenue is shared by: the consumer's telephone company (the OCP, which receives a small fee for 'origination' of the phone call); and the telephone company that contracts with the SP and 'terminates' the call on behalf of the SP through the provision of network facilities (the TCP).
- 2.4 PRS are defined in section 120(7) of the Act which provides that a service is a premium rate service, if:
- (a) it is a service falling within subsection (8) ³
 - (b) there is a charge for the provision of the service;
 - (c) the charge is required to be paid to a person providing an electronic communications service by means of which the service in question is provided; and
 - (d) that charge is imposed in the form of a charge made by that person for the use of the electronic communications service.

³ A service falls within this section if its provision consists in:

- (a) the provision of the contents of communications transmitted by means of an electronic communications network; or
- (b) allowing the user of an electronic communications service to make use, by the making of a transmission by means of that service, of a facility made available to users of the electronic communications service.

The regulatory framework and PRS

- 2.5 A new regulatory framework for electronic communications networks and services entered into force on 25 July 2003. The framework is designed to create harmonised regulation across Europe, and is aimed at reducing entry barriers and fostering prospects for effective competition to the benefit of consumers.
- 2.6 The relevant statutory provisions governing the regulation of PRS are set out under sections 120 to 124 of the Act. The provisions provide Ofcom with the power to set conditions for the purpose of regulating the provision, content, promotion and marketing of PRS that bind the persons to whom they are applied. Any condition set under section 120 must comply with section 47 of the Act, i.e., it must be objectively justifiable, not unduly discriminatory, proportionate and transparent. It must also comply with the consultation and notification requirements in section 48 of the Act.

The role of Ofcom

- 2.7 Ofcom's role in the premium rate regulatory regime is to provide statutory support to the work of ICSTIS for PRS. Ofcom has the power under section 120 of the Act to set conditions for the purpose of regulating the provision, content, promotion and marketing of 'Controlled' PRS that bind the persons to whom they are applied.
- 2.8 The PRS Condition which regulates the provision, content, promotion and marketing of PRS took effect from 29 December 2003. The effect of the PRS Condition is to bind each and every person falling within the definition of 'Communications Provider' as defined in the PRS Condition, to comply with:
- (a) directions given in accordance with an Approved Code by the Enforcement Authority and for the purpose of enforcing the provisions of the Approved Code;
 - (b) if there is no Approved Code, the provisions of the order for the time being in force under section 122 of the Act.
- 2.9 Ofcom's powers, as set under the PRS Condition, only relate to those services which are defined as 'Controlled' PRS. Controlled PRS are defined more narrowly than PRS, and means PRS where the charge or rate for the call is more than 10 pence per minute other than Chatline Services which are automatically included. For the purpose of this document, references to PRS will mean Controlled PRS only.
- 2.10 In the event of an apparent failure to comply with an ICSTIS Direction amounting to a breach of the PRS Condition Ofcom's general powers of enforcement under its powers in sections 94 – 96 of the Act will apply.

The role of ICSTIS

- 2.11 ICSTIS is responsible for the preparation and enforcement of its code of practice. The current version (Tenth Edition, as amended) of the code of practice was approved for the purposes of sections 120 and 121, and is available on the ICSTIS website⁴. The code of practice applies to all PRS which are accessed by a UK consumer or are provided by SPs in the UK.
- 2.12 The code of practice is primarily targeted at the actions of the SPs and it is their responsibility to ensure that the content and promotion of all their PRS (whether

⁴ http://www.icstis.org.uk/icstis2002/pdf/Code_Practice_10_Amended.pdf

produced by themselves or by their content and information providers) comply with all relevant provisions of the code of practice.

- 2.13 ICSTIS has a range of sanctions that it can impose on a SP that breaches the code of practice according to the seriousness with which it regards the breach. These range from obtaining assurances about future behaviour and instructing refunds to be offered to imposing fines, barring access to services and prohibiting certain 'named' individuals from operating services for a set period.
- 2.14 Although their responsibilities are more limited the code of practice also places a number of general requirements and specific obligations on TCPs to assist in the enforcement of ICSTIS' decisions by carrying out directions given by ICSTIS. These may include directions to cease dealing with particular businesses or individuals, to block access to certain numbers or services and to withhold payments to SPs in respect of particular services. Where there is evidence of non-compliance with an ICSTIS direction by a TCP, this will represent a potential breach of the PRS Condition, and ICSTIS will notify Ofcom that it considers that the relevant TCP has contravened the terms of the condition.

The NTS regime

What are NTS?

- 2.15 NTS calls are calls to numbers identified in the Plan as Special Service numbers (broadly, numbers that start with 08 or 09). In addition, NTS includes calls to the legacy 0500 Freephone numbers, which, whilst still in use, are not listed in the Plan as they are no longer available for new allocations. Calls to 0844 04 numbers for Surftime internet access services and calls to 0808 99 numbers for FRIACO are not included. For the purposes of this document, references to NTS will mean calls to 08 numbers only.
- 2.16 NTS (and PRS) numbers are examples of non-geographic numbers in that the number dialled does not relate to a specific geographic location, but instead relates to a particular service. At a technical level, the NTS number dialled by a caller is 'translated' by the network to a geographic number to deliver the call to its destination.
- 2.17 Services offered using NTS numbers are similar to PRS except that prices range from free to caller up to a maximum of 10ppm (from a BT landline). Types of services include information services, some technical helplines, access to telephone banking, sales and customer service lines and dial-up pay-as-you-go Internet services.
- 2.18 Because of the lower prices charged for NTS calls generally the scope for consumer detriment from making long calls and from fraudulent activity is generally considered less of an issue but we do recognise that consumers can nevertheless accrue high phone bills over a billing cycle where frequent use of lower priced services is involved.
- 2.19 In common with PRS, NTS calls being non-geographic offer significant advantages to providers of services especially those who operate from multiple locations. NTS intelligent routing facilities combined with increasingly sophisticated Interactive Voice Response (IVR) systems enable calls to be switched between locations on demand, i.e. by the nature of the service required or by time of day or when routes to individual destinations become congested. Calls can be re-routed automatically so as to maintain levels of service to callers.

- 2.20 The costs of using these terminating services can also be offset by the share of the revenue from calls that some SPs receive. These incentives have prompted numbers of companies to switch from using geographic to NTS numbers for contact by consumers. The increased use of NTS numbers together with the ever decreasing link to geographic call prices has impacted on the transparency of prices for these call types.

The Regulatory Framework and NTS

- 2.21 Unlike PRS there are currently no additional regulatory controls on the use of NTS numbers, other than those which apply to all OCPs through the General Conditions. As already explained, Ofcom is undertaking a review of the NTS framework and has published a further NTS consultation at the same time as this document. From the research undertaken as part of this review, it has become clear that NTS call prices are generally higher than those charged for geographic inland calls and that relatively few consumers know what they are paying for NTS calls.

Section 3

The Issues and Ofcom's Proposals

Background

- 3.1 Ofcom has undertaken two major work packages related to the provision of NTS and PRS. These are firstly the NTS Framework Review which led to the first consultation entitled "NTS: options for the future" ("the first NTS consultation") published in October 2004, followed by the second consultation (NTS: A way forward – the second NTS consultation) which was published coincidentally with this document. Secondly, the Ofcom report to DTI entitled "The Regulation of Premium Rate Services" ('the Ofcom report') and published in December 2004.
- 3.2 Both documents, amongst other things, identified the need to improve the information available to consumers about the costs of calling NTS and PRS.

Ofcom's review of the regulation of premium rate services

- 3.3 In August 2004 Ofcom was asked by DTI to undertake an urgent review of the regulatory framework for PRS in order to assess whether consumers are adequately protected from the potential for consumer detriment involving PRS.
- 3.4 The review was prompted in part by recent problems that have arisen in the premium rate sector caused by internet diallers and, more generally, by broader concerns relating to the PRS regulatory regime as a whole. In particular there was concern, shared by Ofcom, that the recent problems caused by internet diallers were only the latest in a series of examples of irresponsible and unethical behaviour that have caused considerable consumer detriment and damaged consumer confidence in the PRS sector.
- 3.5 These problems ranged from the misleading to the potentially fraudulent. There have been significant problems with prize competitions involving lengthy calls to premium rate numbers for a low value or non-existent prize. There have been several waves of 'spam and scam' activity, involving SMS or fax messages to multiple consumers, designed to prompt expensive premium rate calls. The internet dialler issue resulted in unprecedented levels of consumer detriment.
- 3.6 Ofcom's review was carried out between August and November 2004. During the course of the review, Ofcom identified a number of problems with the current regulation of PRS, and our report made a number of detailed and incremental recommendations which, it is anticipated, will significantly reduce the scope for consumer detriment and restore consumer confidence in the PRS industry.

The scale of the problem

- 3.7 The Ofcom report, The Regulation of Premium Rate Services, was published on 9 December 2004. It is available on the Ofcom website at:

http://www.ofcom.org.uk/telecoms/ioi/nwbnd/prsindex/ntsprsdti/prs_review.pdf

- 3.8 The Ofcom report noted that the premium rate sector continues to innovate and evolve at a fast pace. This creates a significant regulatory challenge because as technology advances and the premium rate sector continues to develop, the potential

for new and different problems is likely to grow. In addition, as technology becomes more sophisticated, there is also the risk that new problems may become more serious and more difficult to prevent. This highlights the need for the regulatory regime to provide a framework for effective regulation of PRS for the future as well as today.

- 3.9 In assessing the scale of the problem Ofcom received data relating to the volumes of consumer complaints received by ICSTIS, the number of breaches of the ICSTIS code of practice found and the amounts of money involved.
- 3.10 ICSTIS received around 60,000 individual consumer complaints between August 2003 and July 2004, of which approximately two-thirds were related to internet diallers. Call records provided by ICSTIS' TCP confirmed that in April-May 2004, the ICSTIS Helpline received calls from over 5,000 individual callers per day. Over 50% of these were estimated to have related to internet diallers.
- 3.11 In the first nine months of 2004, ICSTIS imposed 95 fines totalling £2.03m on 90 service providers (SPs). This compares with a total amount imposed in 2003 of £1.26m. Two of the fines imposed were for the maximum £100,000. 17 fines exceeded £50,000 in total, and of these 14 were imposed on non-UK SPs. Over two-thirds of the 2004 fines were levied on SPs who were hosted by five TCPs.
- 3.12 However, it was evident that these figures do not give a full picture of the scale of the consumer detriment. This is partly because some breaches of the code of practice may have gone unreported or may not have led to the imposition of a fine, and partly because the size of the fines may not accurately reflect the seriousness of the problems (the fines are currently subject to a £100,000 cap).
- 3.13 The evidence also suggested that while there was a significant problem it was focused on a small minority of SPs and TCPs. It is estimated that there are around 30,000 to 40,000 PRS services provided by roughly 3,000 to 4,000 SPs. The majority of SPs are perfectly legitimate and provide a proper level of customer service, including providing refunds to dissatisfied customers, either voluntarily in response to complaints received directly by the SP or when directed to do so by ICSTIS. However, there is a small minority of offenders, typically based overseas, who are responsible for a disproportionate amount of consumer detriment and whose activities threaten to undermine consumer confidence in both PRS and the internet.

Consumer Information

- 3.14 Whilst ICSTIS' primary role is to enforce its code of practice, it is also involved in the provision of PRS consumer information. Most of the information ICSTIS provides is via the ICSTIS Helpline and its website. To a large extent, this sort of information provision can be characterised as reactive in nature, as the information is provided in response to specific queries from individual consumers who have taken the trouble to call the Helpline or access the website.
- 3.15 It is clear that the work involved in providing consumers with PRS information has increased considerably both because of the continued growth in the volume of PRS calls and because of consumer concerns over internet diallers and other scams. This increase in demand for consumer information was a major reason for the overload of ICSTIS resources which occurred during the first half of 2004.
- 3.16 The scale of this activity has been dependent both on the underlying demand for information, which has grown substantially, and the extent to which enquiries are

dealt with by OCPs, who are normally the first port of call for a customer with a PRS query.

- 3.17 Since 1999, ICSTIS and the OCPs have had a voluntary code of practice about the circumstances in which PRS enquiries or complaints should be referred to ICSTIS. Essentially the code provides that:
- OCPs should deal with enquiries about PRS call barring and the tariffs for PRS calls, and with PRS billing disputes; and
 - ICSTIS should deal with general PRS enquires, including enquiries about contact information for SPs, and complaints about the content of a PRS, advertising material or the actions of a SP.
- 3.18 The Ofcom report concluded that this division of effort is no longer sustainable and needs to be revisited. When call volumes to the ICSTIS Helpline peaked in the second quarter of 2004, a large proportion of those calls were either SP number queries or general PRS enquiries. The bulk of the number checking calls dealt with by ICSTIS involved customers who have been referred to ICSTIS by their OCP. Most of these queries could be dealt with by the OCP itself making use of the existing number checking facility on the ICSTIS website. Notwithstanding ICSTIS' subsequent progress in dealing with number queries via its website, Ofcom did not believe that the current arrangements provide an adequate basis for dealing with consumer enquiries in future.

Addressing the problems

- 3.19 The report made a total of eighteen recommendations about how the range of problems surrounding the regulation of PRS could be addressed. Among these Recommendation 11 stated that:
- “OCPs (Originating Communications Providers) should take on more responsibility for handling general PRS enquiries and for dealing with number check queries. This should be achieved by amending the obligations on OCPs under Ofcom’s General Condition 14 and related guidance to require Communications Providers to produce a code of practice which would include the provision of practical information relating to the nature of PRS, and their costs and availability to consumers, e.g., information regarding call barring facilities, number checking etc.”
- 3.20 There is little doubt that misleading or defrauding consumers through PRS calls can cause distress, particularly to more vulnerable consumers. This has the effect of undermining consumer confidence in the PRS market and can work against the interests of both consumers and the PRS industry. Improving the ability of consumers to find out about the nature of calls appearing on their bills would help to ensure that consumers can better protect themselves in future.

Amendments to GC14

- 3.21 More specifically, as well as providing information on PRS call tariffs and call barring, Ofcom is proposing that OCPs should at a minimum be in a position to provide:
- basic information on how PRS services work (e.g. revenue sharing with SPs);

- basic information on internet diallers;
- information on the role of the telecoms ombudsmen in resolving disputes;
- information on the options for obtaining redress; and
- contact information, either for individual SPs or for the TCPs which host them:

Question 1: Do stakeholders consider that these proposals are reasonable and are likely to be effective in improving the information available to citizens and consumers about PRS?

NTS services operating on 084 and 087 numbers

- 3.22 Initially NTS calls to certain numbers were charged at the same prices as OCPs geographic local and national calls. More recently there has been a marked divergence in geographic and NTS call prices with increased competition in the market for call origination following the emergence of a number of alternative OCPs. On 1 July 2004 BT responded to this competition by moving all of its “basic line rental” residential consumers onto the BT Together Option 1 package in which all inland calls are charged at the same rate, thereby removing any distinction between local and national geographic calls for that call package.
- 3.23 As a consequence the prices calls to 084 and 087 NTS numbers are generally higher than the prices of geographic calls under most BT call packages, a development which has attracted a great deal of public criticism.
- 3.24 On 22 October 2004 Ofcom issued a consultation entitled NTS: options for the future (‘the October 2004 Consultation’).
- http://www.ofcom.org.uk/consult/condocs/ntsoptions/nts_future/nts_future_op.pdf
- 3.25 This consultation described five possible options for the future operation of the NTS regime in the UK. Having considered the responses received to the October 2004 Consultation and the results of the further research that followed, Ofcom has now published, at the same time as this document, a further NTS consultation entitled NTS: A way forward ⁵(the September 2005 Consultation) in which Ofcom has sought stakeholders views on a package of measures designed to address the key issues affecting the NTS regime. One of these remains the lack of transparency given to NTS call prices in most fixed and mobile OCPs price lists.
- 3.26 For the purposes of this consultation the term NTS calls refers to numbers beginning 084 and 087 since its is these calls which have given rise to concerns over the absence of consumer information.
- 3.27 The October 2004 Consultation included some early research into consumers knowledge of the costs of calling the range of 084 and 087 numbers. This indicated that most consumers had little idea of the prices of calls and many significantly over-estimated the costs.
- 3.28 Since the October 2004 Consultation closed Ofcom has carried out a programme of further qualitative and quantitative research amongst consumers, in the form of focus groups and telephone questionnaires. This confirmed that whilst the majority of

⁵ http://www.ofcom.org.uk/consult/condocs/nts_forward/

consumers recognised NTS numbers they remain confused about the prices being charged for these calls by their OCPs. 0800, 0845 and 0870 were the most widely recognised whilst fewer consumers knew about 0844 and 0871. The results from the NTS research indicate that there was wide recognition that calls to 0800 numbers are free. There was some recognition that calls to 0845 were charged at 'local' rate and to 0870 at 'national' rate but few consumers knew what the actual prices were. Virtually no consumers consulted in the research understood the prices of calls to 0844 and 0871 numbers. This lack of knowledge is made worse by the almost universal inability to easily find NTS call charges in OCPs price lists.

The scale of the problem

Price transparency

3.29 Ofcom's further research into price awareness was conducted in order to assess the extent to which, where consumers are not fully aware of NTS call prices, there is a potential for detriment. Pricing misperceptions may give rise to detriment for consumers in several ways:

- consumers that believe the prices to be higher than they actually are may be likely to avoid making calls to these numbers, call them less often or make shorter calls;
- consumers that don't know the price of calls to NTS numbers may either avoid calling them or assume they are ordinary geographic numbers and call them anyway and as a result be charged more for the calls than they expect; and
- consumers that associate 0845 and 0870 numbers with the local rate and national rate designations, or who see these numbers advertised as local or national rate, may base their decision to call them on the assumption that they are charged at the same rates as geographic calls. As a result they may be charged more for the calls than they expect.

Level of price transparency

3.30 Despite the relatively high level of awareness of NTS amongst consumers, both the qualitative and quantitative consumer research, contained in the September 2005 Consultation, showed that there is confusion about the costs of calls. Less than half of consumers claim to know the cost of 0845 and 0870 calls from a landline and consumers significantly overestimate the cost of NTS calls from landlines. These findings echo those of Ofcom's previous consumer research which was described in the October 2004 Consultation. The lack of understanding of NTS call costs led more than half of consumers to express concerns about making NTS calls.

3.31 Consumer awareness of NTS call prices is generally much lower than is the case for geographic calls.

3.32 A further complication for consumers is that the prices charged by BT are often not replicated by other OCPs, many of whom charge significantly more. The September 2005 Consultation is separately seeking to address this issue. NTS calls are also rarely included in discount schemes or included within 'bundled' call packages.

3.33 In the October 2004 Consultation, Ofcom described its consumer research undertaken in July 2004, which showed that, on average, consumers believed that 0845 and 0870 calls cost 26p per minute and 30p per minute respectively, whereas

in fact the costs for calls from a BT line were 3.95p per minute and 7.91p per minute at peak times (both being considerably lower at off-peak rates).

- 3.34 In June 2005, Ofcom updated its consumer research, which gave similar findings, showing that consumers believe that 0845 and 0870 calls cost 26p per minute and 36p per minute respectively.
- 3.35 Based on the June 2005 consumer research there is a risk that price misperceptions will affect consumers calling habits. The research shows that 19% of respondents who knew of the 0845 range said that they would think twice about calling an 0845 number and 15% said that they would avoid calling an 0845 number altogether. Consumers are even more reluctant to call 0870 numbers, with 24% of those who knew about the 0870 range indicating that they would think twice about calling and 18% that they would avoid calling an 0870 number altogether. The main reasons given for avoiding calling 0845 and 0870 numbers were the cost (37%), not knowing the cost (19%) and concerns relating to premium rate numbers and services (13%). It is important to note that concerns about the cost of calling relate to the perceived price rather than actual prices.

Ofcom working with the ASA/CAP

- 3.36 Ofcom has been working with the Advertising Standards Authority (ASA) and the associated Committee of Advertising Practice (CAP) on an acceptable form of wording to be used in advertisements, the aim being to prevent the continued use of the terms local and national rates to describe call charges. These terms are potentially misleading in that few OCPs charge their local and national geographic rates for NTS calls. Further, any prices quoted are, in practice, only likely to represent the prices charged by BT for NTS calls. This is on the basis that BT still has the largest share of fixed line customers and it would be difficult to include the prices charged by all OCPs on advertisements. This does not address the issue of the differing prices charged by alternative fixed line OCPs such as CPS, WLR and mobile providers. Ofcom will continue to work with the ASA/CAP on this issue.

Improving the visibility of NTS call prices

- 3.37 One of the most effective ways of improving the visibility of NTS call prices, in Ofcom's view, is to require OCPs to give equal prominence to both geographic and NTS prices on their websites and in other published price lists. These should also clearly state whether or not any discount schemes or calling packages apply to NTS calls.
- 3.38 The proposed guidelines (see Annex 5) are designed to impose more detailed requirements in relation to OCP's existing obligations under General Condition 10. General Conditions 10.1 and 10.2(d)(ii) specifically state:

“10.1 The Communications Provider shall ensure that clear and up to date information on its applicable prices and tariffs (which for the avoidance of doubt shall not include bespoke or individual prices and tariffs), and on its standard terms and conditions, in respect of access to and use of Publicly Available Telephone Services by End-Users is published, in accordance with paragraphs 10.2 and 10.3.

10.2 The information published shall include at least the following:

[...]

(d) the Communications Provider's standard tariffs, including details of standard discounts and special and targeted tariff schemes, with regard to:

[...]

(ii) all types of usage charges;"

3.39 Regardless of any changes to the NTS framework that may result from the NTS Review, Ofcom is of the view that both fixed-line and mobile OCPs need to make their NTS call charges much clearer and more readily accessible. Ofcom is therefore proposing to modify GC 14 to require OCPs to establish, maintain and comply with a code of practice in relation to NTS calls for Domestic and Small Business Customers. The amended GC 14 includes guidelines which the code of practice must comply with. Those guidelines require OCPs to give greater prominence to NTS call tariffs in their published price lists, on their websites and in promotional material for their various service packages. Particular prominence is proposed for the following areas:

- any usage charges that apply for calls to freephone numbers including details of when those charges will apply;
- usage charges for NTS Calls which include variations by time of day. For example, 08xx calls are charged at x pence per minute or per call during weekday evenings inclusive of value added tax; and
- whether or not any special offers, discount schemes or call bundling arrangements apply to NTS Calls, including details of which arrangements apply to which numbers.

3.40 Under Ofcom's proposals OCPs will also be required to inform their customers of all applicable charges, including those for NTS calls, on demand.

3.41 Ofcom will also consider separately whether this requirement needs to be extended to include OCPs' charges for other types of calls about which consumers have expressed concerns. These may include the costs of International Roaming on mobiles.

Question 2: Do stakeholders consider that these proposals are reasonable and are likely to be effective in improving the information available to citizens and consumers about NTS call prices?

Legal framework

3.42 GC 14 imposes certain obligations on all OCPs in relation to the publication of tariffs, complaints handling and dispute resolution.

3.43 The legal power to set general conditions, amongst other conditions, is contained at section 45 of the Communications Act 2003 (the "Act"). This says that a general condition is a condition which contains only provisions authorised or as required by one of more of certain sections of the Act, including sections 51 and 52.

3.44 Ofcom considers that it is able to set a general condition (by amending GC14) to require OCPs to establish, maintain and comply with a code of practice which would

include the provision of practical information relating to the nature of PRS and would include the provision of more transparent information in the case of NTS.

- Section 51(1)(a) permits the setting of a condition making such provision as Ofcom considers appropriate for protecting the interests of end-users of public electronic communications services. Ofcom considers that the proposed amendment to GC14 to ensure more information is available to consumers protects the interests of end-users of such services.
- Under section 52, Ofcom has a duty to set such general conditions if any as it considers appropriate for securing that public electronic communications providers or such description of them as Ofcom considers appropriate establish and maintain procedures, standards and policies with respect to certain matters. These matters include those appearing to Ofcom to be necessary for securing effective protection for the domestic and small business customers of such providers. This is the rationale behind the amendment to GC14 to ensure OCPs (a class of public electronic communications providers) are able to make more information available to their customers.

The Notification

3.45 Ofcom therefore proposes to modify GC 14 to require OCPs to establish, maintain and comply with codes of practice on the provision of practical information relating to the nature of PRS, their costs and availability to consumers as well as on improving the visibility given to NTS call prices. The Notification and proposed modifications can be found at Annex 5 and the associated guidelines are at Annex 1 to the Schedule to the Notification for PRS and at Annex 2 to the Schedule to the Notification for NTS. Ofcom is seeking stakeholders comments on these proposals.

Section 4

Consultation on the Notification of modifications to General Condition 14

The purpose of this consultation

- 4.1 In order to make the guidelines and the codes of practice enforceable, there needs to be a requirement upon OCPs to establish and maintain codes of practice on the provision of pricing and other information as regards NTS and PRS to consumers in accordance with published guidelines, and to comply with the provisions of those codes. Ofcom proposes to achieve this by means of a modification to GC 14.
- 4.2 The relevant procedures for setting, modifying or revoking conditions are set out in section 48 of the Act. Under section 48 of the Act, Ofcom is required to publish a notification of the proposed modification ('the 'Notification'), and to consult for a period of not less than one month after the day of publication of the Notification.
- 4.3 The Notification and proposed modification is attached at Annex 5. The guidelines for codes of practice for handling customer enquiries and complaints about PRS are set out at Annex 1 to the Schedule to the Notification, and Annex 2 to the Schedule to the Notification for the publication of NTS call prices. The existing guidelines for sales and marketing codes of practice for fixed-line telecoms services will remain unchanged but will now be in Annex 3 to the schedule to the Notification.
- 4.4 Ofcom is inviting written views and comments by 5pm on 6 December 2005, on the Notification and proposed modifications to GC 14 (set out at Annex 5) which sets out for NTS and PRS:
 - the obligation to establish and maintain codes of practice in accordance with guidelines on the provision of information and dealing with enquiries, and to comply with the provisions of those codes;
 - the obligation to provide codes of practice on request, and free of charge, to customers.
- 4.5 Details of how to respond on each of these issues can be found at Annex 1.
- 4.6 Ofcom will give careful consideration to all comments received during the consultation period, and in light of the comments received may give effect to the proposals set out in this document, with or without modification, by publication of a Notification and explanatory statement. Ofcom expects to publish this document in Spring 2006.

Impact assessment

- 4.7 The analysis presented in this section, when read also with the rest of this document, represents an Impact Assessment ('IA'), as defined by section 7 of the Act. You should send any comments on this IA to us by the closing date for this consultation. Ofcom will give careful consideration to all comments received during the consultation period before deciding whether to implement our proposals.

- 4.8 IAs provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making and are commonly used by other regulators. This is reflected in section 7 of the Act, which means generally we have to carry out IAs where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. In accordance with section 7 of the Act, in producing the IA in this document, Ofcom has had regard to such general guidance as it considers appropriate, including related Cabinet Office guidance.

Aim of the proposed modification to General Condition 14

- 4.9 Ofcom's principal duty in carrying out its functions, as set out in section 3(1) of the Act, is to further the interests of citizens in relation to communications matters, and to further the interests of consumers in relevant markets, where appropriate by promoting competition. Section 4 of the Act sets out Ofcom's duties for the purpose of fulfilling Community obligations. In relation to the proposals set out in this document, Ofcom has considered all the requirements in those sections and, in particular, its duty to further the interests of citizens in relation to communications matters, and to further the interests of consumers in relevant markets, where appropriate by promoting competition.

Option 1: no change to the current arrangements for the provision of information relating to PRS and NTS

- 4.10 Under section 6 of the Act, Ofcom has a duty to ensure that it does not impose or maintain unnecessary regulatory burdens. Ofcom would consider that the 'no change' option would be the most appropriate course of action to take in the event that there is no clear evidence that existing codes of practice and industry arrangements fail to meet satisfactory standards in the provision of practical information relating to the nature of NTS and PRS as well as their costs and availability to consumers which requires the imposition of additional regulatory obligations.
- 4.11 As set out in section 3 of this document as well as this section, Ofcom considers that the balance of evidence supports the position that current arrangements do not provide an adequate basis for consumer protection, and that further measures are needed. In particular, Ofcom does not consider that the current measures provide sufficient and accessible information for consumers about the prices charged by OCPs for calls to services for PRS and NTS. As noted in the Ofcom report, the scope for consumer detriment arising from PRS, in particular, was considerable, and consumers would be better able to protect themselves if they were well informed. Ofcom therefore believes that OCPs should take greater responsibility for dealing with enquiries and disputes raised by consumers relating to such services. In the case of NTS Ofcom's research revealed the high level of pricing misperception and the potential detriment caused by consumers' resultant unwillingness to make calls when they either do not know the price or believe them to be more expensive than they really are.
- 4.12 In light of this, Ofcom considers that the risk of not doing anything, including increased negative publicity about the costs of calling PRS and NTS would result in a loss of consumer confidence in NTS and PRS and have a detrimental effect on these sectors. Accordingly, Ofcom does not support the option of 'no change'.

Option 2: mandatory guidelines for codes of practice in dealing with consumer enquiries about PRS and NTS

- 4.13 Ofcom considers that this option would be the most appropriate course of action to take in the event that there is clear evidence that current arrangements do not provide an adequate basis for informing consumers, and that improved information about the nature and costs of services would benefit consumers. Similarly the means, whereby consumers who believe they have been the victims of rogue diallers or other similar scams to seek and (where appropriate) obtain refunds without necessarily being referred to TCPs or ICSTIS, needs to be reinforced.
- 4.14 Ofcom's view is that consumer information should, wherever possible, be provided by the market as it is the providers who offer the services and decide what they should cost. Ofcom recognises, however, that in some cases the market may fail to provide consumers with the information they need in order to make rational and informed choices about the products and services available to them, and that this kind of market failure can at times lead to significant consumer detriment. Ofcom also recognised that it is important that consumers should know who to contact if a problem arises in relation to service provision, and this information may also not be readily available if left to the market.
- 4.15 As already explained, Option 2 is the preferred option since it reflects recommendation 11 from the Ofcom report. Ofcom does not consider that the proposed obligation to establish and maintain, under set guidelines, codes of practice, and to comply with the provisions of those codes, would represent an unnecessary burden upon OCPs as it merely seeks to ensure reasonable standards in dealing with requests for pricing information for NTS and PRS calls and in handling enquires and disputes arising out of consumers' making PRS calls. The proposed requirement would encourage good practice by all OCPs and ensure that good practice can be reinforced through effective enforcement action where OCPs either fail to establish, or comply with, such codes of practice.
- 4.16 Implementing Option 2 also places clear obligations on OCPs on how they should inform their customers about the prices they charge for NTS calls. Here again consumers will be better able to make rational and informed choices about whether they wish to make NTS calls and any detriment through lack of pricing transparency will be reduced.

Guidelines for codes of practice for the provision of information relating to PRS and NTS

- 4.17 The draft guidelines for codes of practice for handling customer enquiries and complaints about PRS and NTS are set out at Annexes 1 and 2 to the Schedule to the Notification which is at Annex 5 of this document. Ofcom is inviting written views and comments on the guidelines.

Provision of codes of practice relating to pricing and other information and dealing with enquiries and disputes concerning PRS and NTS calls

- 4.18 As set out in the proposed amendment to GC 14, Ofcom is proposing that OCPs' codes of practice be provided on request, and free of charge, to their customers. This reflects the current obligation for codes of practice for complaints and sales and marketing, and is proposed to ensure that there is customer awareness of OCPs' codes. Ofcom is inviting written views and comments on this proposal.

Tests set out under the Communications Act 2003

- 4.19 In modifying conditions, Ofcom is required to meet various tests set out in the Act. These tests, and Ofcom's assessment of how these are met in connection with the proposed modification to GC 14, are set out below.

Section 3 – Ofcom's general duties

- 4.20 Section 3(1) of the Act sets out the principal duty of Ofcom. Ofcom is required by this section to carry out its functions in line with this duty. That duty is:

- (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.

- 4.21 Ofcom considers that the proposed requirement for OCPs who originate calls to NTS and PRS to establish, under set guidelines, codes of practice on the provision of information to consumers about the prices of calls to NTS and dealing with enquiries and disputes about PRS, and to comply with the provisions of those codes is in line with section 3 of the Act.

- 4.22 This is because, as explained in this document, Ofcom considers that the balance of evidence supports the position that the current industry arrangements fail to provide consumers with adequate access to information about PRS appearing on their telephone bills, and that further measures are therefore required. Ofcom considers that the use of PRS to mislead or defraud consumers can be distressing to those consumers involved, particularly in the case of vulnerable consumers, and this can work against the interests of both consumers and the PRS industry by undermining consumer confidence in the PRS market. Ofcom considers that the proposed requirement set out in this document would ensure that consumers are better protected, and that it would provide a greater incentive upon OCPs to improve their customer services in dealing with such issues.

- 4.23 In the case of NTS, Ofcom's research demonstrates that consumers have little knowledge of the costs of calling the various NTS numbers. Further, finding this information in most OCP's price lists can be very difficult. This enables some OCPs to prominently advertise their low charges for calling geographic numbers whilst giving less prominence to their, often, much higher prices for NTS calls. Ofcom's research also revealed that some consumers believe the costs of NTS calls are much higher than they really are and they may therefore be deterred from making NTS calls. Ofcom considers that this lack of readily available price information for NTS is detrimental to consumers and needs to be addressed. The proposed additional requirement set out in this document goes some way to addressing the detriment.

- 4.24 Ofcom has also considered when carrying out its functions, amongst other things, the requirements in section 3 (2) of the Act to secure the availability throughout the UK of a wide range of electronic communications services, and section 3 (4) of the Act, namely that in performing its duties Ofcom must also have regard to such of the following as appears to be relevant in the circumstances, in particular:

- the desirability of promoting competition in relevant markets;

- the desirability of encouraging investment and innovation in relevant markets;
 - the needs of persons with disabilities, of the elderly and of those on low incomes; and
 - the opinions of consumers in relevant markets and of members of the public generally.
- 4.25 Ofcom considers that the proposed requirement set out in this statement are in line with the above duties and that, in particular, and as set out above, the imposition of rules in this area would be beneficial to the PRS and NTS sectors. As already stated, this would build consumer confidence and satisfaction in the relevant sectors which, in turn, would have a beneficial effect to the long term viability of the sector.
- 4.26 Providing consumers with information, particularly clear pricing information, enables consumers to make informed choices about the services they use. This increases competition in the provision of those services and reduces consumer detriment in that it may encourage more calls to be made.

Section 4 – European Community requirements for regulation

- 4.27 Section 4 of the Act sets out the Community duties on Ofcom which flow from Article 8 of the Framework Directive. Ofcom considers that its proposals outlined above promote the interests of all persons who are citizens of the European Union by promoting the provision of clear information, in particular requiring transparency of tariffs and conditions, in line with the third Community requirement. This is because the introduction of obligations requiring improved consumer information would ensure that consumers were better protected from the potential for consumer detriment arising from NTS and PRS. Also, as already stated, this would build consumer confidence and satisfaction in the premium rate sector which, in turn, would be beneficial to the premium rate sector.

Section 47 – Test for setting or modifying conditions

- 4.28 As set out under section 47(1) of the Act, in modifying a condition, Ofcom must be satisfied that the test set out under section 47(2) has been met. The test is that the modification of the condition is:
- (a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - (b) not unduly discriminatory against particular persons or against a particular description of persons;
 - (c) proportionate to what it is intended to achieve; and
 - (d) transparent in relation to what it is intended to achieve.
- 4.29 Ofcom considers that the proposal to establish, maintain and comply, under set guidelines, with codes of practice is objectively justifiable because difficulties are currently being experienced by consumers in obtaining help and information about PRS calls appearing on their bills, and that this can result in a loss of consumer confidence in the market for the provision of PRS, and consequently damage the industry as a whole.

- 4.30 Ofcom considers that the risk of not doing anything, including that of increased negative publicity, is likely to damage consumer confidence even further, and that this will have a detrimental effect upon the PRS sector.
- 4.31 Ofcom therefore considers that the proposal to establish, maintain and comply, under set guidelines, with codes of practice, in relation to the provision of information and for dealing with enquiries and complaints about PRS would provide enhanced consumer protection, and ensure that OCPs have greater incentives to follow best practice in this area.
- 4.32 Ofcom also considers that the proposal to establish, maintain and comply, under set guidelines, with codes of practice in relation to the provision of improved information by OCPs of the prices charged and conditions applying to NTS calls will significantly reduce the consumer detriment that currently exists through the lack of pricing transparency.
- 4.33 Ofcom considers that the proposal to establish, maintain and comply with codes of practice is not unduly discriminatory because the proposed requirement does not benefit particular undertakings, and will be applied uniformly to all OCPs who originate calls to NTS and PRS. A similar requirement is not being imposed in the context of calls to geographic numbers. This is because Ofcom has seen no evidence to suggest that the same problems of lack of transparency in call prices or misleading or fraudulent services which would require similar regulatory intervention, currently affect calls to geographic numbers.
- 4.34 Ofcom considers that the proposal to establish, maintain and comply with codes of practice is proportionate on the grounds that there should be little additional burden on responsible OCPs who already follow industry best practice in this area as set out in the guidelines. Nevertheless the evidence of potential consumer detriment, as set out in section 3 of this document, confirms that some action is necessary. Ofcom considers that this proposal would offer the most proportionate solution.
- 4.35 Ofcom considers that the proposal to establish, maintain and comply with codes of practice is transparent insofar as the nature and obligations are clearly set out in this document. In particular, Ofcom notes that, in the case of PRS, the proposed requirement flows from the Ofcom report to the DTI, published in December 2004, and has therefore been public knowledge for a number of months prior to this consultation. In the case of NTS, whereas the details of the proposed requirement has not been consulted on previously, it arises from recommendations for increasing consumer awareness of NTS call prices proposed in the October 2004 Consultation and also the September 2005 Consultation.
- 4.36 Accordingly Ofcom is today inviting written views and comments on the Notification and proposed modifications to GC 14.

Monitoring and enforcement

- 4.37 If Ofcom receives complaints about non-compliance with GC 14, including the proposed modification as set out in Annex 5, these will be handled in line with Ofcom's Guidelines for the handling of competition complaints, and complaints and disputes about breaches of conditions imposed under the EU Directives which are available at:

http://www.ofcom.org.uk/bulletins/comp_bull_index/eu_directives/?a=87101

Question 3: Do stakeholders agree with Option 2; namely that there should be mandatory guidelines for codes of practice in dealing with consumer enquiries about PRS and NTS?

Question 4: Do stakeholders believe there are any other options Ofcom should have considered?

Question 5: Do stakeholders agree that OCPs' codes of practice should be available on request and free of charge to their customers?

Question 6: Do stakeholders agree that the proposed modifications to GC 14 and associated guidelines are sufficient to address the issues relating to NTS and PRS, described in this consultation

Annex 1

Responding to this consultation

How to respond

Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on 5 December 2005**

Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, 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 2), among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.

Please can you send your response to first geoff.brighton@ofcom.org.uk.

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Geoff Brighton
Floor 4
Competition & Markets
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax: 0

Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 3. It would also help if you can explain why you hold your views, and how Ofcom's proposals would impact on you.

Further information

If you have any 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 .

Confidentiality

Ofcom thinks 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 (when respondents confirm on their response cover sheer that this is acceptable).

All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

Ofcom reserves its power to disclose any information it receives where this is required to carry out its legal requirements. Ofcom will exercise due regard to the confidentiality of information supplied.

Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use, to meet its legal requirements. Ofcom's approach on intellectual property rights is explained further on its website, at www.ofcom.org.uk/about_ofcom/gov_accountability/disclaimer.

Next steps

Following the end of the consultation period, Ofcom intends to publish a statement in Spring 2006.

Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 2) which it seeks to follow, including on the length of consultations.

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, whose views are less likely to be obtained in a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Vicki Nash, Director Nations - Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom Scotland
Sutherland House
149 St Vincent St
Glasgow G2 5NW
Tel: 0141 229 7401
Fax: 0141 229 7433
E-mail: Vicki.Nash@ofcom.org.uk

Annex 2

Ofcom's consultation principles

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

Before the consultation

A2.1 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

A2.2 We will be clear about who we are consulting, why, on what questions and for how long.

A2.3 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 version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.4 We will normally allow ten weeks for responses to consultations on issues of general interest.

A2.5 There will be a person within Ofcom who 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. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A2.6 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

A2.7 We will look at each response carefully and with an open mind. 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, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, without disclosing the specific information that you wish to remain confidential.
- A3.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.
- 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 cover sheet 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 in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.
- A3.5 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. 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: Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

To (Ofcom contact): Geoff Brighton

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

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 to be confidential, 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. 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.

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 questions

Question 1: Do stakeholders consider that these proposals are reasonable and are likely to be effective in improving the information available to citizens and consumers about PRS?

Question 2: Do stakeholders consider that these proposals are reasonable and are likely to be effective in improving the information available to citizens and consumers about NTS call prices?

Question 3: Do stakeholders agree with Option 2; namely that there should be mandatory guidelines for codes of practice in dealing with consumer enquiries about PRS and NTS?

Question 4: Do stakeholders believe there are any other options Ofcom should have considered?

Question 5: Do stakeholders agree that OCPs' codes of practice should be available on request and free of charge to their customers?

Question 6: Do stakeholders agree that the proposed modifications to GC 14 on code of practice and Dispute Resolution and associated guidelines are sufficient to address the issues relating to NTS and PRS, described in this consultation

Annex 5

Notification

Notification of a proposed modification under section 48(2) of the communications act 2003

Proposal for modification of General Condition 14 on code of practice and Dispute Resolution which is set out in the Schedule to the Notification under Section 48(1) of the Communications Act 2003 published by the Director General of Telecommunications on 22 July 2003.

1. OFCOM in accordance with section 48(2) of the Act hereby make the following proposals for the modification of General Condition 14 on code of practice and Dispute Resolution;
2. The draft modification is set out in the Schedule to this Notification;
3. The effect of, and OFCOM's reasons for making, the proposals referred to in paragraph 1 above is set out at Sections 3 and 4 of the accompanying explanatory statement;
4. OFCOM consider that the proposed modification referred to in paragraph 1 above complies with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to each of the proposals;
5. In making the proposals set out in this Notification, Ofcom has considered and acted in accordance with their general duties in section 3 of the Act and the six Community requirements in section 4 of the Act;
6. Representations may be made to OFCOM about the proposals set out in this Notification and the accompanying statement by 5pm on 5 December 2005;
7. The modification shall enter into force on [one month after publication of final notification];
8. Copies of this Notification and the accompanying statement have been sent to the Secretary of State in accordance with section 50(1)(a) of the Act.
9. In this Notification:
 - (i) "the Act" means the Communications Act 2003;
 - (ii) "OFCOM" means the Office of Communications; and
10. 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 expression shall have the same meaning as it has in the Act.
11. For the purpose 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.

12. The Schedule to this Notification shall form part of this Notification

Gareth Davies

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

28 September 2005

Schedule

Proposal for modifications to General Condition 14 on code of practice and Dispute Resolution which is set out in the Schedule to the Notification under section 48(1) of the Communications Act 2003 published by the Director General of Telecommunications on 22 July 2003

General Condition 14 on code of practice and Dispute Resolution shall be deleted and replaced in its entirety as follows:

14. CODES OF PRACTICE AND DISPUTE RESOLUTION

Basic Code of Practice regarding provision of Public Electronic Communications Services

14.1 The Communications Provider shall produce a basic code of practice for its Domestic and Small Business Customers which sets out at least where such customers may avail themselves of the information required to be published under Condition 10.2, as relevant to the provision of Public Electronic Communications Services. The code of practice shall be drafted in plain English which is easy to understand, and copies of the code of practice shall be provided on request and free of charge to any Domestic and Small Business Customer.

Codes of Practice for Premium Rate Services and NTS Calls

14.2 All Originating Communications Provider who provide PRS or NTS calls, as appropriate shall:

- (a) establish and thereafter maintain a Code of Practice for the provision of information relating to Premium Rate Services for its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex 1 to this Condition;
- (b) establish and thereafter maintain a Code of Practice for NTS Calls for its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex 2 to this Condition; and
- (c) comply with the provisions of the Code of Practice referred to at 14.2 (a) and (b) above.

14.3 The codes of practice referred to in Condition 14.2 shall be drafted in plain English which is easy to understand, and copies of the codes of practice shall be provided on request and free of charge to any Domestic and Small Business Customer.

Codes of Practice for Complaints

14.4 Within one month of this Condition entering into force, the Communications Provider shall establish and thereafter maintain procedures that conform with any applicable Code of Practice for Complaints for the handling of complaints made by its Domestic and Small Business Customers in relation to the provision of Public Electronic Communications Services.

Codes of Practice for Sales and Marketing

14.5 During the Relevant Period, those Communications Providers who provide Fixed-line Telecommunications Services or the Wholesale Inputs to Fixed-line Telecommunications Services, shall:

- (a) establish and thereafter maintain a Code of Practice for Sales and Marketing for dealing with its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex 3 to this Condition; and
- (b) comply with the provisions of the Code of Practice for Sales and Marketing established according to Condition 14.5 (a) above.

14.6 The Code of Practice for Sales and Marketing shall be drafted in plain English which is easy to understand, and copies of it shall be provided on request and free of charge to any Domestic and Small Business Customer.

Dispute Resolution

14.7 The Communications Provider shall implement and comply with a Dispute Resolution Scheme, including any final decision of the Dispute Resolution Body made in accordance with that Scheme, for the resolution of disputes between the Communications Provider and its Domestic and Small Business Customers in relation to the provision of Public Electronic Communications Services.

14.8 In this Condition:

- (a) **“Carrier Pre-Selection”** means a facility which allows a Subscriber to whom a Publicly Available Telephone Service is provided by means of a Public Telephone Network to select which Pre-selected Provider of such Services provided wholly or partly by means of that Network is the Pre-selected Provider he wishes to use to carry his calls by designating in advance the selection that is to apply on every occasion when there has been no selection of Provider by use of a Telephone Number;
- (b) **“Communications Provider”** means a person who provides Public Electronic Communication Services to Domestic and Small Business Customers;
- (c) **“Code of Practice for Complaints”** means a code of practice approved from time to time by the Director for the purpose of this Condition in accordance with sections 52 and 53 of the Act;
- (d) **“Code of Practice for NTS Calls”** means a code of practice established in accordance with Condition 14.2;
- (e) **“Codes of Practice for Sales and Marketing”** means a code of practice established in accordance with Condition 14.5 (a);
- (f) **“Dispute Resolution Body”** means the body of persons responsible for administering a relevant Dispute Resolution Scheme;
- (g) **“Dispute Resolution Scheme”** means procedures approved or established from time to time by the Director for the purpose of this Condition in accordance with sections 52, 54 or 55 of the Act;

(h) “**Domestic and Small Business Customer**” means, in relation to a Communications Provider, a Customer of that Provider who is neither-

(i) himself a Communications Provider; nor

(ii) a person who is such a Customer in respect of an undertaking carried on by him for which more than ten individuals work (whether as employees or volunteers or otherwise);

(i) “**Fixed-line Telecommunications Services**” means narrowband calls and lines services provided to Domestic and Small Business Customers by means of Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;

(j) “**Guidelines**” means the guidelines set out in the Annex to this Condition;

(k) “**Indirect Access**” means a facility which allows a Subscriber to whom a Publicly Available Telephone Service is provided by means of a Public Telephone Network to select which such Service provided wholly or partly by means of that Network is the service he wishes to use by the use of a Telephone Number on each separate occasion on which a selection is made;

(l) “**National Telephone Numbering Plan**” means the National Telephone Numbering Plan published by OFCOM from time to time pursuant to section 56 of the Communications Act 2003;

(m) “**NTS Calls**” means calls to numbers identified in the National Telephone Numbering Plan as Special Services numbers including calls to 0500 freephone numbers but excluding calls to 0844 04 numbers for Surftime internet access services and calls to 0808 99 numbers for flat rate internet access call origination;

(n) “**Originating Communications Provider**” means a Communications Provider on whose network a call originates;

(o) “**Premium Rate Services**” shall mean Controlled Premium Rate Services as defined in the Condition set out in the Schedule to the Notification under sections 48(1) and 120(5) of the Communications Act 2003, published by the Director General of Telecommunications on 23 December 2003 (as amended from time to time);

(p) “**Publicly Available Telephone Services**” means a service available to the public for originating and receiving national and international calls and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance services, Directory Enquiry Facilities, Directories, provision of Public Pay Telephones, provision of service under special terms, provision of specific facilities for End-Users with disabilities or with special social needs and/or the provision of non-geographic services;

(q) “**Public Telephone Network**” means an Electronic Communications Network which is used to provide Publicly Available Telephone Services; it supports the transfer between Network Termination Points of speech

communications, and also other forms of communication, such as facsimile and data;

(r) “**Pre-selected Provider**” means a provider of a Public Telephone Network who has notified the Communications Provider with Significant Market Power in the Relevant Market that it is able and willing to provide Carrier Pre-selection to Subscribers to whom the Communications Provider with Significant Market Power in the Relevant Market provides Publicly Available Telephone Services;

(s) “**Relevant Period**” means a period of two years beginning on 26 May 2005 and ending on 25 May 2007;

(t) “**Subscriber**” means any person who is party to a contract with the provider of Publicly Available Telephone Services for the supply of such Services in the United Kingdom;

(u) “**Wholesale Calls**” means end-to-end calls sold by one Communications Provider to another for the purposes of providing services to End-Users;

(v) “**Wholesale Inputs**” means facilities that are provided by a Communications Provider to another Communications Provider to allow for the provision of Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;

(w) “**Wholesale Line Rental**” means a facility which allows OCPs without Significant Market Power in the Relevant Market to provide an integrated service comprising calls and access by renting the exchange lines on wholesale terms from the Communications Provider with Significant Market Power in the Relevant Market, and sending customers a single bill for both calls and line rental.

Annex 1

[Draft] guidelines for codes of practice for handling customer enquiries and complaints about Premium Rate Services

1. Introduction and overview

- 1.1 The key objective of these Guidelines is to ensure that Originating Communications Providers provide their Domestic and Small Business Customers with readily accessible and accurate information relating to Premium Rate Service ('PRS') calls;
- 1.2 These Guidelines seek to ensure that there is a clear framework within which Originating Communications Providers should be working, providing reassurance to Customers and consumer representatives as to what constitutes good practice in the provision of information to Customers in relation to complaints and enquiries about PRS calls.

2. Status of code

- 2.1 All Originating Communications Providers who provide PRS are required under General Condition 14.2 to establish a Code of Practice for PRS Calls for its Domestic and Small Business Customers, which conforms with these Guidelines, and comply with the provisions of the Code.
- 2.2 Compliance with the Code does not guarantee compliance with any legal requirement.
- 2.3 Non-compliance with the Code does not affect the validity of any contract between the company and the consumer, unless otherwise provided by law.

3. Customer information and advice

- 3.1 Originating Communications Providers to provide the following information and advice to their Customers:
 - (i) information about the role of Originating Communications Providers in relation to:
 - a. general PRS enquiries and requests for number checks via the number-checker facilities provided by the Independent Committee for the Supervision of Telephone Information Services ('ICSTIS') on the ICSTIS website (www.icstis.org.uk);
 - b. dealing with formal complaints about abuses of service content, the ICSTIS code of practice and alleged scams.

3.2 In so doing Originating Communications Providers to provide:

- (i) information about the role and remit of ICSTIS in dealing with complaints and how to go about making a formal complaint to ICSTIS via the website, helpline or by in writing;
- (ii) information about the tariffs that apply on their network for calls to any PRS number range;
- (iii) basic information about how PRS services work including whether the call(s) in question were routed to service providers (SPs) hosted on the Originating Communications Providers own network or on the network of a Terminating Communications Provider (TCP), together with a basic explanation of how revenue sharing with SPs operates;
- (iv) information about how consumers can bar access from their telephone to all or specific PRS number ranges for reasons of cost or content;
- (v) information about the purpose of the TPS and FPS and how to go about registering with such services;
- (vi) information about how internet diallers operate and how consumers can identify and take action, such as improving their computer's security, to avoid further instances of these or similar scams;
- (vii) in the case of mobiles, in addition to the above, information about how premium rate SMS/MMS/WAP billed services operate and how consumers can unsubscribe from these;
- (viii) information on the role of the Telecoms Ombudsman schemes in resolving disputes concerning PRS calls;
- (ix) information on other options available to consumers for seeking refunds in cases of abuse or scams involving PRS calls;
- (x) contact details of individual SPs or the TCPs which host them; and where available – typically via ICSTIS' website at www.icstis.org.uk;
- (xi) SPs customer service contact details where consumers can obtain further information about services provided on the PRS numbers found on their bills.

4. Processes and Procedures

- 4.1 Procedures should be in place for Originating Communications Providers' enquiry and helpdesk staff to be informed of the code of practice for the provision of information to Customers in relation to complaints and enquiries about PRS calls ('the Code') and its contents, and for monitoring their compliance with it.
- 4.2 Procedures to be in place, and fully documented, for Customers and advice agencies to be made aware of the Code and its contents such as, for example, making reference in sales and marketing literature, and by making available on Originating Communications Provider's public websites.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 4.3 Codes should be drafted in plain English which is easy to understand, and copies of it to be provided on request, and free of charge, to Customers.
- 4.4 Originating Communications Providers' accountability should be visible in the form of a named person, responsible for compliance, with relevant contact details, including an e-mail address.

5. Terms used in these Guidelines

- 5.1 Terms used in these Guidelines shall have the same meaning, if any, as set out in Condition 14.

Annex 2

[Draft] guidelines for codes of practice for the publication of prices of calls to Number Translation Services

1. Introduction and overview

- 1.1 The key objective of these Guidelines is to ensure that Originating Communications Providers provide their Domestic and Small Business Customers with readily accessible and accurate information relating to the usage charges for NTS Calls on their networks.
- 1.2 These Guidelines seek to ensure that there is a clear framework within which Originating Communications Providers should be operating in relation to the publication and provision of information to Domestic and Small Business Customers about usage charges for NTS Calls

2. Status of code

- 2.1 All Originating Communications Providers who provide NTS Calls are required under General Condition 14.2 to establish a Code of Practice for NTS Calls for its Domestic and Small Business Customers, which conforms with these Guidelines, and comply with the provisions of the Code.
- 2.2 Compliance with the Code does not guarantee compliance with any legal requirement.
- 2.3 Non-compliance with the Code does not affect the validity of any contract between the company and the consumer, unless otherwise provided by law.

3. Customer information and advice

- 3.1 The Originating Communications Provider to publish the usage charges required to be published under General Condition 10.2(d)(ii) for NTS Calls on its website, in published price lists and in promotional material in a way that gives prominence to those charges.
- 3.2 Without prejudice to the generality of paragraph 3.1, Originating Communications Providers to give prominence to the following, in particular:
 - (i) any usage charges that apply for calls to freephone numbers including details of when those charges will apply;
 - (ii) usage charges for NTS Calls which include variations by time of day. For example, 08xx calls are charged at x pence per minute or per call during weekday evenings inclusive of value added tax;
 - (iii) whether or not any special offers, discount schemes or call bundling arrangements apply to NTS Calls, including details of which arrangements apply to which numbers;

- 3.3 Originating Communications Providers to provide information of all applicable charges for NTS Calls when the customer signs up for the provider's service, in relation to new customers.

4. Processes and Procedures

- 4.1 Procedures should be in place for Originating Communications Providers' enquiry and helpdesk staff to be informed of the code of practice for the provision of information to Customers in relation to usage charges for NTS Calls ('the Code') and its contents, and for monitoring their compliance with it.
- 4.2 Procedures to be in place, and fully documented, for Customers and advice agencies to be made aware of the Code and its contents such as, for example, making reference in sales and marketing literature, and by making available on Originating Communications Provider's public websites.
- 4.3 Codes should be drafted in plain English which is easy to understand, and copies of it to be provided on request, and free of charge, to Customers.
- 4.4 Originating Communications Providers' accountability should be visible in the form of a named person, responsible for

5. Terms used in these Guidelines

- 5.1 Terms used in these Guidelines shall have the same meaning, if any, as set out in Condition 14.

Annex3

Guidelines for sales and marketing codes of practice for Fixed-Line Telecommunications Services

Key elements to be included within sales and marketing code of practice

1. Introduction and overview

1.1 Key objectives to be outlined:

- To ensure that Communications Providers (“Providers”) provide their Domestic and Small Business Customers (‘Customers’) with standards of protection over and above those provided by the law (see table below for examples);
- To ensure good practice and responsible selling in the marketing of Fixed-line Telecommunications Services, and to help Customers understand the service and behaviour to be expected;
- To provide a clear framework within which responsible Providers should be working, providing reassurance to Customers and consumer representatives as to what constitutes good practice in the sales and marketing of Fixed-line Telecommunications Services.

1.2 The focus to be sales and marketing of Fixed-line Telecoms Services to Customers, dealing primarily with issues arising before, during and at the point of sale, with particular emphasis on the avoidance of mis-selling and misrepresentation, and ensuring customer understanding of the services offered and the key terms of any contracts they are entering into.

1.3 Procedures to be in place for sales and marketing staff, and agents, to be informed of the Codes of Practice for Sales and Marketing (‘the Code’) and its contents, and for monitoring their compliance with it.

1.4 Procedures to be in place, and fully documented, for Customers and advice agencies to be made aware of the Code and its contents such as, for example, making reference to the Code in sales and marketing literature, as part of the Providers’ ‘notification of transfer’ letter (referred to in paragraphs 6.11 and 6.12), and by making available on Providers’ public websites.

1.5 Codes to be drafted in plain English which is easy to understand, and copies of it to be provided on request, and free of charge, to Customers.

1.6 Providers’ accountability to be visible in the form of a named person, responsible for compliance, with relevant contact details, including an e-mail address.

2. Status of code

- 2.1 All Providers who engage in sales and marketing for Fixed-line Telecoms Services are required under General Condition 14.3 to establish the Code in accordance with these Guidelines, and comply with the provisions of the Code.
- 2.2 Compliance with the Code does not guarantee compliance with any legal requirement.
- 2.3 Non-compliance with the Code does not affect the validity of any contract between the company and the consumer, unless otherwise provided by law.

3. Sales, marketing advertising and promotion

- 3.1 Customer approaches may occur in a wide range of ways e.g. by TV, radio or press advertising, promotions in shops or shopping centres, post, fax, electronic mail, telephone or in person. Regardless of the way in which sales and marketing activities are conducted, Providers to act responsibly and compliantly.
- 3.2 Customers' legal rights and wishes to be respected where they have registered with any relevant preference service, including the Mailing Preference Service, the Telephone Preference Service, the Fax Preference Service and the E-mail Preference Service.
- 3.3 Advertising and promotion to comply with the British Codes of Advertising and Sales Promotion and all other applicable advertising codes. In addition, advertising and promotional literature to be clear, unambiguous, accurate and fair, containing no false or misleading information about price, value or service and, in particular, must not denigrate other Providers.

4. Recruitment and sales training

- 4.1 Appropriate procedures to be set up for the selection of staff involved with direct contact with customers for the purposes of sales and marketing activity.
- 4.2 Providers to be responsible for ensuring that sub-contractors (third party agencies) also set up equivalent selection procedures. For the avoidance of doubt, third party agencies shall not include resellers to whom telephony services are sold on a wholesale basis.
- 4.3 Whilst operating within current employment legislation, recruitment of sales staff to have regard to:
 - behaviour and appearance, recognising that the sales person may be seen as the 'public face' of the industry;
 - security – references and relevant convictions for criminal offences to be checked and taken into account;
 - evidence of mis-selling or lack of integrity in any previous selling employment.
- 4.4 The following requirements related to sales staff based in the UK to be observed:
 - the applicant must provide proof of National Insurance number, proof of address and two references;

- referees cannot be related to the applicant;
 - business referees must not both be from the same company;
 - if a sales person leaves for any reason a copy of his or her sales records (including all recordings and notes on sales) will be retained for a minimum period of six months;
 - reasonable endeavours to be made to retrieve the identification badges of staff leaving the company.
- 4.5 For sales-staff not based in the UK, equivalent procedures to be applied, and documented.
- 4.6 Providers to satisfy themselves that they have taken reasonable steps to ensure that every such person is trained so as to have a sufficient understanding that any relevant advice given by such person is not misleading. Topics covered to include:
- arrangements for competition in the supply of telecommunications in the UK;
 - the different telephone options provided by the company and how these differ from other competitive telecoms products (which may or may not be offered by the company); for example, Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;
 - the process for ordering the telephone service;
 - the relevant principles of consumer protection law;
 - the prices charged by the employing company and its other terms and conditions of service and, in particular, methods of payment, duration of contract and any termination fees;
 - the nature, and cost, of any additional services on offer;
 - the process for cancelling the contract both during the cooling-off period and at any time following commencement of the service;
 - the existence of the sales and marketing code of practice and the benefits provided; and
 - the procedure for handling customer complaints.
- 4.7 Responsibility for compliance with the Code by representatives, and any sales agency acting on their behalf, to lie with the Provider. The Provider to identify the title of the person accountable for ensuring that the company and its agents observe the Code, and the title of the person responsible for handling complaints relevant to the code.
- 4.8 Remuneration systems, to be documented, and not to be such as to encourage misleading or exploitative sales practices. The Provider to be kept informed of incentive schemes used by any agencies it employs for sales and marketing.

5. Customer contact

- 5.1 Discretion to be used when visiting consumers' homes, particularly during the hours of darkness. No face to face contact to be made outside the hours of 08.00 to 20.00, and no telephone calls to be made outside the hours of 08.00 to 21.00, unless at the customer's request
- 5.2 Representatives involved in face-to-face sales and marketing to be issued with identity badges that clearly display the name of the Provider they represent and a unique identification number for that representative. The identity badge to also display the representative's name, a photograph of the representative and an expiry date for validity of the card. The information on the card to be presented in such a way that does not require close examination. Identity cards must also be made available with key information in Braille, on request
- 5.3 All representatives to immediately identify themselves, the company they represent and the purpose of the call and the expected call duration. If visiting or meeting in person, they should draw the Customers' attention to their identity card.
- 5.4 Reasonable steps to be taken to keep informed of local authority initiatives, password schemes etc, such as the Local Distraction Burglary Initiative.
- 5.5 All representatives to be courteous, use appropriate language and offer clear and straightforward explanations. All information should be factual and accurate. Representatives should not misrepresent the services being offered nor those of other Providers. Representatives should also check that Customers entering into contracts understand, and intend, them.
- 5.6 Representatives to cease contact with any person who indicates that the contact is inconvenient, unwelcome, inappropriate or too long. If the Customer requests it, the discussion to be ended immediately and, if making a doorstep call, the premises to be left immediately.
- 5.7 Representatives not to abuse the trust of vulnerable Customers e.g. those who are elderly or whose first language is not English, or who have special needs. Providers should have a policy regarding such Customers, including that their representatives do not pursue sales presentations to Customers whom they believe may be vulnerable.
- 5.8 Where there is sheltered housing, nursing homes or residential care facilities contact to be made with the warden or other person in authority before any approach is made to the Customer.
- 5.9 No sales or marketing activity to be conducted that is directed to those who are under the legal age for entering into contracts.
- 5.10 Sales and marketing campaign records to be maintained for six months, including the date and the approximate time of the contact with the Customer. Records to be such as to allow subsequent identification of the salesperson(s) involved and to assist in dealing with any complaint or query.

6. Entering into a contract – information, order forms and contracts

- 6.1 All reasonable steps to be taken to ensure that the person entering into a contract is authorised to enter into the contract for the Fixed-line Telecommunications Services/bills at the premises.
- 6.2 Order forms and contract forms to be designed such that the contractual nature of the document is clear to the Customer, and it contains a statement of the contractual nature of the document immediately adjacent to where the Customer signs the document so the statement cannot easily be obscured or concealed⁶. Customers to sign over the word “contract”
- 6.3 Where a direct approach to the Customer takes place, the Customer to be given the information set out in this paragraph, in writing, in a clear and comprehensible manner
- essential information including the identity of the company, its address, telephone, fax and e-mail contact details, as appropriate;
 - a description of the telephone service sufficient to enable the customer to understand the option that the customer has chosen, and how it works;
 - information about the major elements of the service, including the cost of any standing charges, the payment terms, line rental, key call types and details of “protected or special support” arrangements;
 - the arrangements for provision of the service, including the order process and, as accurately as possible, the likely date of provision. Where there may be significant delay in the likely date of provision, the Customer to be informed;
 - the existence of a right of cancellation and the process for exercising it;
 - the period for which the charges remain valid; and
 - the minimum period of contract, and minimum contract charges, if any.
- 6.4 Customers to be made aware of the existence of the Code, and preferably provided with a summary. Copies of it to be provided on request, and free of charge, to Customers.
- 6.5 At the Customers request, full written information about tariffs to be made available.
- 6.6 If a Customer signs an order form following face to face contact, or enters into a written contract, the customer must be given a copy of the order form or contract, as well as the following details in writing either at the same time or within 5 working days, unless previously supplied in writing prior to contract:
- information about any after-sales services or guarantees; and
 - arrangements for the termination of the contract.
- 6.7 Orders placed by distance selling means to comply with Distance Selling Regulations, which are set out in the table below.

⁶ This is in order to minimise cases where order forms are misrepresented as confirmations of the sales person’s visit. This is likely to be an offence under the Trades Descriptions Acts.

- 6.8 In the case of internet orders, a well sign-posted hyperlink to this information which is easily visible to the web site visitor to be prominently displayed with the information being capable of being easily downloaded and printed.
- 6.9 During the switchover period there should be 'no cost' cancellation for Customers where they change their mind. Customers to be made aware that they have the right to change their mind during the switchover period.
- 6.10 Customers to be permitted to cancel orders and terminate contracts by telephone, in writing, by fax or by e-mail.
- 6.11 Providers to send a mandatory letter in accordance with the industry-agreed process informing the customer of the details of the transfer, and the following to be clearly communicated:
- date of notification;
 - CLI(s) affected;
 - list of services affected/unaffected, e.g. IA call barring;
 - date of switchover;
 - the sender's contacts details for any queries.
- 6.12 The notification will be by letter although may be sent electronically where Customers have initiated contact by applying online, and have confirmed online that they wish all future correspondence to be sent electronically. Otherwise Customers would need to positively request by written correspondence that information be sent electronically.
- 6.13 Providers to keep under review the procedures by which contracts are agreed and to take appropriate steps to prevent recurrence of any problem identified.
- 6.14 In all cases, Customers to be contacted along similar timescales to the industry-agreed process described in paragraph 6.11 to confirm that the Customer understands that they have entered into an agreement, are happy to proceed with the agreement and are content with the way in which the sales and marketing activity was conducted.
- 6.15 Such Customer contact to be either part of the mandatory Customer 'notification of transfer' letter referred to in paragraph 6.11 or through a separate process. This contact to be made by a person not engaged directly in activities leading to the promotion of sales contracts.
- 6.16 If it is found that the contract was not understood or intended, or if the order matured before the expiry of the switchover period, and the Customer wishes to cancel, Providers to terminate the contract without charge or other penalty to the Customer.

7. Consumer protection and other legal requirements

- 7.1 Procedures to comply with all applicable legislation and appropriate amendments (see table below for examples).

8. Audit

- 8.1 Providers to carry out regular audits of systems, procedures and documentation to ensure that they are acting compliantly with all aspects of the Code.

9. Customer complaints procedure

- 9.1 Providers' internal procedures for handling Customer complaints to also include those relating to their sales and marketing activities. Providers to ensure that all their staff and representatives who deal directly with Customers are made aware of this procedure, and that they should inform Customers of the existence of their complaints procedure in accordance with their current obligations.
- 9.2 The complaints procedure to set out how Customers may complain about the company's sales and marketing activity and what further steps are available if they believe their complaint has not been dealt with satisfactorily.
- 9.3 In addition, Customers also to be made aware of any dispute resolution arrangements as recognised by Ofcom. Currently Ofcom has approved two schemes: the Office of the Telecommunications Ombudsman ('Otel0') and the Communications and Internet Services Adjudication Scheme ('CISAS').
- 9.4 Providers to liaise regularly with Ofcom and the relevant consumer groups to monitor the number and nature of complaints under its code.

10. Distributing the code: creating awareness

- 10.1 The Code to be available to Customers on request, free of charge and in a reasonable range of formats.
- 10.2 The head office of the Citizens Advice (address: Myddleton House, 115-123 Pentonville Road, London, N1 9LZ) plus other head offices of relevant major advice agencies normally to be sent copies of the code and any subsequent update. Providers with restricted operations such as those operating only in specific regions to circulate copies to advice agencies as appropriate.

Legislation of particular relevance to sales and marketing of particular telephony products

Particular attention is drawn to the following regulations (as amended, where appropriate), in addition to all other appropriate consumer protection law and advertising Codes of Practice

	Title	Comment
1	The Unfair Terms in Consumer Contracts Regulations 1999 SI 1999 No 2083	<ul style="list-style-type: none"> • introduces controls over unfair standard terms in contracts with consumers • requires written contracts with consumers to be in plain, intelligible language
2	The Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987 SI 1987 No 2117	<ul style="list-style-type: none"> • requires that written notice of cancellation rights (min 7 days) in prescribed form is given to consumers entering into contracts at their homes or in other places (e.g. shopping precincts)
3	The Consumer Protection (Distance Selling) Regulations 2000 SI 2000 No 2334	<ul style="list-style-type: none"> • requires extensive information to consumers before and after consumers enter into contracts using channels of marketing such as direct response press or TV adverts, telemarketing, mail order, etc • requires cancellation rights (min 7 working days) to be given to consumers, starting from the date of delivery of prescribed information • provides that making demands for payment for services not ordered by consumer is a criminal offence
4	Telecommunications (Open Network Provision)(Voice Telephony) Regulations 1998 SI 1998 No. 1580	<p>Extensive requirements for system-less resellers and operators of systems licensed by DTI to</p> <ul style="list-style-type: none"> • offer written contracts to consumers complying with the regulations; • to publish their terms and conditions and tariffs by placing copies in every major office for public inspection during prescribed hours
5	Various Misleading Advertising Regulations	

6	Consumer Protection Act 1987 (Part III)	
7	Consumer protection legislation	<p>Civil responsibilities</p> <ul style="list-style-type: none"> • Misrepresentation Act 1967 • Unfair Contract Terms 1977 • Sales of Goods Act • Supply of Goods and Services Act 1982 • Consumer Protection 1987 • Sale and Supply of Goods Act 1994 • Control of Misleading Advertising Regulations 1988 SI 1988 No 915 • Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987 SI 1987 No 2117 • Unfair Terms in Consumer Contracts Regulation SI 1999 No 2083 <p>Criminal liabilities</p> <ul style="list-style-type: none"> • Trade Descriptions Acts 1968 • Administration of Justice Act 1970 • Fair Trading Act 1973 • Price Act 1974 • Consumer Protection Act 1987 (Parts II, III, IV and V) • Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987 SI 1987 No 2117 • Consumer Protection (Distance Selling) Regulations 2000 SI No 2334