

15 November 2004

Justin Moore
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Dear Justin

New Voice Services

Orange welcomes the opportunity to respond to the New Voice Services Consultation Document issued by Ofcom on 6 September 2004.

Orange has a number of points that it wishes to raise with regard to this consultation which for the purposes of clarity are addressed under separate headings within this response.

Should you wish to discuss any of the points raised within this consultation document, please do not hesitate to contact me directly on 07967 711669.

Yours sincerely

Jon Haskins
Senior Regulatory Analyst

New Voice Services Response

Orange welcomes the opportunity to respond to the New Voice Services Consultation Document issued by Ofcom on 6 September 2004.

Orange has two points that it wishes to raise with regard to this consultation, concerning the definition of PATS and numbering arrangements for NVS which for the purposes of clarity are addressed under separate headings within this response.

The definition of PATS

Under Article 2 of the Universal Service Directive, a PATS is defined as:

'a service available to the public for originating and receiving national and international calls and access to the emergency services through a number or numbers in a national or international telephone numbering plan.'

For the purposes of clarity this can be broken down into four core elements, namely:

- a service available to the public
- for originating and receiving national and international phone calls
- that provides access to the emergency services; and
- through a number or numbers in a national or international telephone numbering plan

Accordingly, until the European Commission provides further guidance, communications providers who offer services that fulfil all four parts of the PATS definition will automatically be classified as a PATS provider and must therefore comply with PATS obligations.

Conversely, those organisations that do not fulfil all four parts of the PATS definition (through choice or otherwise) would not be classified as a PATS provider and would therefore escape the imposition of the additional regulatory requirements as detailed under the General Conditions of Entitlement.

Prima facie therefore, by not providing access to emergency organisations, communications providers can seemingly absolve themselves of regulatory obligations that would otherwise be mandatory and enforceable. Orange strongly believes that all communications providers should, as far as is practicable, operate on a level playing field. Indeed, only such an approach to regulation would seem to be consistent with Ofcom's duty not to discriminate between providers of competing services and its obligation to ensure that regulation is technologically neutral as detailed under the Communications Act 2003.

Orange does however recognise that Ofcom is somewhat tied at the present time, as a direct result of the definition of PATS as contained within the Universal Service Directive, which as Ofcom points out creates an 'all or nothing' approach to the provision of access to 999 and creates an inevitable mix-up between 'cause' and 'effect'.

Orange is supportive of Ofcom's interim position which favours enabling consumers to make informed decisions rather than requiring providers which offer voice services to provide certain standard features. However, where communications providers are obliged to offer certain standard features (i.e. as detailed under the General Conditions of Entitlement), the onus must be on Ofcom to enforce these minimum standards on all communications providers fairly and equally or alternatively, withdraw from regulatory intervention in the provisions of certain standard features altogether.

Orange believes that the definition of a PATS must be revised to provide greater regulatory certainty as to when and on what basis a communications provider will be regarded as being a provider of a PATS. In particular, the 'cause and effect' mix-up regarding the provision of access to emergency services must be rectified to ensure a consistent interpretation of the definition of PATS and the application of associated obligations.

Numbering arrangements for New Voice Services

Ofcom has confirmed that both geographic numbers and 056 number prefixes will be available to allocation for providers of new voice services. Orange can confirm that it has no objections to this policy position. However, we would appreciate clarification from Ofcom that it is not intended that mobile 3G services should be required to migrate from 07 prefixes to 056 or geographic numbers.