

Question 3.1: *Do you agree that the modification to the Numbering Plan that we propose – which would prohibit direct or indirect revenue-sharing with callers and/or end-users by those who use 03 numbers – is appropriate and proportionate to address the conduct of concern that we have described in this document? If not, please explain why.*

And

Question 4.1: Do you have any comments on the draft modifications to the Numbering Plan that we are proposing, as set out in Annex 7? Where you disagree with any of the proposed modifications, please explain why.

We do not agree with the modification to the numbering plan for the following reasons relating to the document that Ofcom produced in support of the modification we have the following comments and observations:

1.2

It is not clear as to what the definition is of “end user” there needs to be a clear definition of “End User” within this context. See also comment on 3.1

1.3

To the benefit of the consumer

How did Ofcom observe the sharing of revenues?

Incentivising callers to make calls is a normal commercial practice, no matter what the number range or its purpose is. It’s how businesses operate within Telecoms in general.

What are International calls if not a genuine communications service?

1.4

Impact assessment is wrong

a) Minutes are not free. The monthly contract payment is calculated to cover the cost of the anticipated calls volumes. Many people do not use their full allowance so there is a capability to absorb higher use by the limited number of consumers that use these services.

“without offsetting benefits” Are benefits in kind not offsetting benefits?

Ofcom do not show how the contribution to retail competition affected, we cannot see how this will be affected whatsoever?

b) It is true that the offering of benefits on 03 numbers may lead to significant inflation in traffic but it hasn’t so far, or at least there is no presented evidence to show any inflation. These services have been running for some time and no significant inflation has taken place.

c) To say that the practice of offering benefits on 03 number ranges will harm their reputation is disingenuous. Normal retail consumers aren’t concerned with the intended use of number ranges and the vast majority will not be aware of them, only that they provide the service the consumers

need. As per para 2.3 of the consultation, OFCOM are very well aware that the real cause of serious harm to the reputations of number ranges is the excessively high calling rates charged by some OCPs.

1.5

We cannot see how reducing the cost of making calls is not in the best interests of consumers and competition?

2.3

The real reason for this reticence was MNOs charging excessively

Consumers were deterred from using NTS by the high prices charged by the Mobile Operators. Use of 03 numbers for services previously provided on 08 numbers will remove this reluctance to use the socially important services

2.5

If Ofcom alters the wording as per this consultation then the use of 03 numbers will be reduced to Government Departments using 030 number ranges and there will be no driving of services or revenues to 03 ranges other than 030. It will be effectively the end of 03's as an effective range.

2.7

The rates are fair as they currently stand, no change is necessary.

2.13

Policy objectives for Non Geographic numbering included price transparency, consumer protection and the promotion of competition

2.15

We aren't aware of any genuine AIT on 03 numbers, Ofcom has not provided any evidence that there is.

2.19

Simply put, arbitrage is a way of making money without providing a service, e.g. FX trading. The use of 03 numbers in question for top up to make other calls is not arbitrage as it does provide and facilitate a genuine communications service.

2.22

It is of note that EE were the main complainant in the 03 determination and wanted higher termination rates and now it is EE that are aggressively using the AIT route and blocking traffic to 03 numbers regardless of the service being provided.

All the comments in this paragraph support the current pricing and use of 03 numbers

EE, and there is no reason to suggest that any other MNO would be any different, were unable to show that they weren't recovering their incurred costs on calls to 03 numbers.

2.27

How does this alter consumer understanding

Long-term consumer understanding and confidence in 03 numbers will be harmed only by excessive charging by OCPs, not by the services being provided on those numbers. Excessive charging by, in particular, MNOs was the reason for Service Providers to feel that some ranges no longer met their needs.

2.29

Government guidance on numbers to adopt relies solely on price to caller and not to any other services provided on those numbers.

2.31. Government advice was for depts. To use revenue share numbers only where a value add was delivered. Is this not exactly what facilitating International calls delivers?

2.32

Again, the customer service number legislation places the emphasis squarely on price and not on any other services provided on those numbers. We aren't providing, or claiming to provide, Customer service on the numbers in question.

2.34

Pending the outcome of the OFCOM decision we would argue that there is no revenue share in building a wallet to use solely for making International calls.

2.35

This is irrelevant to this consultation.

3.6

Where credit for international calls is provided, the caller has the primary intent to make further calls, albeit not on that call. This is what is different between allowing cheap international calls and benefits that involve vouchers, cash and bitcoins or similar, the proposed amendments do not differentiate.

3.8

We consider this as groundless speculation. These numbers have been in use for the services in question for some time but the suggested actions by OCPs haven't taken place and there is no evidence submitted that they have.

3.10

We consider this as groundless speculation. These numbers have been in use for the services in question for some time but there has been no significant inflation in volumes or other impact on networks.

3.12

There is no sound evidence that the reputation of a number range is damaged by the use it's put to. There has however been significant damage to the reputation of all PRS inflicted by the excessive charging practices of the MNOs.

3.14

It's part of standard commercial practice to generate more profit by a TCP incentivising people to ring its number. This is business making a profit by offering a useful service the consumers want at a price they can afford.

Building up Credit for an IDD service is a legitimate Communications service

3.15

These services have been in use for some time but there is no evidence of anyone exhausting all the remaining minutes in their bundle.

3.16

Mobile OCPs are already harming customers and competition by blocking numbers and withholding payment to TCPs. They have already harmed customers and competition by unnecessarily inflating the prices of calls to IDD, 07, 08 and 09 services. The use of 03 numbers to facilitate the making of International calls is a legitimate reaction to the anti-competitive practices of the Mobile OCPs.

3.17

As previously stated, it is excessively high call charges that are damaging the reputations of number ranges, consumers do not generally have a view on what services are appropriate to number ranges.

3.19

It is agreed that payment for making calls by bit coins or other straight payment methods is an abuse of a communications service but accumulating credit that can be used only to make calls is a legitimate competitive genuine communications service that allows people who couldn't afford the cost of international calls from mobiles to contact family members domiciled outside the UK.

3.20

Consumers don't use number ranges to form a view on if an organisation is using a number primarily for generating profit, they do so based on the organisation and the price of the call.

3.21

By preventing the use of 03 numbers to facilitate making International calls OFCOM would be encouraging consumer harm and damaging competition.

3.23

Because the price of calls to 03 numbers is almost as low as geographic calls, the use of some 03 number ranges for facilitating the making of International calls will have no detrimental impact on the use of 03 numbers.

3.24

The proposed action would not encourage investment and innovation by CPs, it would have a diametrically opposite effect and the uncertainty created by this ruling would deter CPs from innovation and investing in other products at a time when the PRS market is under threat and declining.

If this wording is adopted the parts of the community most effected will be the minority ethnic communities who cannot afford the high cost of calls to international destinations that the mobile networks currently charge of on average £1.25 pence per minute. Please find to follow a breakdown

of the countries dialled by users of the international call services that would be hit by the proposed changes. As such it could be considered that the changes are pointed at those minorities.

We therefore urge Ofcom to reconsider and assess the impact of the proposed changes and reject them.

Robert Johnson, Alan Partington, Dave Harper on behalf of Telecom2 Ltd.

Additional Comments:

We have a number of supplementary questions for Ofcom concerning the implications of this consultation that we do not think are suitably covered in the current consultation:

Q. (A) It is our understanding that it is a requirement that Ofcom have a pre consultation meeting did this take place and who with, any confidentiality requirement should be waved as Ofcom do not need to respond with specific details. The breakdown of meeting attendees by type, i.e. OCP or TCP, MNO or fixed network operator would be sufficient.

Q. (B) If the answer to A is “no” then when will the open meeting will take place.

Q. (C) Many statements are made about the potential impact with no supporting visible supporting data, did Ofcom ask the MNO's for supporting call statistics?

Q. (D) Has Ofcom considered that the new Definition of Revenue Share would have an impact on the wider industry on other number ranges.