



The 03 Number Range

Decision to clarify that revenue-sharing with callers is prohibited on the 03 number range

Non-confidential version. Redactions marked with [X]

Statement

Publication date: 11 December 2014

About this document

03 telephone numbers are UK-wide, non-geographic numbers typically used to provide voice services such as customer service helplines and public services. The retail price charged for calls to 03 numbers must not exceed that of calls to standard geographic numbers, i.e. those that begin 01 or 02. Calls to 03 numbers must be included in any call allowances or discounts offered to customers in the same way as geographic calls. Communications providers are not allowed to share revenues they receive for 03 calls with end-users.

In this document we clarify that callers are end-users with respect to 03 calls and therefore communications providers are prohibited from sharing with them any revenues they receive, directly or indirectly, from calls to 03 numbers allocated to or operated by them. We consider that such revenue-sharing by communications providers could put at risk call allowances commonly provided to subscribers, encourage inefficient use of the telephone network and undermine consumer confidence in the 03 number range. We provide examples of services that are prohibited by our regulations.

Contents

Section		Page
1	Executive summary	1
2	Background: relevant regulatory history	3
3	Relevant legal framework	10
4	Analysis of consultation responses and our final decision	13
Annex		Page
1	Notification of modifications to the provisions of the Numbering Plan under section 56(2) and section 60(5) of the Act	28
2	Equality Impact Assessment	31
3	List of sources	33
4	List of non-confidential respondents to the July 2014 Consultation	35
5	Glossary	37

Section 1

Executive summary

Context

- 1.1 Telephone numbers that begin with 03 are designated as “Non-Geographic Numbers charged at a geographic rate” in the National Telephone Numbering Plan (the Numbering Plan)¹ such that calls to 03 numbers can be “charged at up to the same rate the customer would pay to call a UK Geographic Number”. Also, calls to 03 numbers must be included in “inclusive call minutes if the customer has remaining inclusive minutes to UK Geographic Numbers, and included in any discount structures that apply to UK Geographic Numbers”. In other words, calls to 03 numbers may not be priced at a rate above that for calls to 01 and 02 numbers, and must be included in bundles or allowances offered to customers by communications providers (CPs) for calls to 01 and 02 numbers.
- 1.2 The 03 number range was opened by Ofcom in February 2007 for organisations that required a national, location-neutral number but neither wished to use a revenue-sharing range that would lead to an additional charge to consumers for calling them nor to use a Freephone number that would cost them significantly more to operate than a geographic number. From the point of its introduction, revenue-sharing with end-users was not permitted on the 03 number range.

Our concern

- 1.3 In our consultation in July 2014 on the 03 number range (July 2014 Consultation)² we said that greater clarity on the restrictions on the use of 03 telephone numbers was needed, specifically whether CPs who host 03 numbers are prohibited from sharing the revenue they receive from calls to their 03 numbers with callers. In the absence of a restriction on such arrangements, CPs may be incentivised to share revenue with callers where termination charges exceed the associated cost. Such revenue-sharing may occur either directly or indirectly, for example by offering callers benefits or services-in-kind. We noted that we had observed the emergence of telephony services that offer customers financial or other benefits in return for calling their 03 numbers. In some cases, no genuine communications service is provided and inducements offered to callers are proportional to the duration of the call made.³
- 1.4 We set out our provisional view: that such conduct would ultimately be harmful for consumers and for competition in telecommunications markets for three reasons.
- Originating communication providers (OCPs), fixed-line and mobile, routinely offer their subscribers call allowances. The economic viability of such call allowances could be compromised if callers were to use their inclusive or ‘free’ minutes to earn money, or other benefits-in-kind, offered by other CPs for calling those other CPs’ 03 numbers. OCPs must pay the termination charges of such calls even when these calls are not individually charged for within the call

¹ See the National Telephone Numbering Plan, Part A, page 11 – available at <http://stakeholders.ofcom.org.uk/telecoms/numbering/>. The restrictions on the adoption and use of 03 numbers are set out in paragraphs B3.2.1-B3.2.3.

² Available at: <http://stakeholders.ofcom.org.uk/consultations/03-modification/>.

³ We noted the existence of services where callers are advised to call an 03 number and leave their phone “off the hook” for extended periods of time in order to earn benefits.

allowance. They may, therefore, face pressure to make their call allowances less generous or inclusive, or to withdraw them altogether. They may also respond by raising their prices. Such developments may therefore reduce the current level of service to consumers generally, without offsetting benefits, and also undermine the contribution to retail competition made by call allowances.

- If CPs were to incentivise consumers to call 03 numbers by offering them money or benefits-in-kind, then this may lead to a significant inflation of traffic in the network (with individual calls being measured in hours) but where such traffic is not being used for genuine communications services. Such conduct may consequently compromise the ability of public electronic communications networks (PECNs) to provide reliable communications services and may increase the cost of maintaining capacity on networks.
- The use of 03 numbers in such a manner may harm the reputation of the range among consumers and organisations, since calls to 03 numbers are intended not to involve revenue-sharing. Consumers should have confidence that organisations they contact using 03 numbers do not benefit from revenues received from their calls. We would be concerned if that confidence were undermined.

- 1.5 To address these concerns, in our consultation we proposed to modify the restrictions on the use of 03 numbers in the Numbering Plan to spell out in clear terms that revenue-sharing with callers to 03 numbers is not permitted.

Decision

- 1.6 After consideration of stakeholders' responses, we have decided that modifying the Numbering Plan as we had proposed is appropriate, proportionate and justified in order to prevent the negative effects from prohibited revenue-sharing on the 03 number range leading to a reduction in competition and to consumer harm. We consider that this will best serve the interests of consumers and of competition in the industry, and is consistent with the policy intention that led us to open this number range in 2007. We are not changing our policy on the 03 range but clarifying the prohibition on revenue-sharing.
- 1.7 Some stakeholders requested further clarification on the scope of our prohibition on revenue-sharing, including what constitutes direct and indirect revenue-sharing. To reduce the risk of misunderstanding, we make clear that the restriction forbids any practice where payments received from calls (including above-cost termination charges) are used to fund additional services (including direct payments) provided to the calling party or other end-user. This is to ensure that consumers calling 03 numbers can be confident that they are paying only for the call. To provide further clarity, we provide examples of direct and indirect revenue-sharing practices which are prohibited on the 03 number range.
- 1.8 The amendment to paragraph B3.2.1 of the Numbering Plan takes effect on the date of publication of this statement.

Section 2

Background: relevant regulatory history

2.1 Our July 2014 Consultation set out our proposal to clarify that revenue-sharing on the 03 number range is prohibited. We also provided a brief history of the 03 telephone number range, including our policy objective in 2007 in opening this number range and subsequent policy decisions and determinations related to the use of 03 numbers. This section sets out that information again by way of background.

Policy objective of the 03 number range

- 2.2 Before the opening of the 03 telephone number range, the choice of a non-geographic number for organisations was primarily restricted to either Freephone numbers (beginning 080) or to chargeable numbers (beginning 084, 087 or 09) that allow for revenue-sharing between the CP hosting the telephone number and the organisation being called.
- 2.3 Freephone numbers are more expensive to operate for organisations than geographic numbers because they must pay the call origination charges of OCPs. OCPs are not permitted to charge callers for such calls except when charges are notified to callers at the start of the call by a pre-call announcement. Subject to this requirement, OCPs are currently free to set any price they wish. Calls to Freephone numbers are usually free for callers from fixed-line phones but commonly chargeable when made from mobile phones. From the summer of 2015 calls to 080 numbers will always be free from both fixed-line and mobile phones.⁴
- 2.4 Non-geographic numbers that allow for revenue-sharing between the CP hosting such a number and the party being called have historically suffered from poor price transparency, leading many consumers to overestimate the price of making calls to such numbers.⁵ Harmful consequences of this have included reduced consumer demand for services on such numbers.⁶ Some consumers have said that they try to keep calls to such numbers to a minimum, and there was also evidence that some consumers were deterred from calling helplines on these ranges.⁷ We have also noted our concern that, due to a tendency to overestimate prices, consumers – some of whom are vulnerable – could be deterred from accessing socially-important services provided using 084 numbers.^{8,9}
- 2.5 In our April 2006 Statement, *NTS: A way forward*, we said that we believed that public bodies should consider carefully whether it was appropriate to use 084 and 087 numbers in place of Freephone or ordinary geographic numbers. In particular, we considered at that time that it was inappropriate for public bodies to use those numbers exclusively (i.e. without giving equal prominence to a geographic alternative) when dealing with people on low incomes or other vulnerable groups. We

⁴ See our December 2013 NGCS Statement, *Simplifying non-geographic numbers*, available at <http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geo-no/final-statement>.

⁵ April 2012 NGCS Consultation, Part B, paragraphs 8.8, 8.18-8.20, available at <http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geographic-no/>.

⁶ April 2012 NGCS Consultation, Part B, paragraphs 8.31-8.38.

⁷ April 2012 NGCS Consultation, Part B, paragraphs 8.33-8.34.

⁸ April 2012 NGCS Consultation, Part B, paragraph 8.47.

⁹ In our December 2013 NGCS Statement we set out regulatory changes to address the problems we had identified with the revenue-sharing non-geographic number ranges.

did note that, once the geographic link was restored for 0870 calls, these concerns would likely ease. We also noted that we were consulting on a proposal to open a new number range (the 03 range) for service providers (SPs) who would like to use a non-geographic number but which do not require a revenue share. We said that such a new number range, on which revenue-sharing would be banned, would be well-suited to the needs of many public bodies and would address such consumer concern.¹⁰ We also noted that some public sector organisations had requested Ofcom to consider providing a number range on which call prices would be the same as that for geographic calls and revenue-sharing would not be permitted.¹¹

2.6 To address this need we opened the 03 number range in February 2007.¹² We said that we wanted callers dialling 03 numbers to have confidence that they were paying for the call only and were not paying for any additional services provided by the organisation being called through the price of the call.¹³ To ensure that consumers would have certainty and confidence in relation to 03 calls, we placed the following conditions on 03 call charges.

- We required that prices to call 03 numbers not exceed the rates for national geographic calls.¹⁴ We also required that calls to 03 numbers be treated like calls to standard geographic numbers with respect to their inclusion in call allowances and whether they qualify for discount packages.¹⁵
- We prohibited revenue-sharing with end-users of revenue earned by CPs from calls to 03 numbers.¹⁶

2.7 To ensure that these restrictions on the use of 03 numbers, as set out in the Numbering Plan, were effective, we subsequently amended General Condition 17 (GC17) of the Conditions of Entitlement¹⁷ such that all OCPs were formally obligated to adhere to the service and tariff descriptions of 03 numbers in the Numbering Plan.¹⁸

2.8 Finally, we said that rates payable by SPs for operating 03 numbers and interconnection charges for 03 calls were matters of commercial negotiation¹⁹ between SPs and CPs and CPs and CPs, respectively.²⁰ We also said that the GC18 general obligation in relation to number portability would apply to 03 numbers.²¹

¹⁰ April 2006 Statement, paragraphs 1.14, 1.52 and 4.199, available at http://stakeholders.ofcom.org.uk/consultations/nts_forward/statement/.

¹¹ April 2006 Statement, Annex 1, paragraph A1.44.

¹² See our February 2007 Statement, *Raising confidence in telephone numbers*, available at <http://stakeholders.ofcom.org.uk/consultations/numbering03/>.

¹³ February 2007 Statement, paragraph 1.13.

¹⁴ February 2007 Statement, paragraphs 3.50 and 3.52.

¹⁵ February 2007 Statement, paragraphs 1.13, 3.52 and 3.86.

¹⁶ February 2007 Statement, paragraphs 1.13 and 3.87.

¹⁷ Available at <http://stakeholders.ofcom.org.uk/telecoms/ga-scheme/general-conditions/>.

¹⁸ February 2007 Statement, paragraph 3.56; May 2007 Statement, *Raising confidence in telephone numbers: Amending General Condition 17*, available at <http://stakeholders.ofcom.org.uk/consultations/numbering03/statement/>.

¹⁹ If such negotiations between CPs fail, then they are able to refer their dispute to us for resolution.

²⁰ February 2007 Statement, paragraphs 3.81-3.82.

²¹ February 2007 Statement, paragraph 3.84.

Regulatory impact on 03 calls of subsequent decisions and policy

- 2.9 Since the 03 range was opened in February 2007 Ofcom has published two dispute determinations that have affected the wholesale charging arrangements for calls to 03 numbers. We explain these below in brief.
- 2.10 We start with a discussion of the 0870 termination rate dispute (June 2009). The 0870 range shares with 03 the characteristic that the retail price of an 0870 call should be the same as that of a geographic call. 0870 was the first such range where we considered how the termination rate for such ranges should be determined.
- 2.11 In the subsequent 03 termination rate dispute (January 2011) we decided that the principles and analytical framework set out in the 0870 dispute determination were applicable to the 03 range and then determined that the termination rate for calls to 03 numbers should be aligned with those for calls to 0870 numbers.
- 2.12 In addition, we provide brief summaries of more recent Ofcom and Government policy guidance and legislation that are relevant to our consideration of 03 numbers:
- our December 2013 review of non-geographic call services (NGCS);²²
 - the UK Government’s December 2013 decision to favour the use of 03 numbers for the provision of public services by telephone; and
 - consumer rights regulation that came into force in June 2014 that requires businesses operating customer helplines to make available at least one “basic rate” number for customers to call.

0870 Determination (June 2009)

- 2.13 In June 2009 we published a determination (0870 Determination) to resolve a dispute between BT and various other CPs over termination charges payable by BT to these other CPs for the termination by them of calls to 0870 numbers they hosted.²³
- 2.14 In this determination we noted that we had set out our policy objectives for non-geographic numbering in our September 2005 Consultation, *NTS: A Way Forward*, and these included price transparency, consumer protection and the promotion of competition.²⁴ We further noted that in our April 2006 Statement we proposed to restore the link between the retail prices of these calls and geographic calls. To reduce the potential for arbitrage that this proposal created we also determined that 0870 calls should be removed from the scope of the BT NTS SMP Condition AA1 which required BT to retail and originate calls to 0870 numbers on behalf of other CPs on cost-related terms, thereby enabling revenue-sharing on 0870.²⁵
- 2.15 We had also noted in our April 2006 Statement that once the link to geographic calls was restored, 0870 calls were likely to be included in flat-rate call packages offered by most major OCPs to their subscribers. If 0870 termination charges remained too high, there would be an incentive to encourage additional 0870 calls, at no cost to the

²² Telephony services provided by means on non-geographic numbers are collectively called non-geographic call services (NGCS).

²³ Available at <http://stakeholders.ofcom.org.uk/consultations/resolve0870calls/>.

²⁴ 0870 Determination, paragraphs 1.3 and 2.26.

²⁵ 0870 Determination, paragraph 1.4.

caller, “solely in order to generate a revenue share”.²⁶ Faced with this sort of arbitrage activity, we said that OCPs were likely to explore several options:

- take measures to prevent such calls being made, e.g. by blocking access to affected numbers;
- take measures to prevent a revenue share being made on such calls; and/or
- raise the retail prices of their call packages.

2.16 We therefore said that our concern was to ensure that out-payments made by terminating communications providers (TCPs) through revenue-sharing would not be sufficient to enable artificially-inflated traffic (AIT)²⁷ to be profitable as this would undermine our aim of improving price transparency through the restoration of the link between 0870 and geographic national calls.²⁸

2.17 In the 0870 Determination we found that BT’s proposed termination charges were not sufficient to adequately cover certain costs for which we thought BT should be responsible. Therefore, we included an adjustment for costs related to how calls to such numbers are physically routed across BT’s and the TCP’s networks – a routing principle which is called “near-end handover”.²⁹

2.18 Further, in light of our policy to re-establish the link between retail prices for 0870 calls and those for geographic calls, we found that 0870 termination charges proposed by a number of TCPs were too high to be reasonable and were likely to deter BT (the OCP) from linking the retail prices for calls to 0870 numbers to the prices for calls to geographic numbers.³⁰

2.19 The methodology we adopted in calculating the termination rate for 0870 calls, in order to resolve this dispute, ensured that 0870 termination charges were set at a rate that allowed TCPs to recover geographic call termination charges plus other costs that we considered relevant, namely (i) costs related to near-end handover and (ii) an allowance for interconnection circuit costs.³¹

2.20 As part of our economic analysis we determined a “no-arbitrage ceiling”.³² Noting that arbitrage was the practice of taking advantage of a price differential, we said that high termination charges could create the risk of arbitrage activity by TCPs. Our intention was to prevent the exploitation of a price differential in this way, and we said that the no-arbitrage ceiling represented a level above which we would consider a termination charge to be unreasonable. Any charges above this level would carry an “unacceptable risk of encouraging arbitrage activity” on 0870 numbers and would also undermine BT’s (the OCP’s) ability to maintain the alignment of 0870 and geographic retail call charges.

²⁶ 0870 Determination, paragraph 2.30.

²⁷ AIT is essentially telephony traffic which is fraudulent or has no apparent legitimate commercial purpose.

²⁸ 0870 Determination, paragraph 2.31.

²⁹ 0870 Determination, paragraph 1.17.

³⁰ 0870 Determination, paragraph 1.19.

³¹ 0870 Determination, paragraph 1.21.

³² 0870 Determination, paragraph 1.23.

03 Determination (January 2011)

- 2.21 In January 2011 we published a determination (03 Determination) to resolve a dispute between Everything Everywhere (now EE) and BT over BT's termination charges for calls made to 03 numbers.³³
- 2.22 BT had aligned its termination charges for calls to 03 numbers with those for calls to 0870 numbers (as determined by us in our 0870 Determination of June 2009), effective 1 September 2009. EE submitted that the termination charges for calls to 03 numbers should be the same as or similar to those for calls to geographic numbers.³⁴
- 2.23 In summary, in our analysis of this dispute:³⁵
- we recalled that in our 0870 Determination we had set termination charges with a view to enabling OCPs to retail 0870 calls at geographic call rates. Termination rates for 0870 calls were calculated on the basis of the cost of terminating 0870 calls, which was the geographic termination charges plus relevant additional costs for terminating 0870 calls calculated on a fully-allocated cost basis;
 - we found that there were no material differences in the routing and costs of terminating 03 calls and the routing and costs of terminating 0870 calls. Therefore, for this dispute we used the same analytical framework we used in our 0870 Determination;
 - we said that the prohibition on OCPs from setting 03 call prices which are higher than those for geographic calls did not have any effect on the costs of terminating 03 calls;
 - we noted that EE (the OCP) had neither suggested nor provided evidence that it was failing to recover its efficiently incurred costs on calls to 03 numbers;
 - although EE had said that the increased termination rates would be passed on to callers, we had not been provided with any evidence to suggest that there was a realistic prospect of retail prices for calls to 03 or geographic numbers increasing;
 - we noted that if the termination charges for 03 calls were aligned with those for geographic calls then TCPs would not recover their costs for terminating 03 calls from termination charges – because terminating 03 calls is more costly than terminating geographic calls; and
 - no party had argued, and we had seen no evidence to suggest, that BT's revised 03 call termination charges would have a negative effect on competition.
- 2.24 We concluded that it was fair and reasonable for BT to align its termination charges for calls to 03 numbers with those for calls to 0870 numbers – to reflect the costs of termination as calculated in the 0870 Determination.³⁶

³³ Available at <http://stakeholders.ofcom.org.uk/consultations/draft-everything-bt-termination/determination>.

³⁴ 03 Determination, paragraphs 1.2 and 1.3.

³⁵ 03 Determination, paragraph 1.5.

³⁶ 03 Determination, paragraph 1.8.

NGCS Final Statement (December 2013)

- 2.25 In our recently-concluded review of NGCS³⁷ we set out our policy objectives to address the consumer harm we had identified in the non-geographic number ranges. We said there was “clearly identified substantial consumer detriment arising from the retail market failures and this supports a case for reform of that market”.³⁸
- 2.26 We stated our intent to address these concerns by simplifying the non-geographic number ranges, “making the pricing structures clearer to consumers and removing confusing and misleading inconsistencies”.³⁹
- 2.27 While this review did not seek to change the regulation of the 03 number range, the existence of the 03 range as a reasonable alternative for organisations to the Freephone and revenue-sharing ranges was frequently referenced in our analysis of the options for those ranges.
- 2.28 Long-term consumer understanding and confidence in the 03 range is therefore important as it offers a migration path for service providers who consider that the changes made to the Freephone and revenue-sharing ranges mean that those ranges will no longer meet their needs.

Non-Ofcom guidance and regulation

HM Government Guidance for Customer Service Helplines

- 2.29 On 26 December 2013 the UK Government issued guidance on the setting up and use of customer service helplines.⁴⁰ This guidance was aimed at all UK central government departments, public bodies that fall within their organisational hierarchy and services provided by external partners on behalf of a government department. The guidance was prepared by a cross-departmental group convened by the Cabinet Office; for transparency we note that Ofcom is an advisory member of this group.
- 2.30 The guidance said that an overarching principle when deciding what telephone numbers to use for providing public services is that the resulting charges are “fair to callers”: “It is inappropriate for callers to pay substantial charges for accessing core public services, particularly for vulnerable and low income groups.”⁴¹
- 2.31 For this reason it said that, where a non-geographic number was needed, departments should use 03 numbers “as a default policy position for the provision of core public services”.⁴² In cases where 0845 numbers would mean lower charges for callers in certain circumstances and from some providers, the guidance said that departments should then offer 0345 and 0845 numbers in parallel – so that callers could make the choice of the number to call based on their personal call allowance arrangements – and should regard their 0345 number as the primary number.
- 2.32 By contrast, the guidance said that “free to call” 080 numbers were appropriate in “certain circumstances” and revenue-sharing numbers only in “exceptional cases” and where departments are delivering “value add” services beyond their core

³⁷ See our December 2013 NGCS Statement, *Simplifying non-geographic numbers*.

³⁸ April 2012 NGCS Consultation, Part A, paragraph 1.3.

³⁹ April 2012 NGCS Consultation, Part A, paragraph 1.8.

⁴⁰ Available at <https://www.gov.uk/government/publications/hmg-guidance-for-customer-service-lines>.

⁴¹ HMG Guidance for Customer Service Helplines, paragraph 2.2.

⁴² HMG Guidance for Customer Service Helplines, paragraph 2.3.

services.⁴³ Departments that did not adopt a geographic or an 03 number for their customer helpline, or offer multiple helplines with 03 as the primary number, would be required to write to the Minister for Civil Society to justify their choice.⁴⁴

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations

- 2.33 On 13 June 2014 the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (the Regulations) came into force. Regulation 41(1) provides that where a trader operates a telephone line for consumers to contact them about a contract entered into with the trader, the consumer “must not be bound to pay more than the basic rate” for such telephone calls. This means that traders must make available at least one basic rate number for consumers. Provided they do this, they are not prevented from using other non-geographic numbers alongside the “basic rate” number.
- 2.34 The term “basic rate” is not defined in the Regulations. However, on 13 December 2013 the Department for Business, Innovation and Skills (BIS) issued guidance⁴⁵ on how businesses can comply with the Regulations, explaining that the following numbers, if used, would comply with the Regulations:
- geographic numbers or numbers which are set at the same rate as geographic numbers, e.g. 01, 02 or 03 numbers;
 - numbers which can be free of charge to call, e.g. 0800 and 0808 numbers; and
 - mobile numbers.⁴⁶
- 2.35 The BIS Guidance made clear that such customer helplines should not provide the trader or business with a contribution from callers’ calling costs and the use of revenue-sharing numbers for such helplines would not comply with the Regulations.⁴⁷
- 2.36 Noting that the Regulations do not require that all numbers operated by a business are at the “basic rate”, the BIS Guidance states that where a business maintains access to non-basic rate numbers alongside the “basic rate” number, the “basic rate” compliant number should be communicated as prominently as one that is not.⁴⁸

⁴³ HMG Guidance for Customer Service Helplines, paragraphs 2.5-2.6.

⁴⁴ HMG Guidance for Customer Service Helplines, paragraph 2.10.

⁴⁵ BIS, *Consumer Contracts (Information, Cancellation and Additional Charges) Regulations: Implementing Guidance*, December 2013 (BIS Guidance) available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310044/bis-13-1368-consumer-contracts-information-cancellation-and-additional-payments-regulations-guidance.pdf.

⁴⁶ BIS Guidance, paragraph J2.

⁴⁷ BIS Guidance, paragraphs J1 and J4.

⁴⁸ BIS Guidance, paragraph J8.

Section 3

Relevant legal framework

Ofcom's duties and powers in relation to numbering

3.1 The Communications Act 2003 (the Act) sets out Ofcom's powers and duties in relation to telephone numbering. Among other things, under section 56 of the Act, Ofcom is required to publish, and from time to time review, the Numbering Plan. The Numbering Plan sets out:

- the numbers that Ofcom have determined to be available for allocation by Ofcom as telephone numbers;
- such restrictions as Ofcom consider appropriate on the adoption of numbers available for allocation in accordance with the Numbering Plan;
- such requirements as Ofcom consider appropriate, for the purpose of protecting consumers, in relation to the tariff principles and maximum prices applicable to numbers so adopted or available for allocation; and
- such restrictions as Ofcom consider appropriate on the other uses to which numbers available for allocation in accordance with the Numbering Plan may be put.

3.2 Section 60 of the Act provides for the modifications of provisions in the Numbering Plan and explains the procedures for doing so. Section 60(2) provides that:

“OFCOM must not revise or otherwise modify the relevant provisions unless they are satisfied that the revision or modification is—

- (a) objectively justifiable in relation to the matters to which it relates;
- (b) not such as to discriminate unduly against particular persons or against a particular description of persons;
- (c) proportionate to what the modification is intended to achieve; and
- (d) in relation to what it is intended to achieve, transparent.”

3.3 Section 60(3) further provides that:

“Before revising or otherwise modifying the relevant provisions, OFCOM must publish a notification—

- (a) stating that they are proposing to do so;
- (b) specifying the Plan or other document that they are proposing to revise or modify;
- (c) setting out the effect of their proposed revisions or modifications;
- (d) giving their reasons for making the proposal; and

(e) specifying the period within which representations may be made to OFCOM about their proposal.”

3.4 Ofcom also has a general duty under section 63(1) of the Act in carrying out its telephone numbering functions:

“(a) to secure that what appears to them to be the best use is made of the numbers that are appropriate for use as telephone numbers; and

(b) to encourage efficiency and innovation for that purpose.”

Ofcom’s duties under sections 3 and 4 of the Act

3.5 In addition to its duties in relation to telephone numbering functions set out above, under section 3(1) of the Act, Ofcom’s principal duty in carrying out any of its functions 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.

3.6 As part of the fulfilment of these principal duties, under section 3(2) it is Ofcom's responsibility to secure the availability throughout the UK of a wide range of electronic communications services. Section 3(5) of the Act further provides that in performing our duty to further the interests of consumers, we must have regard, in particular, to the interests of those consumers in respect of choice, price, quality of service and value for money.

3.7 Pursuant to section 3(3) of the Act, in performing our general duties, we must have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and any other principles appearing to us to represent the best regulatory practice.

3.8 In this regard, we note our general regulatory principles⁴⁹ including in particular the following in the present context:

- operating with a bias against intervention, but with a willingness to intervene firmly, promptly and effectively where required;
- ensuring that our interventions are evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome;
- seeking the least intrusive regulatory mechanisms to achieve our policy objectives; and
- consulting widely with all relevant stakeholders and assessing the impact of regulatory action before imposing regulation upon a market.

3.9 When carrying out its regulatory functions such as considering revisions to the Numbering Plan, Ofcom must also take into account the six Community requirements as set out in section 4 of the Act. These include the requirement to promote competition in the provision of electronic communications networks and services, and the requirement not to favour one form of network, service or associated facility or

⁴⁹ See <http://www.ofcom.org.uk/about/what-is-ofcom/statutory-duties-and-regulatory-principles/>.

one means of providing or making available such network, service or associated facility over another, as well as the requirement to promote the interests of European citizens.

- 3.10 We explain how Ofcom has complied with the various legal tests and duties in section 4.

Impact assessment and equality impact assessment

- 3.11 Impact assessments 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. This is reflected in section 7 of the Act, which means that generally Ofcom has to carry out impact assessments where its 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. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the great majority of its policy decisions. For further information about Ofcom's approach to impact assessments, see our guidelines.⁵⁰

- 3.12 The analysis and evidence presented in the July 2014 Consultation constituted an impact assessment, as defined in section 7 of the Act, of our decision to clarify that revenue-sharing with callers is prohibited on the 03 number range. This statement sets out our final decision, having taken into account all representations on that impact assessment.

- 3.13 In carrying out our functions we are also under a general duty under the Equality Act 2010 to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups,

in relation to the following protected characteristics: age; disability; gender re-assignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

- 3.14 Such equality impact assessments also assist us in making sure that we are meeting our principal duty under section 3 of the Act.

- 3.15 In the July 2014 Consultation, we considered what (if any) impact the proposal set out in this statement may have on equality. We did not consider the impact of the proposals in the July 2014 Consultation to be to the detriment of any group within society. Therefore, we did not consider it necessary to carry out a full equality impact assessment. In light of comments received from respondents, we have set out in Annex 2 our reasoning for considering that the impact of our regulatory clarification is not detrimental to any such group within society.

⁵⁰ Better Policy Making – Ofcom's approach to Impact Assessment, Ofcom, 21 July 2005
http://stakeholders.ofcom.org.uk/binaries/consultations/better-policy-making/Better_Policy_Making.pdf

Section 4

Analysis of consultation responses and our final decision

- 4.1 In Section 3 of the July 2014 Consultation we described the commercial conduct in relation to the use of 03 numbers which we said was of concern to us. We also discussed the harmful and beneficial impacts of this type of conduct.
- 4.2 We recognised the need to clarify the scope of the prohibition on revenue-sharing with end-users. Accordingly, we proposed to refer expressly to calling parties as well as end-users in the prohibition on revenue-sharing in the Numbering Plan. We considered that this would make clear that services funded through above-cost termination charges were not consistent with our regulations. In support of this regulatory change, we presented our provisional assessment of the impact of confirming that the restriction on revenue-sharing covers such services.
- 4.3 In this section we summarise our provisional assessment of the conduct of concern to us, as set out in the July 2014 Consultation. We then set out stakeholders' comments on this assessment and our response to them before providing our final assessment. Following that, we provide a summary of our proposal (as set out in the July 2014 Consultation) to address the conduct of concern, stakeholders' comments on the detail of our proposal, our response to those comments and our final decision.

Summary of our provisional assessment of the commercial conduct of concern

- 4.4 The Numbering Plan says that those who use 03 numbers are prohibited from sharing “with any end-user any revenue obtained from providing a service on those numbers”.⁵¹ We noted in the July 2014 Consultation that despite this prohibition, we had observed in the recent past the emergence of telephony services that use 03 numbers and offer customers benefits in return for calling their 03 numbers.⁵² The benefits offered that we had observed included:
- cash payments through the PayPal money transfer system;
 - cash vouchers for purchases from the online retailer Amazon;
 - credits to top up subscriber accounts;
 - credits for making international phone calls; and
 - bitcoins.
- 4.5 We noted that in the cases observed the caller is rewarded (i) merely for calling the indicated 03 number and (ii) in proportion to the length of the call they make.⁵³ The call itself need not be used for any genuine communications service, i.e. the caller would not be calling the 03 number with the primary intent of speaking to someone or

⁵¹ Numbering Plan, Part B, paragraph B3.2.1.

⁵² July 2014 Consultation, paragraph 3.5.

⁵³ July 2014 Consultation, paragraph 3.6.

making use of a communication-based service through the call. In some observed cases the caller is advised by the SP to simply leave their phone “off the hook” for an extended period of time, such as one or more hours, in return for a benefit, such as “credits” towards international calls, the value of which is proportional to the duration of the 03 call made.

4.6 In assessing such use of 03 numbers we said that we considered that if CPs hosting 03 numbers were allowed to share their revenues from calls to 03 numbers with the callers making these calls, then the following harmful effects may manifest themselves.⁵⁴

i) The economic viability of bundles offered by OCPs would be threatened. Bundles – which normally include a certain amount of call minutes, text and data for which no incremental charge is applied – are an important aspect of retail competition. OCPs compete for subscribers by drawing attention to their latest bundles. OCPs must pay the termination charges of calls to 03 numbers even when these calls are not individually paid for by the caller. In response to TCPs encouraging callers to use their bundles for making such calls to 03 numbers, we said that:

- OCPs may reduce the quantity of ‘free’ minutes, texts and data they offer within their bundle; and
- OCPs may also raise their retail prices for out-of-allowance calls, texts and data.

This would harm consumers generally as it would reduce the current level of service they receive and/or make it more expensive than it would otherwise be. It would harm competition at the retail level, where the bundle plays a key role.

ii) Inflation of traffic would harm the ability of communications networks to provide genuine services. If CPs were to incentivise consumers to call 03 numbers by offering rewards such as money or benefits-in-kind, then this may lead to a significant inflation of traffic in networks because such rewards would be linked to the length of the calls made. Such traffic would not represent the use of networks for genuine communications services. If traffic caused by such conduct were to increase significantly, then:

- the ability of PECNs to provide reliable communications services may be compromised by a reduction in capacity available for genuine communications; and
- the cost of maintaining sufficient capacity on PECNs may increase.

These effects would be harmful for consumers generally as they would negatively affect the provision of services on the 03 range and the costs of this provision.

iii) The reputation of the 03 number range, and of NGCS generally, would be harmed. We noted that, contrary to our policy intent, some forms of revenue-sharing were occurring on the 03 range. Such revenue-sharing would undermine our goal of giving consumers confidence that organisations called using 03 numbers were not benefiting from revenues received from 03 calls. In the longer-term there may also be a spill-over effect, i.e. the damage to the reputation of the

⁵⁴ July 2014 Consultation, paragraphs 3.7-3.12.

03 range among consumers and organisations could contribute to suspicion about non-geographic numbers generally.

- 4.7 We also recognised that the identified conduct may immediately benefit two parties.⁵⁵
- i) TCPs operating 03 numbers would be able to earn economic profits from calls made to these 03 numbers insofar as they are able to charge termination rates which exceed their costs of terminating these calls. If they are also able to incentivise callers to call their 03 numbers when these callers would not otherwise do so (by sharing revenue earned from such calls with callers or offering them other benefits) then these TCPs would be able to generate increased profits through such use of 03 numbers.
 - ii) Callers with bundles from their OCPs would be able to use these bundles in order to earn cash payments or benefits-in-kind from the TCPs whose 03 numbers they were calling without incurring any increase in incremental cost. But we considered that such conduct by TCPs may not be ultimately beneficial for consumers generally if OCPs were to respond in ways that harm consumers and competition, a concern that we had expressed in our 0870 Determination.

Stakeholders' comments on our assessment

- 4.8 We received 46 responses to our July 2014 Consultation, including 32 from individuals, 11 from CPs, one from an SP and two from other bodies (industry associations).⁵⁶
- 4.9 In the following sub-sections we have set out stakeholders' comments on our provisional assessment of the commercial conduct that we said was of concern to us, followed by our response. We have considered all responses in reaching our conclusion.

Stakeholders' comments on the evidence of harm

- 4.10 A number of stakeholders said that we had not presented evidence of the types of harm that we said could result from revenue-sharing on the 03 range.
- 4.11 [X] [X] said that Ofcom had provided no proof that revenue-sharing practices on the 03 number range threaten the economic viability of bundles offered by OCPs. It said Ofcom's assertions were "intuitive guesses" and Ofcom and the OCPs should quantify the extent of the purported threat to bundles. It also said that there was "no statistical or quantitative data" to substantiate the claim that revenue-sharing could lead to an inflation of traffic to 03 numbers, thus there was no evidence of a threat to network performance. It also disagreed that revenue-sharing could harm the reputation of the 03 range; it argued that the blocking of calls by OCPs (to certain 03 numbers suspected by OCPs of being used for revenue-sharing) was more likely to damage the reputation of 03 numbers among consumers.
- 4.12 A similar argument was put forward by Lexgreen, which said that Ofcom had not substantiated its claims that revenue-sharing on the 03 number range could cause harm to consumers. More specifically, Lexgreen argued that the economic viability of bundles would not be threatened because OCPs were able to protect themselves from abusive practices (by blocking calls to certain numbers, for example). It argued

⁵⁵ July 2014 Consultation, paragraphs 3.13-3.16.

⁵⁶ Annex 4 provides a list of respondents who submitted non-confidential responses.

that there was no evidence that calls to 03 numbers were causing an increase in traffic to the extent that network reliability would be compromised. Lexgreen also said that there was no reputational risk to 03 numbers because the cost of calling them was still low despite the practice of indirect revenue-sharing.

- 4.13 Telecom2 said it was “disingenuous” for Ofcom to say that the practice of indirect revenue-sharing on the 03 number range was harmful to the reputation of the range. It said that consumers were not concerned about Ofcom’s policy intentions for different number ranges and were only interested in obtaining a service they required at an affordable price. It further argued that while the practice of indirect revenue-sharing may lead to significant inflation in traffic in future, this had not been the case so far.
- 4.14 TelNG said that Ofcom had failed to present sufficient evidence to support its claims that the economic viability of bundles would suffer, or that inflation in traffic would compromise network reliability. TelNG said that it had not observed a reduction in the level of service provided to consumers by OCPs. It argued that OCPs could block access to certain numbers on the grounds of it being economically unfeasible to provide access to those numbers. TelNG also argued that Ofcom’s prior intervention to ensure that calls to 03 numbers are charged at the same retail rate as geographic numbers meant that there was little or no risk of consumers losing confidence in the range.
- 4.15 [redacted] [redacted], Lexgreen, Telecom2 and TelNG all argued that consumer confidence in the 03 number range was enhanced, rather than eroded, by the availability of services which offer indirect revenue-sharing.
- 4.16 Conversely, a number of OCPs said they had already experienced harmful impacts resulting from revenue-sharing. Virgin Media said it had been the subject of “traffic inflation on the 03 range, and had identified instances of irregular usage that would not be associated with any genuine communications service”. EE said that “notwithstanding the current restrictions on the usage of the 03 range in the Numbering Plan, [it] had first-hand experience of its mobile services being used by callers to access services on the 03 range of the nature described at paragraphs 3.5-3.6 and 3.19 of Ofcom’s [July 2014] consultation”.
- 4.17 [redacted] [redacted] also said it had observed the effects of revenue-sharing on the 03 number range. It estimated that “around 20% of all 03 origination on [redacted] [redacted] network is to revenue-sharing services.” It further stated that it had “recently withheld nearly [redacted] [redacted] in payments for charges to certain providers of 03 numbers on the basis that this constitutes artificially inflated traffic (AIT).” [redacted] [redacted] noted that “in some cases, individual callers have generated more call minutes than there are in a day by putting one call on hold (so that the minutes still count towards the call duration) and initiating another call at the same time.”

Our response

- 4.18 We note that respondents expressed differing views about the impact of revenue-sharing. Regardless of the extent of consumer harm being experienced currently, we consider that the evidence provided confirms that, despite the existing restrictions on the use of 03 numbers, revenue-sharing exists and has the potential to grow and impact negatively on consumers and on competition as use of the 03 range increases.

- 4.19 We note that none of the respondents denied that revenue-sharing with callers of 03 numbers, which we consider already prohibited, was taking place. Moreover, the evidence provided by some CPs is consistent with the impact assessment we set out in the July 2014 Consultation: that the potential for consumer harm would be exacerbated if these practices continue or increase in scale, which we consider likely if we were not to clarify that such revenue-sharing is prohibited. We consider that proportionate and targeted regulatory clarification is justified on a prudential basis to limit the prospect of future harm and reduce the consequent consumer harm likely to arise. Clarification is also justified on the basis of providing industry with regulatory clarity in order to reduce the range of activities likely to lead to disputes. We discuss call-blocking by OCPs at paragraph 4.49 and our impact assessment is discussed in further detail at paragraph 4.62.

Final assessment of the commercial conduct of concern

- 4.20 In light of the responses received to the July 2014 Consultation, we remain concerned that the conduct we identified as potentially harmful continues to occur and has the potential to grow. While we recognise that the scale of harm arising from the commercial conduct of concern has so far been limited, our assessment remains that there is a real prospect of the identified harmful impacts occurring if these practices were to continue and we do not consider it would be appropriate to wait for greater levels of actual consumer harm to occur.

Summary of our proposal to address the harm identified

- 4.21 In the July 2014 Consultation we proposed a modification to the Numbering Plan to make clear that revenue-sharing by those who adopt or use 03 numbers is prohibited.⁵⁷ We said that our proposed amendment would make explicit that the prohibition includes (i) revenue-sharing with callers and (ii) covers services where benefits-in-kind are offered instead of payments.
- 4.22 We said that our proposal would remove ambiguity about both the circumstances under which the prohibition on revenue-sharing applies and to whom it applies. We said this could be achieved by clarifying that both direct and indirect revenue-sharing with any Calling Party⁵⁸ as a result of a service provided on the 03 number range is prohibited. The clarification proposed would make explicit that revenue-sharing with calling parties is prohibited. The proposed modification was as follows (the text that we proposed to add has been underlined):

“Those who adopt or otherwise use Non-Geographic Numbers starting 03 shall not directly or indirectly share with any End-User or any Calling Party any revenue obtained from providing a service on those numbers”.⁵⁹

Stakeholders’ comments on our proposal

- 4.23 Several respondents commented on our proposed modification of the Numbering Plan.

⁵⁷ July 2014 Consultation, paragraph 3.18.

⁵⁸ Calling Parties are defined on page 3 of the Numbering Plan as “persons making contact by means of a telephone call”.

⁵⁹ The proposed text would amend the Numbering Plan at Part B, paragraph B3.2.1.

Stakeholders' comments on the clarity of our proposed modification

- 4.24 Some respondents argued that the proposed modification introduced new ambiguity for operators and consumers, and could be open to misinterpretation. For example, Lexgreen argued that the addition of the words “directly or indirectly” made the prohibition too broad and would prevent CPs from offering beneficial services such as international calls or conference-calling facilities at a cheaper price than standard direct-dial rates. These respondents called for the modification to the Numbering Plan to be more specific to ensure that forms of indirect revenue-sharing which are beneficial to consumers are permitted.
- 4.25 Similarly, Magrathea expressed concern that the addition of the word “indirectly” in the proposed new text would make the restriction too wide and insufficiently precise. While it agreed that schemes which encourage calls to 03 numbers purely for the generation of cash, credits or vouchers for the caller are harmful to the number range, it noted other circumstances where consumers may benefit from indirect revenue-sharing without giving rise to consumer harm. Magrathea sought clarity on whether indirect benefits, such as credits towards international calls, accessing call centres abroad or using conference-call facilities at a geographic rate, would be permitted.
- 4.26 [redacted] [redacted] argued that Ofcom’s proposed regulatory modification did not present a practical solution. In particular it argued that the addition of the word “indirectly” created potential for varying interpretations of its meaning and therefore could lead to disagreement.
- 4.27 The Internet Telephony Services Providers’ Association (ITSPA) said it believed Ofcom should clarify what it means by “indirect” revenue-sharing to avoid unintended consequences. ITSPA also suggested that Ofcom clarify its policy intention in circumstances where customers may benefit from lower payments for genuine communications calls to 03 numbers while preserving the principle that neither of the parties at either end of the 03 value chain (the caller or the party being called) should profit from a call.
- 4.28 BT said that it supported Ofcom’s proposals, but sought additional clarity in relation to what constituted a prohibited practice and the extent of enforcement action Ofcom would take against those found in breach of the prohibition. BT said that robust enforcement action was necessary to deal with the practice of revenue-sharing which it said could have wider implications in relation to numbering misappropriation (though it did not say what those implications were).
- 4.29 Some respondents argued that we had not satisfactorily defined a “genuine communications service” and that we had failed to recognise that genuine communications services may be facilitated by indirect revenue-sharing. Telecom2 suggested that Ofcom had not considered that some services might constitute indirect revenue-sharing but at the same time be a genuine communications service. It argued that calls to international numbers where the Calling Party accrues a benefit-in-kind such as credits towards future calls was an example of a genuine communications service that should be permitted, and that indirect revenue-sharing where customers are able to receive top-up credits to make future calls “is not arbitrage as it does provide and facilitate a genuine communications service.”
- 4.30 [redacted] [redacted] said that while Ofcom had “summarised the problem well” with its description of a “genuine communications service” at paragraph 3.6 of the July 2014 Consultation, this had not been reflected in the proposed modification to the

Numbering Plan. [X] [X] was also concerned that the amendment to the Numbering Plan would “affect services not related to the commercial conduct of concern such as those of social importance” and that services including an “element of lawful revenue sharing with the value chain or cross subsidy” would also be prohibited. It offered an alternative modification which included the term “genuine communications service”.

- 4.31 Some respondents said that we had not clearly defined the term “end-user”, while one respondent, [X] [X], disagreed with our interpretation of the term “end-user” and argued that the legal definition of an “end-user” always includes “a Calling Party who is not a CP”. It said that a calling party is always an “end-user” under the Act, and that Ofcom had not provided any examples of when a calling party would not be an “end-user”. But [X] [X] acknowledged that there was ambiguity among stakeholders about the term’s meaning.
- 4.32 Telecom2 said that Ofcom had not provided a clear definition of “end-user” and asked for clarification.

Our response

- 4.33 Revenue-sharing on calls to 03 numbers has been prohibited since the range was introduced in 2007. We are not changing that policy. Instead our intention in amending the restriction on the use of 03 numbers is to clarify that the ban on revenue-sharing includes the sharing of revenues with the calling party. We consider that amending the Numbering Plan as we proposed would achieve this outcome by making explicit that both direct and indirect revenue-sharing with the caller as well as the call recipient is prohibited.
- 4.34 Direct revenue-sharing would include arrangements whereby a proportion of revenue received by a CP is paid out to the calling party or other end-user, either in the form of money or money’s worth, and where the value of such payment is proportionate to the duration of the call. Examples of direct revenue-sharing include where a CP pays money or provides a gift of money’s worth (such as vouchers or credits) to a calling party or end-user as a result of them making a call to an 03 number, where the value of the payment is proportionate to the duration of the call.
- 4.35 Indirect revenue-sharing would include arrangements whereby a CP provides a benefit-in-kind to the calling party or other end-user, where the benefit is not necessarily proportionate to the duration of the call. Examples of indirect revenue-sharing include where a CP provides a voucher or credit of a fixed value, which is not proportionate to the length of the call. It would also include the giving of a gift (or any item with an inherent value, such as a toy, an item of clothing or a product electronically downloaded) by the CP to a calling party or end-user as a result of them making a call to an 03 number.
- 4.36 We note the comments from stakeholders concerning “genuine” and “non-genuine” communications services. We recognise that there may be cases where prohibited revenue-sharing occurs on numbers which could be considered to be providing a “genuine” communications services. Our position is that both direct and indirect revenue-sharing, as outlined at paragraphs 4.34 and 4.35 are prohibited regardless of whether they occur in relation to a genuine or non-genuine communications service. For this reason, we do not consider it necessary or relevant to include reference to genuine or non-genuine communications services in our modification to the Numbering Plan.

- 4.37 Some respondents sought clarification as to whether certain benefits or services currently provided to calling parties by means of 03 numbers would be affected by our restriction.⁶⁰ In considering this issue we have had regard to statements made at the time the 03 number range was opened, in particular our *Safeguarding the future of numbers* statement of July 2006, in which we said revenue-sharing would be forbidden on the 03 range and that “consumers calling these numbers should be confident that they will be paying only for the call, and not for any additional services provided by the organisation being called”.⁶¹ Consistent with that statement, if a CP uses 03 numbers to offer consumers services which are additional to the 03 call provided, then the caller should have confidence that they are not paying for the additional services through their payment for the 03 call. The funding of additional services through above-cost termination charges would be an example of revenue-sharing. In other words, additional services must be funded by other means.
- 4.38 In order to provide further clarity, we set out at paragraphs 4.74 and 4.75 examples of practices that are prohibited.
- 4.39 We note one respondent’s view that a Calling Party is always an end-user under the Act. However, we also note that some respondents were confused as to the meaning of the term “end-user” in this context, and that others considered that there is ambiguity about to whom it applies. We recognise that some confusion around the term “end-user” may arise because in many circumstances it is used more commonly to refer to the called party. As we noted in the July 2014 Consultation, “end-user” is defined for our purposes in section 151 of the Act and the definition is linked to the particular electronic communications service or services under consideration.⁶² We consider that expressly referring to the Calling Party, in addition to an end-user, in our modification to the Numbering Plan is appropriate and justified in order to provide greater clarity and certainty to industry about to whom the prohibition on revenue-sharing applies.

Stakeholders’ comments on the appropriateness and proportionality of our proposal (including the consideration of other options)

- 4.40 [X] [X] argued that Ofcom’s proposed modification was neither appropriate nor proportionate but was “heavy handed” and could produce negative consequences for consumers, including a migration of services currently provided by 03 numbers to number ranges where revenue-sharing is permitted such as 084x, where consumers would incur higher costs. [X] [X] argued that such an outcome could be avoided if Ofcom instead took appropriate enforcement action against CPs who were already engaged in revenue-sharing practices on 03 numbers for non-genuine communication calls rather than applying a “blanket” restriction which it argued was disproportionate and detrimental to consumer interests.
- 4.41 In addition, [X] [X] suggested that a revised modification to the Numbering Plan be adopted to enable indirect revenue-sharing from genuine communications calls where this provides a benefit to consumers. [X] [X] offered the following formulation which it considered would achieve such an outcome: “*Neither the called party, the*

⁶⁰ Services queried included low-cost conference calls incorporated within 03 calls; low-cost international calls incorporated within 03 calls; international calls made using pre-paid calling cards; calls to customer helplines where, unknown to the caller, the call may be redirected overseas.

⁶¹ See our July 2006 publication: *Telephone Numbering: Safeguarding the future of numbers*, paragraph 1.29, available at:

<http://stakeholders.ofcom.org.uk/consultations/numberingreview/statement/summary/>.

<http://stakeholders.ofcom.org.uk/binaries/consultations/numberingreview/statement/statement.pdf>

⁶² July 2014 Consultation, paragraphs 3.3 and 3.4.

Public Electronic Communications Service(s) providing a service on those numbers nor the Public Electronic Communications Network serving those numbers, shall share with the calling party any revenue obtained from providing a non-genuine communication service on those numbers”.

- 4.42 [X] [X] agreed with Ofcom’s proposed modification to the Numbering Plan, but suggested that Ofcom go further by considering setting termination rates for 03 calls at long-run incremental cost (LRIC). [X] [X] argued that if termination rates were set at cost, this would eliminate the arbitrage opportunity and thus the incentive for CPs to engage in revenue-sharing activities with callers. An individual [X] [X] argued that if it truly costs more for a CP to terminate an 03 call then the recovery of costs associated with terminating a call to an 03 number should be a “matter of commercial negotiation between the subscriber with the '03' number and their CP”. [X] [X] argued further that if revenue-sharing on geographic numbers was to become prevalent in future then Ofcom could enforce a reduction in the termination rate for all CPs.
- 4.43 Lexgreen argued that it was disproportionate for Ofcom to intervene in order to protect the economic viability of bundles offered by OCPs, because it said OCPs already have the means to protect themselves from abuse. Lexgreen argued that OCPs are able to prevent abuse of bundle terms and conditions through fair-use policies and AIT notices⁶³, and so limit their liability in respect of high termination rates charged by TCPs without eroding the benefits that consumers receive through inclusive call bundles. Similarly, TelNG said that under the ‘polluter pays’ principle, the onus should be on OCPs to enforce a fair use policy whereby it is not possible for customers to make excessive use of inclusive access to 03 numbers. TelNG argued that if this occurred there would be no need for Ofcom’s intervention.
- 4.44 EE said that it welcomed the legal clarity that would follow the adoption of Ofcom’s proposed modification but said that removing the discrepancy between 03 termination rates and geographic termination rates was also necessary to prevent the practice of revenue-sharing on the 03 number range. EE said it would be important for Ofcom to issue an explanatory statement alongside its proposed modification to the Numbering Plan describing what is meant by the terms “revenue” and “directly or indirectly share”.
- 4.45 BT said that the proposed modification to the Numbering Plan was insufficient because it did not adequately prevent some indirect revenue-sharing practices which Ofcom identified in paragraph 3.5 of the July 2014 Consultation. BT suggested the modification to the Numbering Plan be further amended in the following way (BT’s proposed additional words are underlined): “*shall not directly or indirectly share with, or otherwise incentivise, any End-User or any Calling Party any revenue obtained from providing a service on those numbers”.*
- 4.46 ITSPA agreed that some practices of concern identified by Ofcom should be prevented but argued that, before amending the Numbering Plan, Ofcom should take enforcement action against alleged transgressors.

⁶³ When an OCP suspects call traffic to be AIT, it issues an AIT notice to the TCP or transit operator, to whom the AIT traffic is going, if it intends to withhold termination payments from the TCP or transit operator for that AIT traffic.

Our response

- 4.47 Ofcom has regulatory powers to enforce CPs' compliance with the restrictions set out in the Numbering Plan and will exercise those powers where it considers it appropriate and proportionate to do so. However, taking into consideration the specific circumstances of this case, in particular that there appears to have been a genuine difference of view among CPs about whether certain commercial practices constituted revenue-sharing, we consider it prudent, in this instance, to clarify the scope and meaning of the restriction before taking enforcement action.
- 4.48 Regarding the alternative wording of the prohibition offered by [X] [X] (see paragraphs 4.40-4.41), we do not consider that this wording is appropriate because it would limit the scope of the revenue-sharing prohibition such that some practices currently prohibited would be permitted in future. Our intention in clarifying the restriction on revenue-sharing is not to change policy, but to make clear that revenue-sharing of any form is not permitted on the 03 number range.⁶⁴ This includes circumstances where the service provided is a "genuine communications" service.
- 4.49 Fair-use policies, call-blocking in response to AIT and AIT notices are commercial issues and as such are for industry to enforce. Our intention in providing regulatory clarity is to make clear that revenue-sharing with calling parties is not permitted on the 03 number range, whether or not the practice concerned conflicts with commercial limits on fair use or triggers AIT concerns.
- 4.50 Some respondents argued that Ofcom should intervene by regulating termination rates levied by TCPs for calls made to the 03 number range such that they could never be higher than the associated cost. It was argued that such intervention would erode the incentives for TCPs or SPs to create revenue-sharing schemes on the 03 number range. While we acknowledge that such intervention may reduce incentives for revenue-sharing, we do not consider that it would be appropriate to seek to address this here.⁶⁵
- 4.51 In respect of the suggested modification proposed by BT, we consider that the addition of the words "or otherwise incentivise" is not necessary and may lead to further confusion over what practices are intended to be covered by the restriction. We consider that the wording we proposed in the July 2014 Consultation is a better means of clarifying the practices that constitute revenue-sharing.

Stakeholders' comments on the impact of our proposal

- 4.52 Lexgreen argued that consumers would be negatively impacted by Ofcom's proposal. It said that prohibiting indirect revenue-sharing would reduce the viability of 03 number services including services which provide genuine communication calls; it argued that such an outcome would be detrimental to consumer interests because it would lead to reduced consumer choice. Similarly, Magrathea said it was important that consumer benefits as a result of product innovation were not compromised by regulatory intervention.

⁶⁴ The restriction on revenue-sharing has been an essential characteristic of the 03 number range and is part of its appeal to public bodies. This quality may be lost if some forms of revenue-sharing were to be permitted. If businesses require numbers on which revenue-sharing is permitted, they can choose numbers from other ranges, such as the 084, 087 and 09 number ranges.

⁶⁵ We note that we are separately considering a dispute between BT and each of EE and Three regarding BT's wholesale termination rates for calls to 03 numbers. More information on this is available at: http://stakeholders.ofcom.org.uk/enforcement/competition-bulletins/open-cases/all-open-cases/cw_01139/

- 4.53 [redacted] [redacted] said it was opposed to Ofcom’s proposed modification because such a move would have a negative impact on consumers. In particular, [redacted] [redacted] argued that the proposal would lead to reduced choice in the international calling card market, and would result in customers incurring higher charges for international calls from mobile network operators.
- 4.54 Conversely, Virgin Media said that if exploitation of competitive commercial propositions to consumers in the form of inclusive call bundles was left unchecked, it could lead to reduced consumer choice as OCPs would be likely to respond by making the terms of their bundles less generous. A similar argument was made by [redacted] [redacted], which said that [redacted] [redacted]. Vodafone said that it had no objection to Ofcom’s proposal and welcomed further clarification of existing policy.
- 4.55 A number of individuals said they were against our proposal because they were concerned about suffering a reduction in choice of international call services. This concern was particularly prevalent among respondents who said they did not have access to a fixed-line telephone and/or were concerned about paying higher charges levied by mobile network operators to make international calls.
- 4.56 Some respondents who held contracts with mobile network operators argued that their existing monthly payments should entitle them to use 03 calls for services which offer revenue-sharing arrangements. They argued that higher costs associated with alternative methods of making international calls would leave customers liable to reduced choice and higher bills. One individual argued that “far from reducing retail competition, use of 03 numbers to facilitate calls to overseas destinations increases retail competition by offering a more affordable option for making the calls”.
- 4.57 Some respondents said that Ofcom had failed to present sufficient evidence to demonstrate that OCPs would respond to revenue-sharing in the 03 number range by reducing call allowances within bundles. These respondents suggested that Ofcom should undertake a further impact assessment to substantiate this claim and to assess a potential negative impact on consumers and SPs as a result of the proposed modification.

Our response

- 4.58 We recognise that some services currently operating on the 03 range, which involve revenue-sharing, may be withdrawn or moved to another number range in light of our regulatory clarification. We have a duty to consider the balance of impacts of any regulatory intervention and to take action where it is objectively justifiable. In this case, we consider that the potential detriment to consumers as a whole from allowing services such as those identified at paragraphs 4.4 and 4.5 to continue outweighs the benefit of greater choice for the limited current set of users of such services.
- 4.59 In addition, we have a legal duty to review the Numbering Plan and set out such restrictions as we consider appropriate on the uses to which numbers may be put.
- 4.60 In this case we consider that promoting consumer confidence in the 03 number range is best served by providing regulatory clarity and certainty on practices which are prohibited, in order to create a stable environment which is conducive to product innovation and investment. This is consistent with our intention in establishing the range, when we said “we expect the new range to become trusted by consumers as covering clearly-understood services and price ranges”. A small reduction in consumer choice may be offset over time by new service innovation, potentially on other number ranges where revenue-sharing is permitted.

- 4.61 Further, in recognition of the need for revenue-sharing ranges to promote service innovation we already provide a number of such ranges (084/087/09) which allow varying levels of revenue to be raised. The regime for those revenue-sharing ranges will change in summer 2015 (see paragraphs 2.2 and 2.3).⁶⁶
- 4.62 In response to the comments that we should conduct a further impact assessment, we note that the analysis we presented in the July 2014 Consultation constituted an impact assessment as defined in section 7 of the Act. This assessment dealt primarily with the impact of our regulatory clarification, which is intended to provide greater certainty for industry and reduce the potential for disputes. In addition, we set out the harm that we are concerned could arise if we were not to provide this clarification. In this statement, we have supplemented that initial impact assessment with our response to the comments raised by interested stakeholders in response to our consultation. As such, we do not consider it necessary to carry out a further impact assessment before reaching our decision on modifying the restrictions in the Numbering Plan.

Stakeholders' other comments and our response

- 4.63 BT said that Ofcom's proposal to clarify the rules for the 03 number range raised the question of the extent to which the proposal would apply to other ranges such as 055, 056, 070 and 076. BT argued that if there is an outstanding decision as to the approach to be taken in reference to revenue-sharing in respect of these ranges, BT would encourage Ofcom to take the same approach as Ofcom had proposed for 03.
- 4.64 We will consider the need for changes to the regulation of other number ranges in future reviews of those ranges. We note that different number ranges were set up for different purposes and our current consideration is limited to the 03 range.
- 4.65 Some respondents made comments about the equality impact of our proposal. We have responded to these in Annex 2.

Final assessment of our proposal

- 4.66 Our modification to the Numbering Plan is intended to remove ambiguity about both the circumstances under which the prohibition on revenue-sharing applies and to whom it applies. We consider that this will be achieved through the adoption of the proposed modification we presented in our July 2014 Consultation.
- 4.67 To help relevant parties understand the scope of the prohibition on revenue-sharing, we have set out examples of practices which constitute prohibited conduct at paragraphs 4.74 and 4.75.

Legal tests – conclusion as to why our decision is consistent with these

- 4.68 As explained in section 3, we may not modify the Numbering Plan unless we are satisfied that the modification is objectively justifiable, not unduly discriminatory,

⁶⁶ In our December 2013 statement, *Simplifying Non-Geographic Numbers*, available at: <http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geo-no/final-statement>, we set out our new regulations that require revenue-sharing ranges to be presented 'unbundled' i.e. separately presenting the access charge of the OCP and the service charge passed to the call recipient.

proportionate and transparent.⁶⁷ Our view is that our modification meets these requirements.

4.69 In particular, we consider the modification to be:

4.69.1 **objectively justifiable**, in that this modification of the Numbering Plan will contribute to our objectives of (i) stopping the sharing of revenues received from calls to 03 telephone numbers,⁶⁸ and (ii) ensuring that the conditions that govern the use of 03 numbers continue to reflect our policy objective in establishing the 03 number range;

4.69.2 **not unduly discriminatory**, in that it will apply equally to all those who adopt or use 03 telephone numbers;

4.69.3 **proportionate**, in that it is the least restrictive means of ensuring that those who adopt or use 03 numbers do not share revenues they receive for operating these numbers with other parties; and

4.69.4 **transparent**, in that the condition is transparent in its operation and has been accompanied (in this document) by an explanation of its intended operation and effect.

4.70 We consider that we are fulfilling our general duty in relation to telephone numbering functions, as set out in section 63 of the Act, by:

4.70.1 **securing the best use of telephone numbers**, in that our modification will stop the use of 03 numbers for purposes that do not reflect the policy intent for which 03 numbers were provided, thereby reserving the use of 03 numbers for purposes that are consistent with the policy objective that led to the opening of the 03 number range;⁶⁹ and

4.70.2 **encouraging efficiency and innovation**, in that our modification is likely to ensure, as a consequence of increased regulatory certainty for industry and the reputational protection of the 03 number range among consumers, that consumers make purchasing decisions that reflect their individual consumption preferences and are not deterred by concerns about price transparency. We also consider that the modification will protect the reputation of the range, thereby furthering the incentives for public-sector bodies and private businesses to innovate and invest in the provision of services by means of 03 telephone numbers.

4.71 We also consider that our modification is consistent with our principal duty under section 3 of the Act, and the Community requirements set out in section 4 of the Act. In particular:

4.71.1 we consider that our modification will result in benefits to **consumers and citizens** (sections 3(1), 3(5) and 4(5)) by preventing commercial conduct – on a telephone number range that is vital to the provision of essential public and customer services – that would harm their overall interests;

⁶⁷ See section 60(2) of the Act.

⁶⁸ July 2014 Consultation, paragraphs 3.5-3.6

⁶⁹ We note here that we already provide several telephone number ranges on which revenue-sharing is permitted (e.g. 0843/4/5, 0871/2, 09). Therefore, our prohibition will not end revenue-sharing on all number ranges. We consider that it will help ensure that revenue-sharing is restricted to those number ranges where consumers and organisations would expect revenue-sharing to happen.

- 4.71.2 we consider that our modification will result in improvements in **efficiency, investment and innovation** (section 3(4)(d)) as set out above in 4.13.2;
- 4.71.3 in carrying out our review we have had regard to the needs of **vulnerable consumers** (sections 3(4)(h) and (i)) by the consideration of the extent to which our decision would impact on vulnerable consumers' access to socially-important services; and
- 4.71.4 we have also had regard to the principle that regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and to other principles of **best regulatory practice** (section 3(3)). We have explained earlier in this section why we consider that regulatory intervention is required, and above why we consider that it is proportionate and transparent.

Decision

- 4.72 We have decided to modify the Numbering Plan as proposed in our July 2014 Consultation such that it is clear that revenue-sharing on the 03 number range is prohibited. Annex 1 sets out the legal instrument giving effect to that modification.

Examples of direct and indirect revenue-sharing

- 4.73 At paragraphs 4.33 to 4.38 we set out details of the types of practice which if carried out on the 03 number range would constitute direct or indirect revenue-sharing. We provide below a list of non-exhaustive examples of practices which are either direct revenue-sharing or indirect revenue-sharing.

Direct revenue-sharing

- 4.74 At paragraph 4.34 we said direct revenue-sharing is where a proportion of revenue received by a CP is paid out to the calling party or end-user, either in the form of money or money's worth, and where the value of such payment is proportionate to the duration of the call. Examples of direct revenue-sharing include – but are not limited to:
- a payment of money (e.g. a cash payment through a money transfer system);
 - a payment of money's worth such as vouchers, coupons or tokens (e.g. cash vouchers for purchases from an online retailer); and
 - a payment of money's worth such as credits which may be redeemed for a future service (e.g. credits for making future international phone calls, including indirect access calls).

Indirect revenue-sharing

- 4.75 At paragraph 4.35 we said indirect revenue-sharing is where a CP provides a benefit-in-kind to the calling party or end-user, where the benefit is not necessarily proportionate to the duration of the call. Examples of indirect revenue-sharing include – but are not limited to:
- vouchers, credits or coupons, whose value is not proportionate to the duration of the call (e.g. cash vouchers for purchases from an online retailer); and

- a product or service with some inherent value (e.g. a toy, an item of clothing or an electronic download).

Annex 1

Notification of modifications to the provisions of the Numbering Plan under section 56(2) and section 60(5) of the Act

WHEREAS

- A. General Condition 17 of the General Conditions of Entitlement has effect by reference to the provisions of the Numbering Plan.
- B. Section 56(2) of the Act provides that it shall be Ofcom's duty from time to time to review the Numbering Plan and make such revisions that they think fit, provided such revisions are made, so far as applicable, in accordance with section 60 of the Act.
- C. On 10 July 2014, Ofcom published a notification (the First Notification) of their proposal to modify the provisions of the Numbering Plan, in accordance with section 60(3) of the Act.
- D. In the First Notification and the accompanying consultation document, Ofcom invited representations about the proposals therein by 4 September 2014.
- E. By virtue of section 60(5) of the Act, Ofcom may give effect to the proposal set out in the First Notification, with or without modification, only if-
 - (i) they have considered every representation about the proposal that is made to them within the period specified in the First Notification; and
 - (ii) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State.
- F. Ofcom received 46 responses to the First Notification and have considered every such representation made to them in respect of the proposal set out in the First Notification and the accompanying consultation document.
- G. The Secretary of State has not notified Ofcom of any international obligation of the UK for this purpose.

THEREFORE

1. In accordance with sections 56(2) and 60(5) of the Act, Ofcom are modifying the provisions of the Numbering Plan as set out in the Schedule to this Notification.
2. Ofcom's reasons for making these modifications, and the effect of the modifications, are set out in the explanatory statement accompanying this Notification.
3. Ofcom are satisfied that the modifications comply with the requirements of section 60(2) of the Act.
4. In making these modifications, Ofcom have considered and acted in accordance with their general duty as to telephone numbering functions under section 63 of the Act, their general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act.
5. The modifications in Schedule 1 shall enter into force immediately.

6. In this Notification:
 - a. “the Act” means the Communications Act 2003;
 - b. “the General Conditions of Entitlement” means the general conditions set under section 45 of the Act by the Director General of Telecommunications on 22 July 2003, as amended from time to time;
 - c. “Ofcom” means the Office of Communications; and
 - d. “Numbering Plan” means the National Telephone Numbering Plan published by Ofcom pursuant to section 56(1) of the Act, and amended from time to time.
7. 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.
8. For the purposes 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.
9. The Schedule to this Notification shall form part of this Notification.



Yih-Choung Teh

Competition Policy Director

11 December 2014

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

SCHEDULE 1

1. In Part B, Section B3.2 is modified as shown highlighted in yellow:

B3.2 Non-Geographic Numbers

03 numbers

- B3.2.1 Those who Adopt or otherwise use Non-Geographic Numbers starting 03 shall not **directly or indirectly** share with any End-User **or any Calling Party** any revenue obtained from providing a service on those numbers.
- B3.2.2 Those who are Allocated Non-Geographic Numbers starting 030 shall assign those numbers only to Subscribers that are public sector bodies or not-for-profit bodies.
- B3.2.3 Those Communications Providers who Adopt or otherwise use Non-Geographic Numbers starting 034 or 037 shall only do so for the purpose of providing a service to a Customer who is migrating from a Non-Geographic Number starting 084 or 087 which is exactly identical to the 034 or 037 number except for the second digit (a “matching 084 or 087 number”). A Non-Geographic Number starting 034 or 037 shall not be Adopted or otherwise used by a Communications Provider where no matching 084 or 087 number is in use by a Customer.

Annex 2

Equality Impact Assessment

Introduction

- A2.1 Ofcom has a general duty under the Equality Act 2010 to have regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation;
 - advance equality of opportunity between different groups; and
 - foster good relations between different groups,
- in relation to the following protected characteristics: age; disability; gender re-assignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.
- A2.2 In fulfilling this duty, we may, where appropriate, undertake an Equality Impact Assessment to examine the impact of our activity in relation to those groups identified by the protected characteristics listed above. Equality Impact Assessments assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers.
- A2.3 In the July 2014 Consultation, we said we had considered what (if any) impact our proposal may have an equality. We said that we did not consider the impact of the proposal to be to the detriment of any group within society, and we concluded therefore that it was not necessary to carry out a full Equality Impact Assessment at that time.
- A2.4 Following receipt of some stakeholder responses which raised the issue of equality impact, we have further explored any potential impact of our proposal on particular groups. This assessment is set out in the following paragraphs.

Assessment of the equality impact of our proposal

- A2.5 The aim of our proposal is to clarify that revenue-sharing on the 03 number range is prohibited. The prohibition means that revenue cannot be shared with any calling party or end-user. The proposal does not therefore have a differential impact on any person or group in society and applies equally to all persons.
- A2.6 Some consultation respondents argued that our proposal would have a disproportionately negative impact on those groups who are more frequent users of services provided on the 03 number range. It was argued that because some such services offer international calls, these groups would be likely to include people of particular nationalities or ethnicities, who might be identified by one of the protected characteristics (such as race, religion or belief).
- A2.7 For example, TeING said that users of its services were predominantly Asian and that calls to its 03 numbers were most commonly routed to Pakistan, Bangladesh and India. It argued that Ofcom's proposal would therefore have a disproportionately negative impact on the Asian community. A similar argument was presented by Telecom2 which said that minority ethnic communities would be

disproportionately affected by the proposed modification because people from such groups tended to use its services more than non-minority groups. Telecom2 said that calls using its 03 number service were most commonly made to Pakistan, India and Nigeria.

- A2.8 We acknowledge that some services currently being offered on the 03 number range may be more popular with people who regularly call international numbers. Consequently, we recognise the possibility that some consumers identified by the characteristics outlined above (such as race, religion or belief) may be receiving a disproportionately high benefit from such services.
- A2.9 However, we have a responsibility to consider the balance of impacts associated with any regulatory intervention. In this case, we consider that realisation of the harmful impacts discussed in the July 2014 Consultation (which would be borne by the population as a whole) would outweigh the benefit derived by a particular set of consumers from the use of these services. On this basis, we consider it appropriate and proportionate to proceed in clarifying that revenue-sharing on the 03 number range is prohibited.
- A2.10 We remain of the view that the impact of our regulatory clarification is not detrimental to any such group within society. Similarly, we do not consider that our intervention will have a differential impact on consumers identified by the protected characteristics. On the contrary, we consider that our proposal will provide regulatory clarity for all interested parties, regardless of whether or not they identify with any of the groups listed above.
- A2.11 We note that services provided on the 03 number range are available for use by the population in general, and are not reserved for or intended for particular groups only. We also note that other means of calling international numbers or conference-call numbers at rates that are cheaper than those offered by many larger OCPs are not affected by our proposal and remain available to callers, e.g. indirect access by use of number ranges on which revenue-sharing is not prohibited, services such as Skype, calling cards etc.

Annex 3

List of sources

A3.1 A list of Ofcom research reports, previous consultations and other external reports relevant to this consultation is provided below. While this list includes the main documents and research reports we have relied upon, it is provided for convenience only and is not intended to be exhaustive.

Previous Ofcom consultations, statements or determinations

- i) *The 03 Number Range: Proposal to confirm that revenue-sharing with callers is not permitted on the 03 number range*, 10 July 2014, (**July 2014 Consultation**), published at <http://stakeholders.ofcom.org.uk/consultations/03-modification/>
- ii) *Simplifying non-geographic numbers: Final statement on the unbundled tariff and making the 080 and 116 ranges free-to-caller*, 12 December 2013 (**December 2013 NGCS Statement**), published at: <http://stakeholders.ofcom.org.uk/binaries/consultations/simplifying-non-geo-no/statement/final-statement.pdf>
- iii) *Simplifying Non-geographic Numbers: Detailed proposals on the unbundled tariff and Freephone*, 4 April 2012 (**April 2012 NGCS Consultation**), published at: <http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geographic-no/>
- iv) *Determination to resolve a Dispute between Everything Everywhere and BT about BT's termination charges for 03 calls*, 17 January 2011 (**03 Determination**), published at: <http://stakeholders.ofcom.org.uk/consultations/draft-everything-bt-termination/determination>.
- v) *Determination to resolve 0870 call termination rate disputes between BT and various operators*, 17 June 2009 (**0870 Determination**), published at: <http://stakeholders.ofcom.org.uk/consultations/resolve0870calls/>.
- vi) *Raising confidence in telephone numbers: Amending General Condition 17*, 31 May 2007 (**May 2007 Statement**), published at: <http://stakeholders.ofcom.org.uk/consultations/numbering03/statement/> .
- vii) *Raising confidence in telephone numbers: Including new 'UK-wide' 03 numbers and a consultation to amend General Condition 17*, 13 February 2007 (**February 2007 Statement**), published at: <http://stakeholders.ofcom.org.uk/consultations/numbering03/>.
- viii) *Telephone Numbering: Safeguarding the future of numbers*, 27 July 2006, (**July 2006 Statement**) published at: <http://stakeholders.ofcom.org.uk/consultations/numberingreview/statement/summary>.
- ix) *NTS: A Way Forward*, 19 April 2006 (**April 2006 Statement**), published at: http://stakeholders.ofcom.org.uk/consultations/nts_forward/statement/.

Other publications

- i) HMG Guidance for Customer Service Helplines, 26 December 2013, available at: <https://www.gov.uk/government/publications/hmg-guidance-for-customer-service-lines>
- ii) Department of Business, Innovation and Skills Guidance on Consumer Contracts (Information, Cancellation and Additional Charges) Regulations, 13 December 2013, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310044/bis-13-1368-consumer-contracts-information-cancellation-and-additional-payments-regulations-guidance.pdf

Annex 4

List of non-confidential respondents to the July 2014 Consultation

Communications Providers

[redacted] [redacted]

BT

EE

[redacted] [redacted]

Lexgreen Services

Magrathea Telecommunications

Telecom2

TelNG

[redacted] [redacted]

Virgin Media

Vodafone

Service Providers

[redacted] [redacted]

Individuals

Abdul

Ahmed Hassan

Alan Partington

[redacted] [redacted]

Alex Perez

Amjad Khan

Asif Khan

[redacted] [redacted]

[X] [X]

[X] [X]

Graeme Alderson

Gurarpit Singh

[X] [X]

[X] [X]

Jamie Sheehan

Jestin Philip

[X] [X]

[X] [X]

Maria Navajas

[X] [X]

[X] [X]

[X] [X]

[X] [X]

M Latiff

[X] [X]

Rama Siva

[X] [X]

Shahriar Hussain

Shamim Faraizy

[X] [X]

[X] [X]

Zohaid Nadeem

Others

Internet Telephony Services Providers' Association (ITSPA)

[X] [X]

Annex 5

Glossary

Call Termination:

The service provided by a TCP to allow an OCP to connect a call with the intended recipient on that TCP's network.

Communications Act 2003 (the Act): The Act of Parliament that sets out Ofcom's duties in relation to electronic communications networks and services, and the powers which Ofcom has to discharge those duties.

Communications Provider (CP):

This is a person who provides an electronic communications network or provides an electronic communications service.

Free-to-caller:

This means a number that is accessed at no charge to the customer and, in the case of public payphones, without having to use coins or cards.

Freephone:

A number that is reached free of charge to the customer, except where a charge is notified to the caller at the start of the call. 080 numbers (e.g. 0800 and 0808) are currently Freephone (although will become free-to-caller for consumers from the summer of 2015).

General Conditions:

Obligations on all Communications Providers imposed by Ofcom in exercise of its powers set out in the Act.

Geographic number or geographic call:

A telephone number, or call to a telephone number, where part of the digit structure (beginning with 01 or 02) contains a geographic area code that is used for routing calls to the physical location of the subscriber to whom the number has been assigned.

National Telephone Numbering Plan (Numbering Plan):

This is a document setting out telephone numbers available for allocation and the restrictions on the adoption and other uses of those numbers, and as provided for in section 56(1) of the Act.

Non-geographic call (NGC) or non-geographic number:

A telephone number, or call to that telephone number, which is used to identify a type of service rather than a geographic location. These services include number translation service (NTS) and premium rate service (PRS) numbers. Mobile and personal numbers are also non-geographic numbers.

Non-geographic call services (NGCS):

A service that is provided by means of a non-geographic number.

Service Provider (SP):

This is a provider of voice or data services to third parties.

Terminating Communications Provider (TCP):

The CP on whose network a call terminates.