

Consultation response form

Please complete this form in full and return via email to 070marketreview@ofcom.org.uk or by post to:

070 market review team
Competition Group
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Consultation title	Personal numbering: Review of the 070 number range
Full name	Alan Partington
Contact phone number	✂
Representing (delete as appropriate)	Organisation - please provide the organisation's name below
Organisation name	Telecom2 Ltd
Email address	✂
We will keep your contact number and email address confidential. Are there any additional details you want to keep confidential? (delete as appropriate)	Nothing
For confidential responses, can Ofcom publish a reference to the contents of your response?	Yes/No

Your response

Question 3.1: Do you agree with our provisional conclusion regarding market definition? Please provide reasons and evidence in support of your views.	<p>Confidential? – Y/N</p> <p>We have no concerns with the Market Definition in 3.2.</p> <p>We would point out that it is our understanding that the Communications Act 2003 requires that where there is misuse, industry is given the opportunity to self regulate. This has not happened here.</p>
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<p>Question 3.2: Do you agree with our provisional conclusion regarding SMP? Please provide reasons and evidence in support of your views.</p>	<p>Confidential? – Y/N</p> <p>While we agree that, hosting aside, TCPs have SMP for numbers allocated to them, we are concerned that there appears to be a lack of understanding of the costs of operating an 070 service. As well as the cost of terminating the call and onward transmission, administration of the service has components that are unique to a PNS and have a relatively high manual content. OCP charges are not taken into account when setting termination charges, if they were then termination charges would be far higher. Unlike the retail market occupied by OCPs, competition in the Termination market has had the effect of stabilising and reducing charges, as will be seen from the history of 070 termination rates, where some of the higher rates are no longer in widespread use.</p>
<p>Question 4.1: Do you consider that the cost of the proposed control is proportionate to the identified harm to consumers arising from this range? If not please give your reasons.</p>	<p>Confidential? – Y/N</p> <p>We do not believe that the harm identified is still appropriate to the 070 number range and therefore the cost of the proposed control is not proportionate. The data used to identify the harm is not robust. The reasons and data are by and large aged and no longer appropriate. In some cases OFCOM appears to have been misled by submissions. Where the data is current it is not credible. If the changes proposed in this consultation are implemented many valuable services will no longer be viable and will cease to be provided. Please see our response to question 4.4 for more detailed information.</p>
<p>Question 4.2: Do you agree with our proposal for a three-month implementation period? If not, please explain why.</p>	<p>Confidential? – Y/N</p> <p>Three months is not adequate . As OFCOM are aware, previous changes of this magnitude have taken over a year to implement. Time is needed to rework costs recovery and charges to the consumer. If there is a move to other ranges as suggested, marketing material will have to be changed, this is reliant on print deadlines. There is a contractual notice period</p>

	<p>for changing termination rates on the Carrier Price List. If, as suggested, the called party is to be billed then new billing and debt recovery processes will have to be designed and implemented. This billing would be significantly different to other products where the called party is billed. We would suggest an implementation period of at least eighteen months. Please see our response to question 4.4 for more detailed information.</p>
<p>Question 4.3: Do you agree that our proposal to implement a charge control on 070 TCPs in the form of a benchmark rate is appropriate? If not, please explain why.</p>	<p>Confidential? – Y/N</p> <p>We do not agree that a charge control, in any form, is appropriate. Please see our response to question 4.4 for more detailed information.</p>
<p>Question 4.4: Do you have any further comment on our proposals for regulating 070 termination rates? Please provide reasons and evidence in support of your views.</p>	<p>Confidential? – Y/N</p> <p>See separate document “4.4 response Telecom2 ltd.docx”</p>
<p>Question A9.1: Do you agree with our approach to estimating the cost of providing a 070 service? Please provide reasons and evidence in support of your views.</p>	<p>Confidential? – Y/N</p> <p>We do not agree with the approach to estimating the cost of providing an 070 service. The cost goes beyond the elements included in the consultation calculation, which relates solely to the cost of the call. As well as the cost of the redirection of the call there is a management cost unique to providing an 070 service. For example, there are areas such as provision of numbers to callers, switching them on and off as appropriate, maintaining and controlling a pool of numbers so that, for example, they aren’t taken out of the pool too soon after being used by a previous customer. If the called customer has to pay charges there will be a heavy billing overhead caused by large numbers of customers being charged small amounts and a high Bad Debt level because it won’t be viable to invest a lot of Credit Control effort for small bills.</p>

Personal numbering: Review of the 070 number range

Response to question 4.4

Telecom 2 Ltd

OFCOM appear to have three main concerns about the 070 PNS services. These are:

“1.2 With respect to 070, we stated our concern with the cost of calling these numbers, consumer confusion as to the role and cost of these numbers, and their frequent misuse. “

OFCOM accept that the evidence for their concerns is, in the main, several years old but contend that the market has not changed. We believe, and can demonstrate, that there has in fact been considerable change and, aside from OCP's retail rates, improvement, particularly in respect of misuse. Additionally, we believe that much of the more recent evidence supplied to OFCOM is seriously flawed and presents a false picture. We also feel that much of the evidence supplied to OFCOM is exaggerated and apocryphal, with little or no factual support.

There is a significant amount of repetition in the consultation, rather than answer individual paragraphs we are answering OFCOM's concerns without going over the same ground several times.

COST OF CALLING AND TERMINATING NUMBERS

To take the cost of calling the numbers, the highest termination rates for 070 traffic and the rates needed to facilitate misuse, pence per call charges, are hardly used. According to the Carrier Price List and National Numbering Plan, most CPs have dropped them, only nine number ranges across seven CPs have them available and it is not clear how many are actually in use. If competition really was a significant influence on the Termination rates for 070 charges then they would be higher and less varied. In fact the overall Termination rates for PNS numbers have reduced.

The highest component of retail call charges is the premium charged by OCPs. As with the Access charges for NGCS, competition has not brought them down. In Para 4.31 OFCOM say:

“Setting a price control remedy based on a measure of the costs of terminating 070 calls would likely have the effect of reducing termination charges and, to a large extent, cost over-recovery. We consider that this could have some positive flow through to retail prices and reduce consumer harm as retail telecoms providers would need to recover a lesser cost of termination from end-users. “

Para 1.10 includes the words:

“**Excessive prices:** High call termination rates discourage telecoms providers from including these calls in inclusive call bundles and encourage relatively high retail prices.

These are not borne out by what has actually happened. The rates charged by OCPs do not vary according to the varying PNS termination rates and in fact, using the information in the OFCOM 2009 Review of the 070 personal numbering range statement (2009 statement) and this consultation, the Retail rates charged by OCPs have, despite the overall reduction in termination charges, significantly increased and such allowance for varying termination rates as did exist has been done away with by

OCPs. It is also of note that where it was possible to identify the sources of complaints, 83% were from mobile phone users.

With respect to the cost of operating a PNS service. The incremental cost of a call is not the only cost. A PNS service incurs much higher unique administration overheads. The provider has to hold and manage a pool of numbers, keeping records of a large number of temporary users that change frequently, ensuring that numbers are withdrawn from use at the appropriate time and only allocating them when it is safe to do so.

In para 3.91 the minimum profit per minute gained by TCPs is quoted as being 17.166ppm. Fourteen Termination rates, including the TWIX, are lower than this figure, the lowest being 0.5385ppm.

In Para 4.89 it is stated that Auto Trader offers a PNS type service using 03 numbers. This is misleading. Auto Trader now offer advertisers Geographic numbers rather than 03 numbers but it isn't a full PNS service, the calls can be connected only to other geographic numbers or to mobile numbers.

A better solution to the problem of bill shock would be to encourage OCPs to give greater prominence to their charges and not bury them in obscure locations in price lists. This was suggested in the 2009 statement but appears not to have been implemented by OCPs, who stand to profit from high charges far more than the fraudsters and scammers ever did.

Para 2.31 says:

"2.31 MTRs have reduced over time, the costs of onward routing have also reduced, but the termination rates of 070 have remained high. This leads to a considerable profit margin on the provision of 070 termination services. "

As stated above PNS services have costs additional to those incurred by mobile services and these costs have increased.

Para 2.35 says:

"

2.35 As we set out in the following sections, high termination rates and related high retail prices have led to poor outcomes for consumers. These include:

- **Excessive prices:** High call termination rates discourage telecoms providers from including these calls in inclusive call bundles and encourage excessive retail prices.
- **Bill shock:** In light of high retail prices, callers' confusion between 070 numbers and mobile numbers leads to unexpectedly high bills;
- **Distorted choices between 070 and alternatives:** As calls to 070 numbers are generally free to call recipients, they do not face the true cost of their choice and so usage of 070 numbers may therefore be higher than is socially desirable when compared to the alternatives, such as mobile services;

CUSTOMER CONFUSION

We accept that there is some confusion around the role and cost of 070 numbers but this is not limited to 070 numbers. As OFCOM acknowledged in the NGCS unbundling documentation, such confusion exists around all the non geographic numbers. There has been a major consumer education programme but this confusion still exists. It would be wrong to use it as a reason to penalise Terminating CPs and reduce the services available to more responsible consumers because some have not assimilated the information made available to them. Moving PNS services to a new number range would simply add another area of confusion

In cases where the 070 numbers are being used for protection from harm or harassment by vulnerable people the similarity between PNS and Mobile numbers is a positive advantage.

The following comments are from the 2009 statement:

A1.128 From the results of our market research, we cannot be certain that the main reason for the prevalence of scams or price confusion on the 070 range is because consumers confuse personal numbers with mobile numbers. Indeed, it is likely that the key drivers of current scams are the high prices of calls to personal numbers, a general lack of awareness of call prices and an instinctive reaction on the part of some consumers to call back missed calls.

A1.129 From our consumer research, it is not clear that consumers have more awareness about the cost of calling 08 or 09 numbers.

A1.131 Overall, it is not clear that moving PNS to a recognisably different range will help to remedy the consumer detriment that arises with 070 calls and will not, on its own, prevent the same types of scams appearing on a new range or similar price confusion.

These point up that customer confusion is not a major issue. The key driver mentioned no longer exists due to CPs abandoning the higher Pence per Call charges

FREQUENT MISUSE

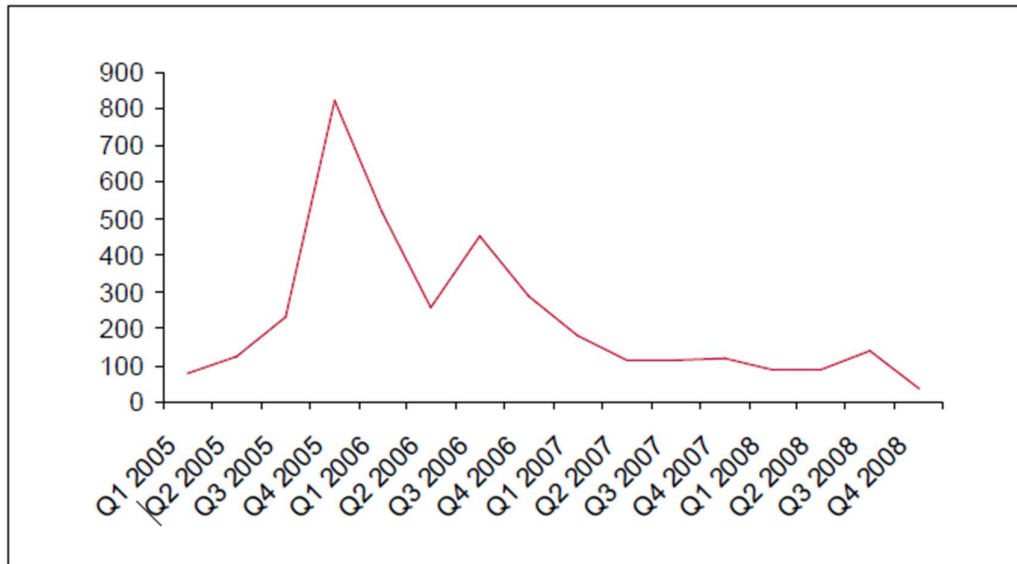
We strongly dispute that frequent misuse is still a feature of 070 services.

The number of complaints has been the subject of a steady decline. The 2009 statement gives several examples of this Figures A1.4 and A1.5 all show a clear and significant decrease in the number of complaints to the OFCOM Advisory Team and PSA and there is no indication that this trend has not continued:

Para A1.76 says:

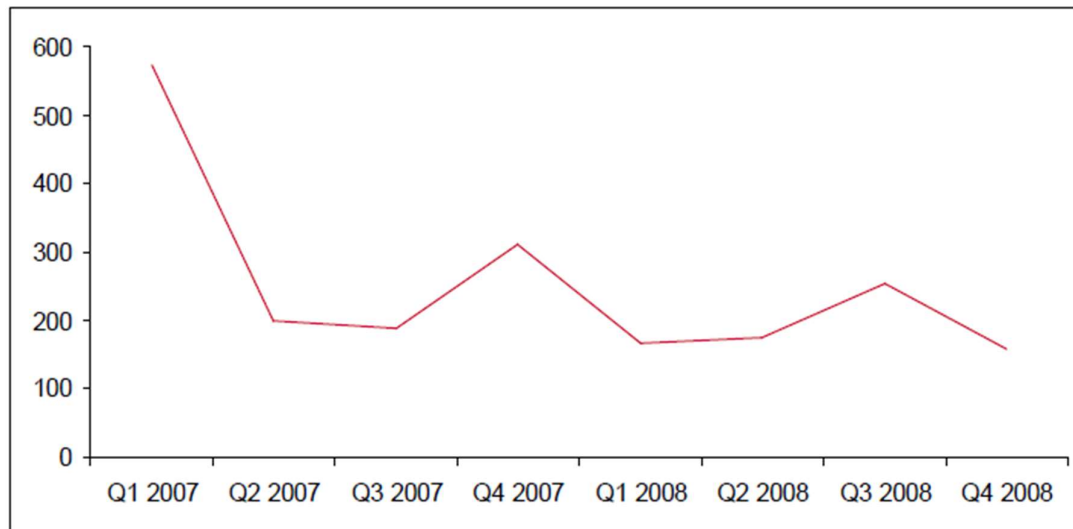
“Figure A1.4 below sets out the total number of 070 complaints that the OAT has received from January 2005 to December 2008. The graph indicates that there is a declining trend in calls made to the OAT about 070 numbers”

Figure A1.4 OAT 070 complaints



Source: OAT data from January 2005 to December 2008

Figure A1.5 PhonepayPlus 070 complaints



Source: Data from PhonepayPlus on 070 complaints received January 2007 to December 2008.

In para A1.78 of the 2009 statement it says:

“The peak in October/November is, in part, attributable to the introduction of pre-call announcements (PCA) on the 070 number range, where consumers called to complain about the announcement.”

There is no reason to suggest that this downward trend has not been continued. Para 2.20 says:

“2.20 However, we did note that the number of complaints about 070 numbers had fallen since the Statement on safeguarding the future of numbers in 2006. We attributed this to PhonepayPlus starting to take enforcement action in this area”

Phonepay Plus activity was limited. Of far more effect was action taken by CPs, including invoking the AIT process, where the scammers were refused payment by TCPs and the TCPs withdrawing the PN7 pence per call rates which were main facilitator of fraud.

Three type of misuse are quoted:

- **“Service provider fraud:** For example, missed call scams, where the consumer may return a call to a 070 number as they mistake it for a mobile number, or the promotion of fake job advertisements with a 070 contact number;
- **• International artificial traffic inflation:** Where UK operators contrive to promote traffic to their numbers in situations where the cost of making the call is lower than the payment to the UK operator due to the fact that non-UK telecoms providers have not identified 070 as being different from a UK mobile; and
- **• Identity-related fraud:** Because service providers are not usually recovering the cost of termination from the call recipient (i.e. their own customers), they do not need to have details of the recipients’ true identity or establish payment links, which means that 070 numbers can be potentially used for criminal activity where a recipient’s true identity is concealed”

Service provider Fraud, Wangiri in particular, was a problem several years ago but is no longer an issue The fraud was dealt with by use of the AIT Process and TCPs abandoning the PN7 pence per call rates”

International artificial traffic inflation. This has never been a problem and we are at a loss as to understand why it should be suggested. Termination rates for calls originating overseas are lower than the corresponding rates for calls originating in the UK to take account of the fact that overseas administrations cannot charge the full PNS rates to their customer.

We have not heard of any confirmed reports of Identity Related Fraud. TCPs would ask for details of their customers in order to form a contract and the numbers the calls were diverted to would be known. Intelligence software used by Law Enforcement Agencies and Fraud professionals would either identify the criminals or give a strong clue to their identity. In any event, if someone wanted to hide their identity in this way it would be better to use over the counter mobile handsets

Parra 1.11 says:

“Evidence suggests that the 070 number range has been attracting an increasing level of fraud. Over an 18-month period, fraud of c£17m was reported to the police.³ However, there is evidence to suggest that up to 60% of all calls are to fraudsters and other misusers of the range which would suggest unreported fraud against consumers and businesses is far higher”

The figure of £17m is not a true figure. As stated by OFCOM in the 2009 statement:

“We are aware from our work generally on scamming that consumers have very different concepts of what might constitute a scam. It is likely that consumers have included incidents involving high 070 call costs, where fraudulent activity did not actually take place.”

There is also considerable evidence on forums of false claims of fraud, either through ignorance or pride. It is known to be the case that some people report high charges, even where they were knowingly incurred, in order to obtain a crime number that can be used to support spurious insurance claims

The figure of 60% is scarcely credible even at the time when misuse of PNS was at its highest. We would want more than an anonymous estimate to support it.

- **Service provider fraud:** For example, missed call scams, where the consumer may return a call to a 070 number as they mistake it for a mobile number, or the promotion of fake job advertisements with a 070 contact number;
- **International artificial traffic inflation:** Where UK operators contrive to promote traffic to their numbers in situations where the cost of making the call is lower than the payment to the UK operator due to the fact that non-UK telecoms providers have not identified 070 as being different from a UK mobile; and
- **Identity-related fraud:** Because service providers are not usually recovering the cost of termination from the call recipient (i.e. their own customers), they do not need to have details of the recipients' true identity or establish payment links, which means that 070 numbers can be potentially used for criminal activity where a recipient's true identity is concealed

Our comments on this are:

Bill shock is caused largely by the premium charged by OCPs, this is equivalent to the situation before NGCS unbundling and is not the fault of PNS providers. The best solution to bill shock would be to encourage better clearer price lists and to bring retail charges closer to the termination charges.

Distorted choices between 070 and alternatives. There are no real alternatives to 070 numbers. Where other ranges have been used the service has been severely restricted.

Service provider fraud has all but disappeared, it was dealt with by the application of the AIT process, whereby TCPs withheld payment from the perpetrators and TCPs withdrawing the pence per call rates., making this type of fraud unattractive. We are not aware of any recurrences

International artificial traffic inflation: We are not aware of this ever being a problem, lower rates for calls originating overseas do not give the claimed advantages.

Identity-related fraud. is unusual, if it occurs at all. TCPs would ask for details of their customers in order to form a contract and the numbers the calls were diverted to would be known. Intelligence software used by Law Enforcement Agencies and Fraud professionals would either identify the criminals or give a strong clue to their identity. As soon as the numbers were known to be involved then at the request of the Law Enforcement Agency the number would be blocked by any responsible CP.

Para 2.36 says:

“2.36 Based on discussions with key stakeholders we consider that there is evidence that up to 60% of all calls are linked to fraud or other behaviour not consistent with the rules governing the range in the Numbering Plan.”

This is in line with the purported view of one CP in particular. This is a spurious claim with no substantive basis unless it is referring to the time before OFCOM and CPs started taking action to deal with misuse. We would like to see substantive evidence of this figure. There has been a marked increase of late in AIT cases but there were not genuine and were in breach of Annex E of the SIA. Lawyers had to be engaged to recover the withheld funds but this was only partially successful with BT retaining money for legitimate calls they had been paid for.

Para 2.38 Says

“2.38 Accordingly, given our concerns about the impact of high termination rates on consumers and on incentives for misbehaviour and our view that the setting of these termination rates arises from the market power of range holders, we go on to consider what response to this market power should be put in place that best addresses the competition concern and resultant consumer welfare issues. “

The chief cause of problems for consumers is the premiums charged by OCPs. The incentives for misbehaviour were removed several years ago. We are strongly of the opinion that the best solution to the consumer issues is to deal with the behaviour of OCPs, who also charge a premium on calls to mobile and geographic numbers outside bundles.

In the equality Impact Assessment is it stated:

“2.42 We have no evidence that 070 numbers are disproportionately called or used by any of the identified equality groups in Great Britain or Northern Ireland. “

This takes no account of the use of PNS numbers by vulnerable people, particularly women and the LGBT community. They can use PNS numbers for people to contact them knowing that if a caller becomes a problem they can switch to a new number without the inconvenience and time involved in changing their actual numbers. In these circumstances, the similarity between PNS and mobile numbers is a positive advantage to the consumer and enhances their safety.

In the discussion of key concerns OFCOM say:

“3.22 In the case of 070 markets, our key concerns – which are supported by the evidence set out in Annex 8 – relate to the wholesale level. We note that some of the evidence we are relying on, particularly that related to consumer understanding, is now a few years old. In our view, there has however been no material change to the market since this evidence was collected, and as such we consider it remains relevant evidence for us to take into account. “

The main cause of issues has moved from the Retail/Wholesale level to the Retail level, the wholesale community having dealt with the problems. The market has in fact changed considerably. Termination rates that facilitated misuse have almost all been withdrawn. The numbers of complaints have dropped dramatically as evidenced in the 2009 statement. We also have serious concerns with some of the other evidence supplied to OFCOM, we will comment on that later.

Most of the points in para 3.23 have been dealt with above but we must reiterate that “vulnerability to fraud and scams” is no longer a problem and do not understand why it is still being quoted.

Para 3.25 says:

- 3.25 As our concerns relate predominantly to the wholesale level, our focus in this review is to assess whether it is appropriate to impose remedies at this level. We expect reductions in 070 termination rates (achieved by the remedies we propose in Section 4) to be passed on in the 070 call charges that retail telecoms providers set. We would expect retail telecoms providers to treat the pricing of these calls in the same way as they do with respect to mobile calls, given the effect of retail competition and the concern that retail telecoms providers are likely to have regarding the transparency of pricing for their customers. To the extent that reductions in 070 termination rates are not, or are only partially, passed on in lower 070 call charges, we are prepared to act to protect consumers.

We do not believe that changes to termination rates will impact on Retail rates. This is evidenced by the increase in retail rates even though the overall level of termination rates has decreased. Accordingly, any remedies should be imposed on retail providers.

Paras 3.34 to 3.41 relate to consumers awareness of 070 call charges and their ability to distinguish between 070 and mobile numbers.

Other data provided by OFCOM has illustrated that this is not limited to 070 numbers, all the non geographic numbers have the same problems and no tinkering with 070 will resolve this. The best solution would be a customer awareness campaign but we recognise that this would be expensive and the results of the NGCS campaign suggest that such a campaign would not be very effective.

While we largely agree with OFCOM's comment around alternatives to 070 numbers we would take issue with the comment in 3.52: "end-users often take a 070 number specifically in order to avoid costs to themselves, with little or no concern for the cost to callers" We would like to see substantive evidence for such a statement. This aspect of 070 numbers is not widely used in promoting the services, if at all. We have never seen it. People take 070 numbers to take advantage of the service. Similarly with 3.56

In Para 3.80 and 3.81 OFCOM state that the SMP that a TCP has is a barrier to entry. This is the case for all numbers not just 070 and should not be a reason to take any action.

Paras 3.90 says that the terminating rates for 070 numbers are high relative to the cost of providing the services. This is not the case. As explained above, OFCOM have taken a very narrow view of the costs of providing an 070 service which ignores costs that are unique to an 070 service.

Para 3.91 gives the profit per minute derived from 070 numbers but the figure given is in excess of many of the rates for 070 calls.

Para 4.6 says:

"4.6 Wholesale 070 termination rates are high, relative to the wholesale costs of providing the termination service. These high rates are, in turn, reflected in relatively high retail call prices (compared to prices for calls to geographic numbers, mobile numbers and many international calls). In particular, as the termination rates are materially above mobile and fixed rates, retail telecoms providers do not include such calls in inclusive call bundles, given the risk of high volumes distorting the cost of such bundles. So, while "out of inclusive call bundle charges per minute" are not in every case dissimilar to mobile rates, exclusion from inclusive packages means that for most people in most circumstances the effective call charge is very high. "

Again, the true and full costs of operating a PNS service do not appear to be understood.

It is clear from the differences between retail rates and termination rates that OCPs are charging what they think they can get away with and the termination rates are not taken into account by OCPs when setting prices. This is also clear from the fact that retail rates have increased when the highest termination rates have effectively been withdrawn. This action by OCPs is the true cause of bill shock. It is worth noting that the lower 070 rates are below OCPs retail rates for calls to Geographic and Mobile calls

Para 4.13 says:

“4.13 High 070 termination rates caused by 070 TCP’s SMP have the potential to lead to many cases of fraudulent use of the number range. According to a 2013 National Fraud Intelligence Bureau (NFIB) report to Ofcom, there were 4,596 offences reported to ‘Action Fraud’ in the period 1 January 2011 to 31 July 2013 that related to Personal Numbering Services (PNS). 070 numbers accounted for 96.1% of these and 98.4% of the total victim-reported loss of over £17.1m.⁸⁵ Not all fraud is likely to be reported and we estimate up to 60% of 070 traffic is potentially fraud-related. “

It is well known that many reported frauds are not frauds at all and the amounts can be exaggerated. This is borne out by OFCOM’s own research as mentioned in the 2009 statement:

“A1.83 In the July 2008 research, 7% of consumers claimed to have been a victim of an 070 scam. However, this figure should be treated with caution and is likely to represent the very upper bound of consumers experiencing 070 scams. We are aware from our work generally on scamming that consumers have very different concepts of what might constitute a scam. It is likely that consumers have included incidents involving high 070 call costs, where fraudulent activity did not actually take place. “

It would be interesting to know how many of these frauds were investigated and found to be actual fraud. Some fraud reports are fraudulent in themselves being attempts to gain a crime number to facilitate insurance claims to recover charges. Others are people restoring their pride having incurred higher than unusual phone bills

The frauds mentioned in 4.14, 4.15 and 4.16 haven’t occurred for several years due to payments from TCPs to the fraudsters being withheld and the withdrawal by TCPs of the high pence per minute termination rates.

International artificial traffic inflation as mentioned in 4.17 and 4.18 has never been a problem and we are at a loss as to understand why it should be suggested. Termination rates for calls originating overseas are lower than the corresponding rates for calls originating in the UK to take account of the fact that overseas administrations cannot charge the full PNS rates to their customer.

Identity Related Fraud is mentioned in 4.19 also unusual. TCPs would ask for details of their customers in order to form a contract and the numbers the calls were diverted to would be known. Intelligence software used by Law Enforcement Agencies and Fraud professionals would either identify the criminals or give a strong clue to their identity.

Para 4.20 mentions mass marketing fraud. Again, we have not heard of this being an issue with 070 numbers and the description of mass marketing fraud provided to OFCOM does not match the operation of an 070 number

The example of poor reputation deterring service providers, mentioned in para 4.22, occurred a number of years ago and does not reflect on today's situation.

ARTIFICIAL INFLATION OF TRAFFIC

OFCOM also quotes the high levels of AIT cases raised recently. Most, if not all, of these cases were spurious and raised in breach of Annexe E of the SIA. Attempts were made to bring this to the attention of OFCOM. Many TCPs had to enter into legal action to recover monies owed to them, in most cases a settlement was agreed on before the cases reached court, resulting in BT not paying for calls they had been paid for.

Note 175 says:

We asked BT why the volume of minutes might be reducing and they could not provide an explanation but did not that the traffic might have be routed via another international carrier and not traverse BT's network. . We are surprised at this response. BT should be well aware that the large number of spurious AIT cases raised by them in the last three years has decimated the services, putting some companies in jeopardy and even out of business. There is also evidence that BT has been blocking calls to some 070 number ranges.