

Promoting trust in telephone numbers

1. Telefonica UK Ltd (“TUK”) welcomes the opportunity to respond to Ofcom’s consultation on promoting trust in telephone numbers¹.
2. Ofcom is proposing effectively to require Communication Providers to build, maintain and use a common numbering database, which could perform a number of functions. That is a considerable undertaking. And while the possible benefits of such a database are described in qualitative terms in the consultation document, Ofcom does not appear to have undertaken a full cost benefit analysis of this proposal.
3. This is a significant oversight. Ofcom is required by statute to 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 Ofcom to represent the best regulatory practice². Further, under section 7 of the Communications Act 2003, Ofcom is required, before implementing an important proposal, to carry out and publish an assessment of the likely impact of implementing the proposal³.
4. Indeed Ofcom’s own statement on impacts assessments⁴ reads:

“1.1 The decisions which Ofcom makes can impose significant costs on our stakeholders and it is important for us to think very carefully before adding to the burden of regulation. One of our key regulatory principles is that we have a bias against intervention. This means that a high hurdle must be overcome before we regulate. If intervention is justified, we aim to choose the least intrusive means of achieving our objectives, recognising the potential for regulation to reduce competition. These guidelines explain how Impact Assessments will be used to help us apply these principles in a transparent and justifiable way.

1.2 Impact Assessments form a key part of best practice policy making, which is reflected in our statutory duty to carry them out. They provide a way of considering different options for regulation and then selecting the best option. In selecting and analysing options, the need to further the interests of citizens and consumers is of paramount importance.

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1.4 In identifying options, we will aim to consider a wide range of options, including not regulating. Where appropriate, we will explore more risk-based, targeted approaches to regulation and will consider whether there are alternatives to formal regulation, such as co-regulation.

1.5 In developing policy proposals, our aim will be to think widely about the possible impacts, taking account of the whole value chain and knock-on effects across the communications sector. By doing so, we will seek to minimise any unintended consequences.

1.6 To be effective, the process of doing an Impact Assessment should begin right at the start of a project, with the Impact Assessment being developed from then onwards. An Impact Assessment should therefore be a core part of the policymaking process, not a bureaucratic add-on.

¹ Promoting trust in telephone numbers, Ofcom, 11 April 2019:

https://www.ofcom.org.uk/data/assets/pdf_file/0022/144265/first-consultation-promoting-trust-in-telephone-numbers.pdf

² section 3(3) of the Communications Act refers.

³ or explain why such an assessment is not necessary

⁴ Better Policy Making, Ofcom’s approach to Impact Assessment. 21 July 2005:

https://www.ofcom.org.uk/data/assets/pdf_file/0026/57194/better_policy_making.pdf

1.7 In these guidelines we say we expect Impact Assessments to be carried out in relation to the great majority of our policy decisions. This is a significant commitment, but in carrying out Impact Assessments, we will be guided by the principle of proportionality. This means that a decision which is likely to have a wide-ranging impact and/or impose substantial costs on stakeholders will have a more comprehensive Impact Assessment than a decision which will have a less significant impact."

5. TUK believes that Ofcom must now comply with its statutory duties and its own very clear policy, and carry out a formal impact assessment of this proposal. That assessment should include, as far as possible, a quantitative assessment of the various costs and benefits that might result, and whether variations to the scheme (or other approaches to tackle the problems identified) might be expected to result in greater net benefits.
6. Until Ofcom has undertaken such an assessment, TUK is not able sensibly to respond to the various consultation questions and neither are we in a position to agree with the broad proposition that a common numbering database is necessary.
7. I hope you find this response helpful.