

Comms Council UK's response to two Ofcom consultations:

- **Improving the accuracy of Calling Line Identification (CLI) data**
- **Good practice guide to help prevent misuse of sub-allocated and assigned numbers**

About Comms Council UK

Founded in 2004 (and formerly known as ITSPA), Comms Council UK is a UK, membership-led organisation that represents companies who provide or resell business and residential customers voice services over data networks (VoIP) as well as other "over the top" applications including instant messaging and video. The membership is a mixture of network operators, service providers, resellers, suppliers, and consultants involved in a sector that is diversifying rapidly from just voice services to other innovative IP applications.

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Introduction

For reasons which are hopefully apparent from our comments in this response, Comms Council UK has chosen to respond to both the CLI¹ and Due Diligence² Consultations together.

Guidance and Enforcement

The CLI Consultation proposes to move a requirement for the signalling to clearly identify the calling party by incorporating explicit words into GC C6.6. Whilst the existing guidance on the current meaning of GC C6.6 makes clear reference to NICC ND1016, which in turn is unambiguous in its requirement for the network number to identify the calling party, we welcome the greater clarity that the proposed rewording of GC C6.6 will bring.

There is growing concern over the use of the guidance to address significant problems. We are aware of a response by Ofcom last year to a Freedom of Information Act 2000 request, which suggests that Ofcom has not taken enforcement action, either formally or informally, with respect to contraventions of GC C6.6, despite the Policy Positioning Statement³ clearly demonstrating that there is harm being experienced. We are supportive of stronger enforcement action upon malicious actors, in addition to on-going policy work to strengthen rules where required – in both the topic of these consultations and in general.

We consider that a more robust and legally binding way to address the harms that have been identified, would be for Ofcom to make binding changes to the regulations, which in turn would provide a clear and unambiguous regime within which to take enforcement action⁴.

¹ "Improving the accuracy of Calling Line Identification (CLI) data: Consultation on changes to our General Conditions and supporting guidance on the provision of CLI facilities" published by Ofcom on 23rd February 2022

² "Consultation: Good practice guide to help prevent misuse of sub-allocated and assigned numbers" published by Ofcom on 23rd February 2022

³ "Tackling scam calls and texts. Ofcom's role and approach. Policy Positioning Statement" published by Ofcom on 23rd February 2022

⁴ We understand that guidance is less binding and has more scope to be legally challenged without being subject to the time barring that regulation entails, e.g. case law *British Telecommunications plc v Office of Communications* [2016] CAT 22

Improving the accuracy of Calling Line Identification (CLI) data

Network Number

CCUK members have no comment on the change to GC C6.6 aside from the above.

Clarifying the format of a CLI

Ofcom propose that a CLI should be an 11- or 12-digit number. This would restrict CLIs to being just the commonly allocated numbers from the NTNP. At §4.7 of the CLI Consultation, Ofcom acknowledge that there are exceptions, such as 101, or 116123 (non-emergency police and Samaritans respectively) but does not consider some other exceptions, such as 0800 1111 for Childline. For completeness, we consider that Ofcom should contact all users of numbers which are not 11 or 12 digits and confirm their status for outbound calls – we also note from discussions around the Do Not Originate (“**DNO**”) list that mistakes can occur within organisations on whether numbers are used for outbound calls, suggesting diligence is required in that exercise.

Notwithstanding that point, the only effect of the change is to preclude spoofing of these numbers, as any other length of number would not be valid and dialable pursuant to the existing guidance.

The DNO List

We agree that the existence of a DNO list, provided due diligence and rigour are applied to ensure mistakes are not made and legitimate outbound calls are not blocked, is a sensible approach. Most providers have CLI level blocking available from their suite of fraud controls, therefore the integration cost is modest, we understand many of our members are already in direct discussions with Ofcom on the subject.

As an aside, CCUK notes that Ofcom seemingly had a lot of demand for access to the DNO list, which is heartening from an adoption and compliance side, but also demonstrates that the UK’s telecommunications market is very vibrant, with many hundreds of Public Electronic Communications Network adding value to UK businesses. We hope that this reinforces our often-made comment to Ofcom (e.g., in our calls for a ‘business champion’ to be appointed) that it is sometimes easy to assume when crafting policy that the industry is comprised of a small number of integrated operators. While this may be truer for residential services, it is the opposite for the provision of business services.

Calls from abroad

It is important that Ofcom have a robust definition of what constitutes a UK Communications Provider and a non-UK Communications Provider, before guidance or conditions can be applied to how UK CPs should handle calls from abroad. For example, a CP based in the UK may use equipment based in off-shore locations, and CPs based off-shore may provide services to UK customers. Such deployments exacerbate the need for clear definitions.

At §4.16 of the CLI Consultation, we would call out that there are exceptions to the statement ‘*Calls that enter the UK from abroad will originate on networks where our General Conditions do not apply,*’ and suggest those exceptions as evidence for the need for definitions to be formed before policy is enacted.

For example, there are scenarios where a UK-originated call can trombone out of the UK and back in again such as;

- (1) the most cost-effective rate (and by extension, the best for price sensitive consumers) for mobile transit may be the purveyor of international direct dial services (e.g., Tata, Telecom Italia, Deutsche Telekom etc.) who interconnect in, for example, Frankfurt, before sending the call to the terminating communications provider;
- (2) providers in a failure state serving UK customers from Ireland is another legitimate scenario – a hot standby instance of a Hosted PBX could register UK handsets to it and by extension, have calls appearing to originate outside the UK but validly having a +44-network number; or
- (3) Call forwarding scenarios, where a UK Subscriber calls a French telephone, which is forwarded to a UK number (e.g., the intended recipient of the call is visiting a UK office and diverted their phone to that office's switchboard). At present the established guidance is unclear as to whether such a call has originated at the forwarding equipment (France) and should have a French network number or is that of the original caller (UK network number, being presented from France in this case).

By starting from the beginning and properly establishing a definition of UK and non-UK operator, with reference to characteristics which are not Ofcom's jurisdiction regarding GCs, as this can be shown to be over-simplistic with the above examples, a proper debate can then be had on the precise policy to address the risks of harm.

Ultimately, this area of discussions leads us to a decision between a rock and a hard place. On the one hand, we have intervention to prevent nuisance calls by raising barriers at the international gateway, on the other hand, we must consider the consequences of reducing the scale of the transit market and blocking legitimate calls and use cases. Only government or the regulator can plot a course between these two opposing views.

As we mention above, if Ofcom was suggesting changes to the regulation itself, these issues would be subjected to the more rigorous tests at section 47 of the Act, minimising the risk of unintended consequences and harm, or at least subjecting them to a thorough cost-benefit analysis.

We note that the guidance continues to reference ND1447, but with respect, all that does is create a suggestion that providers at the international gateway have trusted and untrusted routes, nothing more. We also note that Ofcom is clear that scenarios exist as we outline above, for example at §4.30 of the CLI Consultation, but that conflicts with comments such as those we mention at §4.16.

CCUK continues to take the stance that the problem with spam calls is mainly with those that are originated abroad; action in that respect is required, but it must be targeted, examined, and subject to a clear test of proportionality, considering the potential downsides.

Calls that generate excessive call charges

CCUK has, since 2015, submitted to Ofcom that the problem with bill shock in the market for Non-Geographic Call Services is not the Service Charge but the Access Charge (now 65 pence per minute from some networks to call a zero pence per minute number).

We welcome the certainty the proposal brings to the CLI presentation rule. However, due to the issue referred to above concerning Access charges, we would propose consulting upon varying the rule to all Non-Geographic numbers that incur an Access Charge, perhaps as part of the forthcoming work on the Future of Telephone Numbers workstream. .

Use of 084/087 presentation numbers

While we accept that various consumer rights regulations have reduced the scale of the market for these numbers, by requiring the use of 'basic rate' numbers in some cases, most of the restrictions on their use do not apply to business-to-business scenarios where there remains a healthy demand for their use.

CCUK is concerned that Ofcom may take a consumer-focussed view on its Future of Telephone Numbers review at the expense of fair consideration of impact on the business market and hope that its research will be appropriately framed at the right time.

Use of non-geographic numbers as network numbers

Ofcom's narrative at §4.40-4.44 is, with respect, a very TDM-focussed response to a question in a fundamentally all-IP world.

With perhaps the notable exception of BT, almost all operators have an IP-core network, and many have had one for a significant period. In such networks, no telephone number has geographic or location significance and therefore, we do not understand how any valid CLI cannot meet the definition of a network number.

In BT's legacy network, it is true that only geographic numbers have location significance – not just the area code, but in terms of a relationship with the 'master socket,' and non-geographic numbers had service logic dispersed over all tandem switches (i.e., no location or identity significance). We assume that this will cease to be true for BT in 2025, and in any event, is not true for most of our members today. Guidance which appears to be drafted by reference to the former incumbent's legacy network is, understandably, concerning for members of a trade association defined by their adoption of next-generation technology.

Additionally, we do not see how the S digit being a 1, 2 or 7 provides any more trust in the network number than it being a 3, 5 or 8 – all the requirement does is mean that a geographic number needs to be adopted by every single CP providing service on a 03 or 08 number and that may be a significant burden on number availability which Ofcom needs to consider. Many of these providers no longer 'translate' non-geographic numbers to geographic to connect incoming calls and currently have no need for any association between them, giving rise to a fear of a sudden constraint on the numbering supply as they seek to comply with the proposed guidance.

Good practice guide to help prevent misuse of sub-allocated and assigned numbers

CCUK's comments about the status of guidance above apply equally to the CLI Consultation and the Due Diligence Consultation. We consider that effective enforcement and incorporation into regulation would have the most beneficial impact in addressing the issues under consideration.

We are supportive of the expectation for operators to have a proportionate amount of due diligence applied to their downstream relationships. It would remove the moral hazard associated with earning an economic rent on providing services to malicious actors.

However we would like to draw attention to the following issues

- While it may be proportionate for a Public Electronic Communications Network considering a large sub-allocation to another PECN or a Public Electronic Communications Service to consider shadow directors, it is not proportionate for an operator to consult the CIFAS register when providing a number to an electrician. We recognise that the Due Diligence Consultation does use the term 'reasonable steps', but this problem stems from trying to apply a common set of guidance to sub-allocation and to assignment. If Ofcom were to separate out these two discrete actions and craft more relevant guidance to each action, we think the issue of proportionality would be largely addressed.
- The focus is for due diligence around the provision of numbers through the supply chain and to business end users, however a significant proportion of our members' say that it is natural persons whose actions they most commonly address. We recommend that Ofcom also includes within its consideration measures to protect against malpractice arising from residential and mobile pay-as-you-go accounts. There is a risk that by only addressing the risk of harm arising from business end users, that malicious actors simply engage in their behaviour with residential contracts and SIM cards.
- The consultation suggests that where a due diligence requirement is failed (noting that it is not a one-off exercise but expected to be periodic) a sub allocation should be withdrawn. This could entail thousands of innocent customers having their services disconnected without notice, and given the nature of the termination, no right, nor ability to switch provider or retain their telephone number. Consideration must be given to the reality that most of the business market is served by complex supply chains and business providers would welcome Ofcom expanding on what it considers the consequence of failure of due diligence in the supply chain could, or should, mean.
- Many Comms Council UK members use automated sign-up and provisioning systems that do not have human to human interaction, including for business customers. This is not only an experience increasingly appreciated by UK consumers (residential and business) but is also one that Ofcom itself recognises as important⁵. The Due Diligence Consultation is framed as if it anticipates all business orders to involve human review, which is far from reality – and, by

⁵ Open letter from Ofcom's Christina Luna-Esteban dated 3rd March 2022.

extension, inhibits competition and innovation, while increasing the search and switching costs of customers, both of which are contrary to Ofcom's established policy objectives that we understand from the seamless switching work.

We are also concerned about the risk arising from a novel interpretation to GC B1, which has been in force (or a variant thereof) since 2003. We fear a malicious actor could successfully appeal an Ofcom decision which relied on 'effective and efficient' to require due diligence, or the scale of due diligence, required by reference to the novelty of the interpretation after so much time.

To that end, we consider that the National Telephone Numbering Plan is a better vehicle for an (appropriately proportionate) set of rules on due diligence.

As an aside, we question why more in-depth checks⁶ are required for an Original Range Holder to sub-allocate numbers to another regulated provider than are required when the ORH is initially allocated the same resources from the NTNP.

Clause §4.2 of the Due Diligence Consultation suggests that business contracts encompass compliance with GC B1. Generally, business contracts require compliance with the law and regulation, but enforcing guidance is a grey area in that respect for the reasons outlined above. In addition, amending contracts to be explicitly clear, noting that many business contracts have long terms, may give rise to a penalty-free exit under the forthcoming changes to the GCs on 17th June 2022.

To that end, we consider that Ofcom need to explicitly define that the scope of §4.2 applies only to contracts entered after the guidance comes into effect, and/or that any change to incorporate the required compliance is *de facto* 'administrative' and therefore does not give rise to a penalty-free exit.

Finally, Comms Council UK welcomes a structured approach to responding to misuse, as outlined in section 5 of the Consultation. We note, however, that various agencies, such as the Advertising Standards Authority, take enforcement action against malicious actors without reference to their telecommunications service provider. It would appear to be a missed opportunity that Government and its agencies are aware of bad actors, but do not seek to hinder their access to the telecommunications eco-system. To that end, we encourage Ofcom to engage with its fellow consumer protection agencies and outline paths of engagement, e.g., the Office of the Telecommunications Adjudicator or sharing contact information from the Number Management System.

⁶ For example, at §3.7 of the Due Diligence Consultation