Response to the Ofcom Consultation:

Review of Relay Services

27 October 2011

Hutchison 3G UK Ltd ('**Three**') is a member of the Mobile Broadband Group ('**MBG**') and has contributed to and supports the MBG response to this Consultation ('**MBG Response**'). We take this opportunity to present some further responses based on our experience of the use of relay services on the Three network.

Executive Summary

Three's position in respect of the Consultation may be summarised as follows:

- Text relay is used by a very small proportion of the deaf population within the UK.

- The use of text relay on the Three network is minimal.

- Mobile networks, and Three in particular, provide more useful alternatives to text relay.

- Text relay is only required for more formal types of communication.

- Ofcom's research into the use of text relay demonstrates that text relay is not valued as a service. The research is also flawed in that it focuses predominantly on text relay users and fails to effectively address the needs and requirements of non text relay users.

- Enhanced text relay will not increase take up of the service on mobile.

- The EU framework does not mandate the implementation of text relay on mobile.

- The Universal Service Condition 4 must be maintained in order to keep costs down.

- The existing text relay service should be maintained until further research has been carried out into whether there is an equivalence deficit in the UK and, if so, how best to address that deficit.

Next Generation Text Relay

> **Question 1: Do you agree that NGTR would provide greater equivalence than the existing approved TR service? Do you agree that we have considered an appropriate range of improvements?**
>
> **Question 2: Do you agree with the proposal to implement NGTR through the amendment to GC15? Do you agree that the criteria we propose satisfactorily embody improvements we suggest for NGTR?**

1. Introduction

Three has been providing mobile communications services since March 2003. In addition to voice calls, we have provided – since the launch of the Three network - SMS messaging and video calling. As demonstrated below, and in the MBG Response, both these services are far more relevant to our hearing and speech impaired customers than the text relay service ('TR'). Three also provides Instant Messaging ('IM') and email services which fully interoperate with their PC versions on the internet.

Three has always led the mobile market with its innovation in services, and we were the first UK mobile network to offer video calling and free of charge IM, both of which are valuable services for hearing and speech impaired customers.

Three continues to innovate but we cannot see that Ofcom's proposals for Next Generation Text Relay ('NGTR') services will be relevant or useful to our mobile customers.

Based on the information contained in the Consultation, we do not believe that the case has been made to establish that it would be reasonable and proportionate to place further obligations on communications providers ('CPs'), and we do not believe that the Consultation document contains an adequate cost/benefit analysis of the implications of mandating further requirements on CPs.

2. Use of Text Relay on the Three Network

2.1 Text Relay Usage

The use of TR on the Three network is negligible. In the quarter period July to September 2011, Three recorded ✂ calls made using TR,

✂

This figure of ✂ valid calls in the period compares with ✂ total voice calls made during the same period. The figure of ✂ TR users compares with a total number of Three voice customers of ✂. Expressed as proportions, 0.00012% of Three's customers are TR users and the number of TR calls amounts to 0.0000003% of the total number of calls made on the Three network.

It is clear from these figures the use of TR on the Three network is vanishingly small. The reason is that mobile networks offer far more useful and attractive ways for hearing and speech impaired customers to communicate with each other and with hearing users.

To Three's customers TR is not a useful form of communication and, it would be fair to assume, from the information provided in the Consultation, that NGTR will fall into the same category.

2.2 Alternatives to Text Relay

Paragraph 3.10 the Consultation contains a list of common factors that are important to hearing and speech impediments in communications. Other parts of the Consultation give further criteria. The table below gives an analysis of the characteristics of the various mobile communication methods against the criteria. The TR analysis is taken from the Consultation at paragraphs 4.12 and 4.13.

Criteria	Text Relay	SMS	IM	Email	Video Calling
Natural (real time) Conversation			✓		✓
Privacy in conversations		✓	✓	✓	✓
Ability to interrupt			✓		✓
Access when required (i.e. 24/7)	✓	✓	✓	✓	✓
Flexibility in methods and devices			✓	✓	
Reasonable speed of conversation			✓		✓
Ability to use signing (BSL)					✓
Choice of communication method	✓				

It is clear from the above table that the four alternative methods of communication provided by Three to hearing and speech impaired customers are all superior to TR, since they score more 'ticks in the boxes'.

2.3 Suitability of Text Relay for Formal Communications

The Consultation describes the shortcomings of TR at paragraphs 4.12 and 4.13. These deficiencies can be summarised as:

- Inability to interrupt
- Conversation is not real time
- Lack of expression of emotion
- Lack of privacy
- Lack of access to equipment
- Slow conversation speed.

In paragraph 3.8 of the Consultation, the second, third and fourth bullet points imply that the 'mobile' types of communication such as text messaging and email are more suited to communicating with friends and family. At paragraph 4.50 it is suggested that a more 'formal' means of communication, such as TR, is only required for more 'formal' communications with entities such as banks and healthcare organisations.

With the exception of 'lack of privacy,' the disadvantages listed above do not apply to the 'formal' types of communications for which TR is required.

As a provider of all of the four alternative types of communication for social communication (SMS, IM, Email and video calling), Three cannot see what the benefits would be of implementing NGTR on its network. The present TR service fulfils the requirements of formal communication and the other four means of communication provide a wide variety of choice for social communication. For this reason Three strongly favours Option 1 described in the Consultation at paragraphs 4.18 – 4.21.

2.4 Market Research

Three does not consider that Ofcom's market research has been carried out in a way that allows any conclusion to be reliably drawn about the future of Relay Services. At

paragraph 1.5 of the Consultation it is stated that there are 11,000 TR users in the UK. Paragraph 4.40 the Consultation quotes the RNID (now re-named Action on Hearing Loss) figure of 800,000 people in the UK who are severely or profoundly deaf. This suggests that the TR service is used by only 1.38% of the hearing and speech impaired population.

However, whilst the Consultation (paragraph 3.2) states that the sample of 300 interviewees included non-users of TR, this proportion of the sample was not (we confidently assume), 98.62%. The sample of interviewees compared to the actual population was therefore skewed, almost to the point of totality, towards TR users.

Indeed, in paragraph 3.3 of the Consultation, Ofcom acknowledge that *"… we cannot state with confidence that results are representative of potential users as a whole."* The result of the research is therefore relevant only to the present users of TR and what they think about the service.

Further, paragraph 4.43 the Consultation states *"… the results suggest that that take-up of enhanced relay services would not increase dramatically over current take-up of TR"*

Three accepts the findings concerning present users and we summarise these as follows:

- Several methods of communication are required to meet all requirements – one size does not fit all. A choice in the type of communication method is important
- Mobile messaging (text, email, IM etc) are most suitable for social types of communication
- Formal communications are not so easy, but this can be a factor of the way the business operate, for instance GPs and nurses do not allow deaf or speech impaired users to send them text messages.
- Some users would prefer to use signing – particularly users who do not have English as their first language.
- 24/7 availability is important
- Ability for real time conversations is important
- Privacy is important

We provide an analysis of how the Three network meets these requirements with its communications services in section 2.2 above.

Three notes that all the references in the market research analysis to mobile communications are positive; that is, users express how they use mobile means of communication as an alternative to TR. Conversely, a large number of the references to TR are negative, referring to the service as being difficult to use, slow and frustrating.

2.5 Formal Communications

In the Consultation the need for TR is linked to formal communications such communications with banks, healthcare organisations, councils, shops, trade organisations and utilities. Here the research found that only a few users use the 'mobile' methods of communication.

It would seem that emphasis should be put on educating these organisations and ensuring that they meet their statutory obligations towards customers with disabilities rather than Ofcom prescribing that the telecommunications industry spends a large sum of capital on implementing NGTR.

The present TR service already provides an adequate means of communicating in a formal manner with these types of organisations. Three therefore advocates retaining TR as it stands.

3.   Technical Implementation

Three notes that the Consultation does not address how the proposed NGTR service would work. The diagram (figure 2) at paragraph 4.19 provides no suggestions whatever – particularly in a mobile network context.

The Technical Comments provided by ICC (Annex 6) do not make a single mention of mobile networks.

The proposed new General Condition 15.5 provides no further guidance:

> *15.5 A Relay Service provided by the Communications Provider to its Subscribers pursuant to paragraph 15.3 must:*
>
> > *(a) provide facilities for the receipt and translation of voice messages into text and the conveyance of that text to the terminal of End-Users of any provider of Publicly Available Telephone Services and vice versa,*
> >
> > *(b) provide facilities for the receipt and transmission of voice communications simultaneously with text communications;*
> >
> > *(c) provide facilities for access to Emergency Organisations;*
> >
> > *(d) be available for use by End-Users at all times;*
> >
> > *(e) be capable of being accessed by End-Users of the service from readily available terminal equipment, including textphones, personal computers and mobile telephones;*
> >
> > *(f) not prevent End-Users from communicating with other End-users of other Relay Services;*
> >
> > *(g) not require the dialling of a prefix number for End-Users to access the service;*
> >
> > *(h) insofar as reasonably practicable, allow for communication between End-Users of the service at speeds equivalent to voice.*

However, Three notes that many recent mobile smartphone handsets are capable of supporting simultaneous voice calls and IP sessions. It is therefore possible, on a mobile to mobile call, to achieve simultaneous voice and IM.

The difficulty presented by the Consultation is to see how this existing capability will be extended to include mobile and fixed network interworking. The new NGTR relay development will apparently be required to make fixed networks emulate existing mobile network capability.

Clearly mobile networks would strongly resist suggestions that they should contribute to this cost of development.

4. EU Framework

As noted in the MBG Response, Three notes that the EU Framework does not require National Regulatory Authorities (NRAs) to prescribe access to TR services from mobile networks.

Article 13 of the 2002 Universal Services Directive[1] ('the 2002 USD') states:

> *(13) Member States should take suitable measures in order to guarantee access to and affordability of all publicly available telephone services at a fixed location for disabled users and users with special social needs.*

It is notable that the recital specifies 'fixed location,' thereby excluding mobile networks.

In the revised Universal Service Directive of 2009 (Directive 2009/136/EC[2] ('the 2009 USD') a new article was inserted:

> *Article 23a*
>
> ***Ensuring equivalence in access and choice for disabled end-users***
>
> *1. Member States shall enable relevant national authorities to specify, where appropriate, requirements to be met by undertakings providing publicly available electronic communication services to ensure that disabled end-users:*
>
> *(a) have access to electronic communications services equivalent to that enjoyed by the majority of end-users; and*
>
> *(b) benefit from the choice of undertakings and services available to the majority of end-users.*
>
> *2. In order to be able to adopt and implement specific arrangements for disabled end-users, Member States shall encourage the availability of terminal equipment offering the necessary services and functions*

There is no mention here of including mobile networks in the scope of article 13 of the 2002 USD, however Three accepts that Article 23(a) may be intended to include mobile networks, but cannot see anything in this text that requires the provision of access to a TR service.

Nevertheless, Three is happy, for the moment, to maintain provision of access to the present TR service, despite the fact that it is simply not used by Three customers. Three however has very strong objections to any suggestion that it should contribute to or be involved in the implementation of a NGTR service when its obligations under the 2009 USD are so comprehensively met by existing services.

Three further notes that in its consultation, *Changes to General Conditions and Universal Service Conditions – Implementing the Revised EU Framework* of 24 February 2011[3] ('the GCE and USC Consultation'), Ofcom consulted on General Condition 15. Here, the changes were confined to Emergency Services (112 and 999) access for disabled end-users. This was in response to the new Article 26(4) of the Universal Services Directive ('USD').

Paragraph 8.3 the Consultation states "*…and take-up of mobile access to text relay in the UK is very low.*"

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[1] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:108:0051:0051:EN:PDF
[2] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:337:0011:0036:En:PDF
[3] http://stakeholders.ofcom.org.uk/binaries/consultations/gc-usc/summary/gc-usc.pdf
http://stakeholders.ofcom.org.uk/binaries/consultations/gc-usc/summary/gc-usc.pdf

Paragraph 8.4 the Consultation states *"The voluntary trial of emergency SMS has proved to be a valuable service, and feedback from users and from the emergency services has been overwhelmingly positive."*

Paragraph 8.4 the Consultation states *"We consider that by providing emergency SMS access for disabled end-users to the emergency services, CPs would be giving their customers as equivalent access as is currently possible to that enjoyed by other end-users."*

It is clear from this consultation that at the time (February 2011) Ofcom acknowledged that take up of TR from mobile users was low. Ofcom was also positive about access to the emergency services via a messaging service for hearing and speech impaired users, and considered that it provided equality of access.

Three agrees with the sentiments expressed by Ofcom in the GCE and USC Consultation as illustrated by the quotations above. However the present Consultation does not appear to accord with the sentiments expressed in the GCE and USC Consultation.

5. Universal Service Condition

As stated in section 2.3 Three favours retaining the present TR service for customers on fixed networks for the purpose of 'formal' communications.

We consider that it is essential that Universal Service Condition 4 is retained in order to require BT to provide the TR service. It is also vital that the wholesale charges BT makes to CPs are fair and reasonable and cost-orientated.

Three supports the MBG's response to questions 1and 2 of the Consultation.

Question 3: Do you agree that a period of up to 18 months for implementation of NGTR, following an Ofcom statement, is appropriate?

Three supports the MBG's response to question 3 of the Consultation.

Video Relay

> **Question 4: Do you consider that the requirement to ensure equivalent services for disabled end-users would require a mandated VR service in some form for BSL users? Please indicate the basis of your response.**

Three supports the MBG's response to question 4 of the Consultation.

> **Question 5: Do you agree that a restricted service would be more proportionate in providing equivalence for BSL users than an unrestricted service?**

Three supports the MBG's response to question 5 of the Consultation.

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> **Question 6: Please provide your views on Methods 1 – 5 for a restricted VR service discussed above. Are there any other methods that are not mentioned that we should consider? In making your response, please provide any information on implementation costs for these solutions which you believe is relevant.**
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> **Question 7: Do you agree that a monthly allocation of minutes combined with a weekday/business hours service would be the most appropriate means to restricting the service?**

Three supports the MBG's response to questions 6 and 7 of the Consultation.

Conclusion

Three is committed to promoting equivalence and to making our products and services accessible to all. However, for the reasons stated above, we do not believe that the proposals set out in the Consultation will promote equivalence in any meaningful way.

Of course, we would be happy to meet with Ofcom to discuss our comments if that would be of assistance.