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Dear Warwick

Routing calls to ported telephone numbers

Scottish and Southern Energy (SSE) welcomes the opportunity to respond to Ofcom's recent consultation on the above. SSE is active in the retail market for telephony and broadband but does not have a mobile service offering. However, we are of the view that the fixed-line and mobile markets are converging and that decisions in one market can affect the other, as recognised within the consultation document itself. We therefore have general comments on the best approach to achieving Ofcom's objective for call routing without being in a position to comment on details of how this is to be achieved or the appropriate timescales for doing so.

Our responses to the specific consultation questions are attached. Beyond the views set out there, we would make one overall point on the strategic management of telephone numbers. These are such a fundamental entity in the communications industry that we believe there should be active industry management of this database of information on a co-regulatory basis so that Ofcom can be involved at a high level.

We have commented before in response to Ofcom consultations – for example, that on telephone directory obligations¹ - that Ofcom should formalise the co-operation that has to take place at present between different communications providers (CPs) in order to preserve the integrity of the database of telephone numbers. Such a database could be used, not only for routing as discussed in this consultation, but for directory information, which is an industry/market resource and, in due course, we believe it could be used to establish the link between the network termination point, the telephone number (if any) used at that point and the communications products in use on the line. The latter use would become particularly important as next generation access technology allows the prospect of a greater range of digital services to be provided to consumers – all as envisaged in the Government's *Digital Britain* project.

Ongoing governance of the arrangements – both technical and in terms of underlying logic – would be required in our view, similar to that described in our response to the

¹ 'Telephone directory information obligations and regulations' published on 10 March 2008

consultation questions for the routing project. Most CPs in the market will have an interest in telephone numbers and they should all be able to have an input to how the numbers are managed both to cater for product developments and to resolve any issues which arise. A recent example of such an issue, which we believe is giving rise to active consideration of identifying circuits with applicable telephone numbers is that of “working line take-over”. We believe that this issue may underline both the requirement for a centralised enquiry database containing this sort of information and the need for all relevant industry participants to be able to suggest developments to cater for issues that arise.

We hope these comments are of interest and would be happy to discuss them further.

Yours sincerely

Aileen Boyd
Regulation Manager

Consultation Questions

Question 3.1: Do you agree that there is a problem in the way mobile originated calls to ported mobile numbers are routed? If not, why not

Yes.

Question 3.2: Do you agree with our assessment of the issues associated with onward routing?

Yes. From Ofcom's assessment, there certainly seem to be a number of problematic issues, which are unlikely to get easier over time, if onward routing of ported numbers continues to be used.

Question 4.1: Do you agree with our proposed approach for assessing the net benefit? If not please explain why not

No comment.

Question 4.2: Do you agree that we have identified the relevant cost drivers resulting from a move to direct routing? If not please explain why not.

No comment.

Question 5.1: Do you agree with our assessment of doing nothing? If not, please explain why

Yes. We agree particularly that there is likely to continue to be a "coordination failure" in the mobile industry if Ofcom does nothing on this issue.

Question 5.2: Do you consider that an industry agreed solution is likely to emerge that would deliver direct routing no later than 2012? If not, please explain your reasons. Would you be supportive of such a solution?

We are not optimistic that an industry agreed solution is likely to emerge or, that if one is offered, it would be capable of being progressed to fruition without some formal Ofcom involvement. There does not appear to be a significant history within the telecoms market of cross-industry working to achieve the implementation of major projects. Our experience in other industries suggests that such projects become more achievable where all relevant parties have an obligation to abide by the objectives of the project and the industry regulator is involved at high level in setting the objectives and forming the underlying enforcement route to ensure that all parties play their part in achieving them.

Without a regulatory obligation to play their part in achieving agreed solutions, we believe it is more likely that an industry solution would founder at some point due to the greater commercial interests of some of the relevant parties in not moving significantly from the current arrangements.

Question 5.3: What steps do you consider Ofcom should take to ensure that such an industry commitment is serious? Do you agree with the proposed steps set out by Ofcom or are there additional measures that should be taken?

If industry is serious in its intention to undertake a project to move to direct routing of ported mobile calls, we believe industry members should agree to an Ofcom proposal that a General Condition or Direction be applied – time-limited if need be – to all relevant companies giving high-level objectives to implement the required solution on a co-regulatory basis. This measure would preserve the benefits of the proposed option in giving the industry appropriate flexibility on how the objective is to be achieved in detail and also provide comfort to those operators who are minded to play their part in implementing the solution

that their fellow operators are clearly bound also to play their part. It would also provide Ofcom with appropriate high-level visibility of and input to the general direction of the project as discussed in response to question 5.5 below.

Question 5.4: What steps do you consider should be taken to ensure that any industry solution that emerges does not foreclose the opportunity for other mobile operators to participate in the short term or longer term?

As with any industry governance arrangements, we believe that transparency of debate and outcome would be essential so that interested parties could readily ascertain how developments were likely to affect them. In our proposal for co-regulatory arrangements, the obligation to take part in some form would be likely to fall on all current mobile market participants. To cater for the legitimate interests of other parties such as potential mobile market entrants, other parties should be able to register to receive appropriate documentation and feed in their views as the project develops. In particular, we believe that fixed line market participants have a legitimate interest in how the porting solution is developed in case there are implications for the development of the fixed line market.

We believe that the best outcome that Ofcom could achieve in terms of assurance that one group of market participants is not undermining the position of any other group is to make sure that inclusive, transparent governance arrangements are put in place around the project, thus ensuring that there are mechanisms in place for views from other parties to be considered as the project develops.

Question 5.5: If there was a firm commitment to an industry-led solution, what role would you expect Ofcom to play?

As Ofcom envisages in paragraph 5.22 of the consultation, it is very likely that it would need to play some facilitation role in the industry-led option. We agree with this and believe that the requirements and hence resource commitments would be uncertain in scope and timing. We expect that repeated interventions at a detailed level are likely in this scenario. However, with the approach we have proposed, Ofcom's role could be formalised with powers, for example, to agree or veto variations to the initial industry plans at a "steering group" level.

Question 5.6: Do you agree with Ofcom's proposal for a backstop to mandate direct routing in the event that an industry initiative fails? Do you agree that reviewing the situation in late 2010/early 2011 is appropriate before deciding on the need to mandate?

As discussed above, we are not optimistic that an ungoverned industry-led arrangement would deliver the required arrangements. We believe there is a significant risk that embarking on this option would waste time – late 2010/early 2011 seems too long to wait to see if the option was working.

Question 5.7: Do you agree with our assessment of Option (3)? Please set out your reasons.

We are interested in Ofcom's description of option 3 – that of laying the wholesale cost of porting arrangements on the originating operator, who then has the incentive to seek to minimise the porting costs as he would then see the benefit of the reduced costs. We appreciate the logic of this position but also agree with Ofcom that it would be inappropriate for fixed operators to bear further costs for onward conveyance of calls to ported mobile numbers.

It may be that this option could be reassessed once the outcome of Ofcom's consideration of the future of mobile termination charges is known. It would appear to be a sensible objective for wholesale charging arrangements across both fixed and mobile networks to align charges with costs and incentives with those who have control of the relevant costs.

Question 5.8: If Ofcom was to take Option (3) forward, what would be the costs involved in (i) making changes to wholesale billing systems and (ii) other costs? Please explain the basis of your estimates.

No comment.

Question 5.9: Do you agree with Ofcom's assessment that mandating direct routing for mobile originated calls to ported mobile numbers is likely to be the most effective way of removing routing inefficiencies? If not, what other factors that we should take into consideration, and why are they relevant to our analysis?

Yes. As discussed in our response to questions 5.2 to 5.6 above, we are in favour of a mandated solution that leaves appropriate flexibility with the industry in exactly how the overall requirements are to be achieved. We believe this is best achieved by implementing a form of co-regulatory arrangement.

Question 5.10: Do you agree that if Ofcom were to mandate direct routing, the obligation should be designed in a way that would avoid mobile operators having to use direct routing where the scale of ported traffic is not sufficient to justify the up-front investment to implement direct routing?

Yes.

Question 5.11: Do you agree that by framing the obligation in a way that obliges mobile operators to route calls to mobile ported numbers in the same way as non ported traffic should avoid the risks of any unintended consequences? If not, please comment on how this obligation could best be framed.

This appears to remove a potential unintended consequence. As discussed in response to question 5.9, we believe there should be flexibility for industry to come up with detailed arrangements that avoid unintended consequences within a co-regulatory framework that has overall high-level objectives to achieve practicable direct routing arrangements.

Question 5.12: Do you agree that the obligation to provide information on ported mobile numbers should apply to all mobile network operators from the start and not just the five incumbent MNOs? Do you agree that if there is a central database of ported mobile numbers, this should contain all ported mobile numbers including those of newer entrants who would not be obliged to implement direct routing from the start?

Yes.

Question 5.13: What do you consider to be an appropriate timescale for implementation of direct routing from the point at which Ofcom issues a final decision? Please provide a full and detailed explanation as to why you agree or disagree with the 2012 target date proposed by Ofcom.

No comment.

Question 6.1: Do you agree that it is appropriate for Ofcom/industry to appoint a qualified independent third party to work with industry to develop a provision technical specification for direct routing? If not, please state why.

This seems sensible. In the arrangements we have proposed, the appointment would be made on behalf of the relevant section of the industry by the co-regulatory body.

Question 6.2: Do you agree with the criteria for selecting an independent expert/consultancy? If not, please state what different/additional skills or qualities this independent party should bring?

We agree with the list of competencies listed at paragraph 6.14 of the consultation. We suggest that it may be the case that a combination of two organisations may be able to provide what is needed: for example, a project management consultancy together with an organisation such as NICC who is familiar with the technical details of routing arrangements.

Question 6.3: If you would like to recommend suitable experts/consultancies to Ofcom, please do so, on a confidential basis.

No comment.

Question 6.4: Do you agree that three months is an appropriate period of time to produce a provisional technical specification from which stakeholders can derive reasonable accurate cost estimates? If not, explain why and detail what you consider to be an appropriate time scale.

No comment.

Question 6.5: Do you agree that a further three months is a sufficient period of time to derive cost estimates based on the provisional technical specification? If not, please explain why and detail what period you think would be appropriate

No comment.

Question 6.6: Do you agree that the conditions we have set out as being necessary to make this process successful in its aims are appropriate?

We agree that the conditions set out in paragraph 6.16 are appropriate although we cannot comment on the timescales that would be required. The proposals on industry engagement reflect the levels of commitment that we would expect from industry participants if they were subject to a regulatory obligation to achieve the objectives of mobile routing, as we have proposed in response to other questions.

Question 6.7: Do you have any other suggestions which would help to make this process constructive and effective?

Yes. We believe that the process of developing the specification should take place within a framework of transparent, inclusive co-regulatory governance arrangements as discussed in response to questions from 5.3 onwards above.

Question 6.8: Do you agree with Ofcom's proposed next steps following responses to this consultation? If not, how do you think Ofcom should proceed to bring this assessment of calls to ported numbers to a final decision?

We would propose that Ofcom works with the relevant parties in the mobile industry to develop an amendment to GC18 to establish a co-regulatory arrangement to progress its policy objective.

Question A6.1: Do you have any comments on the assumptions used in the CBA?

We are not in a position to comment on this.