



9 December 2008

**BT'S RESPONSE TO OFCOM'S CONSULTATION  
"HARMONISED EUROPEAN NUMBERS FOR  
SERVICES OF SOCIAL VALUE"**

BT would welcome any comments on the contents of this document which is also available electronically at <http://www.btplc.com/responses>

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## **Introduction**

1. BT is familiar with the Commission's view that culminated in its decision of 15 February 2007 that there should be arrangements in Member States so that callers may access certain services of a social value within those States behind short numbers (previously referred to by the Commission as Harmonised European Short Codes), and that calls to such numbers should generally not be chargeable. BT, like Ofcom, refers to these digit strings in this document as numbers rather than codes because in the UK a code is generally understood to be a digit string forming the first part of a number which for some customers would not need to be dialled to connect a call successfully. .
2. BT actively participated in this earlier debate and as such BT recognises that Ofcom is required to make arrangements to facilitate such services emerging and being implemented in the UK. BT acknowledges that the underlying Commission decision is not the subject of this consultation.
3. BT is devoting the majority of this response to the consideration of: how 116 numbers should be allocated and the subsequent proposed charging arrangements for and implementation of 116 numbers.

## **Allocation of 116 numbers**

4. For each number set aside by the Commission, BT believes that Ofcom's first action should be to consider whether the potential allocation of a code would "distort competition" within the sector concerned – a potential consequence of the introduction of 116XXX Harmonised European Numbers (HENs) that Ofcom recognises in its consultation. This means Ofcom needs to acquire an appreciation of the sector concerned and hear from interested parties. If it is felt that on balance the potential detriment of allocating a HEN outweighs the potential benefit, then Ofcom should seriously consider refraining from allocating particular HENs as not being in the interests of the UK. This might arise for example if the potential co-existence alongside existing numbers would cause significant public confusion which offsets the benefit a HEN might deliver or if the allocation of a HEN would confer too much of an advantage upon one party where more than one provides such services.
5. However, where Ofcom has conducted the above review and concluded that a HEN should be allocated, BT believes that applicants should be a single service provider or a single collaboration of service providers, working with a single terminating CP. There should not be other more complex arrangements.
6. In terms of who should apply for the number, in the UK, only CPs may apply for numbers. BT agrees that Ofcom should not take steps to change that now. This gives rise to a problem insofar as whilst the CP in practice makes the application, the HEN service provider is better placed to explain how they will

provide the relevant service in the interests of UK citizens and visitors. Thus, we agree with Ofcom that the most sensible option is Ofcom's Option 4, a joint application between service provider and CP.

7. It is worth noting that a likely consequence of this approach would be for Ofcom to simultaneously receive multiple applications from CPs, featuring different service providers. Equally, the same service provider may feature on applications from more than one CP. It would not be appropriate for CPs in effect to adjudicate between different potential service providers in order to only make one application, nor for SPs to be prematurely tied to a single CP.

8. BT believes that since the service behind a HEN appears to meet the PATS definition, there is no reason why the service provider should not be able to benefit from competition and be able to change providers. Thus, once Ofcom has made the decision and the HEN is allocated, subject to standard contractual terms, and subject to continuing to meet the ongoing criteria accepted when the HEN was allocated, they should be able to port the HEN. Clearly there is likely to need to be a bespoke process for doing so as the service provision is likely to be tailored for their needs. BT assumes that the likely model for porting a HEN would be the number block transfer, using the Data Management Amendment (DMA) process. This is the method used for porting DQ118 numbers.

9. BT agrees that Ofcom is right that a "first come, first served" process would not be the way likely to assign each HEN to the most appropriate provider for the benefit of UK citizens and visitors to the UK. There is also unlikely to be a correlation between the highest bidder in an auction and optimal suitability. And clearly a lottery is unlikely by definition to lead to the allocation of the HEN to the most deserving organisation. We therefore agree with Ofcom that a comparative selection process is required. We also welcome Ofcom's intended engagement with government that will bring in appropriate external expertise to assist with the decision making process.

10. Noting the potentially high value of a HEN to applicants, in particular the impact of a HEN being allocated instead to a rival third party, BT believes that the selection process should be transparent and that there needs to be an appeals mechanism should any aggrieved applicant feel that Ofcom has reached the wrong decision. This should be established prior to any notice period being announced for the three HENs covered by this consultation. A lengthy dispute exacerbated by the absence of a dispute procedure would be in no-one's interest.

11. As Ofcom states at para 3.9 of the consultation, "there is some limited scope for Member States to attach additional conditions to the right of use .....". Given the impact that a HEN will have in the sector concerned, we believe that stretching but achievable characteristics should be set for each service, some service specific and some common to all. Any conditions should not be so onerous that they could effectively frustrate the development of services behind HENs. However, objectively justifiable requirements could be used to emphasise the features that the UK should expect from providers, in particular reflecting their need to be of value to visitors to the UK, and differentiate between competing SPs.

12. BT would suggest: that callers would have a right to expect each service that was allocated a HEN to fulfil the following criteria:-

- that the service would at all times fulfil the criteria it promised to meet when it was allocated the 116 number (it would be helpful if Ofcom explained the circumstances in which it may seek to recover a HEN should the service subsequently fail to fully meet the requirements set when allocated, and the procedures it would follow)
- once allocated, the HEN can only be re-allocated following firstly its return to Ofcom and then a further public Ofcom consultation. Thereby, an organisation with a HEN could not easily sell it or receive payment for relinquishing it
- the service should be available 24/7
- services should be supplied in a significant number of member state official languages, given that harmonised services are particularly for the benefit of travellers from Europe to the UK
- an indication should be given how the front end interface of the service would establish the language of choice in an accessible manner

13. BT believes that the period Ofcom proposes to allow for an expression of interest in a HEN sounds too short. However, the service providers' views should be seriously considered here as they too would need to be adequately resourced at a particular time to act – and this may not be easy in the relevant sectors. Four months sounds more realistic, to allow each potential service provider time to reach commercial and technical agreements with one or more potential CP partners and applying for the HEN.

14. Should any HEN not be allocated following a call for applications, BT believes that a “first come first served” application process would suffice.

15. If it is subsequently decided that the criteria set were overly demanding and there is a consensus that it would be in the interests of the UK that they should be lessened, then a further identical period for comparable selection should be allocated.

16. Since any HEN need not be allocated within the UK, for example because of the “competitive” nature of the sector, or because no service provider comes forward, as they have been unable to secure sufficient sponsorship/funding – increasingly likely in the current climate - BT believes that it can be inferred that no HEN could currently be subject to obligations such as those relating to the 112/999 Emergency Service.

## Charging for and implementation of 116 numbers

17. BT believes that the issues around charging and implementing HENs in networks may be rather more complex than the allocation process. At a level of detail, there are a number of matters where BT seeks clarity, both where we would be the originating and terminating network and also where we would only be the originator.

18. Ofcom in its consultation recognises the difference between free to caller services and Freephone. It suggests that HENs might be either; that those of “extreme” social value would be the former, whereas those simply “of social value” would be the latter. Whilst BT recognises why this demarcation might appear attractive, we have reservations whether such a division is necessarily appropriate or sustainable.

19. BT believes that Ofcom and the selection panel should be guided by Helplines’ own experience. BT understands that free services attract a very high volume of “frivolous calls”. Making them free to caller, and thus requiring free access from customers’ mobile phones, rather than Freephone, may increase the volume of such calls and thereby the cost of staffing the service and the cost of an increased number of inbound minutes.

20. Additionally, there appears to BT to be a risk that a free to caller service as opposed to a Freephone one may become more expensive for the service provider, as originators who charge callers for Freephone calls may seek in future to recover their (mobile) origination costs from the terminator. If so, it may mean that organisations applying for HENs could need to have stronger income streams to support free to caller services than if they offered a Freephone service, a particular issue perhaps now as we enter a more challenging economic climate. This could have the effect of restricting applicants and perhaps might lead to the most promising candidate for the HEN ruling themselves out. A decision would need to be taken whether it would be better to have a service run as Freephone by the best applicant, or a potentially lesser service run as free to caller.

21. On the other side of the coin, Ofcom’s para 5.23 reminds us that one of the key reasons for the implementation of HENs is that they may be dialled across Europe for similar services and BT would assume that the expectation will often be that the call will be free, regardless of the device from which the call is made. Freephone for these people may prove problematic/expensive, if for example a caller’s mobile phone pre-pay credit is unexpectedly exhausted as the assumption was that the call would not be charged for.

22. , Where a call were not free, BT would suggest that there should be a free-to-caller announcement at the front end of any call to a Freephone HEN if the caller were to be charged. However, this too is not without problems, given that a significant number of those encountering such announcements might reasonably be expected not to have English as a first language and so perhaps still not understand that they would be paying for the call, or, significantly, how much.

23. BT would therefore say that it would be preferable to decide whether a particular HEN was to be Freephone or free to caller as part of the application process rather than as part of the prior consultation, taking heed of applicants' recommendations rather than assessing the extremity of the social value of the service, and depending on that alone, assigning to it Freephone or free to caller status.

24. In terms of implementation, commercial and technical models already exist for both Freephone and free to caller services. BT would assume that broadly speaking, from an originator's perspective, arrangements for Freephone HENs would reflect the arrangements in place for the generality of 080 numbers; the arrangements for free to caller HENs would mirror the arrangements in place for Childline (0800 1111). BT seeks Ofcom's confirmation of that.

25. From a terminator's perspective, BT assumes that to meet Ofcom's specific service criteria, there would be bespoke technical and commercial arrangements for HENs agreed between the CP and SP. BT assumes that the service criteria of a service could not be changed post-allocation, not least out of fairness to other organisations who had applied unsuccessfully for the HEN – it would not be right for the goalposts to move post-allocation without a further public selection process.

26. Some thought needs to be given to the length of time it would take for originators and terminators to implement a HEN once allocated. BT would suggest that standard Data Management Amendment (DMA) timescales (45 working days) should apply. However, CPs will need time prior to this to ensure that they are in a position to accept and implement such DMAs. e.g. ensure that their networks and billing systems can recognise and deal with 116 numbers, putting contract schedules in place, etc. BT would suggest a minimum of 16 weeks.

27. Returning to the origination of calls to a HEN, BT would seek confirmation or clarification of the following:

- BT assumes that it is Ofcom's intention that HENs should be accessible for callers no matter what technology is used to dial them, for example, fixed, VoIP, mobile, but there is no origination obligation other than where Significant Market Power (SMP) has been designated. The commercial terms should simply be fair so that all providers will want to provide access
- calls to HENs should never appear on callers' phone bills. This would generally be the case, as the calls are free, but BT would point out that in the absence of a particular provision, free calls could be listed on bills
- calls to HENs would be free from public Payphones, and BT Payphones would be able to recover costs via the Payphones Access Charge (PAC). Additionally, from the perspective of Payphones, all calls to HENs should be treated in an identical fashion, as many Payphones still require a visit to make any changes

- renters of private Payphones cannot be required to make the calls free of charge from their apparatus – it may not be possible for some models to be adjusted appropriately in any event
- calls to HENs must not subsequently lead to new chargeable calls being set up directly. That is, that there would not be the ability to convert a (free) call to a HEN into a chargeable one.
- we assume that as calls to HENs are free that there will not be a requirement for them to be connected via the 100 operator, ie that they will always be directly dialled
- we assume that HENs would have to be able to receive calls using the Voice to Text Network (VTN)
- there is no expectation that HENs should be able to receive texts.
- that appropriate records would need to be kept for the purposes of tracing nuisance calls etc
- that where calls are transited, the terminator would pay the TWIX
- HENs will never be shown as CLI at Points of Connection when the service providers concerned make outbound calls because the geographic originating point needs to be identified from CLI if the CLI-based interconnect billing is not to be compromised.
- BT assumes that HENs would not be subject to Carrier Pre-Selection (CPS) – there seems to be little point making such arrangements as calls to them would be free.
- that calls to UK HENs are in fact calls to short national numbers, or access codes, and as a consequence are not to be diallable from abroad, by dialling +44 116XXX. This is similar to the treatment of 118XXX Directory Enquiries codes. Attempts to make such calls would fail, as they would be seen by the network as incompletely dialled calls to Leicester geographic numbers. Dialling HENs extra-territorially would seem largely to defeat their purpose.

## **ACCESS CODES**

28. Whilst not directly connected with this consultation, BT would welcome an indication from Ofcom, now that the Commission appears to have identified that the original European Conference of Postal and Telecommunications Administrations' (CEPT) concept of reserving 10X and 11X access codes is no longer possible (by only being able to utilise the 116XXX numbering space), what intentions Ofcom has in relation to the remainder of unallocated 10X and 11X numbering space, whether Ofcom intends redesignating them, and if so, what it has in mind.

## Responses to Ofcom's questions

*Question 1: Do you agree that communications provider / single or multiple service provider partnerships are the most appropriate parties to apply for allocation of 116 numbers?*

**Yes – for explanation, please see main body of the response.**

*Question 2: Do you agree that a comparative selection process is the most appropriate way of determining applications for 116 numbers?*

**Yes – for explanation, please see main body of the response.**

*Question 3: Do you have any comments on the proposal for a 'call for interest' period? Do you think that six weeks allows sufficient time to make a submission of interest?*

**BT would suggest that six weeks offers insufficient time for potential service providers to consider the pros and cons of applying for a HEN, specifying what it wants, discussing options with CPs, commencing and potentially concluding commercial negotiations and applying to Ofcom. BT would suggest that four months would be a more realistic, though still challenging, timescale.**

*Question 4: Do you have any comments on the proposal for Government coordinated advisory committees to assist Ofcom with the 116 number allocation process? Do you have any views on the possible membership of the advisory committees?*

**BT believes that gaining relevant advice from competent external individuals knowledgeable about the relevant sector as Ofcom proposes is essential.**

*Question 5: Do you have any comments on Ofcom's assessment of the three charging options for 116 numbers?*

**For comments, please see main body of the response.**

*Question 6: Do you agree with Ofcom's conclusion that Charging option 3: 116 numbers are either 'freephone' or 'free to caller' on an individual basis is the most appropriate option?*

**Whilst calls to HENs being consistently "free to caller" is initially attractive, it may be difficult for some otherwise meritorious applicants to raise funds over and above those needed for a Freephone service should they transpire to be more expensive. We would not like to see such applications ruled out**



**without further consideration. BT therefore suggests that Ofcom considers a fourth option; that the proposed decision of Freephone versus free to caller be left open and should form part of the application for the HEN, and would be a factor when the adjudication is made rather than being a pre-requisite by the time it comes to calling for applications for the HEN.**

*Question 7: Do you agree with the suggested factors for deciding whether a service should be 'freephone' or 'free to caller'? Do you think any other factors should be taken into account?*

**As discussed above, BT would suggest that affordability is another factor that should be considered, and the extent to which additional "frivolous calls" might be anticipated as a result of a HEN being free to caller.**

**However, the more likely calls are to be made by visitors to the UK from Europe, the stronger the case seems to be that calls to those HENs should be free to caller, to meet expectations derived from their domestic experience (BT understands that the free to caller model would be more familiar elsewhere in Europe).**

*Question 8: Do you agree that the initial three 116 services (116000 hotline for missing children; 116111 child helplines; 116123 emotional support helplines) should be 'free to caller'? If not, please give your reasons.*

**Please see above answers. The applicants for the codes are likely to be better able to make an informed judgment than either CPs or Ofcom, as discussed in the body of this response. The decision whether these numbers should be Freephone or free to caller should therefore be deferred to the allocation process, rather than be decided now.**

*Question 9: Do you have any comments on the Impact Assessment on the options for allocation of 116 numbers and charging arrangements? Do you agree with Ofcom's conclusions?*

**No additional comments.**

*Question 10: Do you have any specific comments on the proposed modifications to the Numbering Plan, Numbering Condition and/or the access code application form as set out in Annexes 11 to 13?*

No comment.