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Keep name confidential

If you want part of your response kept confidential, which parts?:

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

Ofcom should only publish this response after the consultation has ended:

You may publish my response on receipt

Question 1.1: What are the implications of market change for mobile and wireless services?:

Market change is inevitable, and frequently brings improvement. However, it is essential that market changes do not attack or reduce the essential features of a reasonable contract between consumers and operators; namely that a consumer can find out what their costs will be in advance, and that they can control their costs. Any contracts that (i) obscure pricing information, or (ii) charge for receiving unsolicited calls or texts, or (iii) 'default opt-in' to/make it difficult to opt out of additional chargeable services are unacceptable.

Question 1.2: How are citizens and consumers affected by developments in the mobile sector?:

In most respects, positively. A mobile phone is now near-essential, so anyone who is unable to get one may be disadvantaged. However, for those with phones, new features such as maps, internet, local information are useful and enhance and simplify everyday life. Some new features of phones, such as ringtones and images, seem to be targeted mainly at children and at the young, and this should be borne in mind when considering regulation on their marketing; advertisements should be judged by the same standards that are applied to toy adverts aimed at children.

Question 1.3: What are the purposes of mobile regulation, and where should its focus lie?:

Key areas for focus would be (i) watching development of the youth market, and making sure that marketing to the young is correctly regulated (ii) continuing to watch research on the effects of mobile phone usage on the young, and ensuring that the correct messages reach children and parents (iii) strongly regulating the market in

unsolicited texts and voicemails that are charged for or that mislead customers into phoning premium rate numbers (iv) ensuring that contracts are open and understandable enough for consumers to make informed choices about which contract to take on, and that they have control over their spending (i.e. that they do not incur unforeseeable or uncontrollable charges)

Question 1.4: What is the scope for deregulation, competition and innovation in the mobile sector?:

There appears to be ample innovation within the mobile sector, and new and beneficial uses for mobile technology are being created regularly. The number of operators in the mobile sector is reasonable, and Ofcom has done a good job of promoting competition in the sector, and of intervening where competition has not reduced prices. It is worth noting that the number of operators in this type of market (with significant infrastructure costs) will always be fairly low, and that Ofcom has frequently had to make recommendations for cost cuts. Deregulation would not seem appropriate at this time, but the current level of regulation seems very effective.

Question 3.1: What do you think are the features of a well-functioning mobile market? What evidence do you see that those features are present in the UK market?:

(i) a number of operators, and the freedom for consumers to move easily between operators (ii) competition between operators leading to decreases in price and increases in quality (iii) a transparent pricing structure which allows consumers to make informed choices about which operator is best for them (iv) technological innovation (v) protection for those who need it; for instance those on poverty who may need assistance to access the market, or children who may need advice and restrictions on marketing to them

It seems that the market is generally functioning well, but that the ability to compare complicated pricing structures could be improved, and that more could be done to protect children from aggressive marketing of features such as weekly ringtones contracts

Question 3.2: What measures are most appropriate to assess whether the mobile sector is performing well for citizens and consumers?:

Assessing the sector requires a mix of measures. These should include consumer feedback on satisfaction with services. In addition to reports commissioned to investigate areas where adequate feedback would not otherwise be gathered; such as assessing the impact on children or those who are communication-disadvantaged for instance by poverty or a remote location.

In particular, government funding of studies on health effects and marketing to children would be appropriate as these are areas where the industry has a clear conflict of interest.

Question 3.3: How will market dynamics change as a result of trends such as availability of new spectrum, mobile broadband and new ways of delivering voice services?:

It is always difficult to foresee the effects of future change. However, there are some areas where I would see need for observation and if required, intervention. Firstly, while new capabilities are added to contracts all the time, it is desirable that a cheap entry-level option is always available for those who need basic service. Secondly, it is important that new features are not allowed to create new operator lock-ins. For instance, if online storage were provided by an operator, then all the user's data should be available to them to download and transfer to a new operator. Thirdly, new features may lead to the gathering or potential gathering of new data about the user, such as GPS or blogging. It is important that privacy concerns are addressed. Fourthly and finally, it is not desirable that agreements between companies are used to increase the effective mutual monopoly. For instance, the Apple-O2 tie-in is hard to justify as being in the consumer interest, but is not too harmful. A tie-in which gave Microsoft Office access to users of only one network would be of grave concern because of the effective monopoly in business held by that software. Or a tie-in giving mobile banking access by one high street bank to users of only one network would also be worrying. In general, tie-ins between previously unrelated markets which each have a fairly small number of players should be viewed with concern.

Question 4.1: What is your experience, as an individual consumer or an organisation that uses mobile services?:

My personal experience is as a technology-literate consumer. I have found that the technology available to me has improved significantly over time, as have the services available. However, I have found that the price I pay has also increased over time (although by a small amount), and that the customer service (on the rare occasions that I use it) has not improved. The main improvements that have benefitted me have been in ability to transfer numbers (by Ofcom intervention) and roaming charges (another area where Ofcom raised concerns).

Question 4.2: How should regulators and policy-makers respond to signs of rising consumer concern? :

It depends upon the source and the matter at hand. In general, business users and adult consumers are able to lobby effectively for their needs, and are well-represented. Their proposals can be judged on their merits. Any group unable to advocate effectively on their own behalf such as the very young, old or poor should have their concerns investigated as a priority. The strongest case for intervention would come where consumers cannot effect change via the market: such as if a specific practice is common to all operators (so that changing operator is ineffective to combat it), or if the consumer is impacted by the action of a third party (such as unsolicited calls).

Question 4.3: What are the important factors to consider in striking a balance between protecting mobile consumers and enabling markets to work flexibly? Have we got this balance right in today's mobile market?:

The balance seems broadly right for most users. There are improvements in price, service and innovation. More could be done to ensure that cheap entry-level options are available.

Question 5.1: How does the use of mobile services affect our participation as citizens in society?:

There is no doubt that mobile services are becoming ever-more integrated into our daily lives. Those without access to these services will inevitably become more disenfranchised by this lack, and this should be addressed by examining entry-level options and pricing.

Another factor is the increasing use of mobile technology in businesses, which may raise questions relating to conditions of employment and availability, however these are likely to need to be addressed more broadly than by the regulator.

Question 5.2: What factors should we take into account in thinking about access and inclusion issues in mobile markets?:

The primary concerns are access to provision of service, and protection of the vulnerable. In some cases, these two aims may partially conflict, as in considering the extent to which children should have access to mobile services.

The factors which determine access and vulnerability are not unique to the mobile market, and would include age, income, education level, geographic location and mental or physical disabilities.

It is worth considering whether access to mobile phones affects broader issues such as employability (for instance, by affecting ability to be contacted for interviews or availability to work). If that is found to be the case, there might be a case for intervention for the long-term unemployed, however this would presumably be done through existing re-employment schemes rather than by the regulator.

Question 5.3: What factors should we take into account in thinking about new services, and how those services may affect issues like protection of children, privacy and security?:

In terms of protection, the primary consideration relates to the ease with which the vulnerable may be (i) targeted by inappropriate marketing relating to mobile services, leading for example to overspending (ii) have access to inappropriate content, or (iii) be accessible to people with an agenda, such as individuals seeking to 'groom' children. These are not simple issues, but requiring reasonable care from operators would help to motivate innovative solutions. Privacy and security are broader concerns which relate to the entire population. Again, I would favour setting incentives appropriately through creation of legal liability and allowing the industry to innovate the right solutions.

Question 5.4: Have you been affected by issues about coverage or 'not spots'? How has it affected you?:

I have found coverage generally to be less than advertised, however I work and travel within the densely-populated South East, and so have no major problems.

Question 7.1: What do you see as the most influential trends and features of mobile and wireless markets in future?:

Covered in previous questions

Question 7.2: What new policy and regulatory challenges could the trends identified in this section bring? Which policy and regulatory challenges could they address?:

Covered in previous questions

Question 8.1: Should Ofcom do more to promote competition in mobile and wireless markets?:

Ofcom appears broadly to be doing a good job. I don't feel that greater competition is required, but I would be very uncomfortable with any deregulation as most improvements seem to have come only after prompting from Ofcom.

I think that there is a limit to how many operators are likely to exist in a market that has very significant infrastructure costs.

Question 8.2: Ofcom's strategy in telecommunications is to promote competition at the deepest level of infrastructure that is effective and sustainable. How might this strategy be applied, given future developments in the mobile sector? Under what circumstances, if ever, would it make sense to consider access regulation for mobile platforms?:

Given the pace of change in the mobile sector, and the significant infrastructure costs involved for operators to keep up with the change, it would seem unrealistic to expect deep competition between a large number of firms. It would arguably be a poor use of resources in any case to have numerous competing networks, from the broader economic standpoint.

Having a small number of competitors, but strong regulatory guidance, would seem optimal. The current number of operators seems reasonable: less would be undesirable, but more probably unrealistic. I would not be surprised if the total settled to 3-4.

Question 8.3: What role can competition play in ensuring that future development of the mobile internet provides an open and flexible environment for a wide range of services? Should Ofcom explore open access requirements to ensure opportunities for innovation? What role might 'net neutrality' play in the mobile sector?:

Competition is unlikely to create an open and flexible environment for services without guidance. Competition can and should drive innovation, but is frequently ineffective at preventing "tie-in" which limits competition. Regulation should ensure

that this is reduced to promote openness, and then competition should drive innovation and flexibility.

"Net neutrality" is a term with various contextual meanings, however it would seem desirable for instance that operators allow access to the full internet rather than limiting access to 'approved' sites.

Question 8.4: What role might competition play in addressing questions about transparency of prices, services and contractual conditions offered to consumers of mobile and wireless services? What role should regulation play in addressing these questions?:

Again, historically competition seems poor as a force to produce transparency of prices, as the reverse behaviour seems more effective. This is an area where regulation would be helpful. At present I would class this as an area of concern, but not as yet unacceptable.

Competition is a strong force to improve services and prices if price and service are clearly specified and comparable between operators.

Question 8.5: What is the best way to promote content standards and ensure privacy protection for increasingly complex content and transaction services? How will privacy issues fare in a world where services are more personal and more complex?:

I would argue against micro-regulation on privacy and security issues in favour of creating the appropriate liability frameworks in law. These are issues which involve detailed analysis of technology, and which change frequently as the technology advances, and so are more effectively addressed by the operators themselves than by an external regulator. However, they must be given strong incentives to do so, by either rewarding good behaviour or penalising breaches.

Question 8.6: Will the mobile termination rate regime need to evolve or change more fundamentally? What is the best approach to adopt?:

The current system seems, whilst unpopular with some of the operators, to be fairly effective. It would be preferable to see it evolve rather than shift fundamentally. A blended rate approach for 2G/3G would seem preferable as, despite the obvious drawbacks, it is unreasonable to bill the caller differently for calling a 3G phone when they have no way of knowing that they are doing so. It would remove the caller's ability to know what they will pay to call. It would seem equally unreasonable therefore to levy significantly different charges on the operator of the caller if they cannot charge the caller differently.

While this does potentially increase the levels of existing charges, it seems clearer and fairer than the alternative.

Question 8.7: If competition does not reduce international roaming charges sufficiently, how should regulators respond, if at all?:

Regulators should respond where it is clear that technology has reduced costs, but savings are not being passed to the consumer due to 'solidarity' - consistency across operators. As a response, fines generally seem ineffective by themselves, and caps are more useful. However it is arguable that it is equally important to publicise the issues amongst consumers. In addition, mass litigation seems to be a recent trend (for example protesting bank charges), however this creates periods of major uncertainty, and should be avoided where other alternatives are possible.

Question 8.8: How might universal service and universal access need to adapt in a world where we increasingly rely on mobile services? What role might mobile play in universal access delivery in future?:

It is important to consider 'universal access' with caution where estimates show that over 6m people do not have a mobile phone, of which around 2/3 avoid having one deliberately. Assumptions of universal access thus risk excluding 2m. There is probably a cost question of whether having universal access is feasible as yet; if not, the mobile platform should remain as an alternative rather than core delivery platform. It is also worth noting that there are still outstanding security and privacy concerns around mobile technology, which is not yet well-tested for confidential transactions.

Question 8.9: Can markets and commercial agreements address issues such as ?not spots? and emergency access?If not, what role might be played by a regulator to address these issues?:

At present, the market appears to be addressing such issues, if slower than would be thought desirable. It would seem premature for the regulator to attempt to achieve blanket coverage yet. The regulator should ensure that operators provide clear coverage information, and possibly 'right to cancel' for someone who purchases a phone and contract but discovers insufficient coverage (within a time limit).

Question 8.10: How might access for particular groups (such as the elderly and disabled users) need to evolve in future? What role can competition play in addressing these questions?:

I am unable to comment, but consultation with the relevant charities would presumably be undertaken.

Question 8.11: Do you have any comments regarding our proposed way forward and the objectives of the next phase of this Assessment?:

I think that the two key essentials for a market to work at all are that (i) the consumer knows the prices and goods/services available, at least to a basic level and (ii) the consumer is able to choose their purchases.

The key emphasis should be on ensuring that the consumer is not forced to receive and pay for unwanted/unsolicited services (be they calls or forced add-ins to contracts).

Within this framework, the regulator should intervene when the market appears to be 'stuck', i.e. all operators are behaving in the same way on an issue, and so face no

competition. Within an oligopoly, this is likely to be the only successful long-term solution. The infrastructure costs of operating a network make it seem implausible that the market will expand beyond an oligopoly in the near future.

Additional comments: