

**Title:**

Mr

**Forename:**

Magnus

**Surname:**

Kelly

**Representing:**

Organisation

**Organisation (if applicable):**

Mapesbury Communications Ltd

**What do you want Ofcom to keep confidential?:**

Keep nothing 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:**

Yes

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

Positive market changes, such as increases in the number of active undertakings, technological developments and shifts in consumer trends, have the ability to increase competition on both the wholesale market and the retail market. The regulatory implication is that in order to achieve this level playing field where players compete solely on the merits, the entrenched patterns of competition in these markets have to

be removed. This may also prevent further market variations from leading to reductions in market efficiency.

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

Developments in the mobile sector may lead to greater efficiency in the services offered to consumers, increased competition on bundle packages, and greater coverage. As stated in the document, this can however only be done with effective regulation of the market. Although the retail market in the UK can be characterised as competitive, lack of efficiency presently hinders further development.

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

The main purpose of mobile regulation is to increase competition in the market. Therefore, mobile regulation should focus on regulated and unregulated markets where market distortions still remain. Emerging markets that depend on historically entrenched dominant positions should be the primary focus of a regulatory authority

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

The removal of remaining market distorting positions needs to be addressed prior to any effective deregulation of the market. It is however agreed that deregulation should in principle result in efficient competition in a market where the incentives to abuse market position have been eradicated.

**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?:**

The features of a well functioning mobile market are competition on the retail and wholesale level, consumer benefit and protection, and the ability of customers to interact with customers on all networks. These features are notably absent in the UK market in the following areas: mobile number portability, end to end connectivity for SMS, and in the wholesale pricing of SMS.

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

Access to mobile services, fair competition between operators and greater consumer choice are all indicators of a healthy mobile market. Any measures contemplated should be secondary to these indicators.

**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?:**

The market dynamics will be affected in that the existing services will become substitutable. In the event of non-transitory price increases, the market dynamics should be able to shift dramatically. This is of course subject to the removal of existing barriers to entry in the market

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

Notable problems arise as a consumer in the diverging interpretation of the regime of mobile number portability, namely the (1) whether it is possible, (2) the timeframe for porting and (3) its viability.

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

Increasing consumer concern should lead to existing codes of practice being amended and consultative processes being initiated with the relevant members of industry. Large numbers of complaints about related issues should also lead to formal investigations and legislative revisions where appropriate.

**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 main factor to consider is that in a competitive market, market adaptation will be fluid and will not require heavy regulation. By removing barriers and increasing efficiencies, the consumer benefit will increase alongside the market's ability to adapt. The balance can ultimately be struck by regulating the wholesale market so that consumer protection and regulation in the retail market will not be as necessary.

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

Mobile services have increased productivity and interaction.

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

Market flexibility should be considered against factors such as consumer protection and service usability.

**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?:**

No Comment

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

No Comment

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

Convergence of fixed and mobile networks, the ability to port between fixed and mobile, and mobile data will have significant influence on mobile and wireless markets in future.

**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?:**

The harmonisation of fixed and mobile regulation will prove the greatest challenge but this could increase competition between two related markets.

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

Yes

**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?:**

The market for access to mobile platforms is at present competitive. Mandating access to mobile platforms in the current market situation would be disproportionate and would lead to a likely reduction in infrastructure investment.

**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?:**

No Comment

**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?:**

A competitive market will ensure that competition is on the merits of each player's services rather than their market position. Transparency will not be an issue in an efficient market. Regulation should in this context be used to remedy failures of competition and to prevent abuses, as it currently seeks to do. The issues of billing systems and direct routing will have to be considered in this context.

**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?:**

No Comment

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

Mobile termination rate legislation should evolve to ensure that all undertakings are receiving a reasonable return on capital invested. This can be achieved by considering different cost models of market players rather than resorting to the current approach of near uniform evaluation.

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

Due to the inherent obstacles and likely inefficiencies with a blanket or centralised regulation of roaming, the role of regulators should be limited to the control of their own market players' offerings. This should however not preclude consultative processes and opportunities for harmonisation.

**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?:**

Due to the increase in mobile services, the demand for universal services will probably decrease which will put the onus on end to end connectivity over universal services. Further regulation of oft ignored areas such as SMS and national roaming access should also be considered in this context.

**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?:**

No Comment

**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?:**

No Comment

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

No Comment

**Additional comments:**