

**RESPONSE OF**

**THE NUMBER**



**TO THE OFCOM PUBLIC CONSULTATION ON**

***“MOBILE CITIZENS, MOBILE CONSUMERS”***

**21 November 2008**

## About The Number

Launched in 2002, **118 118** has become the leading Directory Assistance Service in the UK and is contacted by more people than any other similar service in Britain. It provides instant access to a courteous, high accuracy service offering more features and benefits than any other 118 service and handles 1 billion calls a year.

Additional services include train times, cinema listings, category inquiries, unlimited requests, voice call and text inquiries accepted and returned for mobile customers, calls connected and virtually any answerable question handled.

The Number and its group companies in Europe (Le Numéro, Il Numero, Die Nummer and Conduit), together form the largest independent provider of directory assistance services in the world. In Europe, the group has entered six markets (UK, France, Italy, Austria, Switzerland and Ireland) offering new, competitive and high quality services to end users.



**Fig. 1 – EU and EEA States where The Number currently operates**

## Some important industry background

Traditionally provided by telephony incumbents, Directory Assistance (“DA”) services are increasingly provided in liberalised markets like the UK by specialist providers who invest highly, introduce innovative technologies, improve service quality and create many jobs. It is estimated that such providers have invested approximately €1 billion and created approximately 20,000 direct jobs as a result of liberalization in EU markets over the last 5 years or so.<sup>1</sup>

Nevertheless, the traditional DA market (national services provided uniquely by voice communications over fixed lines) is undergoing a radical process of decline due in part to the increased use of the internet and fixed-mobile convergence.<sup>2</sup> It is increasingly important for the continuing development of the industry that new growth opportunities be fully exploited.

**Growth potential** in DA comes from **three key areas** of consumer demand:

1. Access to advanced, high quality, transparent **information services on the move**, using the full range of communication technologies.
2. The need to access services **across borders in roaming**.
3. Access to comprehensive information and, in particular, information on **mobile customers**;

As is clear, **mobile is the key driver for DA growth**. Indeed, in liberalised markets, the major portion of DA calls is already generated from mobile phones.

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1 Providers include, as well our group, international companies such as SEAT Pagine Gialle/Telegate, Yell and Pages Jaunes. The industry also creates a large number of indirect jobs for suppliers of DA operators (database compilers, application and system providers, equipment suppliers, etc.) and providers of outsourcing services.

2 Declines in call volumes in liberalised markets, such as the UK, Spain and France, are estimated to have been as high as 40-50%.

## Response to consultation questions

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

**The Number** considers that the following characteristics of our market need to be borne in mind by Ofcom as it develops its regulatory policy for mobile:

#### **A. Fixed-mobile convergence.**

Our experience in liberalised markets shows that customers increasingly switch from fixed to mobile for DA enquiries. Demand is focussed more and more on mobile needs (e.g. emergencies, search for restaurants, hotels, etc.) and internet increasingly offers an alternative to fixed-accessed DA services. Indeed, in our major markets **mobile calls now represent a higher volume of calls than fixed.**

FMC has a second impact on our market. In order for DA services to meet the regulatory and social interest goal of providing access to comprehensive subscriber information, it is vital that **databases include maximum information on mobile customers** while respecting privacy concerns. There are mechanisms which, if utilized, would permit a far greater level of mobile subscriber information inclusion while providing a high level of privacy protection.

#### **B. The data boom**

Data services increasingly offer an alternative and innovative form of accessing information and **our industry is a prime developer of data solutions for delivering services to customers.** So, for example, information can be provided by SMS to users when the information they seek is not immediately available, information can also be requested via SMS to our numbers (where MNOs open the number) and we provide our information through our Web portals (e.g. [www.118.com](http://www.118.com)).

#### **C. High search costs**

The problems identified by Ofcom with long-term contracts and the effect of certain mobile customers being tied are much more relevant with regard to services such as DA which are provided over mobile platforms by third party providers. As has been recognised by the NAO,<sup>3</sup> **relative search**

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<sup>3</sup> National Audit Office survey on the DA market (18 March 2005). See also "Sabotaging entry: an estimation of damages in the directory enquiry service market" Martínez-Granado and Siotis, Review of Law & Economics.

**costs for DA are very high.** Hence, whilst consumers will compare standard mobile communications offers of MNOs and MVNOs in choosing their mobile services provider, purchases of DA services will be made thereafter and are not relevant in the choice of network. In fact, consumers are highly unlikely either to take DA prices into consideration when they choose a network or to change networks on the basis of these prices.

Consequently, as in the case of mobile termination, a **user's choice of mobile network confers on the chosen MNO monopoly power** with regard to the conditions it imposes on third party service providers who wish to offer services to that customer. This has a direct impact on the conditions under which these services can be offered to the end user.

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

### **A. Positive developments**

The mobile communications boom has had **many positive developments** for users of our services.

First, all our customers can access our **high quality information services on the move** since penetration levels are almost total (they all have access to a mobile communications device) and coverage is also almost total (they can connect to our services from almost anywhere).

Furthermore, the development of data services, first SMS and now mobile internet, has opened up a whole **new world of service options** which our company is offering to our users. Our data information services provide particular benefit for the disabled (for instance, the hard-of-hearing).

Developments in **location-based technologies** also permit us increasingly to provide highly specific and useful localised information to mobile users.

### **B. Problems facing our industry**

On the other hand, there are **problems facing our industry** and our ability to deliver these exciting new services to consumers.

MNOs, which control access to the prime segment of our customers, are able to impose unfair access terms or impede access. With regard to our voice DA services, this has an impact both on the level of our retail prices and on our ability to control those prices (indeed, frequently the price paid by the end user cannot be set by the DA provider). This gives rise to **inflated prices and a real impediment to our setting coherent and clear prices**. Ofcom has reflected some of these problems in their reviews of the DA market.

Our companies are also increasingly concerned about other access issues: namely, the **ability to open up our services over all communications platforms, regardless of the technology employed**. This includes access to our numbers via SMS, both nationally and in roaming, and access over new IP networks (both for VoIP communications and for pure internet communications, whether it be data or voice) in reasonable, transparent and non-discriminatory terms.

Given the nature of our services, we also depend on access operators to carry out **billing and collection services** on our behalf. It is vital that such services continue to be made available, and that they be offered under reasonable terms, in all new technology environments.

Finally, it is vital, in order to ensure the high level of quality of our services and, above all, their comprehensiveness (this being the fundamental driver of demand for our services), that **mobile communications user data** be included in our databases. In this regard, we invite Ofcom to consider some of the mechanisms which are now available for allowing information to be included in DA databases without that information being disclosed to users of the DA services. Examples include the connection of DA customers to mobile subscribers, who have so consented, without providing that subscriber's telephone number to the DA user.

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

**The Number** considers that Ofcom should focus on the following regulatory goals in relation to our business as it moves forward with the country's mobile communications policy:

#### **A. Open access and net neutrality**

Mobile customers must be guaranteed **open access to information services** under **fair, reasonable, transparent and non-discriminatory terms**, regardless of the transmission technology employed or the type of service provided (whether it be voice or data).

This includes addressing the current problem of mobile voice origination terms to ensure DA providers can purchase **reasonably priced wholesale interconnect products** meeting requirements of cost-orientation, objectiveness and non-discrimination, so as to permit DA providers to set transparent, competitive prices to their users.<sup>4</sup>

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<sup>4</sup> The EU Commission has drawn attention to this issue in the Explanatory Note to the new Markets Recommendation (page 41). The French NCA, *Conseil de la Concurrence*, issued an Opinion in March 2008 backing *ex ante* regulation. ANACOM published a decision in August 2008 announcing measures to control MNO origination terms if prices were not reduced. CMT has this year published a public consultation on Market 2 on fixed

Given the nature of our business, MNOs also need to provide **billing and collection services** under cost-oriented, transparent and non-discriminatory terms.

It is also vital that mobile users are granted fair and **open access to new services** and that MNOs are not permitted to exploit their control of end users' network connection to impede or restrict access to certain third-party services ("*walled garden*" approach), for instance by downgrading the quality of data transmission connection, blocking services entirely or imposing unfair terms. Access issues include, for instance, IP communications, SMS and roaming.

## **B. Comprehensive data inclusion**

DA users need to be able to access comprehensive information, which in today's world means **maximum inclusion of mobile customer information** in order to make the service useful.

This requires Ofcom to focus on ensuring: (i) that MNOs **effectively collect subscriber data**; and (ii) that MNOs offer **appropriate privacy choices** to mobile subscribers including the possibility for them to have their information included in the DA database but not disclosed to DA customers.

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origination which equates origination for non-geographic numbers with termination, requiring therefore *ex ante* regulation.