Title:

Mr

Forename:

Kieron

Surname:

James

Representing:

Organisation

Organisation (if applicable):

Zimo 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:

You may publish my response on receipt

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

Blending regulatory clarity, transparency and certainty with the light touch necessary to encourage technical innovation is the real challenge facing Ofcom. Fixed mobile convergence (FMC) is upon us and mobile broadband is set to create a truly connected world. It is almost impossible to predict market developments with any accuracy beyond the next five years. Suffice to say, our social and business communications; our very means of connecting, not only to each other, but to information; will change in ways we're only just beginning to understand.

A dizzying array of mobile service plans has put powerful communications devices within the reach of the majority with low (oftentimes zero) up-front cost. This is a significant and very positive development. But it is essential that opaque pricing, incomprehensible bundles and unacceptably high pence-per-minute (PPM) and data charges do not prolong, or worse still, exacerbate the digital divide. Surely it is the task of the UK regulator, not Viviane Reding, to rein in the Mobile Network Operators (MNOs) and put an end to unacceptable exploitation. What possible justification can a mobile operator have for charging 75p per minute for a "freephone" call? Worse still, one large MNO charges £2.50 per minute for an open-ended call (no forced-release) to an 087 number. Despite being 66% more than the highest tariff premium rate number available, consumers are offered no protection from such abuses by PhonepayPlus. If price transparency is the goal, this is clearly failing when an MNO charges 10p per minute for calls to 0872 012 and £1.50 for calls to 0872 014. (Are consumers really expected to relate and remember call costs at F digit level for each MNO!)

New mobile entrants currently operating in highly innovative sectors such as IP telephony will inevitably be attracted by the huge market opportunities which FMC creates. It is in the interests of the largest MNOs to protect revenues by ensuring that barriers to entry remain impenetrable, or at least frustratingly high. Their ingenuity in so doing should not be underestimated. From a recent Competition Appeals Tribunal (CAT) block to recipient-led number portability through to removing new entrants' number ranges from their own routing tables, their creativity in blocking innovation not of their own making is seemingly boundless.

Ofcom must ensure the best possible outcome for UK citizens and avoid being out-manouevered by the large MNOs.

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

Developments in the mobile sector will have a life-changing impact upon our business and personal lives. The changes which these developments facilitate go to the very core of our communications, the "conversations" we have and the people we "speak" to. The implications are as far-reaching as the invention of the telephone itself. It is no longer relevant to refer to these devices as mobile phones. They are powerful handheld computers which allow their users to:

? instantly communicate using text, audio and video with individuals, businesses, social networks and large communities;

? make and receive telephone calls over a variety of TDM, GSM and IP networks with significant implications on the price paid for so doing;

? make instant purchase all types of products and services - (not just ringtones!);

? benefit from powerful location-based software applications to find people, places and information;

? not only view, but instantly publish content and rich media.

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

The statutory duties and regulatory principles are established under Section 3(1) of the Communications Act 2003:

"It shall be the principal duty of Ofcom, in carrying out their functions;

(a) to further the interests of citizens in relation to communications matters; and
(b) to further the interests of consumers in relevant markets, where appropriate by promoting competition."

Ofcom's focus is described succinctly above, but further elaboration is contained elsewhere in this response.

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

FMC requires network neutrality. The logical consequence is that numbers required to access voice and data services over a variety of networks should also be technology neutral. For example, 07 numbers should not be referred to as "mobile numbers" [Telephone Numbering - Safeguarding the Future of Numbers, 27 July 2006], since any number range should be available to any Communications Provider (CP) to deliver voice and data over TDM, IP or GSM networks.

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?:

Price transparency. Recipient-led number portability. Fair and justifiable charges for voice, data transfer and roaming. Severe penalties for abuses such as slamming.

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

A return to shorter duration contracts (e.g. 12 months as opposed to 18 months) would serve as an indication that MNOs do not feel a need to "lock in" subscribers in order to protect revenues. There should be no fear of introducing recipient-led number porting and removing all obstacles to switching if operators are confident that they offer the best in terms of network availability, service features and value for money. Analysis of the levels of consumer switching, success of new market entrants, growth of revenues from phone paid services (assuming corresponding increases in network data traffic) and a reduction in consumer complaints are all useful competition barometers.

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?:

This will depend very much on the mechanisms employed for allocating new spectrum and regulation in many inextricably linked issues (such as number allocation and porting, VoIP regulation, 21CN, etc) and the creativeness of MNOs in developing new revenue lines rather than trying to stop innovative development which makes effective use of their networks but may not be as profitable. Examples of this include IP telephony. Rather than block "unwelcome" traffic (such as VoIP calls) or impose additional charges for "tethering", MNOs need to explore alternative models which do not impede technical innovation.

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

No comment since this is a commercial rather than consumer response

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

No comment since this is a commercial rather than consumer response

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?:

No comment since this is a commercial rather than consumer response

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

No comment since this is a commercial rather than citizen response

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

No comment since this is a commercial rather than citizen response

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 since this is a commercial rather than citizen response

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

No comment since this is a commercial rather than citizen response

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

Erosion of current MNO revenue lines. Accelerated pace of technological development but innovation stymied by reluctance to move from traditional revenue models. Continued fixed-mobile convergence. Significant increase in the impact of IP telephony. Further voice and data integration. Mobile broadband. Location-based services. IPTV and video calling.

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?:

Numbering will continue to raise many issues as the market develops. From number portability, the proposed central database and issues around net neutrality of number ranges (described elsewhere in this response), a clear numbering strategy which gains the confidence of citizen consumers (price transparency, free from associated scams) and allows fair competition and access to new entrants, remains central to Ofcom's regulation. Much of this - clearly set out in Ofcom's Strategic Numbering Review - has been contradicted by Ofcom's own ad-hoc consultations and decisions related areas such as NTS. Such a siloed approach to the regulation of inextricably-linked market sectors and technologies can never be effective.

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

Ofcom needs to ensure that consumers can move between providers seamlessly. Consequently new entrants should be provided with a level playing field in relation to access to consumers and not be hampered by number porting or the ability to utilise wireless VoIP access methods due to legacy call path revenue protection models employed by the largest MNOs.

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?:

Ideally, access regulation should not prevent handsets being network selective by the consumer. A consumer wishing to select one mobile provider for text, one for internet browsing, one for content or information provision, and swap and change without long term commitments in the same way as a web consumer has a right to choose, he/she should be allowed to do so.

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?:

Net neutrality is vital to ensure a level playing field for all entrants and for freedom of choice for the consumer. Services in future may not necessarily be restricted to number ranges, with VoIP and internet based technologies, access to and between consumers for information, communication and content provision will be the key revenue generator through vale based service provision. Calls will be simply one of many an application available for access via the handset.

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?:

Any service provider offering services to the consumer must provide a clear and un-ambiguous charging structure. They should not be seen to ?tie in? a customer for an unrealistic contract period. O2 for example offer a simple, fixed and inclusive monthly priced SIM only package with no long term commitment (one month rolling). This proves at a very basic level that it can be done. The consumer has freedom of choice on their handset, can subscribe to as little or as much as they wish, and are not committed to long term and often costly plans. Additional transparently priced extra services that are accessible from the handset on both a one-off and subscription based basis seem the natural evolution. Consumers should not be expected to trawl through a 268 page price list to determine exactly what is included (or more specifically, excluded) their "inclusive" minutes?

Meaningful answers to the following questions need to be provided:

? Why should I pay for "freephone" calls?
? Why do I get a warning that "other network {charges} may vary, and calls from mobiles may cost significantly more??

Regulation needs to force operators to justify and legitimise such charges.

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?:

Content should require subscription. Consumers need to be made acutely aware that they are ?subscribing? to content, what its charges are and what legal age there should be to access it. An active agreement to any Terms and Conditions MUST be enforced prior to accessing this information. Where information is freely available via mobile internet, it is parental control type facilities on mobile devices being fine tuned to ensure that minors are restricted from viewing/consuming/being charged for in-appropriate information.

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

?Caller pays? is a fairer position in relation to calls. It relates more closely to the fixed line world (except 0800 which should also be aligned between mobile and fixed line), and the caller is then in control of his/her call charges. Where terminating party pays, this opens the called party up to call abuse which can very quickly result in the called party incurring a hefty bill through no fault of their own.

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

In a global economy, roaming charges should be removed. Fixed line termination to the USA for example is cheaper than many calls delivered to UK destinations. Mobile providers offer little, if any, justification for the addition of exorbitant charges to the calling (and in roaming situations the called) party. Should the ITU become more vocal in its involvement in global regulation and its vision for ??connecting the world and fulfilling everyone?s fundamental right to communicate..."?

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?:

Mobile is key to a successful 21st century world. The device we use now will change beyond recognition in the next 5 years, and may even be the controlling force for our homes, cars and even our health. It could be provide statistics of our home?s power usage, to the point of taking our meter readings and passing them directly to our energy providers; telling us when we?ve run out of milk, and contacting our supermarket for a delivery. As mentioned in our response to question 1.1, it is impossible to second-guess the ingenuity of software developers or the applications of mobile technology with any certainty beyond a very short period.

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?:

Emergency access will ultimately equate to our own global position as mobile devices evolve. Ensuring that every handset has coverage (use of satellites if no base station or Wi-Fi hot spot is in range). This technology is in use by RAC/AA for recovery purposes today, and regulation may require every mobile device to have GPS and emergency personal location software.

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?:

See 8.8 and 8.9 above ? there is no reason why the services can?t be as easily available to the elderly and disabled.

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

The quality and rigour of future Ofcom consultations (impact assessment and CBA) and even more importantly the decisions based upon the findings of such research is paramount.

Additional comments:

It is time to involve the mobile operators and to open their eyes to longer term possibilities and for MNOs to rescale their dependence upon legacy short term revenue lines.