

## Telephone directory information obligations and regulations

118 800 Directory Enquiries

Connectivity Ltd

Merlin House | Brunel Road | Theale | RG7 4AB

**Question 3.1:** *Do you agree with Ofcom's proposed revocation of USC7? If you disagree, what are your reasons for this view?*

Whilst we believe that there may be reasons why BT would continue to offer OSIS if USC 7 is revoked, we disagree with Ofcom's observations regarding the comprehensiveness of OSIS. Because OSIS per se is not a comprehensive data base (for the reasons we expound upon below) the issue is not so much about the revocation of USC 7 but rather the fact that OSIS has never been a comprehensive data base at all. The real issue that Ofcom must come to terms with is that in the UK there is no comprehensive directory service available to consumers. Without the inclusion of mobile numbers, directory services cannot be comprehensive or relevant for the future. Without a central data source for both fixed and mobile numbers comprehensive directory services cannot be maintained.

Ofcom's view of the UK directory services market is inaccurate. In paragraph 2.8 Ofcom states that "since 2002, voice DQ volumes have fallen, while growing internet usage has meant that the use of on-line DQ services has increased rapidly." This implies that the reason for the fall in voice DQ services is a rise in on-line services. This is not the case. In the UK there are now some 70 million mobile numbers and the consumer uptake of mobile telephony services is growing at a rate far outstripping fixed line uptake. However, the UK DQ services market is based on fixed line data made available by OSIS. OSIS is primarily a fixed line data service populated with only some 50,000 mobile numbers accounting for less than 1% of all mobile numbers. OSIS does not reflect the growing uptake of mobile telephony and the growing demand for mobile directory services. The decline in voice DQ services is not so much due to easy on-line alternatives but rather due to the fact that there is no comprehensive directory service consisting of mobile numbers. It is therefore to be expected that voice DQ volumes will fall when the only available directory services consist primarily of fixed numbers.

In the UK as in other European countries (particularly in Scandinavia) we are seeing a fast growing trend towards fixed to mobile telephony substitution. The current UK directory service regime is not meeting the demand and interest of consumers who require access to a DQ service that consists of both fixed and mobile data. Unless Ofcom acts now in creating a regulatory regime under which mobile network operators ("MNOs") are obliged to meet their General Condition 19 ("GC 19") obligations, the UK will fall even further behind its European neighbours in its failure to offer a comprehensive directory service which meets the demand for mobile enquiries. For these reasons, the current OSIS data base is not fit for purpose.

The fundamental problem is that the UK has never had a comprehensive directory service. In paragraph 5.1 Ofcom makes the "assumption that there would continue to be a source of comprehensive wholesale directory information available to DIPs on reasonable terms." This assumption is misplaced and based on the false premise by

Ofcom that all communications providers including MNOs are prepared meet their GC 19 obligations. MNOs are not making their data available under GC 19 and, as we point out below, MNOs are manipulating their privacy obligations in such a way that consumers are not being given the opportunity to choose whether or not have their numbers included in a directory service. It is therefore incorrect for Ofcom to refer to the availability of “comprehensive wholesale directory information” at all.

A directory cannot be comprehensive unless based on the clear right for consumers to be listed. MNOs do not provide consumers with necessary information or a consistent process to enable consumers to make an informed choice as to whether or not to be listed in a directory. Ofcom’s role should be to facilitate a directory listing if a consumer so chooses. The privacy activities of MNOs are inconsistent during their subscriber sign up processes, often automatically opting new customers out of a directory listing altogether without giving the customer any opportunity to exercise the choice to be listed at all. Another example of inconsistency of approach is that Orange has operated an opt in approach but to date those numbers opted in have not been included in OSIS. Also, O2 and Vodafone had automatic opt in but no data was passed to OSIS. Ofcom must act now and mandate that MNOs operate privacy friendly policies which are consistent and which provide consumers with a clear and unambiguous choice regarding inclusion in a directory service. Only then will service providers such as Connectivity be given the necessary access to mobile numbers to enable a comprehensive directory service offering. Without intervention by Ofcom the status quo will remain and directory services in the UK will continue to be unfit for purpose.

In paragraph 5.8 Ofcom talks about “the evident desire by DIPs to continue to utilise the OSIS database (probably due to the costs of establishing an alternative)”. Ofcom is aware of Connectivity’s business “of establishing an alternative”. Whilst Connectivity is content to have access to OSIS on the basis that OSIS contains comprehensive fixed line data, OSIS is of no use whatsoever where the directory services offering is targeted at meeting the demand from consumers for a comprehensive mobile DQ service. In order to offer a comprehensive service it is necessary for DIPs such as Connectivity to obtain numbers under GC 19 directly from MNOs. OSIS does not offer a comprehensive data base of mobile numbers. Without Ofcom intervention to require the MNOs to meet their GC 19 obligations Connectivity or any other DIP wishing to offer a mobile based service will be prevented from being able to offer a comprehensive DQ service at all. Access to, and the availability of, mobile numbers is a fundamental element of the comprehensiveness of a DQ data base. In the absence of MNOs meeting their GC 19 obligations the UK will continue to be without a comprehensive DQ service and the UK’s universal service obligations will continue to be neglected.

In paragraph 5.10 Ofcom considers the future comprehensiveness of OSIS. Again, Ofcom’s considerations are based on a false premise – the key point is that OSIS is not currently comprehensive and will only become comprehensive when it includes mobile numbers (not the meagre 50,000 that form part of OSIS today). A DQ service cannot possibly be considered comprehensive when it specifically excludes some 69,950,000 mobile numbers (and this figure is growing year on year).

In paragraph 5.12 Ofcom poses the question whether “it may be worth considering whether DIPs would be prepared to pay for a non-comprehensive database.” This is exactly the situation we have in the UK today - “a non-comprehensive database”. OSIS is “a directory service with some basic information gaps (less attractive to customers)”. Unless DIPs such as Connectivity are supported and empowered by Ofcom to establish independent relationships with the MNOs whose information is

not collected by BT, there can be no comprehensive DQ service in the UK and consumer demand for mobile enquiries will continue to be neglected.

In paragraph 5.13 Ofcom refers to the PhonePayPlus Code of Practice and the requirement under the Code on all DQ providers that market themselves as providing numbers for the generality of end-users in the UK to have an up-to-date and comprehensive set of directory information. Ofcom states that if “OSIS ceased to be comprehensive, then DQ providers using it would not be able to market themselves as covering the generality of the UK.” This, however, is exactly the unsatisfactory situation we have today – OSIS being primarily a fixed line data base is not the basis for a comprehensive DQ service.

Please see also our answers to Questions 5.1, 5.2 and 5.3 below with regard to Ofcom’s proposed revocation of USC7.

***Question 3.2: Ofcom considers that the current directory services meet the criteria of comprehensiveness, affordability, quality and availability. Do you agree with this assessment? If not, please provide a detailed response as to which criteria is not fulfilled and in what way.***

We do not agree that current directory services meet these criteria. We also have a number of issues regarding pricing of access to DQ services from mobile phones which we deal with in our answer to question 3.4.

Article 5(1)(a) of the Universal Service Directive requires that Member States shall ensure that at least one comprehensive directory is available to end-users in a form approved by the relevant authority, whether printed or electronic, or both, and is updated on a regular basis, and at least once a year. This requirement has been transposed into UK law by means of the Universal Service Order. Because market conditions in the UK do not ensure the provision of (at least one) comprehensive electronic directory, there is an urgent need for Ofcom regulatory intervention.

In paragraph 3.17 Ofcom states that “there is no definition of the word “comprehensive” in the Universal Service Order. However, the Universal Service Order prescribes that the directory shall comprise, subject to the Privacy Regulations, the details of all subscribers of PATS and their telephone numbers, including fixed and mobile telephone numbers. The Universal Service Directive’s preamble notes the policy aim across the Community is that “[u]sers and consumers desire comprehensive directories and a directory enquiry service *covering all* listed telephone subscribers and their numbers (including fixed and mobile numbers) and want this information to be *presented in a non-preferential fashion*”. In other words, the reference to the word “all” appears to suggest that the directory must list every telephone number of a PATS subscriber throughout the UK for it to be comprehensive. However, this is subject to the right of a subscriber to choose whether to be listed in a directory.” We have already focused on the lack of consumer choice in our answer to question 3.1 above and we expand on this further elsewhere in our response (see in particular our answers to questions 3.5, 4.8 and 4.9). The key point regarding whether or not a directory service is comprehensive is that in the absence of mobile numbers being included (and consumers being given the opportunity to choose whether to be listed), the criteria of comprehensiveness will not be met. The Universal Service Order prescribes that the directory shall comprise mobile telephone numbers yet the MNOs are failing to fulfil their obligations of making mobile data available under GC 19. There is a clear case for Ofcom intervention to rectify the problem.

In paragraph 3.18 Ofcom states that the comprehensiveness of the data underlying the service is presently guaranteed by the comprehensiveness of the database on which they are based (that is, OSIS). However, OSIS is populated with only some 50,000 mobile numbers – hardly a benchmark for measuring comprehensiveness in relation to mobile numbers. Given that OSIS is therefore not comprehensive, any directory service itself based on OSIS cannot by definition be deemed comprehensive or otherwise fit for purpose.

***Question 3.3: Do you agree with Ofcom's analysis? If you do not agree please provide your reasons.***

We agree with Ofcom's proposals in relation to General Condition 8 and printed directories.

***Question 3.4: Ofcom considers that the DQ market is robust and delivering the level of service required by the Universal Service Directive. It also considers that it is appropriate to maintain the condition on Communications Providers to ensure access to a DQ service to ensure that the universality of provision is maintained. If you do not agree please provide your reasons.***

In paragraph 3.58 Ofcom considers the typical cost of an individual call to a DQ service and notes that costs normally vary by DQ service provider and by the network from which calls are made (both fixed line and mobile networks). The Universal Service Directive requires that DQ services are available "at an affordable price".

MNOs charge a significant premium for calls to directory services. We would urge Ofcom to intervene to ensure that these call origination charges are regulated on a cost oriented basis. It is not in the consumer interest for MNOs to place unreasonably high rates on calls to 118 numbers – the MNOs are making a huge profit on the back of other service providers' numbers. This is pure profiteering on the part of the MNOs and has nothing to do with the economics behind the actual cost to MNOs of originating and terminating traffic. MNO charging does not reflect their true network costs.

We have a serious concern about the lack of transparency of mobile originated calls to directory services 118 numbers. From the retail price perspective the price to consumers is not easily ascertainable. Connection charges and per minute charges often only become known to the consumer when he/she receives their telephone bill. The fact that the MNOs as originating providers can arbitrarily dictate the call origination connection and on going per minute charges is damaging to the delivery of innovative directory services when being accessed via mobile phones. Our experience is that the MNOs are inflexible in their tariff structures. The result of this inflexibility is that there is nothing to prevent MNOs charging artificially high prices at the retail level in order to price an innovative service out of existence and then argue that there is no demand for the service (when in fact the lack of demand has nothing to do with the service itself but more to do with the predatory pricing designed by the MNOs to make access to a service unattractive because of high retail charges to the consumer). Pricing activity of this nature hampers the introduction of new innovative services, restricts competition and removes consumer choice.

Ofcom DQ research has found that 4% of adults use a DQ service at least once a week. We maintain that the uptake of DQ services would be significantly higher with the availability of a comprehensive service (i.e., inclusive of mobile numbers) and priced in such a way as to encourage use whilst also maintaining a fair return for the

originating MNOs. Substitution from fixed to mobile telephony will further stimulate this growth, provided of course the service is competitively priced and comprehensive.

As regards quality, quality cannot be measured through accuracy of searches alone. What is fundamental to quality is that a DQ service is fit for purpose. Unless a DQ service is comprehensive (i.e., inclusive of mobile numbers) then a quality fit for purpose service will not be capable of being delivered.

In paragraph 3.74 Ofcom states that the overall size of the DQ market has been falling for some time, and has shrunk considerably since 2002. Ofcom's research has found that there are a number of reasons for this including price and the impact of 'free' electronic directories. As stated above, we believe price is a relevant factor, but also relevant is the fact that a comprehensive DQ service is not available to consumers. If MNOs made available their telephone numbers for inclusion in a data base then consumer demand would be met and the market size will increase. The fall in the uptake of DQ services will continue without the inclusion of mobile numbers. This will become more evident as mobile usage increases through the switch by consumers from fixed to mobile telephony services.

***Question 3.5: Do you agree with the redrafting of GC8 as set out above? If you do not agree please provide your reasons.***

Under GC 8.1 (b), the Communications Provider shall ensure that any End-User can access: a Directory Enquiry Facility containing Directory Information on all Subscribers in the United Kingdom who have been assigned Telephone Numbers by any Communications Provider, except those Subscribers who have exercised their right to have their Directory Information removed.

Our own findings into activities of MNOs have shown that MNOs make the consistent exercise of this right impossible. The MNOs have adopted various commercial practices, ranging from simply not ticking the opt-in box on behalf of customers or actively dissuading customers from opting in, on the basis that customers can easily be dissuaded from having their mobile number listed in a public directory. Practical experience suggests that the specifics of MNOs' commercial practices might be inconsistent but, in general, they are contrived to hinder bringing the availability of directory services to the notice of customers. Doing so under the veil of the "opt in" regime is particularly pernicious to independent service providers, as the same MNOs seem to have few qualms about denying their customers the choice of opting in when it comes to receiving MNO promotional and marketing materials. Our own quantitative and qualitative market research (April 2004, December 2006 & April 2007) has shown that:

- (i) two thirds of DQ users consider it would be useful to have mobile numbers included in DQ services;
- (ii) 68% of relevant business policy makers would be happy to be listed at work.

Provided:

- (a) numbers are not made available to telemarketers;
- (b) the service uses a privacy-friendly mechanism like blind call completion;
- (c) both landline and mobile numbers exist in the same DQ service.

There is therefore a demand for a mobile directory service provided privacy considerations are properly administered and maintained (for example, a blind call completion service where a called party's number is only released with the consent of the called party). However, unless Ofcom intervenes to ensure that the MNOs themselves operate privacy friendly policies so that consumers are given a clear

choice whether to be included in a directory it will remain impossible to establish a comprehensive directory service in the UK.

**Question 4.1:** *Do you agree with Ofcom's view that GC19 should be modified so as to clarify persons having 'rights of access' as set out above (a redrafted version of condition GC19 and related definitions is set out at the end of this section)? If you disagree, please provide detailed reasons for this view.*

Please see answer to question 4.2 below.

**Question 4.2:** *Do you have any other comments about 'rights of access'?*

We support the modification of GC 19 to include DQ providers providing onward connection services, that is, a search for numbers on the basis of user provided name and address details with an onward connect facility to the desired number rather than necessarily providing the number to the caller. We do, however, disagree with Ofcom's premise in paragraph 4.9 that the "main supply of this basic level of telephone information will remain the consolidated database (OSIS at present)". Unless OSIS is populated with a comprehensive list of mobile numbers obtained from MNOs OSIS cannot be fit for the purpose of a consolidated data base.

As regards rights of access to MNO data, we refer you to our answers to questions 3.1, 3.5, 4.8 and 4.9 above regarding activities of MNOs that serve to make the exercise of access to data impossible.

**Question 4.3:** *Do you agree with Ofcom's view that GC19 should be modified so that responsibility for the provision of information rests with the Communications Provider controlling the telephone number (a proposed redrafting of GC19 incorporating this change is set out at the end of this section)? If you disagree, please provide detailed reasons for this view.*

We agree and support Ofcom's position as set out in paragraph 4.32 where Ofcom makes clear the importance of the association of the end user's name with a telephone number. We agree that "this reflects the requirement in the UK to identify persons (companies or, in some cases, individuals) who are the prime users of a telephone number but are not the holder of the telephone contract (i.e. the subscriber) – for example out-sourced telephone services by councils or businesses or large multi-department organisations."

**Question 4.4:** *Do you agree with Ofcom's view that GC19 should be modified so as to capture actual end-users of the relevant telephone numbers assigned by the relevant Communications Provider to its subscribers, where these users are not the same persons as the subscribers themselves (a proposed redrafting of the definition of directory information is set out at the end.*

We agree and support Ofcom's view and refer Ofcom to our answer to Question 4.3.

We would draw Ofcom's attention to paragraph 4.17 with regard to Article 5(2) of the Universal Service Directive which "requires that directories shall comprise all subscribers of PATS subject to the provisions of Article 12 of the Privacy Directive which requires that subscribers are given the opportunity to determine whether their personal data are included in a public directory, and to verify, correct or withdraw such data." As per our answers to questions 3.1, 3.5, 4.8 and 4.9 we reiterate that the activities of MNOs serve to make the opportunity for consumers to choose whether or not their data will be included in a directory very confused, even to the

extent of an absolute reluctance on the part of MNOs to bring the existence of a directory service to the attention of consumers at all.

**Question 4.5:** *Do you consider that Ofcom should consider modifying GC19 (and related definitions, such as 'Directory Information') to include non-geographic telephone numbers assigned for use in public Electronic Communications Service (including, but not limited to, PATS)(a proposed redrafting of the condition and definition is set out at the end of this section)? If you disagree, please provide detailed reasons for this view. Or if you disagree in part only (e.g. a reference to public Electronic Communications Service being too wide), how do you suggest that Ofcom should address this matter?*

We agree that Ofcom should review the scope of what specific information should be provided under GC19 for the purpose of supporting the development of comprehensive directory services. To be comprehensive the service must contain not only fixed numbers but mobile and non-geographic numbers also. In addition, on the basis of regulation being technology neutral, directory information should not be confined to PATS but should also include numbers allocated to ECS providers.

**Question 4.6:** *Do you consider that Ofcom should modify GC19 (and related definitions, such as 'Directory Information') such that:*

- *end-user name and address are also required to be provided; and*
- *business and non-geographic numbers to replace geographic information in the end-user address with more relevant data that would allow the identification of the number by a third party (a proposed redrafting of the condition and related definitions is set out at the end of this section)? If you disagree, please provide detailed reasons for this view. Or if you disagree in part, how do you suggest that Ofcom should address this matter?*

We agree with the modification of GC 19 as proposed by Ofcom.

**Question 4.7:** *Do you consider that there is a requirement for a wider mandated set of information beyond subscriber and end-user name and address under GC19? If so, what additional information do you think should be made available under GC19 – please provide reasons and any evidence to support why you consider that users regard such additional information as necessary to find the persons they are looking for by indicating what specific circumstances exist in the UK?*

We consider that the scope of GC 19 is sufficiently broad to enable a DIP to have access to the necessary data to offer a comprehensive directory service. However, it is the refusal of the MNOs to meet their GC 19 obligations and the non-interventionist approach of Ofcom to mandate that the MNOs comply with their GC 19 obligations which has resulted in a non-comprehensive directory service in the UK.

**Question 4.8:** *Do you agree with our assessment of Communications Providers responsibilities with respect to the provision of GC19 data? If not, please provide details of your objection to this assessment and your proposed alternative.*

Not entirely. In an ideal world, subscribers would be provided with perfect information and choice about the inclusion of their data in a DQ service at the time when such data is collected by the Communications Providers. However, current practices demonstrate that this is not the case. Our analysis of the current practical stance of the Communications Providers in this regard shows a very inconsistent approach, even within the same provider. For example, the data collection practices vary greatly between online and offline situations. In particular, where the data

collection takes place with the subscriber physically present, the practice of notifying individuals about the possible use of their data for DQ purposes and giving them the opportunity to opt in or out is constantly ignored. As a result, in the vast majority of cases, subscribers are completely unaware of their right.

However, the law does not specifically state that the obligation to provide notice and choice can only be met by the Communications Providers. Regulation 18(2) of the Privacy Regulations states:

The personal data of an individual subscriber shall not be included in a directory unless that subscriber has, free of charge, been –

(a) informed by the **collector** of the personal data of the purposes of the directory in which his personal data are to be included, and

(b) given the opportunity to determine whether such of his personal data as are considered relevant by the producer of the directory should be included in the directory.

The fact that this provision refers to the “collector of the personal data”, rather than to the Communications Providers indicates that such collector may be a different person or entity from the Communications Providers. This is also consistent with the interpretation given to this provision by the Information Commissioner. In other words, the obligations set out in regulation 18(2) of the Privacy Regulations may be met by the party that collects the data for the purposes of the DQ services. This is particularly justified in a situation where subscribers have not been made aware of their rights concerning DQ services at the time of becoming subscribers.

**Question 4.9:** *Do you agree that it is appropriate for the Opt-in approach to assume that not opting-in is equivalent to selecting an unlisted option? If not, please provide your reasons and your proposed alternative.*

No. Assuming that not opting-in is equivalent to selecting an unlisted option is factually and legally incorrect. Being “given the opportunity to determine whether such of his personal data as are considered relevant by the producer of the directory should be included in the directory” means that subscribers must be in a position to exercise their choice. As mentioned above, in reality subscribers are deprived from genuine choice in this area, so the practice of not opting-in is typically the result of the subscribers’ lack of awareness about their choice.

Legally speaking, there is a distinction between carrying out an action to signify that person’s consent or objection, and not carrying out any such action. English case law indicates that for conduct to equate to consent, it needs to be affirmative in some way since mere silence is not enough. Conversely, inaction cannot be equated to objection either.

Furthermore, the Privacy Regulations do not specify whether subscribers should be required to positively 'opt in' to the directory or whether it would be enough for them to 'opt out'. This is acknowledged by the ICO’s Guidance on the Privacy Regulations, which goes on to say that it is not unreasonable for inclusion in a directory to be the default position provided that (a) subscribers are made fully aware that this is the case and (b) it is simple and straightforward for them to opt out if they choose.

Therefore, making a distinction between fixed line subscribers and mobile subscribers is not only inconsistent but also discriminatory. In fact, the Information



Commissioner has never made that distinction or recommended a different approach between fixed line and services. In our view, given that the Information Commissioner, who has responsibility for data protection compliance, has indicated that the Privacy Regulations allow individual subscribers to be included in a directory as a default position as long as the choice available to the individual is well explained and there is a clear opportunity to decide otherwise, the “opt out” approach should be preserved for both types of communications services.

**Question 4.10:** *Do you consider whether there are any issues arising in respect of the DIPs collection of additional data? If so, please provide details of any such concerns.*

Any additional collection and processing of data by the DIPs should certainly be compliant with the applicable data protection regime, including the DPA and the Privacy Regulations. Accordingly, our interpretation of the law as set out above, which is consistent with the Information Commissioner’s interpretation, will also apply in this respect. **Question 4.11:** *Do you agree that there is no requirement for specific additional protection of end-user information? If not, please provide details of your objection to this assessment and any proposed alternative.*

We agree that the existing data protection legislation will protect end-users’ data as well as subscribers’ data.

**Question 4.12:** *Do you have any comments about the operation of the requirements in Privacy Regulation 18(3) and 18(5)? We would also be interested to hear your views on whether Privacy Regulation 18(5) is sufficient to protect end-user data.*

We take the view that regulations 18(3) and 18(5) of the Privacy Regulations are consistent with the aim and wording of article 12 of the Privacy Directive. Equally, the current interpretation of these provisions by the Information Commissioner is correct and appropriate.

**Question 4.13:** *Do you have any comments about the operation of the requirement in Privacy Regulation 18(4) as it applies to GC19?*

The requirement set out by regulation 18(4) of the Privacy Regulations is suitably covered by the obligations under GC 19, as interpreted above.

**Question 4.14:** *Do you agree that GC19 should be modified so as to refer also to the word “objective” in the context of the terms on which GC19 data should be provided (a proposed redrafting of the condition and related definitions is set out at the end of this section)? If you disagree, please provide detailed reasons for maintaining this view.*

We support the addition of the word “objective”.

**Question 4.15:** *Do you agree with the proposed redrafting of GC19 and related definitions as set out above and discussed through this section? If you disagree, please provide detailed reasons for this view.*

We agree with the proposed wording of GC 19 and related definitions. However, we refer to our comments above in connection with the interpretation of the relevant data protection legislation and its application to the provision of directory information.

**Question 5.1:** *Do you consider that BT will have sufficient commercial incentive to maintain the comprehensiveness of OSIS? Or do you consider that Ofcom should consider additional regulation to ensure that it will remain comprehensive?*

**Question 5.2:** *Do you consider that there is no need for further regulation on the maintenance and management of BT's OSIS database and it is sufficient to rely on existing market incentives on BT and the option of drawing on ex post competition powers when competition issues are raised? Or do you consider that regulated access to BT's OSIS database is necessary in order to achieve Ofcom's policy objective? Or do you think that there are other options that Ofcom should consider? Please state your reasons.*

**Question 5.3:** *Do you have any other comments on assessments made or the matters affecting the issues discussed in this Section concerning access to a UK central database?*

Each of these questions is connected. As such we have combined our answers to Questions 5.1, 5.2 and 5.3.

Ofcom's questions ignore the basic premise that there is in fact no "comprehensiveness of OSIS" to maintain. To be comprehensive a data base must be complete and include all elements of data that are, and will be, required of a directory service. OSIS is no longer relevant in a market where users are switching away from fixed to mobile communications services. OSIS may have been relevant and comprehensive when initially established, however, as life styles change so also does the definition of directory services. OSIS has not kept pace with the changes in life style that have been brought about not only through fixed to mobile substitution but also through social networking applications such as Facebook and Biba and the increased uptake in IP address based applications such as Instant Messaging etc. Also, the latest mobile broadband offerings of the MNOs are made available on the basis of a mobile number being allocated to the service – MNOs are using mobile numbers not only for voice but for separate data services also. For a directory service to be comprehensive and fit for purpose, and for it to continue to be so, it is necessary for Ofcom to future proof regulation so that directory services include access to mobile numbers (for both voice and data services) and the next generation applications through which individuals will increasingly choose to communicate with each other. OSIS fails on all these counts.

At the mobile level, the MNOs will continue to withhold mobile data because of their contrived data protection and privacy practices which deny consumers the choice to be listed in a directory. The MNOs will not voluntarily change their practices and for this reason we would urge Ofcom to intervene and introduce appropriate regulatory measures to ensure that the MNOs engage in data protection and privacy practices which are fair and which enable consumers to exercise choice. Only through Ofcom intervention will the MNOs make available mobile data under GC 19. Ofcom must also look beyond directory services based on fixed and mobile telephone numbers – Ofcom needs to recognise the importance of the inclusion of IP based and social networking applications in directory listings, without which any current directory listing cannot be said to be comprehensive.

Because of the many data sources that would go to make up a comprehensive directory (fixed, mobile, Facebook, Bibo, email, Instant Messaging etc.) a coordinated approach to obtaining, maintaining and updating data is necessary. It will be far more efficient to coordinate this activity through a single source independent of BT. Directory data due to its volume and frequency of change needs to be kept up to date if accurate DQ services are to be provided. It is therefore a requirement that MNOs must provide data regularly to show if numbers are active or not. This activity of keeping data up to date is best carried out via a coordinated independently run centralised data base. Because OSIS is in the business of capturing raw data, OSIS adds no value to the data it captures. There is therefore a clear role for a new independent directory provider capable of obtaining fixed, mobile and next generation data, of maintaining and updating the same, and capable of adding value to the data captured so that a directory listing can appeal not only to traditional telephony users but to the next generation of users who communicate by other means such as social networking sites, Instant Messaging etc. OSIS is not set up to do this. Connectivity, being independent, is in a position to develop a directory service that is relevant for today's telephony users and those users who will communicate through new and innovative means. However, for there to be an independent alternative to OSIS, it is incumbent on Ofcom to use its powers to ensure that any data base maintained by an independent service provider is capable of being inclusive of all applications (whether available now or developed in the future) used by consumers and businesses to communicate with each other. Unless Ofcom accepts this responsibility a truly comprehensive directory service will not be available. We would urge Ofcom to start the process immediately by taking action against the MNOs so that at least a start can be made to meet the requirements of comprehensiveness.

Ofcom puts forward the proposition in paragraph 5.22 that "there are no constraints on other organisations setting up databases to compete with OSIS. GC19 ensures that potential competitors would be able to obtain access to directory information from all Communications Providers. The fact that the UK currently has a single database rather than another model is therefore partly the result of commercial decisions by third parties that it would not be efficient to build their own competing comprehensive databases." With respect, Ofcom's reasoning is flawed and ignores the reality of making requests of MNOs under GC 19. The reason there is no other data base is not so much to do with inefficiencies of building a new comprehensive database but is more to do with the impossibility of obtaining data from the MNOs under GC 19. The reason for there being no mobile based DQ service is due to the fact that MNOs are refusing to meet their GC 19 obligations. To date Ofcom has (i) failed to ensure consumers are given the choice to be listed in a directory and (ii) failed to mandate MNO compliance with GC 19. For so long as Ofcom maintains its non intervention stance UK consumers will continue to be denied the benefit of a comprehensive DQ service and the UK will continue to fall behind other countries in Europe where more comprehensive fixed and mobile DQ services are offered.

In paragraph 5.23 Ofcom asserts "it is possible in the future that a company other than BT may begin to aggregate wholesale directory information. This could be in the limited form of a DIP obtaining data direct from Communications Providers under GC19 rather than buying data from OSIS, or could even take the form of a competing comprehensive wholesale directory information aggregator." For those wishing to establish a comprehensive DQ service buying data from OSIS is not an option because OSIS contains so few mobile numbers. Reference by Ofcom to "the limited form of a DIP obtaining data direct from Communications Providers under GC19" is regrettably a very accurate summary of the market today on account of the fact that the MNOs continue to refuse to meet their GC 19 obligations. Given the MNOs stance when requests are made for data under GC 19 and given Ofcom's reluctance

to mandate compliance with GC 19 in such a way that will ensure the population of a comprehensive mobile data base, any request under GC 19 directed towards the MNOs will continue to be “limited” to the detriment of consumer choice and demand.

We would urge Ofcom to review the DQ industry structure to ensure that the requirements of the Universal Service Directive are met in a way that is in the best interests of consumers – something that is not happening today.

In paragraph 5.27 Ofcom states that it considers “access to comprehensive wholesale directory information on reasonable terms is essential for the requirements of the Universal Service Directive for directories and DQ services to be met under normal market conditions.” In order to achieve this it is essential that Ofcom takes action to ensure access to wholesale directory information on reasonable terms. This access is not available today and is being denied by the MNOs. Directory services based on OSIS do not meet the requirements of the Universal Services Directive. There is a need for a new coordinated industry approach – a comprehensive service operated by an independent provider which will include access to mobile numbers and other next generation communications applications.

Ofcom states that “currently, BT is making comprehensive OSIS data available to competing DIPs” (paragraph 5.28). As can be seen from above this is not the case. How can a data base consisting of only 50,000 mobile numbers (less than 1% of all mobile numbers) be comprehensive? Ofcom must use its competition powers now to mandate MNOs to meet their GC 19 obligations otherwise the availability of a comprehensive DQ data base will continue to be denied to UK consumers. Ofcom should also look to future proof directory services by looking beyond traditional fixed and mobile telephony services to ensure that the definition of comprehensiveness includes access to and the availability of new and innovative applications such as Instant Messaging and social networking services.

In paragraph 5.28 Ofcom mentions the possibility of establishing a new database. Ofcom states in paragraph 5.29 that it is not attracted to this option “given that no commercial entity has chosen to establish a new database, it is likely to be inefficient to do so. It could involve a significant duplication of resources given that BT already has a functioning central database. It could also result in considerable disruption for DIPs given the established nature of the OSIS database and current system.” Ofcom’s views in paragraph 5.29 miss the point entirely. BT does not have a comprehensive functioning central database. What is required is an independently administered fully comprehensive data base which will meet not only the needs of fixed number searches but also the needs of mobile users and users of other next generation services. Ofcom has a duty to bring about this requirement. Without such a fully comprehensive data base the requirements of the Universal Service Directive will continue to be neglected.

**Connectivity Limited**  
**30th June 2008**