

Consultation Response

Telephone directory information and obligations



Contents

1. Background	3
1.1 Respondents	3
1.2 Contact	3
1.3 Confidentiality	3
2. About Experian	4
3. Dependent markets	5
3.1 Consultation document	5
3.1.1 Identity verification services	5
3.1.2 Investigation services	6
3.1.3 Marketing-related services	7
4. Question 3.1	8
5. Question 3.2	9
5.1 Comprehensiveness	9
5.2 Affordability	9
5.3 Quality	9
5.4 Availability	9
5.5 Electronic directories	9
6. Question 3.3	10
7. Question 3.4	11
8. Question 3.5	12
9. Question 4.1	13
10. Question 4.2	14
11. Question 4.3	15
12. Question 4.4	16
13. Question 4.5	17
14. Question 4.6:	18
15. Question 4.7	19
16. Question 4.8	20
17. Question 4.9:	21
18. Question 4.10:	22

19. Question 4.11:	23
20. Question 4.12	24
21. Question 4.13	25
22. Question 4.14	26
23. Question 4.14	27
24. Question 5.1	28
25. Question 5.2	29

1. Background

1.1 Respondents

This response is from Experian Limited. It is a company incorporated in England under number 653331. Its registered office is at Talbot House, Talbot Street, Nottingham, NG80 1TH.

Experian Limited's response is also on behalf of the following subsidiary companies:

- Experian Integrated Marketing Limited
- pH Group Limited

1.2 Contact

If you wish to discuss this further with us, please contact either of the following:

Andrew Mills
Head of Intellectual Property & Technology
Experian Limited
Landmark House
Experian Way
NG2 Business Park
Nottingham
NG80 1ZZ
T: 0115 828 6425
F: 0115 828 6342
M : 07854 116 179
E: andrew.mills@uk.experian.com

Paul Speirs
Commercial Product Manager
Information Solutions
Experian Limited
Riverleen House
Electric Avenue
Nottingham
NG80 1RH
T: 0115 992 2753
M: 07711 465 973
E: paul.speirs@uk.experian.com

1.3 Confidentiality

Experian regards some aspects of this consultation response as confidential. To assist Ofcom, these aspects are in a separate and clearly identified annex (**NOW REMOVED**).

2. About Experian

Experian is a global leader in providing information, analytical and marketing services to organisations and consumers to help manage the risk and reward of commercial and financial decisions.

Combining its unique information tools and deep understanding of individuals, markets and economies, Experian partners with organisations around the world to establish and strengthen customer relationships and provide their businesses with competitive advantage.

For consumers, Experian delivers critical information that enables them to make financial and purchasing decisions with greater control and confidence.

Clients include organisations from financial services, retail and catalogue, telecommunications, utilities, media, insurance, automotive, leisure, e-commerce, manufacturing, property and government sectors.

Experian Group Limited is listed on the London Stock Exchange (EXPN) and is a constituent of the FTSE 100 index. It has corporate headquarters in Dublin, Ireland, and operational headquarters in Costa Mesa, California and Nottingham, UK. Experian employs around 15,500 people in 36 countries worldwide, supporting clients in more than 65 countries. Annual sales are in excess of \$3.8 billion (£1.9 billion/€2.8 billion).

For more information, visit the following websites:

- www.experiangroup.com
- www.experian.com
- www.experianim.com
- www.phgroup.com

The word 'Experian' is a registered trademark in the EU and other countries and is owned by Experian Limited and/or its associated companies.

Experian is the largest credit reference agency ('CRA') out of the three consumer credit reference agencies operating in the UK¹, supplying about 70% of the shared personal data used for credit underwriting by the UK financial sector. This amounts to over 160m credit enquiries each year. Experian also provides data for a variety of other purposes such as credit account management, identification checks for the prevention of money laundering as required under the Prevention of Money Laundering Regulations. Under Regulation 114 of the Representation of the People (England & Wales) Regulations 2001, the CRAs are the only non-public organisations entitled by law to hold the full Register.

¹ There are currently about 200,000 companies registered as credit reference agencies in the UK and licensed under the Consumer Credit Act 1974. Most do not operate any form of operation for the support of credit decisioning but five do supply similar services for corporate activities. There are three agencies supply consumer data for credit referencing: Experian, Equifax plc and Callcredit Limited. Of these, two also supply commercial data: Experian and Equifax.

3. Dependent markets

3.1 Consultation document

In the consultation document, Ofcom identified three main markets for the use of directory inquiry service:

- Voice DQ services;
- Online DQ services; and
- Printed directories.

This may appear self-evident if one considers the nature of the legislation and the nature of the obvious marketplace that has arisen, namely allowing users to carry out name-based or classification-based searches.

However, other services now occupy the marketplace and those are partly dependent upon and utilise the output from carrying-out of a DQ enquiry. In broad terms these are:

- Identity verification services;
- Investigation services;
- Marketing-related services.

We describe these in generic terms below.

3.1.1 Identity verification services

The anti-money laundering and counter-terrorism legislation imposes on many organisations² the obligation to carry out identity verification upon their clients. Although traditionally this has been through inspecting physical documents, there is recognition that this, in itself, has inherent weaknesses. As a result, there are a number of different services available to organisations that allow electronic identity verification.

In general terms, these services operate as follows:

- An organisation gathers the name, current and previous address, date of birth and phone number from their client;
- The organisation inputs these details into the identity verification service;
- The identity verification service compares this data against other data that it holds (such as, “is this a real address?” or “does this name appear on the electoral roll for this address?”) and draws a conclusion that about the probability that the data input are for a real person who does match that data.

This includes commercial verification and director/proprietor verification as well as consumer with regard to the identity of directors and shareholders as part of the same AML legislation.

² Mainly in the financial services and professional services sectors

The most recent industry guidance³ says of an electronic identity verification service that:

“Positive information (relating to full name, current address, date of birth) can prove that an individual exists, but some can offer a higher degree of confidence than others. Such information should include data from more robust sources - where an individual has to prove their identity, or address, in some way in order to be included, as opposed to others, where no such proof is required”

One of the elements that many services use is the data from OSIS. In order to get a landline telephone number, a person will have to get an account with a telecoms operator and this generally involves some level of checking, whether it is credit-checking or more sophisticated fraud-checking. Accordingly, Experian takes the view that OSIS falls within the category of a “more robust source”.

A system will take the name and address data given by the organisation from their client. A DQ service will be performed, from which a telephone number might be returned. If DQ enquiry does return a number, the identity verification service can compare it to that provided by the organisation’s client. If the numbers match, this will increase the probability of the data being real and valid. The absence of a telephone number may not reveal anything but a different number might decrease the probability of the data from the organisation’s client being real and valid. A combination of checking against multiple sources will allow such a service to draw an overall conclusion.

The bodies involved in regulation in the field of anti-money laundering and counter-terrorism recognise the part that electronic identity verification plays. The users of those systems recognize and value the fact that such services carry out DQ enquiries as part of a wide range of data sources. Society benefits from making it difficult for persons to carry out money laundering operations and this has, of course, the effect of helping financial institution reduce losses from fraud and money laundering. This then has the further knock-on effect of keeping down the amounts that the financial institutions will seek to pass on those losses to their legitimate customers. If this process is slow and costly a potential consequence is that you will see some banking services withdrawn from the market. In a commercial environment this is likely to affect the ability of SME/New start-up businesses to access financial support, reducing the growth and stability of this sector which is vital to the economy.

3.1.2 Investigation services

There is a range of online services available in the marketplace specifically involved in the field of investigation. The users of such a service might range from the Police through to, at the other end of the scale, debt-collectors.

These services are generally subscription-based services that provide ready access to a different sets of publicly accessible data (such the register of county court judgements) or, in some cases, to private data. For example, the Police or other law-enforcement agencies are

³ Paragraphs 5.3.33 to 5.3.40 of Part 1 of the Industry Guidance produced by the Joint Money Laundering Steering Group (see www.jmlsg.org.uk)

able to access private data about individuals under provisions of the Data Protection Act 1998⁴. One of the advantages of such a service is the ability for the user to get information from many sources in one place; this offers a considerable timesaving compared to seeking the same individual items of data from each source individually.

A key part of the information that the users of such a service require is a telephone number for the person that they are investigating. Whilst this element of a service is, by itself, a simple online DQ service, what distinguishes it from the standard consumer-faced service is the fact of subscription access and that the telephone number is merely part of the data that the user seeks.

There is an increasing focus in both the public and private sector in tackling fraud and debt-avoidance and so these data-aggregation services are extremely valuable to their users. The omission of telephone number data in such a service would be serious. The fact that, for example, the Police might be able to require a telephone company to provide this information or the fact that they might be able to carry out a standard voice DQ or online DQ service is irrelevant – the fact of having to carry out the separate and independent step would be a significant disruptor.

3.1.3 Marketing-related services

Ofcom recognises part of this in paragraph 2.20 of the consultation document. However, the downstream value of OSIS is much greater than merely tele-appending. The reference in the consultation document suggests that the adding of telephone numbers to a list of names and addresses is the nature of the service.

However, the value of the OSIS database in the off-line marketing environment should not be underestimated. It part of a broader range of important services related to cleansing data files; that is services that allow a business to carry out checks on its data files to ensure that it is accurate (part of broader obligations under the data protection regime). Given that direct mail usage is generally in decline, marketing by telephone is focussing much more on ensuring that telephone numbers are accurate.

⁴ Section 29, for example

4. Question 3.1

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

Experian does not agree with Ofcom's proposed revocation. The deregulation of the directory enquiry market has been a positive thing. However, what has underpinned this is the availability, to all, of a single aggregated database. Upon that premise, the market for directory enquiry services has flourished as well as services in the dependent markets that we have identified earlier in this document.

Experian's concern is that by removing USC7, this has the risk potentially to undermine both the DQ market and the services in the dependent market. Experian's view is that the markets work because of the regulation, not inspite of it.

Removing the regulation of USC7 removes the long-term stability and this will have knock-on effects for users of such services.

If BT's attitude without a USC7 does not inspire confidence, or it does not undertake to carry on making OSIS available on the same cost-orientated and non-discriminatory manner, this might lead others in the market place to seek to create their own "versions" of OSIS. However, practical industry experience suggests that this will be a substantial, time consuming and costly exercise. In that case, it will involve telephone companies having to deal with the burden of potentially supplying the same data to many organisations and will lead the creation of multiple versions of the same database in the market. Indeed, in our view, the reality is that the burdens on any other organisation seeking to create a single database are so great that the likelihood of it happening is extremely slim.

Even if it did happen, whilst this might appear attractive from a competition point of view, the net result is that it will push up the cost for everyone in both obtaining, creating or licensing this data; it is likely to force many organisations to duplicate effort at a considerable cost. There is a risk that lack of security of supply of data and/or increased costs may force some organisations out of business. Now, one organisation does the key work, it recovers the cost and all users, and consumers can benefit.

Given the time it takes to make changes to regulatory regime, Experian believes that simply removing USC7 seriously risks destabilising the market. If that happens, the time it will take to create a new regime to ensure the availability of at least one single source will have a lasting impact on the marketplace.

5. 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.

5.1 Comprehensiveness

The comprehensiveness of the current OSIS database is very important to Experian and its clients that make use of our services. The telephone numbering structuring and other information are important. Experian would be concerned at any reduction in the comprehensiveness of the database.

In order for the OSIS database to be the most valuable and useful for the DQ and dependent markets, Experian believes that regularity of updates is vital. Whilst a regulatory obligation of yearly sounds fine in theory, the reality of technology and the requirement and obligations for data accuracy mean that, in practice, daily updates are essential.

5.2 Affordability

Experian is concerned that availability of a single comprehensive database must continue to be on a cost-oriented and non-discriminatory basis. To allow licensing other than a cost-oriented basis risks undermining the financial basis of operation for the markets and services that have developed since the deregulation of the DQ market place.

The issue of affordability is much more than the cost to consumers of carrying out a DQ search of getting an additional paper directory.

5.3 Quality

Experian does not have any general issues about quality of OSIS but does see benefits in address validation and standardisation as part of quality improvements.

5.4 Availability

Experian repeats its concern that it is vital in the interests of competition and continuity of supply that BT must be under an obligation (or give undertakings to Ofcom) to make OSIS available to anyone on a cost-oriented, fair and non-discriminatory basis.

5.5 Electronic directories

In the consultation document, Ofcom says in paragraph 3.43:

“While we have not sought to understand the business models in detail it is clear given their development to date (without any regulatory requirement), and the apparent continued viability of the companies that the industry is relatively robust.”

The regulatory requirement that has helped such services develop has been the obligation under USC7 that BT must make the OSIS database available on fair, cost-oriented and non-discriminatory basis.

6. Question 3.3

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

Experian does not agree with Ofcom's analysis. Whilst the existence of a printed directory may be maintained, apparently without the need for regulation, the proposed removal of USC7 is likely to de-stabilise the DQ and dependent markets. This may well have a knock-on effect on the printed directory market. If organisations like Yell and Thomson are unable to secure supply of OSIS data as they presently do, this is likely to affect the nature of their printed products and this will inevitably affect the competitive market place in which they operate in competition to the product offered by BT.

If BT are not required by regulation to make the OSIS database available to the likes of Yell and Thomson on a fair, cost-oriented and non-discriminatory basis, the "winner" is likely to be BT's own printed directory. This will reduce the choice and availability of competing products and will be self-defeating.

The knock-on effect of destabilising the supply of OSIS to the likes of Yell and Thomson is bound to affect those businesses that licence business classification data from those companies. The whole "food chain" will be disrupted.

7. 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.

Experian repeats its comments to the previous questions about printed directories and the general comments that we have made earlier. The markets are connected and the pricing issues are more than just the amount a consumer pays to conduct a directory inquiry.

The existence and pricing of dependent products, such as identify verification, rely upon the fact that companies can secure a licence of OSIS on a fair, cost-oriented and non-discriminatory basis.

Removing the underlying basis will almost inevitably have the long-term effect of pushing up costs of other products and services, unless there is regulation on BT, or an undertaking from it, to ensure long-term continuity of supply.

8. Question 3.5

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

Experian does not agree for the reasons more generally described previously.

9. 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.

Notwithstanding our view that USC7, or something approximate, needs to be retained, Experian is in favour of a broader right of access under GC19. Experian does not believe, in reality, that it will be viable for anyone other than BT to create a single aggregated database.

10. Question 4.2

Do you have any other comments about 'rights of access'?

Experian believes that there are issues surrounding the use of DQ information as a data source in the use of identity verification services. Experian is of the view that this is special class of use that GC19 might help clarify.

There are also issues surrounding the use of X directory data within secure (restricted access) services which use the internet as a delivery channel. This is due to interpretation of off-line within the data supply requirements. Whilst Experian understand the interest of consumers using the X directory and similar services in preventing their personal details being made publicly available, some of Experian services (e.g. Identity Verification Services) are confirming details already provided by the consumer and in there general interest e.g. ID Fraud prevention.

11. 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.

If there is still an obligation upon BT to gather and make available on a fair, cost-oriented and non-discriminatory basis an aggregated database, Experian believes that it would probably make sense for the Communications Provider controlling a number to have responsibility for providing information about it. Having said that, as Ofcom has already noted, there are no substantial issues about data quality in OSIS at present and Experian would be concerned that a change of responsibilities would, in practice, lead to data quality issues arising.

12. 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 of this section)? If you disagree, please provide detailed reasons for this view.

Experian is always keen to support initiatives that lead to improvements in data quality, and this would appear to be such a point.

13. 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?

Experian is the view that any expansion in the range of telephone numbers to be included in a single, aggregated database must be a good thing because this will increase the comprehensiveness of the database. Given the uses to which the dependent markets put OSIS data, any improvement in the range of coverage will be welcome, all subject to our overriding comments about availability under a USC7 or equivalent obligation.

14. 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?

Experian is generally in favour of a more comprehensive set of data being available.

15. 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?

The more comprehensive the data about a number and its user, the more confidence a user of DQ data can have that the person they are seeking is the person that they have found. Given that the reason for obtaining a number in the first place are so varied, anything that generally improves the ability to get an accurate match is a positive step.

We have already described certain services in the dependent markets and illustrated how they are used. In our view, it is self-evident that more detail about the user of a number will benefit the users and providers of such services.

Essential grouping, captioning and processing data has not been included and nor has business description and business/residential identifier or the unique identifier attaching to every single existing directory entry in OSIS enabling an update to be matched to the existing entry in a DQ provider's database. Furthermore the DE, DQR and XD flags which are critical for the provision of effective directory service have also been excluded.

16. 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.

Experian believes that some Communications Providers take an unnecessarily restrictive view of this issue and this would pose practical difficulties in the event that we ended up with no single aggregator.

Experian strongly believes that an opt-out situation makes sense and that users should have to make a positive choice to opt-out. Experian does not believe it in the general interest for that decision to be made by Communication Providers and for consumers or businesses to have to decide to opt-in.

17. 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.

In the context of mobile phones, this opt-in approach may be more suitable in the short-term. However, as the nature of communications services changes and mobile devices become increasingly predominant, this situation may be unsustainable.

18. 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.

The market for producing databases that aggregate data from multiple sources in general is well established and we do not see any particular additional issues arising here.

19. 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.

Experian concurs with Ofcom's view.

20. 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.

No. Experian believes that the existing regulations are sufficient save that we repeat our comments that we are concerned about an overly restrictive interpretation by some Communications Providers.

21. Question 4.13

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

No. Experian believes that the existing regulations are sufficient save that we repeat our comments that we are concerned about an overly restrictive interpretation by some Communications Providers.

22. 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.

Experian agrees in principle but still believes that a USC7 obligation ought to remain. GC19 can be nothing more than a fundamental fall-back.

23. Question 4.14

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.

Subject to our previous comments and against that backdrop, Experian broadly agrees. The issue of classes of persons entitled to request the data requires further consideration we believe.

24. 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?

Mere commercial incentive is likely to cause problems in the long term and, before Ofcom could react, there is the risk of serious damage as we have indicated. Experian's view is that regulation is essential to ensure that the OSIS database remains comprehensive and available on a fair, cost-oriented and non-discriminatory basis. Regulation is essential in the absence of express undertakings to this effect from BT.

Simply suggesting that BT has to comply with anti-competition legislation is of little comfort. The time, trouble and expense of forcing compliance in the event of breach is likely to cause more harm to more business and consumers than the effect of regulation on BT. Indeed, continuing the existing regime is going to cause no changes to BT's business at all whereas the de-regulation suggested by Ofcom is likely to impact a large number of businesses and consumers. The real danger comes from gentle shifts in balance that can de-stabilise a whole market.

25. 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.

Experian strongly disagrees that existing market incentives are enough. Experian believes, for the reasons already described, that regulation is essential to ensure that:

- Communications Providers have the obligation to supply data to BT;
- BT has to collate and produce a single database; and
- Third parties need to be able to license that database on fair, cost-oriented and non-discriminatory terms.