

30th June 2008

Markham Sivak
Competition Policy Manager
Competition Group
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Dear Markham

Telephone directory information obligations and regulations

This response has been prepared on behalf of the Fixed Service Providers Association (FSPA) a group within the Federation of Communications Services, which represents more than 120 service providers and resellers of fixed telephony services including Wholesale Line Rental (WLR), calls packages and broadband.

We welcome the opportunity to respond to this consultation and we strongly support Ofcom's stated objective of ensuring that UK consumers continue to have access to comprehensive, high quality and affordable directory enquiry services.

Ofcom has taken the view that existing market conditions will ensure the continuation of such services in line with the obligations of the Universal Service Directive and accordingly is not currently considering further regulation at this stage. However, we believe that Ofcom must closely monitor market conditions and be ready to intervene where such services are compromised or requirements on communications providers (CPs) to comply with regulation become onerous.

We also strongly believe that, as the only comprehensive database of directory information in the UK, BT's OSIS is a national asset and should be managed accordingly with appropriate levels of access and transparency. We have some concerns that these proposals in effect create an unregulated monopoly and we urge Ofcom to ensure that this position is not abused.

Similarly, the printed phonebook is still valued by a high proportion of both domestic and business users and Ofcom must ensure that its availability is maintained to those who require it.

We note that the proposed changes place new obligations on CPs to provide directory information about their end user customers and Ofcom must ensure that these changes

The Federation of Communication Services Ltd

Burnhill Business Centre, Provident House, Burrell Row, Beckenham, Kent BR3 1AT

Tel: 020 8249 6363 **E-mail:** fcs@fcs.org.uk **Web:** www.fcs.org.uk

Registered in England & Wales No: 2749617 VAT Reg No: 611 911 473

are proportionate and do not place an unreasonable additional burden on smaller CPs. We would also welcome some clarification on which CPs are affected by the change (i.e. which are deemed to be “controllers of the telephone number” and whether this is effectively synonymous with having a contract with the end-user. e.g. resellers).

Our responses to the individual consultation questions are set out below:

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

We understand the basis on which Ofcom has reached this decision and appreciate that this is a pragmatic response, based on Ofcom’s view that USC7 is illegal. However, Ofcom must stand ready to introduce appropriate regulation if changes in market conditions mean that obligations under the USD are no longer being met.

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 agree with Ofcom’s assessment

Question 3.3: *Do you agree with Ofcom’s analysis [on the removal of the obligations to provide a printed directory]? If you do not agree please provide your reasons.*

We agree with Ofcom’s analysis. We also welcome this on behalf on IP Telephony providers for whom provision of a printed directory to each user would be more difficult than WLR providers and whose end users are naturally more inclined towards and comfortable with the use of electronic data sources.

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.*

We agree.

Question 3.5: *Do you agree with the redrafting of GC8 set out at the end of Section 3. If you do not agree please provide your reasons.*

We agree with the proposed redrafting.

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.*

We agree that it is useful to clarify who has “rights of access”

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

We note Ofcom’s view that the clarification is “unlikely to lead to a substantial increase in information requests to individual CPs “. However, we believe that it would be helpful to provide guidelines as to what is a reasonable frequency for granting access – for a small CP supplying data it would be burdensome if they had to respond to requests on a daily or weekly basis from multiple parties.

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 to an extent. The removal of the tie to the original range holder is a sensible move. However we would like to see an enhancement to the obligation on the CP controlling the number to provide information on their numbers, which allows them to make a formal reference to an upstream provider who holds all the relevant information (e.g. WLR CPs are able to refer any requests for data to Openreach/BT as the upstream provider).

We also disagree with Ofcom’s assumption in paragraph 4.11 that CPs hold Directory Data related to their End Users – many do not and this may need to be recognised in the final drafting and definitions.

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? If you disagree, please provide detailed reasons for this view.*

We agree.

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)? 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 in principle. However we would urge caution that this doesn't place an unintentional burden on CPs to complete a one off collection of data to backfill records to ensure they comply. In many cases the End User of a non-geographic number is not aware that they can have a directory listing for their number, and so many CPs have never kept any records for this purpose.

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? 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.

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 do not believe there is a requirement for a wider set of mandated information.

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.*

We agree.

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.*

We agree. However we believe that mobile service providers could do more to promote the availability of the option of having a directory entry to mobile users.

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.*

Where additional information is collected and an End User has an issue with the accuracy or publication of the data, routes available for rectification must be clear to the affected End User; an appropriate mechanism is needed for directory providers and directory enquiry services to inform users of what additional data is included and who to raise queries with in respect of this data.

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 do not believe there is a need for any additional protection.

Question 4.12: *Do you have any comments about the operation of the requirements in Privacy Regulation 18(3) and 18(5)?*

No comments.

Question 4.13: *Do you have any comments about the operation of the requirement in Privacy Regulation 18(4) as it applies to GC19? We would also be interested to hear your views on whether Privacy Regulation 18(5) is sufficient to protect end-user data.*

No comments.

Question 4.14: *Do you agree that GC19 should be modified so as to referring 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.*

No comments.

Question 4.15: *Do you agree with the proposed redrafting of GC19 and related definitions as set out at the end of Section 4 and discussed through that section? If you disagree, please provide detailed reasons for this view.*

We agree.

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?*

Under current market conditions, Ofcoms analysis demonstrates that there is sufficient incentive and it seems likely that this will continue to be the case. However, as noted

above, Ofcom must be ready to intervene if, due to changes in market conditions or in BT's business model, the comprehensiveness of OSIS could be compromised.

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.*

We do not believe there is a need for further regulation at present but Ofcom must monitor the operation of OSIS to ensure that it continues to meet the needs of industry and that BT does not abuse its position as a monopoly provider.

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?*

We believe that OSIS should be regarded not as a BT database, but as a national asset with many different stakeholders. On this basis, BT must be much more open about how OSIS operates and how to get best use out of it for all parties, for the benefit of all. In particular BT should be much clearer to its downstream providers and other persons inputting data on what data to collect and how to collate this and pass it on for the best outcome for End Users. We need to consider how current discussions in the context of WLR3 and Directory Data/Special Directory Entries links in with this consultation and this question in particular.

We trust that these responses are helpful and would be willing to discuss any of the concerns identified in more detail, if required.

Yours sincerely

A handwritten signature in blue ink that reads "Michael Eagle". The signature is written in a cursive, flowing style.

Michael Eagle
General Manager