

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

We have no view with regard to the proposed revocation of USC7 on the basis that it was incorrectly drafted by Oftel. However, we believe that it would be unwise to revoke it before an acceptable replacement had been adopted as this would leave the existing DQ providers without a short-term guaranteed source of directory data. As BT is the only current aggregator, we believe that this would place BT in an unreasonable position of market dominance and be anti-competitive.

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.:

This question is, in our view, incorrectly worded as it makes no distinction between different DQ service delivery channels.

We do not believe that the current, dominant voice (118xxx) providers meet the affordability criteria as prices on average have increased by as much as 150% since deregulation. We also note that the ICSTIS condition associated with advertising 118xxx services, i.e. the requirement to clearly display pricing, is in most part being ignored by the voice DQSPs.

We believe that the current OSIS license prevents online DQ providers from providing a 'comprehensive' service in that BT's (in our view, incorrect) interpretation of Privacy regulations prevents online services to search for XD or DQR matches.

The Information Commissioner has expressed the view that, providing the same logic is applied to online services as is applied to voice, and that provided no information is displayed other than that which the user has entered to initiate the search, there is no reason why online services should not search the XD and DQR data.

We believe that Ofcom should rule on this and insist that online services be permitted to search this data (as teleappenders are).

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 this.

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 believe that the market is currently robust. However, we also believe that the proposed revocation of USC7 would do much to undermine this robustness.

It is our view (as detailed in a later answer) that the adoption of GC19 in its current form would prevent DQSPs from providing an acceptable level of service as defined in the USD.

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

We strongly agree with this re-draft and believe it compels BT to change its OSIS license conditions with regard to online services and the data that may be searched.

The section that states users must be given access to..., 'a Directory Enquiry Facility containing Directory Information on all Subscribers in the United Kingdom who have been assigned Telephone Numbers by any Communications Provider...' means that a person who can only access an online service due to the cost implications of voice services must be allowed to search and be advised if a number is XD.

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 with the need to redraft GC19, but believe Ofcom's proposed redraft is inadequate as in its current form it would not compel CPs to provide sufficiently detailed data for the purpose of providing directory services.

While we would welcome a redrafted GC19 that properly fulfills the requirements of DQSPs, we do not believe that this should be instead of the currently regulated situation. We strongly believe that BT should continue to be obliged to provide access to OSIS on a fair, objective, non-discriminatory, cost-orientated basis for the foreseeable future.

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

Were an amended GC19 to be adopted, we believe that it must include such matters as e.g. the minimum frequency with which CPs are obliged to provide data updates/refreshes.

We also believe that a standard data supply contract and data format should be agreed with CPs in consultation with and regulated by Ofcom before any deregulation of the data supply.

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 feel that GC19 is inadequate in the proposed redraft and that a working group comprising representatives of all sides of the industry and under the supervision of Ofcom should be established to create a format that is universally acceptable.

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.:

We agree that GC19 should be modified (please see our previous answers relating to GC19).

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 GC19 should be modified (please see our previous answers relating to GC19).

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 that GC19 should be modified (please see our previous answers relating to GC19).

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 agree that GC19 should be modified (please see our previous answers relating to GC19).

The quality of data supplied to DQSPs is central to the quality of service they are able to provide. We do not believe that this consultation is the correct platform for discussing what the exact data format of GC19 should be.

It is vital, in our view, that all sides of the industry be given the opportunity to agree what format GC19 should take and this can only be achieved by getting interested parties together.

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 that this is a fair assessment of the current situation. However, we disagree that CPs should withhold data. We feel that to provide a 'comprehensive' DQ service all directory data should be supplied to DQSPs with the individual entries appropriately flagged to reflect the subscriber's wishes.

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 disagree and believe that all CPs should adopt an 'opt-out' approach.

The UK has become a privacy-obsessed society largely due to the activity of overseas based telemarketing and the apparent ineffectiveness of TPS and CTPS.

Attempts to legislate against spam e-mail has resulted in an increase in the number of unsolicited e-mails being sent and we believe this contains a valuable lesson. We believe that CPs use the privacy issue to actively mask the identities of their customers while using their customer data for marketing purposes themselves.

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.:

We have no concerns on this.

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 with this.

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

No comment, but please note our answer to 3.2

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.:

Please see our answer to 3.2

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.:

Please see our answer to 4.3

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

We feel that GC19 in its proposed redrafted form is inadequate (please see our answer to question 4.3)

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?:

Directory Solutions falls within BT Wholesale and is not a major part of BT's global plans. It is possible that, should the regulated environment be removed, BT would decide NOT to continue providing access to OSIS to other commercial entities as doing so provides competitors with the information they need in order to compete! BT may continue to aggregate the data in its current OSIS format for its own purposes only which would, in our opinion, have a detrimental impact on competition and ultimately, the consumer in the form of higher prices, lower quality and less choice.

We believe that it is essential that BT (or a BT offshoot) is regulated by Ofcom to provide continued access to OSIS on a fair, objective, non-discriminatory and cost-orientated basis. The removal of the regulated obligation could have far-reaching implications on the continued provision of directory services. GC19, as stated before, is not a viable alternative.

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 believe that BT (or an offshoot) should continue to be regulated.

We believe that competition law is inappropriate to this current situation as, by the time any competition issued had been resolved, many of the current suppliers would have been forced to cease its activities.

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?:

No

Additional comments:

As an active member of the various DQ deregulation working groups established by Oftel in 2001 I am somewhat dismayed by this consultation. The possible impact some of these proposals would have on the industry and the consumer are alarming.

When the market was deregulated, central to the delivery of DQ products and services was the ready availability of access to aggregated data in the form of OSIS. Indeed, a condition of the license to operate a 118xxx number granted by ICSTIS (as it was then known), was that the service should use OSIS as this was correctly perceived as the quality benchmark for a minimum service provision.

GC19, while in principle seems like a good idea, in practice it will never, in its current

or proposed form fulfil the technical requirements of an effective DQ service. We feel an Ofcom working group, similar to those set up for the full deregulation should be established to discuss in detail the technical and practical challenges a data aggregator would face.

As a point of interest, CPs are currently expected to provide data under the terms of GC19 and yet requests made by Simunix Ltd. to a CP of significant market power for its data have, so far, not produced any results. We think this situation, magnified by the number of CPs from which data must be acquired, magnified by the number of differing data formats, magnified by the number of supply contracts necessary to put in place and coupled with the inadequate nature of the data as defined in the proposed GC19, would make it impossible to provide an effective DQ service.

Once the GC19 data format, contract and supply channel arrangements are put in place and properly regulated by Ofcom, then we as a possible data aggregator could begin the (we estimate) 5 year process of recreating what OSIS already is.

It is worth remembering that BT, with all of its resources, made an abortive attempt to streamline and re-invent OSIS a few years ago and after 2 years gave up the project as unachievable writing off several million pounds in wasted development expenditure.

John Lewis
Managing Director - Simunix Ltd.