

**JOINT RESPONSE FROM THE NUMBER (UK) LIMITED AND CONDUIT
ENTERPRISES LIMITED dated 30 June 2008**

Ofcom Consultation on Telephone Directory Information Obligations and Regulations

Executive Summary

Whether or not USC7 is ultimately found to be unlawful, it is still the case that the UK DQ industry and consumers need OSIS to continue to be maintained and supplied by BT on a regulated basis, either under USC7 or, if USC7 is ultimately found to be unlawful, under a new robust and stable regulatory regime for the maintenance and wholesale provision of OSIS data on fair, reasonable, objective, cost-oriented and non-discriminatory terms.

We are strongly of the view that regulatory underpinning equivalent to that provided to date by USC7 is the only way to secure the continued functioning of the UK DQ industry.

BT has a monopoly in the supply of comprehensive directory information in the UK which would enable it arbitrarily to determine pricing and access to that information absent *ex ante* regulation. As Professor Martin Cave notes in his paper on market power in the DQ industry (commissioned by The Number and attached at **Annex 1**), "*the aggregation activity appears to have more of the characteristics of a 'natural monopoly'*".

As Ofcom is aware, DQ providers have built their systems around the existence of OSIS and, with the encouragement of Oftel and the UK Government, made the necessary investment to enter the deregulated DQ market on the basis, and with assurances, that the supply of the essential input for the industry, namely comprehensive UK directory information, would be on a regulated cost-oriented and non-discriminatory basis.

Leaving aside whether or not having an additional comprehensive database is either efficient or desirable, The Number has, since the Consultation was published, invested significant time and resources into investigating whether or not creating such a database would be commercially and logistically feasible.

While it might appear to be attractive to The Number and others not to be dependent on BT and OSIS, the exercise undertaken by The Number has demonstrated that creating an alternative comprehensive database of the requisite quality in reliance only on general condition 19 ("GC19") would be totally unviable.

Barriers to creating an alternative include, among other things:

- the definition of GC19, which is and will, even in its enhanced form, be completely inadequate;

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- the nature of the voice telephony market, which is fragmented and consists of over 100 operators and 1,700¹ resellers controlling telephone numbers (there does not even appear to be a comprehensive list of who these entities are²). Under GC19 as amended, DQ providers would have to contact all of these entities individually to request data, which is clearly impracticable, and even then could not be sure of having captured all the data and that any database produced was comprehensive;
- the terms and conditions of GC19 data supply, including in relation to frequency and format, which are undefined and might have hundreds of different permutations;
- the prospect of hundreds of dispute referrals to Ofcom over terms of supply of data under GC19 and a similar level of complaints that operators/resellers are abusing their dominant position in additional data about their subscribers (which we doubt Ofcom could resource effectively);
- the lack of any transitional period or arrangements in place for the transition from the current regime operating under USC7 to a new regime where OSIS is unregulated and the only guaranteed supply on cost-oriented terms is in respect of GC19 data; and
- the huge initial start up expense (including the cost of related IT systems) which BT is able to avoid by virtue of holding the only comprehensive, nationwide database of UK telephone numbers and having in place the systems attaching to it.

The correct solution for the UK directory market is the continued provision of OSIS to DQ providers and others on a regulated basis. OSIS is deeply embedded operationally and structurally in the UK directory market and has been for many decades³. As BT Directory Solutions notes on its website, OSIS is "*the UK's number information database*"⁴.

OSIS, BT's 192 service (and predecessor DQ service) and the layout of printed directories have, over the years, shaped the information UK consumers expect and require in a DQ service. The importance of a long-standing exclusive provider of directories in shaping user expectations was highlighted in the *KPN*⁵ case.

¹ This figure was given by BT in a DIF meeting on 19 June 2008, where Sue Irving, Head of BT Wholesale Directory Solutions, stated that BT understood there to be between 1,700 and 3,000 resellers.

² We note that Ofcom says in paragraph 9.227 of the Final Determinations that there are around 28 operators. It is not clear to us how Ofcom has arrived at that figure, given that the list of Schedule 11 operators in BT's price list (page 253 of the Final Determinations) lists around 100. Moreover, The Number has been informed by resellers that they too send directory information to OSIS.

³ We understand that BT has been carrying out 'captioning' (collecting additional grouping information using a software template) since at least the mid-1980s.

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http://www.btwholesale.com/pages/static/Products/Managed_Services_and_Outsourcing/Directory_Solutions/directory_solutions.html.

⁵ Opinion of Advocate General Poiares Maduro (paragraph 28); Case C-109/03 *KPN Telecom BV v Onafhankelijke Post en Telecommunicatie Autoriteit*, Judgment dated 25 November 2004.

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The current system functions adequately and results in consumers having access to a number of different high quality DQ and other information services, albeit The Number continues to believe that BT overcharges for OSIS data and there is an ongoing issue around comprehensiveness resulting from operators discouraging or preventing end-users from appearing in directories. As discussed below in paragraph 16, we believe that comprehensiveness would be improved by an explicit ban on direct marketing activities using the directories database⁶.

In the absence of *ex ante* regulation, BT's monopoly position would enable it arbitrarily to determine pricing and access to OSIS data. *Ex post* competition law would not adequately address anti-competitive behaviour by BT because Ofcom and/or the affected DQ provider would not be able to enforce the competition rules expeditiously enough to prevent DQ providers going out of business as a result. Aside from the time (and significant expense) involved, competition law actions would require Ofcom and/or the affected DQ provider to demonstrate, in every instance, dominance, abuse, and effects on the market, and Ofcom would have to be continuously monitoring and enforcing against BT. We suspect Ofcom would not have the resources to do this or to deal, alternatively, with an inevitable succession of dispute referrals on OSIS pricing and terms of supply.

The only beneficiaries of such an outcome would be the supplier of OSIS, namely BT, and its vertically integrated DQ provider, BT Retail⁷. DQ providers, consumers and the regulator would suffer.

Therefore, to now move to a system where there is no *ex ante* regulation on OSIS would be incredibly detrimental to the DQ industry and to its customers, with prices for OSIS (and for consumers) at risk of increasing significantly, and consumers facing the prospect of losing out on the choice, quality and innovation which they have hitherto enjoyed, as DQ providers either go out of business or are forced to provide a significantly inferior product as a result of inferior data.

Our biggest concern is and always has been *continuity* of supply of a *quality* database. Databases deteriorate very quickly in the absence of due care and attention, [**Redacted**].

Any reduction in customer numbers through dissatisfaction would also be compounded by the natural decline in the use of voice DQ services. Other DQ providers would also be likely to experience a devaluing of their business through customer dissatisfaction with search quality and inevitably this would lead some to exit the market and others to consolidate, thereby reducing competition and choice for consumers.

The UK DQ industry and consumers therefore need OSIS to continue to be maintained and supplied by BT on fair, reasonable, objective, cost-oriented and non-discriminatory terms. There should be no doubt whatsoever that the DQ industry will not function safely and fairly without regulatory underpinning equivalent to that provided to date by USC7, and that to remove

⁶ We also believe that clarification of opt-out procedures when subscribing would be beneficial to operators and consumers alike. Today's varied application of procedures is somewhat haphazard at best and operator-centric at worst.

⁷ These issues are discussed further in Martin Cave's paper attached at **Annex 1**.

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regulation from OSIS could be disastrous for everyone except BT. The fact that the DQ industry has benefited from the availability of OSIS data without the need for regulatory intervention, until The Number's case came to be referred, is not an indicator of all being well but rather of the fact that the presence of regulation (USC7) has until now ensured that BT has not sought to impose unreasonable terms of supply. Maintaining the status quo and retaining regulation of OSIS is, in our view, the only possible and responsible outcome to this Consultation.

Given the serious consequences of what is being proposed in this Consultation both for the UK DQ industry and for consumers, we would appreciate the opportunity to meet with Ofcom to discuss this response as soon as possible.

SECTION 3

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

1. For the reasons set out in our responses of 29 September 2006 and 13 April 2007 to Ofcom's draft and revised draft determinations of The Number and Conduit's disputes with BT concerning the supply of directory information⁸ ("the Disputes") and in our Notice of Appeal dated 7 May 2008⁹, we continue to be of the view that USC7 is lawful and that it was within Oftel's power to impose USC7 on BT. We consider that it is not only appropriate but vital for USC7 either to continue to be in place going forward or to form the basis for the future regulation of access to the OSIS database.
2. As set out in our letter of 7 May 2008, given the impact that the appeal to the Competition Appeal Tribunal may have, we request that Ofcom should not take any further action in relation to USC7 pending the Tribunal's final decision on this matter. In particular, no decision should be taken by Ofcom formally to revoke USC7, nor any action taken on the assumption of its unlawfulness.
3. If Ofcom proceeds to revoke USC7 without any equivalent replacement regulation (which GC19 is not), we believe that the consequences for us and other directory enquiries ("DQ") providers will be severely adverse. In particular, the current arrangements between BT and The Number and Conduit (as well as others in the industry) in relation to OSIS would be free from *ex ante* regulation, leaving us and others in the industry unprotected and vulnerable to the actions of a market-dominating BT.
4. We believe that the appeal has real substance and, if the Tribunal upholds it, any decision by Ofcom to revoke USC7 would have been based on an error of law. It is in the interests of all participants in the market for the question of USC7 to be dealt with only once the law is clear.

⁸ Cases CW/00864/09/05 and CW/00883/12/05.

⁹ *The Number (UK) Limited and Conduit Enterprises Limited v Office of Communications*, Case Number: 1100/3/3/08.

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5. However, if Ofcom were to put in place, prior to the conclusion of the appeal, a new robust and stable regulatory regime for the wholesale provision of OSIS data on fair, reasonable, objective, cost-oriented¹⁰ and non-discriminatory terms, we would review the need to continue with the appeal on 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.

Comprehensiveness: mobile, fixed and VoIP numbers

6. To the extent that OSIS and, as a result, current UK DQ services contain almost no mobile numbers (we estimate they contain 0.1% of mobile numbers¹¹), increasingly fewer fixed numbers (for example, approximately 54% of residential numbers are now ex-directory, compared to 40% in 2004¹²) and no VoIP numbers, we strongly disagree that those services meet the criteria of comprehensiveness required by the Universal Service Directive 2002/22/EC ("the USD").
7. As Ofcom is aware, the mobile number issue was also of concern to the European Commission, which brought infringement proceedings against the UK in June 2007 "because not all mobile subscribers, who so wished, had the possibility to be included in the comprehensive directory and directory enquiry service" in the UK¹³. Ofcom's own research¹⁴, suggests that only 2% of those surveyed were aware of all options for mobile listing and 43% did not think there was any possibility of listing mobile numbers, whilst between 9 and 15% (depending on whether those asked were business or residential users) stated that they would like to be able to source mobile numbers from telephone directories.
8. The Number's own research (contained in **Annex 3**) puts the number of users interested in a mobile directory service much higher than this. Whilst only 8% of users were interested in a traditional directory service for mobile numbers, this rises to 62% if a more sophisticated service, with privacy screening, is available. The Number's research also shows that whilst nearly half of the sample believed that they were ex-directory, only 23% said they objected to being included in any directory.

¹⁰ To the extent that OSIS covers GC19 data, this would need to properly reflect the Ofcom Determination's view of recoverable costs.

¹¹ There were approximately 70 million active mobile connections in the UK in 2006 (based on a mobile penetration rate of 116% (source: Ofcom) and a UK population of 60.5 million). There are about 62,000 mobile numbers in OSIS, hence the percentage of mobile numbers in OSIS is approximately 0.1% of all UK mobile numbers.

¹² [Redacted].

¹³ From an email sent by Martins Prieditis to Olswang, DG Information Society, European Commission.

¹⁴ "Inclusion of mobile numbers in telephone directory listings" Research report, published by Ofcom in April 2006 and referred to at paragraph 4.52 of the Consultation.

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9. We have been informed by the Commission that Ofcom subsequently agreed a number of corrective measures with the mobile industry to address the problem, including: establishing arrangements between mobile providers and BT for the provision of subscriber data to OSIS; amending mobile operators' codes of practice and terms and conditions to enable directory listing; informing mobile subscribers and implementing procedures to meet subscriber requests for directory listing.
10. However, there continues to be a lack of mobile (and fixed) numbers in OSIS, and The Number has been exploring further why this problem arises and how it can be addressed. **Annex 2** contains transcripts of conversations between Andrew Larter of The Number and each of BT and four of the mobile operators. These demonstrate the lack of information (and in some cases disinformation) given to new subscribers about the opportunity to be listed in a directory and the different listing options. In our research, the caller was typically told that this could not be handled at point of sale and that he would need to call customer services.
11. The first BT salesperson only offered the option of being ex-directory and gave no other listing options. The second BT operator said that the caller would have to wait until the line was installed, then phone back and ask to be entered into the directory.
12. The salesperson at mobile operator A was unaware of the procedure for entering numbers into the directory and advised that the caller's number would be "*classified*". Customer services at mobile operator A subsequently stated that they had no means of including a new subscriber in the UK directory and advised that businesses should contact each DQ provider individually, whilst residential users would be handled by the local council and government. Mobile operator B was initially puzzled by the request to be entered into a directory, but, after putting the caller on hold, told him that they had informed BT that he wanted to be in the directory. However, no information was given on directory status options. Mobile operators C and D advised that they could only add the caller into their own DQ database (although they suggested, incorrectly, that this would then mean that the caller was added into others automatically). Again, no information was given on directory status options. Customer Services at mobile operator D advised the caller to call their company's own premium rate 118 DQ service (rather than customer services) to register once his phone had arrived.
13. It is disappointing that in June 2008, eight months after the Commission closed its investigation on the understanding that the UK/Ofcom had "*agreed with the mobile industry on a number of corrective measures*"¹⁵ as outlined above, these measures do not seem to have been implemented properly or to be working, and subscribers are still having difficulty getting a directory listing.
14. Given our experience in trying to get a directory listing for a fixed or mobile phone, it is not surprising that only 0.1% of mobile numbers are currently in OSIS and that 54% of

¹⁵ From an email sent by Martins Prieditis to Olswang, DG Information Society, European Commission.

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residential numbers are now ex-directory (compared with 40% in 2004). Subscribers are not being given correct information about all the listing options (including DQR and/or partial privacy listings) available to them or, in some cases, are not being offered a listing at all. Instead they are being encouraged to be ex-directory or it is being made difficult or impossible for them to get a listing.

15. One problem is that there appears to be an incentive at present for mobile operators, in particular, to encourage their customers to be ex-directory for fear that otherwise they will be stolen or marketed to by rival mobile operators. Although OSIS licence terms currently prevent use of the data for direct marketing purposes (clause 3.2.5 of the OSIS Standard Licence), this relies on BT for enforcement, which may not offer sufficient comfort to the mobile operators. Some mechanism (e.g. contractual) needs to be put in place to allow mobile operators to take enforcement action themselves against anyone using data from OSIS for direct marketing where that data relates to their customers.
16. Another option would be for the Information Commissioner to revise and re-issue his 1998 code on fair processing and directory information. The revised code could make clear that use of directory information for direct marketing¹⁶ is prohibited and that mobile operators must provide full information to customers about the various listing options available (e.g. DQR etc.) in order to comply with their "fair" processing obligations. The code might also allow for operators and DQ providers to complain directly to the Information Commissioner and Ofcom about others misusing directory information to request that enforcement action be taken.
17. Alternatively, mobile and fixed operators should be mandated to provide accurate and unbiased information to their customers about directory listings and encouraged to promote use of the DQR and/or partial privacy listings to their subscribers rather than simply ex-directory status. DQR, for example, involves inclusion in OSIS for voice DQ services only - a number is not included in the printed or online directory. Such numbers are thus unlikely to be used for direct marketing, as their use is restricted and they are less readily available. The use of this type of listing should alleviate the concerns of mobile operators and mobile users.
18. Experience suggests that there is demand for such products. In France, we offer a privacy product called Discreto, where subscribers are asked if they want to be included in a directory where they can decide on a call-by-call basis whether to accept or reject a

¹⁶ **Guidance for marketers on the Privacy and Electronic Communications (EC Directive) Regulations 2003:**

"What is the definition of direct marketing?"

Section 11 of the Data Protection Act 1998 (the DPA) refers to direct marketing as 'the communication (by whatever means) of any advertising or marketing material which is directed to particular individuals'.

We regard the term 'direct marketing' as covering a wide range of activities which will apply not just to the offer for sale of goods or services, but also to the promotion of an organisation's aims and ideals. This would include a charity or a political party making an appeal for funds or support and, for example, an organisation whose campaign is designed to encourage individuals to write to their MP on a particular matter or to attend a public meeting or rally. This view was supported by the UK Information Tribunal ruling when they dismissed an appeal by the Scottish National Party who argued that political campaigns were not covered".

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request from someone to be put through to them. Subscribers are guaranteed privacy, with their number not being viewable by DQ operators and not featuring on the caller's bill or invoice. Similar services are also offered by Swisscom and Telekom Austria and in Italy this service is made available on an exclusive basis to MPs, specifically because they regard it as a valuable service. In the UK, BT used to offer this service (known as Ex-Directory Calls Offered), however, this is not available to new customers¹⁷. In a survey carried out by The Number, over half of people who thought they were currently ex-directory expressed an interest in the Discreto service or a similar screening service.

19. Another alternative would be for an independent third party (not a network operator) to set up and maintain a standalone database of mobile numbers, which would operate in a similar way to BT's Pathfinder service and allow DQ providers to access the database online and query it directly. The DQ provider would never see the mobile number itself, but would be able either to connect a caller to that number or to have a text sent to the mobile number retrieved by the search to say that a particular caller was trying to reach them. In this way, numbers would never be leaked out to companies who might want to target mobile users for marketing purposes.
20. We acknowledge the very serious business concerns that the mobile operators have, and, of course, the concerns that mobile users have, but these should not take precedence over the significant consumer benefits that would arise from having mobile numbers available to DQ services (which is also a requirement of the USD). We believe that the partial privacy products and/or the suggestion we have made for an independently run database of mobile numbers should address the concerns and allay the fears of mobile networks and mobile users in this regard.
21. We would also suggest that General Condition 8 ("GC8") be amended to require fixed and mobile operators to offer subscribers the opportunity to have a directory listing, after giving them full information about the listing options available. At present, directory entries are secured through a combination of GC8.1(b) and GC8.2, which require, in the case of operators generally, that they ensure that any End-User can access a DQ facility containing directory information on all subscribers in the UK (except those who are ex-directory) and permit operators to charge their subscribers a fee for inclusion of their directory information in such a (directory or) DQ facility. The proposed amendment would more clearly implement Article 25(1) (and Recital 35) of the USD. We have made some suggested drafting amendments to GC8 (see paragraph 57 below). Alternatively, a direct obligation on BT to provide directory entries in OSIS to end-users would achieve the same result.
22. On the issue of charging subscribers a fee for inclusion of their directory information in a directory or DQ facility, we consider that this is inappropriate and could act as a further disincentive to subscribers to have a directory listing. We understand that operators do

¹⁷ http://www.serviceview.bt.com/list/Public/current/Inland_Operator_boo/1111_d0e1.htm.

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not levy a charge at the moment, or at least they do not itemise it as a separate charge distinct from their charges for voice telephony services generally, but there is a possibility that they might start charging as a way of reducing their burden to supply GC19 data. This ability to levy a charge for a directory entry does not appear to have originated in the USD and in fact runs counter to the aim in that Directive of attaining comprehensiveness. We have therefore made some further suggested drafting amendments to GC8 (see paragraph 57 below).

23. We are also aware of a large volume of numbers (around 35% of numbers requested but not found in OSIS) that exist and are available, but which we cannot get from OSIS often because the number is being ported and there is a delay in it being updated or because there is a delay between a new subscriber signing up for a service and the number reaching OSIS or simply because OSIS is not picking up these numbers. **[Redacted]** There currently seems to be nothing in place to govern how quickly numbers must be made available in OSIS or to ensure that OSIS really is gathering all the numbers available.
24. In addition, there appears to be no definitive list (or at least no publicly available definitive list) of all the entities which are allocated or sub-allocated numbers, and there are at least 100 operators and 1,700 resellers of numbers and telephony services in the market. It is unclear to us how even BT keeps informed as to who these entities are in order to ensure that OSIS contains comprehensive directory information on all UK subscribers. Whenever numbers are allocated or sub-allocated, this should trigger automatic notification to Ofcom and BT at the very least.
25. Other numbers are wrongly listed in, or inadvertently excluded from, OSIS. For example, we found that a taxi firm in Manchester, clearly reliant for its survival as a business on customers being able to find its number in a directory/DQ service, is wrongly listed in OSIS. This is clearly a mistake and again demonstrates that OSIS is not comprehensive and that not all numbers that wish to be listed are finding their way into OSIS.
26. Finally, given the increasing popularity of VoIP services (in March 2007, Ofcom estimated that there were more than one million VoIP users in the UK and, more recently, that 12% of the adult population (5.9 million) have experienced using VoIP¹⁸) a database of UK directory information would not be comprehensive if it did not include VoIP numbers. We note that Ofcom propose to extend the scope of GC19 to include numbers for subscribers to broadband-only VoIP services, but there should be a clear requirement that these numbers are in the future contained within OSIS (as OSIS is the only means that DQ providers will realistically have to obtain directory information going forward, whatever Ofcom decide on the scope of GC19).

¹⁸ Figures from Head of Market Research, Ofcom, 23 June 2008.

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27. The current diminishing nature of the OSIS directory (with increasingly fewer fixed numbers (54% of fixed lines are ex-directory), hardly any mobile numbers and no VoIP numbers) means that the UK risks again being in breach of its obligations under the USD to ensure the availability of a *comprehensive* DQ service to end-users. As Recital 11 of the Universal Service Directive notes, "*Users and consumers desire comprehensive directories and a directory enquiry service covering all listed telephone subscribers and their numbers (including fixed and mobile numbers)*". The above proposals would at least help to address this situation as far as the inclusion of mobile and fixed numbers in the OSIS database is concerned.
28. As to comprehensiveness generally, as with other features of OSIS, there is a risk that if OSIS becomes unregulated or ceases to exist, BT will no longer have an incentive to ensure that OSIS continues to be as comprehensive as it is currently. There may be a temptation not to include numbers which are disproportionately difficult or expensive to obtain, for example numbers from smaller communications providers. In addition, if BT increases the price of OSIS to an unacceptable level, DQ providers will be forced to use inferior data with a knock-on effect on the comprehensiveness of DQ services generally available to consumers. As Martin Cave notes in his paper in **Annex 1**, the exercise of upstream market power by BT would have the foreseeable consequence of, among other things, a loss of quality and comprehensiveness as a result of BT reducing the additional data set in OSIS.

Affordability

29. As regards affordability, we agree that current directory services are affordable for consumers, but affordability will become a significant issue if access to the OSIS database becomes unregulated. There will be no effective restraint on BT's charges for OSIS to DQ providers and this will have an inevitable knock-on effect on charges for DQ services to consumers. There is likely, in addition, to be a corresponding effect on the DQ market generally, with less usage because of increased prices.
30. Martin Cave notes in his paper in **Annex 1** that BT exercising its upstream market power would result in higher prices and loss of affordability for consumers because of BT's ability to raise prices for OSIS.
31. As Ofcom is aware, The Number and other DQ providers have no control over the charges agreed between BT and upstream operators for their data, under which BT pays either around 66p per entry or, in the case of around half of the 100 operators, 23.8p for a simple entry and £2.44 for a complex entry. The charges are counter-intuitive given that BT is providing those operators with a means of discharging their GC19 responsibilities. Either they should be paying BT a fee or else the current charges to BT should be reduced to recognise the service being provided by BT and the *KPN* ruling (and the fact that additional data is also being provided). We understand that, historically, operators did in fact pay BT.

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32. These charges have been of great concern to OSIS licensees for some time, particularly since the *KPN* case established, in the case of GC19 data, that operators should, in any event, only pass on the costs of transmitting that data and none of the costs of collecting and compiling it. In its consideration of the affordability of DQ services to consumers, Ofcom should review OSIS charges, and consider whether the upstream provider charges continue to be appropriate in light of *KPN* or whether they should be reduced, thereby enabling charges for OSIS to be reduced as a consequence.

Quality

33. As Ofcom is aware, both The Number and Conduit consistently score highly when measured on accuracy in the regular evaluations of directory enquiry services carried out by Ofcom and ICSTIS (now PhonepayPlus). In the most recent survey¹⁹, for example, The Number scored 93% and 96% for specific and general accuracy respectively. Quality of service is extremely important to both companies.
34. Industry averages for accuracy have also improved over time, being 90% and 95% for specific and general accuracy respectively in the most recent survey compared with 89% and 92% in April 2004.
35. However, quality will become an issue if access to the OSIS database becomes unregulated. Neither DQ services nor running OSIS are key parts of BT's business, so we fear there is a definite risk that the quality of OSIS data will go down absent regulation. There will be insufficient commercial incentive on BT to maintain, or at least to supply to third parties, as comprehensive and accurate a database as it has done to date, and there is a direct correlation between the quality of the input data and the quality for consumers of the DQ services which use it.
36. One measure of quality, namely the accuracy of DQ services, is measured by Ofcom according to whether the number given out by a DQ service is correct and, in the case of a business, reaches the requested department within that business ('specific accuracy') or is correct but, in the case of a business, does not necessarily reach the requested department ('general accuracy'). If, by way of example, being unregulated BT were to stop providing 'grouping' or 'captioning' information within OSIS going forward, the 'specific accuracy' of DQ services would drop significantly. Ofcom clearly values this level of accuracy and realises how important it is, having used this measure every time it evaluated the DQ market between 2004 and 2006.
37. **[Redacted]**²⁰.

¹⁹ *Evaluation of Directory Enquiry Services - Ofcom/ICSTIS research*; 29 March 2006. This appears to be the most recent research according to Ofcom's website.

²⁰ **[Redacted]**.

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38. The effect of a significant drop-off in quality will mainly be felt by consumers, who will have to suffer being unable to obtain correct numbers or at least not obtain them as quickly as before. [Redacted]. If the other DQ services they turn to also give out wrong numbers there is a strong possibility that they will stop using voice DQ services altogether. Instead, people will turn to online directories²¹ and voice DQ services will go into decline, leaving consumers without access to broadband internet (only 57% of UK homes have a broadband internet connection²²), including the elderly and vulnerable, with an increasingly limited choice of DQ services.
39. BT's inclination not to prioritise maintaining the quality of OSIS has already been evidenced by the suspension of certain improvements to OSIS pending the outcome of the Disputes (see **Annex 4** to this response – a spreadsheet on OSIS where improvements are marked "on hold, awaiting KPN decision").
40. Having a quality database is our biggest concern, and BT knows that. We would never want to offer a reduced quality service and are therefore incredibly vulnerable to BT increasing its charges for OSIS in the event that OSIS stops being regulated, which then becomes an affordability rather than quality issue.
41. In summary, to address these issues, the status quo should be preserved as far as possible, i.e. access to the OSIS database should continue to be regulated.

Availability

42. At present, network operators are only required to give subscribers on their network access to one DQ service. Whilst most operators are willing to make all DQ service numbers available on their network, thereby giving their subscribers a full choice of DQ providers and services, others are not.
43. We understand that some operators have in fact started offering exclusive deals whereby, for a fee, the operator offers for that DQ service to be the only one available on its network to its captive audience of subscribers. This is clearly not in the consumer interest as it results in those subscribers having no choice but to use, and to pay the charges of, the one DQ service available on that network. As consumers can generally recall only one or two 118 DQ service numbers, they may not be able to access a DQ service at all if the exclusive DQ provider for their network does not happen to be a number they can recall. If this practice spreads, more and more consumers will be restricted in their ability to access DQ services either of their choice or at all.

²¹ Some callers will go directly to online DQ services because, from our experience, most UK adults only recall one genuine 118 DQ service number. Ofcom's evaluation of the DQ Market in March 2006 found that "around half (48%) of UK adults can spontaneously recollect a genuine "118" number" and that "118 118 The Number has the highest level of spontaneous awareness (39%) amongst UK adults followed by BT's 118 500 (15%) and 118 247 Yell (5%). None of the other providers measure more than 1% for spontaneous awareness"; <http://www.ofcom.org.uk/research/telecoms/reports/numresearch/dq1105/dq1105.pdf>.

²² <http://www.ofcom.org.uk/research/cm/cmnr08/>.

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44. We would therefore like to see mandatory universal access on a non-discriminatory basis for all DQ service numbers to be available on all networks. Anything else risks distorting competition in the market and limiting consumer choice.
45. We would also like to see mandatory universal access for all DQ service numbers applied to SMS codes and IP networks.
46. Whilst we are able to offer text back of numbers to callers, at present, we are not able to offer two-way SMS services on 118118 (e.g. our 'ask a question' information service, which is important for our future business and offers a valuable service to the hard of hearing) without coming to a commercial arrangement with mobile operators. This area is completely unregulated and our presence on their networks is entirely at their discretion - they have the ability to cut us off at any time. Customers expect to be able to use these types of services and the 118118 number is associated with The Number. Ofcom should therefore consider mandating the opening of 118 prefixed SMS short codes on each of the mobile networks for the provision of information services.
47. As regards IP networks, we have recently discovered that neither The Number's 118118 number nor any other 118 number tried by our researcher is available when using the BT Home Hub with the exception of BT's own 118500 service²³. BT maintains that it does not have a regulatory requirement to make our number available on its IP network (the Interconnection agreement only relates to PSTN networks). Consequently, BT has taken a commercial decision not to open any DQ facility other than BT's own 118 500 service on its retail VoIP services. Ofcom should therefore address this significant issue and 'future proof' by mandating access for DQ service numbers to IP networks (see paragraphs 53 and 54 below). The present situation risks distorting competition in DQ services.
48. As is the case for public switched networks, users do not chose their IP service on the basis of secondary services such as DQ services which may be accessible via the IP network but rather on the basis of the main cluster of communication services offered. Therefore, without regulation, operators providing these services tie their users to their own DQ service without the user having any choice in the matter and foreclose competition. The imposition of an obligation to allow access for DQ service numbers to IP networks is in line with the basic principle of the regulatory framework whereby end users should have access from any network to competitive services (pursuant, for example, to Article 5 of the Access Directive (2002/19/EC)).
49. As we have noted elsewhere in this response (see paragraphs 26, 79 and 81), the absence of VoIP numbers in the OSIS database will make both OSIS and the DQ services which rely on it increasingly less comprehensive as VoIP services increase in popularity.

²³ Neither were any of the 118 numbers tried available on Skype.

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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.

50. The Number and Conduit provide voice and online DQ services, so the availability of printed directories has no direct impact on our businesses. We are therefore not in a position to comment on this issue at the present time and reserve our position to do so in future.

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.

51. The DQ market is only robust and delivering the level of service required by the USD because the supply of the essential input for that industry (namely comprehensive UK directory information) is regulated at the wholesale level and has been since the inception of the industry.
52. As set out in our responses to Questions 5.1 and 5.2 below, there should be no doubt whatsoever that the DQ industry will not function without regulatory underpinning equivalent to that provided to date by USC7.
53. As regards ensuring access to DQ services, it is crucial to maintain GC8 on Communications Providers to ensure that the universality of provision is maintained and that their subscribers have access to at least one DQ service. As set out above, we would in fact like to see mandatory universal access on a non-discriminatory basis for all DQ service numbers to be available on all networks (including IP and mobile networks). Anything else risks distorting competition in the market and limiting consumer choice. We have drafted some appropriate wording for GC8 in paragraph 57 below.

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.

54. We would like to see the words "*including Subscribers to mobile and VoIP services*" included in 8.1(b) after the first comma so it is clear that end-users must be able to access mobile numbers.
55. In addition, as set out in our response to Question 3.2 above, GC8 should be amended to require fixed and mobile operators to provide subscribers with a requested directory listing, after giving them full information about the listing options available. At present, directory entries are secured through a combination of GC8.1(b) and GC8.2, which require, in the case of operators generally, that they ensure that any End-User can access a DQ facility containing directory information on all subscribers in the UK (except those who are ex-directory) and permit operators to charge their subscribers a fee for inclusion of their directory information in such a (directory or) DQ facility. As set out

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above, we consider that charging subscribers a fee for inclusion of their directory information in a directory or DQ facility is, in any event, inappropriate and could act as a further disincentive to subscribers to have a directory listing. We have therefore also suggested changes to that effect below.

56. We would suggest an amendment to make it clearer that communications providers have an obligation to provide subscribers/end-users with an entry in a comprehensive directory on fair and reasonable terms, thereby more clearly implementing Article 25(1) (and Recital 35) of the USD. They should also make all DQ service numbers available on their networks in a non-discriminatory manner.
57. We would propose the following additional drafting/deletions for GC8 as amended (additional drafting in **bold**, and deletions struck through, below):

8. OPERATOR ASSISTANCE, DIRECTORIES AND DIRECTORY ENQUIRY FACILITIES

8.1 The Communications Provider shall ensure that any End-User can access:

- (a) operator assistance services; and*
- (b) ~~a~~—**Directory Enquiry Facilities** 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 Telephone directory information obligations and regulations to have their Directory Information removed, except where such services or facilities have been rendered inaccessible to a particular End-User by the Communications Provider at the End-User's request or for the purposes of debt management.*

8.2 The Communications Provider shall provide its Subscribers with full information about available directory listing options in accordance with any Code issued by the Information Commissioner and with an entry (for the subscriber or end-user) in a comprehensive directory, unless they exercise their right to opt-out of appearing in such a directory.

8.3 The Communications Provider may charge End-Users a reasonable fee for making available ~~a~~Directory Enquiry Facilities and may charge its Subscribers a reasonable fee for inclusion of Directory Information in a Directory or as part of a Directory Enquiry Facility.

8.4 The Communications Provider shall meet all reasonable requests from providers of Directory Enquiry Facilities to make a Directory Enquiry Facility available on its network. Where the Communications Provider is so requested to make a Directory Enquiry Facility available, it shall do so on terms which are fair, reasonable and non-discriminatory.

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8.5 *This Condition applies subject to the requirements of Relevant Data Protection Legislation.*

8.6 *For the purposes of this Condition, “Communications Provider” means a person who provides Publicly Available Telephone Services (except Public Pay Telephones) or Voice over IP services.*

SECTION 4

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.

58. As set out above in the Executive Summary, The Number has investigated whether or not creating a database in reliance on GC19 would be commercially and logistically feasible and has concluded that it would in fact be totally impracticable. The scope of GC19 is therefore somewhat immaterial and the Consultation somewhat skewed in its focus on GC19.
59. We have nevertheless commented on GC19 as requested, but nothing in this Section 4 should be taken as an indication that we in any way feel that GC19 alone could secure the continued functioning of the UK DQ industry. Regulatory underpinning equivalent to that provided to date by USC7 is the only way to secure this.
60. In answer to question 4.1, we agree with Ofcom that the modifications should be made in order to clarify the rights of access for intermediate suppliers/aggregators of directory information at the wholesale level.

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

61. Subject to the comments in the Executive Summary and in paragraphs 58 and 59 that GC19 is completely inadequate to secure the continued functioning of the UK DQ industry, the only other comment we would make on 'rights of access' is that once data has been provided to DQ providers then, subject only to data protection considerations, DQ providers should be unrestricted in their use of that data for the provision of information products and services, but not for indirect and/or direct marketing²⁴.
62. BT, for example, has continually tried to restrict the use of OSIS data after it has been provided and insists, through its PEP ("Product Evaluation Proforma") process, on first examining any new product idea that an OSIS licensee has which entails using OSIS

²⁴ See footnote 16 above.

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data on various grounds including data protection. Aside from the effect this has on DQ providers' ability to compete with BT, where BT is always forewarned of their latest product ideas, there is no need for BT to interpret the data protection rules for OSIS licensees, particularly where its interpretation might be incorrect. In addition, the PEP process prevents OSIS licensees from getting new product ideas to the market quickly, extending the lead time by up to three months depending on the complexity of a given product.

63. Ofcom may recall that licence restrictions in BT's proposed new standard OSIS licence agreement were among the issues in dispute between DQ providers generally and BT prior to the referral of the Disputes to Ofcom in 2005. In BT's response to Ofcom dated 13 April 2007 it stated that it intended to continue to request "*visibility of the products to be produced*" by DQ providers with any data provided by it.
64. If communications providers are allowed to place restrictions on the re-use of data supplied by them in future under GC19, even after it has been processed, stored on DQ providers' own systems and enhanced, this has the potential to delay, curtail and even kill off new and innovative information services.
65. We would therefore suggest that either in GC19 itself or in guidance, it should be made clear that, with the exception of prohibiting use for indirect and/or direct marketing, communications providers cannot place restrictions on the re-use of subscriber data except to the extent necessary to enforce the relevant privacy code and comply with data protection rules.

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.

66. Subject to the comments in the Executive Summary and in paragraphs 58 and 59 that GC19 is completely inadequate to secure the continued functioning of the UK DQ industry, the proposed modification should be made on condition that it would result in an overall reduction in the costs which can be passed on to DQ providers under GC19.
67. If responsibility passes to the Communications Provider presently controlling the telephone number, that Provider will be collecting directory information relating to that number as part of its voice telephony services to the subscriber. Under the principles in the *KPN* case²⁵ and further to Ofcom's determination of the Disputes, only the incremental costs of transmitting that directory information to DQ providers can be passed on. There

²⁵ Case C-109/03 *KPN Telecom BV v OPTA*, judgment of 25 November 2004.

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would therefore no longer be any justification for passing on any additional costs connected with the collecting of that information from other Communications Providers.

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.

68. Subject to the comments in the Executive Summary and in paragraphs 58 and 59 that GC19 is completely inadequate to secure the continued functioning of the UK DQ industry, we agree with Ofcom's comments in paragraphs 4.21 to 4.23 that it is critical for directory information to be accurate and relevant to users of DQ services and therefore necessary for actual end-user information associated with a telephone number to be provided.
69. As noted in The Number and Conduit's previous responses in the context of the Disputes, and in our comments of 7 September 2007 on BT's response dated 13 April 2007, we are firmly of the view that including actual end-user information in GC19 is absolutely essential to ensure that users can identify the telephone numbers they are searching for. In fact, we believe that not doing so would undermine the comprehensiveness and quality of any DQ service relying on GC19 data.
70. As we have noted previously, there are a number of different and perfectly legitimate reasons why the end-users of numbers are sometimes not the same as the subscribers of those numbers. For example, parents or carers may subscribe for telephone services on behalf of children or elderly or vulnerable adults. Also, small business customers may subscribe in their own name, rather than the name of the business, to take advantage of cheaper tariffs. End-user information is readily available and very important to users, so should be covered by GC19.
71. In our view, 'end-user' in the business sense encompasses not only those users who have outsourced their communications to another company who may have subscribed on their behalf, but also all those users within an organisation which have their own telephone number. This might include a branch of a bank or even the loans department within that branch, all of whom are actual 'end-users'.

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?

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72. Subject to the comments in the Executive Summary and in paragraphs 58 and 59 that GC19 is completely inadequate to secure the continued functioning of the UK DQ industry, as Ofcom is aware, we argued strongly in our previous submissions that non-geographic numbers should be within the scope of GC19.
73. Subscribers, particularly business and government subscribers, frequently request that such numbers are given out to users of DQ services, and users expect to be provided with main '0800' and '0845' numbers for those businesses when calling DQ services (national rail enquiries' 0845 number, for example).
74. We estimate that there are currently around 95,177 numbers starting with '08' (non-geographic numbers) in OSIS. **[Redacted]** The quality of DQ services, as perceived by consumers, would diminish dramatically if these numbers were suddenly no longer available.
75. Moreover, the directory information available in the UK is also required to be comprehensive under the USD, and it would in our view not be comprehensive if important and frequently used non-geographic telephone numbers were not included. Given that these numbers are often either free to call or on deliberately cheaper national rates for consumers' benefit, their unavailability would mean that users would instead have to call standard numbers at higher cost. Their unavailability would, in addition, mean wasted calls by users to DQ services, which goes against the requirement in the USD that those services should be affordable.
76. We understand that non-geographic numbers are included in the basic data set in other European countries, including in France, Spain and Switzerland. Indeed, the exclusion by Telefónica of these numbers from the information made available to new competitive DQ providers when the market was effectively opened to competition in 2003 was one of the key motivators both for intervention by the national regulatory authority (the CMT) and a successful damages action, given the particular impact of these numbers for the DQ provider's service. Our expert analysis suggests that as much as 45% of enquiries in Spain relate to non-geographic numbers.
77. The inclusion of non-geographic numbers represents best practice, and the Consultation represents a good opportunity for the UK to put in place best practice, in terms of wholesale directory information supply, which other countries would want to replicate.
78. The reference to non-geographic telephone numbers assigned for use in public Electronic Communications Services is not too wide in our view, because there is a risk that otherwise not all VoIP numbers will be covered (only VoIP using PATS would be covered).
79. As set out above, given the increasing popularity of VoIP services (in March 2007, Ofcom estimated that there were more than one million VoIP users in the UK, and this is likely to

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increase further given how competitively priced VoIP services²⁶) a database of UK directory information would not be comprehensive if it did not include VoIP numbers. Ofcom propose extending the scope of GC19 to include numbers for subscribers to broadband only VoIP services, but there should also be a clear requirement that these numbers are in future contained within OSIS (as OSIS is the only means that DQ providers will realistically have to obtain directory information going forward whatever Ofcom decide on the scope of GC19). At present, we understand that there are no VoIP numbers in OSIS.

80. As noted above in paragraph 47, all DQ service numbers should also be made accessible on VoIP networks to avoid a distortion of competition as VoIP becomes even more popular. We found that whilst BT's 118500 is available on the BT Home Hub, neither The Number's 118118 service nor any of the other 118 numbers tried by our researcher was available. This is clearly unfair and risks distorting competition (see paragraph 48).
81. GC19 should therefore be modified to include non-geographic telephone numbers as Ofcom propose. There should also be a requirement that VoIP numbers be contained within OSIS.

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?**

82. Subject to the comments in the Executive Summary and in paragraphs 58 and 59 that GC19 is completely inadequate to secure the continued functioning of the UK DQ industry, we agree strongly with Ofcom's proposal to include actual end-user directory information (including name and address as well as any other information normally provided about subscribers) in GC19.
83. As far as business and non-geographic numbers are concerned, we again agree strongly that these should be included in GC19, although we are not convinced that other information about the number (e.g. 'stolen credit card line') should *replace* any geographic information already being provided. Rather, this information should be supplied *in addition* to any existing information provided about these numbers in order to preserve the status

²⁶ 12% of the adult population (5.9 million) have experienced using VoIP (email from Head of Market Research, Ofcom, 23 June 2008).

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quo as far as possible and give callers as much information as is available for that number. '0845' numbers are not just used by big companies for their call centres; plenty of smaller businesses also use them where they have more than one telephone line.

84. Ofcom should be aware that other information about a number (e.g. 'fax number', 'mobile', 'out-of-hours') is currently contained in the 'Qualifier' field in OSIS. We feel strongly and would therefore strongly recommend that this field should come within 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?

85. The following discussions on grouping/captioning, title and honours, business description/identifier, format and frequency, and processing data are all subject to the comments in the Executive Summary and in paragraphs 58 and 59 that GC19 on its own is, in any event, completely inadequate to secure the continued functioning of the UK DQ industry.

The KPN case

86. As regards a wider mandated set of data under GC19, we would note that the *KPN* judgment makes it clear that 'relevant information' (as per the wording of Article 25(2) of the USD) must be "*sufficient to enable users of a directory to identify the subscribers they are looking for*" and that this includes, in principle, the name, address, including postcode, of subscribers, together with "*any telephone numbers allocated to a subscriber*" (our emphasis), and that "*it is open to Member States to provide that other data are to be made available to users where, in light of specific national circumstances, they appear to be necessary in order to identify subscribers*"²⁷. The judgment also goes on to suggest that all information which is commonly collected by a telephone operator as part of its telephony service and therefore does not require any particular effort should be provided at cost pursuant to the rules applying to 'relevant information'. In that sense, where operators commonly collect information of the type currently contained in OSIS when they take on new customers, this should be included in the basic data set.
87. In addition, the Advocate General noted in his Opinion²⁸ that Member states should "*take into account what a typical user requires from a telephone directory*" and "*what users traditionally expect to find in a telephone guide – for example, profession, title etc. – and, doubtless, a long-standing exclusive provider of telephone guides may have shaped user expectations and desires to a large extent*". Moreover, "*the duty of voice telephony*

²⁷ Paragraph 36, *KPN* judgment. See footnote 5.

²⁸ See footnote 5.

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providers to supply 'relevant information' for the provision of a universal directory also entails a duty to gather this information even if it is not strictly necessary for the provision of voice telephony".

88. It seems to clear to us, and we have shared these views with Ofcom in previous responses on the disputes, that the other data which, in light of the specific circumstances present in the UK are necessary in order to identify subscribers, include grouping/captioning data, business description and other essential processing data. The fundamental nature of these categories of data means that the absence of any of them will make it impossible for callers to obtain the numbers of the people and businesses they are trying to reach.
89. We explain further below why the information we believe should be included within GC19 is absolutely key to enable callers to identify, either quickly or indeed at all, the subscribers they are looking for and why users expect to be able to find this information in UK DQ services.

Grouping/captioning

90. As Ofcom is aware, we argued strongly in our previous responses that 'grouping' (or 'captioning') information should be provided to DQ providers, particularly where subscribers have specifically requested that their directory entry should be structured in a particular way (e.g. by department) to allow users as far as possible to be directed to the department or council entity they require rather than flooding the main switchboard with enquiries.
91. Users expect and currently receive directory information retrieved from grouped listings, and The Number estimates that approximately half of all business listings, or around 1.2 million directory listings, are grouped²⁹. Those grouped listings are typically four layers deep, dictated by existing OSIS fields such as: 'priority'; 'indentation level'; 'parent identifier'; 'sub header'; 'sub sub header'; 'sub sub sub header'; and 'qualifier'. In the case of a County Council, for example, there will be sub-headings for 'Highways', then a further sub-heading for 'Car Parks', leading ultimately to a listing for 'Enquiries'. The listing for 'Enquiries' is only understandable in the context of the headers above it. Without this context, the listing loses its identification and is therefore not searchable by the user.
92. The total number of constituent listings in a group often exceeds a thousand telephone numbers. Birmingham City Council, for example, has over 2,100 listings within it. A screenshot showing just a small part (around 1%) of the Birmingham City Council caption and the different sub-layers under the parent identifier mentioned in the paragraph above is attached at **Annex 5**.

²⁹ Approximately 39.7% of business listings and 0.004% of residential listings are grouped.

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93. A DQ service without grouped listings would not be comprehensive, would be difficult to search, and would not be of the same quality as those currently provided. The absence of grouping information would result in immediate and significant consequences on our business and the DQ industry as a whole and listing data would very quickly deteriorate into an unusable state. It would be commercially unacceptable for us to provide a low quality DQ service.
94. Ofcom's own evaluation of DQ services measures 'specific accuracy'³⁰, where a request results in the user reaching the requested department in an organisation rather than the main switchboard number, so Ofcom clearly recognises that this level of directory information goes directly to quality. If entries were no longer searchable in this way, users would perceive that the quality of DQ services had diminished.
95. If there is a perceived decline in quality and users end up spending more on DQ services because either calls take longer or else numbers cannot be found, there is a risk that dissatisfied users will stop calling 118 numbers altogether and the whole DQ industry will be devalued and go into decline.
96. The following is an example we gave previously to Ofcom of how the quality and speed of searches would be compromised by a lack of grouping information: if every branch of every bank was listed singularly in a supply of data under GC19, hundreds of listings would be displayed when a search for, say, "Lloyds in London" was made, as every one of their 80+ branches in London and further numbers for different divisions (e.g. mortgages, savings, customer services, switchboard) within those branches would be thrown up by the search. Although the listings would probably be alphabetised, call centre agents would still have to scroll through the hundreds of listings in order to identify the number a customer was looking for, which would result in a time-consuming (and hence more expensive) and also poorer quality service.
97. Searching would also rely on all entries being uniformly set out so that all entries started "Lloyds TSB bank" and there were no entries for, say, just "Lloyds bank", which would throw out any alphabetisation (we understand entries do sometimes vary). Each entry would also have to be properly completed to include the branch and the department (e.g. Lloyds TSB bank; Fulham branch; mortgages) to ensure that department numbers were not listed randomly without reference to the branch (e.g. simply Lloyds TSB bank; mortgages (with no branch identifier)).
98. Further questions would need to be asked and further searches made in order to narrow down the number of listings and eventually find the number. This would increase the time spent by the customer and so the charge for the call. **[Redacted]**, long delays in obtaining a number would have a direct impact on its ability to take as many calls, or at least to answer them as quickly, and would therefore also impact on service quality. Moreover, we understand that there is an internationally recognised standard for average call

³⁰ *Evaluation of Directory Enquiry Services*, Ofcom/ICSTIS research, 29 March 2006.

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handling time (AHT), which is 47 seconds. Grouping/captions are essential for keeping calls to this standard.

99. Grouping information therefore needs to be applied to listings in order to sequence and layer them and make them searchable. In particular, fields like the current 'priority' data field in OSIS, which enables the main or switchboard number to be promoted up the alphabetised list so that it can be found first, are essential.
100. If listings were no longer supplied on a grouped basis under a GC19 system, this would result in chaos. The quality of DQ services in the UK would be dramatically reduced (as outlined above) and customers would be rightly complaining to DQ providers and to Ofcom about the effects both on quality and on affordability. The decision to deregulate the DQ industry would again be called into question by the press and by UK consumers.
101. In our view, it would be impossible for anyone other than the voice telephony provider (already collecting the requisite information in the context of its voice telephony service) or OSIS, which currently receives that information from the upstream providers and in some cases (for example where there is 'mixed' grouping, i.e. a business uses more than one upstream provider for voice telephony) carries out grouping on their behalf, to group listings.
102. If DQ providers tried to carry out grouping themselves by calling every number within a grouped listing (The Number estimates that there are 1.2 million such listings, representing 4.3% of the OSIS database), then not only would this represent a significant distraction from the actual business of answering DQ calls (and require a large number of additional staff to make those calls), it would also represent a nuisance for subscribers: they would potentially be called not only by their own voice telephony provider (BT Retail, for example), with whom they would probably be willing to share information about the use of their telephone lines, but also by the approximately 90 different providers offering or providing input for DQ services on the 180 operational 118 DQ service numbers in the UK³¹, with whom they might not be willing to share information.
103. It is unlikely that those subscribers would be willing to give out information on their telephone lines again or at least more than a couple of times (so only the first few DQ providers to call will get that information, leading to a disparity and inconsistency in the quality of DQ services). This is even assuming that DQ providers could ascertain and locate who within the organisation would be able to answer questions on grouping (the people at the end of the 2,100 numbers within Birmingham City Council, for example, would not know where they 'fit' in the wider group or even know the extent of that wider group or how to access information about it). Without an existing customer relationship, they might not even be willing to give out that information at all. They might also reasonably expect their voice telephony provider, as part of the voice telephony service provided, to pass on the directory entry information already given and collected so that

³¹ Source: <http://www.magsys.co.uk/telecom/dialdirq.htm>, which assumes that 118 numbers with tariffs are operational.

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the subscriber is not required to give out that information time and time again. The situation will be even more complex where there is 'mixed' grouping and businesses using more than one upstream provider.

104. In addition, Ofcom does not appear to have taken into account the effect that the corporate telephone preference service ("CTPS") may have on DQ providers' ability to obtain grouping information directly from businesses. CTPS includes corporate bodies, (such as public and private limited companies and LLPs) and also schools, government departments and agencies, hospitals and other public bodies. The TPS website specifies that the scheme enables subscribers to "*register their wish not to receive unsolicited sales and marketing telephone calls*". Whilst calling businesses registered with CTPS to establish how they want to be grouped in a directory entry might not be caught by the scheme, registered businesses might perceive that this type of activity is nevertheless prohibited and therefore might refuse to provide data.
105. Nor has Ofcom appreciated the significant call revenue that every DQ provider seeking grouping information and having to call every business in the UK would thereby create for BT and other operators.
106. Given the omissions and inaccuracies that exist in OSIS today and the fact that DQ providers would not have the requisite information to work out which organisations were responsible for which telephone lines and who within those organisations would know how the numbers should be grouped, any grouping DQ providers attempted to carry out through calls to subscribers or otherwise would be prone to considerable inaccuracy. Grouping without the requisite grouping information would be like trying to piece together a jigsaw puzzle with the image on the puzzle pieces missing.
107. Entries would also need updating continually or risk becoming out of date and in breach of data protection principles. The above difficulties would therefore arise not just once when an entry was first created, but every time it needed updating. As Ofcom is aware, there is an easy mechanism within OSIS which achieves this, whereby updates are fed in automatically – data is therefore pushed from the upstream providers into OSIS. DQ providers, in contrast, would have no way of knowing when entries were amended and needed updating and would have to make frequent requests to upstream providers to that effect. Having to pull the data in this way would make it significantly more difficult for DQ providers to carry out updating.
108. Smaller DQ providers simply will not have the resources to make these calls and will either go out of business or be forced to provide an inferior quality product – something which consumers will only discover when they call and cannot get the number they require. This is likely to harm not only their reputation, but also that of the wider DQ industry. In our view, there is nothing to be gained and everything to lose by having DQ services of varying, and generally lower, quality being offered to consumers, which will be the inevitable result.

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109. It is therefore wholly inaccurate to say, as Ofcom does in paragraph 4.41, that DQ providers are able to collect this information on a commercial basis without any particular difficulty.
110. Ofcom also fails to appreciate that each provider will be the monopoly supplier of grouping and other essential data about its subscribers and that they would therefore be able to hold DQ providers to ransom for that additional data. Any supply of that data should be on cost-oriented terms and therefore regulated. This is also important in the context of the upstream providers inputting into OSIS, where their charges do not appear to be cost-oriented at present (at least as regards the GC19 element). See also paragraph 31 above.
111. For all of the above reasons, we continue to be strongly of the view that grouping information must be included within GC19. We understand that such information is included within the basic data set in other countries (in France, for example).

Title and honours

112. Ofcom say in paragraph 4.40 that title and honours fall within a wider set of data which it is reluctant to mandate at this time, yet in the final determinations of the Disputes (paragraph 8.127 and Table 8.2) Ofcom found that 'name' in the context of GC19 could include these and other identifiers where appropriate. In our view, name should include title and honours as Ofcom indicated in the determinations.
113. In addition, GC19 should include the Business Suffix field, which is a part of the subscriber/end-user name. Typically this field includes "& Sons", "& Partners", "& Associates", "Ltd", "plc" etc. In our view, these clearly form part of the business name. They also help differentiate between businesses of the same name.

Business description and business/residential identifier (equivalent to 'tariff' field in OSIS)

114. Again, we have stated previously that it is essential in identifying exactly which number a customer is searching for to be able to distinguish between different companies with the same or similar names. Knowing the nature of a business (e.g. which 'Fisher & Sons' is the florist and which the funeral home) is key to being able to tell businesses apart and to give out the correct number. This information is currently provided through OSIS and there continue to be systems in place for upstream providers to collect it. Given its importance for DQ purposes, we cannot see why it should not fall within GC19.
115. Similarly, the current tariff field in OSIS denotes whether numbers are residential or business, and this is required in order to be able to search for and identify business numbers with national coverage where the caller will not have an approximate location. This is because DQ operators, under current OSIS licence conditions, are not permitted to search for residential numbers without the caller giving the approximate name and address. Business numbers (but not sole traders or partnerships), on the other hand, can

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be searched without requiring callers to specify a location, thereby enabling DQ providers to search nationally for companies who use national call centres (the DVLA, British Airways or Direct Line Insurance, for example).

116. The only difficulty arises in the case of sole traders or partnerships, which are regarded for data protection purposes as individuals and cannot be reverse searched, even though they might be using an 0845 number.
117. In addition, an increasing number of small businesses tend to use the residential tariff to save costs. For example, we have discovered that the South Sand Ferry in Salcombe is listed as T Tucker, a residential number. A number of pub landlords also tend to register in their own names rather than the pub name to take advantage of the cheaper residential tariff. The tariff field does not assist with this problem, so ideally an alternative field should be created requiring upstream providers to confirm whether or not a number belongs to a business even though the residential tariff is being used.
118. Residential and business (including sole trader and partnership) numbers therefore need to be distinguished from each other using the tariff field (or an alternative) in order to enable national searching of business numbers to be carried out and business numbers with national coverage to be identified. Again, this information has a practical significance which Ofcom does not seem to have recognised to date and is essential in any supply of data. It is also important in the context of reverse searching (see paragraph 151 below).

Format and frequency

119. In addition to mandating the supply of 'grouping' data, Ofcom should also mandate the minimum frequency and format in which the information should be supplied. At present, the issue of the frequency with which data should be supplied to DQ providers has not been discussed in the Consultation, but is an important practical issue. We understand that the current data field format is specified in Schedule 11 of the Interconnect Agreement and accompanying documents. Whilst we believe that GC19 remains unworkable, if Ofcom plans to proceed with enhancing GC19 it would need to re-consult on the finer implementation of GC19, including the frequency and format of any GC19 supplies.
120. As Ofcom is aware, BT currently sends updates from OSIS six out of seven days per week. We regard this as the minimum necessary to keep a telephone or online directory enquiry service sufficiently up-to-date. Relying on hundreds of different communications providers for complete and consistent co-operation in providing frequent updates would be extremely high risk as even short delays in entries being updated would lead to serious consequences in terms of data quality and service integrity.
121. As regards the format in which data should be sent, DQ providers' systems (representing significant investment over the years) have been built to receive OSIS updates in the form of FTP file transfers containing a number of data fields with, importantly, a unique identifier for every existing directory entry enabling an update to be matched to the

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existing entry in the DQ provider's database. In our view, separate supplies of data from 100+ operators and 1,700+ resellers will be dramatically disruptive and never capable of being received and used by existing DQ provider systems even with significant and costly reengineering and an agreement on a universal format for data supply. Moreover, upstream providers themselves are likely to face difficulties interfacing with many different DQ providers and other directory information users.

122. There are also no industry standard terms and conditions for a GC19 supply, meaning that contracts would need to be negotiated in their entirety in every single case, i.e. with each of the 100+ operators and 1,700+ resellers. Again, whilst we believe that GC19 remains unworkable, if Ofcom plans to proceed with enhancing GC19 it would need to re-consult on the finer implementation of GC19, including the format of any standard contract for a GC19 supply.

Processing data

123. As mentioned above, GC19 also does not cover vital processing data, and in particular the communications provider's 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. Without that identifier, records could not be updated and the entry in question would be inaccurate within 24 hours. This could potentially render the entire database inaccurate and unreliable in a very short space of time.
124. 'Action Indicator' information, which indicates how an entry needs to be updated, is also unobtainable by any means other than directly from communications providers. Without that indicator, records could again not be automatically updated and the entry in question would be inaccurate within 24 hours.
125. Whilst we categorically do not believe it is possible to run a database in reliance only on GC19 in any event, it is clear from the above that far more data than is currently within the scope of GC19 is required.

Ex-directory and other data

126. We note that in the Determinations on page 4, paragraph 1.22 (vii), BT is required under GC19 to provide details of a subscriber's chosen directory status to The Number and Conduit. However, the provision of information about ex-directory status under GC19 is not discussed in the Consultation. In line with the Determinations, this must at least include the different directory status options offered to subscribers (defined as XD, DQR, XDNC (Discreto), DE, and PA (Partial Address)).
127. Where these options are not currently being offered to subscribers on a consistent basis by all operators, this is adding to the problem of the directory becoming less comprehensive. As we stated in response to questions 3.2 and 3.5 and elsewhere in this response, operators should be required to offer full, accurate and transparent information about directory status options to their customers (see paragraphs 17 and 18 in particular).

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This would benefit not only the comprehensiveness of the directory but also consumers, who, our research as shown, want different partial privacy options to be available to them (see **Annex 3** below).

128. We would also point out that, as mentioned elsewhere in this response, DQ providers' systems have been built around OSIS and its data fields. A prime example of how this affects what DQ providers need to receive is the "DQ Code" field. This denotes which of the 60 phonebooks in the UK a number should be entered into. The boundaries of each phonebook were historically determined with a view to maximising the number of books a business entry would need to appear in, and therefore that the business would have to pay for.
129. For DQ services, this results in a number of duplicate entries appearing in the feed from OSIS which need to be deleted. For example, a business on the boundary of two different phonebooks will have two entries, so these need to be identified (using the DQ Code) and then one will need to be deleted. A national number will have all 60 entries, so 59 of them will need to be deleted. Otherwise, operators' screens would be filled with duplicate entries when carrying out a search for a caller, slowing down the process of finding the number that the caller actually wants and increasing the cost of the call as a result.

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.

130. We agree with Ofcom's assessment of communication providers' responsibilities on data protection.
131. Ofcom states that communications providers have the responsibility for notifying subscribers that their information will be included in directories and for allowing subscribers to verify this information. It is logical for communications providers (not DQ or directory providers) to have this obligation: it is most efficient if this information is given once by the communications provider and subscribers would expect this kind of contact with the communications provider, not with potentially many other organisations offering directory services.
132. Placing this obligation on the communications provider is also consistent with the Privacy Directive. Whilst Article 12 of the Privacy Directive does not specify who should give this obligation and Recital 38 refers to providers of directories having an obligation to inform subscribers of the purposes of the directory, Recital 39 makes clear that the obligation to inform subscribers of the purposes of these directories should be imposed on the party collecting the data for inclusion in a directory (i.e. the communications service provider under GC19) and that where "*the data may be transmitted to one or more third parties [i.e. other directory or DQ providers], the subscriber should be informed of this possibility and of the recipient or the categories of possible recipients.*"

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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.

133. Ofcom notes that, for fixed line subscribers, the default is that subscribers will have their details included in a directory unless they take active steps to object (i.e. by opting-out) and that fixed line subscribers are presented with three levels of opt-out (1. excluded from the printed directory, but included for DQ services; 2. excluded from both the printed directory and DQ services, but DQ providers are aware that the subscriber has a line (so the DQ provider can confirm that the number exists but is ex-directory); and 3. complete exclusion). By contrast, mobile subscribers have to take active steps to have their number listed in a directory (i.e. an opt-in approach). Ofcom suggests that this opt-in approach is in line with preferences as evidenced by the consumer research cited in the Consultation and referred to at footnote 12, which suggests that mobile subscribers do not want their numbers to be included in directories or directory enquiry services.
134. However, there is a high degree of confusion amongst users over the various listing options available and how the information may be used. The Ofcom research referenced at paragraph 133 above showed that, even for landline listings, only 21% of those surveyed were aware of all listing options. For mobile listings, only 2% were aware of all mobile listing options and 43% thought that there was no ability to list a mobile number. Whilst a high number said that they would not want mobile numbers to be included in a directory, 20% said that this was because they wanted to avoid spam and marketing calls – which should not be occurring, in any event, by means of OSIS data as this is prohibited by OSIS licence terms (see paragraph 15 above). Between 9 and 15% said that they would want to be able to source mobile numbers from DQ services.
135. In practice, only little, poor quality, information (if any) is given to subscribers about the various directory listing options that are available. The Number has carried out research on this by calling a number of operators (transcribed at **Annex 2**). For example, BT asks if customers would like to be ex-directory – as opposed to asking if they would like to be included in the phone directory. Phrasing the question this way round is more likely to result in requests to become ex-directory. BT does not provide any explanation of the various listing options available.
136. On the basis of the research we have undertaken and our experience, mobile operators do not pro-actively provide any information at all to subscribers about listings and that, when questioned on this, call centre staff have no, or incorrect information about directory options and how to achieve a listing. In our research, the caller was typically told that this could not be handled at point of sale and that he would need to call customer services. Mobile operators C and D advised that they could only add the caller into their own DQ database (although they suggested, incorrectly, that this would then mean that the caller was added into others automatically). Mobile operator B advised incorrectly that the caller was already included in its directory in order to end the call. Mobile operator A advised (after the adviser had checked with his supervisor) that it was unable to add the

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caller to any DQ database, that business users would need to do this by contacting each directory providers and that, for residential customers, this was handled by the local council and government.

137. The Number has commissioned research (see **Annex 3**) on attitudes to directory services and inclusion of mobile numbers in directories in particular. This research shows that 8% would be interested in entry in a directory which is open to all. This rises to 62% who would be interested in being included in a mobile directory if a call screening service was available. Given this potential demand for privacy-enhanced directory services, it is extremely unfortunate that subscribers are not given any information about the DQR listing option (i.e. not included in printed directory, but included for directory enquiry purposes) which should reduce the extent of direct marketing, whilst ensuring that subscribers can still be contacted, or about privacy screening services such as the Discreto service offered by The Number in France and similar services in other countries, explained at paragraph 18, which is exactly the kind of call-screened directory service in which consumers are showing interest.
138. This separate research is at odds with the Ofcom research cited at paragraph 4.52 of the Consultation as evidence of strong opposition to mobile numbers being included in directories and DQ services. Indeed, as the full Ofcom research paper itself shows clearly, mobile subscribers have little or no awareness of their right to a directory listing and certainly no awareness that they could be included for DQ services in a way which reduces the likelihood of direct marketing and protects their privacy. In this situation, we disagree strongly with Ofcom's statement that not opting-in should be treated as the equivalent to selecting an unlisted option.
139. The information we have suggests that the approach of the fixed operators has at least contributed to the statistic that 54% of total residential numbers in BT OSIS are now listed as ex-directory (a further 5.1M residential numbers do not have any listing at all in OSIS), whilst only 0.1% of total mobile numbers are included in OSIS. These figures must raise doubts as to whether the UK has a comprehensive directory service, leaving it at renewed risk of infringement proceedings.
140. To redress this, and as set out at paragraph 57 above, we strongly recommend that GC8 is amended to provide that:
- communications providers have an obligation to provide subscribers with an entry in a directory;
 - details of subscribers should be included unless the subscriber objects to this (i.e. an opt-out approach should be mandated); and
 - communications providers should be expressly obliged to provide full information about all types of directory options (including privacy enhancing services, such as Discreto), in accordance with a revised fair processing code to be developed by the Information Commissioner.

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141. Without this action, the UK will not be able to offer comprehensive directory services. As Ofcom notes at footnote 50 of the Consultation, the Commission has accepted that an opt-in approach to listings is acceptable. However, this is not mandated by the Privacy Directive. The opt-out approach described above is entirely consistent with the Privacy Directive and the UK implementing Regulations, both of which require that individual subscribers must be able to determine whether their details are included in a directory, without mandating whether this is on an opt-in or opt-out basis. We have also discussed this approach with the Information Commissioner and understand that he has no objection to an opt-out solution and that he would welcome greater transparency from operators.
142. Any move to an opt-out approach would need to address concerns of mobile operators about misuse of subscriber data for marketing purposes by other operators (see paragraphs 15 and 16 above) and the position of existing subscribers. As noted at paragraphs 15 and 16, mobile operators' concerns could be addressed by:
- changing OSIS (or other) licence terms to grant third party rights to data suppliers (and consumer associations) to take action if data are used for direct marketing purposes; and/or
 - amending GC8, to require operators to comply with a revised fair processing code (which would prohibit operators from using directory information in order to target rival operators' subscribers), thus allowing both the Information Commissioner and OFCOM to take action.
143. A move to an opt-out approach, coupled with provision of detailed information, would be fair for new subscribers; any subscribers who did not wish their details to be included in directory/DQ services could easily opt-out at the time of subscription. Careful thought needs to be given to the situation of existing subscribers: it would not be fair, or compliant with data protection legislation, for service providers to contact existing subscribers and to require them to take active steps to object to their information being available for directory services. However, it would be fair, and compliant with data protection legislation, for service providers to contact existing subscribers on a one-off basis, to provide detailed information about directory services (including information about privacy enhancing services such as Discreto) and to ask the subscriber if he/she would like to participate.
144. As mobile operators do not currently deal with directory listing in their customer set-up procedures, we strongly consider that Ofcom would need to require operators to make this one-off communication. GC8, revised as we suggest in paragraph 57 above, would require operators to provide their subscribers with information about a listing. Guidance from Ofcom should indicate that this includes existing as well as new subscribers and that existing subscribers should therefore be contacted as outlined above if it cannot be demonstrated that they were asked, and declined to be listed, when they first became subscribers.

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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.

145. [Redacted]
146. In the Consultation, Ofcom suggests that where DQ providers include data relating to a subscriber/end-user which is outside of GC19/OSIS, that they must do so with “the approval of the person concerned”. This comment suggests that some form of affirmative consent would be needed from individual subscribers to the inclusion of this information.
147. Ofcom cites the Information Commissioner’s guidance on this point, which suggests that the key issue is whether the additional information being used “differs from that traditionally published in such products”. We think this is the better approach.
148. We do not believe that individual subscriber approval is appropriate for use of supplemental information (such as accuracy checking and business type) which is traditionally used by DQ providers. In all of the examples listed above, The Number would rely on the data provider to comply with data protection obligations when collecting the information. If DQ providers had to contact individuals to seek their permission to use data of this sort, this would be detrimental to the individual subscribers (as they would be contacted by many DQ providers, instead of having data protection concerns addressed by the list vendor) and would add to DQ providers’ costs, without improving either accuracy of databases or protection for individuals.

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.

149. We are not aware of having ever received a complaint from an end-user (as distinct from a subscriber) in relation to a listing, or errors in a listing. Accordingly, we agree with Ofcom that the current provisions work well and offer appropriate protection for end-users.

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

150. Regulation 18(5) allows individual subscribers a right to correct data. We regularly receive requests to correct data. Usually errors in data are due to errors in the data provided to us from OSIS. We do not see any need to change the current system, whereby we notify BT of the error, who then issue corrected data to all directory service providers in the OSIS data updates.
151. Regulation 18(3) prohibits reverse searching without express consent. We understand and accept that residential subscribers would not expect reverse searching to take place. However, this provision also affects the many small businesses which, legally, count as individual subscribers under the Regulations. Many small businesses would welcome

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reverse searching, as it provides the potential for their details to be more widely available to potential customers. However, at present we are only able to offer this for subscribers flagged as businesses in OSIS (and, if this flag is removed from OSIS, or a successor database, will not be able to offer this at all). We strongly suggest that:

- the business flag must be retained in OSIS and any successor database;
- service providers be required to ask if subscribers are willing to accept reverse searching; and/or
- the Information Commissioner revise his fair processing code (which already notes that sole traders and partnerships have different expectations as regards use of their directory information) to provide that reverse searching is permissible in respect of individuals using a line for business purposes.

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.

152. We are not aware of any requests from corporate subscribers asking to be removed from our directory. In our experience, corporates are extremely concerned to be included in directories and to have an accurate listing. This suggests that there is no need to change the provision. While there may be doubts as to whether this regulation is necessary to protect the interests of corporates, we do not advocate its repeal.

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.

153. Subject to the comments in the Executive Summary and in paragraphs 58 and 59 that GC19 is, in any event, completely inadequate to secure the continued functioning of the UK DQ industry, we would agree that the word "objective" should be included in GC19 not only so that it mirrors more closely Article 25(2) of the USD, but also because BT has frequently demonstrated subjectivity in its dealings with DQ providers.

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.

154. As set out above, the redrafting of GC19 is somewhat immaterial as OSIS is the only means that DQ providers will realistically have to obtain 'comprehensive' directory information going forward, whatever Ofcom decide on the scope of GC19.

155. Notwithstanding the above, for the reasons given previously in this section, we do not agree with the proposed redrafting of GC19 and the related definitions to the extent that

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GC19 does not require communications providers to provide title, honours, business description, grouping/captioning and processing information, DQ Code, Business Suffix and Qualifier, and to the extent that it does not deal in sufficient detail with the frequency (which would need to be daily) or the format in which the data should be supplied.

156. The information contained in DQ services resulting from the information collected in OSIS is deeply embedded operationally and structurally in the UK directory market and has been for many decades. As mentioned above, OSIS, BT's 192 (and predecessor DQ service) and the layout of printed directories have, over the years, shaped the information UK consumers expect and require in a DQ service, and the importance of a long-standing exclusive provider of directories in shaping user expectations was highlighted in the *KPN* case. For these reasons, communications providers should be required under GC19 to provide all the information fields currently supplied to DQ providers via OSIS.

SECTION 5

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?

157. Although BT may currently argue otherwise, we feel strongly that BT would not have sufficient commercial incentive to maintain the current level of comprehensiveness of OSIS absent *ex ante* regulation, and that regulation (USC7 or an equivalent condition) is therefore required.
158. The reason why the DQ industry is robust and for the most part delivering the level of service required by the USD, and why historically the OSIS database has been maintained by BT and kept fairly accurate and comprehensive, is the existence of regulation at the wholesale level on the supply of directory information (namely USC7 and the licence condition in BT's 1984 Act licence which preceded it).
159. On this point, it is wrong to suggest that not replacing USC7 would effectively mean "no change" and "maintain[ing] the status quo" (paragraph 5.28). Maintaining the status quo would be not revoking USC7 and replacing it as soon as possible with equivalent regulation if it is proven to be unlawful.
160. The OSIS database and the provision of DQ services are not in any sense key parts of BT's business. Ofcom notes that running OSIS is nevertheless profitable, but, in the absence of any transparency whatsoever of BT's costs, it might be that OSIS is only marginally profitable or currently subsidised by other areas of BT's business – a subsidy that could be removed if BT's provision of OSIS becomes unregulated.
161. In the context of the Disputes, BT's possible inclination not to maintain OSIS in the same way has already been evidenced by the deprioritisation of certain improvements to OSIS pending the outcome of the Disputes (see **Annex 4** to this response – a spreadsheet on OSIS where improvements are marked "*on hold, awaiting KPN decision*"). Whilst these

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might indicate that BT is simply re-allocating resources to other business areas at present, it does indicate that OSIS is not a key part of BT's business. We agree with Ofcom that there is a risk that BT will no longer collect directory information from smaller communications providers or otherwise collect information where it is disproportionately difficult or expensive to do so.

162. We do not agree that the internal and external pressure on BT to continue to maintain a comprehensive database is considerable. BT Retail has its own database and the pressure on BT to maintain a comprehensive database will not be great so long as it is a small part of their turnover and not a priority. Where BT finds itself with limited resources, it will naturally focus those on areas of the business which are more profitable or strategically important. OSIS is not such an area within BT.
163. As regards the comprehensiveness of OSIS generally, please see our comments in relation to question 3.2 and our proposed redrafting of GC8 in response to question 3.4.

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.

164. It is absolutely essential that there is regulation to replace USC7 if this condition is ultimately found by the Tribunal to be unlawful. Whatever BT may currently feel, we are strongly of the view that the market incentives on BT to maintain OSIS to the same level of quality, accuracy and comprehensiveness are insufficient. For the avoidance of doubt, GC19 is insufficient as a mechanism to ensure the continued smooth operation of the DQ market. Regulatory underpinning equivalent to that provided to date by USC7 is the only way to secure the continued functioning of the UK DQ industry.
165. BT has a monopoly in the supply of comprehensive directory information in the UK which would enable it arbitrarily to determine pricing and access to that information absent *ex ante* regulation. As Martin Cave notes in his paper on market power in the DQ industry (attached at **Annex 1**), "*the aggregation activity appears to have ... the characteristics of a 'natural monopoly'*".
166. In our view, Ofcom would be in breach of its statutory duties under sections 3 and 4 of the Communications Act 2003 if it failed to preserve the current high levels of innovation, competition and efficiency in the UK DQ industry by no longer regulating the provision of the key input for that industry, namely directory information, by the monopoly provider of that information (and a competing provider of DQ services). In particular, Ofcom is required under section 4(3)(c) to act in accordance with the first Community requirement to promote competition in relation to the supply of directories.

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167. As the Analysys Consulting report carried out for the European Commission in 2002³² "Regulatory Framework and Market Developments Concerning Directory Services in EU and EEA Member States" concluded:

"A suitable regulatory environment is a pre-condition for the existence of competition in the market. Legislation that enhances ease of access to directory data, by determining a cost-oriented access charge and creating a single universal database, creates a favourable situation for alternative directory service providers to compete in".

In our view, this is just as true today as it was in 2002. Analysys, in fact, recommended the creation of a centralised universal database by Member States noting that this was the method already used or being proposed for use in a number of EU Member States as the best way of implementing Article 6 of the Voice Telephony Directive 98/10/EC (the predecessor of Articles 5 and 25 of the USD). These EU Member States included Ireland, Spain, Germany, Austria, France, Italy, UK and Finland.³³

168. In the ITT/Belgacom European Commission competition case in 1997, the Commission confirmed that where DQ providers were dependent on upstream providers for access to data which they could not reproduce themselves or find from other sources, access had to be granted on cost-oriented and non-discriminatory terms³⁴.
169. Any replacement regulation must continue to ensure the quality and comprehensiveness of OSIS and ensure continued access on fair, reasonable and non-discriminatory terms and at cost-oriented prices to all the information DQ providers currently receive, which would include charging for OSIS on a fixed fee rather than the current usage basis. This is essential if DQ providers are to continue providing DQ services at the level of quality, affordability, accuracy and comprehensiveness to which UK users have become accustomed.
170. BT, by virtue of its vertically-integrated nature and its position of dominance in the supply of directory information, has an incentive to favour BT Retail's own DQ service (as already evidenced by only BT's 118500 number apparently being available on BT's Home Hub), to raise its charges for OSIS, to reduce the amount, frequency and quality of the data, to increase the restrictions on the re-use of data, and potentially to refuse to supply data altogether unless prevented from doing so by regulation.
171. Any such action on BT's part would have a devastating impact on the DQ industry and on the quality and price of DQ services for consumers.

³² Final Report No. 02-226, 27 September 2002; page iv; http://ec.europa.eu/information_society/topics/telecoms/regulatory/studies/documents/regfwkandmktdev_final_report_public_version.pdf.

³³ See pages 27-28 and 118-119 of the Final Report.

³⁴ European Commission Competition Report 1997, http://ec.europa.eu/comm/competition/publications/97part1_en.pdf.

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172. *Ex post* competition law would not adequately address such anti-competitive behaviour by BT because Ofcom and/or the affected DQ provider would not be able to enforce the competition rules expeditiously enough to prevent DQ providers going out of business (e.g. as a result of OSIS charges increasing to unaffordable levels or DQ services becoming of such poor quality that callers no longer use them). The whole industry might have collapsed before BT was required to modify its behaviour. Interim measures and interim relief are only theoretically available and could not be relied upon in light of the very high evidential thresholds required to be met for them to be granted. In any event, smaller DQ providers simply would not have the resources to bring such actions.
173. Aside from the time (and significant expense) involved, competition law actions would require Ofcom and/or the affected DQ provider to prove, in every instance, dominance, abuse, and effects on the market. BT is very adept at engaging in market distorting activities where a regulatory grey area provides the opportunity, and Ofcom would have to be continuously monitoring and enforcing against BT. We suspect Ofcom would not have the resources to do this or to deal, alternatively, with an inevitable succession of dispute referrals on OSIS pricing and terms of supply.
174. Detection will also be an issue. As Martin Cave notes in his paper at **Annex 1**, "*the risks of detection are diminished for a firm exercising dominance throughout a complex and little understood value chain such as the one in operation here*".
175. There is a great deal of evidence of the imminent risk of dominant telephone companies exploiting their control of subscriber databases to disadvantage competitive DQ providers absent *ex ante* regulation. For example, the ITT/Belgacom case in Belgium, the Conduit/Telefónica case in Spain³⁵, the Deutsche Telekom case in Germany³⁶ and the PagesJaunes case in France³⁷. In its Report for the European Commission in 2002³⁸, Analysys Consulting noted that:

"In 2002, four years after this Article [Art. 6 of Directive 98/10, the predecessor to Articles 5 and 25 of Directive 2002/22] was issued, almost all Member States have implemented Article 6 to some extent in their legislation (the exceptions being Liechtenstein, Luxembourg and Greece). In practice, however, there is limited compliance with its provisions: in most countries, telephone directories and directory enquiry services do not include all listed subscribers from all telecoms operators. Also, there are many ongoing disputes between operators and directory service

³⁵ Resolutions of the CMT of 26 June 2003 and 13 November 2003 and Judgment of the Fifth Commercial Court of 11 November 2005 (upheld on appeal, judgment of the Appeal Court of Madrid of 25 May 2006). See: <http://ec.europa.eu/comm/competition/antitrust/actionsdamages/documents.html>. Conduit was forced to exit the Spanish market in June 2005 selling its business to Telegate.

³⁶ http://www.bundeskartellamt.de/wEnglisch/News/Archiv/ArchivNews1999/1999_01_13.php; Telegate press release: http://www.telegate.com/en/124_3271_ENG_HTML.htm.

³⁷ http://www.conseil-concurrence.fr/user/standard.php?id_rub=191.

³⁸ Final Report No. 02-226, 27 September 2002; paragraph 0.2 of the Executive Summary; http://ec.europa.eu/information_society/topics/telecoms/regulatory/studies/documents/regfwkandmktdev_final_report_public_version.pdf.

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providers centred on the access conditions to directory data – more specifically, on the cost basis of the access charge. These disagreements hamper the collection of directory data from various operators, making it difficult for alternative providers to offer a comprehensive directory service (i.e. one including subscribers from all operators). As a result, there is still restricted competition in the directory services market in many Member States, and directory services often do not include all subscriber information."

A further extract from the Analysys Report on barriers to competition is contained in **Annex 6**.

176. In the Conduit/Telefónica case in Spain, Telefónica, the incumbent, was found to have infringed Article 82 EC in providing Conduit with defective and incomplete subscriber data when Conduit entered the market, thereby putting Conduit at a competitive disadvantage. Conduit was subsequently awarded damages from Telefónica. However, by the time the case reached judgment in 2005 (it was subsequently appealed and upheld in 2006), Conduit had sold its Spanish subsidiary to Telegate, a German call centre operator and DQ provider.
177. In the Deutsche Telekom case in 1999³⁹, the German competition authority (the Bundeskartellamt) found that Deutsche Telekom AG had engaged in a number of abusive practices connected with the provision of directory information to its competitors. In particular, the charges Deutsche Telekom requested from its competitors for providing them with its directory information were found to be "*highly excessive*". It also "*refused to give certain files, e.g. extension numbers, to competitors who wanted to use these to establish their own data base*". Telegate subsequently won damages from Deutsche Telekom in relation to the latter's excessive data charges⁴⁰.
178. Finally, in a 2006 case involving The Number's French subsidiary Le Numéro⁴¹, France Télécom was alleged to have obstructed the development of competition in DQ services by refusing to supply DQ providers with certain data or supplying incomplete or erroneous data, whilst at the same time providing reliable data for us by its own DQ service. In particular, France Télécom was alleged to have unfairly classified certain subscriber details, which it was required by regulation to disclose to DQ providers, as "advertising entries" with PagesJaunes in order to avoid having to disclose them. France Télécom and PagesJaunes both refuted the allegations, but agreed to offer commitments to provide a full set of data on non-discriminatory terms.
179. Whilst Ofcom have in the past investigated BT under the Competition Act 1998, there has never been a definitive finding that BT has abused its dominant position in any market.

³⁹ http://www.bundeskartellamt.de/wEnglisch/News/Archiv/ArchivNews1999/1999_01_13.php.

⁴⁰ Telegate press release: http://www.telegate.com/en/124_3271_ENG_HTML.htm.

⁴¹ http://www.conseil-concurrence.fr/user/standard.php?id_rub=191.

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Moreover, the *Freeserve* case⁴² (in which Ofcom is using its Competition Act 1998 powers and has now issued a second Statement of Objections) has been ongoing for almost five years, so this reinforces the point that the use of *ex post* competition powers could not offer a speedy resolution to any anti-competitive action on the part of BT in relation to the OSIS database.

180. Similarly, an investigation by Ofcom into competition in the directory information market and a subsequent Enterprise Act referral to the Competition Commission would take far too long to be of any use to DQ providers being squeezed by BT.
181. In addition, The Number and other DQ providers are very small players compared with BT and the cost of bringing High Court litigation to enforce competition law every time BT threatened their supply of directory information would be prohibitive, not to mention the legal and practical difficulties they would face in doing so.
182. In any event, the objectives of comprehensiveness, quality and accuracy in relation to OSIS are not objectives which will be secured by the enforcement of competition law, which has quite different objectives concerned solely with maintaining competition in relevant markets.
183. In contrast, an *ex ante* condition on BT would enable Ofcom to take action quickly in the event that the comprehensiveness or quality of OSIS came under threat, or BT increased its charges or restrictions on the re-use of data, without the need for any analysis of the market or of whether competition would be affected. It would also make clear what BT's obligations are and what DQ providers can expect, and would set out the basis on which Ofcom would determine any future disputes over access to OSIS referred to it.

Alternative regulation

184. As noted above, we continue to believe that USC7 is lawful and is the best mechanism for ensuring the continued smooth operation of the DQ market and should remain in place.
185. Nevertheless, noting Ofcom's concerns as expressed in paragraphs 5.31 to 5.36, we have carried out some analysis of the form replacement regulation might take, in the event that USC7 is found to be unlawful, and, in our view, the route most likely to result in a robust regulation going forward achievable within a reasonable timescale would be for Ofcom to carry out a market analysis in relation to the supply of directory information in the UK and impose an SMP condition on BT.

⁴² http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_ocases/open_all/cw_613/.

SMP condition

186. As Ofcom is aware, SMP conditions can only be imposed by Ofcom after first conducting a market review to ascertain whether any operators on the market in question have significant market power (a position equivalent to dominance, being a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers).
187. Ofcom might take around three months to carry out a market review and to propose that SMP conditions be imposed on BT in relation to OSIS (e.g. that BT should provide OSIS on fair, reasonable, cost-oriented and non-discriminatory terms).
188. In accordance with the European Commission's Recommendation on Relevant Markets susceptible to *ex ante* regulation⁴³ (this originally identified eighteen communications markets on which competition was likely to be impeded by the presence of operators with SMP - the updated Recommendation now identifies only seven markets⁴⁴), Ofcom has carried out a number of market reviews and, in relation to BT, imposed access obligations (by way of SMP conditions) in a number of retail and wholesale markets. However, none of the relevant markets mentioned in the Recommendation relate to the provision of directory information.
189. Having carried out a market review analysis, Ofcom would therefore need to notify the European Commission and national regulators in other Member States in the EU that it intended to make a market power determination in a market not currently identified by the Commission as requiring *ex ante* regulation because of the particular circumstances present in the UK⁴⁵.
190. This process is of course not the same as asking the Commission to increase the number of relevant markets in the current Recommendation to include this one. As Ofcom is aware, it is a simpler one-off process whereby a Member State which identifies specific problems in a particular market in its country can ask the Commission to allow it to regulate in that market in order to address those problems.

⁴³ COMMISSION RECOMMENDATION of 11 February 2003 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services (2003/311/EC).

⁴⁴ COMMISSION RECOMMENDATION of 17 December 2007 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (2007/879/EC).

⁴⁵ Article 7(3)(b) of the Framework Directive (DIRECTIVE 2002/21/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 March 2002 on a common regulatory framework for electronic communications networks and services) requires national regulatory authorities to notify the Commission and other Member states where a measure "would affect trade between Member States". Even where regulation applies only in one Member State (i.e. the UK), there will usually be an effect on trade between Member States, e.g. where suppliers outside the Member State in question would consider supplying the regulated services in the UK.

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191. Ofcom would have to set out its reasons for wishing to regulate the wholesale provision of comprehensive directory information in the UK, which would need to include the fact that barriers to entry into the market were high (e.g. because creating an alternative to OSIS would be totally impracticable) and that competition law would not adequately address the market failure identified⁴⁶.
192. The Commission and Member States would then comment and Ofcom would be required to take account of those comments. If the Commission considered that the proposal would create a barrier in relation to the single European market or had serious doubts as to its compatibility with EU law, it could veto the proposal and require Ofcom to withdraw the proposed measure. If not, Ofcom could proceed to implement the measure. This stage of the process might take a further three months.
193. We are advised that it is possible that the European Commission would accept a request by Ofcom to regulate the wholesale provision of comprehensive directory information in the UK if Ofcom carried out a thorough market analysis and put forward good reasons for wanting to do so. On balance, it could be expected to take some time (at least 6 to 9 months) to get to the point where SMP conditions could be imposed on BT.
194. In our view, BT clearly has SMP in this market and, for the reasons outlined above and which are clear from the attached paper from Martin Cave, there is a compelling rationale for regulating this market and for imposing an SMP condition on BT in relation to OSIS (e.g. that BT should provide OSIS on fair, reasonable, objective, cost-oriented and non-discriminatory terms).

Other options

195. Looking at the way in which the DQ industry functions in other European countries, it is clear to us that the UK system, and the operation of OSIS, offers a better solution for DQ providers and their customers than most other countries, albeit OSIS charges are significantly higher than those charged by the suppliers of directory information elsewhere in Europe.
196. Spain operates a centralised unified database through the national regulatory authority (the CMT) in accordance with Ministerial Order 711/2002 of 26 March. In Germany, DQ providers have access to the incumbent's universal database. In Finland, DQ providers have access to unified database run by a consortium. In our view, the use of a unified database in each of these countries represents best practice. The Consultation represents a good opportunity for the UK to put in place best practice, in terms of wholesale directory information supply, which other countries would want to replicate.

⁴⁶ The Analysys report identifies a number of barriers to entry present when the DQ industry was deregulated and these are still present today. Final Report for the European Commission - *Regulatory Framework and Market Developments Concerning Directory Services in EU and EEA Member States*; Analysys Final Report No. 02-226, 27 September 2002; http://ec.europa.eu/information_society/topics/telecoms/regulatory/studies/documents/regfwkandmktdev_final_report_public_version.pdf.

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197. As noted above, we have invested significant time and resources into investigating whether or not creating a database relying on GC19 would be commercially and logistically feasible. However, that exercise has demonstrated that creating an alternative database in reliance only GC19 would be totally unviable.
198. The process would take several years and several million pounds to complete. The contract negotiations and account management that would need to be in place to take 1800 plus GC19 data feeds alone could take over two years, and we have no economic framework to base the total cost of receiving the data from each of the suppliers, as they could supply more than the minimum GC19 data fields and charge as much as they could get away with for that additional data. In addition, with no agreement on format, there might be hundreds of different formats in use and it takes between 3 to 6 months for each format to be tested and made usable. This could therefore also take years to resolve.
199. Any project to recreate OSIS would be tasked with reverse engineering and building a set of tools and databases to almost exactly match the tools and databases currently used by OSIS. It is safe to assume that the tools and databases currently used by OSIS have likely evolved and developed over several decades and are the end result of many years of product knowledge and experience gained from working with the data, learning and defining the market and, no doubt, the lessons learned from mistakes made over the years. To try to replicate that experience from outside and apply it to the design and implementation of a completely new set of tools and databases would be an insurmountable task.
200. At a minimum such a project would also require a large team of highly experienced and skilled resources, ranging from software developers to data analysts to database administrators, to meticulously scope, define, design, build, test, probably rebuild and retest a fully comprehensive suite of databases, automated processes, reference datasets, administration applications, data editing applications and system integrations.
201. In the end, this would still not produce a database which even gets close to replicating OSIS. It would also soon go out of date and could not be updated, as shared source ID would be needed from each of the 1800 plus providers and resellers to determine whether a listing was being ported to another carrier or needed updating.
202. We understand that UNISYS were employed to improve the current system for BT Wholesale and that they failed to end up with anything workable after two years, even though they were able to start with an existing, working platform.
203. As Martin Cave notes in his paper at **Annex 1**, "*if a particular proposed course of conduct is not feasible, then it certainly is not optimal*". We believe, based on the work we have undertaken and past efforts to improve OSIS itself, that operating simply on the basis of GC19 is not feasible.

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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?

OSIS terms of supply

204. In view of BT's monopoly position in the supply of comprehensive directory information in the UK, and the difficulties that this presents for DQ providers when trying to negotiate terms for the supply of OSIS with BT, we would propose that any new terms proposed by BT should be subject to referral to Ofcom for resolution in the event that there is a dispute. The mechanism for achieving this is evidently dependent on whether USC7 is held to be lawful or whether an alternative regulatory replacement (e.g. SMP condition as discussed above) is put in place in a timely fashion.

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Annex 1

Market Power in the Directory Enquiry Industry and the need for *ex ante* regulation of the OSIS database - a paper by Martin Cave

Market Power in the Directory Enquiry Industry and the need for *ex ante* regulation of the OSIS database

Martin Cave¹
Warwick Business School

27 June 2008

Introduction

Ofcom has determined that universal service condition 7 ("USC7"), which requires BT to supply on request the contents of its OSIS database in machine readable form to anyone seeking to provide a publicly available directory enquiry ("DQ") service, is unlawful. Ofcom plans to revoke that condition and, under one of the proposals in the consultation, suggests that the industry could instead rely only on an enhanced general condition 19 ("GC19") (rather than on a replacement to USC7), under which communications providers will be required to supply on reasonable request certain basic directory information (name, address, telephone number and limited other data) to directory enquiry ("DQ") providers.

Ofcom has made this proposal for legal reasons (as set out above), and because it believes that the market is capable of continuing to supply wholesale directory information without ex ante regulatory intervention (because BT has a commercial incentive to continue to maintain and supply a comprehensive OSIS database on reasonable terms). This note examines the latter claim. It suggests that BT would enjoy a position of dominance throughout the relevant value chain, which would enable it to make excessive profits and even to exclude or weaken its competitors in the provision of DQ services, and to reduce the comprehensiveness and consequently the quality of DQ services in the UK generally. Moreover, reliance on competition law alone to prevent this outcome is hazardous; it is likely that many existing operators will quickly suffer irreparable damage and, once they have left the industry, it will be difficult or impossible to restore the same level of competition. .

The value chain

The above argument is made with reference to Figure 1 below, which sets out the basic transactions required to ensure a supply of DQ services at the retail level:

-operators have to provide certain basic information about their subscribers to another party, which might be either an intermediary, as illustrated, or a directory service operator. In practice they currently provide more than the basic information to BT's OSIS. Under the current system, 43 items of information are collected by BT's OSIS service. Where BT was the original issuer of the number, it has this information as of

¹ A *curriculum vitae* is attached.

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right. In other cases it currently acquires it, or changes to it, for a fee from operators.¹ Ofcom proposes that operators should henceforth comply with their existing obligation under GC19 to provide information on their own current subscribers directly to DQ providers.

But it is almost certain that this is a wholly impracticable procedure. In the first place, at a technical level an organisation attempting this task would have to aggregate 2000 or more GC19 data feeds, which would probably come in numerous different formats². Secondly, contracts would have to be made with between 1700 and 3000 organisations for the supply of and payment for the data. Thirdly, the data available and notionally provided on demand under GC19 are much sparser (since they comprise either 8 or 11 fields, as compared with the 43 provided via OSIS), and they fall short of the needs of DQ providers. As a result, there will be a demand for additional information over and above the GC19 data, in respect of which it is likely that the operators will extract an unregulated fee. I return to the cost and problems of transition associated with this proposal below, but note here the well-known proposition that if a particular proposed course of conduct is not feasible, then it certainly is not optimal.

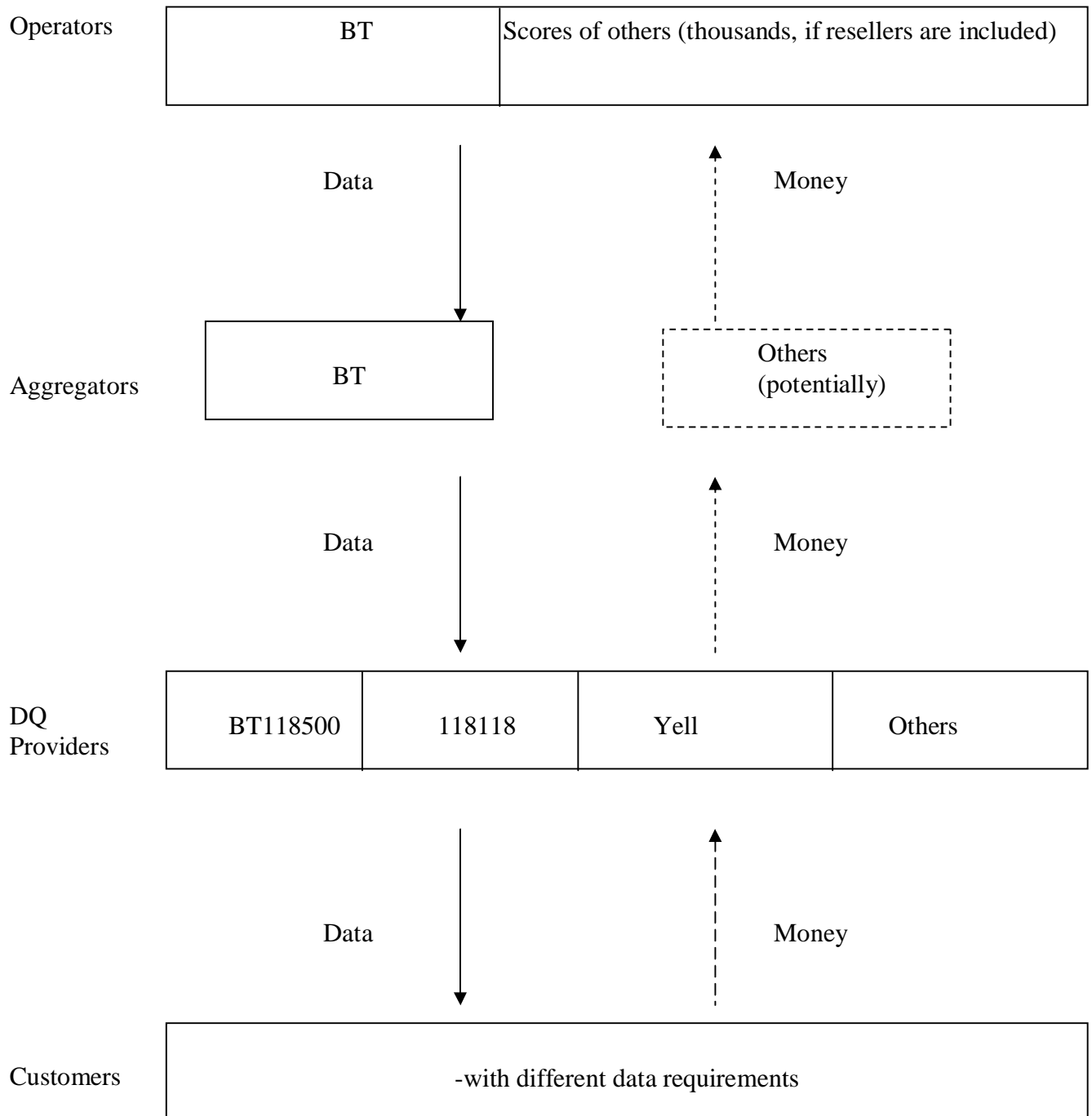
-the data have then to be combined to provide a multi-operator directory. This can be done separately by each DQ provider, or it can be done by one or more aggregators- as BT does it at present under USC7. Clearly the former method would be inefficient if the data aggregated for each DQ provider were identical. A rich stream of data is currently available under USC7, but if it were to be replaced by a thinner stream, DQ providers wishing to supplement it with additional data would have to procure them themselves.

-finally, DQ providers meet their customers' needs. One of these is for as full a listing as possible, both in terms of the number of subscribers covered and the comprehensiveness of the data available on each. This places a premium on a system which ensures the inclusion of full listings for the subscribers of as many operators as possible.

¹ It is worth noting that operators benefit from this arrangement, as BT provides them with a means of discharging their GC19 obligations. There is nothing inevitable about the flow of funds being from BT to operators rather than in the other direction. Moreover, as BT recovers these costs from DQ operators in OSIS charges, it has little reason to economise on them, especially since the recipient of the payments in respect of information about half the numbers is none other than BT itself, in its 'operator' role.

² Currently, these are: direct access, on-line batch access, submission of hard copy, and such other means as may be agreed from time to time.

Figure 1. The DQ value chain.



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In its consultation document (Paras 5.15-18), Ofcom addresses the question of whether BT would, absent a specific regulatory obligation, maintain the supply of wholesale directory information to other DQ providers, or whether the company would charge high prices for OSIS or impose onerous terms, to their competitors' detriment. Ofcom also consider whether the comprehensiveness and quality of the database would be affected by a lack of *ex ante* regulation.

It then notes that in the event that BT took action to increase charges or impose onerous terms, some providers might set up competing databases. (The likelihood of BT behaving in the ways described will obviously hinge upon the likelihood of this second eventuality.) I return to the question of replicability of the database below, having first asked the more general question whether Ofcom are justified in assuming that competitive pressure operating at each point in the chain will be enough to control the market power of any firm within it. If this condition is not satisfied, then excessive profits at one or more levels in the figure will cause injury to final users of DQ services. In brief, my conclusion is that either BT will continue to supply the OSIS data but at a higher price reflecting its market power; or it will not continue to provide OSIS, forcing DQ providers to make alternative arrangements which will both be costly and produce a poorer quality of service for their consumers.

Market power in the components

We now investigate in outline whether there are market power problems arising at:

- i) the operator level, with respect to additional information over and above GC19 data
- ii) the aggregator level

and

- iii) the level at which DQ services are supplied.

i) Information supplied by the operator

The utility of a DQ service depends upon its comprehensiveness. It is therefore a possible strategy for an operator with a large number of subscribers to charge an excessive price for additional information about those subscribers over and above that which it is required to supply at a cost-oriented price under GC19, by threatening to withhold its supply. The threat may be a double-edged weapon, as withholding the information will discourage calls to its telephony subscribers, thus reducing (perhaps) the utility of the service and the operators' own termination revenues. (In other words, the information supply has the characteristics of a two-sided market.) But greater revenues from the sale of non price-regulated additional directory information may outweigh this. Action taken by an individual small operator will have a much smaller effect (unless the operator serves customers with particularly inquired-after numbers), but the effect will be significant if a number of small operators withhold data. This situation gives the company in the UK with the largest number of subscribers- BT- a profit opportunity in the supply of additional information alone.

ii) Aggregator market power

At first sight aggregation looks like a standard high fixed cost/increasing returns to scale activity- the marginal cost of providing aggregated data to a new DQ provider being low or zero. This would make it possible for an incumbent to blockade entry by either charging a price just low enough to deter entry, but high enough to make a substantial profit, or to persuade entrants that if they come in, prices will be cut immediately. This may well happen: in particular, the conditions in which we know that it will not- so-called contestable markets- are not satisfied here.² To the contrary, the aggregation activity appears to have more of the characteristics of a ‘natural monopoly’.

This state of affairs gives BT several options. First it can charge excessive prices. The impact of this price-raising policy would vary from DQ provider to DQ provider, depending on its size. Its sustainability would depend on whether such a price rise would elicit a competitive response. In the case of any such response, BT would begin any competitive struggle with a rival aggregator with a head start, arising from its substantial legacy of its own and (possibly) other operators’ data. With a sunk investment of this kind, BT would be able credibly to threaten a price war.

BT’s second option is to raise its rivals’ costs of participation in the DQ market, simply by refusing to make OSIS available to them, or by making it available selectively. This would have a very serious and immediate effect on any DQ operators denied the data, as its services rely on accurate and timely information. Denial of supply would make the search for a rival service very urgent, as the value of the database depreciates very rapidly. *[Redacted]*.

The feasibility of replication of the data base is an empirical question, involving two related aspects- technical and commercial. *[Redacted]*.³

Ofcom has suggested that , if several DQ operators came together, they might have the capability to organise their own competing aggregation service; alternatively they could make a long-term contract with a third party to beat their monopoly supplier. However, this would come up against the obstacle that different DQ operators have different needs for data over and above what is supplied under GC19, resulting from differences in the services they supply.⁴ These calculations suggest that replication is not only expensive,

² In a contestable market, an entrant has a period in which it can undercut the incumbent without eliciting a price cut in response, and an entrant can leave costlessly, because none of its costs are sunk. The first condition is implausible and the second condition would not be satisfied, because the cost of buying data from operators would not be recoverable on exit.

³ By way of scaling, according to the latest information available to The Number, DQ operators’ revenues are broken down as follows by band: operators with revenue in excess of £5 million- 3; operators with revenues between £100,000 and £5 million-12; operators with revenues less than £100,000-81.

⁴ For example, DQ operators supplying classified information are only interested in basic business listings, whereas DQ operators are primarily interested in being as comprehensive as possible in respect of both business and household data.

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but also time-consuming, exposing non-BT DQ providers to the risk of being held to ransom by excessive pre-entry charges and threats to the security and quality of supply of directory information, supposing BT chooses to supply the OSIS data at all in the interim.

iii) Enquiry operator market power

Since liberalisation, the market for DQ services has seen considerable entry and exit, and fierce competition among DQ providers. This has occurred simultaneously with a reduction in overall volumes, though this is a trend which some DQ providers have managed to buck. There appears to be little scope for the emergence of a dominant supplier in this market, other than through the industry, inventiveness and diligence of any particular firm.

Vertical leveraging

The idea here is that a player operating in several stages in a value chain can exploit the advantages this gives it to exercise an overall level of market power which is greater than the sum of the parts.

In the present case, it would be open to BT to use the market power it has as an operator in essential additional information about its own subscribers, and to make it difficult for a rival to set up a competing aggregation business, by overcharging or withholding that additional data. It also owns the sole extant aggregator (the OSIS dataset), which has cost advantages. And it is active in the DQ business.

This places it hypothetically in a position to leverage its market power in BT subscriber information and in aggregation to exercise power in the DQ market. Does it have a motive to do so? Firms usually only choose to leverage market power downstream (or upstream) if they are obliged to do so, especially by regulatory constraints which restrict them in the market where they exercise market power. There is no obvious reason why BT would not choose to exercise its market power at the point where it arises- ie especially in the aggregation activity. Since BT is probably less efficient in delivering and marketing DQ services than its competitors, replacing them in that activity makes little sense.

Possible/probable consequences

The outcome I have prefigured – use by BT of its market power in aggregation, and the possible leveraging of that power into the DQ market- would have the following foreseeable consequences on services to end users and on the DQ industry.

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i) consequences for end users

These are:

- higher prices and loss of affordability , consequent upon the exercise of market power upstream by BT to raise prices for its OSIS database, or to impose more restrictive licence terms for re-use of that data;
- overcharging by BT of a rival aggregator for additional (ie non-GC19) BT subscriber information supplied to it, with consequential effects on the costs of such services;
- a deterioration, compared with previous experience and reasonable expectations, in the quality and comprehensiveness of the service which DQ users receive, as a result of use of a sparser data set and the risk that some operators will not provide additional information to aggregators;
- reduced choice, as a result of exit from the market of many existing operators and the weakening of surviving competitors;
- reduced innovation.

ii) consequences for the DQ industry

The foreseeable consequences for the DQ industry are:

- exit from the industry of many existing operators;
- reduction of investment.

[Redacted]

Avoiding these consequences: protecting end users and protecting the competitive process.

If these arguments are accepted, the question must be asked if the detriment to end users can better be avoided by the *ex post* application of competition law or by *ex ante* regulation, particularly the current regime, operating via USC7 or an equivalent replacement regulation.

In my opinion, it is unlikely that competition law is adequate to deal with the problem, for a number of reasons. Firstly, the risks of detection are diminished for a firm exercising dominance throughout a complex and little understood value chain such as the one in operation here. This reduces the deterrent effect of competition law.

Second, the period which would elapse before a competition law remedy kicked in (say, 2-3 years after the changes in the regime mooted by Ofcom) would see the ejection of many operators and the weakening of others in a demonstrably dynamic market. Such an irreversible (or hard to reverse) outcome should be avoided without a proper cost-benefit test in a market place where regulation has operated effectively for a number of years. It must be accepted that extension of regulation would likely preserve BT's current regulated monopoly in aggregation, but it has been suggested above that the prospects for replacing it with effective competition are slight, and the expected costs of competition foregone in that arena are less than the expected costs of the distortion of competition in DQ if the supply of OSIS data were withdrawn or if it were subject to excessive pricing..

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Principal Academic Employment to Date

1974 to 1987 Lecturer, Senior Lecturer and Professor of Economics, Brunel University.

1989 to 1994 Dean, Faculty of Social Sciences, Brunel University.

1994 to 1996 Pro-Vice-Chancellor, Brunel University.

1996 to 2001 Vice-Principal(Deputy Vice Chancellor), Brunel University

2001 to date Professor and Director, Centre for Management under Regulation, Warwick Business School, University of Warwick.

Principal Advisory Activities

- Appointed by the **Secretary of State for Transport** to chair an expert panel on airport regulation, 2008
- Appointed by the **Secretary of State for the Environment, Farming and Rural Affairs** to review competition and innovation in the water sector, 2008
- Appointed Special adviser to **Commissioner Reding** on Universal Service issues, 2008
- Member, **UK Payments Council**, 2007-2010.
- Appointed by **Secretary of State for Communities and Local Government** to undertake an independent review of the regulation of social housing, 2006-7.
- Appointed special adviser to **Commissioner Reding** on the reform of European telecommunications regulation 2006.

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- Appointed by **Chancellor of Exchequer** to conduct an independent audit of major spectrum holdings, December 2004- November 2005.
- Adviser to **Lord Chancellor's Department** on reforms in legal regulation 2004-5.
- Economic Advisor to **OFCOM**, from 2003 to 2006.
- Non-Executive Advisory Director at **OFWAT**, 2002 -2006.
- Appointed by **Chancellor of the Exchequer** and **the Secretary of State for Trade and Industry** to undertake an independent review of spectrum management, 2001 / 2002.
- Adviser to **Postal Services Commission** from 2000.
- Member, **UK Competition Commission**,1996-2002.
- Economic Adviser, part-time, **at HM Treasury**,1986-90.

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Annex 2

Transcripts of conversations between Andrew Larter of The Number and each of BT and four of the mobile operators

I Transcript of call from Andrew Larter ("AL") of The Number to BT dated 30 May 2008 at 10.30am

BT	Thank you for calling BT. If you are calling to buy a product or are moving home please continue to hold. For billing or any other enquiry there may be a delay before we can answer. We are less busy between 1pm and 4pm. Self-service facilities are available 24 hours a day at bt.com or on 0800 44 33 11.
BT	Welcome to BT. All calls made to BT or by BT may be recorded to help us give you a better service. If you are calling from the telephone you want to speak about press 1, otherwise press 2. Please enter the full telephone number you want to speak about. To help us deal with your call more effectively please enter the full telephone number you want to speak about. If you are not yet a BT customer and want our sales department press *. If you have already placed an order with us press 1 otherwise press 2. Please hold.
BT	Thank you for calling BT sales, you're speaking to Ellie, would you like to place an order today?
AL	Yes please.
BT	And have you been a BT customer before?
AL	Yes I have.
BT	How long ago was that please?
AL	A couple of years ago.
BT	Ok so we'll have to do a new account for you then. Are you going to be the account holder?
AL	Yes
BT	Is this the line that you wanted activating?
AL	Yes please
BT	Ok. And could I take a contact number for you please?
AL	<i>[Mobile number given]</i>
BT	And could I take your first name please?
AL	Andrew
BT	And your surname please?
AL	Larter, L-A-R-T-E-R
BT	And is your title Mr?
AL	Yes
BT	Could I take your date of birth please?
AL	<i>[DOB given]</i>
BT	Could I have the address, the postcode of the address that you are wanting your line

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	activating?
AL	[<i>details given</i>]
BT	In order to have service with BT would need to do a credit check, is that ok?
AL	Sure
BT	And how long have you been at that address for please?
AL	[<i>Gives details</i>]
BT	Thank you
BT	So I'm just going to do a quick technology check on your address, that's going to bring up any available lines at your property that we would be able to take over for you
AL	I don't want any existing lines taken over but want a new installation
BT	Ok. The cost of a new installation and for an engineer to come out and do it for you is £124.99 subject to the engineer's survey
AL	Ok
BT	And you can have that appear on the first bill or you can spread the cost interest free by direct debit on a monthly payment plan
AL	I'll have it upfront
BT	Ok. So there is already a BT retail working line there at the moment, is that right?
AL	Yes
BT	Is it alright for me to ask you a couple of questions on how you are going to use your line?
AL	Yes
BT	Are you using it for phone?
AL	For phone?
BT	For a phone service and broadband?
AL	Yes
BT	And when are you most likely to make calls from your phone line?
AL	During the day. I'm just after the cheapest service, whatever you've got, £11.75 I think it is, is it?
BT	Yeah the line rental is £11.75, for no extra cost on top of the line rental you can have evening and weekend phone calls for free and everything would be on a 12 month term and were you wanting to order BT broadband today?
AL	No thank you
BT	And we also have something called the international saver, do you call any international numbers from your phone line?
AL	No
BT	So would you like that evening and weekend phone package on your phone line for you?
AL	Not if there's a cost to it
BT	No, it's free it's no extra cost on top of the line rental
AL	Ok, what's the catch though?
BT	Er, there's no catch

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AL	Ok
BT	So the evening would be classed from 6pm to 6am, the weekend is midnight Friday to midnight Sunday. Within these times you get your free calls to UK landlines and that would be on calls for up to an hour so if you hang up before 59 minutes and redial then you would be reset for another hour.
AL	Ok
BT	Calls during the week in the daytime are charged at 4p per minute with a 6p call separate fee to UK landlines. Were you wanting the number for your line to be ex-directory?
AL	No
BT	Just bear with me I'm just loading it up onto your account for you. I just need to do the credit check now, is that ok?
AL	Yes
BT	So before we can set up service, we need to do a credit check through our credit reference agency, they will record whether this application is successful or not and the results may be seen and used by BT and other companies, is that ok?
AL	Yes
BT	That's just processing, it won't take a minute
AL	Ok. Do you ask everybody if they are to be ex-directory, do you?
BT	You have the option to yeah
AL	Why don't they want to be included in the directory rather than asking for ex-directory? Is that a policy thing there is it?
BT	Er, no not at all, it is just a different wording of the question, that's all
AL	Ok. You can ask that question any way you like?
BT	Yeah. Now we have a free service called BT privacy at home that stops sales calls from UK companies, would you like that on there?
AL	No thank you. Is there a cost to that?
BT	No it's free
AL	And there's no catch for that one either?
BT	No it just stops sales calls from UK companies
AL	So I presume everybody signs up to that one do they?
BT	Quite a lot of people do yeah
AL	But not everyone?
BT	Not everyone, no. You also get something called friends and family which is the top ten numbers that you call in a month will automatically get 10% off and you don't need to register any numbers with us for it, it will just do it automatically for you
AL	Ok
BT	And you'll receive confirmation of the telephone number in the post. I'm just about to do the appointment for you for the engineer. And I have dates starting from the 5 th June or you can have 6 th June, 9 th , 10 th , 11 th , whatever is best for you.
AL	I am probably not going to be able to make any of those dates, can you not do it by himself or do I have to be there?

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BT	You do need to be there because he needs access to your property to install the plug-in box in your home
AL	What dates were they?
BT	We've got the first which is the 5 th 6 th , 9 th , 10 th , 11 th , 12 th , 13 th
AL	And I presume you can only do 9 to 5, can you?
BT	You can have it between 8 and 1 or between 1 and 6
AL	Yeah, I mean I'm working I can't do it at those times
BT	Is there anyone else that would be able to be there on your behalf?
AL	Not that I can think of. Can he not go and, doesn't he just hook it up from the street or something like that
BT	No, he needs to get into your house to install the line and the phone point in your house
AL	Ok, um, I am going to have to get back to you with a date and a time when someone can be there then
BT	Ok. I won't be able to finish this order without a date so, if you are going to be ringing back I will have to cancel this one
AL	Ok, so I'd have to go through the whole process again will I?
BT	Well we have your contact information in here so all you need to do would be to give your phone number, you know that mobile number that you gave me and then we can bring up your contact information and just replace the order for you
AL	Ok. Er, ok
BT	Ok, so I'll cancel this and then you can ring us back
AL	Ok, thanks very much
BT	Ok, thank you for calling
AL	Ok, bye
BT	Bye

II Transcript of call from Andrew Larter ("AL") of The Number to BT dated 9 June 2008 at 9.17am

BT	Welcome to BT. All calls made to BT or by BT may be recorded to help us give you a better service. If you are calling from the telephone you want to speak about press 1, otherwise press 2. Please enter the full telephone number you want to speak about. To help us deal with your call more effectively please enter the full telephone number you want to speak about. If you are not yet a BT customer and want our sales department press *. If you have already placed an order with us press 1 otherwise press 2. Please hold.
BT	Thank you for calling BT mobile sales, my name is Reece how can I help?
AL	Hi Reece, I just want to get a phone line set up for my home phone
BT	Alright, OK, no problem. Have you had a service with BT before
AL	I have a couple of years ago, yes

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BT	OK that's not a problem, bear with me for a moment. Can I just take your name please
AL	Andrew Larter
BT	How do you spell your surname?
AL	L-A-R-T-E-R
BT	Bear with me for a moment then please.
AL	I tried to do it last week but your systems were down so they told me I would have to call back. It may still all be there
BT	OK, bear with me, I'll have a look to see if I can find you
BT	OK, can I take your contact number that you gave the last adviser
AL	<i>[Number given]</i>
BT	What is your address and postcode please?
AL	<i>[Details given]</i>
BT	Sorry about the delay here Sir
AL	That's OK
BT	Just going to make sure that we have all the details that we need to set this up for you
BT	Could you just confirm your DOB please?
AL	<i>[Details given]</i>
BT	and can I just take your mother's maiden name please
AL	<i>[Details given]</i>
BT	That's great
BT	If you could just hold the line for a few minutes please Sir, I will get this underway for us
AL	OK
BT	Sorry about that, could you just confirm the house name again please?
AL	<i>[Details given]</i>
AL	There is a BT line there already, this is just an additional line for me
BT	Right is that on [...]
AL	Yes
BT	And how long have you been there for?
AL	<i>[Gives details]</i>
AL	I don't want to disturb the current phone line that is there you understand
BT	Yes, Ok, bear with me for a few moments
BT	Sorry about the wait
AL	That's OK
BT	With the address I've come across a few working lines here. Do you know how many in total there are?
AL	Three
BT	There are three right, and you want an extra one yes

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AL	Right, yes
BT	OK that's fine. The last advisor that you spoke to, did they go through a credit check with you?
AL	Don't think so
BT	OK
AL	I think all systems were down, but I have gone through a credit check previously when I've tried to set up a line with you
BT	Just setting up the account here, sorry about the wait
AL	That's Ok
BT	It will take a little bit of a while here
AL	Ok
BT	OK, sorry about that
AL	That's ok
BT	Now, we are half way through, can I just ask what you are going to be using the line for, is it just for calls, will you be using the internet?
AL	It will be mainly for the internet, yes
BT	Right
AL	But I don't want to set that up now, I just want to set it up so I can use it
BT	That's not a problem, that's quite all right
BT	When we put up a line we do need to put in a calling pack as well, which will be your line rental
AL	OK
BT	The basic line rental is £11.75 a month
AL	Yes
BT	And that's including VAT. What we do have for £11.75 is your free evening and weekend calls
AL	OK
BT	Would you like me to put that on for you?
AL	Yes
BT	OK. Sorry to keep you waiting there Sir. What I've done is I've gone ahead with the credit check and I've been asked to refer you to our credit referrals team
AL	Sure, yes
BT	And I'm going to need to pass you through so if you would bear with me a moment I'm going to give you a reference number
AL	Yes
BT	If I can find it
AL	They will finish setting it up for me will they, or will they have to pass me back to you?
BT	I think they might be able to finish it off for you

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AL	OK, how long will it take to set up do you know?
BT	As soon as you have been speaking to credit referrals they will be able to see why it's been referred to them. Normally it will go straight through on my side if there are no problems
AL	OK. This is just my office I'm going to have to use it if I stay over in London
BT	Yes
AL	So did you do my credit check on my [gives address], my home address?
BT	It's one that you have supplied me with today and its your previous as well
AL	So you did my credit check with [gives address]?
BT	That's the one we have for you yes
AL	And that's the one that's come up as trouble is it?
BT	It hasn't come up with anything its just asked to refer you to credit referrals. If you bear with me I'll give you a reference number
AL	Ok
BT	[Gives reference number]
AL	That is the longest reference number I've ever heard in my life
BT	Yes its your order reference. The order for the line
BT	Bear with me a few moments and I'll put you straight through
AL	Thank you
BT	<i>Call Transferred to BT Credit Referral Service:</i>
BTCRS	Thank you for calling BT's Credit Referral Service. Please have your Customer Account Number or Order Number ready for our adviser.
BTCRS	Hello BT's Credit Referral Service, Geraint speaking, can I take your Customer Order Number please?
AL	Yes it's [Gives number]
BTCRS	How can I help?
AL	I'm trying to get a phone line set up and I've been told that I need to speak to you.
BTCTS	OK – would you confirm your name and address please?
AL	[Details given]
BTCRS	OK Mr Larter, if you would just bear with me for two second and I'll take a look at the order
BTCRS	OK sir, just bear with me and I'll confirm when the line will be activated
AL	As soon as possible
BTCRS	No problem
BTCRS	I'm just gonna put you on hold for two seconds – is that OK?
AL	Sure
BTCRS	OK – that has gone through and your line will be activated on Friday
AL	Do you know what phone number it's going to be.
BTCRS	No, I can't tell you that but I can tell you that it will be activated on Friday between 8am and 1pm.

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AL	Sorry, can you say that again?
BTCRS	A telephone engineer will be out between 8am and 1pm to install the telephone line. Friday 13 th .
AL	Do I need to be there for that?
BTCRS	Yes – you do
AL	OK – so between 8am and 1pm on Friday?
BTCRS	Yes. Then they'll give you your new number and everything else
AL	OK – it's a new phone number is it?
BTCRS	Yes it is
AL	OK – do I get any options with a new phone number?
BTCRS	Yes – Were you not given this information already? You have free evening and UK weekend calls
AL	OK – I was referring to if I wanted to go on the Directory or not
BTCRS	Oh, OK
AL	For sales calls and things like that.
BTCRS	When you've got your line, you just give us a call and we will then update your order.
AL	Oh – so I have to ...
BTCRS	Yes – once your line is working, just call us up and we'll pass you to customer services and we'll sort that all out for you – OK
AL	OK – so I don't get to choose any directory or sales calls options until the line is installed
BTCRS	Yes ...
AL	And then I have to phone customer services to set that up
BTCRS	Yes
AL	OK – thank you
BTCRS	Thank you

III Transcript of call from Andrew Larter ("AL") of The Number to mobile operator A dated 30 May 2008 at 1.08pm (Part 1) and 30 May 2008 at 2.52pm (Part 2)

Part 1 - Sales

MOB A	Welcome to [...]. Please choose from the following 2 options. If you would like to join [...] or add another phone on your account press 1
MOB A	You are through to [...], how can I help you today?
AL	Can I get a mobile contract please
MOB A	You can, is there a particular phone that you wanted?
AL	No, can I just get a sim
MOB A	Sim only pack

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AL	Yes
MOB A	Yes you can have a sim only if you want if you have already got a phone, it's probably much easier until you see a phone that you like. Are you a big talk or big texter?
AL	Probably text I'd say
MOB A	Text you need more. I could do you say 150 minutes 500 texts for as little as £15 a month. If you want to go a bit more, I've got 1000 texts
AL	No, no, no, no, no
MOB A	15
AL	Is 15 the cheapest deal, do you have any cheaper than that?
MOB A	On the text, no 15 is the cheapest for text
AL	OK that's fine then
MOB A	Cool, it's only 50p a day, it's a bit of a bargain. To see that you can get one of these you haven't got any phone accounts with us at the moment I take it
AL	No
MOB A	OK we've just got to go through and do your identification check, credit check ok
AL	OK sure
MOB A	So for legal reasons I've got read all this out. OK to do a credit check with yourself, ok, we may make searches of credit reference agencies and fraud prevention agencies which supply us with information including information from the electoral register. OK for identification purposes they will record details of this search we may also use scoring methods to assess your application to confirm your identity OK. Can I confirm your first name?
AL	Andrew
MOB A	Andrew, you are talking Russell and I'm going to guide you through this. Your surname is?
AL	Larter L-A-R-T-E-R
MOB A	Postcode for where you live
AL	<i>[Details given]</i>
MOB A	House number on the door there sir
AL	<i>[Details given]</i>
MOB A	Can I confirm your contact home telephone number?
AL	No home phone number
MOB A	Contact number
AL	<i>[Details given]</i>
MOB A	Your date of birth next
AL	<i>[Details given]</i>
MOB A	Do you have a visa card, delta switch
AL	<i>[Details given]</i>
MOB A	Can I take long number off the front of your card please
AL	<i>[Details given]</i>

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MOB A	Expiry date
AL	[Details given]
MOB A	Verification code on the back of your card is, last 3 numbers
AL	[Details given]
MOB A	Right, I'm gonna put this together. OK I'm going to create an account. If false or inaccurate information is provided and fraud is identified details will be passed through to fraud prevention agency to prevent fraud or money laundering. We are able to provide you with further details explaining how the information held by fraud prevention agencies may be used. OK. How long have you been living at this address now sir?
AL	[Gives details]
MOB A	Are you the owner there or tenant?
AL	[Gives details]
MOB A	Sorry you are breaking up on me a bit
AL	[Gives details]
MOB A	OK , just put this in on the computer. Can I confirm your bank sort code next?
AL	[Details given]
MOB A	The account number next is?
AL	[Details given]
MOB A	What is your occupation please?
AL	[Details given]
MOB A	And your contact telephone number? Oh, you've given me that, would you like to be contacted by [...] group by text, telephone, fax or email about new products or services
AL	No thank you
MOB A	OK we are going to do the credit check. Back in a second. Thanks. Just got to speak to credit assessment back in a second. Sorry about the delay, credit assessment are just after looking into making a decision that we can have the [...]. If you want to grab a pen a paper in the meantime I'm gonna give you details when I come back. OK
AL	OK
MOB A	It has called back as a straight decline unfortunately. Your application has been denied
AL	Any reason why. Because I am [...] customer already, I've got the 3G data card
MOB A	That's strange. Let me have a look. Have you got the. Let me have a look at that. Perhaps its just going to give me that. It's alright I've refreshed. I've waited that long for it. I've had a look at the [...] and its rejected on that. Perhaps she's put, perhaps it has been approved on another [...]. Let me just have a look. Yes, she's put it on there I don't know where she's gone you see, perhaps she is just on the toilet or something. I don't know where she's gone. Let me have a look
AL	Who's that, credit assessment?
MOB A	Yes, she's disappeared and just left me on hold.
AL	She's said no and disappeared has she?
MOB A	No, she said to see a different band so its probably approved on there. Give me a second
AL	Hang on a second. Can I ask you a question while we are waiting? What options do I have

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	to go in the directory?
MOB A	What do you mean directory?
AL	Do you not have a directory provider service in the UK that you can go in
MOB A	I don't understand, what do you mean? We are ordering a sim card and we just send it out to you
AL	OK but do I not have an option to go into the directory database?
MOB A	Directory database, what would you want to do that for?
AL	Will this be an ex-directory number or a directory number, what options do I have?
MOB A	I don't understand what you mean
AL	OK
MOB A	Its going over my head sorry
AL	OK, let me try and explain. Do you know if this number will be ex-directory like if people phone 118 118 will they be able to...
MOB A	The free number ... that
AL	Sorry
MOB A	It's a free number,
AL	it's a free number, what does that mean?
MOB A	Are you asking me if it costs to call, is that right?
AL	No I'm asking you if people want to find where I am are they able to call 118 118 and get my number?
MOB A	Oh, no, it's all classified
AL	What options do I have?
MOB A	In regard to what?
AL	I want people to be able to get my number from the directory
MOB A	What the [...] directory?
AL	No, the 118 directory, the UK directory service
MOB A	Possibly can, I've never been trained on that. I've never been asked that question in the last 5 years I've worked here
AL	In 5 years no one has ever wanted to be in the directory?
MOB A	Yes, no one has asked me that no
AL	OK, I want to be in the directory though, I mean I want people to be able to contact me
MOB A	OK, customer services will sort that out with you afterwards. We are just selling and ordering products here, give me a second
AL	OK
MOB A	OK so it's going to be, I didn't realise that you had got an account with us else we wouldn't have had to create an account.
AL	Oh sorry, I pushed when the phone call started it said if you have an account with us push this button
MOB A	Oh right, we didn't need to do create another account you see. That's what, any way,

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	doesn't matter we've gone the long way round but we are here now
AL	What was the point of me pushing the button that says I've have an account with you then
MOB A	I only work here, I don't understand, I don't make these decisions, OK. Anyway, are you having a new number with this? The sim card?
AL	Yes, where the sim card is used as a ...
MOB A	Yes, you haven't got a pack card, you are not moving it across, that's all needed to know
AL	No
MOB A	OK, this is going to be coming through to you then in the post. This will be sent out to you in the next 3-5 days time, through to your home address.
AL	Can you send it to my work address?
MOB A	If you wish, that will be fine. Can I take the postcode for that
AL	<i>[Details given]</i>
MOB A	OK its going to be coming through to you in the post, we reckon its normally £2.50 for delivery
AL	OK
MOB A	OK, that will appear on your next month's bill
MOB A	We are just going add it on to that account with your data card if that is OK
AL	Sure yes
AL	Can I speak to customer services about getting my number in the directory now?
MOB A	Yes I think we should but before you do, I'm going to give, just to let you know the agreement is for 30 days just need to give 30 days notice in writing to cancel at the end of the contract. We are just going to add it on to use those bank details that you gave to us earlier on
AL	Yes
MOB A	[...] payments you will receive your first bill for this within the next 5 weeks time you will be informed of your payment date on this bill. Your payment will be taken by our [...] payment services. The sim card will automatically be activated when you receive it. If it's not you just call us on the 08700 700 191 number. Any problems with any of the package you have the right to change your mind with anything within the first 40 days. The minutes do not roll over on your price plan, the tariff doesn't include the [...] passport with it. Passport just allows you to use your minutes whilst abroad. This is subject to a connection charge of 75p per call, you just call us on the 5555 number before your travel. OK I'll get you through to them sir and they will be able to sort that out. OK?
AL	Thank you
MOB A	No problem
MOB A	OK, I'm going to get you into that queue now, OK
AL	OK thank you
MOB A	Sorry all advisers are still engaged assisting other customers. If you continue to hold your call will be answered as quickly as possible

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Part 2 – Customer Services

MOB A	<p>Welcome to [...]. Please chose from the following two options. If you would like to join [...] or add another phone on your account press 1. If you would like to upgrade your present phone or have a query regarding your account press 2</p> <p>Please be aware we are now transferring you through to 191 customer services which you can also call free from your [...] mobile.</p> <p>Please hold and I'll put you through to one of the team</p>
MOB A	All advisers are assisting other customers. Please hold and your call will be answered in turn
MOB A	<i>[Recorded message repeated]</i>
MOB A	Good afternoon you are through to [...], can I start by taking your mobile phone number please?
AL	It's one I've just bought so I don't have the mobile yet.
MOB A	OK. Do you have the account number?
AL	I've got my surname
MOB A	OK. Alright. Bear with me a moment. OK. Can I start by taking your surname then please
AL	L-A-R-T-E-R, Larter
MOB A	Sorry what was that?
AL	Larter
MOB A	OK. Spelt L-A-T
AL	Lima Alpha Romeo Tango Echo Romeo
MOB A	And then your first name
AL	Andrew
MOB A	And then the postcode that would be on the account
AL	<i>[gives postcode]</i>
MOB A	OK. I'm just searching this now. Bear with me a moment. OK right. And can you just confirm to me what you have set up to pay the bill for when it comes through
AL	£15 a month so it should be a direct debit
MOB A	Yep. That is correct. OK. I just had to ask you a security question there. How can I help you today?
AL	I wanted my number to go into the directory and the sales guy said he didn't know what that was and told me to speak to customer services
MOB A	Alright, OK. Unfortunately, for some silly reason, we can't actually give you out your number but I will just try and get it up from the handset now. Bear with me. OK. Right, are you OK to wait on the line quickly for me cos I have to go find out how to get it out of the actual handset
AL	To get the phone number
MOB A	The phone number yes
AL	You need the phone number in order to put me in the directory do you

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MOB A	Well, what do you mean directory, sorry, I'm a bit confused now
AL	I want my name and phone number to be included in the UK directory
MOB A	OK, alright and are you sure that is something to do with [us]?
AL	Yes, you know if you phone 118 118 and look for a person
MOB A	Yeah
AL	I want my phone number included there so people can contact me
MOB A	Right, Ok. Well, just wait on the line for me for a minute and I'll just go find out if I can do that for you. You OK to wait on the line
AL	Sure, yeah, thank you
MOB A	It will be silent, but I haven't disconnected, I'll be back with you in a few minutes
AL	OK
MOB A	Thank you
MOB A	Thank you for waiting for me. I've just spoken to one of the supervisors here. We can change your preference so that you will be recognised as a number but for your number to be in directory enquiries you will have to actually speak to the specific directory enquiries. For example you'd have to speak to Yellow Pages to get them to put you in their directory enquiries and then you would have to speak to 118 to get them to put you in there. That's what I've just been advised so I'm not sure, I can do this for you which registers you as far as [...] can
AL	By registering me what does that do
MOB A	It just, I'm not, it just basically it makes your number known in general service, like as you said but it's not exactly what you wanted so that's why I'm just wondering now if it's not the same thing because this is basically for, [...] can contact you and then other marketers and stuff can contact you and so your number is on a database but its with [...] so it's not really of much benefit to you. If you want...
AL	No, I don't want sales people to contact me. I want my friends to be able to find me on the directory
MOB A	Right, what you need to do is, you need to get in contact with, well it depends on which one you want to contact. Apparently my supervisor has advised me that if its just as a normal friend thing yeah
AL	Friends and business. I want them to be able to get my number
MOB A	OK, well with business apparently it charges but with general calls and stuff you can just go, just speak to Yellow Pages department, I'm not sure of their number or anything
AL	Isn't just Yellow Pages business people though
MOB A	Yep, they are as well but they also have general directory enquiries like the BT phone book
AL	OK
MOB A	This is just...
AL	The Yellow Pages is the BT phone book
MOB A	No, it's not the same thing but its provided by the same people and whatever so this is what I'm saying. I'm saying if you want to be recognised on something like the Yellow Pages or the BT phonebook or anything like that then what you need to do is you need to get in contact with those specific people because we can't actually add you on them. The only thing we can you add you on as I say is on the [...] database which is they only really do

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	sales
AL	So you are saying you won't add me or you can't, physically you can't do it or you have a policy you can't do it, I don't understand
MOB A	No, I'm saying that I can add you to our database but
AL	That's for sales calls. I want to go on to the national directory database
MOB A	We can't do that, we are nothing to do with the national directory database
AL	So you have a policy that you won't do it or....?
MOB A	We can't do it. We are nothing to do with that. We are not network providers of everybody you see so cos it's a mobile directory its like it would be like the same thing with [another mobile company]. Neither of, none of the phone mobile companies can provide you with that. BT will be able to provide you with that and so will Yell.com and anybody like that, 118 but we won't be able to put you on that list. That will have to go through those directory enquiries
AL	OK. Are you able to find out for me why you can't do that?
MOB A	Because we are not them. As I explained to you Sir, I've spoken to my supervisor about it and my supervisor explained that if you want to be added on to the directory enquiries you have to speak to the directory enquiries. The only thing we can add you on at [...] is the [...] database in which you will only get sales calls, they won't make anything to do with directory enquiries. We can't add you on to that
AL	OK
MOB A	Do you understand what I mean?
AL	I understand but I'd like to know why, that's all. It seems to me that if I get a phone number I'm entitled to go on the directory aren't I?
MOB A	Yeah, yes you are but not through [us]. Ok. [We] only provide the service on the mobile, yeah you understand that.
AL	OK, yes
MOB A	Yeah, so we don't provide the [...] directory enquiries where people ring and go do you have this person's number so how would we, how would we be able to add something on to something that we don't have
AL	OK
MOB A	Do you understand where I'm coming from here?
AL	Not really, I thought all numbers went to a centralised database and then when you call up directory enquiries you were given one of the numbers. So you are saying that you can't send my phone number
MOB A	No, the only people that could add you into the directory enquiries, I mean you'll be added into your phone book, your national phone book wherever you are registered as living, your council will add you into that phone book but
AL	Who will add me into that?
MOB A	Your council, the council wherever you are living. The council department, the government will do that but if you are on about something for business or in any way like that, then you need to speak to the providers of the directory
AL	OK. So let me just understand. So I've just got a mobile phone with you, and you can't add my listing to the directory database

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MOB A	No
AL	I would need to phone them up all individually in order to get them on there
MOB A	Yes, that is correct
AL	OK. And you checked that with your supervisor
MOB A	Yeah, I checked that with my supervisor
AL	OK, thanks very much
MOB A	OK, thank you bye
AL	Bye

IV Transcript of call from Andrew Larter ("AL") of The Number to mobile operator B dated 4 June 2008 at 10.52am (Part 1) and 9 June 2008 at 11.20am (Part 2)

Part 1 - Sales

MOB B	Welcome to [...] Please select one of the following two options. If you are interested in buying a [...] phone or are an existing customer looking to add a new connection, please press 1. If you are an existing customer looking to obtain information about your account including upgrade enquiries, please press 2 or dial 150 from your [...] phone. Thank you for calling [...]. If you are an existing customer who requires an upgrade or information on your bill, please call 0845 412 5000 or dial 150 from your handset otherwise please hold and your call will be connected to a sales advisor.
AL	Hello
MOB B	Hello this is [...] web sales, this is Richard, how can I help?
AL	Hello, I'm after a pay monthly SIM, 15 pounds
MOB B	On the solo plan yeah
AL	Yes please
MOB B	Solo 15 ok, are you a customer with [...] at the moment?
AL	No I'm not
MOB B	Ok, just bear with me one second. Can I just take your postcode please?
AL	[Gives postcode]
MOB B	And the house number?
AL	[Gives address]
MOB B	Ok and how long have you lived at that address for Sir?
AL	[Gives details]
MOB B	Lovely, and can I take your first name please?
AL	Andrew
MOB B	And the surname?
AL	Larter
MOB B	How do you spell that?

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AL	L-A-R-T-E-R
MOB B	That's great and your date of birth?
AL	[Gives DOB]
MOB B	That's brilliant. Ok and how long have you been with your current bank Sir?
AL	[Gives details]
MOB B	And in your current employment?
AL	[Gives details]
MOB B	And what do you do for a living sir?
AL	[Gives details]
MOB B	Ok, I'm just going to run a credit check and identification check on you now, ok?
AL	Ok
MOB B	[...] hold for that. What we need to do is take the credit card details
AL	Ok
MOB B	It's to come from the account and then refunded straight back, ok?
AL	Ok, [redacted]
MOB B	Ok and the expiry?
AL	[redacted]
MOB B	And the security number on the back
AL	[redacted]
MOB B	That's great. Ok and also now obviously before we can process the order is direct debit details, sort code and account number
AL	[redacted]
MOB B	And account number
AL	[redacted]
MOB B	That's brilliant. That's fine ok. So it's the solo 15 you said you're after?
AL	Yes please
MOB B	Ok and that's all ordered for you now so you'll receive the SIM card before 1 o'clock tomorrow afternoon, ok?
AL	What options to have about going in the directory?
MOB B	Sorry?
AL	What options do I have about going in the UK directory?
MOB B	Um, bear with me a sec and I'll check that for you. Hello
AL	Hi there
MOB B	Hi there, thanks for holding. So basically you want to get put in the UK directory?
AL	Yes please
MOB B	Ok, no worries, you can do that, what you need to do is when we send the SIM card out to you tomorrow okay and the line is activated

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AL	Yes
MOB B	All you need to do is go through to our customer service department, there'll be a number there for you to call okay, free of charge
AL	Yes
MOB B	Call the customer service department and they'll be able to do that for you
AL	Do you know what options I have for the directory?
MOB B	What about going into the directory?
AL	Yeah
MOB B	I wouldn't know any further details about that no, but like I said if you go through to the customer service department they'll give you full details regarding that
AL	Ok, would you be able to send the SIM to my work address then please
MOB B	Um, we can only send it to the home address
AL	Only to the home address?
MOB B	Only to the home address because of fraud basically, it's the only option that we have
AL	Ok no problem
MOB B	Ok
AL	Thanks very much
MOB B	Thanks a lot
AL	Bye
MOB B	Bye

Part 2 – Customer Services

MOB B	Welcome to [...]. Please select one of the following two options. If you're interested in buying a [...] phone or are an existing customer looking to add a new connection please press 1. If you are an existing customer looking to obtain information about your account including upgrade enquiries please press 2 or dial 150 from your [...] phone. Calls..
MOB B	Welcome to [...], if you are already a customer or in the process of joining us press 1. If please enter your phone number and then press hash. If you make a mistake then you can press star to try again. Thank you
MOB B	You can use our automated system at any time by calling 150 from your [...] phone. Now to make a payment press 1. If your phone has been lost or stolen, or to report a problem with your phone press 2. To upgrade your phone press 3. If your sim has been blocked or you need a puk code or for delivery status press 4. For information on price plans, services, to add a line or for anything else press 5. To hear these options again For information on our price plans and services press 1. To add a line to your [...] account press 2. For information on content lock press 3. For general enquiries press 4. To hear these options again I am transferring you to someone on our team to help. If you are not calling from your [...] phone you will need to give your [...] phone number. Just so you know we might record this call for training and quality purposes. Get free gifts and great discounts on games and music with Clubzone. It's free to join, just text more to 3050 to find out more. Good morning, thanks for calling [...]. Could I please have your name, address and

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	postcode?
AL	Andrew Larter, [<i>Gives details</i>].
MOB B	That's excellent. Andrew, you are through to Robin today, how can I help?
AL	Hi Robin, when I bought the phone they said I needed to phone you back to get my number into the phonebook.
MOB B	To get your number into the phonebook.
AL	Yeh, into the directory so my friends and family were able to get my number.
MOB B	Er... Who did you get this from Andrew?
AL	When I bought the mobile from you last week.
MOB B	Em...
AL	I asked to go into the directory and they said when the mobile turns up to phone back and you would be able to add me to the directory.
MOB BI'll take a look at that for you.
AL	Sorry.
MOB B	I'll take a look at that for you.
AL	Yes, ok.
MOB B	It appears to be activated ok.
AL	Yes, no problems just wanted to go into the directory that's all. So when my friends and family want to call me they can phone 118118.
MOB B	118118 is a service provided by British Telecom.
AL	Ok.
MOB B	So you'll need to contact them.
AL	Er.. no, I think the way they explained it to me is you can send my number into the directory and then all of the directory providers will get my phone number.
MOB B	I'll see what I can do for you. Ok, give me a few seconds on this one Andrew.
AL	Ok.
MOB B	I'm just going to put you on hold for a second. I need to go to another terminal. Will be back in a few seconds. Hi Andrew.
AL	Hi Robin.
MOB B	That's all done for you.
AL	Ok, so I'll, what options do I have for going in the directory?
MOB B	Well, we've sent, we've forwarded it to the directory, er... British Telecom to put that in there. We've passed information onto them.
AL	Ok, great. Any idea when that'll be in?
MOB B	I've been advised it'll be pretty well instantaneous to be honest with you.
AL	OK, so if I phone any of the 118 providers it should be in there sooner or later.
MOB B	Absolutely.
AL	OK.

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MOB B	Ok Andrew.
AL	Thanks very much Robin. Bye..
MOB B	Bye bye now.

V Transcript of calls from Andrew Larter ("AL") of The Number to mobile operator C dated 4 June 2008 at 10.36am and 9 June 2008 at 11.06am

Part 1 – Sales

MOB C	Hello welcome to [...]. If you are calling to join [...] as a personal customer or are calling about our personal [...] press 1, if you calling to join [...] as a business or would like [...] If you are calling about our broadband offer press 1. If you are calling about our mobile offers and promotions or if you would like to join [...] press 2. If you are calling about an existing [...]
MOB C	Please hold while we connect you to one of our customer service representatives. [...] is committed to providing excellent customer service so your call may be recorded for training purposes
MOB C	The [...] website, hi you are through to Jade in [...] Sales how can I help?
AL	Hi there, I'm just after a sim card on a pay monthly plan
MOB C	Yes, do you know which one you would like to go for?
AL	Just the cheapest one, the £15 one
MOB C	And do you have a number at all with [...] at the moment?
AL	No, I do not
MOB C	You don't. What we need to do then is run through the standard credit check with you
AL	OK
MOB C	Let's take some details. What's your first name?
AL	Andrew
MOB C	Have you applied for any phones with [...] before Andrew?
AL	No
MOB C	And your surname?
AL	Larter, L-A-R-T-E-R
MOB C	And your home postcode?
AL	[Details given]
MOB C	And what is your job title?
AL	[Gives details]
MOB C	And your marital status?
AL	[Gives details]
MOB C	And your date of birth?
AL	[Details given]

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MOB C	And can I take a contact number for you?
AL	<i>[Details given]</i>
MOB C	Would you be paying by direct debit each month?
AL	Yes
MOB C	And would I be able to take your branch sorting code?
AL	<i>[Details given]</i>
MOB C	And your account number?
AL	<i>[Details given]</i>
MOB C	Any preferred date for your billing each month?
AL	The 3 rd
MOB C	I'll need a password for the account and needs to include 6 letters and at least one number
AL	6 letters and 1 number
MOB C	At least 6 letters sorry and 1 number
AL	That's a tough question,
MOB C	It can be more than 6, just obviously ...
AL	<i>[Details given]</i>
MOB C	And how long have you lived at your home address?
AL	<i>[Gives details]</i>
MOB C	And is the property private or council?
AL	<i>[Gives details]</i>
MOB C	And is owned or rented?
AL	<i>[Gives details]</i>
MOB C	And do you work full time?
AL	<i>[Gives details]</i>
MOB C	And how long have you been with your current employer?
AL	<i>[Gives details]</i>
MOB C	And how long have you had your bank account?
AL	<i>[Gives details]</i>
MOB C	Which £15 one was it, was it 325 minutes and 100 texts or ...?
AL	Yes
MOB C	The racoon one, yes?
AL	Yes please
AL	Can you put my number in the directory for me as well?
MOB C	Yes, of course, no problem
MOB C	I'm just doing the credit check for you now
AL	What options do I have in the directory?

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MOB C	We'll discuss that when, I'll have to put a note on your account, but when you receive the sim card they will go through with you then, when you register it
AL	About getting my number in the UK directory?
MOB C	Yes. Because all I can do on my side is put a note on your account saying that you would like that
AL	OK. And then someone will phone me or I'll need to phone them?
MOB C	You will need to phone up when you've received the sim card
AL	Phone up [...] customer services will I?
MOB C	Yes
AL	OK
MOB C	But all that information will be in the pack with the sim card
AL	OK and then they will give me the options for my directory options?
MOB C	That's correct
AL	Any idea how long it will take to get in the directory, so my friends and family can contact me?
MOB C	I wouldn't know. From your receiving the sim card it will probably go automatically, it normally takes a few hours that day, when you've registered it
AL	OK. And the sim card I receive in the next couple of days I presume
MOB C	Yes the sim card takes 2-5 days. It comes in the first class post so
AL	OK, would you be able to send that sim card to my work address then?
MOB C	I can do, what I would need to do is come back fully accepted, but with you being a new customer I would need to take a £5 deposit off your credit or debit card
AL	Sure
MOB C	That's just a security check to see you are who you are and you are registered at your home address
AL	Yes no problem
MOB C	Two moments
MOB C	And what I'll need to do now Andrew is take the long card number off the front of your card
AL	[Details given]
MOB C	And the expiry date?
AL	[Details given]
MOB C	And the start date?
AL	[Details given]
MOB C	And the last three digits on the back?
AL	[Details given]
MOB C	And what kind of card is that?
AL	[Details given]
MOB C	Is that credit or debit?

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AL	[Details given]
MOB C	Just processing this through for you now
MOB C	This does take a few moments for the bank to respond
AL	OK
AL	Can I give you my work address to send the sim while we're waiting?
MOB C	Yes, I'll take that from you in a moment
MOB C	One of them has gone through with no problem but the other check is saying that it's invalid so two moments and I'm going to try once more OK
AL	OK that's the credit check is it?
MOB C	No, No its just the security check
AL	OK
MOB C	We've had quite a few problems with the system in the last week so. Well, it's not ours actually it's the response from the bank
MOB C	And would I be able to take a mobile number off you as a contact number in case for any reason they can't find you to deliver the sim card?
AL	It's the same number I gave you before
MOB C	Just that number yes
AL	Yes
MOB C	That £5 deposit has now went through. So I'll just process your order for the sim card
MOB C	So what's the building name and number you'd like it delivered to
AL	[Details given]
MOB C	And do you have pen and a bit of paper there just so I can give you your reference number?
AL	Sure, yes
MOB C	It is [...]
MOB C	OK and that will be delivered to your work address, it will be £15 a month when you receive the sim all information will be in about registering it and then you can also set up for the directory
AL	OK great
MOB C	OK
AL	OK thanks very much
MOB C	No problem, thank you take care now bye
AL	Bye

Part 2 – Customer Services

MOB C	We are currently very busy. We hope to have a representative available shortly, please hold the line
MOB C	Welcome to [...] channel returns, Christina speaking how can I help

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AL	Hi Christina I was just after customer service to add my number to the directory
MOB C	Alright, is it contract or pay as you go?
AL	Contract
MOB C	OK if you just hold the line and I'll transfer you through
MOB C	If you are calling about a mobile query press 1, for a broadband query press 2 Please enter your full [...] number now. If you make a mistake press * to try again
MOB C	To hear how many minutes and messages you have got left press 1, for questions about your bill or to make a payment press 2. If you are having problems with your phone or if its been lost, stolen or damaged press 3. To upgrade your phone, to find out about best plan or for help with anything else press 4. To upgrade your phone press 1, to add or change your magic numbers, best plan or to make changes to your [...] safeguard settings or account details press 2. If you are thinking of leaving [...] or if you would like to follow up a disconnection request press 3. If you would like information on international calling, using your phone abroad, ringtones or photo messaging or [...] care insurance press 4. To hear that again press #.
MOB C	Sorry but the number you have entered is not valid. <i>[Recorded message is repeated]</i> .
MOB C	Before I transfer you I need to take some information about your password. It's for security. Using the keys on your phone, please enter the [first] character from your password. Now enter the [fifth] character from your password. Sorry those characters don't seem to match the password I've got for you. Please try again. Using the keys on your phone please enter the [third] character from your password. Now enter the [sixth] character from your password. Thanks. Just before I transfer you to a customer service representative if you have access to the internet you can change your address or contact details, send up to 30 free text messages every month or top up your phone using a voucher or your credit or debit card 24 hours a day by going to the your account section of [...].co.uk. Please hold while we connect you to one of customer service representatives.
MOB C	[...] is committed to providing excellent customer service so your call may be recorded for training purposes. The [...] website has details of all our products and services where you can find the answers to the most common questions our customers ask us. If you've got access to the internet please visit the [...] website at [...] or if you prefer to hold your call will be answered shortly
MOB C	Sorry we are currently very busy, we hope to have a representative available shortly, please hold the line
MOB C	Afternoon, welcome to [...] you are speaking to Charlene from customer services how can I help you?
AL	Hi there, I've just received a new phone from you and when I bought the phone they said I needed to phone customer services to see what options I have about going in the directory
MOB C	So you have bought a new phone
AL	Yes a new contract phone
MOB C	OK sir [...] your sim card and a phone
AL	I've registered yes
MOB C	OK, can I take the [...] mobile number please
AL	<i>[Details given]</i>
MOB C	Am I speaking with Mr. Larter, Andrew Larter?

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AL	Yes
MOB C	OK and can I take first and second characters of your password please
AL	<i>[Details given]</i>
MOB C	Just give me a moment please
MOB C	You have got an internet number right
AL	Sorry, you talking to me
MOB C	Yes, I'm so sorry, you've got an internet bundle right?
AL	I've got a what sorry?
MOB C	Internet bundle
AL	Internet bundle
MOB C	Yes
AL	I don't know what that is. I'm just phoning, when I bought the phone I asked if I could go into the directory and they said I would need to call customer services. I note on your line when I phone customer services no option to go on that so I had to pick something else
MOB C	OK you just need to dial 150 option 1 and option 2
AL	From my mobile phone?
MOB C	Yes
AL	Will that put me...
MOB C	[...] mobile. If you want to connect to customer services you just need to dial 150 then option 1 and option 2
AL	OK right
MOB C	Yes
AL	Are you able to put me in the directory
MOB C	In the directory? just give me a moment
MOB C	OK, actually you need to dial 118 000 from your handset and you can just put yourself on the directory
AL	That's the [...] directory is it?
MOB C	Yes
AL	How do I go on all the other directories so my friends and family can contact me there
MOB C	Other directory, ok, I'm just looking [...] for you on the system
AL	Sorry
MOB C	Looking at it for you on the system
MOB C	I mean that we don't have any number for other directory
AL	There's about 120 directories aren't there?
MOB C	But we don't have numbers for that we just have [...] directory's number
AL	So are you able to put me in the directory. Why would they tell me to phone customer service once I've bought the phone?
MOB C	OK, can I put your call on hold just for a moment, I'll just ...

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AL	Sure
MOB C	Thank you
MOB C	Thank you for holding Mr. Larter
AL	That's ok
MOB C	I've got Mr. [...] on the other line and he will help you further now OK
AL	Thank you
MOB C	I'll just transfer the call then thank you bye, bye
AL	Thank you
MOB C	Good morning, welcome to the [...] customer services you are speaking to the supervisor on the floor and am I speaking to Mr. Andrew Larter?
AL	Yes
MOB C	And how can I help you Mr. Larter
AL	When I bought the mobile phone I asked to go into the directory and they said when I get the mobile and activate it I can phone customer services who will put me in the directory
MOB C	In the [...] directory?
AL	No, no in the UK directory, so my friends and family are able to get my phone number
MOB C	Right, I mean your name already appears in the directory service, the 118 000 number
AL	What's the number, 118 000 so if I phone that number I will be able to...
MOB C	Yes you will be able to get your number from there
AL	OK but what about if I'm in, I don't need to know my number its my friends and family so they are not going to know to phone 118 000 are they. They might phone 118 118 or some other number
MOB C	We have already entered your name in the [...] directory service. Now if any third party who keeps the [...] of mobile numbers right they will take the numbers from our [...] directory only or the people who handle them right so your number will automatically will be available on that
AL	It will be available on all the other 118 numbers
MOB C	Exactly that's right
AL	Because third parties can scale the mobile numbers from 118 000 is that right
MOB C	Yes that's right. That's reason we are giving the option to our customers whether they want their number to appear there or they don't
AL	OK, so do I have any options associated with going in the directory
MOB C	Sorry I didn't get that Mr. Larter
AL	Do I have any options with how my information is displayed?
MOB C	No it will be the normal way
AL	The normal way will it, what is the normal way?
MOB C	I mean either you can access the directory service by address or by name that's how you can access it
AL	OK so if I phone 118 118 they will have my phone, name and phone number there now will

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	they?
MOB C	Exactly that's right
AL	OK, who am I speaking to sorry?
MOB C	My name is Barun
AL	OK Barun thanks very much
MOB C	Bye thanks for ringing [...] have a nice day Mr. Larter
AL	Thank you, bye
MOB C	Cheers bye

VI Transcript of call from Andrew Larter ("AL") of The Number to mobile operator D dated 4 June 2008 at 11.45am

MOB D	Welcome to [...]. Your calls may be recorded for training and quality purposes.
MOB D	Welcome to [...] direct sales, David speaking.
AL	Hi David, just after a £15 a month sim card
MOB D	Sorry, we do offer a sim card only
AL	£15 a month, pay monthly sim card please
MOB D	OK, is that the 300 mix and match you are looking for?
AL	Yes it is
MOB D	It is, ok and what handset are you looking for with that?
AL	No, I'm just after the sim card
MOB D	Right, we can't actually, the number you have called is contract sales only so we can't really do the sim card. We give you a free phone with it any way so, shall I just ...
AL	Yes give me the free phone
MOB D	Brilliant, Ok. You are going to use the sim and you are already a [...] customer are you or not?
AL	No I'm not, I'm a new customer
MOB D	You are new customer, and what phone were you planning to use this for, because it only works on [...] phones
AL	Only works on what sorry, on [...] phones?
MOB D	On [...] hand sets, yes
AL	OK, so send me a free [...] hand set then
MOB D	I will do so. You've got an option of four then if you want it free. There's four that come free with it. Nokia or Sony Eriksson?
AL	Nokia
MOB D	Nokia, slide phone or just normal slim one?
AL	Just a normal one
MOB D	Just a normal one the 6120 then

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AL	OK
MOB D	Nice looking phone, basic phone really, really easy to use. All the necessary features on it, camera, good memory, things like that Ok
AL	OK yes
MOB D	So I'll put this through for you
AL	OK yes
MOB D	Where did you hear about the offer, saw it in an advert did you or...
AL	Website
MOB D	Website was it?
AL	Yes
MOB D	Just putting it through for you now
MOB D	You saw it a newspaper did you
AL	I can't remember where I saw it
MOB D	Can't remember, that's fine. Can I take your details then please, starting with your first name?
AL	Andrew
MOB D	Surname, Andrew?
AL	Larter, L-A-R-T-E-R
MOB D	Date of birth?
AL	[Details given]
MOB D	And how long have you been with your bank account?
AL	[Gives details]
MOB D	Are you married or single?
AL	[Gives details]
MOB D	Are you employed?
AL	[Gives details]
MOB D	How long have you worked in your current job?
AL	[Gives details]
MOB D	And your contact telephone number please there Andrew?
AL	[Details given]
MOB D	And what number is that with?
AL	[Details given]
MOB D	OK, so you are staying with them as well are you? Just looking for a separate contract with [...]
AL	That's my work mobile, this one is a personal one
MOB D	OK. Good offer mate. I mean look 300 minutes not only are you getting that but you are getting the extra 300 [...] as well, voicemail, VAT all included, you know, you are not set out to anything such as minutes or text messages can be used and you can always upgrade to

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	the higher one as well if you needed more minutes, OK
AL	I don't think I'll use more than 300
MOB D	You are not going to use more than 300, OK
MOB D	Postcode so we know where to deliver it
AL	[<i>Details given</i>]
MOB D	House number
AL	[<i>Details given</i>]
MOB D	OK, rented, owned or living with parents?
AL	[<i>Gives details</i>]
MOB D	And how long have you been living there as the owner?
AL	[<i>Gives details</i>]
MOB D	[<i>Gives details</i>] is fine, now then direct debit payment then is £15 a month. Can I have the sort code and account number that would be great?
AL	[<i>Details given</i>]
MOB D	All our direct debits are protected by a guarantee. Would you like me to read out to you now or would you rather read that yourself in the confirmation letter?
AL	I'll read that when it comes thank you
MOB D	OK. Now if you just bear with me, I'm going to do
AL	Do I have any other options with the phone?
MOB D	What do you mean with the phone what
AL	Do I have any directory options?
MOB D	Directory options?
AL	Yes
MOB D	How do you mean
AL	Could I get my number put in the directory?
MOB D	Ah, I'm not sure. You are going to have to wait until you get your number and then you can call customer services and sort that out with them
AL	Do you know what options I have for going in the directory?
MOB D	I do not, no. I mean, what would you like to do with the number
AL	I just want it to go in the directory so my friends and family can find me, contact me
MOB D	Yes, that has to be done with customer services. We don't deal with that at all. I'll put you through to customer services at the end of this call to get that done
AL	OK, thank you
MOB D	Before we continue, we need to conduct a credit check and a fraud prevention check. This means we will check records of credit reference and make a record of your search for your security
AL	OK
MOB D	Alright and I need the long card number across the middle to do the credit check please

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AL	My credit card or debit
MOB D	Debit or credit, this is just to check your details
AL	[<i>Details given</i>]
MOB D	Now this is going to cost £1.95 out of your card. That is then going to be refunded back on your second bill
AL	OK
MOB D	The reason is just to check that your name and address that you have given matches your card as well
AL	Yes, no problem
MOB D	Terms and conditions, that I am going to read to you now you can read on the website, [...].co.uk for that. You must pay all charges set out in your price plan to end your contract in the first 18 months. You have a 14 day money back guarantee. Don't charge or use the phone if you are going to send it back with the 14 day money back guarantee. Alright
AL	OK yes
MOB D	Our service is all available within [...]s network area, don't use our services for illegal or improper purposes and you agree that we can process the information you provide for our credit and registration process, yep
AL	OK
MOB D	Absolutely fine then Andrew. You have passed the credit check. You will receive the phone at [<i>address given</i>]
AL	Can you send it to my work address
MOB D	We can only send it to your billing address that is why we do the security check because we can only send it to where your card is registered and that's to prevent fraud and things like that
AL	If I'm not there will it go back to the Post Office then
MOB D	If you are not there, if you are not there you can leave a note on the door and say leave it with a neighbours maybe
AL	OK and when will it be delivered
MOB D	It will be delivered tomorrow between 8 and 6. They will leave a note through your door if they miss you and you can call them back and arrange a different time and date
AL	OK
MOB D	With them OK,
MOB D	Yep. It's all done for you. I don't know about the directory that you were talking about before so I'm just going to put you through to customer services to see if that is possible ok
AL	Thank you
MOB D	6210 then, 300 minutes, £15 per month
AL	Yes
MOB D	Alright thanks then
AL	Thank you
MOB D	Cheers bye
MOB D	Your call is in a queue and will be answered shortly

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MOB D	All our advisers are currently busy, we will answer your call as soon as possible
MOB D	All our advisers are currently busy, we will answer your call as soon as possible
MOB D	[...] How may I help
AL	Hi there. I've just bought a mobile phone from you and I wanted to go into the directory, and they've just transferred me to you
MOB D	I'm sorry, I didn't that, you just bought a new phone and you would like to?
AL	Go into the directory
MOB D	Directory services?
AL	Yes please
MOB D	Alright I'll give you the number for directory services, just a moment
AL	No, I think I've just bought a mobile phone off you, off [...]
MOB D	OK
AL	And I asked for my number to go into the directory, so my friends and family could contact me
MOB D	For that you need to contact the directory services
AL	You can't put me in the directory yourself
MOB D	No, not be able to because of your account is already registered on [...] but in order to register it with directory services you need to get in touch with them.
AL	But there's over 120 different directory services
MOB D	I can give you the right address where you can get in touch with them
AL	OK, yes please
MOB D	Just give me a moment, bear with me. Alright, the number is 118 [...]. Just dial this number from your [...] mobile and you can speak to the directory services. They will assist you in registering your number with the directory services
AL	OK but how do I go in the other directories like 118 118
MOB D	No, because this is the only number which is registered with [...]. The other number is for international directory services which is 118 [...] or else the last number would be 195. These are the only three numbers which are registered with us
AL	OK but with my number what happens if one of my cousins wants to look for me and they phone 118 118, how are they going to get my number?
MOB D	Because once you register your number with this particular service, your number will be spread on all the directories
AL	So if I phone up 118 [...]
MOB D	Exactly
AL	And ask them to put me on to the directory they will?
MOB D	Your number will be, yes, on all the directories. It will be displayed on all the directories
AL	OK so
MOB D	And if you want your number to be displayed on international directory services then I will give you the second number and once you register your number on this particular number

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AL	OK what options do I have for my directory status?
MOB D	I didn't get that
AL	What options do I have for the directory
MOB D	See in order to register your number these are the only two options. You know you can call the national number, directory services number which gives you access to all the directories. Otherwise I can give you the second number which gives you international access.
AL	OK but what options will I have on the national directory? Will I have any options of how I want my number displayed or if I want my address details?
MOB D	No it will ask you actually I'm also not aware about this thing. Because we only have the numbers, directory enquiry numbers wherein you can register your number
AL	OK so you're, you're customer services but you are not aware of any directory options that your customers...
MOB D	Not directory services because that is altogether a different services because we don't have if you ask about your account definitely we will [...] the same but regarding directory services have you written the number or should I give to you once again?
AL	118 [...]
MOB D	That's right and the second number would be 118 [...]
AL	OK so are you able to put me through to that number.
MOB D	I can check
AL	Isn't that a premium rate number
MOB D	Yes it is. The charges would be 50p per call and 25p per call connect. That means once your call connected it will cost you 10p per minute plus 50p for call connect
AL	So it could be quite expensive for me to add myself to the directory then. Calling that number
MOB D	I think this will be only one time call
AL	Only one time
MOB D	Yes only time one call
AL	OK. Alright and are you able to transfer me there?
MOB D	Let me check, I'm not sure whether I have access to it. I'll just be on line, let me try for that. Please be on line
MOB D	Thank you for your patience and sorry to keep you waiting. I'm sorry, we don't have access to this number. Sorry for that
AL	OK. Are you able to tell me what my mobile number is going to be so how will they know to add me to the directory?
MOB D	Just give me a quick moment. Can you help me with your postcode please
AL	[Details given]
MOB D	OK just a moment. Alright and can you confirm full name
AL	[Details given]
MOB D	OK and for the security of the account your date of birth
AL	[Details given]

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MOB D	Alright. I need to place your call on hold just be on line and I'll just quickly get all the details
AL	OK thank you
MOB D	Thank you for your patience. I am sorry to keep you waiting. I'll just confirm your address as [<i>details given</i>]
AL	Yes, that is correct
MOB D	And the handset which you have received is Nokia 6120
AL	OK
MOB D	Right, unfortunately just for now we don't have any details about your number but I will just quickly check all the details. Do you have the handset with you?
AL	No I don't, no, it's OK I'll ...
MOB D	This will be updated as soon as you receive the handset. I'm sorry, as soon as the handset is registered on our system. Probably by tomorrow end of the day the number will be displayed on the account
AL	OK
MOB D	OK
AL	OK thank you very much
MOB D	OK you are welcome. Thanks for calling and have a good time. Goodbye

RESEARCH COMMISSIONED BY THE NUMBER ON DIRECTORY LISTING

Purpose and objectives

• The Number UK commissioned GfK to undertake this research study. The objectives were:

- To understand fixed and mobile consumers' response to inclusion in a directory.
- To test the appeal of an enhanced directory product.

• Details of the sample can be found in Appendix 2 at the back of this document.

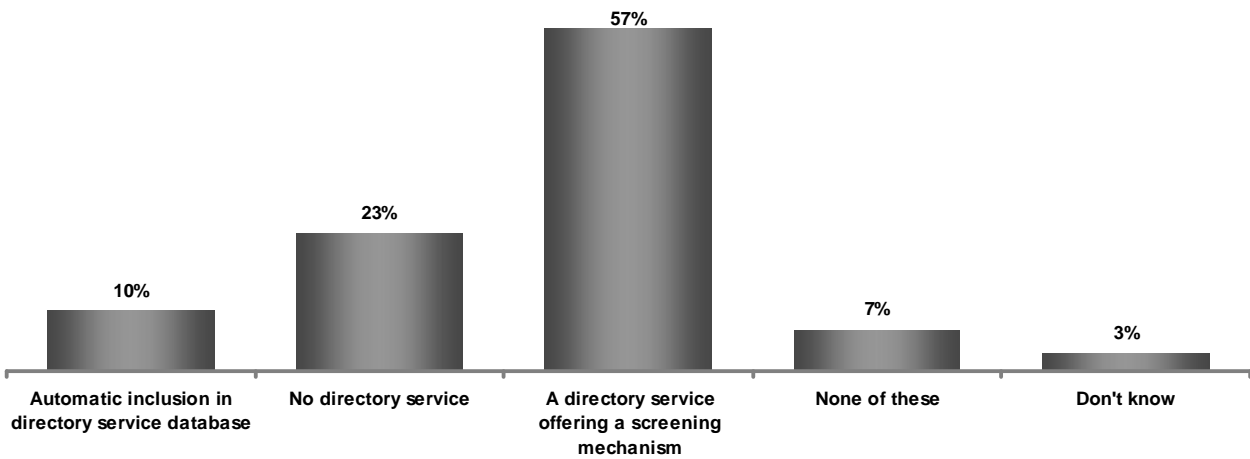
• The data was collected between 10th and 16th June 2008.

- In order to keep pace with changing consumer needs, we need to recognise the balance between providing the means to be contactable and available, and the concerns for privacy and personal security.
- 8% of customers think that a mobile directory which follows the traditional directory model, of availability to all, is desirable. However 54%, would be in favour of a mobile directory with privacy guards in place. This reflects the need to respect the market's new requirements, and present consumers with the option to accept or reject calls via a screening/filtering mechanism. A very similar situation is evident among fixed line subscribers.
- In total, 67% of land line, and 62% of mobile subscribers would find a suitable directory product useful.
- Nearly half of respondents thought they were ex-directory. However, when presented with a range of options, the number of people preferring the "no directory" option was only 23%.
- Over 80% of respondents had experienced problems with being unable to contact people, or be contacted. This indicates that directory products have not kept abreast with the increased ownership and availability of telephony products.

57% of all respondents considered a directory service offering a screening mechanism to be most useful for accessing landline numbers, bringing the total number interested in a directory product to 67%.

3

Usefulness of directory service concepts in terms of accessing landline numbers



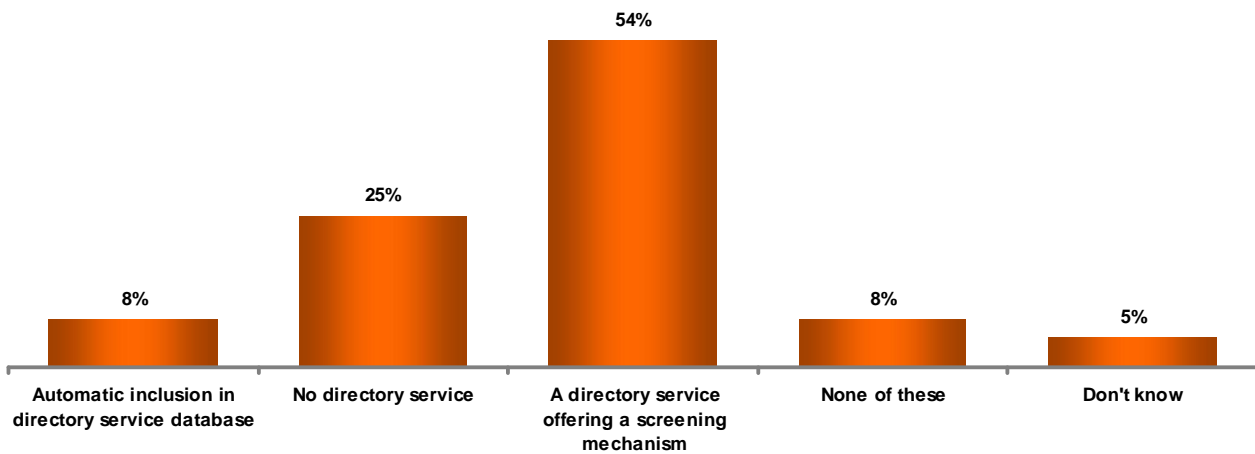
Across the total sample, the directory service with a screening mechanism is deemed the most useful concept in terms of accessing landline numbers. Some differences were observed among sub-groups in the sample – these are discussed in Appendix 1.

== 118 ==

GfK

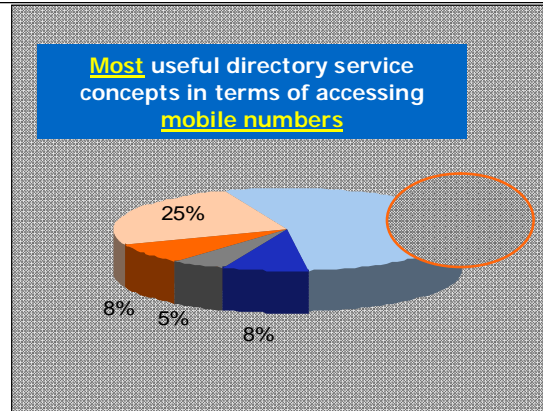
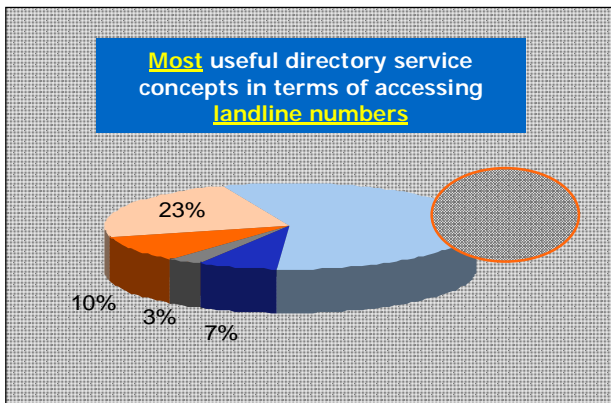
54% of all respondents considered a directory service offering a screening mechanism to be the most useful for accessing mobile numbers, bringing the total number interested in a directory product to 62%.

Usefulness of directory service concepts in terms of accessing mobile numbers

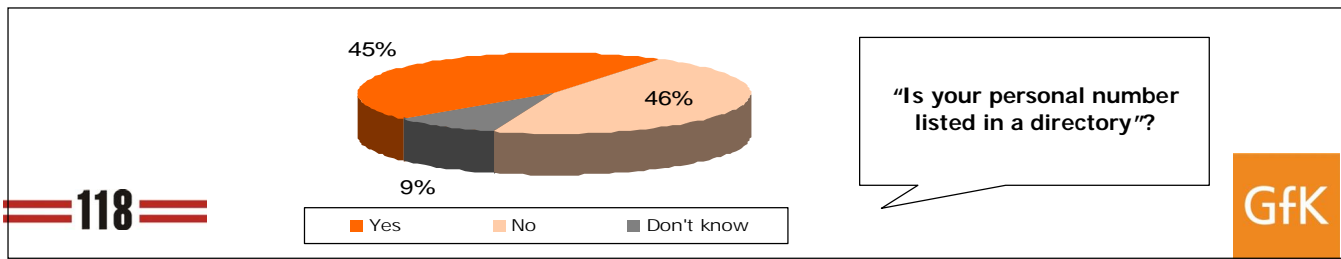


Across the total sample, the directory service with a screening mechanism is deemed the most useful concept in terms of accessing mobile numbers. Some differences were observed among sub-groups in the sample – these are discussed in Appendix 1.

Whilst 45% claimed to be ex-directory, only 23% actually objected to being included in any landline directory, with a similar % for mobile.



■ Inclusion in directory database which is available to all and would enable marketing and sales organisations to contact you directly. You would receive wanted and unwanted calls.
 ■ No directory service so that you could only be contacted by people who already know your number. You wouldn't receive unwanted calls but you could miss some calls which might be useful.
 ■ A directory service which ensures your privacy and protection from unwanted calls by offering a screening mechanism.
 ■ None of these
 ■ Don't know



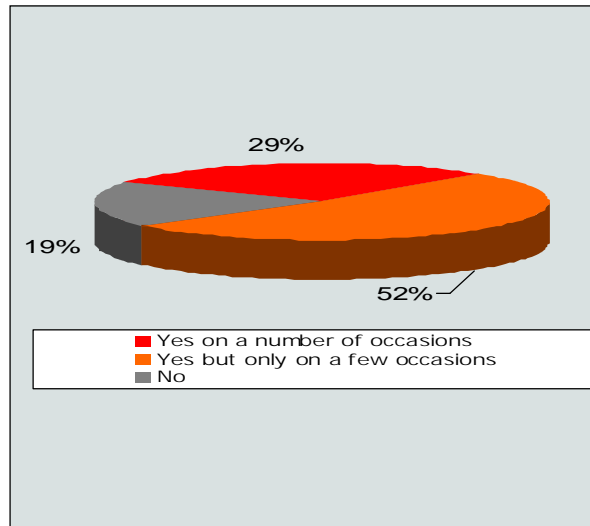
• **Appendix 1: Some differences occurred in sub – groups. The following charts summarise the differences in attitude between:**

- **People who have experienced difficulty in contactability as a result of not having number details.**
- **People who claim to be ex-directory, and people who are listed.**
- **Business and personal mobile users.**

Not being contactable, or being unable to contact somebody else, has created problems for 81% of respondents at some point. This could have serious implications for consumers.

7

"Has, not being able to be contacted, or not being able to contact somebody else, created problems?"



29% of respondents have experienced problems on a number of occasions due to not being able to access contact information. 52% have experienced problems on a few occasions. Overall 81% of respondents have experienced a problem due to not having access to contact information.

Base: All respondents (n= 507)

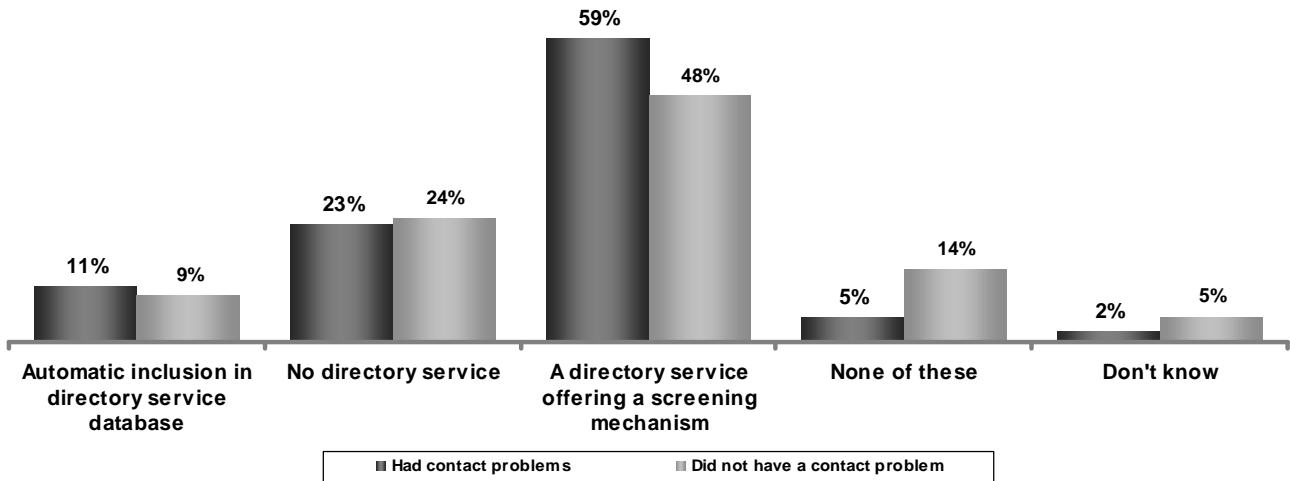
118



A directory service offering a screening mechanism is by far the most appealing concept for accessing landline numbers by both those who did, and did not, experience contact problems.

8

Usefulness of directory service concepts in terms of accessing **landline numbers** for those who had **contact problems**, versus those who had **no contact problems**.



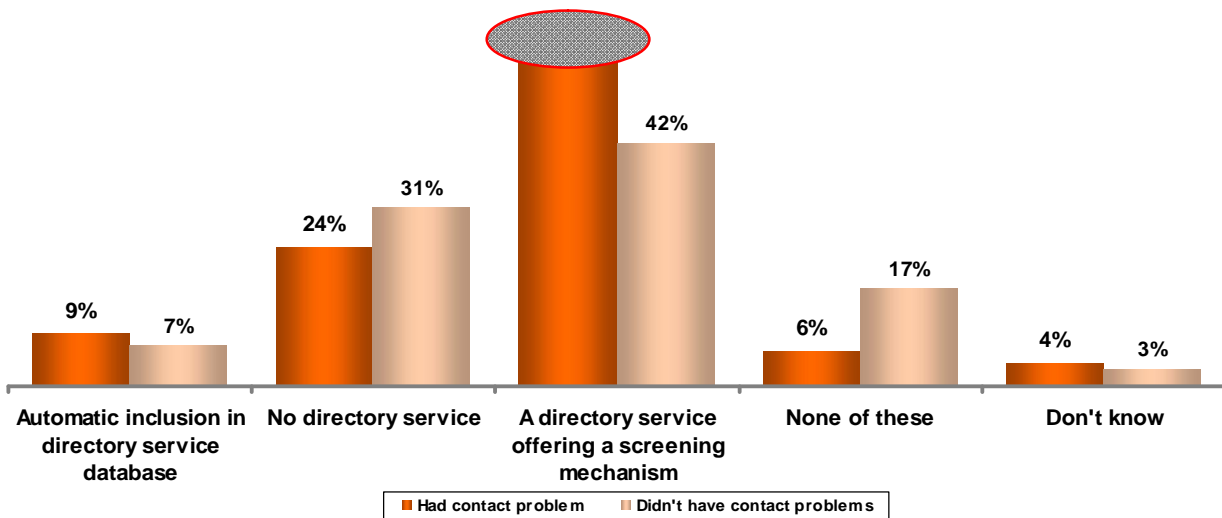
118



Those who have experienced a contact problem find a directory service offering a screening mechanism significantly more useful for accessing mobile numbers than those who haven't had a contact problem.

9

Usefulness of directory service concepts in terms of accessing mobile numbers, for those who had **contact problems**, versus those who had **no contact problems**.



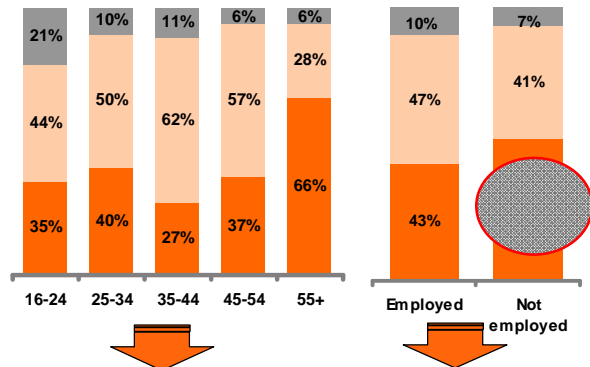
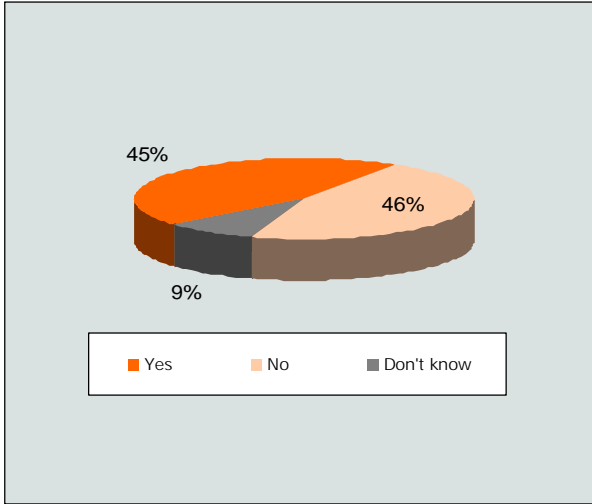
118



Nearly half of all respondents claim they do not have their personal landline number listed with directory enquiries.

10

"Is your personal landline number listed with a directory service?"



Over 55 year olds and those who are not employed due to being retired are more likely to have their personal landline number listed with directory enquiries

Despite the majority of respondents experiencing problems not being able to contact people, almost half of them don't have their personal landline number listed with directory enquiries.

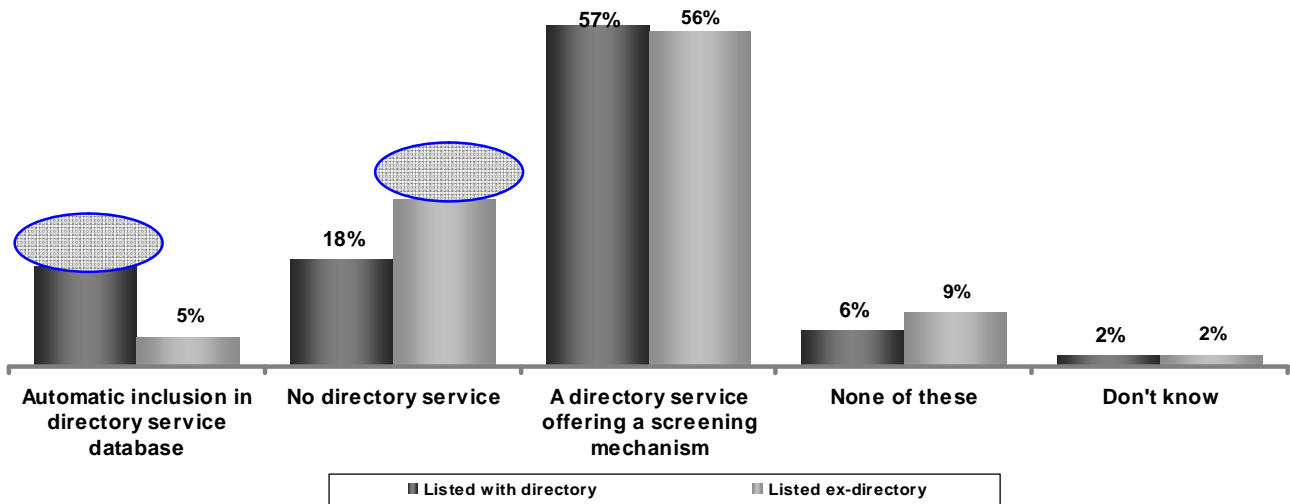
Base: All respondents (n= 507)



A directory service with a screening product is also the most appealing concept to both those listed with a directory service and those who claim to be ex-directory.

11

Usefulness of directory service concepts in terms of accessing landline numbers for those who are **listed with a directory**, versus those who claim to be ex-directory.



Respondents who are listed with a directory are significantly more likely to find the traditional directory model useful, whilst those who are listed ex-directory are significantly more likely to prefer 'no directory'.

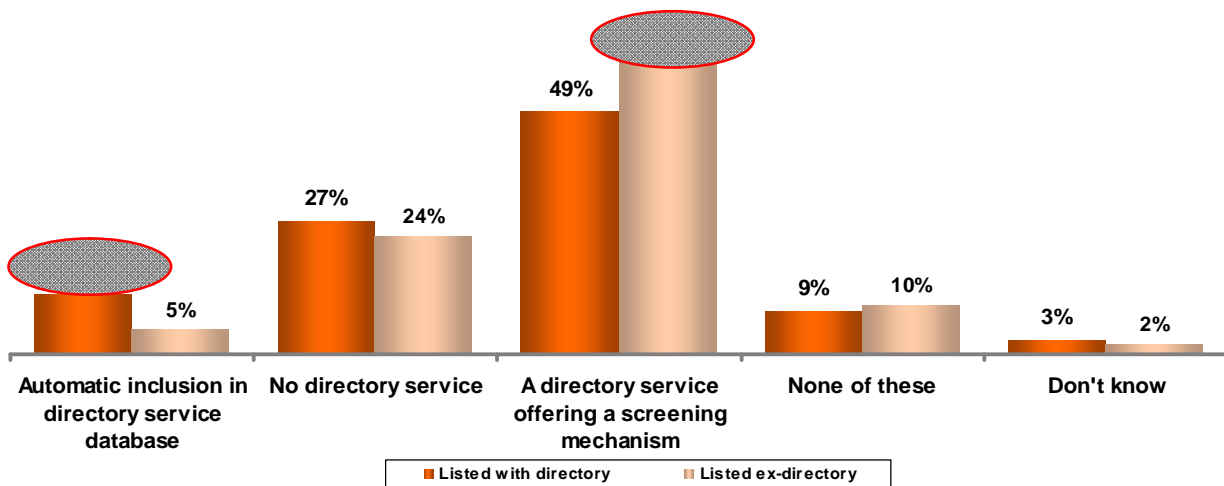
118



It is also the most appealing concept for accessing mobile numbers, by both those listed with a directory service and those who claim to be ex-directory.

12

Usefulness of directory service concepts in terms of accessing **mobile numbers** for those who are **listed with a directory**, versus those who claim to be **ex-directory**.



Respondents, who are listed with a directory, are significantly more likely to find the traditional directory model useful, whilst those who are ex-directory are significantly more likely to find a directory service offering a screening mechanism useful.

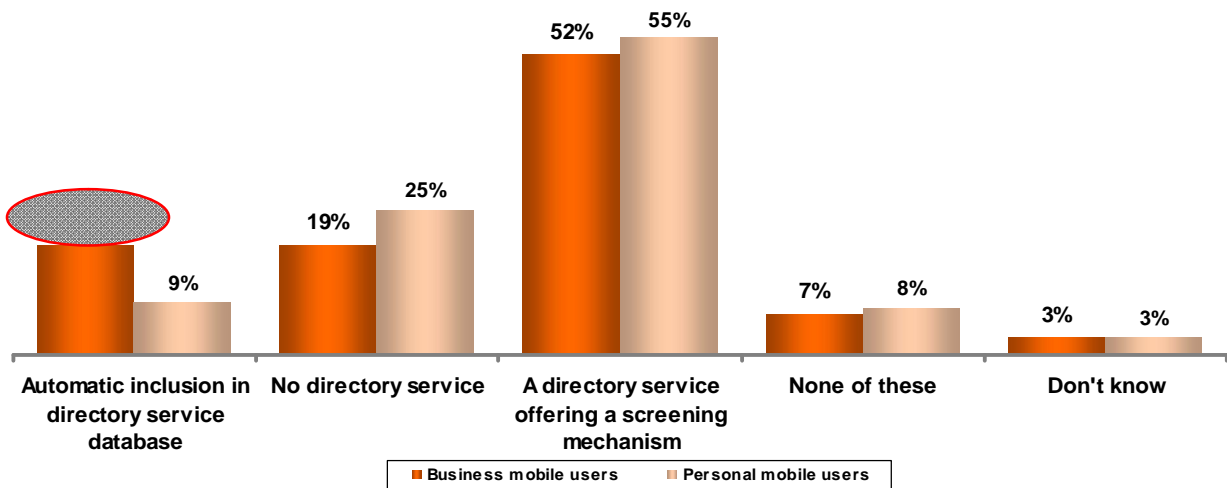
118



A directory service offering a screening mechanism is by far the most appealing concept for both business mobile and personal mobile users, accessing mobile numbers.

13

Usefulness of directory service concepts in terms of accessing mobile numbers for those who are business mobile users, versus those who are personal mobile users.



Business mobile users are significantly more likely to find the traditional directory model appealing.

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Appendix 2: Sampling Details

Project Overview

15

Methodology and Sample:

- Online methodology was used
- Sample size: 507 UK interviews
- Respondents aged 16 years and over were drawn from a nationally representative based sample on the following criteria:
 - Heavy users of personal or business fixed and mobile phones (those who make and/or receive at least 6 calls per day)
 - 60% to have contacted a 118 service within the past three months
 - 50% are from Greater London and 50% from the remainder of the UK
- 15 minute questionnaire
- Fieldwork conducted from 10th – 16th June 08

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Sample Profile - Total

TOTAL N = 507	Social Grade	
Total	507	507
AB	147	29%
C1	155	31%
C2	101	20%
DE	104	20%

Gender	
Male	Female
215	292
42%	58%
29%	29%
33%	29%
20%	20%
18%	22%

Age					
16-24	18-24	25-34	35-44	45-54	55+
63	60	92	97	92	163
12%	12%	18%	19%	18%	32%
37%	35%	32%	22%	28%	29%
27%	27%	29%	27%	33%	34%
17%	18%	21%	31%	15%	17%
19%	20%	18%	20%	24%	20%

Data was drawn from a nationally representative sample (50% Greater London, 50% rest of UK) The sample was controlled to ensure that there was no bias in the final numbers.

Annex 4

SPREADSHEET ON OSIS IMPROVEMENTS (AUGUST 2006)

ITF CRD Register (August 06)**CURRENT OPEN CRD WORKSTACK**

CRD No.	SYSTEM	DATE RAISED	HIGH LEVEL DESCRIPTION	ORIGINATOR	CURRENT STATUS	PRIORITY	INDUSTRY NOTES
297 / 97	OSIS	02/12/1997	Delete part & whole of group OSIS on-line user will have the ability to allow either the whole or part of the group to be selected for deletion, and ceased by a single transaction.	Kathy Peatroy	On Hold	Medium	13/12/05 - Agreed at 12/05 ITF that this be kept as On Hold, awaiting KPN decision.
300 / 97	OSIS	02/12/1997	National DQ group The OSIS on-line user will be able to insert/update/cease a listing once, which will subsequently be 'copied' across to all DQ groups It is believed that this can also be tied into CRD297/97	Kathy Peatroy	On Hold	Low	13/12/05 - Agreed at 12/05 ITF that this be kept as On Hold, awaiting KPN decision.
378 / 99	OSIS	23/08/1999	Billing Validation A report to identify all Cease, new and amend requests for the same telephone number received by OSIS on separate days within the same month.	Dave Carpenter	On Hold	Medium	22/11/05 - Awaiting internal authorisation.17/01/06 - Put On Hold. 26/06/06 - Dave Clark confirmed CRD is low priority and should be cancelled.

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402 / 00	OSIS	02/05/2000	System Admin Organisational Profile To allow the system administrator profile to amend the organisational hierarchy such as amends profiles, search for user ID by name and the ability to change to a new user manager.	Suzanne Mealings	Open	Low	04/10/05 Awaiting SOR & feasibility study. 07/02/06 - requirements capture meeting to be held on 16/02/06.
406 / 00	OSIS	21/05/2000	Line Type & Line Use Changes on OSIS Need to implement change to reflect Industry requirements on upstream feeds, on-line application and all downstream feeds. Line Type field to hold details of Network Designation. (e.g. Mobile, PSTN, etc).	Steve Fuller	On Hold	Low	04/10/05 Awaiting SOR & feasibility study. 13/12/05 - Agreed at 12/05 ITF that this be kept as On Hold, awaiting Number Portability & Technology Neutrality decision.
419 / 00	OSIS	20/08/2000	OSIS On-line Charging Indicator & Charging Report Amendments The change will deliver an on-line indicator to 'mark' work completed on listings with either electronic, free of charge, paper or schedule.	Barbara McLean	Open	Medium	04/10/05 Awaiting SOR & feasibility study. 21/06/06 - Agreed that this is not cost effective and should be closed. CRD to be closed following July's / August's ITF.
420 / 00	OSIS	05/10/2000	OSIS On-line Comments Field Expansion Comments field to be expanded from 250 to 500 characters to expand the history on notes.	Chris Meakin	Open	Low	07/02/06 - Rescheduled to be included in Phase 3 development.
455 / 01	LORS2	08/02/2001	M/A/O Indicator Ensure relevant info is dealt with by Dundee and not updated automatically by LORS2 and OSIS	Kathy Bangle	On Hold	High	22/11/05 - Awaiting KPN decision. 26/06/06 - Dave Clark confirmed CRD should be cancelled.

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461 / 01	OSIS	12/04/2001	<u>Merging/Concatenation of MFC & Update Files</u> To merging the currently separate numbering sequence of MFC and update files into one numbering sequence	Carol Frost	Open	Medium	22/11/05 Industry to make decision on whether to move forward. 07/02/06 - To be discussed at Feb ITF. 08/08/06 - ITF advised in Newsletter CRD now cancelled.
468 / 01	OSIS	08/07/2005	<u>DQ Mapping Exercise</u> Realign DQ postcode table including removal of DQ07	Paul Swan	Open	High	07/02/06- rescheduled to be part of Phase 2 development.
473 / 01	LORS2	07/08/2001	<u>Remove Vets for Mobile / FAX</u> To remove the risk of amending an entry to include incorrect details and ensuring correct charging	Dave Carpenter	Open	Medium / Low	04/10/05 Closed by originator 13/12/05 - Agreed at 12/05 ITF to revisit and look at ASAP. This is awaiting Number Portability & Technology Neutrality decision.
476 / 01	LORS2	18/09/2001	<u>Removal of LORS2 Abbreviation Vet</u> To provide the data supplier with the right to abbreviate or not.	Steve Fuller	Open	Medium / Low	04/10 To be included as part of CRD 530. To be closed on implementation of CRD 530.
484 / 01	OSIS	16/11/2001	<u>OSIS – Mobile Capability</u> To improve OSIS capability and efficiency to cope with the increase in mobile traffic.	Dave Carpenter	Open	Medium	07/02/06 - Planned for Phase 3 development
492 / 02	LORS2	16/01/2002	<u>LORS2 – Mobile Capability</u> To improve LORS2 capability and efficiency to cope with the increase in mobile traffic.	Dave Nunn	Open	Medium	07/02/06 - Planned for Phase 3 development.

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514 / 03	ORS	21/10/2003	<p>Amend the Billing process. Single and multi line group update identification for the new pricing process. Amend the Billing process to enable the Billing volumes to be split into more granularity.</p>	Mandy Wells	On Hold	Medium	01/12/05 - On Hold, awaiting KPN decision.
516 / 03	LORS2	09/12/2003	<p>Updates To SFF Issue 9. To separate BT Wholesale Directory Solutions' SFF from BT Retail EDB/999 SFF and issue the new version as issue 1.0. To correct the names and contact details within BTWDS To clarify certain ambiguities in the "CAR file Data Record" section. To remove reference to the Partial Address function as an upcoming feature. To reflect the relaxation of the Locality vet To update Reject Messages and propose alternative methods of reporting. To update NI Number Portability To update the definition of Suppression Preferences to reflect the agreement by industry to extend the use of xdnc & dqr.</p>	Suzanne Mealings	Open	High	04/10 In Progress 07/02/06 - Updates/corrections to be discussed at ITF.
517 / 04	OSIS	10/02/2004	<p>Dummy Postcode Introduction of the use of a recognised 'Dummy' value for occasions when the Royal Mail have not yet allocated a valid postcode to a new development site, but where telephone service has been provided and a Directory Listing is required.</p>	Mark Johns	Open	Medium	22/11/05 - A report to identify dummy post codes is in scope for Phase 2.development.

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519 / 04	LORS2 / OSIS / SFF	21/01/2004	Add BCM code 9955 (Doctor) to SFF Facilitate the insertion and maintenance of listings for Doctors of Medicine with BCM Code 9955 through SFF, and seek an additional offering within the existing BCM field for this purpose.	Kathy Peatroy	Open	Medium	04/10 To be included as part of CRD 530. To be closed on implementation of CRD 530. 07/02/06 -530 is in scope for Phase 2 development.
522 / 04	SFF	21/10/2004	Expansion Of Reject Codes on SFF The reject codes on OSIS and LORS2 need to be expanded (thus affecting the ones on ORS and a constituting in a change to SFF, given industry agreement).	Tom Fletcher	Open	Low	04/08/06 - KA confirmed CRD completed and can be closed. CRD to be closed following July's / August's ITF.
526 / 05	LORS2	16/06/2005	Online Reject Handling To allow Suppliers the option to use online access to correct, and resubmit, batch update records that have failed vetting.	Dave Nunn	Open	Medium	04/10 With Dev Team for Evaluation. 05/07/06 - Currently in scope for Phase 3 development
527 / 05	LORS2	16/06/2005	Partial Postcodes Following detailed study of complaints received following the implementation of PAF enhancement on BT's VADB database, a customer requirement has come to light for "Partial Postcodes". For example a customer may wish to have the Out-code, NW3 but not the Inward code displayed	Dave Nunn	Open	Medium	07/02/06 Currently in scope for Phase 2 development
528 / 05	LORS2/OSIS	16/06/2005	Changes To Porting Process Changes to be made to LORS2 and/or OSIS as required in order to enable BTC Suppliers to lodge out of order adopt requests (i.e. request adoption of listing(s) that have not yet been Exported by the losing franchise), either online or via batch updates.	Dave Nunn	Open	Medium	06/06/06 - Currently in scope for Phase 2 development.

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529 / 05	LORS2	16/06/2005	New Porting Queues To allow Suppliers online access to work queues, in order to further streamline the Porting process.	Dave Nunn	Open	Medium	07/02/06 - Currently in scope for Phase 3 development.
530 / 05	LORS2/OSIS	16/06/2005	Standardisation Of Vets To apply those Vets that were part of ORS Design to the LORS2 and/or OSIS systems. To then look at the options for removal of vetting from one of the two systems, thus removing unnecessary duplication.	Dave Nunn	Open	High	07/02/06 - Currently in scope for Phase 2 development.
531 / 05	OSIS	16/06/2005	Std Extract For Single LOPID To allow the creation of Standard Extract files that contain data that is LOPID specific i.e. all data within such a file refers to listings 'owned' by a single LOPID.	Dave Nunn	Open	Medium	07/04/06 - CRD taken off hold and moved to the requirements capture stage. 04/07/06 - SoR agreed.
532 / 05	LORS2	16/06/2005	Viewable Transaction History Creation of Listing History, providing details of every change made to an individual listing.	Dave Nunn	Open	Low	07/02/06 In scope for Phase 3 development.
533 / 05	LORS2	16/06/2005	Access To Lors2/Osis Via Web Front End To provide Suppliers with 24/7 access to online listing maintenance via web-based 'front end'.	Dave Nunn	Open	Medium	04/10/05 Feasibility / Requirements capture. Independent release envisaged 14/07/06 - SoR draft 1.1 issued for internal review.

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536 / 05	LORS2 / OSIS	12/07/2005	<p>Correction of NSEW Auto Abbreviated listings on OSIS & LORS2</p> <p>Report on existing listings on LORS2/OSIS that have had applied the Auto-Abbreviation rules for compass points (NSEW) in the Thoroughfare Field from LORS2. This report to be used by the BT Contact Operations Team to correct the listings to show the Thoroughfare as it was supplied by the LO.</p>	Paul Swan	Open	Medium	03/2006 - Moved to be in scope for Phase 2 development. 06/06/06 - Report produced. CRD to be closed following July's / August's ITF.
539 / 05	OSIS Training database	13/09/2005	<p>Allowing Licensed Operators access to the OSIS Training Database.</p> <p>Cleansing of training database, and addition of useful data for the Licensed Operators to use for training purposes.</p>	Stephanie Watts	Open	Medium	07/02/06 - Development work completed. Awaiting sign off of CAT by Training Team
541 / 05	Document change only	06/10/2005	<p>To remove all reference to EDB data processing from the Standard File Format document</p>	Mark Johns	On Hold		14/02/06 Still under discussion at Commercial level.
543 / 05	OSIS	21/10/2005	<p>Semi-Automated Grouping</p> <p>Creation of OSIS functionality to allow semi-automated captioning of single records.</p>	Dave Nunn	On Hold		22/11/05 - On hold until the result of KPN ruling is known.
544 / 05	OSIS	21/10/2005	<p>Auto LoNi on Group Inserts</p> <p>Creation of OSIS functionality to auto generate LO NI references for new listings inserted into groups.</p>	Dave Nunn	On Hold		22/11/05 - On hold until the result of KPN ruling is known.
545 / 05	OSIS	07/11/2005	<p>OSIS Client / Windows XP compatibility</p> <p>The OSIS client software must function on the latest Directory Solutions platform build, which incorporates Windows XP, and will be rolled out to all DS personnel.</p>	Mark Johns	Open		05/06 - The final stage of the WinXP build has been completed. CRD to be closed following July's / August's ITF.

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546 / 05	LORS2 Utilities	07/11/2005	Lors2 Utilities / Windows XP compatibility The LORS2 client software must function on the latest Directory Solutions platform build, which incorporates Windows XP, and will be rolled out to all DS personnel. Several Lors2 utilities have been developed to interface with Lors2, to enable additional ad-hoc functionality. It is therefore a requirement that these utilities are also developed to ensure compatibility with the Windows XP platform.	Mark Johns	Open		05/06 - The final stage of the WinXP build has been completed. CRD to be closed following July's / August's ITF.
547 / 05	LORS2	07/11/2005	Lors2 Client / Windows XP compatibility The LORS2 client software must function on the latest Directory Solutions platform build, which incorporates Windows XP, and will be rolled out to all DS personnel.	Mark Johns	Open		05/06 - The final stage of the WinXP build has been completed. CRD to be closed following July's / August's ITF.
550 / 05	LORS2 / OSIS	19/12/2005	Changes to OSIS & LORS2 Audit Processes Current LORS2 2 / OSIS audit to be amended to allow parametisation of OSIS audits.	Dave Nunn	Open		In scope for Phase 2 development.
552 / 06	OSIS	20/04/2006	Software to update OSIS Help Identify software that can be used to update OSIS help without the need to purchase Doc-to-Help software	Mandy Hinchliffe	Open		12/05/06 - Awaiting internal authorisation.

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555 / 06	LORS2	06/06/2006	<p>Dummy SFF files for OSIS updates To automate resubmission to OSIS of original listing data previously amended by LORS thoroughfare vets via dummy SFF files.</p>	Tim Handley	Open		07/07/06 - Development work no longer needed to route out the required changes in the thoroughfare and produce dummy SFF files, so confirmed that the CRD can be cancelled. All incorrect entries have been manually amended as per SFF record. CRD to be closed following July's / August's ITF.
556 / 06	LORS2	28/06/2006	<p>Changes to client for processing of manual and LORS rejects To develop LORS, so that there is the ability to select more than one reject type for one order, via a pick list from a drop down menu box. Also, the ability is needed to stream the output from the manual rejects to email or print for each Supplier.</p>	Kam Aujla	Open		21/07/06 - In scope for phase 3 development.
557 / 06	LORS / OSIS	13/07/2006	<p>Matching Cease / Activation records in SFF Matching Cease and Activate records for the same telephone number sent in SFF files to be processed on OSIS but not sent down stream.</p>	Mike Joy	Open		21/07/06 - In scope for phase 2 development.

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Annex 5

Screenshot showing part (around 1%) of the Birmingham City Council caption

[Redacted]

Annex 6

Extract from *Regulatory Framework and Market Developments Concerning Directory Services in EU and EEA Member States*, a report by for the European Commission by Analysys Consulting (Final Report No. 02-226, 27 September 2002, pages 118 and 119)

Barriers to competition

The European Commission should continue to promote national legislation that creates a level playing field for directory service providers and encourages competition in the market for directory services. To make service provider access to directory data easier (and thereby increase the potential for competition and benefits for the consumers), access conditions to directory data need to be improved and universal subscriber databases created to make such data more readily available.

We therefore recommend that the European Commission should encourage national regulatory authorities to suggest principles for calculation of access charges and terms of access to directory data in markets where directory services providers have not been able to agree terms with data providers. This would involve resolving ongoing disputes and clarifying acceptable access charges and conditions. The European Commission could assist national regulatory authorities in providing guidance on principles for calculating access charges. For example, the distinction between directory services costs and costs incurred from other USO services such as operator and emergency services could be more clearly defined.

Analysys further recommends that a universal directory database with basic directory data be established in each country. The format of the data and the data fields available should be specified clearly, and access to data should be available on equal terms for all directory service providers. A universal database would potentially reduce the costs of subscriber data for all service providers, as it would limit duplication of effort. In countries where such a universal database exists, service providers have easier access to directory data as all information can be obtained from a single database, and can in turn enhance this basic directory data to allow differentiation of their offerings with additional services.

A universal database could be managed by different organisations, such as:

- the incumbent (as currently in most countries)
- a consortium of operators (such as in Finland)
- a public organisation (such as the national regulator in Spain)

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□ or an independent third party (such as NDD in Ireland).

Each of these solutions will have different implications with regards to likely access conditions and charges, and the ease with which data can be collected from different operators. The first option – the database being managed by the incumbent – has the advantages that the incumbent has years of database management experience, and with its large subscriber base has a low cost-base. However, problems with the collection of listed subscriber data from alternative operators may arise (as is currently the case in many countries). Other database managers are less likely to experience such problems. When a consortium of operators manages the database, all parties have a vested interest in collecting directory data in one place, and guaranteeing fair and cost-based access conditions to this data for all service providers. An independent third party is also more likely to guarantee fair access to directory data, though charges for this data would need to be based on costs plus a suitable mark-up to allow the company a return on investment for the business model to be interesting to any organisation. Finally, a public organisation such as the national regulator could undertake the management of the universal database. As this operation could be run on a non-profit basis, potentially its access charges could be fairly low. It is however questionable to what extent public organisations such as a national regulator would have sufficient resources or be interested in taking on this responsibility on a long-term basis.

The optimum solution will vary from country to country, depending on local conditions.

Analysys therefore recommends that the European Commission gives national regulators freedom to decide which database management structure is most suitable for their local conditions. A tendering process could be set up, allowing all interested parties to apply for this role. We recommend that the criteria for selection include estimated cost of access for directory service providers, comprehensiveness of the database and efficiency of operation. It is likely that in some cases the incumbent will be the only interested party. In France, for example, although operators have been trying since 1996 to find an independent database manager as suggested in legislation, no organisation has been willing to take on this role. However, organisations like LSSi and Kapitol do claim to have an interest in taking on this role in some countries. In the case where the incumbent is the only interested party, Analysys sees benefit in creating a separate entity within the incumbent for the management of this database, in order to ensure fair and non-discriminatory access conditions.