



**BT response to the Ofcom Consultation on
“Amendment to Charge Control on Mobile
Network Operators”**

BT Response

Please address any queries on this response to: trevor.maguire@bt.com

1. Introduction

- 1.1. BT welcomes the opportunity to comment on this consultation

2. Summary

- 2.1. BT believes that there is no need for a change to the current charge control. Whilst BT recognises the imperfections of the existing system within the industry, and why Ofcom has proposed remedies, we believe that the drawbacks of each would create even greater problems. These changes have the potential to affect customers' understanding and tariff transparency. Therefore BT favours Option 1 – no change.
- 2.2. Most of the Options outlined by Ofcom indicate different ways of amending the financial flows but this ignores the impact on the customer. At present there is a direct link between the cost to the customer and the telephone number dialled. By implementing measures that could incentivise the breaking of this link, Ofcom would be taking an unwelcome step that could disadvantage consumers. The industry is working relatively well at present and we believe the case for short term change is weak and the precedent that would be set is worrying.
- 2.3. BT is very concerned that the outcome of the Ofcom proposal is that the fixed line operators and our customers should fund an imperfect resolution to an issue that only impacts on mobile operators. Fixed line customers do not benefit in any way from the changes Ofcom has proposed and could disbenefit if it necessitates increased call prices. BT takes the view that this is a mobile operator problem and that the mobile operators should therefore bear the cost.
- 2.4. **(In Confidence).**
- 2.5. Furthermore BT believes that if number porting was a significant issue then the market would have adapted to facilitate transference onto a mobile operators own number range through associated commercial incentives. The fact that relevant innovative solutions are not prevalent in the market place indicates that this is not a significant issue. BT therefore believes that this issue is not significant enough for the mobile operators to act themselves to address any small distortions that may be in place. If the mobile operators do not believe this issue to be significant then we question why Ofcom seeks to introduce a solution when it is not required.

3. Response to Specific Questions

Question 1: What are respondent's views on the appropriateness of Option 1 as a solution to the distortions created by the existing MNP mechanism on MCT?

- 3.1. This is BT's preferred Option. This approach maintains the link between the telephone number, the mobile termination rate and the price the customer pays. It is clear and transparent to all which is important in ensuring consumer trust in Ofcom's numbering strategy. Option one does not result in fixed originators charging customers less to originate a call that BT is charged to terminate the call (which could be the case under other suggested options). Such a situation would only arise where those companies with the highest termination rate were also net importers. Such a de-linkage could lead to originators having to increase the price of calls to mobile numbers more generally to off-set such an effect, which we believe would be less desirable than the status quo.
- 3.2. The price controls set by the Ofcom Statement for the next four years show a glide path that will bring four of the mobile network operators to the same mobile termination rate at 5.1ppm. Only H3Gs rate will be higher at 5.9ppm and this differential is unlikely to create any significant revenue imbalances or impacts on the market.
- 3.3. Whilst the Statement following Ofcom's consultation on moving to a common database solution for Number Portability is awaited, BT would expect that Direct Routing will be implemented for Mobile Number Portability within a relatively short timeframe and therefore any assumed benefit arising from the proposed artificial mechanisms, as outlined in the other three Options, would be limited.
- 3.4. Any under or over recovery will vary by network operator due to the short-term demands of the market. The relative impacts will therefore vary from quarter to quarter and year to year. Over a reasonable period of time any under or over recovery is likely to balance out. Furthermore any revenue imbalances are relatively small in relation to the overall revenues generated by mobile termination. It therefore appears unwise to change the current process over such relatively small sums, especially when considering the wider risks associated with undermining customer confidence in Ofcom's numbering strategy.
- 3.5. ***(In Confidence)***.
- 3.6. The fact that there appears to be no significant drive by any of the mobile operators to overcome any perceived issues

regarding number porting indicates that this issue is of minor importance. This therefore underpins BT's view that Option 1 should be chosen by Ofcom.

Question 2: What are respondent's views on the appropriateness of Option 2 as a solution to the distortions created by the existing MNP mechanism on MCT?

- 3.7. BT agrees with Ofcom's assessment that the method outlined in this Option would be difficult to implement.
- 3.8. BT also has concerns about how such a settlement would be reached.
- 3.9. BT believes that the costs of implementing and running a system to facilitate inter-operator financial transfers would be costly. Indeed the cost of implementing and running such a system could exceed the revenue flows in question - which are a small percentage of overall mobile termination rate revenues.

Question 3: What are respondents' views on the appropriateness of Option 3 as a solution to the distortions created by the existing MNP mechanism on MCT?

- 3.10. BT believes that any amendment to the Target Average Charge (TAC) introduces a significant lack of transparency for consumers and would undermine consumer confidence in the mobile industry. The link between the price the customer is charged and the mobile termination rate appears to be in place but in fact it is lost because the regulated mobile termination rate is not the actual rate the MNOs need to achieve.
- 3.11. BT believes that this approach is flawed as it relies on forecasts from the MNOs. Any approach based on forecasts is open to interpretation and therefore significant error. This is likely to be to the industry's detriment and we have strong concerns about the message such an approach would send to the telecommunications industry and to consumers as a whole.

Question 4: What are respondent's views on the appropriateness of Option 4 as a solution to the distortions created by the existing MNP mechanism on MCT?

- 3.12. BT has significant concerns about this Option. BT recommends that Option 1 is preferable to Option 4, for the reasons set out in the discussion around Option 1. Given Ofcom's Numbering Policy Review and the emphasis given to simplicity and tariff transparency, BT believes that Option 4 could undermine consumer trust in the cost of calling mobile numbers, as the cost of calling may be de-coupled from the number dialled, giving consumers little chance of taking informed decisions, or reconciling their bill. BT would be concerned that the 07 range might as a result of these proposals follow 070 numbers to become mistrusted, or that the ongoing reduction in the cost of calling mobiles may be reversed.
- 3.13. BT believes that the mechanism proposed in this Option would create significant distortions on a call by call basis. The following example highlights the variability between the mobile termination rates shown in the carrier price list and BT's consumer prices.

BT Together Prices Mobile termination rates by mobile network operator				Gross Margins		
	Daytime	Evening	Weekend	Daytime	Evening	Weekend
O2 (01/06/07)	11.063 [6.845]	6.808 [6.778]	4.255 [3.422]	4.22	0.03	0.83
Orange (01/06/07)	11.063 [6.118]	6.808 [6.118]	4.255 [6.118]	4.95	0.69	-1.86
T-Mobile (01/05/07)	11.063 [8]	6.808 [4.675]	4.255 [4.675]	3.06	2.13	-0.42
Vodafone (01/06/06)	11.063 [8.22]	6.808 [3.34]	4.255 [2.74]	2.84	3.47	1.52
H3G (01/10/02)	18.324 [15.62]	13.706 [10.75]	3.338 [2.51]	2.70	2.93	0.83

- 3.14. As this table shows there are occasions already that BT will have a negative margin on a particular call. Moving forward BT had hoped that this variability would reduce as the mobile termination rates converge. Indeed we are planning to level our consumer prices on the 1st August to include H3G in the same tariff structure as for the other mobile network operators (H3G are expected to reduce their mobile termination rates to meet the new charge control introduced from 1st April this year). This process will be made much more difficult for fixed operators like BT who will have no visibility as to whether a mobile telephone number has been ported. This lack of transparency then flows

through to communication with our customers and is clearly unhelpful in this regard.

- 3.15. BT notes that Ofcom itself has stated that “Modern technologies have increased the scope for large-scale PRS scams, based on mass communications designed to prompt calls to PRS numbers and on dialler software inadvertently downloaded from the internet. Looking ahead, further developments in technology will inevitably give rise to new ways in which unscrupulous SPs can mislead or defraud consumers, so the pressures on the regulatory regime are likely to grow rather than diminish”¹. Therefore any move that dislocates the link between the costs associated with a telephone number and the price the consumer pays for dialling it will create loopholes that could be exploited.
- 3.16. If Ofcom wanted to be more radical, of course, it could choose to permit only like for like porting, and therefore where the underlying costs/services differ so significantly that it creates the anomalies addressed here, porting should not be permitted, as it becomes no longer on balance in customers’ more general interests.

Question 5: Do respondents agree with Ofcom’s conclusions?

- 3.17. BT agrees with many of the points Ofcom have made but we believe that Option 1 is preferable to the other Options for consumers and the majority of the fixed and mobile industries. Therefore BT does not agree with Ofcom’s central conclusion.

Question 6: What do respondents think about Ofcom’s proposed amendment to the compliance formula?

- 3.18. BT does have some concerns about the compliance formula amendments. We are not clear as to the accuracy of this data set. We would urge Ofcom to ensure the accuracy of this data should Option 4 be chosen.
- 3.19. The use of previous years’ data is a sensible step and is certainly preferred to forecast data which is open to greater inaccuracies.
- 3.20. However, BT’s main concern is with the conclusions Ofcom has come up with, and the potentially detrimental effect on customers.

END

¹ Paragraph 1.16 of the Ofcom Regulation of PRS Services (09/12/04) - http://www.ofcom.org.uk/telecoms/loi/nwbnd/prsindex/ntsprsdti/prs_review.pdf

4. **Annex 1 (IN CONFIDENCE)**