



Number portability and technology neutrality

Proposals to modify the Number Portability General
Condition and the National Telephone Numbering Plan

Consultation

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Section 1

Summary

- 1.1 The purpose of this consultation is to consider whether certain provisions associated with the current regulation of number portability are still appropriate given the evolving nature of communications networks and services. Put briefly, number portability is the ability of a subscriber to change communications provider while retaining their telephone number.
- 1.2 This issue was raised recently in a number portability dispute between BT and Vodafone in which Vodafone sought portability of geographic numbers for use with its Wireless Office service¹. The dispute was resolved by the Office of Communications (“Ofcom”) in accordance with General Condition 18 of the General Conditions of Entitlement (“the Number Portability Condition”)². Ofcom determined that BT was under no obligation to provide number portability for geographic numbers to Vodafone as the Number Portability Condition did not require fixed to mobile number portability of geographic numbers. However, Ofcom said that it would consider the policy issues raised by this dispute, and publish a consultation on these issues; hence this consultation.
- 1.3 In this consultation document, Ofcom is proposing to modify the Number Portability Condition and the National Telephone Numbering Plan (“the Plan”)³ to encourage switching between providers and to facilitate inter-platform voice competition. Ofcom has made it clear that it regards inter-platform voice competition as desirable. In the Phase 2 consultation document for its *Strategic Review of Telecommunications*⁴, Ofcom noted the potential for inter-platform competition to deliver a competitive market in voice services, and proposed that it would facilitate such inter-platform competition wherever possible. Ofcom emphasised the particular importance of fixed-mobile convergence in this context, and also the importance of ensuring that VoIP services are not artificially impeded as they enter the market. In the *Final Statements on the Strategic Review of Telecommunications*⁵, Ofcom said that without the ability for consumers to switch easily, there can be no effective competition.
- 1.4 Ofcom’s approach to inter-platform competition has been reflected in a number of tactical measures in relation to number allocation policy. For example:
 - Ofcom has agreed to allocate geographic numbers to services using Voice over Internet Protocol (“VoIP”), despite the nomadic nature of those services;
 - Ofcom has agreed to allocate geographic numbers to certain geographic services which are delivered via wireless networks, such as Vodafone’s Wireless Office service⁶; and
 - Ofcom has agreed to allocate mobile numbers to certain mobile services which are delivered via hybrid fixed-mobile networks, such as BT Fusion⁷.

¹ Determination to resolve a dispute between BT and Vodafone about geographic number portability, 21 June 2005 <http://www.ofcom.org.uk/consult/condocs/portability/statement/statement.pdf>

² http://www.ofcom.org.uk/static/archive/oftel/publications/eu_directives/2003/cond_final0703.pdf

³ <http://www.ofcom.org.uk/telecoms/ioi/numbers/261701.pdf>

⁴ http://www.ofcom.org.uk/consult/condocs/telecoms_p2/tsrphase2/maincondoc.pdf

⁵ http://www.ofcom.org.uk/consult/condocs/statement_tsr/statement.pdf

⁶ Vodafone Wireless Office is a service aimed at corporate and business customers that enables the customer to manage calls to mobile handsets. Vodafone Wireless Office customers have a geographic and mobile number but all calls are routed to the same mobile handset.

- 1.5 Ofcom is proposing to adopt a consistent approach in relation to number portability; that is the promotion of inter-platform competition. This is in line with Ofcom's statutory duties to further the interests of citizens in relation to communication matters and to further the interests of consumers in relevant markets where appropriate by promoting competition⁸ and to take account of the desirability of it carrying out its functions in a manner which, so far as is practicable, does not favour one form of communications network or service over another⁹.
- 1.6 Ofcom is also consulting on the removal of the formal requirement to provide portability in accordance with the Number Portability Functional Specification published by Ofcom¹⁰ ("the Functional Specification"). The Functional Specification sets out certain technical characteristics of portability arrangements that were appropriate when portability only applied to Public Switched Telephone Network ("PSTN") fixed networks and Global System for Mobile ("GSM")-based mobile networks. Ofcom considers that the rules and processes contained in the Functional Specification may no longer be appropriate given the emergence of VoIP, hybrid fixed-wireless services and Next Generation Networks ("NGNs"), and may therefore represent a further potential barrier to inter-platform competition.
- 1.7 Additionally, the Functional Specification in its current form may impede the development of new and more effective portability arrangements between different operators using the same or similar platforms. For example, alternative approaches to the current "onward routing" solution are currently under consideration in the context of the migration to NGNs. Ofcom considers that industry should be free, where appropriate, to adopt such alternatives. This is consistent with Ofcom's policy objective to regulate in a manner that, as far as is practicable, is technology neutral. This policy objective and regulatory principle is supported by Article 8 of the Framework Directive¹¹.
- 1.8 Industry is of course free to continue to maintain number portability functional specification(s) and associated process manuals, either in their current form, or in whatever new form is deemed appropriate, as long as they are consistent with the obligation to provide portability on reasonable terms in accordance with the Number Portability Condition. However, these documents would not have the same legal status as the current Functional Specification. In the event of an investigation in relation to the provision of number portability, Ofcom proposes that such documents may still provide guidance as to whether portability is being offered on "reasonable terms", as is required by the Number Portability Condition, but they should provide no more than guidance. Whether this guidance is relevant to a particular case must be considered on a case by case basis.
- 1.9 This consultation document sets out these proposals in more detail, alongside the alternative measures that have been considered, and provides an assessment of these options. Comments are invited on the proposals as set out in the notifications in Annex 5 and 6, the specific consultation questions contained in the document and listed in Annex 4 and general comments on the document by 15 December 2005.

⁷ BT Fusion is a mobile service that switches calls between the BT Wireless Broadband network when available, eg office and home, and the mobile network. BT Fusion customers have mobile numbers.

⁸ Section 3 of the Communications Act 2003

⁹ Section 4 of the Communications Act 2003 which is based on Article 8 of the Framework Directive 2002/21/EC.

¹⁰ Version 5 of the Number Portability Functional Specification published 22 July 2003 sets out technical and operational scope of number portability and the rules and processes for its provision. http://www.ofcom.org.uk/static/archive/oftel/publications/numbering/2003/fun_final0703.htm

¹¹ http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_108/l_10820020424en00330050.pdf

Section 2

Introduction to number portability, the functional specification and Ofcom's policy principles

Introduction

- 2.1 Ofcom is responsible for the administration of the UK's numbering resource and has a duty under section 63 of the Communications Act 2003 ("the Act"), in carrying out its functions, to secure that what appears to be the best use is made of telephone numbers and to encourage efficiency and innovation for that purpose. In addition, Ofcom's duties in relation to numbering administration must be considered within the broader context of Ofcom's duty to further consumers' interests where appropriate by promoting competition, and the various other responsibilities that flow from that duty.
- 2.2 Number portability is a facility that allows subscribers of publicly available telephone services ("PATS") to change their communications provider while retaining their telephone number. It is a key facilitator of consumer choice and promoter of competition. Ofcom is responsible for ensuring that all PATS subscribers who so request can obtain number portability¹².
- 2.3 The purpose of this consultation document is to consider whether the rights and obligations that stem from the requirement to provide number portability, as contained within the Number Portability Condition, are appropriate given the evolving nature of electronic communications.

Number Portability

Historical background

- 2.4 The arrangements which provided for the introduction of geographic number portability in 1995/6 have not materially changed over the last decade. Portability was originally implemented in the circuit switched environment of the PSTN against the background of growing network competition to BT in the local loop, initially from newly licensed cable operators. It was designed to enable numbers to be transferred from a local exchange operated by one provider to another local exchange operated by a competing provider, where those two local exchanges served roughly the same area in much the same way, that is, fixed lines linking the local switch to the customer's premises.
- 2.5 The regulation of geographic number portability reflected, and still reflects, the market environment and technology of the mid-1990's. For example, portability is required to be provided in accordance with the Functional Specification published by Ofcom, which sets out the technical mechanism by which portability must be achieved (e.g. the addition of a number portability code to the dialled number and onward routing of the call) as well as rules which are intended to ensure the efficient routing of calls from one local exchange to another.

¹² See Article 30 of the Universal Service Directive, http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_108/l_10820020424en00510077.pdf

- 2.6 When mobile number portability was introduced in early 1999, the formal framework was closely modelled on the pre-existing arrangements for geographic number portability. A number of additions were made to the Functional Specification, reflecting the different signalling mechanisms in use between mobile networks, but the basic approach to portability remained the same.

Recent developments

- 2.7 Although the regulation of number portability has not changed materially over the past decade, the nature of competition in the communications market has evolved. In particular, there has been increased convergence between services that have traditionally been regarded as “fixed” and “mobile” services, and a rise in the number of services using VoIP.
- 2.8 Ofcom welcomes the emergence of innovative voice services that have the potential to provide additional competition in the provision of communications services. Key to their emergence is a regulatory environment that can foster the successful deployment of new and converged technologies, which in turn allows consumers to benefit from a wide range of services.
- 2.9 Ofcom has made it clear that it regards inter-platform voice competition as desirable. In the Phase 2 consultation document *Strategic Review of Telecommunications*, Ofcom noted the potential for inter-platform competition to deliver a competitive market in voice services, and proposed that it would facilitate such inter-platform competition wherever possible. Ofcom emphasised the particular importance of fixed-mobile convergence in this context, and also the importance of ensuring that VoIP services are not artificially impeded as they enter the market. In the Final Statements on the *Strategic Review of Telecommunications*, Ofcom said that without the ability for consumers to switch easily, there can be no effective competition.
- 2.10 This approach to inter-platform competition has been reflected in a number of measures in relation to number allocation policy, for example:
- Ofcom has agreed to allocate geographic numbers to VoIP services, despite the nomadic nature of those services;
 - Ofcom has agreed to allocate geographic numbers to certain geographic services which are delivered via wireless networks, such as Vodafone’s Wireless Office service; and
 - Ofcom has agreed to allocate mobile numbers to certain mobile services which are delivered via hybrid fixed-mobile networks, such as BT Fusion.
- 2.11 Number portability plays an important role in the promotion of competition, by removing the cost and inconvenience of having to change telephone numbers when switching providers. Ofcom has encouraged this in the case of providers of new voice services, by stating in *Numbering Arrangements for New Voice Services*¹³ that those VoIP providers who have been allocated geographic numbers, and who are eligible in principle for portability because they provide PATS, should have the same rights and obligations in relation to geographic number portability as any other provider of PATS geographic services.
- 2.12 The situation is more complex in relation to portability between fixed and mobile networks. Ofcom considers that PATS provided using geographic numbers should be

¹³ Numbering arrangements for new voice services, Ofcom statement issued 6 September 2004
http://www.ofcom.org.uk/consult/condocs/vob/nvs_statement.pdf

subject to geographic number portability, including those services (such as Vodafone Wireless Office) which are delivered via a wireless network. Similarly, it considers that all PATS provided using mobile telephone numbers should be subject to mobile number portability, including those services (such as BT Fusion) which are delivered in part via a fixed network.

- 2.13 However, this position is not reflected in the current drafting of the Number Portability Condition, which does not mandate portability between fixed and mobile networks. This follows Article 30 of the Universal Service Directive, which does not require national regulatory authorities to mandate portability between fixed and mobile networks. However, Recital 40 of this directive states:

“Number portability is a key facilitator of consumer choice and effective competition in a competitive telecommunications environment such that end-users who so request should be able to retain their number(s) on the public telephone network independently of the organisation providing service. The provision of this facility between connections to the public telephone network at fixed and non-fixed locations is not covered by this directive. However, Member States may apply provisions for porting numbers between networks providing services at a fixed location and mobile networks.”

- 2.14 The issue of fixed-to-mobile portability was raised in a recent dispute between BT and Vodafone which followed BT’s refusal to provide geographic number portability in relation to Vodafone’s Wireless Office service. Ofcom found in BT’s favour, in a determination issued in June 2005, as the Number Portability Condition did not require fixed-to-mobile portability. However, Ofcom noted in this determination that it intended to consider the policy issues raised by this dispute, and publish a consultation on these issues; hence this consultation.

- 2.15 The determination focused on the definition of number portability in the Number Portability Condition. “Number Portability” is defined as:

“a facility whereby Subscribers who so request can retain their Telephone Number on a Public Telephone Network, independently of the person providing the service at the Network Termination Point of a Subscriber –

(i) in the case of Geographic Numbers, at a specific location; or

(ii) in the case of Non-geographic Numbers, at any location,

provided that such retention of a Telephone Number is in accordance with the National Telephone Numbering Plan.”

- 2.16 In its determination, Ofcom considered that the phrase “at a specific location” in (i) of the definition means that for geographic numbers, the location of the network termination point (the “NTP”) or the number retained, must be at a specific location. If the NTP is a mobile handset or somewhere in or on it, due to the mobile nature of the handset, the NTP and the number retained would not be “at a specific location”. Ofcom said that on this basis there is no current obligation for a geographic number to be ported to a mobile network.

Functional Specification

2.17 The Functional Specification is defined in clause 18.5(d) of the Number Portability Condition as:

“a document, which specifies technical and other principles which are intended to enable the efficient implementation and utilisation of Portability, published by the Director from time to time in accordance with section 60 of the Act”.

2.18 It is also defined in the “Definitions and Interpretation” section of the Plan and features in the description of Number Portability Codes¹⁴ in Part B3.4 of the Plan.

2.19 Clauses 18.2 and 18.3 of the Number Portability Condition currently state that portability shall be provided “on reasonable terms and in accordance with the Functional Specification”.

Policy principles

2.20 Ofcom has considered a number of policy principles which it has derived from its statutory duties in order to determine whether changes should be made to its number portability policy. These are as follows.

Promoting inter-platform competition

2.21 Ofcom believes that number portability should be mandated in a manner that promotes inter-platform competition. As set out in paragraph 2.9 above, Ofcom has previously noted the potential for inter-platform competition to deliver a competitive market in voice services. This is in line with its statutory duty to further the interests of citizens in relation to communication matters and to further the interests of consumers in relevant markets where appropriate by promoting competition.

2.22 A well-functioning market should therefore make switching supplier as straightforward as possible. The ability for subscribers to retain their telephone number regardless of service provider can significantly enhance the attractiveness of switching between providers. Number portability can therefore promote effective competition and consumer choice. Ofcom considers that this is as relevant to subscribers wishing to change between voice services provided on different platforms as it is for same platform voice competition.

Technology neutrality

2.23 Ofcom also considers that number portability should focus on the nature of the service being provided and, where appropriate, facilitate tariff transparency as set out below. This is in line with its statutory duty to take account of the desirability of carrying out its functions in a manner which, so far as is practicable, does not favour one form of communications network or service over another.

2.24 Ofcom considers that eligibility for the rights and obligations of number portability should not be dependent on the nature of the network or the technology used to deliver the service. All subscribers of geographic PATS services who so request should be able to retain their geographic number when switching provider (i.e. have a right to geographic number portability), including subscribers of those services (such

¹⁴ Number Portability Codes identify the recipient provider and are added by the donor provider before onward routing a ported call.

as Vodafone Wireless Office) which are delivered via a wireless network. Similarly, all mobile PATS services should be subject to mobile number portability, including those services (such as BT Fusion) which are delivered in part via a fixed network. Ofcom is proposing that the key for determining whether number portability is available between different platforms is that the service being offered is consistent with the definition of that service contained within the Plan and would remain in accordance with the Plan after the number is ported. This principle ensures that the level of tariff transparency currently in the Plan is not compromised by number portability – indeed Recital 41 of the Universal Service Directive says that national regulatory authorities should, where feasible, facilitate appropriate tariff transparency as part of the implementation of number portability.

- 2.25 Ofcom believes that the legal status afforded to the Functional Specification could provide a barrier to efficiencies in the provision of number portability. The Functional Specification was created when number portability was being introduced into the telecommunications environment of the PSTN. Although the Functional Specification has been modified by Oftel on occasion, the rules it contains on the provision of number portability remain technology specific. For example, donor provider Rule 4 states that in the case of geographic number portability, the number portability code, which identifies the recipient provider, shall also identify the relevant switch or network node in the recipient provider’s public telephone network for onward routing of calls to ported numbers. In contrast, Rule 7 applies to mobile portability and states that either a signalling enquiry message is relayed to the recipient provider or that, for circuit-related calls, the donor provider gives its own routing instructions to the recipient provider. This illustrates that rules which are distinguished as relating to geographic and mobile number portability, actually refer to portability provided on fixed and mobile networks. Also, the rules refer to provision of portability on PSTN or GSM-based mobile networks and are unlikely to provide a practicable or efficient portability solution for evolving or converged networks or services.
- 2.26 It is also likely that the rules in the Functional Specification will not apply to number portability over NGNs such as BT’s 21st Century Network (“21CN”). Alternatives to the onward routing solution are currently under consideration, including an implementation of “all calls query”¹⁵ based on the use of ENUM¹⁶ databases. This is likely to deliver benefits to consumers in the form of increased resilience to operator or network failure, as well as improved routing efficiency. Ofcom considers that the Functional Specification could constrain the way number portability may be provided in the future, particularly with the advances that NGNs may offer.
- 2.27 Insofar as there is a use for the Functional Specification and associated process manuals that set out the detailed mechanisms by which portability is implemented, Ofcom is proposing in the next section of this document that these should be owned by industry rather than Ofcom.

Recovery of reasonably incurred costs

- 2.28 The current Functional Specification contains a variety of rules which are intended to ensure that it is technically and commercially feasible to implement “portability” (the service provided by one communications provider to another to facilitate number portability to subscribers), including, for example, constraints on geographic mobility (the routing of calls to a new address). These rules prevent recipient operators acting

¹⁵ A solution where all calls generated by originating networks are queried against a database and calls are routed direct to the recipient network

¹⁶ An electronic telephone number mapping protocol that provides a system that links telephone numbers to internet locations and identities

in a manner that would result in donor operators incurring costs which they cannot recover.

- 2.29 If the regulatory status of the rules contained within the Functional Specification was to be withdrawn, it would be important to retain the principle that affected operators can recover any reasonably incurred costs forced on them by recipient operators. The affected operator may vary depending on the technical solution used to provide portability. For instance, portability using the onward routing solution would incur costs for the number range holder and, in cases of subsequent portability¹⁷, the first recipient operator. However, future routing solutions for number portability, such as the “all calls query” solution, could result in different parties incurring costs, such as originating communication providers, who would carry out a “look up” procedure on all calls.
- 2.30 Ofcom’s view is that the current requirement for portability to be provided on the basis of “reasonable terms” should permit cost recovery in line with the technical solution employed as long as the other provisions of condition 18.2 of the Number Portability Condition regarding charges are also followed.

Furthering consumers’ interests

- 2.31 One of Ofcom’s principle duties is to further the interests of citizens in relation to communications matters and consumers in relevant markets. This duty can be achieved, amongst other means, by number allocation and number portability policy in the following ways:
- by consistency and clarity of regulatory approach: as new services develop and the choices consumers face increase, so does the potential for consumer confusion. Consistency in number allocation and portability policy makes it easier for consumers to understand the choices available;
 - by making switching supplier straightforward: making it easy for consumers to switch between providers by removing the associated inconvenience of a number change would promote the benefits consumers can gain from competition; and
 - by ensuring that consumers are well informed, enabling them to make effective choices: although the Plan does not offer perfect transparency of call tariffs, it is important that consumers do not experience any detriment from assumptions made on the information it provides.
- 2.32 Given the role of number portability in facilitating consumer choice, broadening the availability of number portability would be expected to be in the consumer interest, provided that there is no associated disbenefit. The primary form of disbenefit that might arise would be if broadening the scope of number portability also undermined the transparency, in terms of tariff and service information, which the leading digits of telephone numbers provides to consumers. The vehicle by which transparency is provided is the Plan, and it is therefore important that the integrity of the Plan is not affected by any changes to number portability arrangements. Ofcom proposes to retain the principle, contained within the current Number Portability Condition, that ported numbers should continue to be used in accordance with the Plan.

Pricing or tariff transparency

¹⁷ Subsequent portability is a type of portability where the donor provider retrieves a subscriber number from a recipient provider to whom that number has been previously ported and ports it to a second recipient provider.

- 2.33 Recital 41 of the Universal Service Directive requires Ofcom to facilitate appropriate tariff transparency as part of the implementation of number portability. In terms of geographic number portability, this objective is delivered by ensuring that when geographic numbers are ported, they continue to be used in a manner which is consistent with the Plan. The definition of geographic numbers in the Plan, which Ofcom proposes to retain, includes those numbers where the NTP does not relate to the geographic area code but where tariffing is consistent with that code. In this way, tariff transparency is not reduced when geographic numbers are used to reach end-users on, for example, mobile handsets, as the tariff will remain consistent with the geographic area code.
- 2.34 Ofcom recognises that there are areas where the Plan does not provide perfect transparency of call tariffs. One area that is particularly relevant to number portability policy is the different tariffs that some providers charge for calls to different mobile operators. Number portability inevitably undermines tariff transparency in relation to such calls, as the caller can no longer recognise the network provider by the number block. The Director General of Telecommunications considered tariff transparency when reaching his decision to implement mobile number portability. He concluded that the benefits of mobile number portability, e.g. consumer choice and increased competition, nevertheless outweighed the disadvantages, such as reduced tariff transparency, for calls between different networks¹⁸.

Location or geographic transparency

- 2.35 Ofcom recognises that technological change and policy decisions already taken to promote inter-platform competition tend to erode location transparency but this is not new. BT has provided services (e.g. out-of-area lines, remote call forwarding) using geographic numbers “out of area” for many years. Oftel¹⁹, in its first edition of the Numbering Conventions²⁰ published in June 1994, noted that “while most of the...(geographic)...numbers within...blocks...are likely to be used within the area covered by the area code, operators may also allocate numbers to those served by out-of-area lines”. The ability to provide such services was made more transparent in June 2003 when the definition of “Geographic Number” was modified in the Plan to explicitly allow for such use of geographic numbers while ensuring that tariff transparency was protected. This ensured that consumers did not experience a financial detriment in terms of tariff transparency as a result of reduced location transparency.
- 2.36 The principle not to use the Plan to protect location transparency except insofar as is necessary to provide tariff transparency, was further set out in the consultation and statement on *Numbering arrangements for new voice services*, which endorsed the application of number portability to VoIP services. Ofcom maintains this approach in its proposals for the Number Portability Condition and the Plan set out in this document.

Scope of this consultation and links to other Ofcom work

- 2.37 The increasing importance of inter-platform convergence raises a number of broader issues in relation to Ofcom’s number allocation policy. However, possible changes to number allocation policy are outside the scope of this consultation. If any such changes are made in the future, through modifications to the Plan, then this should

¹⁸ http://www.ofcom.org.uk/static/archive/oftel/publications/1995_98/numbering/nowport.htm

¹⁹ Ofcom’s predecessor for regulation of telecommunications matters

²⁰ A set of rules and principles relating to the use and management of telephone numbers, superseded in part by the National Telephone Numbering Plan

be automatically reflected in number portability policy, because of the obligation to port numbers in a manner that is consistent with the Plan.

- 2.38 Ofcom's *Annual Plan 2005/6* announced a review of numbering policy ("the Numbering Policy Review") which would take an overview of the broader issues associated with Ofcom's work on numbering activities and related issues. The aim of the Numbering Policy Review is to deliver a coherent, transparent, forward looking, consumer-focused approach to numbering which ensures ongoing availability of numbers and restores and maintains trust in the Plan. The first stage of the review has examined the current position regarding numbering policy and the various pressures on the numbering framework and the Plan. The second stage will look to develop new policy options and Ofcom is engaging with stakeholders in the coming months to help assess the proposals. It is planned to issue a consultation document in early 2006.

The legal framework

- 2.39 The common European regulatory framework for electronic communications is defined in the relevant European Union directives²¹. Particularly relevant to this consultation is the Universal Service Directive. Article 30 of that directive sets out Member States duties with respect to number portability - the right of subscribers of PATS, including mobile services, who so request to retain their number(s) independently of the undertaking providing the service (a) in the case of geographic numbers, at a specific location; and (b) in the case of non-geographic numbers, at any location.
- 2.40 While Article 30 is explicit in that it does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks, Recital 40 of the Universal Service Directive allows for Member States to apply provisions for porting numbers between networks providing services at a fixed location and mobile networks. Recital 41 adds that the impact of number portability is considerably strengthened when there is transparent tariff information. National Regulatory Authorities are required, where feasible, to facilitate appropriate tariff transparency as part of the implementation of number portability.
- 2.41 The Act implements the relevant articles of the European Union directives and Ofcom regulates the communications sector under this framework. The Act provides for Ofcom to administer the UK's telephone numbers by, amongst other things, publishing the Plan and setting General Conditions of Entitlement ("General Conditions") in respect of a number of matters relating to telephone numbers. These include General Conditions relating to number portability. The Act also sets out statutory procedures governing, for example, modifications to General Conditions and documents referred to in the conditions, including the Plan.
- 2.42 Sections 47 and 48 of the Act provide the tests and procedure for setting or modifying General Conditions and section 60 of the Act provides for modifications to the Plan. Both procedures require the publication of a notification setting out the intention to modify, together with the reasoning in proposing the modification and its effects. Consideration must also be given to how proposals are consistent with Ofcom's general duties in carrying out its functions as set out in section 3 of the Act and in meeting its Community obligations as set out in section 4 of the Act. A period of not less than one month must be provided for comments on the proposals and

²¹ <http://www.aporter.pair.com/EU-Framework/index.html#Measures>

those comments must be taken into account when Ofcom makes any proposed modifications to the General Conditions and/or the Plan.

Consultation questions

2.43 Ofcom would welcome views on the following questions by 15 December 2005:

Question 1: Do you agree that the definition of “Number Portability” as currently drafted in the Number Portability Condition and the Plan does not promote inter-platform competition and therefore requires modification to support Ofcom’s policy principles?

Question 2: Do you agree with Ofcom’s view that the status of the Functional Specification needs to be revised so that the most efficient processes for number portability can be evolved by industry?

Section 3

Evaluating the options

Introduction

- 3.1 In this document, Ofcom is reviewing current number portability policy given the evolving nature of communications networks and services. In the preceding section, Ofcom derived policy principles from its statutory duties relevant to the issue of number portability. These include promotion of inter-platform competition, technology neutrality, recovery of reasonably incurred costs and protection of consumer's desire for transparency. Ofcom has considered the application of these principles to number portability policy and identified areas where it considers that current policy may no longer meet these principles.

Impact Assessment

- 3.2 The analysis presented in this section, when read in conjunction with the rest of this document, represents an Impact Assessment (IA), as defined by section 7 of the Act. You should send comments on this IA to Ofcom by the closing date for this consultation, which is 15 December 2005. All comments will be considered by Ofcom when it decides whether to implement its proposals.
- 3.3 IAs provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making and are commonly used by other regulators. This is reflected in section 7 of the Act, which means that generally Ofcom has to carry out IAs where its proposals would be likely to have a significant effect on businesses or the general public, or where there is a major change in Ofcom's activities. In accordance with section 7 of the Act, in producing the IA in this document Ofcom has had regard to such general guidance as it considers appropriate, including related Cabinet Office guidance.

Options

- 3.4 Ofcom considers that the options for action, which are not mutually exclusive, are as follows:

Option 1: no new regulatory intervention

- 3.5 Option 1 represents the "do nothing" option. Number Portability requirements would remain as current. This means, amongst other things, that the rules contained within the current Functional Specification would continue to be referenced by the Number Portability Condition, and that geographic number portability would only be a requirement in circumstances where the NTP is at a specific location.

Option 2: address as part of Numbering Policy Review

- 3.6 Option 2 would delay consideration of the issues raised by this document, and address them either as part of, or subsequent to the conclusion of, the Numbering Policy Review.

Option 3: new regulatory intervention – revise number portability requirements as set out in the Number Portability Condition

3.7 Option 3 would be for Ofcom to amend the number portability requirements by modifying the definition of “Number Portability” contained within the Number Portability Condition and the Plan. The modification would remove the distinction between number portability for geographic and non-geographic numbers. Recital 40 of the Universal Service Directive provides for Member States to apply provisions for the porting of numbers between networks providing services at a fixed location and mobile networks.

Option 4: new regulatory intervention – revise status of the Functional Specification

3.8 Option 4 would be for Ofcom to modify the Number Portability Condition to remove the reference to the Functional Specification, thus revising its legal status. The policy principle that reasonably incurred costs could be recovered by the donor, recipient and any other relevant affected provider would be retained by the provisions of the Number Portability Condition.

3.9 In addition to specific rules on portability processes, the Functional Specification contains a number of principles which Ofcom believes should be retained. However, these principles are already adequately covered in the Plan (which is referred to in General Condition 17 and therefore has the same status that the Functional Specification is currently afforded). For instance, the principle in Donor Provider Rule 1 and Common Rule 6, which relates to cases of parallel running of telephone numbers, requires that the donor provider recognises a number in its original and superseded form. This principle is already covered in the Plan.

3.10 The proposed revision would also require consequential changes to the Plan in terms of the definitions of number portability codes; which are numbers used by providers in facilitating number portability. These definitions are currently drafted to apply to different types of portability according to the number being ported and in accordance with the Functional Specification. Ofcom proposes that number portability codes are not required to enable number portability but can be used for that purpose if appropriate in the circumstances.

Criteria for evaluating policy options

3.11 As set out in Section 2, Ofcom has identified broad policy objectives for number portability which derive from its statutory duties. These specific policy aims are to ensure that:

- a) number portability is regulated in a manner that promotes competition where appropriate, in particular inter-platform voice competition;
- b) number portability is regulated in a manner that does not, so far as is practicable, favour one form of electronic communications network or service over another;
- c) number portability is regulated in a manner that acknowledges technical and commercial feasibility, and which permits donor and other affected providers to recover efficiently incurred costs; and

- d) number portability is regulated in a manner that promotes consumer interest, and protects the tariff transparency provided to consumers by the Plan.
- 3.12 The remainder of this section evaluates each of the alternative options identified in paragraphs 3.4 to 3.10 against these criteria.
- 3.13 Ofcom acknowledges that regulatory intervention has various implications, including costs and risks, which must be considered alongside the benefits. When evaluating the policy options, therefore, further criteria to be considered are the associated costs, benefits and risks.

Evaluation of options

Promoting inter-platform competition

- 3.14 Ofcom considers that Option 1 would not promote competition in the provision of voice services to any greater extent than is promoted currently and this may hinder inter-platform competition in voice services. The impact of non-intervention would increase over time as more innovative services are developed, but consumers continue to face high switching barriers in relation to these services.
- 3.15 Option 2 would defer addressing the issue until it could be considered as part of, or be informed by the conclusions of, the Numbering Policy Review. However, the proposals contained within this document are based on principles already set out by Ofcom in the *Strategic Review of Telecommunications* (see paragraph 2.9 above) and are in line with Ofcom's statutory duties. The Numbering Policy Review is not expected to result in any significant change to those principles. Therefore, delaying action until the outcome of the Numbering Policy Review would also delay the promotion of competition for no discernible benefit.
- 3.16 Option 3 would deliver the benefits to voice service competition at the earliest opportunity. It would promote a favourable climate for efficient and timely investment in a broad range of new and innovative services, such as services based on the use of VoIP, and services such as BT Fusion and Vodafone Wireless Office which are delivered by hybrid fixed-wireless networks.
- 3.17 Option 4 would ensure that the benefits to voice service competition that would be delivered by Option 3 could be implemented, as the provision of number portability would not be constrained by the specific nature of the processes set out in the Functional Specification. The Functional Specification could still inform the portability of numbers on the PSTN. However, more relevant and efficient processes could be developed for services delivered by fixed-wireless networks and those that use Internet Protocol. Additionally, number portability codes would be available but their use would not be required whenever a number was ported as they may not offer the most effective means of providing portability.

Technology neutrality

- 3.18 As set out in paragraph 2.16 of this document, the definition of "Number Portability" makes a distinction between the location of the NTP for geographic and non-geographic numbers. This distinction requires the NTP to be at "a specific location" for the porting of geographic numbers. As services and technologies converge, the distinction between the location of the NTP for geographic and non-geographic

numbers can be regarded as a distinction between the technologies used to deliver the call. The resulting effect of the Number Portability definition is that geographic numbers may only be ported when the technology used delivers calls to an NTP at a specific location. Therefore, the current definition of “Number Portability” may favour one form of network and service over another. Going forward option 1 would therefore not be in line with Ofcom’s section 4 duty in the Act.

- 3.19 Option 2 would review the number portability requirements as part of the Numbering Policy Review. However, the principle of technology neutral regulation comes directly from the Framework Directive; is enshrined in the Act; has further been promoted in the *Strategic Review of Telecommunications*; and forms one of Ofcom’s guiding principles. The Numbering Policy Review will examine Ofcom’s numbering policy within Ofcom’s overall strategic aims and therefore technical neutrality will continue to be one of numbering’s guiding principles.
- 3.20 Option 3 would help provide platform neutrality by modifying the definition of “Number Portability” and removing the distinction made between networks and services on the basis of the location of the NTP.
- 3.21 Option 4 would revise the status of the Functional Specification, ensuring that the processes for the provision of number portability contained therein were preserved as considered best by the industry for the delivery of portability over the PSTN and were evolved as considered best by the industry to provide for number portability over other means. The existing Functional Specification may continue to provide guidance in relation to portability between certain types of network, but the relevance of this guidance would be considered on a case by case basis.

Recovery of reasonably incurred costs

- 3.22 Current number portability arrangements are designed so as to ensure that providers are able to recover reasonably incurred costs. Donor providers are able to recover their reasonably incurred costs from recipient providers, and recipient providers are able to recover these costs, plus any additional costs which they reasonably incur, from subscribers.
- 3.23 The options presented here maintain this position. Options 1 and 2 represent continuations of the status quo, and therefore maintain the position by default. Options 3 and 4 may result in changes to the way in which portability is provided, but do not affect the provisions governing cost recovery. Donor providers will still be able to recover their reasonably incurred costs from recipient providers, and recipient providers will still be able to recover their reasonably incurred costs from subscribers.

Furthering the interests of consumers

- 3.24 A well-functioning market should provide consumers with increased choice and better deals. Therefore the best means of promoting consumer interests and choice can often be through the promotion of competition. Much of the reasoning in assessing options against the criteria of promotion of inter-platform competition above is also relevant for the promotion of consumer interests.
- 3.25 Option 1 would make no change to number portability requirements and the promotion of consumer interests would remain as currently provided. Consumers wishing to switch to a service provider whose means of offering portability was not

covered by the current portability rights and obligations would face a potential barrier to switching, even if the use of the number would remain in accordance with the Plan. This has the potential to generate consumer confusion regarding number portability rights. Such consumers would be forced to take a new telephone number or, if this was considered too inconvenient, not switch provider and in not doing so, may miss out on better services and/or deals.

- 3.26 Option 2 would ensure that the promotion of consumer interests through number portability policy was considered in the wider context of the Numbering Policy Review. However, the Numbering Policy Review and this consultation are guided by the same regulatory principles that have emerged from Ofcom's statutory duties and are reflected in the *Strategic Review of Telecommunications*. The Numbering Policy Review is not expected to result in any significant change to those principles. It may result in changes to Ofcom's policy on number allocation, for example by proposing revisions to service definitions. However, these would be implemented through changes to the Plan, and the current proposal to align number portability policy with the Plan means that any such change would automatically be carried through to number portability policy.
- 3.27 Option 3 would ensure numbers were allocated and ported in accordance with the Plan. This would provide consistent and transparent regulation and a clearer message of consumer rights. Consumers wishing to switch to a new provider who uses VoIP or a fixed-wireless network for call delivery would be able to retain their existing number when doing so (provided the service was PATS), and would be spared the inconvenience of changing number. Also, consumers calling the ported customers would not need to be informed of new contact numbers. Tariff transparency would be protected by the requirement that ported numbers continue to be used in accordance with the Plan. Location information provided by geographic numbers under the Plan would not be compromised to a greater degree than is currently the case under allocation policy.
- 3.28 Option 4 would ensure that the promotion of consumer interests identified in Option 3 could be delivered by allowing for the evolution of new number portability processes.

Costs, benefits and risks

- 3.29 Broadly speaking, modifications to number portability policy may result in costs, benefits and risks for communications providers and consumers (residential and business).

Costs of the options

- 3.30 Costs to communications providers: Option 1, and Option 2 until completion of the Numbering Policy Review, would continue to mandate portability in a manner that would impact on communications providers using, for instance, VoIP or fixed-wireless networks. Such providers would continue to face a potential barrier to attracting consumers to switch to their services. Options 3 and 4, by providing for new portability processes, may result in additional costs, such as costs incurred in making network and system modifications, adapting software and testing functionality (known as "system set-up costs") and other additional costs incurred by the donor provider associated with setting up and carrying each ported call (known as "additional conveyance costs"). In addition, under option 4, there would be a cost to the industry in maintaining the Functional Specification and/or process manuals (if the industry chose to do so) and the resource required to negotiate new processes.

- 3.31 Costs to residential consumers: under Option 1, and Option 2 until completion of the Number Policy Review, consumers wishing to switch providers and take-up service with a provider where portability was not mandated (due to the nature of the network or service) would either experience the cost and inconvenience of a number change or would not switch provider. Such number change costs include updating address books and reprinting stationery; informing contacts and updating pre-programmed equipment such as alarms. There would also be a cost to consumers calling the changed number in terms of updating details, lost contact and wasted time (if not informed). Under Option 3, the cost to consumers who value information on the location of the called party, and the platform used to terminate the call, may be the further erosion of the ability to determine this information from the dialled number. However, due to the linkage with the Plan which provides tariff transparency, consumers would not experience a financial loss through additional cost of telephone calls. Option 4 does not represent any direct costs for consumers, provided number portability continues to be offered according to reasonable terms.
- 3.32 Costs to business consumers: costs to business consumers will essentially be the same as for residential consumers, but with additional costs for number changes resulting from Options 1 and 2. These costs are likely to include:
- telephone usage: changes in auto-dialling, call barring and routing equipment; messages on answering machines; changes to national enquiry/support centre numbers and help-line numbers;
 - security systems: alarm systems which are linked via telephone number, emergency instructions and documentation;
 - printing work: stationery and literature, internal directories;
 - signage: vehicle livery, company signs;
 - other: computer databases, contacts, personnel records; and
 - lost business: businesses may lose trade as a result of lost telephone calls. Although there may be some offsetting gain by other businesses, it is expected that overall more calls would be lost than transferred.

Benefits of the options

- 3.33 Benefits to communications providers: Option 1 would retain the current definition of number portability which might be to the advantage of some donor communications providers, as consumers would face a barrier to switching. Communications providers would also be able to rely on the portability arrangements as they currently apply and would not need to agree, implement or take on the costs of the new portability processes. Option 2 may benefit the same set of communications providers as Option 1 by delaying any changes to number portability requirements. Option 3 would benefit communications providers using technology other than the PSTN to deliver calls by ensuring that no discrimination in portability rights and obligations was made on the grounds of network or service, thus allowing them to win new customers without the potential barrier to switching of a number change. Option 4 would also benefit such communications providers by ensuring that portability procedures were not constrained by legacy processes.
- 3.34 Benefits to residential and business consumers: consumers who value the location and platform information conveyed by a telephone number may consider Option 1, and Option 2 until the completion of the Numbering Policy Review, beneficial as they do not diminish the accuracy of this information. However, Ofcom is of the view that

this is not a major benefit as the incremental change generated by the number portability proposals is likely to be small. Under Option 3, subscribers wishing to take advantage of competition and the choices it affords by switching provider could do so (depending on the service being PATS) without the inconvenience and cost of a number change, which for some services, may not currently be possible. It would also help consumers discipline providers into offering better choices, which would benefit all citizens in relation to communications matters. Option 4 would help deliver the benefits identified for Option 3.

Risks of the options

- 3.35 Risks to communications providers: the risk of Option 1, and Option 2 until completion of the Numbering Policy Review, is that communications providers would not be encouraged in the development of new and innovative services if the lack of number portability requirements impacted on the business case for such services in a negative way. The risk of Option 3 and Option 4 is that communications providers have difficulty in agreeing arrangements for portability that are reasonably practical and on reasonable terms.
- 3.36 Risks to residential and business consumers: the risk of Option 1 is that consumers may be confused regarding their portability rights, particularly if the same type of number may be allocated but not ported to a service. Consumers would also experience a less competitive communications market due to the barrier to switching imposed by lack of number portability. The risk of Option 2 is that by delaying intervention consumer choice may be unnecessarily restricted. Option 3 risks the incremental erosion of location significance that could be attributed to portability policy (i.e. rather than allocation policy) being more substantial than predicted and that consumers view this as detrimental to their interests. Option 4 has the risk that without the regulatory status of the Functional Specification, number portability procedures and processes become less consolidated.

Outcome of evaluation of options

- 3.37 As set out in this section of the document, Ofcom has identified four options for action to ensure that the manner in which it performs its functions in relation to number portability are in accordance with its statutory duties and its policy aims. These options are not necessarily mutually exclusive. Ofcom has assessed the options against the established criteria and found that:
- Option 1 would not promote competition to any greater extent than it is currently promoted through number allocation and portability policy; nor would it promote the interests of consumers who wanted to switch to a provider who uses VoIP or hybrid fixed-wireless networks to deliver a call. Also, it may hinder the development of new portability arrangements for NGNs, and the consumer benefits that these are expected to deliver. However, it would not affect either the erosion or maintenance of location information in the telephone number. Overall, Ofcom considers that Option 1 would not satisfy its policy aims in relation to number portability;
 - Option 2 would delay promotion of competition and consumers' interests until the Numbering Policy Review. This may not be in accordance with Ofcom's regulatory principle to intervene promptly where required;
 - Option 3 would deliver benefits to inter-platform voice competition at the earliest opportunity and would ensure greater transparency in consumers' rights regarding portability. By removing the need to change number when moving to a provider who

may use VoIP or a hybrid fixed-wireless network, a significant barrier to switching would be removed. Option 3 is in line with Ofcom's duties under section 3 and 4 of the Act and helps Ofcom regulate in a manner that meets a number of its principles and aims as set out in the *Strategic Review of Telecommunications*; and

- Option 4 would help deliver the benefits of Option 3 by removing the legal status of the rules and processes for number portability so that they may be evolved as appropriate by the industry.

3.38 Given the above analysis, and taking into account the identified costs, benefits and risks, Ofcom is proposing that Options 3 and 4 are the most appropriate courses of action to take to ensure that number portability policy and processes meet its statutory duties and policy aims.

Proposed action

3.39 Ofcom, after completing the IA, is making a proposal to modify the Number Portability Condition and the Plan. The nature of the modifications proposed is explained in Section 4 and the notifications of the proposed modifications are set out in Annexes 5 and 6 of this document.

Consultation questions

3.40 Ofcom would welcome views on the following questions by 15 December 2005:

Question 3: Do you agree with the options identified for assessment by Ofcom?

Question 4: Do you agree with Ofcom's evaluation of the options in the impact assessment?

Section 4

Ofcom's proposals

Introduction

4.1 As set out in the preceding sections of this consultation document and evaluated in the IA in Section 3, Ofcom's specific proposals are to:

- (a) modify the definition of "Number Portability" in the Number Portability Condition and the Plan, and to remove the definitions of "Geographic Number" and "Non-geographic Number" from the Number Portability Condition as they would then be redundant;
- (b) remove the reference to the Functional Specification in the Number Portability Condition; and
- (c) make consequential modifications to the Plan including deletion of references to the Functional Specification and modifications to definitions of number portability codes.

Modification to the definition of Number Portability

4.2 The current definition of "Number Portability" as contained in the Number Portability Condition and the Plan is:

"a facility whereby Subscribers who so request can retain their Telephone Number on a Public Telephone Network, independently of the person providing the service at the Network Termination Point of a Subscriber –

- (i) in the case of Geographic Numbers, at a specific location; or
- (ii) in the case of Non-geographic Numbers, at any location,

provided that such retention of a Telephone Number is in accordance with the National Telephone Numbering Plan."

4.3 As discussed in paragraph 2.16, this definition makes a distinction between the location of the NTP for geographic and non-geographic numbers. The linking of portability of geographic numbers to the specific location of the NTP means that the rights and obligations associated with geographic number portability may depend on the form of networks and service used to deliver the call. It is therefore proposed to modify the definition of "Number Portability" to remove the section highlighted below:

"Number Portability" means a facility whereby Subscribers who so request can retain their Telephone Number on a Public Telephone Network, independently of the person providing the service at the Network Termination Point of a Subscriber –

(i) in the case of Geographic Numbers, at a specific location; or

(ii) in the case of Non-geographic Numbers, at any location,

provided that such retention of a Telephone Number is in accordance with the National Telephone Numbering Plan.”

- 4.4 The proposed amendment to the definition of “Number Portability” means that the definition of “Geographic Number” in Part 1 of the General Conditions and the definition of “Non-geographic Number” in clause 18.5(g) of the Number Portability Condition become redundant as the terms are not used elsewhere in the current version of the General Conditions in the case of “Geographic Number” nor in the proposed modified version of the Number Portability Condition in the case of “Non-geographic Number”. Ofcom therefore proposes to remove them.

Modification to the status of the Functional Specification

- 4.5 Clauses 18.2 and 18.3 of the Number Portability Condition oblige Communications Providers to provide portability in accordance with the Functional Specification. To bring about the change in status of the Functional Specification, references to the document would need to be removed from the Number Portability Condition.
- 4.6 The notification of the proposal to modify the condition in Annex 5 sets out the specific sections that Ofcom proposes to revise.

Modification to the Plan

- 4.7 The proposed revisions to the Number Portability Condition to modify the definition of “Number Portability” and to revise the status of the Function Specification require consequential amendments to the Plan.
- 4.8 Ofcom proposes, therefore, that the modified definition of “Number Portability” in the Number Portability Condition is reflected in the Plan. Also, Ofcom proposes to modify the definitions of number portability codes so that they are consistent with the proposed revisions to the Number Portability Condition. Finally, Ofcom proposes to remove references to the Functional Specification from the Plan.
- 4.9 The notification of the proposal to modify the Plan in Annex 6 sets out the specific sections that Ofcom proposes to revise.

Legal tests

- 4.10 Ofcom must not modify the General Conditions or the Plan unless the modification meets the tests set out in sections 47(2) and 60(2) of the Act.
- 4.11 The tests in section 47(2) are that the modification must be:
- (a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - (b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (c) proportionate to what the condition or modification is intended to achieve; and
 - (d) in relation to what it is intended to achieve, transparent.
- 4.12 The tests in section 60(2) of the Act are that the modification must be:

- (a) objectively justifiable in relation to the matters to which it relates;
 - (b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (c) proportionate to what the modification is intended to achieve; and
 - (d) in relation to what it is intended to achieve, transparent.
- 4.13 Taking the tests in section 47(2) and 60(2) together Ofcom considers that the proposed modifications to the Number Portability Condition and to the Plan respectively are:
- (a) objectively justifiable because they would make switching supplier more straightforward for consumers and would promote inter-platform voice competition. This would promote consumer choice in accordance with Ofcom's policy aims and statutory duties;
 - (b) not such as to discriminate unduly against particular persons or against a particular description of persons in that in that all communications providers offering PATS will be subject to, and be affected by, the proposed modifications to the Number Portability Condition and the Plan;
 - (c) proportionate to what the modifications are intended to achieve in that they are the revisions to the Number Portability Condition and the Plan regarded by Ofcom as necessary to ensure that number portability policy continues to meet Ofcom's policy aims and statutory duties given the evolving nature of networks and services; and
 - (d) in relation to what it is intended to achieve, transparent as the reasoning for the proposals and effect are set out in this consultation document.
- 4.14 In modifying the Plan, Ofcom also has a duty under section 63 of the Act to secure what appears to it to be the best use is made of the numbers that are appropriate for use as telephone numbers and to encourage efficiency and innovation for that purpose.
- 4.15 Ofcom considers that it is fulfilling its duty in section 63 of the Act in making its proposals in this document in the following way. It secures what appears to be the best use of appropriate numbers by removing existing barriers to number portability, thus extending the opportunity for subscribers to retain their telephone number when switching providers. As numbers may only be ported in accordance with the Plan, appropriateness of number use is assured. The proposals also encourage efficiency and innovation as the ability to retain telephone numbers when switching providers removes a barrier to the take up of innovative services offered by alternative providers and encourages providers to increase choice and competitiveness.
- 4.16 Ofcom considers that its proposals are consistent with its general duties in carrying out its functions as set out in section 3 of the Act. It considers that the proposals further the interests of citizens in relation to communications matters and consumers

in relevant markets where appropriate by promoting competition. By reducing barriers to switching between providers, competition and consumer choice are promoted.

- 4.17 In proposing the modifications to the Number Portability Condition, Ofcom has also considered the Community obligations set out in section 4 of the Act, particularly the first requirement to promote competition in the provision of electronic communications networks and services and in relation to the provision and making available of services and facilities that are provided or made available in association with the provision of those networks and services. The proposed modifications would ensure that number portability requirements provide for the ability to port telephone numbers between platforms, thus promoting competition in the provision of voice services. The fourth requirement in section 4 is a requirement for Ofcom to take account of the desirability of it carrying out its functions in a manner which, so far as is practicable, does not favour one form of electronic communications network, service or facility, or means of providing or making available such a network, service or facility, over another. Ofcom considers that it is desirable to ensure that number portability requirements do not depend on the type of platform used to provide a service.

Consultation question

- 4.18 Ofcom would welcome views on the following question by 15 December 2005:

Question 5: Do you have any comments on Ofcom's proposed modifications to the Number Portability Condition and Plan as set out in the notifications in Annexes 5 and 6?

Annex 1

Responding to this consultation

How to respond

Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on 22 December 2005** (extended 9/12/05).

Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 2), among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.

Please can you send your response to first elizabeth.greenberg@ofcom.org.uk.

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Elizabeth Greenberg

Floor 4
Competition Group
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax: 020 7783 4109

Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views, and how Ofcom's proposals would impact on you.

Further information

If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Elizabeth Greenberg on 020 7783 4163.

Confidentiality

Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt (when respondents confirm on their response cover sheet that this is acceptable).

All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

Ofcom reserves its power to disclose any information it receives where this is required to carry out its legal requirements. Ofcom will exercise due regard to the confidentiality of information supplied.

Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use, to meet its legal requirements. Ofcom's approach on intellectual property rights is explained further on its website, at www.ofcom.org.uk/about_ofcom/gov_accountability/disclaimer.

Next steps

Following the end of the consultation period, Ofcom intends to publish a statement in the first quarter of 2006.

Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 2) which it seeks to follow, including on the length of consultations.

This consultation is for a 6-week period, which is shorter than the period of 10 weeks which is normally preferred. The reasons for this are that:

- the proposals set out in this document are not expected to affect the transparency provided to consumers by the Plan, and are not, therefore, expected to be of direct concern to consumers; and
- there is a need to address the regulatory issues raised in this consultation promptly in order to ensure that the regulation of number portability reflects Ofcom's broader policy objectives, and does not delay entry into the market by new communications providers or new services. No material change is being proposed to those broader policy objectives.

If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Vicki Nash, Director, Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom (Scotland)
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW
Tel: 0141 229 7401
Fax: 0141 229 7433
E-mail: vicki.nash@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will normally allow ten weeks for responses to consultations on issues of general interest.

A2.6 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

A2.8 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, without disclosing the specific information that you wish to remain confidential.
- A3.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their cover sheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.
- A3.5 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Number portability and technology neutrality

To (Ofcom contact): elizabeth.greenberg@ofcom.org.uk

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Consultation questions

Question 1

Do you agree that the definition of “Number Portability” as currently drafted in the Number Portability Condition and the Plan does not promote inter-platform competition and therefore requires modification to support Ofcom’s policy principles?

Question 2

Do you agree with Ofcom’s view that the status of the Functional Specification needs to be revised so that the most efficient processes for number portability can be evolved by industry?

Question 3

Do you agree with the options identified for assessment by Ofcom?

Question 4

Do you agree with Ofcom’s evaluation of the options in the impact assessment?

Question 5

Do you have any comments on Ofcom’s proposed modifications to the Number Portability Condition and Plan as set out in the notifications in Annexes 5 and 6?

Annex 5

Notification of proposed modification to General Condition 18 of the General Conditions of Entitlement

Notification of a proposed modification under section 48(2) of the Communications Act 2003

Proposal for modification of Part 1 and General Condition 18 of Part 2 of the General Conditions regarding number portability, which is set out in the Schedule to the Notification under Section 48(1) of the Communications Act 2003 published by the Director General on 22 July 2003

1. OFCOM in accordance with section 48(2) of the Act hereby make the following proposal for the modification of Part 1 and General Condition 18 of Part 2 of the General Conditions regarding number portability.
2. The draft modification is set out in the Schedule to this Notification.
3. The effect of, and OFCOM's reasons for making, the proposal referred to in paragraph 1 above is set out at sections 2, 3 and 4 of the accompanying explanatory statement.
4. OFCOM consider that the proposed modification referred to in paragraph 1 above complies with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to each of the proposals.
5. In making the proposal set out in this Notification, OFCOM has considered and acted in accordance with their general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.
6. Representations may be made to OFCOM about the proposal set out in this Notification and the accompanying statement by 22 **December 2005** (extended 9/12/05).
7. Copies of this Notification and the accompanying statement have been sent to the Secretary of State in accordance with section 50(1)(a) of the Act and to the European Commission in accordance with section 50(6) of the Act.
8. In this Notification:
 - (i) "the Act" means the Communications Act 2003;
 - (ii) "General Conditions" means as set out in the Schedule to the Notification under Section 48(1) of the Communications Act 2003 published by the Director General on 22 July 2003 and
 - (ii) "OFCOM" means the Office of Communications.
9. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has in the Act.

10. For the purpose of interpreting this Notification:

(i) headings and titles shall be disregarded; and

(ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

11. The Schedule to this Notification shall form part of this Notification

Signed by Steve Unger

Director of Telecoms Technology

**A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of
Communications Act 2003**

3 November 2005

Schedule

Proposal for modification to Part 1 and General Condition 18 of Part 2 of the General Conditions regarding number portability, which is set out in the Schedule to the Notification under Section 48(1) of the Communications Act 2003 published by the Director General on 22 July 2003

1. Part 1 of the General Conditions shall be modified as set out below (the deleted text has been struck through and added text underlined, both highlighted in yellow for ease of reference):

~~“Geographic Number” means a Telephone Number from a range of numbers in the National Telephone Numbering Plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the Network Termination Point of the Subscriber to whom the Telephone Number has been assigned;~~

2. General Condition 18 of Part 2 of the General Conditions shall be modified as set out below (the deleted text has been struck through and added text underlined, both highlighted in yellow for ease of reference):

18. NUMBER PORTABILITY

18.1 The Communications Provider shall provide Number Portability as soon as it is reasonably practicable on reasonable terms, including charges, to any of its Subscribers who so requests.

18.2 The Communications Provider shall, pursuant to a request from another Communications Provider, provide Portability (other than Paging Portability) as soon as is reasonably practicable in relation to that request on reasonable terms and in accordance with the Functional Specification. Any charges for the provision of such Portability shall be made in accordance with the following principles:

(a) subject always to the requirement of reasonableness, charges shall be cost oriented and based on the incremental costs of providing Portability unless:

(i) the Donor Provider and the Recipient Provider have agreed another basis for the charges, or

(ii) the Director has directed that another basis for charges should be used;

(b) the Donor Provider shall make no charge in relation to System Set-Up Costs or Additional Conveyance Costs;

(c) in respect of Mobile Portability, the Donor Provider shall make no charge or annual fee for ongoing costs relating to registration of a ported Telephone Number or a Subscriber;

(d) charges levied by the Donor Provider shall be based on the reasonable costs incurred by it in providing Portability with respect to each Telephone Number.

18.3 Where the Communications Provider provides Portability in accordance with paragraph 18.2:

the Recipient Provider; and

the Transit Provider,

shall, as appropriate, provide Portability (other than Paging Portability) on reasonable terms **and in accordance with the Functional Specification.**

18.4 The Communications Provider shall, on the written request of the Director, provide the Director with a record of each Telephone Number in relation to which it is providing Portability, specifying the relevant Recipient Provider in each case.

18.5 For the purposes of this Condition:

(a) “Additional Conveyance Costs” mean any costs incurred by the Donor Provider associated with resources used in:

(i) effecting the switch-processing required to set up each ported call; and

(ii) providing the switch and transmission capacity for any part of the duration of each ported call, additional to the costs of conveyance of non-ported calls from the Donor Provider’s network to the Recipient Provider’s network;

(b) “Communications Provider” means a person who provides an Electronic Communications Network or an Electronic Communications Service;

(c) “Donor Provider” means a Communications Provider whose Subscriber Numbers are in the process of being, or have been passed or ported to a Recipient Provider;

~~(d) “Functional Specification” means a document, which specifies technical and other principles which are intended to enable the efficient implementation and utilisation of Portability, published by the Director from time to time in accordance with section 57 of the Act;~~

~~(e)~~(d) “Mobile Communications Service” means any Publicly Available Telephone Service consisting in the conveyance of Signals by means of a Public Telephone Network where every Signal that has been conveyed thereby has been, or is to be, conveyed through the agency of Wireless Telegraphy to or from a Public Telephone Network which is designed or adapted to be capable of being used in motion;

~~(f)~~(e) “Mobile Portability” means Portability relating to Telephone Numbers Allocated for use with Mobile Communications Services;

~~(g)~~ “Non-geographic Number” means a Non-geographic Number but does not include a Telephone Number from the National Telephone Numbering Plan Allocated for Radiopaging Services;

~~(h)~~(f) “Number Portability” means a facility whereby Subscribers who so request can retain their Telephone Number on a Public Telephone Network, independently of the person providing the service at the Network Termination Point of a Subscriber —,

~~(i)~~ in the case of Geographic Numbers, at a specific location; or

~~(ii)~~ in the case of Non-geographic Numbers, at any location;

provided that such retention of a Telephone Number is in accordance with the National Telephone Numbering Plan;

~~(i)~~(g) “Paging Portability” means Portability relating to Telephone Numbers Allocated for use with Radiopaging Services;

~~(j)~~(h) “Point of Connection” means a point at which one Public Telephone Network is connected to another;

~~(k)~~(i) “Portability” means any facility which may be provided by a Communications Provider to another enabling any Subscriber who requests Number Portability to continue to be provided with any Publicly Available Telephone Service by reference to the same Telephone Number irrespective of the identity of the person providing such a service;

~~(l)~~(j) “Publicly Available Telephone Service” means a service made available to the public for originating and receiving, or only receiving, national and international telephone calls through a number or numbers in a national or international telephone numbering plan;

~~(m)~~(k) “Radiopaging Service” means Electronic Communications Services consisting in the conveyance of Signals by means of Wireless Telegraphy where every Signal, apart from simple acknowledgement, is ultimately transmitted from a station for Wireless Telegraphy comprised in the Communications Provider’s Electronic Communications Network to a station for Wireless Telegraphy or Wireless Telegraphy Apparatus that is not comprised in that network;

~~(n)~~(l) “Recipient Provider” means a Communications Provider to whom Subscriber Number(s) are in the process of being, or have been passed or ported from a Donor Provider;

~~(o)~~(m) “Subscriber” means any person who is party to a contract with the provider of Publicly Available Telephone Services for the supply of such services in the United Kingdom;

~~(p)~~(n) “Subscriber Number” means the Telephone Number (or Telephone Numbers) which any Communications Provider’s Public

Telephone Network recognises as relating to a particular Subscriber of that Communications Provider;

~~(e)~~(o) “System Set-Up Costs” mean costs of the Donor Provider incurred—

(i) in the course of making network and system modifications, configuration and reconfiguration, including adapting or replacing software;

(ii) in the course of testing functionality within that provider’s network and in conjunction with any Recipient Provider’s network,

(iii) thereby establishing the technical and administrative capability to provide Portability;

~~(r)~~(p) “Transit Provider” means a Communications Provider providing, by agreement, Interconnection between a Donor Provider and Recipient Provider via Points of Connection with both Communications Providers.

Annex 6

Notification of proposed modifications to the National Telephone Numbering Plan

Proposal for making a Modification under section 56(2) of the Act relating to the Plan

1. The Office of Communications (“OFCOM”) hereby makes the following proposal for a Modification to the provisions of the Plan under section 56(2) of the Act.
2. The draft Modification is set out in the Schedule to this Notification.
3. The reasons for making the proposal for the Modification are set out in Section 2 of the accompanying document.
4. The effect of the draft Modification is set out in Sections 3 and 4 of the accompanying document.
5. Representations may be made to OFCOM about the proposed draft Modification by 22 December 2005 (extended 9/12/05).
6. A copy of this Notification has been sent to the Secretary of State.
7. In this Notification the 'Plan' means the National Telephone Numbering Plan published by OFCOM from time to time pursuant to section 56 of the Act.

Signed by Steve Unger

Director of Telecoms Technology

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2003

3 November 2005

Schedule

Draft Modification to Part A of the Plan

WHEREAS:

A. section 56(2) of the Act provides that it shall be OFCOM's duty from time to time review the Plan and make such revisions that they think fit, provided such revisions are made in accordance with section 60 of the Act;

B. section 60 of the Act applies whereby General Condition 17 is a numbering condition for the time being having effect by reference to provisions of the Plan;

C. by virtue of the Transitional Provisions, references to the Director in General Condition 17 should be read as references to OFCOM;

D. Part A1 of the Plan states, amongst other things,:

Number Portability Code' means a Telephone Number that is Adopted or otherwise used for routing ported calls in accordance with the Functional Specification. There are six types of Number Portability Code, which facilitate Number Portability for:

- (i) Non-Geographic Numbers;
- (ii) Personal Numbers;
- (iii) Geographic Numbers;
- (iv) Mobile Numbers;
- (v) Non-Geographic Number transit; and
- (vi) Personal Number transit;

E. OFCOM wishes to make a Modification to the sections of the Plan in connection with the matter identified in recital D above;

F. for the reasons set out in the Statement accompanying this Modification OFCOM are satisfied that, in accordance with section 60(2) of the Act, this Modification is:

- (i) objectively justifiable in relation to the matters to which it relates;
- (ii) not such as to discriminate unduly against particular persons or against a particular description of persons;
- (iii) proportionate to what the Modification is intended to achieve; and
- (iv) in relation to what it is intended to achieve, transparent;

G. for the reasons set out in the document accompanying this Modification OFCOM are satisfied that they acted in accordance with the relevant duties set out in sections 3 and 4 of the Act;

H. a notification of a proposal to make this Modification was given under section 60(3) of the Act on 3 November 2005 ('the Notification');

I. a copy of the Notification was sent to the Secretary of State;

J. in the Notification and accompanying consultation document OFCOM invited representations about any of the proposals therein by 15 December 2005;

K. by virtue of section 60(5) of the Act, OFCOM may give effect to the proposal set out in the Notification, with or without modification, only if-

(i) they have considered every representation about the proposal that is made to them within the period specified in the notification; and

(ii) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;

L. OFCOM received responses to the Notification and have considered every such representation made to them within the period specified in the Notification and accompanying consultation document and these representations are discussed in Section [X] of the Statement accompanying this Modification; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

NOW, THEREFORE, OFCOM, PURSUANT TO SECTION 56(2), HEREBY MAKES THE FOLLOWING MODIFICATION:

1. Paragraph 1 of the Definitions and Interpretation section of the Plan shall be modified as set out below (the deleted text has been struck through and the added text underlined, both highlighted yellow for ease of reference):

'Geographic Number Portability Code' means a ~~number portability code used in conjunction with~~ Network Code used for the Portability of Geographic Numbers;

'Functional Specification' ~~means the document with that title referred to in~~ General Condition 18 of the General Conditions of Entitlement (Number Portability);

'Mobile Number Portability Code' means a ~~Number Portability Code that is Adopted or otherwise used in conjunction with Network Code used for the Portability of~~ Mobile Numbers;

'Non-Geographic Number Portability Code' means a ~~Telephone Number that is Adopted or otherwise used for routing non-geographic ported calls in accordance with the Functional Specification Network Code used for the Portability of Non-Geographic Numbers;~~

'Non-Geographic Number Portability Transit Code' means a ~~Telephone Number that is Adopted or otherwise used for Network Code used for the Portability and~~ transit routing of ~~non-geographic ported calls in accordance with the Functional Specification~~ Non-Geographic Numbers;

'Number Portability' means a facility whereby Subscribers who so request can retain their Telephone Number on a Public Telephone Network, independently of the person providing the service at the Network Termination Point of a Subscriber –,

(i) in the case of Geographic Numbers, at a specific location; or

(ii) in the case of Non-geographic Numbers, at any location,

provided that such retention of a Telephone Number is in accordance with the National Telephone Numbering Plan;

'Number Portability Code' means a Telephone Number that is Adopted or otherwise used for routing ported calls in accordance with the Functional Specification. There are six types of Number Portability Code, which facilitate Number Portability for:

- (i) Non-Geographic Numbers;
- (ii) Personal Numbers;
- (iii) Geographic Numbers;
- (iv) Mobile Numbers;
- (v) Non-Geographic Number transit; and
- (vi) Personal Number transit;

any of the following: a Geographic Number Portability Code; a Mobile Number Portability Code; a Non-Geographic Number Portability Code; a Non-Geographic Number Portability Transit Code; a Personal Number Portability Code; a Personal Number Portability Transit Code;

'Personal Number Portability Code' means a Telephone Number that is Adopted or otherwise used for routing Network Code used for the Portability of Personal Numbers ported calls in accordance with the Functional Specification;

'Personal Number Portability Transit Code' means a Telephone Number that is Adopted or otherwise used Network Code used for the Portability and transit routing of Personal Numbers ported calls in accordance with the Functional Specification;

'Portability' means any facility which may be provided by a Communications Provider to another enabling any Subscriber who requests Number Portability to continue to be provided with any Publicly Available Telephone Service by reference to the same Telephone Number irrespective of the identity of the person providing such a service. "Communications Provider", "Subscriber" and "Publicly Available Telephone Service" used in this context are defined in General Condition 18;

2. "Part B: Restrictions for the Adoption of Telephone Numbers" of the Plan shall be modified as set out below (the deleted text has been struck through and the added text underlined, both highlighted yellow for ease of reference):

B3.4 Number Portability Codes

B3.4.1 In addition to the general restriction at B1, Number Portability Codes shall ~~not be~~ only be Adopted or otherwise used ~~except~~ in accordance with the applicable designation given for that number range ~~and the Functional Specification~~. For the avoidance of doubt, the Portability of Telephone Numbers need not be enabled by the use of Number Portability Codes.

3. In this Modification:

- (a) 'Act' means the Communications Act 2003;
- (b) 'Director' means the Director-General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
- (c) 'General Condition 18' means General Condition 18 of the General Conditions of Entitlement set by the Director on 22 July 2003 pursuant to section 45 of the Act by way of publication of a Notification pursuant to section 48(1) of the Act;
- (d) 'OFCOM' means the Office of Communications;
- (e) 'Plan' means the National Telephone Numbering Plan published by OFCOM from time to time pursuant to section 56 of the Act;
- (f) 'Transitional Provisions' means sections 408 and 411 of the Act, the Communications Act 2003 (Commencement No.1) Order 2003 and the Office of Communications Act 2002 (Commencement No.3) and Communications Act 2003 (Commencement No 2) Order 2003.

4. Except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them otherwise any word or expression shall have the meaning it has in the Act, or if it has no meaning there, in the Plan.

5. The Interpretation Act 1978 shall apply as if this Modification were an Act of Parliament.

6. Headings and titles shall be disregarded.