



**Mobile Broadband Group**  
PO Box 34586, London SE15 5YA

5th December 2005

Mr Clive Hillier  
Competition Group  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

Dear Mr Hillier

**Number Translation Services: A way forward**

The Mobile Broadband Group (“MBG”, whose members are O2, Orange, T-Mobile, Virgin Mobile, Vodafone and 3) welcomes the opportunity to contribute to Ofcom’s consultation “Number Translation Services: A way forward.”

We have set out below, as succinctly as possible, our responses to Ofcom’s policy proposals, as set out in paragraphs 1.9 to 1.23. We have replied separately on the changes to General Condition 14. In outline, we agree with some proposals but disagree with others. Our strongest disagreements arise where Ofcom has departed most markedly from its stated aim of regulating with a light touch and where, we submit, it has even departed from the EU framework itself. We are also concerned that Ofcom is being drawn into regulating the behaviour of organisations (such as government departments and call centres) that are outside its remit.

As Ofcom acknowledges in paragraph 1.7 of the Summary, the NTS framework has been very successful in promoting new and innovative services to UK consumers. The overall package proposed by Ofcom is not a proportionate response to the concerns that have been raised about the current NTS regime.

Taking each policy proposal in turn, the MBG’s views are as follows:

**Retail Pricing of 0845 and 0870 calls**

It is central to the new EU framework that Ofcom does not regulate the prices of providers who do not have Significant Market Power (SMP) in the relevant market.

With respect to the mobile market in the UK, as Ofcom has established, no provider has SMP in the call origination market. Ofcom's proposals, by proposing to link the cost of calling NTS numbers to some 'standard' tariff or to pre-determine applicable discounts and call packages, would amount to, perhaps unintentionally, ex-ante price regulation of the call origination market.

Mobile tariffs do not have the concept of 'national' or 'local' rate calling and so 'restoring the geographic link for 0870 calls' would not be meaningful in a mobile context. Mobile operators use different tariffing concepts such as 'home cell', 'on-net' and 'off-net'. Operators, who all compete vigorously in an open market, are free to decide what charges are levied for what type of call and what types of call are included in monthly bundles, rollover bundles etc. etc. Ofcom should not be making decisions on such matters. If customers do not like a providers overall pricing package, that provider will be punished in the market.

We acknowledge that your research is showing customers believe 08 numbers are more expensive to call than they actually are. Ofcom therefore assumes that this is causing inefficiencies in the market. We do not agree that Ofcom has taken all the relevant factors into account and thus cannot conclude that consumer detriment is necessarily arising. A service provider may be receiving incoming inquiries by phone, by e-mail or via the web. Bearing in mind they have to deal with all these incoming communications, the element coming through by telephone may, in their eyes, be optimal, even if it is not maximised. It is up to the service provider to make this assessment. If such inefficiencies are significantly damaging to a provider's business, they will have adequate incentive to eliminate such inefficiencies. It is their responsibility to take the appropriate action, not the regulator's.

The MBG has no comment on the price regulation proposals for BT, as set out in paragraph 1.11, 1.12 and 1.17 of the consultation document.

### **Consumer Protection measures**

The MBG notes that on page 41, it is recorded that of the 126 complaints received at the contact centre, approximately two thirds relate to problems with diallers and that this may justify the extension of PRS regulation to Internet diallers. However, in the consultation document on 0871 issued on 21<sup>st</sup> November, Ofcom states that there will be a full review of the scope of PRS regulation in 2006.

The MBG believes that it would be more logical to consider any change in the regime as part of that review, rather than to undertake a piecemeal re-organisation at this time.

In the meantime Originating Communications Providers, under an MOU published in 2005, are already sharing information on and taking action against instances of suspected misuse of international and 0871 numbers for Internet diallers.

Incidentally, if requiring a prior permission removed two thirds of the consumer complaints, this backs up our earlier point that the rest of the proposed package is not a proportionate response to the 40 or so other consumer complaints arising for other reasons and the potential for consumer harm.

## **Extend PRS regulation to adult services currently provided on 08 numbers**

Ofcom has not made a compelling case for extending the regulation of adult service by forcing service providers to migrate services to the 0908 and 0909 ranges. As a consequence the MBG does not support this proposal, on the basis of the evidence presented.

On page 50, Ofcom states its desk research revealed that approximately a quarter of advertisements for adult services quoted 087 numbers. What is omitted from the research is whether any further age verification takes place after a call is connected or whether any further payment is required through a credit card (which is also an effective proxy for age verification.) Service providers may be using 087 numbers to circumvent call barring but that it does not follow that the services are thus more easily available to minors. Is there any evidence that minors are getting inappropriate access to adult services supplied on 087 numbers?

It seems that only three respondents from the previous consultation (paragraph A4.91) suggested that adult services only be provided on 0909 numbers so that consumers could easily bar numbers (which is not always available). It is not clear, though, whether consumers primarily bar 09 numbers to prevent 'bill shock' or to prevent minors getting access to adult services. As ICSTIS noted in its response in paragraph A4.89, there would be a number of issues around 'resources, funding and enforcement', if they were to take on the additional regulation of adult services on 08 numbers.

ICSTIS have quite enough to cope with at present. The MBG would like to see Ofcom make a much stronger case for this proposal before lending its support.

## **Guidance for public bodies**

The MBG agrees with Ofcom that there are insufficient grounds to justify public bodies being prevented from using revenue sharing NTS numbers. This would be discriminatory and beyond what is strictly the business of Ofcom. Government may have very good reasons for using revenue sharing numbers (for example, it is a very efficient way of hypothecating costs). Then again, they may not have but that is a matter for Government departments and other public services to settle with their respective stakeholders. Ofcom is not funded by the communications industry to resolve such matters. It is perfectly appropriate, though, for Ofcom to pass on adverse comments to the Public Accounts Committee or the departments concerned.

## **Better visibility of NTS tariffs**

The MBG will answer this point in more detail in response to the consultation on General Condition 14. In outline, we agree that it is correct that consumers are able access information on prices through customer services, web-sites and printed material. Nevertheless, there must be flexibility as to how this is achieved. It is always necessary to take account of the medium through which information is delivered and the level of detail that is appropriate in the circumstances; the customer does not always want to be overwhelmed with excessive data.

With respect to advertising, we would also agree that pricing should be clear and that advertisers should not refer to numbers being charged at 'local' or 'national' rates. In the context of mobile telephony, such designations are not meaningful, in any case.

### **The 0871 range**

The MBG supports Ofcom's proposal that pricing and interconnection for 0871 remains in place. The revenue sharing model is a source of innovation in convenient new services and should not be pushed solely to the 09 range. Although, as set out on page 167, 37% of your consumer research sample disagreed with revenue sharing, 44% supported it. Your analysis indicated that customers' dissatisfaction arose mostly from the type of organisations that choose to avail themselves of NTS – governments and banks. As noted above, it is a matter for those organisations to respond to the opinions of their stakeholders, as they see fit.

In summary, this consultation document raises important policy issues about the future of NTS. The MBG agrees with much of what Ofcom proposes but still disagrees strongly on a number of key points. We would very much welcome a meeting in the post consultation phase with a view to finding more common ground. If you have any questions about any of the comments made, please do not hesitate to contact me. This response is not confidential.

Yours sincerely,

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