



The Mobile Broadband Group
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Response of the Mobile Broadband Group to Ofcom's consultation on the review of the Universal Service Obligation.

This submission is made by the Mobile Broadband Group ("MBG"), whose members are O2, Orange, T-Mobile, Vodafone and 3.

Summary

- The MBG agrees with Ofcom that, since the costs and benefits of the USO are broadly stable, the existing funding arrangements should remain in place.
- The MBG also agrees that, unless substantial changes are made to the USO, there is no justification for undertaking a full-scale review of the costs and benefits of the USO to BT.
- The use of mobile technologies to address the 'provision of connection upon reasonable request' element of the existing USO should be permitted.
- The mobile sector already contributes an enormous amount to bring communications to all. There is no 'digital divide' in mobile.
- We do not believe that a video relay service should be mandated in mobile. We believe that experience has demonstrated the inappropriateness of "mandating" such services when mainstream mobile services are already attractive to disabled users.
- With the introduction of 3G, the mobile market is in a state of transition. We should wait to see what mainstream market products, such as mobile Instant Messaging (IM), emerge, before mandating investment in specialist services (as was done with text relay), where demand is yet unproven.

Introduction

The mobile operators strongly support the objective that communications services should be available to as wide a range of people as possible. Variety and choice should be delivered principally through the efficient workings of the market and to a very substantial degree the market has been very successful in achieving the universal service objectives, particularly in the mobile market. Nevertheless, it is recognised that the USO seeks to achieve wider political objectives in cases where the market may not otherwise deliver for certain groups. The MBG, would like to emphasise, though, that regulation should not be used to make up for deficiencies in social legislation. If Ofcom thinks legislation fails specific groups to whom it feels it

has a duty, it should be saying so to the Government, rather than looking to redress the balance through sectoral regulation.

The debate over Universal service should be no different to any other debate in this field. It should be guided by Ofcom's principles (and statutory obligations) for regulating the telecommunications market, in particular, that as competitive conditions allow, Ofcom should withdraw from regulation.

Questions related to Section 3 – Universal Service and the Strategic Review of Telecoms

1. What should be the arrangements for funding USO in future?

Before considering what the future funding arrangements for the USO should be, it will first be necessary to consider the future **scope**. The Universal Service Directive (USD) is to be reviewed later in the year and the funding arrangements should not anticipate the outcome of this review.

In the meantime, the MBG agrees with Ofcom's assessment that, as there is a net benefit to BT in being the USO provider, the existing funding arrangements should stay in place.

In the fullness of time, once the USD has been reviewed, the scope of the USO in the UK has been determined and when the USO no longer seems to confer a benefit on the USO provider, alternative arrangements for funding the USO should be considered.

In looking at future funding arrangements, though, there are a number of points to bear in mind:

- a) BT has had many years in which it has accrued a surplus from the USO. It should not therefore follow that as soon as it appears to go into deficit, there should be an immediate change, though we do recognise that it would not be sustainable for a USO deficit to be borne for long.
- b) The level of the USO is essentially a political decision. The payment of the USO 'deficit' out of general taxation should definitely be included as one of the possibilities for funding the USO.
- c) Equally, there is also merit in the idea that the fund should be raised through a supplement on consumers' (individual and businesses' bills). There is no reason why the government should not be accountable for its political decisions and for the amount raised for the USO. This is done in other sectors, such as the airline industry. 'Air Passenger Duty' is raised on each ticket for flights taken from the UK. The 1 billion pounds raised annually goes towards support for the airline sector.
- d) Having the amount of the USO fund transparent makes it easier for the public to assess more accurately the pros and cons of various approaches. (It is always too easy to up the requirements when industry is footing the bill.)
- e) The task of calculating an equitable scheme for sharing the cost of the USO will not be trivial. It may not even be easy to identify all the players that should be contributing – e.g. fixed operators, VOIP providers, ISPs and other service providers.

- f) The extent to which a provider already makes available USO services as part of its competitive offering should be taken into account when calculating the USO contribution.

2. *How could competition for the delivery of USO be organised in future?*

In principle, there could be advantages in introducing competition to the provision of the USO or certain elements of it. For example, it may be possible to auction off the right to deliver the USO on a regional basis, with Ofcom retaining backstop powers in case there are no competitive tenders. Nevertheless, as highlighted above, there will be significant complications in revising the arrangements for USO provision and it should not be undertaken lightly.

The MBG considers that it would be premature (i.e. during this review) to look in any great detail at this question, before it is deemed necessary to adopt an alternative approach.

3. *Should mobile technologies be used to help address the existing USO?*

The mobile operators already contribute an enormous towards meeting the political objectives of the USO.

When the first mobile networks were launched in the early '80s, it was expected that a mature UK market would see a penetration of about 300,000 subscribers – mostly business users. As we know, this has turned out to be somewhat wide of the mark.

Through a combination of standards development, spectrum licensing and aggressive competition between the market players, the mobile phone is today all but ubiquitous both in terms of take-up and geographic coverage.

Without any particular regulatory provision the mobile phone has made an enormous contribution to bringing about benefits across the whole range of topics covered by the USO:

Low user tariffs: The mobile sector is held up as an example of good practice by such charities as Age Concern for the range of low user tariffs offered – particularly those with no fixed charge element.

Disconnections: Approximately two thirds of mobile subscribers use a pre-pay tariff. This has led to widespread uptake of communications services by those with a poor credit history and who had not previously been able to obtain (or maintain) a fixed line connection.

Services for those with disabilities: While the mobile text relay service is not very popular (with just a handful of subscribers), the UK's 9 million people that are hard of hearing or profoundly deaf have been able to benefit substantially from mainstream mobile products such as texting. In addition the 'speaking phone', a software modification that converts what appears on the handset screen into speech, has allowed many blind and partially-sighted customers to enjoy the benefits of mobile communications. The range of mobile services is continuously evolving and now (or

soon will) provide new offerings that will benefit people with disabilities such as mobile e-mail, location services, picture messages and instant messaging. Evidence (the City University study, supported by BT, Vodafone, O2 and Orange) suggests that consumers who are hard of hearing benefit greatly from access to mainstream services such as text and email, which are used widely by non-disabled consumers. Ofcom should concentrate on ensuring that consumers are aware of all the options that are available to them, and have the functional literacy to make use of these options, before it mandates the provision of services based on specific technology.

Connections: Mobile coverage for the basic voice and data service now extends to approximately 98% of the area in which the UK population works and lives. In addition a large proportion the UK's road and rail networks are covered.

One of the provisions of the USO is for BT to connect all households upon reasonable request. It may be more economically efficient for the USO provider to be allowed to sub-contract this obligation to mobile operators. In this way mobile technologies could be used to address the USO requirement.

The exact terms on which this would be done could be determined through a competitive commercial arrangement between the USO provider and the mobile operator offering the best terms (with respect to service portfolio, coverage, quality of service, resilience and price).

Ofcom should recognise, though, that it is becoming increasingly difficult to obtain planning permission for mobile infrastructure and so any such change in the USO provisions would have to be done in tandem with the local planning regime.

Questions related to Section 4 – Special Tariff Schemes and Disconnections

4 *Ofcom is seeking views on all aspects of BT's proposals for a new special tariff scheme:*

- *the tariff structure and levels*
- *the use of direct debit and monthly payment plan discounts*
 - *the target market of households within the governments' definition of poverty and in receipt of means tested benefits*
 - *the relevant means tested benefits*
 - *the proposed exclusion of IA/CPS and mobile users*
 - *the use of self-declaration and of a credit checking agency to minimise BT's exposure to risk of abuse; and*
 - *the marketing approach.*

In paragraph 4.15 of the consultation document (pre-consultation issues), Ofcom states that "the exclusion of mobile users was considered to be disproportionate by some consumer stakeholders given the high penetration rate of mobiles;"

The MBG agrees that mobile users should not be excluded. We also believe that it is not consistent with BT's universal obligation to connect to all numbers.

5. *Ofcom is seeking views on the three options proposed: (i) No change to the BT schemes; (ii) BT's proposed new scheme to replace LUS and IC and (iii) BT's proposed new scheme to replace LUS and IC but modifications to the Scheme would be required.*

No comments (other than those made in answer to Q4.)

Disconnections

6. *Ofcom invites comments on Ofcom's view that BT should promote its portfolio of debt management and affordability services more effectively to customers experiencing payment difficulties?*

No strong views [Note however, that under Condition 13 of the General Conditions of Entitlement, all Communications Providers have obligations placed upon them with regard to the non-payments of bill. Thus it is arguable whether there is a requirement for further regulatory control in this area].

Questions related to Section 5 – Public Call Boxes ('PCB')

No comments

Questions related to Section 6 – Services for customers with disabilities

11. ***Do you agree that a feasibility study of a video relay service should be carried out? Comments are invited on the scope of such a study.***

Of the options presented by Ofcom, the MBG believes that carrying out a feasibility study is the better choice. The primary objective of the USO requirement is to assist those that are hard of hearing not to support different languages or to support a wider range of services than is available in the broader market. As Ofcom points out, the VRS does not seem to present overwhelming advantages over text relay. Before introducing a VRS, Ofcom would have to consider seriously the implications. For example, the introduction of VRS would presumably adversely impact the text relay service (the usage of which is already dropping).

Video telephony is just being introduced in the mobile sector and, to some extent, is already being employed by BSL users. It may be that the market can deliver a mainstream product (which all the surveys clearly show is much preferred by hard of hearing customers). But mobile video telephony is in its infancy and it is therefore far too early to consider mandating any particular course of action through the USO. Nevertheless, there is a significant population using BSL who could potentially benefit and so it would seem appropriate to carry out a feasibility study.

In the context of a feasibility study, though, the MBG would point out that there are about 35,000 text relay machines in use today (a few hundred of which are mobile) and yet there are 9 million people that are deaf or hard of hearing. With 57 million mobile users, many more deaf people are being served by mainstream mobile

products such as text services than are being served by the specialist products. Indeed, it may well be that these products are actually more appropriate and more user-friendly than relay services, the use of which is more cumbersome, particularly for the hearing users receiving the calls who may not be familiar with the service. The MBG believes that mandating text relay on mobile operators was an inefficient use of resources – an investment in old fashioned and narrow technology.

No further regulatory requirements should be placed on the mobile operators for the time being. There are many interesting developments in the mobile market with MMS, mobile e-mail and instant messaging which means that customers with disabilities are set to benefit far more from investment in mainstream products than would be from specialist products (as, indeed, has been the case with SMS).

12 *Ofcom invites views on a Stakeholder Advisory Panel including the membership and terms of reference of such a Panel.*

There are already a large number of advisory panels with views on this topic. Another panel would seem superfluous. Stakeholders that use the text relay service are already able to suggest developments to the scheme.

13 *Do you agree that the relay service could publish an annual plan and report?*

No strong view. On balance, this may improve communication with all relevant stakeholders but, of course, it would add to the operational costs

14 *Ofcom invites views on its conclusion that mobile/email access should not be pursued at this stage.*

Just to clarify the question, the MBG takes this to mean that there should be no requirement for text relay users to be able to receive an SMS from a normal mobile phone. We would agree that demand for such a service is likely to be small. We are not sure, though, that such market as there is will shrink much because of the adoption of mobile text relay handsets. There are presently a few hundred subscribers and this is not expected to grow significantly.

15 *Do you agree that Option 2 (ie maintain existing obligations) offers the best opportunity for improving the accessibility of public call boxes?*

16. *Do you agree that the obligation should be redefined to apply to all subscribers who are not able to read printed bills and contracts?*

Subject to reasonable requests, the mobile operators make every effort to supply bills in a format that can be read by the subscriber. However, we would point out that such requirements are covered by the Disability Discrimination Act 1995 and as such we believe that any extension to General Condition 15 obligations are unnecessary. Such an extension does not appear to be consistent with Ofcom's stated objective of withdrawing from regulation where appropriate. We are concerned that modifications to General Condition 15 create double-jeopardy when aligned with the statutory requirements of the DDA 1995.

G1 Supplementary question: (Annex G). Do you agree that communications providers should be required to consult Ofcom to ensure that the requirements and interests of disabled End-users are fully taken into account in the development and provision of services?

The MBG has no objection to the wording of Condition 15.1 being changed to “The Communications Provider shall from time to time consult Ofcom to ensure.....etc.”

Questions related to Section 9 – The costs and benefits of providing universal service

19. Ofcom invites views on its updated estimates of costs and benefits.

20. Do respondents consider a more detailed assessment of cost and benefits should be undertaken once the new USO regime is in place?

The MBG agrees with Ofcom’s assessment that the fundamental economics of the USO have not changed dramatically and that it would therefore be unnecessary to change the funding model or to engage in an extensive cost benefit analysis at this time.

We believe that existing trends will persist – that the burden of uneconomic customers will continue to fall and that, all things being equal, the burden of uneconomic call boxes. However, BT may be able to mitigate this loss by reducing its PCB estate.

Any further information required or queries relating to this response should be directed to Hamish MacLeod at mbg@mobilebroadbandgroup.com .