

Simplifying Non-Geographic Numbers

UKCTA Response to Ofcom

Submitted to Ofcom: 31st March 2011

UKCTA is a trade association promoting the interests of competitive fixed-line telecommunications companies competing against BT, as well as each other, in the residential and business markets. Its role is to develop and promote the interests of its members to Ofcom and the Government. Details of membership of UKCTA can be found at www.ukcta.com.

This consultation addresses issues that have wide ranging implications for UKCTA members, members that have vastly diverse interests. Virgin Media will be [submitting a](#) separate response to this consultation reflecting any differences in its view. Gamma will be making separate representations to Ofcom in respect of the proposals on unbundled tariffs.

Rosaleen Hubbard 1/4/11 11:39
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UKCTA welcomes Ofcom's consultation into simplifying Non-geographic numbers and supports the objective of trying to improve consumer confidence in this important sector of the communications market, while providing stability and certainty to the many businesses and organisations that rely on these services.

As much of the focus and attention in this area in recent years has been on the wholesale commercial arrangements for non-geographic services, it has been easy to overlook the many benefits that non-geographic number bring to consumers, businesses and the wider economy. Number Translation Services in particular are a real UK success story, with a highly competitive service provider market giving rise to innovative services and ensuring that UK businesses, large and small have an effective means to communicate with their customers.

UKCTA members have experience in all sides of the market, fixed and mobile origination, transit provision and the termination of non-geographic numbers and we know just how important a market this is. The framework for the non-geographic services can't be left to chance as the consequences of prolonged uncertainty will be far reaching, leading to protracted disputes, stifling innovation and have economic consequences wider than the communications sector.

BT remains a very large originator and a significant terminator of non-geographic minutes and as such an appropriate remedy or framework is required in order to guard against the effects of market power, thus encouraging competition and service innovation. Should the call origination condition fall away, it would be reckless to leave a regulatory vacuum, hence the need for a robust regime that is both consumer friendly and delivers for UK business.

In this response we discuss the main themes set out in Ofcom's consultation, taking each issue in turn under the following sections:

- I. Option for changes
- II. The Access Charge
- III. The Service Charge
- IV. Simplifying Number ranges
- V. Freephone

I. Options for change

Given Ofcom's stated preference for the unbundled approach, and its provisional view that "this appears to be the best option for consumers, based on the evidence we have seen so far"¹, the bulk of UKCTA's response addresses the relative merits of this option.

UKCTA considers that on balance, and in the absence of a suitable alternative, the unbundled option applied to the non-geographic number market would represent a positive move forward for consumers and the industry.

However, in order to realise the potential benefits from an unbundled regime, it will be necessary to resolve the significant implementation issues that are outlined in this response. Clearly Ofcom's thinking is currently at an early stage on a lot of these issues, in particular

¹ Paragraph 1.32

the precise format of the access charge, service charge and the method(s) of communicating changes to consumers. UKCTA considers that it is incumbent on Ofcom, as its thinking progresses, to seek to mitigate as far as possible the cost and resource burdens that will fall on the industry.

We briefly address the proposed alternatives to the unbundled approach below.

1.1 Alternatives to the unbundled approach

A) Deregulation

UKCTA agrees with Ofcom that de-regulation would “widen and deepen” the current problems in the NGN market, and does not consider that this is a realistic alternative to the current regime. Of course, any regulation introduced by Ofcom must be compliant with the EU Common Regulatory Framework.

B) Reliance on improved price information measures (e.g. PCAs)

Whereas further price transparency may benefit consumers, this option would not address the problems with NGNs at a wholesale level. UKCTA considers that resolving these wholesale issues will determine the benefit that can be derived from the unbundled approach, and therefore that this option is undesirable.

UKCTA agrees with Ofcom that price information measures such as pre-call announcements could be very costly and complex to implement, as highlighted in the Implementation Feasibility study commissioned by Ofcom.²

C) Setting maximum retail prices

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<http://stakeholders.ofcom.org.uk/binaries/consultations/nongeo/annexes/tariff-billing.pdf>

While it could be argued that a maximum retail price for NGNs could be something that is simpler for consumers to understand than an unbundled charge regime, as many of the problems associated with the NGN regime actually originate in the wholesale market it would do little to resolve those important wholesale commercial issues and require ongoing regulatory intervention to resolve future disputes around the division of revenue. In addition, Ofcom itself has expressed concern over how it would go about setting maximum tariff levels, and the implications of getting it wrong. The outcomes would be highly sensitive to the prices set and there is a risk that prices would naturally gravitate towards the top of the respective price bands, which would not be in the interests of consumers.

1.2 Consumer testing

Given Ofcom's strong preference for the unbundled option, its focus on the needs of consumers and the extent of the changes proposed, UKCTA would expect Ofcom to have carried out robust and thorough testing of its proposals on consumers. However, to date UKCTA is not aware that any specific testing of the unbundled option has occurred. UKCTA therefore urges Ofcom to conduct such testing as a matter of urgency, and to make the results known to the relevant stakeholders. UKCTA would remind Ofcom that it is required to gather sufficient and accurate information to enable it to make informed strategic decisions, and that the standard of inputs Ofcom is required to gather is high.³ Regardless of the merits of the unbundled approach, as a matter of principle Ofcom should ensure that it has tested its proposals appropriately before expressing such a strong preference for one of them.

This raises a matter of more general concern, which is the apparent lack of evidence that the unbundled approach will provide a material benefit to consumers. Given the lack of evidence that consumers react positively to the idea of an access charge and service charge when dialling a NGN (and indeed the evidence that some 82% of respondents surveyed currently never look up NGN call costs), it is not clear that the separation of charges is something consumers want, need or indeed particularly care about.

³ This is clear from the Judgment of the CAT in the Vodafone number portability case [*Vodafone and others v Ofcom* [2008] CAT 22]. In this case the CAT found that Ofcom must have "equipped itself with a sufficiently cogent and accurate set of inputs to enable it to perform a reliable and soundly based CBA".

Further, Ofcom's approach to unbundling is based on a prediction that the overall level of NGN calls will increase, which is also untested.

1.3 Wholesale impact

While the interests of consumers are at the heart of Ofcom's thinking, UKCTA considers that in this case Ofcom need to direct effort to resolving issues at the wholesale level, as this will also derive consumer benefit in the long term, through clearer pricing and investment signals and product innovation.

With this review Ofcom has the opportunity to correct historical anomalies associated with the end-to-end flow of payments in relation to 0845. Payments to TCPs in relation to 0845 are governed by the retail prices, which means that the level of those payments is unpredictable and controlled to a large extent by BT. This gives BT significant influence over the payments its competitors (in termination markets) receive for terminating calls. This in turn has led to a series of disputes about BT's wholesale NTS charging policies. By addressing BT's position in the NGN market and the current flaws in the regulation, Ofcom can make a positive difference to the wholesale regime. This in turn will benefit consumers as a result of improved revenue pass-through and certainty at the wholesale level.

Further, depending on how Ofcom ultimately intends to regulate the level of service charges for NGNs, it may also introduce greater certainty for the industry as well as consumers. OCPS, TCPs and service providers will potentially benefit from transparency of setting access and service charges and service providers will have greater control over the prices its customers are charged for calling their numbers, as well as from more clear and stable termination charges tied to specific number ranges.

However, there are significant cost and resource implications associated with implementing the unbundled approach, which the industry will be expected to absorb. This is recognised clearly in the Implementation Feasibility study for Ofcom on the feasibility of changing tariff information and billing measures for non-geographic calls. Two particular areas of concern are the implications of pre-call announcements (i.e. how Ofcom might impose requirements to communicate changes to the NGN regime) and billing at a more granular level, were either to be introduced. Before making any decisions on these matters, UKCTA would urge Ofcom to undertake the necessary feasibility studies to ensure that measures are effective and

proportionate, and to consider the implications that this might have on its provisional timescales.

There are also a considerable number of more detailed implementation issues to consider which will need to be fully worked through with relevant stakeholders. UKCTA considers that the success of the unbundled approach would be determined at least in part by Ofcom's willingness to fully address and resolve these issues, and to mitigate the cost and resource burdens on industry where possible. Ofcom should bear the need for detailed industry consultation in mind when setting timescales for implementing any new measures.

II. The Access Charge

Under the unbundled tariff approach, the OCP sets the AC for calls from its network to all NGCS. Ofcom considered a number of policy options in relation to the structure of the AC⁴ and noted that the more complex the AC pricing structure, the less transparent it is to callers and hence the competitive constraint on its level will be weaker⁵. Ofcom suggests that to achieve the greatest benefit to the caller, for each calling plan offered by an OCP, the AC should comprise only a single pence-per-minute (ppm) for all calls⁶. UKCTA accepts the concept that a single price is easier to remember than multiple prices, but dismisses the value of this benefit due to consumers' own admission that they pay little or no attention to the price of the call⁷.

UKCTA considers that the AC should be structured as follows:

- up to two different ppm AC rates should be allowed: one for "business NGCS" and another for "premium rate NGCS";
- a connection charge should be permitted where the OCP charges a connection charge for all calls within the calling plan, for both geo and non-geo numbers (not otherwise included in inclusive baskets);
- the AC should not be regulated;

⁴ Paragraphs A5.46- A5.95 of the Consultation.

⁵ Paragraph A5.50 of the Consultation.

⁶ Paragraph A5.61 of the Consultation.

⁷ Table A2.11 of the Consultation.

- OCPs should only be required to inform their customers of a) the AC charge(s) and b) the price capped SC for each number range; and
- OCPs should have flexibility in how they itemise the customer bill for NGCS calls.

We expand on these points below.

There should be some price setting flexibility afforded to the OCP in order that they might set the two different ppm AC rates to reflect more accurately the underlying costs. It is expected that 09 'premium rate' numbers and 118 DQ services will continue to cost considerably more than other NGCS calls. Additionally, some premium rate calls are required to provide a pre call announcement, offering the caller the option to terminate the call at no charge to the caller. Such aborted calls never the less generate costs for the OCP. To reflect the higher potential bad debt, administrative costs associated with these higher priced calls, and higher network costs, UKCTA believes that two ppm AC rates be permitted: A 'premium rate AC' for use in accessing 09 and 118 numbers and a lower 'business rate AC' for accessing all other NGCS (070, 076, 084 and 087 numbers).

Connection charge: for consistency, where an OCP charges a 'connection charge' for all calls within a specific call plan (outside of calls within an all-inclusive call basket and calls to freephone numbers), that they continue to be permitted to include a connection charge in their AC (both their premium and business rate AC). If they wish, OCPs should be free to include the AC within their inclusive bundle; however that would be commercial decision for them alone.

Ofcom seeks to address the option of multiple ACs to better reflect underlying costs, but suggests that a preferred approach would be to use a blended AC. UKCTA does not support the use of a blended single pence per minute AC. If we were to conservatively derive a single pence per minute AC that accounted for our current call connection charge and higher origination charges for premium numbers, we consider that charge would unduly penalise callers accessing the 084 and 087 NGCS and this would not be a favourable outcome for consumers. These number ranges are used to access the likes of GPs, banks, customer service lines where callers usually have little or no discretion over their ability to avoid making the call.

2.1 Access Charge Regulation

UKCTA does not support the need to regulate the price of the AC and considers that the transparency achieved through the unbundled approach will ensure sufficient competition amongst OCPs to moderate the setting of the AC.

2.2 Tariff Publication

Presently OCPs are required to publish pages of tariff tables which outline the different price bands per number range and the number blocks within each number range and their related price bands. In the simplified unbundled approach, Ofcom is proposing that OCPs publish their AC charge(s) and the maximum price capped price of each NGCS number range. UKCTA supports this approach and considers it will assist in delivering greater transparency to the overall cost of NGCS calls.

2.3 Billing flexibility

Today OCPs are not required to breakout and separately list the elements of the price of a NGCS call. Some OCPs report the aggregate cost of multiple calls to the same NGCS rather than report the cost per individual call made. Many customers choose not to receive a paper bill, choosing to review their bill on-line and perhaps print it only on an exceptions basis. Some OCPs offer a price saving or charge a premium depending on the customer's billing preference. UKCTA is not aware of any material consumer concerns regarding the quality of bill presentation today. Under an unbundled approach, UKCTA would wish for a similar level of flexibility to be extended to OCPs in how they present the costs that go into making up the total amount billed to a particular number – whether that is on a call by call basis or an aggregate of all calls for the period to a particular number. It would be very costly to have to breakout and present the AC and the SC separately on the bill; on a call by call basis or as an aggregate of all calls for the period to a particular number.

III. The Service Charge

UKCTA has considered the application of the Service Charge along two separate lines, mirroring the way Ofcom have considered the issue in consultation by looking at the structure of the charge and how to calculate its ultimate level.

In terms of structure, UKCTA fully supports the restrictions placed upon organisations to prevent bespoke Service Charges from being offered based solely upon the OCP's identity, as the value of a service charge will be found in making it universal, so each provider, fixed or mobile will charge the same service charge for a particular number. This way retail price competition will occur around the access charge and terminating service providers will be able to state their service charge with accuracy.

It is important to prevent BT from exercising its market power in wholesale call origination to provide its own termination business or its Service Provider customer base with preferential and potentially discriminatory rates, by utilising revenue collected from its access charge. In this regard, UKCTA believes that Ofcom is right to identify the need to replace BT's current SMP AA11 condition with an alternative wholesale safeguard in order to protect the termination market from any potential abuse by BT, by virtue of its place.

UKCTA welcomes the flexibility Ofcom proposes to offer Service Providers by allowing both Time of Day variation and pence per call and / or pence per minute charging. We believe that such flexibility is a necessary feature to allow Service Providers the ability to differentiate according to their service offerings in a fiercely competitive market.

We caution however that there are complexities which will exist under any PhonepayPlus requirements to publish pricing where Time of Day variation is employed. The same considerations apply in relation to any disclosure of the Service Charge required to be made by OCPs. We believe any outcome which requires Service Providers or OCPs to publish onerous price permutations would negate all of the benefit Ofcom seeks to preserve. We look forward to assisting Ofcom and PhonepayPlus in developing 'light touch' regulatory solutions on this issue.

UKCTA believes that the hosting market is competitive to such a degree that there would be no grounds to impose a tariff ceiling for Service Charge pricing in order to protect consumers, however there is real value in maintaining tariff bands for service charges based on number range to assist consumers in identifying the likely cost of making a call. Such call price banding, enforced through the National Numbering Plan will help avoid the sort of consumer confusion experienced on the 070 ranges and enhance consumer confidence in NGCS.

It is important for Ofcom to recognise that when setting the Service Charge bands, the current level of retail pricing imposed upon BT through its SMP condition is not an appropriate level upon which to base any future Service Charge ceiling. The original price points were set over a decade ago since when there has been significant inflationary pressures upon these services. The tension between inflation and the restrictions placed upon BT has been circumvented through BT's introduction of a call set up fee and this has itself been subject to several increases since its inception, resulting increased payments for termination. Any support UKCTA members may give to the unbundled tariff is entirely dependent upon the Service Charge bands being set at an appropriate level, taking into account inflation and current interconnect out payments.

It should also be recognised that 0845 remains an important and largely well received service and the unbundled tariff structure should be constructed to accommodate it. It is important for Ofcom to preserve the termination revenue from 0845, which remains important to businesses and service providers alike. Current 0845 termination rates are greatly influenced by the existing call set up fee, so the new service charge must be set at a level that preserves the overall 0845 POLO available today. Failure to do so would result in a significant loss of revenue for terminating operators, increasing the cost to UK business.

UKCTA welcomes the proposals to review the current £1.50 limit to PRS calls and we note that this is an area where the retail bands have not changed since their introduction in 1997 and 1999, whilst inflation has eaten away at their real value. The increase in RPI since 1997 is 42% giving a corresponding reduction in value of the current POLOs of 30%. We welcome the review of this limit and any corresponding increase subject to PhonepayPlus safeguards such as Prior Permission requirements in order to protect against fraudulent activity.

IV. Simplifying Number ranges

UKCTA agrees with Ofcom's proposal to maintain the current status quo regarding the 03 range. Although consumer awareness of 03 is low we believe that the continued alignment with geographic call charges will foster consumer confidence as awareness increases.

UKCTA agrees the best option for 0845 is to adopt the unbundled tariff and alignment with 0844 given the high volume of traffic and utilisation of the 0845 range. UKCTA would recommend that all 0845 ranges are migrated to the same service charge point to ensure a

consistent approach and to ensure recipient networks with ported in 0845 numbers have certainty on approach.

In terms of changes to 0870, UKCTA believes that Ofcom should adopt the unbundled tariff and alignment with 0871. Service Providers that use 0870 numbers already have the option to choose to migrate to 0370 in the knowledge of their costs of migrating numbers and UKCTA believes the choice to migrate should remain rather than forced migration from closure of the 0870 range.

UKCTA agrees with Ofcom that 0844/0871 should attract the unbundled tariff approach and to adopt a consistent approach overall to 084 & 087, however the NTNP designations of up to 5ppm and 10ppm should be reviewed and an increase permitted to maintain current interconnect termination payment status quo.

UKCTA does not agree that PhonepayPlus regulation of 084 services follows if the unbundled tariff approach is adopted for 084 services and alternative remedies for a price disclosure obligation should be explored. Many end users of 084 numbers already publish pricing information and do not wish to be associated with 'premium rate'. Given the low levels of consumer complaints with respect to 0871 it appears disproportionate to apply the regulatory burden of the PhonepayPlus code to 084 without a cost/benefit analysis.

UKCTA agrees that 09 ranges & 118 DQ codes should attract the unbundled tariff. Higher price points on 09 ranges with the relevant regulatory safeguards should be permitted to facilitate competition with mobile short codes.

The proposal that 070 & 076 attract the unbundled tariff with a maximum price for Service Charge (align with mobile charging) appears the best option to reduce the potential for fraud whilst allowing legitimate personal numbering services to continue. Most UKCTA members do not operate in the 070 market to any significant degree and therefore we are unable to offer any information regarding the costs or benefit of closing 070 ranges.

V. Freephone

UKCTA supports the concept of a genuinely free to caller freephone number range, available on all networks, where no access or service charges would apply and no other fees such as

call set up or minimum call charges would apply. We believe this would have genuine consumer benefit, allowing consumers and citizens to make calls without having to pay.

We would like Ofcom to look further into the issue of what number ranges should be classed as universally free to caller, be it the existing 0800/0808/0500 ranges or any others. Ofcom should weigh up any options by means of a cost benefit study before reaching a conclusion on the scope of the freephone classification.

In the case of universal free to caller services it would be appropriate for the terminating provider to compensate the originating network for the cost of conveying the call. UKCTA also recognises that the cost of origination is different for fixed and mobile originators and there should be a different origination payment set for each, with the origination payment made to mobile networks reflecting any additional costs.

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