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Review of Relay Services

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UKCTA Response to Ofcom

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Submitted to Ofcom 28th October 2011

Introduction

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.

UKCTA welcomes the opportunity to respond to Ofcom's Review of Relay Services. As providers of "Publicly Available Telephone Services" all UKCTA members are subject to the requirements of General Condition 15 and take the obligations imposed seriously. In principle we are supportive of moves to review the existing Text Relay service and to enhance it if the conclusion is that existing, mass market services do not meet the needs of customers with disabilities and that there is a demand for an enhanced service. However this support is subject to Ofcom heeding the points made below about the practicalities of implementing a Next Generation Text Relay Service and the proposed wording of a revised General Condition 15.

UKCTA members are extremely concerned about the proposals to mandate a video relay service and believe that equivalence does not demand the provision of any one service. While disabled customers should have appropriate access options available to them this should not be at the cost of imposing disproportionate and extremely costly obligations on communications providers ('CP's). While we comment on the restrictions which Ofcom has proposed, we do not believe that the case has been made for mandating CPs to provide access to a video relay service in the first place. Wider business obligations with regard to disabilities have a part to play in ensuring that all customers are provided with access to the services they need, and in particular are integral in considering the key issue of how those services should be funded

We believe that funding is a primary issue which must be addressed before any decisions can be taken on whether it is appropriate to mandate provision of access to a video relay service and if so, the extent of that service. We welcome the recognition from a broad range of stakeholders at the recent DCMS Roundtable on Relay Services that it would not be right for the entire cost of a video relay service to fall to communications providers and that the wider business community should be contributing to the cost of communicating with their own deaf and hard of hearing customers and employees. We would urge Ofcom to take heed of and address these concerns.

Question 1:

Do you agree that NGTR would provide greater equivalence than the existing approved TR service? Do you agree that we have considered an appropriate range of improvements?

UKCTA members find it difficult to comment in any detail on the proposed enhancements given our limited experience of the existing service. Services are provided by BT and we simply provide access to those services. In addition very low volumes of calls are made using the existing Text Relay service and UKCTA members receive little in the way of feedback from customers using those services. However we do have some concerns around delivery and costs which we believe need further investigation.

Ofcom has said that it does not intend to mandate the detailed technical means of delivery but suggests that these improvements could be achieved by introducing an Internet Protocol (IP) based overlay network used in conjunction with the PSTN connection. This would enable the PSTN connection to be used to initiate and manage the call and provide the voice element of the call, while text would be sent and received via the internet. From wider discussions, we believe that elements of delivery of the enhanced capability may raise important issues that have not been considered in the consultation.

The current Text Relay system does not deliver the capability required to deliver a NGTR service and a new system will need to be built. By their very nature, developments of this type are complex and challenging. We consider that Ofcom has not addressed these issues sufficiently in the consultation.

UKCTA considers that Ofcom has failed to adequately assess the impact of the proposed IP based overlay network on providers but also on would be users. The user experience is not clear. The circumstances under which NGTR would be used rather than alternative means of communication and how customers will access the service (e.g. how customer devices will connect to the service? What if the customer does not have broadband or has a separate broadband provider to their voice service?) have not been assessed. The risk is that a service will be developed at considerable cost which has no additional benefit to consumers, because it does not meet their requirements from a usability perspective. More traditional, telephony-based means of communicating with businesses and friends and family are declining in use and being replaced by methods such as web-based communications, SMS, live chat, and social networking. For instance, many people now use internet banking instead of contacting a bank via the telephone, and many people now use email and instant messaging, instead of telephone calls, as a way of keeping in touch with friends, family and colleagues. We do not believe Ofcom has considered the use and impact of these alternatives fully in its research and proposals.

Ofcom says "Internet access is now very widely available in homes and on mobile devices. ...Additionally 77% of adults already own a PC, a laptop, network or tablet computer, thus saving the additional cost of a dedicated terminal." UKCTA considers that little if any weight can be attributed to this statement given the context in which it is made. This consultation concerns the needs of disabled end users, not all adults. The evidence that Ofcom needs to gather relates to the number of deaf users who have broadband access and access to the relevant equipment. Without this, Ofcom lacks the ability to convince stakeholders that its proposals are proportionate and will benefit an appropriate number of users given the very high costs that CPs stand to incur.

As regards the IP overlay network, Ofcom has assessed the costs for BT to develop the service but not for other providers in connecting and offering access to the NGTR service. UKCTA is encouraged that Ofcom's cost estimates appear to assume BT will provide a centralised NGTR service as we believe this is the only way to efficiently deliver the service. However we believe Ofcom's estimates fail to represent the true cost to CPs of providing access to a NGTR services because they do not take into the account the cost to each CP of building the network infrastructure required to do so. For example Ofcom has not appropriately factored in, the costs to individual CPs in introducing an IP based overlay network to be used in conjunction with the PSTN connection, or whatever technical means of delivery the CP chooses to provide the service.

All providers connecting calls to the service incur per call costs which are significant relative to the cost of a normal voice call and therefore need to understand the likely cost impact of providing access to an enhanced service. Additionally, given the proposed removal of USO Condition 4, there is also a need to establish a cap of the wholesale charges that BT is able to levy for providing access to the services. We would see such a cap as being a fundamental requirement of being an approved provider of NGTR, along with requirements around the reliability of the service. We address concerns about the removal of USO Condition 4 further in our response to question 2 below.

More generally, we do have some concerns about the degree to which the Ofcom believes that proposed enhancements will increase equivalence. Our more detailed comments on this issue are set out below in response to Ofcom's proposals for a revised GC15.

Question 2:

Do you agree with the proposal to implement NGTR through the amendment to GC15? Do you agree that the criteria we propose satisfactorily embody improvements we suggest for NGTR?

Before commenting on the revised GC15, UKCTA has some comments on the proposed removal of Universal Service Condition 4, which requires BT to provide the

funds for the operation of a Relay Service for both its own customers and customers of other CPs. UKCTA is concerned about Ofcom's proposal to remove the USC obligation on BT. As Ofcom acknowledges, without this obligation there would be no certainty that BT would choose to continue to provide the service. This lack of uncertainty would be very unhelpful and would jeopardise the relative efficiency of current arrangements. Ultimately it could leave at least some CPs with difficulties in providing alternatives to meet their retail GC15 obligations, which potentially harms not just the industry but also end users. Even if BT did continue to provide an approved relay service in this scenario, there would be no surrounding regulatory framework to safeguard the principles of non-discrimination and cost orientation of charges. UKCTA considers that not only has Ofcom failed to justify this proposal but it also appears to conflict with its duty to further the interests of citizens and consumers, particularly vulnerable consumers.

We are also concerned that Ofcom does not recognise that a distinction needs to be drawn between the provision of “access” to services and the actual provision of those services themselves. Currently GC15 places obligations on providers to offer access to services while USC4 imposes an obligation on BT to provide the service. It seems that Ofcom intends that, in the absence of USC4, CPs will by implication have an obligation to provide a service as a result of their obligation to provide access to equivalent services.

We do not believe that this is necessarily the case. Article 23a of the Universal Service Directive provides that NRAs be enabled to specify requirements to be met by CPs to ensure that disabled end-users “have equivalent access to electronic communications services enjoyed by the majority of end-users”. There is no mention of the provision of the service itself. Communications providers already provide the means to access video relay services via broadband and video relay services are commercially available. Mandating communications providers to provide the actual video relay services would seem to go a step further than required by the Directive. Indeed, we have some concerns as to how access to a video relay service can be mandated when the underlying technology used to support it (i.e. broadband) is not a mandatory service offering. Even accepting that the majority of providers do now offer broadband connections the consultation does not address how an equivalent service could be provided over a largely unregulated product with varying service levels.

If BT were to choose to withdraw the service, substantial work would need to be undertaken by all providers in order to ensure they could continue to meet their obligations to provide access to the service under GC15. UKCTA is also concerned that funding of the service would no longer be subject to a cap. While Ofcom does not forecast costs for an enhanced service being more than the current cap of £15.7m per year, it is difficult for UKCTA members to comment having no experience of setting up and running a relay service. As all CPs contribute to the running costs of the service through the charges they pay for their customers' use of the service, removal of the cost cap is a very real concern. In particular we would, at the very

least, expect to see relevant undertakings from BT covering these points and the transparency of costs and funding.

Ofcom's proposed amendments to GC15 will require that Relay Services provided by the CPs must:

- (a) provide facilities for the receipt and translation of voice messages into text and the conveyance of that text to the terminal of End-Users of any provider of Publicly Available Telephone Services and vice versa,
- (b) provide facilities for the receipt and transmission of voice communications simultaneously with text communications;
- (c) provide facilities for access to Emergency Organisations;
- (d) be available for use by End-Users at all times;
- (e) be capable of being accessed by End-Users of the service from readily available terminal equipment, including textphones, personal computers and mobile telephones;
- (f) not prevent End-Users from communicating with other End-users of other Relay Services;
- (g) not require the dialling of a prefix number for End-Users to access the service;
- (h) insofar as reasonably practicable, allow for communication between End-Users of the service at speeds equivalent to voice communications;
- (i) ensure the confidentiality of communications between End-users of the service;
- (j) comply with any directions in respect of the service which Ofcom may make from time to time; and
- (j) be approved by Ofcom.

We have the following comments on a number of the specific proposed obligations.

As the General Condition currently stands, section 15.5 (e) provides that a relay service provided by a CP must "be capable of being accessed by End Users of the Service from readily available terminal equipment, including textphones, personal computers and mobile telephones."

UCKTA is unclear how far it is intended that this obligation should extend particularly given Ofcom's acknowledgement in paragraph 4.23 that "Some uses may depend on the availability of suitable software or applications-the provision of which is beyond the scope of Ofcom's powers." The phrase "readily available" is undefined. Is this readily available to the general public or readily available to the deaf community? As currently worded the obligation could be seen to apply to any textphone, mobile, computer or tablet that was available in shops within the UK. This is despite the fact that a CP cannot know whether such devices might be being used by its deaf customers and despite the fact that each one of these individual devices might in some cases require software or applications in order to access the service (the provision of which is outside both the CPs and, as Ofcom acknowledges, Ofcom's control). As such the obligation is too far reaching and must be narrowed in scope.

Subsection (g) requires that the text relay service must not require the dialling of a prefix number for End Users to access the Service. Given the definition of End Users that is applicable as UCKTA understands it, this is a requirement that both those who wish to call a deaf person using text relay and the deaf person themselves must not have to dial a prefix. It is not clear to UCKTA that Ofcom has adequately thought through the implications of this requirement on industry. Indeed apart from the requirement to not require the dialling of a prefix number for End Users to access the Service, UCKTA cannot see anywhere in the consultation where Ofcom discusses the benefits of this requirement, why it is required and how it would work in practice. Indeed some UKCTA members' experience is that the prefix is valued by customers as it denotes they are accessing a service specifically designed to meet their needs. Similarly in the attached technical report no details are given of how it is envisaged that this will work and what the potential costs may be. UCKTA finds it disappointing that Ofcom has failed to gather the necessary evidence or maintain transparency in this area.

Subsection (h) requires that relay services "insofar as reasonably practicable, allow for communication between End Users of the service at speeds equivalent to voice communications." This is in contrast to the discussion in the consultation document which refers to an increase in conversation speeds for users who have "good/understandable speech." The consultation document refers to the fact that current TR conversation speeds are around 30 words per minute (wpm) compared to 170 wpm for speech and explains that the slow TR speed is partly the result of the time taken to switch between send and receive, with relay assistants typically typing at around 60 wpm. Ofcom then states that "for users who use NGTR for speech with captions (ie caption telephony), on average we expect the spoken half of the conversation will progress at up to 170 wpm and the captioned half at around 60 wpm, potentially delivering conversation speeds of up to 110 wpm." UCKTA believes that the requirement of the General Condition needs to be reworded to more effectively reflect the discussion in the consultation document.

UCKTA accepts and agrees with the intention of the requirement in subsection (i) to ensure the confidentiality of communications between end-users of the service however we do have concerns about the extent to which we would be required to take action to ensure confidentiality for NGTR communications. In the context of the existing model with interpreters it is a contractual 'people' issue, however, adding a further element to the call (i.e. communications over an IP overlay network) it becomes an issue of technology needing to be secure from infiltration. We believe this is an area which requires further investigation.

Question 3:

Do you agree that a period of up to 18 months for implementation of NGTR, following an Ofcom statement, is appropriate?

As BT will need to undertake the majority of the necessary work to upgrade the existing TR platform we defer to their view on implementation timescales for the NGTR platform. However from members' experience, we believe 18 months is a challenging timescale in which to develop, test and deliver a new system. Furthermore, once developed, this new NGTR platform will need to be integrated into CP networks, which will likely require a significant period of time, particularly where systems need to be changed/networks configured. However, it is difficult to comment with any precision on timescales based on the very limited information we currently have about how the NGTR platform might work. We would suggest that an 18 month implementation period is only appropriate from the point at which a suitable NGTR service has been developed and has been launched.

Question 4:

Do you consider that the requirement to ensure equivalent services for disabled end-users would require a mandated VR service in some form for BSL users? Please indicate the basis of your response.

UKCTA does not believe that the requirement to ensure equivalent services for disabled end-users would require a mandated VR service.

UKCTA accepts that for deaf and hearing impaired users whose first language is BSL and who are not fully fluent in written English, VRS would have advantages over NGTR. However, we note that Ofcom estimates that even in a high demand scenario only 30,000 users would access VRS and then only for 100 minutes per month. In order to ensure that any proposal to mandate a VRS is proportionate, UKCTA would expect to see further analysis quantifying how many of those users are unable to use the alternative NGTR because they are not fully fluent in written English. Whilst UKCTA's members wish to support their customers who are not fully fluent, we do see this as a broader literacy issue that goes beyond CPs' remit and would be better addressed by Government within the educational sphere rather than by imposing a General Condition on the communications industry. This is a view that was echoed by some of those representing the deaf and hearing impaired community at the DCMS Roundtable on 12 October 2011.

We understand that Sorenson VRS raised a number of concerns about the UK's implementation of Article 23(a) of the revised Universal Service Directive with the Merits Committee. In response to these concerns, DCMS stated that "...both Government and regulator share the view that equivalence is a broad concept and not tied to any particular service." UKCTA members agree with this view and believe that it is important to recognise the communications preferences of customers with

hearing impairments and the various other methods of communicating with customers that are available.

We are also concerned that there is a risk that mandating Video Relay would require an investment by the industry that is disproportionate between disability groups. An overly burdensome General Condition requiring CPs to provide access to a Video Relay service would likely jeopardise industry's ability to provide a comparable service for users with other disabilities. Setting a precedent that a very high level of investment is required in order to ensure equivalence is provided will have an adverse effect on the industry's own efforts to consider, and respond to, the needs of all customers with disabilities as we are required to do within the obligations of the Equality Act 2010 and our own sense of Corporate Responsibility.

Linked to this, UKCTA has serious concerns about the funding of Relay Services which has not been addressed by Ofcom and would benefit from wider debate. Industry currently pays for the existing Text Relay service and the consultation seems to suggest that any mandated Video Relay Service would be funded on the same basis. Video Relay Services will be extremely costly to implement, regardless of who pays. Therefore the issue of who will pay and how much is fundamental in determining whether it would be appropriate or proportionate to require provision of these services, and the extent of any such provision. As such UKCTA sees this as a key issue which should be addressed before any mandated Relay Services are defined.

The introduction of video relay services has the potential to result in a very significant increase in the funding and resources deployed to provide services for deaf consumers. UKCTA members have attended both DCMS Roundtables chaired by Ed Vaizey and noted recognition from a wide range of stakeholders of the challenges posed by the introduction of a video relay service and, in particular, that it would not be right for the whole cost of a video relay service to be borne by CPs.

Our understanding of the development of text relay services is that they were initially introduced voluntarily by BT and that the current funding model was an adjunct of BT's position as a universal service provider. There has never been any review of or consultation on alternative funding models. There have been significant developments in the communications industry since that time, notably in the services which are available, how they are delivered and how customers use them. UKCTA simply does not believe that the current funding model is suitable or appropriate for today's needs.

We consider that Ofcom must look at considering alternative funding models which extend beyond the communications industry and look to the wider business community, especially if it seeks to impose very costly new requirements. All businesses are subject to obligations under the Equality Act 2010 and we would therefore argue that it is fair and reasonable to expect the funding of services such as Text Relay to be shared by the wider business community rather than

simply CPs that provide access as is the case at present. We are not suggesting any specific model and appreciate that Ofcom would not have the power to impose a wider obligation. However this is something which should be considered in the context of Ofcom's consultation process and recommendations made to Government as appropriate. Given that the benefits of a VRS system would accrue to the UK economy more generally it is appropriate that a discussion is made as to how the costs of any such system are shared across the economy. UCKTA notes that BEREC in its discussion of these issues has recognised that it would be possible for businesses to pay for video relay calls made to them by their customers or potential customers (given that VRS could represent a financial benefit to those businesses if it enabled business to be transacted over the phone rather than in person if the face to face meeting would have required an interpreter).

Question 5:

Do you agree that a restricted service would be more proportionate in providing equivalence for BSL users than an unrestricted service?

Subject to UKCTA's reservations about the need to introduce a mandated video relay service and issues regarding funding, we do agree that a restricted service would be more proportionate. Ofcom's current conservative estimates for an unrestricted Video Relay service suggest that the costs to industry could be around £41.6 million per year. Indeed, estimates from Sorenson VRS claim the funding requirements for Video Relay are closer to £118million per annum (around £4 per minute). By Ofcom's own admission, there is a considerable risk that an unrestricted service would result in a disproportionate cost to industry and there remains a great deal of uncertainty around the potential benefits of this service.

We also have concerns about Ofcom's use of evidence of costs from a single commercial provider of services and would caution that Ofcom should take a wider and more independent view of the costs of provision of video relay services.

From a practical perspective, a restricted service is also necessary in view of the limited number of trained BSL interpreters in the UK. Our understanding is it could take several years to train sufficient numbers of interpreters to provide an unrestricted service.

Question 6:

Please provide your views on Methods 1 – 5 for a restricted VR service discussed above. Are there any other methods that are not mentioned that we should consider? In making your response, please provide any information on implementation costs for these solutions which you believe is relevant.

Please see our response to question 7.

Question 7: Do you agree that a monthly allocation of minutes combined with a weekday/business hours service would be the most appropriate means to restricting the service?

UKCTA feels that questions concerning the methods of restricting a video relay service are better addressed to potential users of the service, in particular the deaf stakeholder community. However, we do note that as the majority of costs associated with the provision of a video relay service are linked to the cost of providing interpreters, restrictions which limit the time during which interpreters must be provided are most likely to result in a cost which is proportionate. UKCTA notes that the idea of usage restrictions has the support of BEREC who have recognised that given that proportionality was a key principle of all EU legislation, it could be proportionate to consider a system in which particular services were provided to disabled end-users to promote equivalence subject to a usage ceiling. BEREC recognised that this could be particularly appropriate in the case of services with a high incremental cost such as video relay.

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