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NON-CONFIDENTIAL

Dear Kiera

Hutchison 3G UK Limited (Three) response to Ofcom's consultation on Approval of a Next Generation Text Relay Service

This is Three's response to Ofcom's consultation on the Approval of a Next Generation Text Relay (NGTR) Service developed and to be supplied by BT, and so enabling providers to meet enhanced requirements in the Universal Service Directive for the provision of accessible services to consumers with disabilities. These obligations have been implemented in UK regulation through changes to General Condition 15.

Three welcomes this opportunity to respond to Ofcom's consultation on Approval of a Next Generation Text Relay Service and in so doing contribute to what we think is a wider and important debate around the rollout and provision of accessible services. Three is grateful to Ofcom for extending the deadline for submission of our response.

This response sets out our thoughts on the approval process for the NGTR service developed by BT as well as comments on the Key performance Indicators that will underpin the service as well as some more general comments on the implementation of these changes to the General Conditions, which will see the existing Text Relay Services replaced with a much improved next Generation offering.

We are confident that this will provide a step change in service provision for deaf and hard of hearing consumers as well as other users of text relay services.

Our approach to accessible services for consumers with disabilities

Firstly, we should like to make clear that Three is committed to ensuring all our customers benefit from the range of services we provide, whilst having an easy worry free experience on all products when on our network.

To this end, we are currently undertaking a number of projects to improve the accessibility functions of our services. This includes working together with the Disability Access Centre (DAC) to improve the accessibility functions of our website, especially for those consumers with poor sight, who discern colour definition badly or who use screen readers.

We are working closely with the DAC to improve the training we offer to our retail staff on how best to meet the needs of our customers with disabilities, and incorporating their advice and recommendations into plans for our refresh retail stores.

Ofcom's approval of the NGTR

Three recognises that meeting the access needs of disabled consumers can be challenging for the regulator, emotive for consumers as well as carry costs and difficulties for operators. Few specialist services are available commercially. Provision of types of accessible services is often niche and therefore competition in given markets is rare or unsustainable. This is the case with text relay provision and the development and supply of NGTR services.

Requirements to provider NGTR by the 18th April 2014 have been well heralded. Ofcom's consultation follows it's 'Review of Relay Services: Decision on the introduction of Next Generation Text Relay' published in October 2012. This set out Ofcom's intention of amending General Condition 15 to require Communication Providers (both fixed and mobile) to provide access to their customers to an improved form of relay service, NGTR.

Through a notification published together with that Statement, Ofcom introduced new General Condition 15.5, which provided that no later than 18 April 2014 Communication Providers must provide access to an NGTR service. Further it provided that relay services provided by Communication Providers must comply with a number of defined characteristics. These have been set out in section 2 figure 1 of this current consultation.

Ofcom also made clear that in line with General Condition 15.5 any NGTR service would be subject to prior approval through Ofcom. The Statement sets out a detailed criterion in which Ofcom would assess any NGTR service submissions for approval. BT has since developed a service which is to be provided to Communications Providers.

Three supports this approach. There is no meaningful market in text relay. BT also owned the relevant expertise as a consequence of its legacy provision of the existing text relay service. Other elements of regulation around the Universal Service Obligation as well as certain technical requirements also rendered this the most sensible approach.

Ofcom is now seeking views on its approval of BT proposed provision of NGTR services, and its assessment that the proposed service meets the requirements set out in section 49 of the Communications Act 2003. Three notes that the approval criteria for by which the proposed BT service has been assessed seem proportionate and sensible. Three also notes that these are the minimum standards to be met by the proposed service.

With regards to the Ofcom decision to approve this service, Three is broadly supportive of Ofcom. However, we are concerned that in this judgment we are entirely reliant on the assessment of the regulator and their judgment that the service proposed by BT will be fully compliant with the requirements of the General Conditions. In this context, Three also notes that the provision of information by BT as the supplier of the service, of even basic information around likely delivery dates so much as the functionality of the service has been lacking.

Three also emphasizes that there remains no visibility of the tests carried out under section 49 of the Act and cannot confirm that all conditions are satisfied. Again, Three is entirely reliant on the tests carried out by Ofcom.

Given these unique circumstances around NGTR, Three is supportive of the decision taken by Ofcom to approve BTs proposed provision of NGTR services and to offer that service to other providers, thereby enabling them to comply fully with the terms of General Condition 15. Three believes these changes will provide a far better experience enabling people with hearing and/or speech impairments to communicate with others easily through telephone or text phone.

However, Three asks that Ofcom recognise that if the service does not meet the minimum requirements, that it takes due account in any regulatory decision making of the unusual and time constrained nature of the approval process and the limited ability of Communication Providers to comment meaningfully on either the proposed service or the approval process.

Key performance Indicators

In section 2 of the consultation, Ofcom sets out the Key Performance Indicators (KPIs) that will underpin the service. Whilst Three is broadly content with these measures, we do not believe that Ofcom has adequately identified targets to ensure that the provision of the NGTR service provided improves on an annual basis, rather than merely maintained.

For example, Three appreciates that during the initial stages of implementation a 5% customer dissatisfaction rate with the service provided may be acceptable. However, once the service changeover has been fully implemented we expect to see stretching targets in place to provide both for improved customer experiences as well as greater value for money and efficiency savings for operators.

In the absence of real competition or meaningful competition in this market (please see comments below), Three suggests that there might be less incentive to provide better services over time or to be more productive leading to service deterioration: particularly in the absence of an annual review of KPIs and measures. Three notes that the evolution of existing Text Relay services into a Cinderella service was the consequence of a similar lack of incentives to either improve service offerings or drive efficiencies.

Competition concerns

Whilst accepting that there are unusual and unique circumstances around the approval of a proposed provision of BT's NGTR service, we are concerned at the potential impact of this development on competition in the market, noting also Ofcom's duty to promote the consumer interest through competition.

Currently, BT will be the only provider of NGTR services to Communications providers. BT has offered the service to Communications at a discounted rate on the basis of a three year contract. This serves not only to lock providers into contracts but will effectively preclude the emergence of potential competitors to the BT for a three year period and may lead to inefficient markets as well as adverse impacts on the consumer.

Lastly, Three suggests that current implementation timescales may be at risk due to delays in the process and authorisation. This could make rollout of the service by the required deadline challenging. We would like to request that Ofcom be mindful of this.

We hope this response is of value and we would be more than happy to discuss any of the issues raised in person if that would be of assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simon Miller', written in a cursive style.

Simon Miller
Regulatory and Consumer Policy Manager