
Clarifying how mobile numbers can be used by Communications Providers

Proposed modification to the National Telephone
Numbering Plan

CONSULTATION:

Publication Date: 9 November 2017

Closing Date for Responses: 21 December 2017

About this document

This document proposes changes to the National Telephone Numbering Plan to clarify that 07X numbers, known as mobile numbers, are to be used for identifying mobile apparatus as the destination for electronic communications services.

The National Telephone Numbering Plan sets out details of all the UK telephone numbers and how they can be used.

Contents

Section

1. Executive summary	1
2. The designation of the 07x number range	2
3. Legal Framework	7
4. Proposed modifications to the NTNP	9

Annex

A1. Responding to this consultation	17
A2. Ofcom's consultation principles	20
A3. Consultation coversheet	21
A4. Consultation questions	22
A5. Equality Impact Assessment	23
A6. [Draft] Notification of modifications to the provisions of the National Telephone Numbering Plan under section 56(2) and section 60(5) of the Act	25
A7. Glossary	28

1. Executive summary

Introduction

- 1.1 In recent years, Ofcom has pursued a policy of simplifying the use of non-geographic telephone numbers. This is to secure, so far as possible, that consumers have an intuitive understanding of what particular non-geographic number ranges mean, in relation to the types of services provided by means of the telephone numbers and the likely cost of making a call to a number in a given range.
- 1.2 07x numbers are a range of non-geographic telephone numbers used on public electronic communications networks. They are most commonly issued by communications providers (CPs) to customers of their mobile voice and data services, as a means of identifying the mobile handset used by the customer to receive electronic communications provided by means of those services. The numbers are also used in connection with a wider set of services, including call forwarding services and call conferencing services. In these cases, CPs allocated the numbers use them to identify fixed apparatus which is used to provide the services in question.
- 1.3 Ofcom is concerned that the current designation for 07x numbers in the National Telephone Numbering Plan (NTNP), which can be read as encompassing all of these uses, may not be securing the best use of 07x numbers. Specifically, we are concerned that some uses of 07x numbers may put at risk consumers' understanding of the range and the price they are likely to pay for calls to these numbers. They may also result in less favourable treatment of end-users of fixed networks compared to those of mobile networks.
- 1.4 We are therefore proposing to simplify the designation so that the numbers may only be used to identify the destination of an electronic communications service where it is received by mobile apparatus (typically a mobile handset). This document sets out our reasons for proposing the change and the proposed modification to the NTNP that we consider is required to implement it.
- 1.5 We are also proposing to make a change to the definition of 'mobile services' in the NTNP to ensure that it reflects the reality of how mobile services are provided today.
- 1.6 Stakeholders are invited to comment on the questions raised in this consultation and on the proposals we are making by 21 December 2017.

2. The designation of the 07x number range

Introduction

- 2.1 Ofcom is responsible for the administration of the UK’s telephone numbers. We publish the numbers that are available for use as telephone numbers in the NTNP. We also include in the NTNP the designation of the numbers which are listed. This and any applicable restrictions set out in the NTNP describe how the numbers may be adopted or used. We make the latest version of the NTNP available on our website.¹
- 2.2 The NTNP was first published in July 2003, at the same time that the Act entered into force. We have amended the NTNP on various occasions in the intervening years by adding, modifying or deleting specific provisions to record policy decisions in relation to numbering.
- 2.3 Considering recent policy and enforcement work in relation to mobile call termination, we have reviewed the designation of the number ranges 071–075 inclusive and 077-079 inclusive in the NTNP to ensure that it is clear and remains fit for purpose. (For simplicity, we refer to these ranges as the “07x” ranges in the rest of this document.²) We consider that the designation could be improved in order that it is more closely aligned with how consumers expect the numbers to be used. In this document we set out our proposals for doing so.

Background

Designation of 07x numbers³

- 2.4 Numbers that are available for allocation for use as telephone numbers on public electronic communications networks are listed in Part A of the NTNP, along with their designations. These numbers include the 07x ranges. Restrictions and requirements which apply to the telephone numbers listed in Part A are set out in Part B of the NTNP. Paragraph B1 requires that any person which is allocated a telephone number must adopt it or use it in accordance with the designation for the range in question.
- 2.5 The current designation of 07x numbers in the NTNP is “Mobile Services”. A Mobile Service is defined in the NTNP as:

“a service consisting in the conveyance of Signals, by means of an Electronic Communications Network, where every Signal that is conveyed thereby has been, or is

¹ https://www.ofcom.org.uk/data/assets/pdf_file/0013/102613/national-numbering-plan-june-2017.pdf.

² In the interests of clarity, 070 numbers designated as “Personal Numbers” and 076 numbers (other than the 07624 range) designated as “Radiopaging Services” are outside the scope of this consultation.

³ As a consequence of our review, we have also looked at the designation of 07624 numbers, which are listed in Part C5 of the NTNP as “Public Communications Network Numbers which have been individually allocated.” See paragraphs 4.21 and 4.22 below.

to be, conveyed through the agency of Wireless Telegraphy to or from Apparatus designed or adapted to be capable of being used while in motion”.

- 2.6 Accordingly, under the designation, 07x numbers are numbers on public electronic communications networks which must be used in conjunction with a mobile service, as defined.
- 2.7 To date, Ofcom has allocated around 522 million 07x numbers to providers. The vast majority of these 07x numbers are used to identify the destination of calls, where the recipient is receiving the call by means of a mobile phone. However, Ofcom is aware that the numbers are used in connection with a wider set of services including international call through services and conference call facilities.
- 2.8 As a result of policy and enforcement work that Ofcom has recently conducted, we have had cause to consider how these wider uses fit with the designation for 07x numbers and with other policy objectives.
- 2.9 In addition to the 07x ranges listed in Part A of the NTNP, the 07624 range is listed in Part C5 of the NTNP as “Public Communications Network Numbers which have been individually allocated”. We have also looked at whether the designation of this range should be modified as a consequence of our proposals in relation to the 07x ranges.

Ofcom’s policy and enforcement work relevant to the use of 07x numbers

Mobile call termination market review 2015

- 2.10 On 17 March 2015, Ofcom published the conclusion of its review of wholesale mobile call termination markets for 1 April 2015 – 31 March 2018.⁴ Mobile call termination is a service provided by a mobile communications provider (MCP) to connect a call to a recipient on its network. In return, the fixed or mobile communications provider, which enables their customer to call a UK mobile number, pays the MCP a fee, known as the mobile termination rate.
- 2.11 In its statement, Ofcom found that each provider holding UK mobile numbers has significant market power in relation to the wholesale market for terminating calls to these markets and as result, decided to impose a single maximum cap on the mobile termination rates charged by these MCPs. The cap was imposed by means of a SMP condition in the following terms:

“The dominant provider shall ensure that for each Call on any day, during any relevant period, the call termination charge (which shall be expressed in pence per minute) does not exceed the charge ceiling”.

⁴ https://www.ofcom.org.uk/_data/assets/pdf_file/0029/76385/mct_final_statement.pdf.

- 2.12 For the purposes of this obligation, the following terms, defined in the SMP condition, are relevant:
- *“Call” means a voice call which originates on a public electronic communications network (whether fixed or mobile) and is terminated to a mobile number within a number range allocated to the dominant provider by Ofcom, for which the dominant provider is able to set the call termination charge”.*
 - *“mobile number” means a UK telephone number that is (a) adopted or otherwise used to identify apparatus designed or adapted to be capable of being used while in motion; and (b) designated under the [NTNP] for use in connection with Mobile Services (as that term is defined in the NTNP”.*
- 2.13 The effect of these provisions is that the price cap set in the SMP condition applies to the termination rate charged for a voice call to a mobile number, where the call in question is received by a person using a mobile.

Mobile call termination enforcement programme

- 2.14 In April 2017 Ofcom opened an enforcement programme into the compliance by MCPs with the mobile call termination price caps that we had imposed in 2015.
- 2.15 As part of the enforcement programme, we obtained information from communications providers on the services that they were offering on the 07x number ranges that we had allocated to them and the prices that they were charging for terminating calls to these numbers.
- 2.16 We identified that certain services using 07x numbers such as international call forwarding services and conference call services, are outside the SMP condition imposing the price cap on mobile call termination services. As a result, the termination rates charged for calls to these particular 07x numbers are significantly higher than the price caps that we had set.
- 2.17 These services are outside the scope of the SMP condition because the calls are terminated on fixed equipment. As set out in paragraph 2.13 above, the price cap in the SMP condition only applies when the call is to an 07x number where the call is received by a person using a mobile handset (or other mobile device).
- 2.18 Call forwarding and call conferencing services would not typically be referred to as “mobile services”, as that term is ordinarily understood. However, based on the information we gathered during the course of the enforcement programme, we understand that providers offering these services on the 07x ranges only make them available to customers calling from a mobile device and block access to the service to customers calling from a landline. As set out in paragraph 2.5, the designation of “Mobile Services” for the 07x ranges is defined as a communications service conveyed by a wireless transmission network “to or from” mobile apparatus. Accordingly, since the relevant 07x numbers can only be called from a mobile, it can be argued that the provision of these call conferencing and call forwarding services on the range is in accordance with the current designation in the NTNP.

- 2.19 For these reasons, no enforcement action was taken in relation to the provision of these services on the 07x range and the termination rates which are charged for these services.

Ofcom's concerns

- 2.20 Ofcom is responsible for the effective management of telephone numbers in the UK, to ensure that: they are available for use when needed by consumers, businesses and public services; as far as possible, they do not have to be changed; and the numbers mean something to those that call them in terms of the type of communications services associated with the numbers and the price they can expect to pay.
- 2.21 For the reasons set out below, we are concerned that the current designation for 07x numbers, which appears to encompass the provision on the ranges of a wider set of services than those commonly understood to be mobile services, may not consistent with the best use of telephone numbers.

High call prices and bill shock

- 2.22 07x numbers are most commonly used in connection with the provision of mobile voice calls, with the 07x number being used to identify the mobile device which is used to receive and make the voice calls. Consumers have a strong awareness of this and furthermore value the ability to distinguish fixed and mobile services.⁵
- 2.23 Typically, calls to 07x numbers are priced in the same manner and are included in bundles of call minutes that consumers purchase from their CPs. However, calls to 07x numbers used to provide international call forwarding and conference call services may be charged differently by CPs. Because the termination rate for these services is not subject to the SMP condition imposing a price cap, the CP originating the call is likely to be charged a higher termination rate for calls to the relevant 07x numbers used to access the call forwarding/call conferencing services in question. As a result, some originating operators have chosen to remove these 07x numbers from their retail call bundles and set higher charges for callers ringing these numbers.
- 2.24 Research commissioned by Ofcom has previously identified that making calls to numbers that are not included in a consumer's bundled minutes is the main cause of unexpected high domestic bills.⁶ Calls to mobile numbers accounted for 23% of bill shock arising from calls to numbers not included in bundled minutes.⁷

⁵ In 2006, Ofcom carried out research which showed that consumers value the ability to distinguish between fixed and mobile services and that they recognised 07 numbers as being associated with mobile services. Paragraph 2.2, Increasing the supply of mobile numbers, 26 September 2006:

https://www.ofcom.org.uk/data/assets/pdf_file/0022/54157/mobilenumbers.pdf

⁶ Unexpectedly High Bills: Update on Ofcom's March 2012 Statement and Action Plan, 13 March 2013:

https://www.ofcom.org.uk/data/assets/pdf_file/0031/58666/report.pdf.

⁷ 'Bill Shock' in the contract mobile phone market:

https://www.ofcom.org.uk/data/assets/pdf_file/0036/56997/research_slides.pdf.

Confusion

- 2.25 The existence of materially different services, each subject to materially different call costs, on the same number range may serve to blur consumer understanding of the purpose of the range and the price they can expect to pay for a call.
- 2.26 Ofcom's experience is that when confusion arises, consumers lose trust in the number range and are less willing to call numbers in that range. This in turn can lead to inefficient pricing, reduced incentives to invest and innovate and in some cases increased vulnerability to fraud.⁸ It is for these reasons that Ofcom has intervened on other non-geographic ranges to simplify the pricing structure of calls to these numbers and enhance price transparency.

Discrimination

- 2.27 In order to ensure that their services fall within the current definition of a mobile service in the NTNP, providers of call forwarding and call conferencing services on the 07x range typically limit access to these services to callers using mobiles. This may result in a use of numbers which causes callers from a fixed network to be treated less favourably than those calling over a mobile network as they will not be able to access the services in question.

Question 1:

Do you agree with the types of harm that Ofcom has identified as potentially arising from the current designation of 07x numbers?

⁸ Paragraphs 8.27 – 8.43, Simplifying Non-Geographic Numbers consultation, April 2012: https://www.ofcom.org.uk/_data/assets/pdf_file/0028/62578/partb.pdf.

3. Legal Framework

Introduction

- 3.1 Ofcom regulates the communications sector under the framework established by the Act. The Act gives Ofcom certain functions, among other things, in relation to telephone numbers. These include the publication of the NTNP and the setting of General Conditions of Entitlement relating to telephone numbers (“numbering conditions”). These functions must be carried out in accordance with Ofcom’s general duties under sections 3 and 4 of the Act and Ofcom’s specific duties in relation to numbering in section 63 of the Act.
- 3.2 The Act also sets out statutory procedures governing the modification of the NTNP and the setting and modification of numbering conditions.

General duties of Ofcom

- 3.3 The principal duty of Ofcom to be observed in the carrying out of its functions is set out in section 3(1) of the Act as the duty:
- “a) to further the interests of citizens in relation to communications matters; and
b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.”
- 3.4 In particular, Ofcom is required, by virtue of its duty under section 3(1), to secure, among other things, the availability throughout the UK of a wide range of electronic communications services.
- 3.5 In addition, Ofcom must have regard in all cases to:
- the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed;
 - any other principles appearing to Ofcom to represent best regulatory practice.
- 3.6 In performing its duty of furthering the interests of consumers, Ofcom must have regard, in particular, to the interests of those consumers in respect of choice, price, quality of service and value for money.
- 3.7 In carrying out its duties under Chapter I of Part 2 to the Act (which include its functions in relation to telephone numbers), Ofcom must also act in accordance with the six Community requirements, set out in section 4 of the Act. These include the requirements to carry out our functions in a manner which, so far as practicable, does not favour one form of electronic communications network or service; and to encourage the provision of network access for the purpose of securing efficiency, sustainable competition, efficient investment and innovation and the maximum benefit for the customers of communications providers.

Ofcom's duties and powers in relation to telephone numbers

3.8 Ofcom has a number of duties and functions in relation to telephone numbers, which are set out in sections 56 to 63 of the Act. These include its duty to publish the NTNP and to keep it under review, its function of making numbering conditions and its general duty in section 63 of the Act in carrying out its numbering functions to ensure that the best use is made of numbers and to encourage efficiency and innovation for that purpose. Section 63(2) also requires Ofcom to secure that there is no undue discrimination by communications providers against other communications providers in relation to the use of telephone numbers.

The National Telephone Numbering Plan

3.9 Ofcom's duty to publish the NTNP and keep it under review is contained in section 56 of the Act. By virtue of this section, the NTNP sets out the numbers that Ofcom has determined are to be available for allocation as telephone numbers and such restrictions as Ofcom considers appropriate on the adoption of those numbers and on the other uses to which those numbers may be put.

Numbering conditions

3.10 Ofcom's power to set general conditions is set out in section 45(2)(a) of the Act. A general condition may be applied generally to every communications provider or to a communications provider of a particular description. In addition to the matters to which general conditions may relate which are set out in section 51 of the Act, Ofcom has specific powers to make general conditions in relation to the allocation and adoption of telephone numbers in section 58 of the Act. The matters to which numbering conditions may relate include the imposition of restrictions on the adoption of telephone numbers by communications providers and requirements in connection with the adoption of telephone numbers.

3.11 General Condition 17, which applies to all communications providers, sets out requirements in relation to the allocation, adoption and use of telephone numbers. These include the requirements to:

- comply with all applicable restrictions in the NTNP in providing an electronic communications network or service;
- not unduly discriminate against another communications provider in relation to its adoption or use of telephone numbers for purposes connected with the use by that communications provider or its customers of an electronic communications network or service; and
- take all reasonably practicable steps to secure that the communications provider's customers, in using telephone numbers, comply with GC 17 and the requirements of the NTNP (where applicable).

4. Proposed modifications to the NTNP

Ofcom's concerns

- 4.1 As explained in Section 2, the 07x ranges are included in Part A of the NTNP as among the ranges which are available for allocation for use on public electronic communications networks. The designation of the 07x ranges is "Mobile Services". As that term is defined in the NTNP, this allows the numbers to be used in connection with the provision of a wider set of services, such as call forwarding services, and call conferencing services. These are not intuitively mobile services (as that term is commonly understood), and we have gathered information that where these services are provided on the 07x range, calls to the telephone numbers in question are routed to fixed apparatus for termination.
- 4.2 Ofcom is concerned that the current designation for the 07x ranges, which appears to encompass these wider uses, may give rise to the following harms:
- bill shock for consumers calling 07x numbers which are not subject to the mobile call termination price cap;
 - the potential for consumer confusion about the meaning of 07x numbers, both in terms of the type of services provided by means of these numbers and the likely cost of calls; and
 - the use of 07x numbers to provide services which treat fixed and mobile customers differently.
- 4.3 In this section, we explain why we are proposing to make modifications to the NTNP to address the consumer harms we have identified and the modifications we consider are required.

Mobile call termination market review 2018

- 4.4 Ofcom consulted earlier this year on the regulation that should apply in the mobile call termination markets from April 2018 (2018 MCT Review).⁹ In our consultation, we proposed that each provider holding 07x numbers has SMP with respect to the (wholesale) market for terminating calls to the numbers it controls. We also proposed to regulate each provider which we identified as having SMP, including by setting an SMP condition, imposing a cap on its wholesale voice call termination rates. We made clear that the proposed cap on termination rates would apply to all providers offering services on 07x numbers.¹⁰
- 4.5 If we proceed to set the SMP condition described in our consultation, this is likely to reduce the scope for CPs to charge different prices for calls to different 07x numbers. This

⁹ Mobile call termination market review 2018-21 consultation, 27 June 2017:

https://www.ofcom.org.uk/data/assets/pdf_file/0011/103340/mobile-call-termination-consultation.pdf.

¹⁰ 2018 MCT Review, paragraph 3.48.

in turn will reduce the scope for bill shock and for consumer confusion about the likely cost of calls to 07x numbers.

- 4.6 However, any such price cap will not address our other concerns about the current uses of 07x numbers, namely the risk of consumer confusion about the type of services for which 07x numbers are used and the fact that some services on the range discriminate against fixed callers in order to meet the current designation for the range.

Proposed modification of the designation of 07x numbers

- 4.7 We are required to carry out our numbering functions in accordance with our general duties in sections 3 and 4 of the Act and our numbering duty in section 63, which include:
- to further the interests of consumers in relation to communications matters;
 - to secure the best use of telephone numbers; and
 - to secure that there is no undue discrimination by communications providers against other communications providers in relation to the adoption of telephone numbers.
- 4.8 We consider that the current designation of the 07x ranges currently allows for uses of these numbers that may compromise the objectives that we are required to secure in carrying out our numbering functions. For the reasons set out in paragraphs 2.20 to 2.27, we consider that the use of the ranges to provide services which are not intuitively mobile services is not the best use of numbers, in the interests of consumers. We also observe that these uses entail discrimination against the customers of fixed network providers seeking to make use of the services made available on the range. We are not aware of any justification for the different treatment of fixed and mobile callers, beyond the obligation to comply with the designation for the 07x ranges.
- 4.9 We also consider that the 07x designation provides an opportunity for regulatory gaming. A CP providing a call conferencing or call forwarding service, accessible to fixed and mobile callers, is most likely to use a non-geographic number to do so. Non-geographic numbers are subject to different regulation under GC17: wholesale termination rates for calls to these numbers are not regulated but retail prices for calls to these numbers must comply with tariff principles and, on the 08x and 09x ranges, maximum price caps.¹¹ However, currently broadly similar communications services can be provided on the 07x ranges by denying access to fixed line callers, and will be subject to different regulatory rules. This raises concerns under our general duties under sections 3 and 4 of the Act, notably:
- the duty to have regard to our regulatory principle of consistency;
 - the duty to promote competition in relation to the provision of electronic communications networks and services; and in relation to the provision of services and facilities provided or made available in association with the provision of electronic communications networks and services; and

¹¹ Simplifying non-geographic numbers: final statement on the unbundled tariff and making the 080 and 116 ranges free-to-caller, 12 December 2013: <https://www.ofcom.org.uk/consultations-and-statements/category-2/simplifying-non-geo-no>.

- the duty to take account of the desirability of carrying out our functions in a manner which does not favour one form of electronic communications network or service or one means of providing such a network or service.
- 4.10 Accordingly, notwithstanding the potential implementation of SMP conditions which would remove the ability to charge unregulated termination rates for calls to 07x numbers, we consider that it is appropriate to modify the designation of the 07x ranges.¹²
- 4.11 Our proposed modification, which is set out at Annex 6, replaces the current designation for 07x numbers with ‘Mobile Numbers’. This term is already defined in the NTNP:
- “**Mobile Number**’ means a Non-Geographic Number that is Adopted or otherwise used as part of a Mobile Service to identify Apparatus designed or adapted to be capable of being used while in motion”.
- 4.12 As a result of this proposed change, 07x numbers would have to be used to identify the destination of a call, where that call is received by mobile apparatus. We consider that this would ensure that the numbers are only used for purposes which are closely aligned with consumers’ understanding of the range and would remove incentives for communications providers to limit access to the numbers to mobile callers in order to ensure compliance with the designation.

Question 2

Do you agree that our proposal to modify the designation of 07x numbers will address the harms we have identified in connection with the current designation?

Impact of the proposed modification

- 4.13 The vast majority of uses of numbers from the 07x ranges on public electronic communications networks will be unaffected by the modification we are proposing.
- 4.14 However, where the 07x number is used to identify the destination of an electronic communication received by fixed apparatus, the modification we are proposing will require the services provided by means of that number to migrate to other number ranges if they are to be continued to be offered. Our expectation is that call conferencing and call forwarding services which make use of 07x numbers and are provided over public electronic communications networks are likely to be affected.
- 4.15 There are currently other non-geographic number ranges listed in the NTNP for allocation on public electronic communications networks, such as the 08x and 03x ranges, which may be available for these types of services - subject to compliance with the restrictions on these numbers in the NTNP - and therefore we expect CPs to continue to be able to offer

¹² In the 2018 MCT Review, we highlighted that we were contemplating a modification to the designation of 07x numbers and that if this modification were to be made, the scope of the SMP condition we are proposing may be adjusted to reflect this.

these services.¹³ We also consider that there are benefits to be gained by providers and consumers if these services migrate to other non-geographic ranges. Providers should benefit since they will be able to make their services available to callers from both fixed and mobile networks. Consumers calling the numbers should benefit since the availability of the services on the 08x or 03x ranges is more likely to fit with their intuitive understanding of these ranges. Calls to 03x numbers must be charged in the same way as an equivalent call to a geographic number, while there are price transparency obligations in relation to calls to 08x numbers.¹⁴ In either case, therefore, we would expect consumers to have a better understanding of the cost of calling the numbers than is currently the case for these services on the 07x range.

- 4.16 We recognise that there may be benefits for those using the call conferencing and international call forwarding services currently being provided on the 07x ranges. Because of the higher termination rates that providers are able to charge, they are able to offer lower prices for these services. However as explained, these benefits are likely to result in a welfare loss for consumers more generally. Where calls to 07x numbers are included in the consumer's call minutes bundle, the cost of the high termination rates for some calls will be faced by their CP. Over time, this is likely to lead to CPs removing these calls from their bundles or making the bundles less attractive to all customers by either reducing the number of minutes provided or increasing the price of the bundle. We consider that the potential detriment to consumers as a whole from allowing fixed services to continue to operate on 07x numbers outweighs the benefit of these services to the current set of users of such services.
- 4.17 In any event, we believe that the price advantage currently offered by the majority of these "non-mobile" services will be removed following implementation of the proposals in the 2018 MCT Review to cap the termination rates at the regulated level. We understand that most of the non-mobile services that are currently using 07x numbers are reliant on the higher termination rates that are charged for calling these numbers. If the SMP condition we have proposed is implemented, there will be a reduction in termination revenues that these providers will receive from 1 April 2018 and, in view of their business model, we expect that this will necessitate the migration of these services to another range by that date or the cessation of the service.
- 4.18 For these reasons, we consider that the benefits of the proposed modification outweigh the costs.

Implementation

- 4.19 We intend that the changes proposed in this consultation take effect from 1 April 2018 i.e. the same date that the regulation in the 2018 MCT Review is due to take effect. For the

¹³ For example, the NTNP prohibits revenue sharing on 03 numbers. In a dispute that we resolved in 2016 we concluded that an international call forwarding service amounted to revenue sharing and was therefore not compliant with the NTNP: Dispute between TeING and Three regarding TeING's compliance with GC17 and the NTNP, 22 July 2016 (https://www.ofcom.org.uk/data/assets/pdf_file/0019/83332/final_determination.pdf).

¹⁴ See Part A of the NTNP and GC 14.7 – 14.11.

reasons set out in paragraph 4.17, we consider that providers which are likely to be affected by the modification to the NTNP that we are proposing will have migrated to other number ranges by that date. We therefore consider that a longer implementation period to mitigate migration costs is not required as a result of the regulatory change we are proposing in this consultation.

Questions 3 and 4

3. Do you agree with our assessment of the impact of our proposed modification? If not, please give your reasons.

4. Do you agree that an implementation date of 1 April 2018 is appropriate? If you consider a longer period is required, please provide reasons and identify the period you consider is needed.

Consequential modifications

- 4.20 In view of the proposed modification to the designation of the 07x ranges, there are two further modifications that we consider are appropriate:
- a proposed revision to the designation of the 07624 range in Part C5 of the NTNP; and
 - a proposed revision to the definition of ‘Mobile Service’.

Designation of the 07624 range

- 4.21 The 07624 number range is included in Part C5 of the NTNP which lists “Public Communications Network Numbers which have been individually allocated”. The range was originally allocated to a provider in the Isle of Man, as part of Ofcom’s functions in relation to telephone numbers under the laws of the Isle of Man.¹⁵ This is reflected in the range’s designation as “Radiopaging Service and Mobile Services (Isle of Man Communications Commission)”.
- 4.22 If this designation were to remain unaltered following modification of the designation for the 07x ranges, there is a risk that there would be an incentive for providers to seek to obtain numbers from the 07624 range in order to provide the type of “non-mobile” services currently provided on the 07x ranges that we have identified as giving rise to consumer harm. Accordingly, we consider it is appropriate to modify the designation of 07624 so it is aligned with the designation of the 07x ranges. We have no evidence that this will have any impact on the current provision of mobile services on this range.

¹⁵ See section 1(2) of the Act.

Revise the definition of ‘Mobile Service’

- 4.23 In addition to the proposed amendment to the NTNP discussed above, we are also consulting on an additional modification to the definition of ‘Mobile Service’ in the NTNP to ensure that it reflects the reality of how mobile services are provided today.
- 4.24 At present, ‘Mobile Service’ is defined in the NTNP as follows:
- ‘Mobile Service’** means a service consisting in the conveyance of Signals, by means of an Electronic Communications Network, where every Signal that is conveyed thereby has been, or is to be, conveyed through the agency of Wireless Telegraphy to or from Apparatus designed or adapted to be capable of being used while in motion.
- 4.25 We do not consider that this definition reflects the way in which mobile services are provided in practice today. It is no longer the case that each and every signal in a mobile service is necessarily conveyed through the agency of wireless telegraphy. It may now be the case that some element of the conveyance may be achieved by means of fixed apparatus and accordingly we consider the definition should be updated to reflect current practice by mobile operators.
- 4.26 We therefore propose to revise the definition of Mobile Service as follows:
- “Mobile Service”** means a Public Electronic Communications Service consisting in the conveyance of Signals by means of a Public Electronic Communications Network through the agency of Wireless Telegraphy to or from Apparatus which is designed or adapted to be capable of being used in motion.
- 4.27 This revised definition is aligned with the definition of the equivalent term in the revised General Conditions that Ofcom published on 19 September 2017.¹⁶

Question 5:

Do you agree with the consequential modifications we are proposing to make to the NTNP?

Legal tests

- 4.28 We propose that our proposed modifications to the NTNP accord with the applicable legal framework (as discussed in Section 3).
- 4.29 We consider that the proposed modifications to the NTNP fall within the scope of our powers. We are required by section 56(1) of the Act to publish the NTNP, setting out the numbers available for allocation and such restrictions as we consider appropriate. Under section 56(2) we have a duty keep the NTNP under review and to make any revision that we think fit as a consequence.

¹⁶ Review of the General Conditions of Entitlement, statement and consultation, 19 September 2017: <https://www.ofcom.org.uk/consultations-and-statements/category-1/review-general-conditions>.

- 4.30 Section 60(2) of the Act requires that any revisions that we make to the NTNP must be objectively justifiable, not unduly discriminatory, proportionate and transparent. We consider that our proposed modifications to the NTNP are:
- i) Objectively justifiable, in that they are designed to protect consumers from harm that we have identified;
 - ii) Not unduly discriminatory, in that all CPs that use 07x numbers will be subject to the modifications;
 - iii) Proportionate, in that we consider the modifications are the minimum necessary to achieve our objective of protecting consumers; and
 - iv) Transparent, in that the proposed modifications are explained in this consultation document and set out in full in Annex 6.
- 4.31 We consider that we are fulfilling our general duty in relation to our telephone numbering functions, as set out in section 63 of the Act, by:
- i) Securing the best use of telephone numbers and encouraging efficiency and innovation in that regard, in that the modifications will ensure that 07x numbers are used consistently with callers' intuitive understanding of the number range; and
 - ii) Securing that there is no undue discrimination as between communications providers and their customers in that the modifications will reduce the incentive for discrimination as against callers using fixed telephone networks.
- 4.32 We also consider that the proposed modifications to the NTNP are consistent with our principal duty under section 3 of the Act, and the Community requirements set out in section 4 of the Act. We consider that we are furthering the interests of citizens in relation to communications matters and consumers in relevant markets, by taking steps to reduce the potential harm that we have identified in this document. As set out above, we have also had regard to the principle laid out in section 3(3) that our regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases where action is needed.

Question 6:

Do you have any comments on the proposed modifications to the NTNP, as set out in Annex 6, or on our view as to how they meet the legal tests set out in section 60(2)?

Impact assessment

- 4.33 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's

activities. However, as a matter of policy Ofcom is committed to carrying out impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, “Better Policy Making: Ofcom’s approach to Impact Assessment”, which are on our website.¹⁷

4.34 The analysis in this document is an impact assessment as defined in section 7 of the Act.

Equality Impact Assessment (EIA)

4.35 Annex 5 sets out our EIA for this proposed modification of the NTNP. Ofcom is required by statute to assess the potential impact of all our functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. EIAs also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.

4.36 For the reasons explained in Annex 5, we do not expect any of the equality groups to be negatively affected the proposals to a material extent. We have not carried out separate EIAs in relation to the additional equality groups in Northern Ireland: religious belief, political opinion and dependants. This is because we anticipate that our proposals will not have a differential impact in Northern Ireland compared to consumers in general.

Next steps

4.37 This consultation lasts for six weeks and closes on 21 December 2017.

4.38 Details of how to respond to this consultation are provided in Annexes 1-3. A summary of the questions posed in this consultation can be found in Annex 4.

4.39 We plan to publish a statement concluding on the proposals put forward for consultation in this document by the end of January 2018.

¹⁷ https://www.ofcom.org.uk/_data/assets/pdf_file/0026/57194/better_policy_making.pdf.

A1. Responding to this consultation

How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 21 December 2017.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-2/modification-national-telephone-numbering>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to 07use@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>). This email address is for this consultation only, and will not be valid after 31 December 2017.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Martin Hill
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
 - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential).
- A1.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

A1.10 If you want to discuss the issues and questions raised in this consultation, please contact Martin Hill on 020 7783 4334, or by email to martin.hill@ofcom.org.uk.

Confidentiality

- A1.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, www.ofcom.org.uk, as soon as we receive them.
- A1.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

Next steps

- A1.15 Following this consultation period, Ofcom plans to publish a statement in January 2018.
- A1.16 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>.

Ofcom's consultation processes

- A1.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.18 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Clarifying how mobile numbers can be used by Communications Providers

Steve Gettings
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A2. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A3. Consultation coversheet

BASIC DETAILS

Consultation title: **Clarifying how mobile numbers can be used by Communications Providers**

To (Ofcom contact): **Martin Hill**

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? _____

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

A4. Consultation questions

A4.1 Below is a list of the consultation questions we have asked in each part of this document.

Section 2 – Background and Ofcom’s concerns in relation to the use of 07x numbers

Question 1: Do you agree with the types of harm that Ofcom has identified as potentially arising from the current designation of 07x numbers?

Section 4 – Proposed modifications to the NTNP

Question 2: Do you agree that our proposal to modify the designation of 07x numbers will address the harms we have identified in connection with the current designation?

Question 3: Do you agree with our assessment of the impact of our proposed modification? If not, please give your reasons.

Question 4: Do you agree that an implementation date of 1 April 2018 is appropriate? If you consider a longer period is required, please provide reasons and identify the period you consider is needed.

Question 5: Do you agree with the consequential modifications we are proposing to make to the NTNP?

Question 6: Do you have any comments on the proposed modifications to the NTNP, as set out in Annex 6, or on our view as to how they meet the legal tests set out in section 60(2)?

A5. Equality Impact Assessment

Introduction

- A5.1 Ofcom¹⁸ is required by statute to assess the potential impact of all our functions, policies, projects and practices on equality.¹⁹ An equality impact assessment (EIA) also assists us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- A5.2 Unless we state otherwise in this document, it is not apparent to us that our proposed modifications to the NTNP will have a differential impact on any equality group.
- A5.3 Further, we have not considered it necessary to carry out separate EIAs in relation to race or sex equality or equality schemes under the Northern Ireland and Disability Equality Schemes. This is because we anticipate that our regulatory intervention will not have a differential impact on people of different sexes or ethnicities, consumers with protected characteristics in Northern Ireland²⁰ or disabled consumers compared to consumers in general.

Assessment

- A5.4 We have considered whether the proposed modifications to the NTNP would have an adverse impact on promoting equality. In particular, we have considered whether the remedies would have a different or adverse effect on UK consumers and citizens with respect to the following equality groups: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation, and, in Northern Ireland, political opinion and persons with dependents. Our assessment is that they would not.
- A5.5 We are consulting on modifications to the NTNP that are designed to close a loophole in our regulation of mobile call termination rates and provide greater clarity as to the types of services that are permitted to operate on 07x number ranges.
- A5.6 We have already carried out an EIA of our proposed regulation of mobile call termination rates and concluded that the proposed remedies would not have a different or adverse impact on UK consumers and citizens.²¹

¹⁸ We explain why we undertake an EIA and how we have done it in Section 4 of this consultation.

¹⁹ Ofcom has a general duty under the Equality Act 2010 to advance equality of opportunity in relation to age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.

²⁰ In addition to the characteristics outlined in the Equality Act 2010, in Northern Ireland consumers who have dependents or hold a particular political opinion are also protected.

²¹ See Annex 4 of the 2018 MCT Review: https://www.ofcom.org.uk/data/assets/pdf_file/0014/103343/mobile-call-termination-consultation-annexes.pdf.

Impact of our proposal to modify the designation of 07x numbers

- A5.7 The most significant impact of our modification of the designation for 07x numbers would be to prohibit the use of 07x numbers in connection with apparatus that is not capable of being used while in motion. This is likely to mean that some services that are currently being offered on 07x numbers will need to migrate to other number ranges.
- A5.8 Some equality groups could be affected by this change because one of the services that is likely to need to migrate to alternative number ranges is international dial-through services. These services purport to offer cheap international calls to consumers by enabling them to use bundled call minutes to call 07x numbers, with the call then being onward routed to the international destination that the consumer wishes to call. Groups with family members living abroad may therefore be more affected by our proposals.
- A5.9 Increasingly, however, originating operators are withdrawing 07x numbers associated with international dial-through services from call bundles because of the high mobile call termination charges that they face. As a consequence, consumers may unwittingly face higher than expected call charges when calling these numbers. Our proposed modifications to the NTNP are aimed at ensuring that the termination rates for all 07x calls are caught by the regulation in the 2018 MCT Review and that originating operators therefore have no excuse for excluding calls to 07x numbers from their call bundles.
- A5.10 Our provisional assessment therefore is that the proposals to modify the designation of 07x numbers and introduce a new definition of 'Mobile Service' would not have a material negative impact on the relevant equality groups. Rather, it is likely to maintain positive consumer outcomes for them.

A6. [Draft] Notification of modifications to the provisions of the National Telephone Numbering Plan under section 56(2) and section 60(5) of the Act

WHEREAS

- A. General Condition 17 of the General Conditions of Entitlement has effect by reference to the provisions of the National Telephone Numbering Plan (NTNP).
- B. In accordance with section 60 of the Act, Ofcom proposes to modify the provisions of the NTNP.
- C. The draft modifications to the NTNP are set out in the Schedule to this Notification.
- D. Ofcom's reasons for making these proposals, and the effect of the proposed modifications, are set out in the accompanying consultation document.
- E. Ofcom considers that the proposed modifications comply with the requirements of section 60(2) of the Act.
- F. In making these proposals, Ofcom has considered and acted in accordance with their general duty as to telephone numbering functions under section 63 of the Act, their general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act.
- G. Representations may be made to Ofcom about the proposed modifications until **5pm on 21 December 2017**.
- H. If implemented, the modifications in Schedule 1 shall be made on the date of Ofcom's final statement in relation to these proposals and enter into force on [1 April 2018].
- I. In this Notification:
 - a) "the Act" means the Communications Act 2003;
 - b) "the General Conditions of Entitlement" means the general conditions set under section 45 of the Act by the Director General of Telecommunications on 22 July 2003, as amended from time to time;
 - c) "Ofcom" means the Office of Communications; and
 - d) "NTNP" means the National Telephone Numbering Plan published by Ofcom pursuant to section 56(1) of the Act, and amended from time to time.
- J. Words or expressions shall have the meaning assigned to them in this Notification, and otherwise any word or expression shall have the same meaning as it has in the Act.

- K. For the purposes of interpreting this Notification: (i) headings and titles shall be disregarded; and (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
- L. The Schedule to this Notification shall form part of this Notification.

Signed

Brian Potterill
Competition Group Director

[] **2018**

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

SCHEDULE

The following proposed modification to the NTNP shall enter into force upon the date of Ofcom's final statement in relation to these proposals.

1. In Part A Section A1 'Public Telephone Network Numbers', the words shown in strike-through text shall be deleted and the modification marked in bold text and highlighted in yellow shall be made to the entry for the numbers 071 to 075 inclusive and 077 to 079 inclusive:

071 to 075 inclusive and 077 to 079 inclusive	Mobile Services Mobile Numbers
---	--

1. In Part C5: 'Public Communications Network Numbers which have been individually Allocated', the words shown in strike-through text shall be deleted and the modification marked in bold text and highlighted in yellow shall be made to the entry for 07624:

07624	Radiopaging Service and Mobile Services (Isle of Man Communications Commission) . Mobile Numbers . These numbers are no longer available for Allocation, but numbers which have been Allocated may be Adopted or otherwise used.	Not applicable
-------	--	----------------

2. In paragraph 1 of the 'Definitions and Interpretation' section, the definition of 'Mobile Service' (shown in strike-through text) shall be replaced in its entirety with the modification marked in bold text and highlighted in yellow:

'Mobile Service' means ~~a service consisting in the conveyance of Signals, by means of an Electronic Communications Network, where every Signal that is conveyed thereby has been, or is to be, conveyed through the agency of Wireless Telegraphy to or from Apparatus designed or adapted to be capable of being used while in motion;~~ **a Public Electronic Communications Service consisting in the conveyance of Signals by means of a Public Electronic Communications Network through the agency of Wireless Telegraphy to or from Apparatus which is designed or adapted to be capable of being used in motion;**

A7. Glossary

07x numbers: telephone numbers in the ranges 071–075 inclusive and 077-079 inclusive;

2018 MCT Review: Mobile call termination market review 2018-21. See

<https://www.ofcom.org.uk/consultations-and-statements/category-1/mobile-call-termination-market-review>;

Apparatus: any equipment, machinery or device and any wire or cable and the casing or coating for any wire or cable;

Communications Provider (CP): a person who provides an Electronic Communications Network or provides an Electronic Communications Service;

Electronic Communications Network: (a) a transmission system for the conveyance, by the use of electrical, magnetic or electro-magnetic energy, of signals of any description; and (b) such of the following as are used by the person providing the system and in association with it, for the conveyance of the signals: (i) Apparatus comprised in the system; (ii) Apparatus used for the switching or routing of the signals; and (iii) software and stored data;

Electronic Communications Service: a service consisting in, or having as its principal feature, the conveyance by means of an Electronic Communications Network of signals, except in so far as it is a content service;

GC17: General Condition 17 of the consolidated version of the General Conditions of Entitlement at 28 May 2015, which relates to the allocation, adoption and use of telephone numbers. See https://www.ofcom.org.uk/data/assets/pdf_file/0026/86273/CONSOLIDATED_VERSION_OF_GENERAL_CONDITIONS_AS_AT_28_MAY_2015-1.pdf;

General Conditions of Entitlement (GCs): the general conditions set under section 45 of the Act by the Director General of Telecommunications on 22 July 2003, as amended from time to time;

MCP: a Communications Provider providing a mobile communications network or mobile communications services;

Mobile Call Termination (MCT): the wholesale service provided by an MCP to allow an originating Communications Provider to connect a caller with the intended mobile call recipient on that MCP's network;

NTNP: the National Telephone Numbering Plan published by Ofcom pursuant to section 56(1) of the Act, and amended from time to time;

Non-Geographic Number: a telephone number from a range of numbers in the NTNP designated for assignment to end-users, the digit structure of which contains no geographic significance for routing calls;

Numbering conditions: General Conditions relating to the allocation and adoption of telephone numbers. Ofcom's powers to set numbering conditions are set out in section 58 of the Act;

Public Electronic Communications Network: an Electronic Communications Network provided wholly or mainly for the purpose of making Electronic Communications Services available to members of the public

Public Electronic Communications Service: any Electronic Communications Service that is provided so as to be available for use by members of the public

SMP: significant market power;

Signal: (a) anything comprising speech, music, sounds, visual images or communications or data of any description; and (b) signals serving for the impartation of anything between persons, between a person and a thing or between things, or for the actuation or control of apparatus;

The Act: Communications Act 2003; and

Wireless Telegraphy: the emitting or receiving, over paths that are not provided by any material substance constructed or arranged for the purpose, of electromagnetic energy of a frequency not exceeding 3,000 gigahertz that: (a) serves for conveying messages, sound or visual images (whether or not the messages, sounds or images are actually received by anyone), or for operating or controlling machinery or apparatus; or (b) is used in connection with determining position, bearing or distance, or for gaining information as to the presence, absence, position or motion of an object or of a class of objects.