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Response of the Mobile Broadband Group to Ofcom's statement on Safeguarding the future of numbering

The Mobile Broadband Group ('MBG', whose members are O2, Orange, T-Mobile, Virgin Mobile, Vodafone and 3) welcomes the opportunity to respond to Ofcom's statement (dated 27th July) 'Telephone numbering – safeguarding the future of numbers'.

The MBG is supportive of Ofcom's overall policy aim of ensuring that telephone numbers, which are a scarce resource, are not wasted and of improving the transparency of pricing to customers. We agree that there is still value in maintaining an overall structure for telephone numbers, which customers understand, without relying too much on complex plans to convey detailed pricing information.

The MBG notes that Ofcom has acknowledged its request for numbering ranges that can be used in conjunction with reverse billed SMS. We will respond to these further consultations, as appropriate.

The MBG is **opposed**, however, to those proposals within the statement that, in a competitive market, pre-determine the way in which calls are presented to customers and which constrain the ability to set originating prices.

These are:

- The requirement to charge 03 numbers at the same rate as Geographic numbers and to include calls to 03 numbers within any call bundles
- The regulation of calls to 070 numbers
- The options for 08

The mobile operators support Ofcom's desire to improve customers' understanding of pricing. We support the codes of practice on pricing transparency. In addition a number of packages have recently been introduced in the market that simplify tariffing, while giving very good value and flexibility in the way customers use their mobiles.

In what has often been described as an already saturated market, the mobile sector customer base grew by nearly 10% in the 2005¹. In the context of this continuing success, increase in uptake and in a competitive market, Ofcom does not have the

¹ Ofcom: The Communications Market 2006

economic or evidential justification for interfering with mobile operators' freedom to set prices for call origination.

Requirements on 03

On page 130 of the Statement, Ofcom is suggesting that...

"...calls charged at up to the same rate the customer would pay to call to a Geographic Number, with calls to 03 numbers counting towards inclusive call minutes if the customer has remaining inclusive minutes to Geographic Numbers, and included in any discount structures that apply to Geographic Numbers."

There are a number of problems with this.

First, Ofcom is seeking to determine which calls operators include in call packages or bundles. Bundles of inclusive minutes, text messages, bytes of data etc. are a feature of call packages that were introduced about ten years ago. Operators, have quite correctly had complete discretion as to which calls types are included within bundles and which are not, such as calls to voicemail, geographic numbers, on-net and off-net mobile numbers. There are occasions when some 01 numbers are excluded from inclusive bundles². For Ofcom to determine which calls are chargeable and which are not is a direct intervention into the way retail prices are set.

Secondly, Ofcom is seeking to lock the price of and 03 number to the price of calling 01 and 02 numbers. This is another way for the regulator to pre-determine how the operator sets its retail prices.

Thirdly, this rule is set down without any reference to the termination cost of the call. The cost of passing geographic calls to terminating networks is negotiated as part of the interconnection arrangements. The prices charged to consumers reflect the cost of termination.

However, terminating operators appear to be free to negotiate prices for terminating calls to 03 numbers independently of the prices they charge for terminating calls to 01 and 02 numbers. Originating providers do not have freedom, under these proposed arrangements, to set prices that reflect the costs.

The MBG's key concerns therefore relate to termination arrangements for the 03 number range, about which the consultation is silent. Are Ofcom able to confirm whether the cost of termination will be constrained so that mobile operators are not faced with the possibility of carrying calls at a loss? In particular, will regulatory obligations which currently apply to the termination charges for geographic number ranges on 01 and 02 apply to 03? The MBG understands that reciprocal agreements are signed between BT and other fixed operators governing the termination rates which those other operators charge on 01 and 02 number ranges. The MBG regards it as critical that those agreements also cover the 03 range.

² For example BT's Home Hub telephony package excludes calls to the Channel Islands (an 01 range) from its free evening & weekend package.

Requirements for calls to 070 numbers

The MBG rejects both options proposed for the regulation of originating call prices to 070 personal numbers, on the same grounds as set out in the section above. However, the risk in relation to 070 is greater, because there is currently no regulation of 070 termination rates, which can therefore vary very significantly. The blanket price ceiling of 20p per minute or per call takes no account of this fact.

The alternative arrangements – *i.e. Charges in excess of this rate, on a per minute or per call basis, must be notified to callers at the start of the call, before any call charges start to apply, by means of a free pre-call announcement which at least states the maximum charge that could be incurred for a call to a personal number*) are also not justified and likely to be confusing for customers. Originating call prices for mobile vary quite widely. Customers that offer long term commitment to buy bulk minutes on a monthly, contractual basis are given considerable discounts over customers that are on 'pay as you go' type tariffs, with no monthly rental paid for the basic network access. It would be most confusing for a customer on a highly discounted tariff to receive information about the 'maximum charge that could be incurred.

Some termination rates on 070 exceed 20ppm or the cost of calling a mobile and so operators, if they are to avoid carrying calls at a loss, would be forced into the expense and inconvenience of providing a pre-call announcements. Again, in a competitive market, Ofcom should not be interfering with the pricing of calls or the way in which calls are presented to customers. We agree with Ofcom that transparency of pricing through web-sites and price lists is a reasonable and desirable requirement but in this context those are the only measures that are objectively justified in the mobile market.

Options for 08 numbers

The MBG is also concerned about the options proposed for the regulation of originating prices and/or alternative call announcements.

The measures also seemed to be founded on a misconception of the underlying structure of the interconnection arrangements. In paragraph 5.133 on page 80 of the statement, Ofcom says "*However, Ofcom's intention in doing this is not to use the Numbering Plan to regulate prices that communications providers charge. Communications providers should be free to determine what price they wish to charge for their services, subject only to any price controls imposed following a finding of SMP, and then chose a number range which is consistent with that price.*"

The problem with the above is that Ofcom does not recognise that the party setting the customer pricing is different to the party choosing the number range. The former is the originating operator, the latter the terminating operator. In the mobile sector, they would very rarely be the same organisation.

The measure relating to 08 are not properly thought out and are unjustified. We acknowledge, though, that these are not final proposals and we look forward to commenting more fully in due course.