



Providing citizens and
consumers with improved
information about Number
Translation Services and Premium
Rate Services

This Statement includes a notification of modifications
to General Condition 14 on consumer information and
handling customer complaints and enquiries about Number
Translation Services and Premium Rate Services

Statement

Publication date: 19 April 2006

Contents

Section		Page
1	Summary	1
2	Introduction	3
3	Responses to the consultation and Ofcom's comments	12
4	Notification of modifications to General Condition 14	34
Annex		Page
1	Notification	38
2	Non-confidential respondents to the consultation document	55

Section 1

Summary

- 1.1 The principal duty of Ofcom (the Office of Communications), in carrying out its functions, is to further the interest of citizens in relation to communications matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition. Effective competition delivers choice and lower prices to consumers as well as opportunities for new services and providers. However, consumers may need protection from adverse consequences of competition if they arise.
- 1.2 This statement sets out Ofcom's modifications to General Condition 14 on Codes of Practice and Dispute Resolution (General Condition 14), issued under section 45 of the Communications Act 2003 ("the Act") in relation to two matters. First, it deals with the recommendations in the Ofcom report to the Department of Trade & Industry ("DTI"), "The Regulation of Premium Rate Services", issued on 9 December 2004 ("the Ofcom report"). The review was triggered by growing concern over the problem of "rogue" internet diallers and other such problem services, and the extent to which the current regulatory regime was able to deal effectively with problems of this kind.
- 1.3 During the course of the review, Ofcom identified a number of problems with the current regulation of Premium Rate Services ("PRS"), and our report made a number of detailed recommendations which, it was anticipated, would significantly reduce the scope for consumer detriment and restore consumer confidence in the PRS industry.
- 1.4 One such recommendation concerned the current arrangements for dealing with consumer enquiries regarding PRS which, in Ofcom's view, were no longer sustainable, and did not provide an adequate basis for consumer protection. As noted in the Ofcom report and set out in this explanatory memorandum, the scope for consumer detriment arising from PRS was considerable, and consumers would be better able to protect themselves if they were well informed.
- 1.5 Ofcom therefore recommended that Originating Communications Providers ("OCPs"), assisted by Terminating Communications Providers ("TCPs"), should take on more responsibility for handling general PRS enquiries and for dealing with number check queries. Ofcom also recommended that this should be achieved by amending the obligations on OCPs under General Condition 14 and related guidance to require OCPs to produce a Code of Practice which would include the provision of practical information relating to the nature of PRS, and their costs and availability to consumers, e.g. information regarding call barring facilities, number checking etc.
- 1.6 The second matter to which this statement relates is concerned with Number Translation Services ("NTS") provided on 08 numbers or 0500 Freephone numbers. In the remainder of this statement, the term NTS is used to refer to the services provided on these numbers. For the avoidance of doubt, this use of the term NTS excludes services provided on 09 PRS numbers, Surftime internet access services provided on 0844 04 numbers and flat rate internet access call origination services provided on 0808 99 numbers. Ofcom has also taken this

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

opportunity to further modify General Condition 14 in relation to existing obligations under General Condition 10 relating to the Transparency and Publication of Information (specifically General Condition 10.2(d)(ii)) in so far as those obligations relate to NTS calls.

- 1.7 The purpose of the NTS changes is to improve price transparency for NTS calls. This follows research into consumer awareness of the prices of calls to 08 NTS numbers carried out as part of Ofcom's ongoing NTS Framework Review. The results of this research, which are discussed further in Section 2 below, revealed very low levels of consumer knowledge about the prices charged by OCPs for calls to 084 and 087 numbers. This is exacerbated by the lack of visibility of NTS call prices in OCPs published price lists.
- 1.8 Ofcom published a consultation document ("the GC14 Consultation") on 28 September 2005 setting out proposals designed to provide citizens and consumers with improved information about NTS and PRS, and inviting comments. The document is available on the Ofcom website¹. A second consultation document entitled "NTS: A Way Forward" (the Second NTS consultation – see paragraph 2.26), which proposed a number of other changes in the regulatory regime for NTS calls, was published on the same date.
- 1.9 In the light of responses received to the GC14 Consultation, Ofcom has decided to give effect to the proposals set out in that consultation document, with modifications, by publication of a Notification under section 48(1) of the Act.
- 1.10 The effect of the modification will be to impose requirements on OCPs:
 - (i) to modify their codes of practice to ensure NTS call prices are given greater prominence in published price lists and in promotional material for different service packages, so that they are not hidden. The information provided should include clear statements of whether or not discount schemes apply to NTS calls; and
 - (ii) to provide appropriate information to customers in relation to complaints handling and enquiries about PRS.
- 1.11 The amendments to General Condition 14 are set out in the Schedule to the Notification, published at Annex 1 to this statement.
- 1.12 In reaching the conclusions set out in this document, Ofcom has considered, and acted in accordance with its principal duty in section 3, as well as the community requirements in section 4 of the Act. Ofcom has also considered the tests set out in sections 121(1) and 121(2) of the Act.

Effective Date

- 1.13 In recognition of concerns voiced about the proposed implementation timescale of one month, Ofcom has extended this period so that OCPs will have two months from the date of publication of this Notification to implement the new procedures.

¹ http://www.ofcom.org.uk/consult/condocs/nts_info/ntsinfo.pdf

Section 2

Introduction

What are Premium Rate Services?

- 2.1 PRS offer some form of content, product or service via fixed and mobile telecoms lines. These may be accessed as conventional voice services or using SMS text, line telephone, PC (e-mail, internet, bulletin board), mobile phone or interactive digital TV. Services include TV voting lines, competitions, scratchcards, adult entertainment, chat lines, business information services, technical helplines, mobile phone ringtones and game downloads, horoscopes and interactive TV games.
- 2.2 UK-based PRS are typically prefixed by '09' although similar, and in some cases identical, services are increasingly being offered on number ranges outside this range, including numbers starting '08' as well as access codes and, in the case of mobile services, short codes (usually starting with an '8' or '6'). Directory enquiry services (on 118xxx) also fall within the definition of premium rate services for the purposes of the Act.
- 2.3 These services vary in cost, typically between 10 pence per minute or per call up to £1.50 per minute or per call (for BT customers). In most cases the bulk of the revenue from calls to such services goes to the SPs who are responsible for the content, product or services provided or who act as resellers or aggregators on behalf of a number of such providers. The SPs are responsible for compliance with the bulk of the obligations imposed by the approved Code. The remainder of the revenue is shared by the consumer's "originating" telephone company (the Originating Communications Provider or OCP, which receives a small fee for origination of the phone call) and the telephone company that contracts with the SP and terminates the call on behalf of the SP through the provision of network facilities (the Terminating Communications Provider or TCP).
- 2.4 PRS are defined in section 120(7) of the Act which provides that a service is a premium rate service, if:
 - (a) it is a service falling within subsection (8)²;
 - (b) there is a charge for the provision of the service;
 - (c) the charge is required to be paid to a person providing an electronic communications service by means of which the service in question is provided; and
 - (d) that charge is imposed in the form of a charge made by that person for the use of the electronic communications service.

² A service falls within this section if its provision consists in:

- (a) the provision of the contents of communications transmitted by means of an electronic communications network;
or
- (b) allowing the user of an electronic communications service to make use, by the making of a transmission by means of that service, of a facility made available to users of the electronic communications service.

The Regulatory Framework and Premium Rate Services

- 2.5 A new regulatory framework for electronic communications networks and services entered into force on 25 July 2003. The framework is designed to create harmonised regulation across Europe, and is aimed at reducing entry barriers and fostering prospects for effective competition to the benefit of consumers.
- 2.6 Under the new regulatory framework, Ofcom must have regard to its principal duty set out in section 3 and, in particular, section 3(1) of the Act which states that “it shall be the principal duty of Ofcom, in carrying out their functions –
- (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.”
- 2.7 Ofcom must also have regard to the community requirements set out in section 4 of the Act.
- 2.8 The relevant statutory provisions governing the regulation of PRS are set out under sections 120 to 124 of the Act.

How are premium rate services currently regulated in the UK?

- 2.9 The regulatory arrangements for PRS follow a self- and co-regulatory approach, with the primary role of consumer protection falling to ICSTIS. ICSTIS is the industry-funded regulatory body for all premium rate-charged telecommunications services, and has responsibility for regulating the content and promotion of services through its Code of Practice, which is approved by Ofcom (“the approved Code”).

The role of Ofcom

- 2.10 Ofcom’s role in the premium rate regulatory regime is to provide statutory support to the work of ICSTIS. Ofcom has the power under section 120 of the Act to set conditions for the purpose of regulating the provision, content, promotion and marketing of PRS that bind the persons to whom they are applied. Ofcom also has the authority under section 121 of the Act to approve a code of practice designed to achieve this objective.
- 2.11 The PRS Condition which regulates the provision, content, promotion and marketing of PRS took effect from 29 December 2003. The effect of the PRS Condition is to bind each and every person falling within the definition of “Communications Provider” as defined in the PRS Condition, to comply with:
- “(a) *directions given in accordance with an Approved Code by the Enforcement Authority and for the purpose of enforcing the provisions of the Approved Code; and*
 - (b) *if there is no such code, the provisions of the order for the time being in force under section 122.*”
- 2.12 In the event of an apparent failure to comply with an ICSTIS Direction amounting to a breach of the PRS Condition, Ofcom’s general powers of enforcement under its powers in sections 94 – 96 of the Act will apply.

The role of ICSTIS

- 2.13 ICSTIS is responsible for the preparation and enforcement of the approved Code. The current version was approved for the purposes of sections 120 and 121 of the Act on the same date as the PRS Condition came in to force and is available on the ICSTIS website³.
- 2.14 The approved Code applies to all PRS which are accessed by a UK consumer or are provided by SPs in the UK. The ICSTIS terms of reference, set out in the approved Code, include the following:
- (a) *set and maintain standards and, as appropriate, requirements for the content, promotion, marketing and provision of PRS, and keep these standards under review,*
 - (b) *monitor PRS to ensure compliance with these standards,*
 - (c) *consult widely with interested parties before changing these standards,*
 - (d) *make arrangements and determine procedures for the proper support (including funding) of ICSTIS and the efficient and effective operation of its regulation of PRS,*
 - (e) *determine any categories of PRS which may only be provided on the basis of prior written permission from ICSTIS, identify conditions which should be attached to the grant of such prior permission, keep such categories and conditions under review, and receive, consider and determine applications for prior written permission,*
 - (f) *administer a system for the payment of claims for compensation for unauthorised use of Live Services, and provide a system for adjudications where such claims are disputed,*
 - (g) *investigate and adjudicate upon complaints relating to the content, promotion and marketing of PRS, and issue directions designed to achieve compliance with the Code of Practice which may include the imposition of sanctions,*
 - (h) *issue directions either generally or to individual providers of PRS to procure compliance with the Code of Practice and/or to secure enforcement of its provisions,*
 - (i) *publish reports on its work at regular intervals and generally publicise its role. This includes reports to Ofcom, as and when required, relating to the regulation of the premium rate industry and the adequacy and appropriateness of regulatory arrangements.*
- 2.15 The provisions set out in the approved Code are primarily targeted at the actions of SPs, and it is their responsibility to ensure that the content and promotion of all their PRS (whether produced by themselves or by their content and information providers) comply with all relevant provisions of the approved Code.

³ <http://www.icstis.org.uk/publications/cop/default.asp>

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 2.16 ICSTIS has a range of sanctions that it can impose on SPs that breach the approved Code according to the seriousness with which it regards the breach. These range from obtaining assurances about future behaviour and instructing refunds to be offered to imposing fines, barring access to services and prohibiting certain “named” individuals from operating services for a set period.
- 2.17 Although their responsibilities are more limited, the approved Code also places a number of general requirements and specific obligations on TCPs to assist in the enforcement of ICSTIS’ decisions by carrying out directions given by ICSTIS. These may include directions to cease dealing with particular businesses or individuals, to block access to certain numbers or services and to withhold payments to SPs in respect of particular services. Where there is evidence of non-compliance with an ICSTIS direction by a TCP, this will represent a potential breach of the PRS Condition, and ICSTIS will notify Ofcom that it considers that the relevant provider has contravened the terms of the condition.

The NTS Regime

What are NTS

- 2.18 NTS calls are calls to numbers identified in the National Telephone Numbering Plan (“the Plan”)⁴ as Special Service numbers (broadly, numbers that start with 08 or 09). In addition, NTS includes calls to the legacy 0500 Freephone numbers, which, whilst still in use, are not listed in the Plan as they are no longer available for new allocations. Calls to 0844 04 numbers for Surftime internet access services and calls to 0808 99 numbers for FRIACO are not included. For the purposes of this document, references to NTS will mean calls to 08 and 0500 numbers only.
- 2.19 NTS (and PRS) numbers are examples of non-geographic numbers in that the number dialled does not relate to a specific geographic location, but instead relates to a particular service. At a technical level, the NTS number dialled by a caller is “translated” by the network to a geographic number to deliver the call to its destination.
- 2.20 Services offered using NTS numbers are similar to PRS except that prices range from free to caller up to a maximum of 10 pence per minute or per call (from a BT landline). Types of services include information services, some technical helplines, access to telephone banking, sales and customer service lines and dial-up pay-as-you-go Internet services.
- 2.21 Because of the lower prices charged for NTS calls, the scope for consumer detriment, for example through fraudulent activity, is generally lower than on the 09 range. However, we do recognise that consumers can nevertheless accrue high phone bills over a billing cycle where frequent use of lower priced services is involved.
- 2.22 In common with PRS, NTS calls being non-geographic offer significant advantages to providers of services, especially those who operate from multiple locations. NTS intelligent routing facilities combined with increasingly sophisticated Interactive Voice Response (IVR) systems enable calls to be switched between locations on demand, i.e. by the nature of the service required or by time of day or when routes

⁴ A document published from time to time under section 56 of the Communications Act 2003

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

to individual destinations become congested. Calls can be re-routed automatically so as to maintain levels of service to callers.

- 2.23 The costs of using these terminating services can also be offset by the share of the revenue from calls that some SPs receive. These incentives have prompted numbers of companies to switch from using geographic to NTS numbers for contact by consumers. The increased use of NTS numbers together with the ever decreasing link to geographic call prices has impacted on the transparency of prices for these call types.

The Regulatory Framework and NTS

- 2.24 Unlike PRS there are currently no additional regulatory controls on the use of NTS numbers, other than those which apply to all OCPs through the General Conditions and the NTS call origination condition ('the NTS Condition') imposed upon BT by the Director General of Telecommunications (the "Director") as a remedy for BT's significant market power (SMP) in call origination as revealed by the Call Origination Market Review published by Oftel (Ofcom's predecessor) under the new regulatory regime which came into effect on 25 July 2003.
- 2.25 As already explained, Ofcom has undertaken a review of the NTS framework and has published a statement entitled "NTS: a way forward"⁵ ("the NTS Statement") at the same time as this document. From the research undertaken as part of this review, it has become clear that NTS call prices are generally higher than those charged for geographic inland calls and that relatively few consumers know what they are paying for NTS calls.

The issues and Ofcom's proposals

- 2.26 Ofcom has undertaken two major work packages related to the provision of NTS and PRS. The first is the NTS Framework Review which led to the first consultation entitled "NTS: options for the future" ("the First NTS Consultation") published in October 2004, followed by the second consultation entitled "NTS: A way forward" ("the Second NTS Consultation") which was published in September 2005. This has now been followed by the NTS statement published at the same time as this document.
- 2.27 The second work package was the Ofcom report to the Department of Trade & Industry ("DTI") entitled "The Regulation of Premium Rate Services" ("the Ofcom Report") published in December 2004.
- 2.28 Both streams of work have, amongst other things, identified the need to improve the information available to consumers about the costs of calling NTS and PRS.

The need for improved consumer information about PRS

- 2.29 In August 2004 Ofcom was asked by the DTI to undertake an urgent review of the regulatory framework for PRS in order to assess whether consumers are adequately protected from scams and other forms of detriment made possible by

⁵ http://www.ofcom.org.uk/consult/condocs/nts_forward/statement

the high prices that can be charged for PRS calls. This review culminated in the Ofcom Report to the DTI issued on 9 December 2004⁶

- 2.30 Ofcom's review was carried out between August and November 2004. During the course of the review, Ofcom identified a number of problems with the current regulation of PRS, and the Ofcom Report made a number of detailed and incremental recommendations. The majority of these have been implemented and, it is anticipated, will significantly reduce the scope for consumer detriment and restore consumer confidence in the PRS industry. The only outstanding item remains the feasibility study into the creation of a database containing detailed information about SPs and the services they offer. Ofcom is working together with ICSTIS and industry stakeholders in order to take forward the work relating to the feasibility study and an Invitation to Tender document will be issued imminently.
- 2.31 The Ofcom Report reviewed the arrangements relating to provision of information about PRS to consumers and, in particular, noted that volume of complaints and requests for information being dealt with by ICSTIS had increased considerably and were placing ICSTIS's resources under extreme pressure. In addition ICSTIS was not always best placed to deal with enquiries about the prices charged by each OCP for PRS calls. Ofcom concluded that OCP's, rather than ICSTIS, are better placed and therefore should assume greater responsibility for dealing with enquiries from their own customers.
- 2.32 Accordingly, Ofcom's Recommendation 11 stated that:

"OCPs (Originating Communications Providers) should take on more responsibility for handling general PRS enquiries and for dealing with number check queries. This should be achieved by amending the obligations on OCPs under Ofcom's General Condition 14 and related guidance to require Communications Providers to produce a Code of Practice which would include the provision of practical information relating to the nature of PRS, and their costs and availability to consumers, e.g. information regarding call barring facilities, number checking etc."

The need for improved consumer information about NTS Calls

- 2.33 NTS numbers are used by organisations and individuals to provide access to a very wide range of services from pay-as-you-go dial-up internet access to financial services, road traffic advice and tele-voting on TV programmes. As discussed in the First NTS Consultation, Ofcom's research indicates that the types of services provided varies by number range and believes that the general picture is as follows:
- a) Freephone numbers (0800, 0808 and 0500) are principally used to access private sector voice services such as sales lines and helplines; and telephony services provided by two stage indirect access service providers;
 - b) 0844 and 0845 numbers are used extensively to access pay-as-you-go dial-up internet services (predominantly using 0845 numbers), and also support a wide range of other services, including pre- and post-sales enquiry lines, public sector services, transaction services and information services;

⁶ http://www.ofcom.org.uk/telecoms/ioi/nwbnd/prsindex/ntsprsdti/prs_review.pdf

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- c) 0870 and 0871 numbers are principally used to provide access to pre- and post-sales enquiry lines, some public sector services and services such as the international telephony services provided by resellers. Recent evidence also indicates that they are now being used to support adult services.
- 2.34 Ofcom undertook consumer research on NTS Calls in July 2004, which built upon Oftel's previous research conducted in August 2003. The results were presented and analysed in the First NTS Consultation. The research showed that consumers had a very low level of awareness and understanding of the pricing of 084 and 087 calls.
- 2.35 In July 2005 Ofcom commissioned additional consumer research to further its understanding of the consumer perception over NTS Calls. The results of the research were presented and analysed in the Second NTS Consultation. The research showed that notwithstanding a high level of awareness of NTS, consumers were confused about the price of NTS calls. In particular, less than half of the consumers interviewed claimed to know the price of 0845 and 0870 calls from landlines and consumers significantly overestimated the price of NTS calls from landlines. The lack of understanding of NTS call prices led more than half of consumers to express concerns about making NTS calls.
- 2.36 Price misperceptions for NTS call charges may bring about significant detriment to consumers. Because they tend to overestimate the price of NTS calls, consumers may avoid making calls to these numbers, call less often, or make shorter calls. In other words, they may be consuming a sub-optimal amount of these services. This, in turn, has a negative impact both on consumers and on the industry that provides such services.
- 2.37 Ofcom believes that with the measures implemented through this statement, price transparency over NTS calls will improve and that this improvement will benefit both consumers and those involved in service provision.

Improving the visibility of NTS call prices

- 2.38 It is Ofcom's view that the best way to improve the visibility of NTS call prices is to require OCPs to give NTS and geographic call prices the same level of prominence in published price lists and on websites.
- 2.39 The new set of guidelines (see Section 4) is designed to impose more detailed requirements in relation to OCPs' existing obligations under General Condition 10. General Conditions 10.1 and 10.2(d)(ii) specifically state:
 - "10.1 The Communications Provider shall ensure that clear and up to date information on its applicable prices and tariffs (which for the avoidance of doubt shall not include bespoke or individual prices and tariffs), and on its standard terms and conditions, in respect of access to and use of Publicly Available Telephone Services by End-Users is published, in accordance with paragraphs 10.2 and 10.3.
 - 10.2 The information published shall include at least the following:
 - [...]

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- (d) the Communications Provider's standard tariffs, including details of standard discounts and special and targeted tariff schemes, with regard to:

[...]

- (ii) all types of usage charges;"

- 2.40 Ofcom is of the view that both fixed-line and mobile OCPs need to make their NTS call charges much clearer and more readily accessible. Ofcom is therefore proposing to modify General Condition 14 to require OCPs to establish, maintain and comply with a Code of Practice in relation to NTS calls for Domestic and Small Business Customers. The amended General Condition 14 includes guidelines that the Code of Practice must comply with. Those guidelines require OCPs to give NTS call tariffs the same level of prominence they give to geographic calls in their published price lists, on their websites and in promotional material for their various service packages.
- 2.41 Most of the respondents to the consultation agreed our proposals were reasonable and likely to be effective in improving pricing transparency for NTS call charges. Indeed, some OCPs noted that they are already doing most of what the new Code of Practice will require them to do, and that therefore the proposals were not likely to have a huge impact on them.
- 2.42 We are keen that the spirit of these measures is embraced by the industry, so that information about NTS call charges becomes readily available and easily accessible to consumers of all fixed and mobile CPs. In order to do that, we have amended our original proposals to reflect some of the comments made by respondents. In particular, Ofcom accepts that the period of one month proposed for OCPs to update their websites, price lists and other material relevant to pricing, and to comply with the processes and procedure envisaged by the Code of Practice guidelines, was probably too short. Accordingly, the implementation period has been extended to two months from the date of this statement.

Ofcom's commitment to foster consumers' interests in relation to NTS Calls

- 2.43 This statement is only a part of the continued effort by Ofcom to foster consumer interests in relation to electronic communication services in general and, in particular, in relation to NTS Calls.
- 2.44 As part of Ofcom's wider review of NTS, culminating in the NTS Statement, we have adopted measures that, together with those set out in this document, will in our view better serve consumers' interests with respect to price transparency and increase consumer confidence in the use of 08 numbers.
- 2.45 We will continue to monitor the development of this area in the future, to ensure that these measures achieve the desired objectives.

Ofcom's consultation on providing citizens and consumers with improved information about NTS and PRS

- 2.46 Ofcom published the GC14 Consultation in order to seek comments on a draft Notification under section 48(1) of the Act to modify General Condition 14 to require OCPs to establish, maintain and comply with codes of practice on the provision of practical information relating to the nature of PRS, their costs and

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

availability to consumers as well as on improving the visibility given to NTS call prices.

Section 3

Responses to the consultation and Ofcom's comments

- 3.1 Ofcom received 154 responses to the GC14 Consultation. A list of respondents who submitted non-confidential responses is attached at Part 2.
- 3.2 This section summarises the relevant responses and gives Ofcom's responses to the key points that were raised. Responses not marked as confidential can be viewed on Ofcom's website⁷.

Consultation questions

- 3.3 The consultation document posed six specific questions upon which comments were sought. These were namely:

Question 1: Do stakeholders consider that these proposals are reasonable and are likely to be effective in improving the information available to citizens and consumers about PRS?

Question 2: Do stakeholders consider that these proposals are reasonable and are likely to be effective in improving the information available to citizens and consumers about NTS call prices?

Question 3: Do stakeholders agree with Option 2; namely that there should be mandatory guidelines for codes of practice in dealing with consumer enquiries about PRS and NTS?

Question 4: Do stakeholders believe there are any other options Ofcom should have considered?

Question 5: Do stakeholders agree that OCPs' codes of practice should be available on request and free of charge to their customers?

Question 6: Do stakeholders agree that the proposed modifications to General Condition 14 on Code of Practice and Dispute Resolution and associated guidelines are sufficient to address the issues relating to NTS and PRS, described in this consultation

Responses from consumers and consumer representative groups

- 3.4 The responses from consumers which specifically addressed this consultation ranged from those that supported the majority of the proposals to those that rejected the proposals on grounds such as they did not go far enough towards addressing consumer's concerns. Before responding in greater detail, Ofcom wishes to reiterate the objectives of the consultation.

⁷ http://www.ofcom.org.uk/consult/condocs/nts_info/responses/?a=87101

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.5 Firstly Ofcom sought views on proposals designed to enable consumers to more easily obtain information about PRS calls that appear on telephone bills. Secondly Ofcom proposed a requirement, through the vehicle of new codes of practice, that OCPs must make NTS call prices much more accessible in published material and on websites. Whilst acknowledging that many consumers' have strong views about the use of 08 and 09 numbers to provide access to services, this consultation was not undertaken to address fundamental concerns about the existence or operation of the 08 NTS and 09 PRS regimes and no comment will be made in response to these concerns.
- 3.6 As a consequence any comments on the operation of the NTS regime were forwarded to the team within Ofcom responsible for the review of the NTS framework, being undertaken alongside this consultation. The conclusions of that review are set out in the NTS Statement, which is being published at the same time as this document.
- 3.7 A number of respondents commented that the proposals did little to prevent consumers from becoming the victims of scams and other methods of overcharging. Here again, this is beyond the scope of this consultation but Ofcom is constantly reviewing the activities of NTS and PRS providers and, in conjunction with other regulatory bodies, does take action from time to time to address these activities.
- 3.8 A further number of respondents referred to the need for improvements in the advertising of services using 08 and 09 numbers on Radio and TV and printed advertisements. Ofcom considers that it is not its role to develop advertising guidance and believes this is best undertaken by organisations with specialist expertise in this area such as the ASA/CAP and the RACC (Radio Advertising Clearance Centre). Ofcom remains in contact with the ASA/CAP and Trading Standards and has already given advice on how call prices should be advertised. This work will continue to evolve following publication of the decision on the future of NTS. However, here again, that work is outside the scope of this consultation which looks at how information on call prices is made available by OCPs.

Key issues relating to the consultation

- 3.9 The main issues and suggestions raised by consumers which are relevant to this consultation exercise are as follows.

Using telephone numbers to signify the price of calls

- 3.10 Some consumers suggested that Ofcom could open new 08 ranges where the number aligned to the maximum price of the calls e.g. 0814 = 4 pence per minute (ppm), 0819 = 9ppm etc.
- 3.11 Ofcom has considered this in the past but, because only BT has to charge the price shown in the Plan, the fact that other providers can charge what they like means that the message becomes lost. It would also mean that all NTS services would be forced to migrate to new numbers at considerable cost to all concerned, especially those services operating on familiar or "golden" numbers.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.12 Ofcom is consulting on the future use of telephone numbers in a document entitled "Telephone Numbering - Safeguarding the future of numbers" issued on 23 February 2006 ("the Numbering Strategy Review")⁸. Stakeholders are encouraged to give their views and make alternative suggestions on the future use of telephone numbers in response to that document.

Publication or advertising geographic alternative numbers alongside NTS numbers.

- 3.13 A number of consumers argued that SPs should be required to publish geographic numbers as alternatives, whenever they publish an NTS number. Ofcom agrees that SPs should be encouraged to publish geographic alternative numbers where this is practicable. This is, however, a commercial decision for the SP who may be unable to continue to offer the service without receiving revenue from the call price. There are also difficulties for SPs who use the enhanced call management facilities made possible through the use of non-geographic numbers such that calls to one NTS number could be switched to any of a number of different geographic numbers for a variety of reasons. In these cases one single geographic alternative number may not be able to receive calls at all times.

Simplification of NTS numbers

- 3.14 Many consumers consider that the proliferation of NTS number ranges to facilitate the wide range of call prices is too confusing. It was suggested that this confusion would not exist if Ofcom limited the number ranges available and with these the prices that could be charged for calls. They suggest this would be more effective than improving information about complicated ranges of prices.
- 3.15 Ofcom has sympathy with this view but considers that such a move would limit the ability of SPs to compete in terms of the prices charged for accessing their services. It would also fail to address the fact that OCPs, other than BT, remain free to charge their own prices for calls made by their customers. Ofcom's proposals are instead designed to ensure that OCPs clearly state their prices for NTS calls and make their price lists readily available. Any further controls would be contrary to Ofcom's commitment to use the least intrusive mechanism available to achieve its objectives, and to rely on market forces where possible.

The document was too confusing

- 3.16 Some respondents criticised the complicated style of Ofcom consultation documents believing they were deliberately designed to confuse and mislead ordinary consumers.
- 3.17 Ofcom is conscious that the formal style of consultations may not always make reading and understanding the proposals an easy task. This is largely unavoidable as every document has to demonstrate that Ofcom has satisfied its obligations under various legal instruments including the Act. This is why, where the subject matter is felt to be particularly complicated, Ofcom also publishes simplified versions in English and Welsh. This was not felt to be necessary in this case as the proposals are relatively straightforward.

⁸ <http://www.ofcom.org.uk/consult/condocs/numberingreview/>

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.18 One consumer group also criticised Ofcom's use of the terms Number Translation Services and non-geographic calls and suggested simpler alternatives.
- 3.19 Ofcom accepts that such terminology is not commonly used or understood outside the telecommunications industry. However, they are the accepted convention and are widely used in the many previous publications on NTS issues.

Mobile price publication should state clearly whether or not NTS and PRS calls are included in "free minutes"

- 3.20 Ofcom agrees with this comment and this is reflected in the relevant guidelines, see paragraph 3.2 (iii) of Annex 2 of the Schedule to the Notification at Annex 1 of this document.

Include the name of the service provider on NTS and PRS calls on phone bills

- 3.21 The identity of the SP is known only to the TCP whose network hosts the service. Ofcom is working with the industry to scope the feasibility of a reference database of PRS SPs which would be made available to OCPs to enable their customer service staff to answer queries about these calls. However, maintenance of such a database is made difficult because SPs are constantly entering and leaving the market and some services are often available only for a short time.
- 3.22 The absence of any SP reference database also makes it impossible for OCPs to be able to identify SPs and insert their identity on phone bills.

Providing detailed pricing information is a waste of time

- 3.23 A number of comments suggested that requiring OCPs to provide more detailed pricing information would not be effective since consumers rarely read the "small print" in licence conditions, codes of practice or even complicated instructions/user guides.
- 3.24 Ofcom is concerned about the apparent unwillingness of consumers to read suppliers' detailed information. However, that does not mean that necessary information should not be readily available. It remains a fact that NTS call prices and information about whether calls are included in free minutes packages are often difficult to find on websites and written price lists. Some providers are naturally keen to advertise their prices where these are competitive in the market but equally reticent to do so where their products are less competitively priced. In Ofcom's view, consumers should have access to the information they need to find out how much their calls will cost.
- 3.25 Ofcom is also conducting a Consumer Information Strategy project, which is also looking at ways in which information can be improved and made more accessible, and will consult on its proposals in due course.

Call pre-announcements and pricing databases

- 3.26 A number of respondents suggested that OCPs should be required to provide free announcements of the cost of calls at the start of each call. Others suggested that there should be a dial-in database where consumers could access real time call prices from mobiles and fixed lines.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.27 Ofcom has considered the adoption of free to caller pre-announcements to improve price transparency in the Second NTS Consultation. Our research indicates that the costs of requiring all OCPs to pre-announce calls or set up their own unique pricing databases would be high and that other methods of improving transparency are likely to be more cost-effective. In Ofcom's view, it would therefore be disproportionate to impose such a requirement. However, as detailed in the NTS statement, once the link between 0870 and geographic call prices has been restored, OCPs who wish to charge more than their geographic rates for calls to 0870 numbers will have the option of doing so, as long as they provide free of charge pre-announcements of the actual price charged for 0870 calls.
- 3.28 The modifications to General Condition 14 set out in this document requiring OCPs to provide on-line or printed pricing information are seen as a first step which will be reviewed if it becomes apparent that consumers' ability to find out about call prices does not improve.

Do the modified codes of practice apply to VoIP calls?

- 3.29 The new codes apply equally to all OCPs including providers of WLR (wholesale line rental), LLU (local loop unbundling), IA (Indirect Access), CPS (Carrier Pre-Selection), mobile and VoIP (Voice over Internet Protocol or Voice over Broadband) calls.

The proposals are too woolly

- 3.30 Some comments suggested that the proposals were too woolly and that Ofcom should create a standard form of price list into which all OCPs should insert their prices.
- 3.31 Ofcom has assumed that this suggestion refers to the layout and contents of price lists rather than to any standardisation of OCPs prices themselves. Ofcom reminds stakeholders that the proposals are designed to ensure all providers make a minimum level of information available. However, Ofcom can not prescribe exactly how each OCP should present its pricing information. A prescriptive approach of that kind might inhibit innovation, which would not be in the interests of consumers.

Itemised billing should be free

- 3.32 Some respondents considered that consumers should not have to pay to find out how much the calls they have made actually cost. However, itemised bills are more expensive for OCPs to provide than a simple monthly total of calls made. In any case not all consumers require itemised bills. It is therefore reasonable that those who do should contribute to the additional costs involved in providing them. OCPs would otherwise have to recover these costs through increased call prices for all their consumers.

OCPs pricing packages are too complex

- 3.33 A number of consumers commented that the market is a free for all resulting in a confusing array of pricing options which make it virtually impossible for consumers to decide how to get the best deal.
- 3.34 Ofcom understands the problems many consumers have understanding often complex telecommunications pricing packages. However, preventing OCPs from offering innovative pricing options would conflict with Ofcom's duty, namely, to

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

encourage competition in order that consumers get the best deal. In addition the majority of OCPs are not regulated because they have no SMP in the market and are free to charge whatever they want. Even regulated OCPs are free to compete fairly in the market, which means they too can decide how to package their products and services.. Preventing OCPs from offering innovative call packages would merely serve to restrict competition which would not benefit consumers.

Delay payment of revenue to TCPs/SPs by one quarter

- 3.35 One respondent suggested that payment of revenue share to TCPs/SPs should be delayed by one quarter to enable consumer complaints to be resolved by the OCP whilst they were still able to make refunds from the revenue received.
- 3.36 The speed and frequency of outpayment terms from the TCP to the SP was an issue considered in the Ofcom Report. In this Ofcom proposed that the TCP should not make payments to SPs for at least 30 calendar days after calls have been made by consumers. This obligation was implemented last year following consultations by both Ofcom and ICSTIS. Ofcom's view, following consultation, was that while there were differing views regarding the appropriate withhold period, and the likely scale of the costs involved, 30 days provided a sensible balance between ensuring effective consumer protection with the need to minimise likely costs. In addition, Ofcom noted that it was open to TCPs to slow payments down by more than 30 calendar days, in certain circumstances, so long as no payment is paid to SPs less than 30 calendar days after the call.

NTS and PRS charges should be in larger print than other call prices

- 3.37 The objective of this consultation is to ensure OCPs give equal prominence to their geographic and NTS prices and not to emphasise one type of call over another. It is for each OCP to decide how to achieve this but Ofcom may intervene if individual providers generate a disproportionate level of complaints about their pricing information.

References to local and national rates should be banned

- 3.38 Ofcom agrees that, under the current pricing arrangements, the terms local and national rates should not be used to describe NTS calls and has advised providers to remove all references to these terms in their price lists, telephone bills, directories etc. Advertisers favour these terms as they convey an easy message about how much calls are likely to cost but with the majority of OCPs only having a single inland geographic call price, the use of local and national is increasingly meaningless.
- 3.39 Ofcom has no power to ban CPs from using the terms but would point out that increasingly action is being taken by the ASA/CAP and Trading Standards against companies found to be involved in misleading advertising.

08/09 number holders should be licensed and have to justify why they need the number

- 3.40 The numbers are "owned" by either the TCP or resold to SPs. This consultation is concerned with the information provided by OCPs who have little or no control over the numbers their customers wish to call.

The new "rules" must be legally enforceable

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.41 Ofcom has powers to investigate complaints against OCPs who fail to make NTS prices sufficiently transparent and to take action against these if found necessary.

Responses from the industry and industry bodies

Question 1: Do stakeholders consider that these proposals are reasonable and are likely to be effective in improving the information available to citizens and consumers about PRS?

- 3.42 One respondent disagreed with the proposals while ten broadly agreed with Ofcom that these proposals are reasonable and are likely to be effective. However, they did qualify their support as follows:
- 3.43 BT pointed out that OCPs are largely dependent on the quality of information on ICSTIS's website to answer questions about PRS calls. BT also noted that the Ofcom report (as defined in paragraph 1.2) only recommended a feasibility study into the possibility of an industry database without any decision having yet been taken over the implementation of that database. They believed this would be central towards achieving the objectives of this consultation.
- 3.44 Centrica supported Ofcom's PRS proposals, but would recommend that a "joined-up" approach be taken by OCPs regarding the provision of PRS information to consumers. Centrica suggested that Ofcom convene workshops with relevant parties to create some generic text on key PRS messages that can be passed by all OCPs to customers and consumers more generally.
- 3.45 The Federation of Communication Services ("FCS") made some specific observations on the wording of the guidelines in Annex 1 to the Schedule. Firstly, that under 2.1, the guidelines refer to "All Originating Communications Providers who provide PRS". They believed that this was confusing and should in their view say "OCPs who provide access to or who supply telephony services which provide access to PRS" to provide a more accurate description. Secondly, Par. 3.2 (viii) referred to "the Telecoms Ombudsman", while they believed this should have referred to "an ADR scheme approved by Ofcom" (i.e. Otelo or CISAS).
- 3.46 MCI argued that in their view the effectiveness of any initiative to ensure greater understanding by consumers ultimately depended upon the willingness of consumers to access, read and understand such literature.
- 3.47 The Mobile Broadband Group ("MBG") thought there should be greater flexibility as to how OCPs were required to apply the guidelines for PRS. Firstly, with respect to part 3(2)(ii), they thought that it would be impractical to list the prices for calling every single 09 number and that it should be acceptable to use a banding structure which would help to make tariffs simpler. The MBG argued they had no evidence that mobile consumers require more detailed published information and would like to have clarity whether such a banding would be acceptable within the bounds of the draft Code of Practice.
- 3.48 The MBG added that it might also be useful to explore whether a more structured approach to the allocation of numbers would assist consumer understanding (e.g. 09010-09029 for calls up to 25p per minute.) They thought that the current allocation of numbers to premium rate service providers was a "bit haphazard".
- 3.49 The MBG thought that Ofcom's use of Originating Communications Provider and Terminating Communications Provider in customer communication was too technical and would not pass the plain English test. They thought that referring to

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

the “Host” network for the service provider would be more user-friendly. Further, they thought that it would perhaps be useful for Ofcom to suggest a standard form of words and a diagram that could be given to customer service agents and customers.

- 3.50 The MBG argued that given that a barring capability was not always available, it might be advisable to amend to the text for part (iv), namely: “information about how consumers can bar access from their telephone, where such a facility exists, to all or specific PRS number ranges.”
- 3.51 With respect to part (v), the MGB argued that customers of mobile operators do receive unsolicited text messages but these were mostly SPAM, where the sender is generating multiple calls to random telephone numbers. Registering for the Telephone Preference Scheme (“TPS”) would not, on its own, stop consumers from receiving SPAM calls, however, the mobile operators were actively working on other strategies to address this problem.
- 3.52 With respect to part (vi), the MBG argued that rogue Internet diallers had not affected mobile consumers. Therefore, they thought that Ofcom should make it clear that there was sufficient flexibility within the Code of Practice to make it relevant to consumers’ experience and the use of mobile telephony.
- 3.53 The Premium Rate Association (“PRA”) argued that while the service provider community had the difficulty of advertising a service at a certain rate per minute and getting a revenue share on this, their consumer could be charged a higher rate by the OCP. They argued that this was not a good public situation for the service providers who were often blamed for overcharging in the first instance and, in the case of live one-to-one services, might have to refund a higher sum than they received for the call. Whilst improved OCP pricing information will help, they believed that the only real solution is to have a RRP for PRS.
- 3.54 Telewest pointed out that many of the enquiries they receive were from customers seeing calls to PRS numbers on their bills and wanting to find out who the SP was and the nature of the service offered on that number. Telewest argued that OCPs will generally have little knowledge of who the SP is, other than by accessing the ICSTIS database, where information about SPs was frequently sparse and occasionally unavailable.
- 3.55 Furthermore, the ICSTIS database rarely contained any information about the nature of the services offered by SPs mainly because any one SP could offer a range of different services which could change frequently. Additionally the name of the SP might bear no relation to the service being provided. In light of this Telewest considered that OCPs might only be able to provide fairly generic information to their customers.
- 3.56 Telewest believed that care would also need to be taken to ensure no unfounded allegations were unintentionally made about individual (SP) organisations.
- 3.57 Telewest commented on how Ofcom have suggested a number of measures concerning “OCPs taking more responsibility for handling customer queries and number checks”. Telewest described how this already occurred with a number of OCPs, particularly those with established and adequately resourced customer service functions. They believed that a consistent approach across industry would be beneficial.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.58 UKCTA agreed that consumers should have access to the information they need to make informed choices. However, they believed that it was important that consumers read and familiarised themselves with such information. Another respondent agreed with this view on the basis that these proposals would be worthless if consumers do not read and understand the information on services and prices currently available to them.
- 3.59 One respondent proposed the following changes to paragraph 3.2 in Annex 1 of the Schedule:
- (v) information about the purpose of the TPS and FPS and how to go about registering with such services; to read*
 - (v) information about how to prevent unwanted calls and how to register with preference schemes relevant to the nature of their complaint*
 - (viii) information on the role of the Telecoms Ombudsman schemes in resolving disputes concerning PRS calls; to read*
 - (viii) information on the role of the Consumer Dispute Resolution schemes in resolving disputes concerning PRS calls;*
- 3.60 The respondent also suggested that 3.2 (ix) is accompanied by a list of the options available as, from the current wording, it is not clear what the intention is. With regard to 3.2 (iii) and (xi), the respondent commented that it was, at the time of the consultation, only able to provide information on service providers terminating on its own network.

Ofcom's comments

- 3.61 Ofcom confirms that it is currently working with industry on undertaking a feasibility study on the creation of a database containing detailed information about SPs and the services they offer. This study is expected to start soon but it is not possible to say when a database may be established and maintained or how OCPs will be expected to use it., In the meantime, the ICSTIS website number checker facility is currently available, and does provide reasonably reliable SP contact information. Ofcom expects OCPs to make full use of this.
- 3.62 Ofcom is currently consulting on future numbering policy in the document entitled "Telephone Numbering - Safeguarding the future of numbers" published on 23 February 2006⁹. This consultation closes on 4 May 2006 and Stakeholders are invited to make comments in terms of the proposals set out in that document.
- 3.63 In regard to the level of detail OCPs, especially mobiles, are expected to provide about PRS, Ofcom leaves it to each OCP to interpret and implement the guidelines. If providing prices by banding accurately reflects the prices that OCP charges then they are complying with the guidelines. Ofcom will only act in response to complaints that are subsequently upheld.
- 3.64 The question of structured numbering for PRS is being addressed in Ofcom's Numbering Strategy Review.

⁹ <http://www.ofcom.org.uk/consult/condocs/numberingreview/numbering.pdf>

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.65 Ofcom notes that the use of the term “Communications Provider” conforms with that used in the Act and the General Conditions. Adding the descriptions “Originating” and “Terminating” is designed to make it clear which provider of services is being referred to.
- 3.66 In Ofcom’s view, the existence of call barring is an essential consumer protection mechanism which enables consumers to selectively bar calls to certain numbers. Ofcom would expect OCPs to advise their customers whether or not call barring was available on their network.

Question 2: Do stakeholders consider that these proposals are reasonable and are likely to be effective in improving the information available to citizens and consumers about NTS call prices?

- 3.67 One respondent disagreed with the proposals while nine broadly agreed with Ofcom that these proposals are reasonable and are likely to be effective. However they did qualify their support as follows:
- 3.68 Referring to Annex 2 of the draft Notification, paragraph 3.1, BT said that Ofcom needed to give examples of what it meant by “giving prominence” to charges otherwise the guidelines would be open to interpretation. IV Response expressed a similar view believing that the guidelines should specify the requirements in greater detail. IV Response added that any guidelines should require that NTS call prices should be displayed using the same font size as geographic call prices numbers on OCPs’ pricing materials and websites.
- 3.69 BT argued that consumers did not use price lists regularly and suggested that the emphasis should be on promotional material. BT welcomed Ofcom’s ongoing work with the ASA/CAP.
- 3.70 In relation to paragraph 3.2 (ii) of the NTS guidelines, BT considered it was not practical to include time of day price variations in advertising material and that maximum prices were sufficient.
- 3.71 In relation to paragraph 3.3 of the NTS guidelines, BT commented that it was not practical to specify NTS prices in isolation to new customers as this would only serve to cause confusion. BT argued that it would be sufficient simply to inform consumers where they can find prices when they need to. The MBG also suggested that paragraph 3.3 was not clearly worded and that, in their view, added nothing significant to the requirement in section 3.2. The MBG therefore argued that it should be deleted.
- 3.72 IV Response believed that the proposals alone are unlikely to be effective. While greater pricing transparency via published price lists and websites will at least make it possible to find NTS pricing there was a danger that this information would be placed in small print or could be very difficult to find on OCPs websites.
- 3.73 MCI alluded to the “NTS: a way forward” consultation saying that although Ofcom’s duties towards consumers included requiring OCPs to provide more abundant and clearer information about prices and services, Ofcom’s primary duty is to ensure that measures are in place to promote a competitive environment in which consumers receive maximum choice and value.
- 3.74 Telewest pointed out that there was no ICSTIS web-site to provide information on NTS SPs.

Ofcom's comments

- 3.75 As a general comment, Ofcom would stress the fact that the need for this policy intervention stems out of the lack of a coherent and consistent best practice approach to the publication of NTS call charges across CPs. Many OCPs are already providing adequate levels of prominence and clarity for NTS call price information. Therefore reasonable examples of what constitutes best practice already exist within the CP community.
- 3.76 Regarding the meaning of paragraph 3.1, Annex 2 to the Schedule, in relation to giving prominence to NTS call charges, Ofcom believes that this would be a matter to be clarified in the Code of Practice to be agreed by the CPs. However, NTS call price information should be made at least as accessible and clearly presented as the prices for geographic calls.
- 3.77 BT suggested that price lists are rarely used by consumers when making calls and that the emphasis on providing clear pricing messages should be aimed at promotional material. Ofcom agrees that OCPs' promotional material such as that found in phone shops, leaflets in bills, mail drops and newspaper inserts are an important means of conveying pricing messages and that NTS and geographic prices should be given equal prominence despite any limitations on space available for pricing information. This is consistent with the requirements for transparency and publication of information ex. General Condition 10, 10.1 and 10.2 (d) (iii).
- 3.78 Ofcom agrees with BT's suggestion that maximum prices only should be published in OCPs' advertising material, with the proviso that equal prominence is given to geographic and NTS prices.¹⁰
- 3.79 and reference is made to where the detailed information can be found, as specified in paragraph 4.1 of Annex 2 to the Schedule.
- 3.80 The requirements of this statement apply equally to the information provided by OCPs to new customers, (see paragraph 3.3, Annex 2 to the Schedule). Here the information should clearly indicate where customers can find detailed pricing information i.e. in price lists and on websites.
- 3.81 In regard to MCI's comment on Ofcom's primary duty, Ofcom comments that in general the goal of providing consumers with better information and helping them to make informed choices is instrumental in enabling consumers to make the optimal amount of NTS calls, and in increasing competition in the provision of these services. An analysis of Ofcom's general duties under the Communications Act 2003 and their relevance to this consultation is outlined in Section 4 of the September 2005 consultation document.
- 3.82 In regard to Telewest's concern about the lack of an ICSTIS website for NTS SPs similar to the facility provided for PRS SPs by ICSTIS, Ofcom comments that the requirement in paragraph 3.3, part (iii) of the Annex 2 to the Schedule refers to the application of discounts and the inclusion of NTS calls in bundling arrangements,

¹⁰ As an example where a leaflet quotes e.g. "Inland calls cost no more than 2 pence per minute to any UK destination", this should be matched with e.g. "Calls to 08 numbers cost a maximum of 10 pence per minute" or something similar.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

and not to providing detailed information about NTS SPs associated with a specific number.

Question 3: Do stakeholders agree with Option 2; namely that there should be mandatory guidelines for codes of practice in dealing with consumer enquiries about PRS and NTS?

- 3.83 The FCS commented that while it was useful to have guidelines on content these should not be mandatory or be linked to any requirement for the provision of separate codes of practice. They argued that it would be more proportionate, as well as keeping with Ofcom's light-touch regulation principles, for OCPs to be given some flexibility in how the information is provided to their customers. They believed that this could be achieved through relatively minor changes to the existing code guidelines in conjunction with the development of an associated generic information leaflet (which they argued could be made available to customers on the OCP website).
- 3.84 MCI believed that the aims of the consultation would be best achieved by providing additional information to consumers on NTS and PRS within the existing Code of Practice framework. MCI added that ease of access to information by consumers is a fundamental concern. MCI believed that consumers would benefit from having all information available in one source, (i.e. one Code of Practice). It is, also important in their view to acknowledge the fact that calls to NTS and PRS account for a very small overall percentage of total calls made.
- 3.85 The MBG supported the proposals and, in principle, the draft guidelines for the two codes of practice, although they thought there should be flexibility to incorporate both topics within a comprehensive Code of Practice.
- 3.86 The Premium Rate Association ("PRA") argued that the ideal situation should be that the contracting parties, the consumer and the OCP, resolved any issue between themselves. It contended that the ICSTIS helpline approach mitigated against such a situation. It also expressed concern as to how Ofcom would monitor this particular obligation.
- 3.87 Telewest believed that Ofcom's proposals were unlikely to place too much of a burden on established OCPs who already published a Code of Practice. Telewest considered that the obligation may prove more of a challenge for smaller new entrants and smaller CPs, particularly in terms of establishing documented internal processes. They argued that a Code of Practice would be useful in encouraging a more consistent approach across a very diverse industry with a wide and increasing range of CPs offering call origination.
- 3.88 Telewest believed there was a need to ensure a proportionate balance between effective consumer protection and the actual need and likely detriment, by not placing an undue and unreasonable responsibility upon one section of the NTS value chain. As such, they argued that OCPs should not be required to fill an information gap which is in their view the responsibility of SPs or Information Providers ("IPs"), and which they believed the OCPs were not necessarily best placed to deliver.
- 3.89 UKCTA argued that guidelines should be technology neutral so as to provide a level playing field for all to operate on and that they believed the proliferation of different procedures might only serve to confuse consumers. In their view, NTS-specific issues should be dealt with within the existing dispute resolution scheme

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

and the existing arrangements for dealing with customers complaints rather than by the establishment of a completely new Code of Practice.

- 3.90 UKCTA was concerned about the sort of information that would be included in these codes. They argued that OCPs would be unlikely to know the detail of what arrangements were in place for revenue share on termination payments. UKCTA did not believe that providing generic answers would be particularly helpful to customers.
- 3.91 UKCTA was not clear whether it would be a requirement of the Code of Practice that OCPs make some statement about call barring, whether they provide it or not. They believed that unless call barring becomes mandatory across all CPs it would not be reasonable to dictate information requirements to those operators who offered call barring facilities.
- 3.92 One respondent highlighted other initiatives under way to improve consumer awareness such as the OFT "Consumer Codes Approval Scheme" launched on 5 October 2005. The Codes required under General Condition 14 should align to the OFT initiative to give the consumer additional confidence in the process.
- 3.93 One respondent disagreed with mandatory guidelines and argued that the proposals merely duplicated existing rules. The respondent believed the existing rules should be made to work more effectively.

Ofcom's comments

- 3.94 The need for a specific Code of Practice for NTS calls and relative guidelines stems from Ofcom's own consumer research, as explained in detail in paragraph 4.23 of the GC14 Consultation, which clearly identifies an information gap which so far has not been filled under the existing requirements stemming from General Condition 10 and General Condition 14. In other words the existing rules are not proving to be sufficient and the responsibility for filling this information gap falls naturally on the OCPs because of their role in billing the calls. This cannot reasonably be undertaken by SPs or IPs. This was identified in the recommendations contained within the Ofcom Report (see paragraph 2.29). Ofcom acknowledges that OCPs will not know precise revenue sharing arrangements between TCPs and service providers but they should be able to explain what revenue sharing means and that it may take place.
- 3.95 In response to UKCTA's comment about call barring, OCPs should be able to explain how this operates and whether it is available on their network (see paragraph 3.66).
- 3.96 Ofcom notes the views of several respondents that there is a need to consolidate the number of new Codes of Practice now incorporated within GC14 and is planning to review these later in the year. This may include alignment with the OFT "Consumer Codes Approval Scheme".
- 3.97 Regarding the level of flexibility in complying with the Code of Practice, Ofcom leaves it to the industry to determine how best to fulfil the requirements that will stem from the modified General Condition 14, and restates that the central matter remains the relevance and clarity of information on NTS calls and call charges.
- 3.98 Regarding the PRA's comment as to how Ofcom will police the level of help provided by OCPs to their consumers, Ofcom comments that it will be up to

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

consumers to judge whether or not they are being provided with an adequate level of information. Consumers and consumers associations will have the ability to complain to Ofcom about non-compliance with General Condition 14. Ofcom will handle the complaint in line with Ofcom's Guidelines for the handling of competition complaints, and complaints and disputes about breaches of conditions imposed under the EU Directives¹¹.

Question 4: Do stakeholders believe there are any other options Ofcom should have considered?

- 3.99 BT pointed out that under Ofcom's PASS¹² scheme NTS is not included in the uSwitch model where consumers can compare their likely telecoms spend with competing providers. They believed that, given their view that NTS make up a substantial proportion of total call spend, this needed to be addressed if consumers were not to be misled.
- 3.100 BT re-iterated its view that the six Codes of Practice need to be consolidated into one.
- 3.101 FCS believed that most of the information specified is of a generic industry nature and could readily be made available by means of a fact sheet rather than a Code of Practice. In their view, other requirements relating to the provision of information about the tariffs that apply to calls to any PRS number range or the provision of contact details for further information or assistance about PRS billing enquiries, could be covered by additions to existing codes. FCS added that provision of a plethora of individual codes of practice is potentially confusing for consumers and, based on the suggested guidelines, would necessarily contain a good deal of common information and repetition.
- 3.102 IV Response said that Ofcom should have considered it a regulatory requirement for OCPs to provide free to caller announcements if they charged above the stated (BT) price point of the dialled NTS or PRS number. This would in their view completely remove any doubt over what the caller is being charged. They argued that if all OCPs including mobiles were to charge calls at the designated price point (i.e. 0844 111xxxx = 2 pence per minute) there would be little need for additional regulation as the responsibility of pricing information would reside with the SP promoting or advertising the service.
- 3.103 MCI said that there might be other options such as clear publication of call charges within all advertising for services. In order to ensure transparency and accessibility for consumers MCI suggested that existing Codes of Practice could be adapted to include the additional information on NTS and PRS products. MCI said it would be very willing to participate in a co-regulatory exercise with Ofcom and other OCPs to agree a framework within which the information requirements of consumers are met, and that OCPs are able to satisfy their obligations under General Condition 14.

¹¹ http://www.ofcom.org.uk/bulletins/eu_directives/

¹² Ofcom operates the Ofcom PASS (**P**rice **A**ssurance **S**tandard) accreditation scheme for third party services which compare the prices of different suppliers of communications services and supply accurate and impartial information. At present one provider – uSwitch – has secured accreditation for its home telephone services.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.104 The PRA believed that while Ofcom has considered the options prompted by recommendation 11 of the Ofcom report to the DTI, recommendation 12 was closely linked and concerned the consideration of the setting up of a central database of service provider information. The PRA set out, in a document last year, a proposal for a central helpline that could be advertised to consumers on bills, which would be able to provide relevant information to answer the general number checks and enquiries that this consultation seeks to deal with. This, they argued, would require service provider registration and funding from the OCPs to operate, but would remove some of the operational burden from OCPs.
- 3.105 Telewest pointed out that a self-regulatory approach has worked well with New Voice Services (“NVS”), where industry has produced an agreed set of guidelines to be followed by CPs offering NVS. Further, Telewest said that OCPs should already have a published Consumer Code of Practice, so including additional information to better cover PRS issues should not in their view be too onerous, particularly, they argued, if the Code is available via the Internet. Telewest believed that updating the existing Code would be more sensible, and less confusing for consumers, by offering one comprehensive Code rather than a plethora of separate codes for different services.
- 3.106 One respondent believed that the proposal ignored the potential for using existing obligations, if enforced correctly, to solve any perceived consumer detriment. They argued that the new approach would have no impact in reducing the number of complaints, nor in their view would it provide any new means of redress.

Ofcom’s comments

- 3.107 In connection with BT’s reference to the PASS scheme Ofcom is aware that uSwitch’s online calculator does not take into account calls to NTS numbers. Ofcom is in discussion with uSwitch about the effect that exclusion of these calls has on the results presented by the calculator and how clearly this is communicated to consumers. In addition, as part of the ongoing Consumer Policy Review¹³ consultation, which closes on 19 April, Ofcom is reviewing its approach to consumer information and the future of the PASS scheme.
- 3.108 Five respondents, including BT and Telewest, argued, to varying degrees, that in their view the price transparency issue could have been addressed by amending the existing codes currently required under General Condition 14, and that there was a danger that a proliferation of codes might confuse the consumer even more. The respondents argued that a better approach would be to consider integrating the different codes under General Condition 14 into a single code. As stated previously Ofcom aims to review the range of codes later this year but does not consider that the requirement imposed on OCPs to establish codes of practice necessarily precludes them from establishing these codes under a single document. As explained in our comment to the responses to Question 3, Ofcom’s approach to codes is to provide an appropriate framework to help establish consistent best practice approach across the industry over the provision of PRS information and NTS call charges and related information. The benchmark for this exercise will be how effectively information about PRS and transparency over NTS call charges is improved, not on how detailed and prescriptive the Code of Practice is.

¹³ http://www.ofcom.org.uk/consult/condocs/ocp/ocp_web.pdf

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.109 As stated in paragraph 3.27, Ofcom has considered the adoption of free to caller pre-announcements to improve price transparency in the “NTS: a way forward” consultation. Our research indicates that the costs of requiring all OCPs to pre-announce calls or set up their own unique pricing databases would be high and that other methods of providing transparency are likely to be more cost effective. In Ofcom’s view, it would therefore be disproportionate to impose such a requirement. However, as detailed in the NTS statement, once the link between 0870 and geographic call prices has been restored, OCPs who wish to deviate from charging their geographic rates will have the option of doing so, as long as they provide free of charge pre-announcements of the actual price charged for 0870 calls.
- 3.110 Ofcom notes BT’s concerns about NTS and PRS calls not being included on the u-Switch website calculator.

Question 5: Do stakeholders agree that OCPs’ codes of practice should be available on request and free of charge to their customers?

- 3.111 MCI indicated that its Codes of Practice are already available on request and free of charge and that it would not be averse to doing similar for NTS and PRS services.
- 3.112 The PRA commented that whilst this was not strictly something that fell within their remit, they would see no reason why OCPs could not provide their codes free of charge. They presumed this could be done as a matter of course via their website for people who use online billing (or pre-pay for mobiles) and with the bill for postal billing.
- 3.113 Telewest saw no issue with this, provided CPs were allowed reasonable flexibility in the delivery media.
- 3.114 UKCTA members were happy to provide codes of practice free of charge to their customers; they had understood that this was an existing requirement of General Condition 14 in any event.
- 3.115 One respondent noted that their Code of Practice is available on request and free of charge as per its obligations under the current General Condition 14. Another respondent had understood this was already a requirement of General Condition 14.

Ofcom’s comments

- 3.116 Ofcom notes that OCPs can choose their preferred mean of delivery, provided access to the whole Code is available to all users at no cost.

Question 6: Do stakeholders agree that the proposed modifications to General Condition 14 on Code of Practice and Dispute Resolution and associated guidelines are sufficient to address the issues relating to NTS and PRS, described in this consultation

- 3.117 BT said that Ofcom should make it clear that the modifications to General Condition 14 apply equally to WLR, LLU and CPS/IA OCPs.
- 3.118 MCI believed that the provision of improved information to consumers in respect to call charges for NTS and PRS services would be sufficient to fully address Ofcom’s duty to protect consumers. MCI stated that to avoid creating consumer confusion,,

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

Ofcom should work with OCPs to extend the framework of the existing basic Code of Practice.

- 3.119 The PRA argued that the proposed modifications would appear to address the issues raised in the consultation.
- 3.120 Telewest believed that the Ofcom proposals are sufficient, providing all OCPs adhere to them in a consistent manner. They commented that it would be useful to understand how Ofcom intended to monitor this.
- 3.121 UKCTA believed that the proposed modifications should ensure all CPs could provide information that would ensure customers would have confidence to use such services in the future.
- 3.122 One respondent stated that it already had procedures in place to cover the majority of suggestions made in this consultation and were disappointed that Ofcom's research indicated that the consumer does not know the real price of NTS calls or the structure of their communications package. However this respondent believed the modifications proposed in their response should ensure that all CPs provide the information as proposed to ensure that consumers will have confidence to use NTS in the future.
- 3.123 One respondent believed that the proposals were excessive and that they were not a proportionate approach to dealing with the issues identified.

Ofcom's comments

- 3.124 In response to BT's request for clarity as to who these obligations are applicable to, it is Ofcom's view that the measures are applicable to all OCPs that meter and bill PRS and NTS calls to their end users, independently of the wholesale infrastructure/service they are using to provide the call services.
- 3.125 Telewest raised the issue of how Ofcom would monitor the application of the measures. This is addressed in responses to Question 3.
- 3.126 Regarding the issue of introducing measures to ensure customers have full confidence in using these services in the future, Ofcom's comment is that this was one of the objectives underlying the reviews of PRS Regulation and NTS calls undertaken by Ofcom. These reviews, alongside the present statement, should in our view ensure in the future clarity over the use of those call services, avoid practices that have resulted in consumer detriment in the past and help to promote consumer confidence in such services.
- 3.127 Regarding the point made by one respondent that the current proposals were excessive, Ofcom disagrees with this view and invites the respondent to look at our analysis of the problem and our impact assessment of the proposals presented in Section 3 and 4 of the GC14 Consultation.

Other issues

Timetable for implementation

- 3.128 The MBG was concerned that the time scale of one month for implementation of the new processes and procedures is not realistic. A more realistic timetable is to finalise each Code of Practice within 3 months and to follow up with implementation

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

for non-printed collateral (internal processes, websites, training etc.) in a further 3 months and, for printed material 6 months. Within large companies such as mobile operators, thousands of front-line staff are affected. Process changes, even if they are relatively minor have to be very carefully signed off, managed and scheduled.

Ofcom's comments

- 3.129 Ofcom notes the MBG's concerns about the length of the implementation period. However, we do not believe an extension of several months is justified. We have decided to extend the proposal of a one month period to 2 months from the day the Condition become effective to comply with the Notification and annexed guidelines. We think this is a reasonable time, considering that several respondents stated that they are already doing most of what will be required of them by the new Code of Practice.

Introduction of a bias in the competitive process

- 3.130 UKCTA generally welcomed Ofcom's proposals but did express some concerns. In particular, they argued that more prominence is habitually given by OCPs to prices for geographic calls because consumers make more of these calls and therefore worry more about their prices. They believed that reversing this current information trend -- effectively forcing consumers to have more information about services which are of less concern to them -- would cause further consumer confusion and could distort consumer buying patterns and make market entry more difficult.
- 3.131 Another respondent also thought that the proposals could lead to a distortion in the competitive process, and provided the following comments in support of its thesis.
- 3.132 Whilst understanding what Ofcom is trying to achieve the respondent was not clear that the proposals would achieve the desired result. In their view, experience showed that consumer information needed to be as simple as possible if it was to be effective. They believed that Ofcom's proposals would add complexity, increasing consumer confusion.
- 3.133 With regard to the requirements for NTS tariff publication the respondent said that while Ofcom's proposed approach had some merit, there might be a very good reason why customers did not know how much it cost to call NTS numbers. They suggested that customers might be less likely to be interested in the price if their spend on NTS calls was much lower than on other types of calls. Considering that calls to NTS numbers accounted for a very small proportion of the calls and access market, continued the respondent, customers who were concerned about their spend on telephone calls would tend to focus on the prices of geographic calls.
- 3.134 If this was right, then, argued the respondent, sequentially, the competitive process would look like this:
- (i) Price sensitive customer investigated cost of geographic calls;
 - (ii) OCP publicised prices for geographic calls because it was required to do so;
 - (iii) Customer found best deal and switched.
- 3.135 The respondent believed that subverting step (ii) in this process by a requirement to give extra prominence to NTS call prices would have two effects. First, it was likely to make the customer take NTS prices into greater account ascribing them

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

undue importance in the switching process. Secondly, it would make it more difficult to find the prices for calls to geographic numbers – which were the prices that actually matter. They believed that the result of this damage to the competitive process would also be that OCPs would begin to compete primarily in the less important price category, and their customers would get a less good deal.

- 3.136 It would be therefore preferable, in their view, if the existing requirements for how price information was made available to consumers were adequately enforced to ensure that information generally was presented fairly.
- 3.137 The respondent also commented on the practical aspects of providing more detailed price information, such as time of day gradients. This would be difficult for customer service staff to explain and would certainly add to customers' confusion.
- 3.138 Whilst supportive of the idea that consumers ought to have access to information about the services they are accessing the respondent considered that this ought to be as simple as possible. Customers want a simple route to dealing with their inquiries and asking them to make a choice between various different codes of practice would not be helpful. This is particularly so because consumers may not understand the difference between PRS and other types of call before making an inquiry.
- 3.139 The respondent added that the proposals went much further than simple consumer protection, by imposing an obligation on originators to conduct research on behalf of their customers and, in some areas, proposing obligations which are impractical. OCPs do not generally have a relationship with PRS providers or have visibility of the pricing arrangements between the SP and the TCP.
- 3.140 The respondent held that Ofcom's proposals will simply lead to a proliferation of codes of practice without attempting to solve the problems using existing mechanisms such as the obligation to have a complaint handling procedure (General Condition 14) and a dispute procedure for general billing complaints.

Ofcom's comments

- 3.141 Ofcom's intention is that NTS call prices should be given greater prominence than at present, but not necessarily greater than geographic call prices. Secondly, NTS calls actually account for a significant proportion of the total call spend and it is therefore right that NTS prices are factored into any information made available to assist consumers in making switching decisions. Finally, the Codes of Practice require appropriate action by OCPs and are not intended to be a guide to consumers on how to obtain help and information from their communications provider.
- 3.142 As stated previously, Ofcom's would not expect OCPs to be able to discuss the revenue sharing arrangements between TCPs and service providers. They should, however, be able to explain how services are provided by service providers and that the SP may receive a share of the call price to help cover their costs of providing the service.

Information to customers

- 3.143 Centrica believed the proposals should ensure that NTS pricing information and the relationship with OCP call packages becomes more prominent. They argued that the information provided should also include information about time of day

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

gradients, to assist consumer decision-making about when is the best time to access NTS services. They believed the proposals might increase consumer use of NTS number ranges, “as misconceptions about the perceived high costs of such calls are removed”. However, Centrica reminded Ofcom that their own research found that this is actually a low engagement area for many consumers, so despite the best efforts by OCPs to provide transparent information and raise awareness to NTS call prices, there is no guarantee that all consumers would actually read the information and change their behaviour accordingly.

- 3.144 Telewest added that a number of OCPs already provide a range of information to their customers on PRS, including how PRS operates, appropriate tariffs, PC security measures, internet diallers, barring facilities etc. They believed it is reasonable that OCPs do this, and would like to see a more consistent approach which would be beneficial to both the industry and consumers.
- 3.145 UKCTA were also concerned about some aspects of the detail of Ofcom's proposals. For example, the requirement that OCPs make information available to customers about revenue share arrangements would not, in their view, be practicable as they argued there is no reason to suppose that originating operators will know any more detail about terminating revenue share payments other than what is set out in the numbering plan.
- 3.146 UKCTA argued that Ofcom's requirement was only that OCPs should be capable of explaining, when asked, that some services may receive a share of the retail price of the call to help fund the costs of providing the service. They believed that there was no requirement for OCPs to be able to describe the detail of any such arrangements.
- 3.147 UKCTA also voiced concern that simply increasing the types of information which must be made available may lead to information fatigue. They argued that consumer information should be as simple as possible.
- 3.148 One respondent believed that the proposals will only be effective if consumers read the information which was already provided.

Ofcom's comments

- 3.149 Ofcom considers that it is important that consumers are able to make well informed choices as to the services they want to use. We agree that making information available will not necessarily lead to all consumers making greater use of NTS services. However, our goal is to ensure that the information is available and accessible, which is not the general case at present. It might take some time before the majority of consumers adjust their purchasing process to make the best of the available information on PRS and NTS calls, but we believe in the long-term we should see the positive impact of Ofcom's proposals, not only on consumers, but on the industry as a whole.

Provision of a named person to give more visibility for accountability

- 3.150 The MBG strongly disagreed with the proposal to publish named individuals for dealing with the Code of Practice for PRS and NTS. They are worried that if an individual is named, it is almost certain that customers would not be able to distinguish queries that should or should not be directed at that person and he or she would be inundated with calls.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.151 Telewest considered that providing a “named” person responsible for compliance may be impractical, and that identifying a duty reference might probably be more sensible, while bearing in mind the need to keep the information current and relevant considering the inevitable nature of personnel changes in a commercial organisation.
- 3.152 Ofcom has retained the requirement for a reference to a “named person” in section 5.4 of Annex 2 to the Schedule and requires that relevant contact details be included. However, it is not the intention that this person should act as a primary contact point for consumers. The Notification Schedule forms part of the amendment to the General Condition which is a Condition of Entitlement to provide a network or service. It is not a document intended for use as guidance for consumers. The Codes of Practice are for OCPs’ use and Ofcom believes that there would be greater accountability if responsibility for compliance remained with a named individual.

Responses from other regulatory bodies

- 3.153 Question 1: ICSTIS agreed in general that OCPs should be in a position to provide to their customers the information set out in bullet form in paragraph 3.21 of the consultation paper. However they believed that while Ofcom was prescriptive about the provision of information about internet diallers, the provision should have gone further and needed to be future-proof. This was in order to include an obligation about other types of PRS services where they believed it had become evident from enquiries and complaints that there was a general consumer misunderstanding or a lack of awareness about how a service works. This they believed should assist in future-proofing the provision.
- 3.154 The clauses in Section 3.2 of Annex 1 to the Schedule have been drafted to refer to general information about how PRS services operate in addition to a specific reference to internet diallers which have been a particular area of concern. Ofcom considers that the requirements as drafted are sufficiently flexible to cope with future, as yet unseen, types of issues for consumers.
- 3.155 Question 2: Even though ICSTIS specified this was not a specific area that they regulated, as a consumer protection body they would support reasonable measures designed to better inform consumers about the price of NTS services.
- 3.156 Question 3: ICSTIS supported Option 2 and saw this as a proportionate response to an area that in their view had led to evidence-based consumer detriment and harm.
- 3.157 Question 4: ICSTIS was supportive of the proposals and was not aware of any other alternative that Ofcom should have considered.
- 3.158 Question 5: ICSTIS agreed that the Code of Practice should be made available upon request to consumers.
- 3.159 Question 6: ICSTIS agreed that the proposed modification to General Condition 14 and associated guidelines were sufficient to address the issue relating to NTS and PRS. However, they believed that in Annex 1 to the Schedule, Section 3.1 the draft guideline provisions were ambiguous and needed to be re-worded. Ofcom has reviewed the text of Section 3.1 and disagrees that there are ambiguities. The text of some of the clauses within Section 3.2 have, however, been revised.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 3.160 ICSTIS argued that the objective of the provision should be that the onus is on the OCP to provide general information to their customers in response to requests for number checks which are made available centrally via the ICSTIS website. Whilst ICSTIS facilitated that service, they believe that in the first instance the customer experience would be better and more seamless if the enquiry/number check was provided to the customer by the OCPs customer service representative, not by ICSTIS.
- 3.161 ICSTIS concluded by suggesting that in the Notification Schedule, the definitions at pages 31 to 33 of the consultation document, would benefit from including a definition of a “call”.
- 3.162 Ofcom notes that the definitions in the Schedule now contain a description of an NTS call.

Section 4

Notification of modifications to General Condition 14

Tests set out under the Communications Act 2003

- 4.1 In modifying conditions, Ofcom is required to meet various tests set out in the Act. These tests, and Ofcom's assessment of how these are met in connection with the modification to General Condition 14, are set out below.

Section 3 – Ofcom's general duties

- 4.2 Section 3(1) of the Act sets out the principal duty of Ofcom. Ofcom is required by this section to carry out its functions in line with this duty. That duty is:
- (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.
- 4.3 Ofcom considers that the requirement for OCPs who originate calls to NTS and PRS to establish, under set guidelines, codes of practice on the provision of information to consumers about the prices of calls to NTS and dealing with enquiries and disputes about PRS, and to comply with the provisions of those codes, is in line with section 3 of the Act.
- 4.4 This is because, as explained in this document, Ofcom considers that the balance of evidence supports the position that the current industry arrangements fail to provide consumers with adequate access to information about PRS appearing on their telephone bills, and that further measures are therefore required. Ofcom considers that the use of PRS to mislead or defraud consumers can be distressing to those consumers involved, particularly in the case of vulnerable consumers, and this works against the interests of both consumers and the PRS industry by undermining consumer confidence in the PRS market. Ofcom considers that the requirements set out in this document would ensure that consumers are better protected, and that it would provide a greater incentive upon OCPs to improve their customer services in dealing with such issues.
- 4.5 In the case of NTS, Ofcom's research demonstrates that consumers have little knowledge of the costs of calling the various NTS numbers. Further, finding this information in most OCP's price lists can be very difficult. This enables some OCPs to prominently advertise their low charges for calling geographic numbers whilst giving less prominence to their, often, much higher prices for NTS calls. Ofcom's research also revealed that some consumers believe the costs of NTS calls are much higher than they really are and they may therefore be deterred from making NTS calls. Ofcom considers that this lack of readily available price information for NTS is detrimental to consumers and needs to be addressed. The additional requirements set out in this document goes some way to addressing the detriment.
- 4.6 Ofcom has also considered when carrying out its functions, amongst other things, the requirements in section 3 (2) of the Act to secure the availability throughout the

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

UK of a wide range of electronic communications services, and section 3 (4) of the Act, namely that in performing its duties Ofcom must also have regard to such of the following as appears to be relevant in the circumstances, in particular:

- the desirability of promoting competition in relevant markets;
- the desirability of encouraging investment and innovation in relevant markets;
- the needs of persons with disabilities, of the elderly and of those on low incomes; and
- the opinions of consumers in relevant markets and of members of the public generally.

4.7 Ofcom considers that the requirements set out in this statement are in line with the above duties and that, in particular, and as set out above, the imposition of rules in this area would be beneficial to the PRS and NTS sectors. As already stated, this would build consumer confidence and satisfaction in the relevant sectors which, in turn, would have a beneficial effect to the long term viability of the sector.

4.8 Providing consumers with information, particularly clear pricing information, enables consumers to make informed choices about the services they use. This increases competition in the provision of those services and increase consumer confidence in NTS and PRS and may encourage more calls to be made, thereby encouraging innovation and competition in this sector.

Section 4 – European Community requirements for regulation

4.9 Section 4 of the Act requires Ofcom to act in accordance with the six European Community requirements for regulation, including the requirement to promote the interests of all persons who are citizens of the European Union.

4.10 Ofcom considers that the measures outlined above promote the interests of all persons who are citizens of the European Union by promoting the provision of clear information, in particular requiring transparency of tariffs and conditions. This is because the introduction of obligations requiring improved consumer information will ensure that consumers are better protected from the potential for consumer detriment arising from NTS and PRS. Also, as already stated, this should build consumer confidence and satisfaction in the premium rate sector which, in turn, would be beneficial to the premium rate sector.

Section 47 – Test for setting or modifying conditions

4.11 As set out under section 47(1) of the Act, in modifying a condition, Ofcom must be satisfied that the test set out under section 47(2) has been met. The test is that the modification of the condition is:

- (a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- (b) not unduly discriminatory against particular persons or against a particular description of persons;
- (c) proportionate to what it is intended to achieve; and

- (d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directions to which it relates

- 4.12 Ofcom considers that the requirement to establish, maintain and comply, under set guidelines, with codes of practice is objectively justifiable because difficulties are currently being experienced by consumers in obtaining help and information about PRS calls appearing on their bills, and that this can result in a loss of consumer confidence in the market for the provision of PRS, and consequently damage the industry as a whole.
- 4.13 Ofcom considers that the risk of not doing anything, including that of increased negative publicity, is likely to damage consumer confidence even further, and that this will have a detrimental effect upon the PRS sector.
- 4.14 Ofcom therefore considers that the requirement to establish, maintain and comply, under set guidelines, with codes of practice, in relation to the provision of information and for dealing with enquiries and complaints about PRS will provide enhanced consumer protection, and ensure that OCPs have greater incentives to follow best practice in this area.
- 4.15 Ofcom also considers that the requirement to establish, maintain and comply, under set guidelines, with codes of practice in relation to the provision of improved information by OCPs of the prices charged and conditions applying to NTS calls will significantly reduce the consumer detriment that currently exists through the lack of pricing transparency.

Not duly discriminatory against particular persons or against a particular description of services

- 4.16 Ofcom considers that the requirement to establish, maintain and comply with codes of practice is not unduly discriminatory because the requirement will be applied uniformly to all OCPs who originate calls to NTS and PRS.
- 4.17 A similar requirement is not being imposed in the context of calls to geographic numbers. This is because Ofcom has seen no evidence to suggest that the same problems of lack of transparency in call prices or misleading or fraudulent services, which would require similar regulatory intervention, currently affect calls to geographic numbers.

Proportionate to what it is intended to achieve

- 4.18 Ofcom considers that the requirement to establish, maintain and comply with codes of practice is proportionate on the grounds that there should be little additional burden on responsible OCPs who already follow industry best practice in this area as set out in the guidelines. Nevertheless the evidence of potential consumer detriment, as set out in section 3 of this document, confirms that some action is necessary. Ofcom considers that this requirement would offer the most proportionate solution.

Transparent in relation to what it is intended to achieve

- 4.19 Ofcom considers that the requirement to establish, maintain and comply with codes of practice is transparent insofar as the nature and obligations are clearly set out in this document.
- 4.20 In particular, Ofcom notes that, in the case of PRS, the requirement flows from the Ofcom report to the DTI, published in December 2004, and has therefore been public knowledge for a number of months prior to this consultation.
- 4.21 In the case of NTS, whereas the details of the requirement have not been consulted on previously, it arises from recommendations for increasing consumer awareness of NTS call prices proposed in the October 2004 Consultation and also the September 2005 Consultation.

Monitoring and enforcement

- 4.22 If Ofcom receives complaints about non-compliance with General Condition 14, including the modification set out in Annex 1, these will be handled in line with Ofcom's Guidelines for the handling of competition complaints, and complaints and disputes about breaches of conditions imposed under the EU Directives¹⁴.

The Notification

- 4.23 Accordingly, Ofcom is today confirming its intention to modify General Condition 14 to require OCPs to establish, maintain and comply with codes of practice on the provision of practical information relating to the nature of PRS, their costs and availability to consumers as well as on improving the visibility given to NTS call prices. The Notification and related modifications can be found at Annex 1 to this statement. The guidelines for codes of practice for handling customer enquiries and complaints about PRS are at Annex 1 to the Schedule to the Notification and the guidelines for codes of practice for the publication of prices of calls to NTS are at Annex 2 to the Schedule to the Notification.

¹⁴ http://www.ofcom.org.uk/bulletins/comp_bull_index/eu_directives/?a=87101

Annex 1

Notification

Notification of a modification under section 48(1) of the Communications Act 2003

Modification of General Condition 14 on Codes of Practice and Dispute Resolution which is set out in the Schedule to the Notification under Section 48(1) of the Communications Act 2003 published by the Director General of Telecommunications on 22 July 2003.

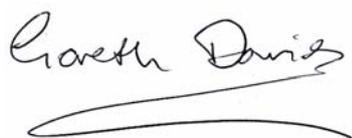
- A. The Director General of Telecommunications (the “Director”) issued on 22 July 2003 the General Conditions Notification, which took effect on 25 July 2003 by way of publication of a notification pursuant to section 48(1) of the Act;
- B. OFCOM issued a notification pursuant to section 48(2) of the Act setting out their proposals for the modification of General Condition 14 (the “First Notification”);
- C. A copy of the First Notification was sent to the Secretary of State in accordance with section 50(1)(a) of the Act;
- D. In the First Notification and accompanying explanatory statement, OFCOM invited representations about any of the proposals set out therein by 5pm on 5 December 2005;
- E. By virtue of section of 48(4) of the Act, OFCOM may give effect to any proposals to modify or set SMP services conditions as set out in the First Notification, with or without modification, where:
 - (i) they have considered every representation about the proposals made to them within the period specified in the First Notification; and
 - (ii) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
- F. OFCOM received response to the First Notification and have considered every such representation made to them in respect of the proposals set out in the First Notification and the accompanying explanatory statement; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose.

THEREFORE, OFCOM gives the following Notification

1. OFCOM in accordance with section 48(1) of the Act hereby make the following modification to General Condition 14 on Codes of Practice and Dispute Resolution;
2. The modification is set out in the Schedule to this Notification;

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

3. The effect of, and OFCOM's reasons for making, the modification referred to in paragraph 1 above is set out in the accompanying explanatory statement;
4. OFCOM considers that the modification referred to in paragraph 1 above complies with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to each of the modifications;
5. In making the modification set out in this Notification, Ofcom has considered and acted in accordance with their general duties in section 3 of the Act and the six Community requirements in section 4 of the Act;
6. The modification shall enter into force on **19 June 2006**;
7. Copies of this Notification and the accompanying statement have been sent to the Secretary of State in accordance with section 50(1)(a) of the Act;
8. In this Notification:
 - (i) "the Act" means the Communications Act 2003; and
 - (ii) "OFCOM" means the Office of Communications;
9. Except insofar as the context otherwise requires, 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.
10. For the purpose 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.
11. The Schedule to this Notification shall form part of this Notification



Gareth Davies

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

19 April 2006

Schedule

Modifications to General Condition 14 on Codes of Practice and Dispute Resolution which is set out in the Schedule to the Notification under section 48(1) of the Communications Act 2003 published by the Director General of Telecommunications on 22 July 2003

1. General Condition 14 on Codes of Practice and Dispute Resolution shall be modified as follows (the added text and numbering is underlined and the deleted text or numbering, or numbering changed due to added text has been struck through, with all modifications highlighted in yellow for ease of reference)

A1.1 14. CODES OF PRACTICE AND DISPUTE RESOLUTION

A1.2 Basic Code of Practice regarding provision of Public Electronic Communications Services

- A1.3 14.1 The Communications Provider shall produce a basic Code of Practice for its Domestic and Small Business Customers which sets out at least where such customers may avail themselves of the information required to be published under Condition 10.2, as relevant to the provision of Public Electronic Communications Services. The Code of Practice shall be drafted in plain English which is easy to understand, and copies of the Code of Practice shall be provided on request and free of charge to any Domestic and Small Business Customer.

A1.4 Codes of Practice for Premium Rate Services and NTS Calls

14.2 Within two months of this Condition entering into force, all Originating Communications Providers who provide Premium Rate Services or NTS calls, as appropriate shall:

(a) establish and thereafter maintain a Code of Practice for the provision of information relating to Premium Rate Services for its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex 1 to this Condition;

(b) establish and thereafter maintain a Code of Practice for NTS Calls for its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex 2 to this Condition; and

(c) comply with the provisions of the Codes of Practice referred to at 14.2 (a) and (b) above.

14.3 The codes of practice referred to in Condition 14.2 shall be drafted in plain English which is easy to understand, and copies of the codes of practice shall be provided on request and free of charge to any Domestic and Small Business Customer.

A1.5 Codes of Practice for Complaints

- A1.6 14.2 14.4 Within one month of this Condition entering into force, the Communications Provider shall establish and thereafter maintain procedures that conform with any applicable Code of Practice for Complaints for the

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

handling of complaints made by its Domestic and Small Business Customers in relation to the provision of Public Electronic Communications Services.

A1.7 Codes of Practice for Sales and Marketing

~~14.3~~ **14.5** During the Relevant Period, those Communications Providers who provide Fixed-line Telecommunications Services or the Wholesale Inputs to Fixed-line Telecommunications Services, shall:

(a) establish and thereafter maintain a Code of Practice for Sales and Marketing for dealing with its Domestic and Small Business Customers, which conforms with the Guidelines set out in Annex **3** to this Condition; and

(b) comply with the provisions of the Code of Practice for Sales and Marketing established according to Condition ~~14.3~~ **14.5**(a) above.

14.6 The Code of Practice for Sales and Marketing shall be drafted in plain English which is easy to understand, and copies of it shall be provided on request and free of charge to any Domestic and Small Business Customer.

A1.8 Dispute Resolution

44.4 **14.7** The Communications Provider shall implement and comply with a Dispute Resolution Scheme, including any final decision of the Dispute Resolution Body made in accordance with that Scheme, for the resolution of disputes between the Communications Provider and its Domestic and Small Business Customers in relation to the provision of Public Electronic Communications Services.

~~14.5~~ **14.8** In this Condition:

A1.9 (a) “**Carrier Pre-Selection**” means a facility which allows a Subscriber to whom a Publicly Available Telephone Service is provided by means of a Public Telephone Network to select which Pre-selected Provider of such Services provided wholly or partly by means of that Network is the Pre-selected Provider he wishes to use to carry his calls by designating in advance the selection that is to apply on every occasion when there has been no selection of Provider by use of a Telephone Number;

A1.10 (b) “**Communications Provider**” means a person who provides Public Electronic Communication Services to Domestic and Small Business Customers;

A1.11 (c) “**Code of Practice for Complaints**” means a Code of Practice approved from time to time by the Director for the purpose of this Condition in accordance with sections 52 and 53 of the Act;

(d) “**Code of Practice for Sales and Marketing**” means a Code of Practice established in accordance with Condition ~~14.3~~ **14.5**(a);

(e) “**Dispute Resolution Body**” means the body of persons responsible for administering a relevant Dispute Resolution Scheme;

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

(f) “**Dispute Resolution Scheme**” means procedures approved or established from time to time by the Director for the purpose of this Condition in accordance with sections 52, 54 or 55 of the Act;

(g) “**Domestic and Small Business Customer**” means, in relation to a Communications Provider, a Customer of that Provider who is neither-

A1.12 (i) himself a Communications Provider; nor

A1.13 (ii) a person who is such a Customer in respect of an undertaking carried on by him for which more than ten individuals work (whether as employees or volunteers or otherwise);

(h) “**Fixed-line Telecommunications Services**” means narrowband calls and lines services provided to Domestic and Small Business Customers by means of Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;

(i) “**Guidelines**” mean the guidelines as set out in either Annex 1, 2 or 3 to this Condition;

(j) “**Indirect Access**” means a facility which allows a Subscriber to whom a Publicly Available Telephone Service is provided by means of a Public Telephone Network to select which such Service provided wholly or partly by means of that Network is the service he wishes to use by the use of a Telephone Number on each separate occasion on which a selection is made;

(k) “**NTS Calls**” means calls to numbers identified in the National Telephone Numbering Plan as Special Services operating on the 08 number range and including calls to 0500 freephone numbers, but excluding calls to 0844 04 numbers for Surftime internet access services and calls to 0808 99 numbers for flat rate internet access call origination;

A1.14 (l) “**Originating Communications Provider**” means a Communications Provider on whose network a call originates;

(k) (m) “**Publicly Available Telephone Services**” means a service available to the public for originating and receiving national and international calls and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance services, Directory Enquiry Facilities, Directories, provision of Public Pay Telephones, provision of service under special terms, provision of specific facilities for End-Users with disabilities or with special social needs and/or the provision of non-geographic services;

(l) (n) “**Public Telephone Network**” means an Electronic Communications Network which is used to provide Publicly Available Telephone Services; it supports the transfer between Network Termination Points of speech communications, and also other forms of communication, such as facsimile and data;

(m) (o) “**Pre-selected Provider**” means a provider of a Public Telephone Network who has notified the Communications Provider with Significant Market Power in the Relevant Market that it is able and willing to provide

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

Carrier Pre-selection to Subscribers to whom the Communications Provider with Significant Market Power in the Relevant Market provides Publicly Available Telephone Services;

~~(n)~~ ~~(p)~~ **“Relevant Period”** means a period of two years beginning on 26 May 2005 and ending on 25 May 2007;

~~(e)~~ ~~(q)~~ **“Subscriber”** means any person who is party to a contract with the provider of Publicly Available Telephone Services for the supply of such Services in the United Kingdom;

~~(p)~~ ~~(r)~~ **“Wholesale Calls”** means end-to-end calls sold by one Communications Provider to another for the purposes of providing services to End-Users;

~~(q)~~ ~~(s)~~ **“Wholesale Inputs”** means facilities that are provided by a Communications Provider to another Communications Provider to allow for the provision of Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;

~~(r)~~ ~~(t)~~ **“Wholesale Line Rental”** means a facility which allows OCPs without Significant Market Power in the Relevant Market to provide an integrated service comprising calls and access by renting the exchange lines on wholesale terms from the Communications Provider with Significant Market Power in the Relevant Market, and sending customers a single bill for both calls and line rental.

Annex 1

Guidelines for codes of practice for handling customer enquiries and complaints about Premium Rate Services

1. Introduction and overview

- 1.1 The key objective of these Guidelines is to ensure that Originating Communications Providers provide their domestic and small business customers with readily accessible and accurate information relating to Premium Rate Service (“PRS”) calls;
- 1.2 These Guidelines seek to ensure that there is a clear framework within which Originating Communications Providers should be working, providing reassurance to customers and consumer representatives as to what constitutes good practice in the provision of information to customers in relation to complaints and enquiries about PRS calls.

2. Status of code

- 2.1 All Originating Communications Providers who provide PRS are required under General Condition 14.2 to establish a Code of Practice for PRS Calls for their domestic and small business customers (the “Code”), which conforms with these Guidelines, and to comply with the provisions of the Code.
- 2.2 Compliance with the Code does not guarantee compliance with any other legal requirements.
- 2.3 Non-compliance with the Code does not affect the validity of any contract between the company and the consumer, unless otherwise provided by law.

3. Customer information and advice

- 3.1 Originating Communications Providers shall provide the following information and advice to their customers:
- (i) information about the role of Originating Communications Providers in relation to:
 - a. general PRS enquiries and requests for number checks via the number-checker facilities provided by the Independent Committee for the Supervision of Telephone Information Services (“ICSTIS”) on the ICSTIS website (www.icstis.org.uk);
 - b. dealing with formal complaints about abuses of service content, the ICSTIS Code of Practice and alleged scams.
- 3.2 In so doing Originating Communications Providers shall provide:
- (i) information about the role and remit of ICSTIS in dealing with complaints and how to go about making a formal complaint to ICSTIS via the website, helpline or by in writing;

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- (ii) information about the tariffs that apply on their network for calls to any PRS number range;
- (iii) basic information about how PRS services work including whether the call(s) in question were routed to service providers (SPs) hosted on the Originating Communications Provider's own network or on the network of a Terminating Communications Provider (TCP), together with a basic explanation of how revenue sharing with SPs operates;
- (iv) information about how consumers can bar access from their telephone to all or specific PRS number ranges for reasons of cost or content;
- (v) information about the purpose of the Telephone Preference Service ("TPS") and Fax Preference Service ("FPS") and how to go about registering with such services;
- (vi) information about how internet diallers operate and how consumers can identify and take action, such as improving their computer's security, to avoid further instances of these or similar scams;
- (vii) in the case of mobiles, in addition to the above, information about how premium rate SMS/MMS/WAP billed services operate and how consumers can unsubscribe from these;
- (viii) information on the role of the Telecoms Ombudsman schemes in resolving disputes concerning PRS calls;
- (ix) information on other options available to consumers for seeking refunds in cases of abuse or scams involving PRS calls;
- (x) contact details of individual SPs or the TCPs which host them; and where available – typically via ICSTIS" website at www.icstis.org.uk;
- (xi) SPs customer service contact details where consumers can obtain further information about services provided on the PRS numbers found on their bills.

4. Processes and Procedures

- 4.1 Procedures should be in place for Originating Communications Providers' enquiry and helpdesk staff to know of the existence and content of the Code in order for them to be able respond to complaints and enquiries about PRS calls and to monitor their compliance with the Code.
- 4.2 There should be fully documented procedures in place to make customers and advice agencies aware of the existence and content of the Code, for example by referring to the Code in sales and marketing literature and by making the Code available through Originating Communications Providers' websites.
- 4.3 The Code shall be drafted in plain English, which is easy to understand, and copies of the Code are to be provided on request, and free of charge, to customers.
- 4.4 The Code shall include the name and contact details (including e-mail address) of the Originating Communications Provider's representative who is responsible for the Originating Communications Provider's compliance with the Code.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

5. Terms used in these Guidelines

5.1 Terms used in these Guidelines shall have the same meaning, if any, as set out in Condition 14.

Annex 2

Guidelines for codes of practice for the publication of prices of calls to Number Translation Services

1.1 The key objective of these Guidelines is to ensure that Originating Communications Providers provide their Domestic and Small Business Customers with readily accessible and accurate information relating to the usage charges for NTS Calls on their networks.

1.2 These Guidelines seek to ensure that there is a clear framework within which Originating Communications Providers should be operating in relation to the publication and provision of information to domestic and small business customers about usage charges for NTS Calls.

2. Status of code

2.1 All Originating Communications Providers who provide NTS Calls are required under General Condition 14.2 to establish a Code of Practice for NTS Calls for their domestic and small business customers (the "Code"), which conforms with these Guidelines and to comply with the provisions of the Code.

2.2 Compliance with the Code does not guarantee compliance with any other legal requirements.

2.3 Non-compliance with the Code does not affect the validity of any contract between the company and the consumer, unless otherwise provided by law.

3. Customer information and advice: published price lists and websites

3.1 The Originating Communications Provider that is responsible for the retail billing of NTS Calls to the end-user shall publish the usage charges required to be published under General Condition 10.2(d)(ii) for NTS Calls on its website and in published price lists in a way that gives those charges the same prominence in terms of location and format given to charges for geographic calls, calls to mobiles and call packages, including bundles.

3.2 Without prejudice to the generality of paragraph 3.1, Originating Communications Providers shall give prominence to the following, in particular:

(i) any usage charges that apply for calls to freephone numbers including details of when those charges will apply;

(ii) usage charges for NTS Calls which include variations by time of day. For example, "08xx calls are charged at x pence per minute or per call during weekday evenings inclusive of value added tax";

(iii) whether or not any special offers, discount schemes or call bundling arrangements apply to NTS Calls, including details of which of those arrangements apply to which number range;

4. Customer information and advice: advertising, promotional material and new customers

4.1 Originating Communications providers shall publish in their advertising and promotional material which refer to call pricing, alongside maximum prices applying to NTS Calls, a clear reference as to where on websites and published price lists the complete set of NTS Call charges, as specified in paragraph 3.2, can be found.

4.2 When a new customer signs up for the provider's service, Originating Communications Providers shall provide, alongside maximum prices applying to NTS Calls in the relevant correspondence, a clear reference as to where on websites and published price lists the complete set of NTS Call charges, as specified in paragraph 3.2, can be found.

5. Processes and Procedures

5.1 Procedures should be in place for Originating Communications Providers' enquiry and helpdesk staff to know of the existence and content of the Code in order for them to be able respond to complaints and enquiries about PRS calls and to monitor their compliance with the Code.

5.2 There should be fully documented procedures in place to make customers and advice agencies aware of the existence and content of the Code, for example by referring to the Code in sales and marketing literature and by making the Code available through Originating Communications Providers' websites.

5.3 The Code shall be drafted in plain English, which is easy to understand, and copies of the Code are to be provided on request, and free of charge, to customers.

5.4 The Code shall include the name and contact details (including e-mail address) of the Originating Communications Provider's representative who is responsible for the Originating Communications Provider's compliance with the Code..

6. Terms used in these Guidelines

6.1 Terms used in these Guidelines shall have the same meaning, if any, as set out in Condition 14.

Annex 3

Guidelines for sales and marketing codes of practice for Fixed-Line Telecommunications Services

Key elements to be included within sales and marketing Code of Practice

1. Introduction and overview

1.1 Key objectives to be outlined:

- To ensure that Communications Providers (“Providers”) provide their Domestic and Small Business Customers (“Customers”) with standards of protection over and above those provided by the law (see table below for examples);
- To ensure good practice and responsible selling in the marketing of Fixed-line Telecommunications Services, and to help Customers understand the service and behaviour to be expected;
- To provide a clear framework within which responsible Providers should be working, providing reassurance to Customers and consumer representatives as to what constitutes good practice in the sales and marketing of Fixed-line Telecommunications Services.

1.2 The focus to be sales and marketing of Fixed-line Telecoms Services to Customers, dealing primarily with issues arising before, during and at the point of sale, with particular emphasis on the avoidance of mis-selling and misrepresentation, and ensuring customer understanding of the services offered and the key terms of any contracts they are entering into.

1.3 Procedures to be in place for sales and marketing staff, and agents, to be informed of the Codes of Practice for Sales and Marketing (“the Code”) and its contents, and for monitoring their compliance with it.

1.4 Procedures to be in place, and fully documented, for Customers and advice agencies to be made aware of the Code and its contents such as, for example, making reference to the Code in sales and marketing literature, as part of the Providers’ “notification of transfer” letter (referred to in paragraphs 6.11 and 6.12), and by making available on Providers’ public websites.

1.5 Codes to be drafted in plain English which is easy to understand, and copies of it to be provided on request, and free of charge, to Customers.

1.6 Providers’ accountability to be visible in the form of a named person, responsible for compliance, with relevant contact details, including an e-mail address.

2. Status of code

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 2.1 All Providers who engage in sales and marketing for Fixed-line Telecoms Services are required under General Condition 14.3 to establish the Code in accordance with these Guidelines, and comply with the provisions of the Code.
- 2.2 Compliance with the Code does not guarantee compliance with any legal requirement.
- 2.3 Non-compliance with the Code does not affect the validity of any contract between the company and the consumer, unless otherwise provided by law.

3. **Sales, marketing advertising and promotion**

- 3.1 Customer approaches may occur in a wide range of ways e.g. by TV, radio or press advertising, promotions in shops or shopping centres, post, fax, electronic mail, telephone or in person. Regardless of the way in which sales and marketing activities are conducted, Providers to act responsibly and compliantly.
- 3.2 Customers' legal rights and wishes to be respected where they have registered with any relevant preference service, including the Mailing Preference Service, the Telephone Preference Service, the Fax Preference Service and the E-mail Preference Service.
- 3.3 Advertising and promotion to comply with the British Codes of Advertising and Sales Promotion and all other applicable advertising codes. In addition, advertising and promotional literature to be clear, unambiguous, accurate and fair, containing no false or misleading information about price, value or service and, in particular, must not denigrate other Providers.

4. **Recruitment and sales training**

- 4.1 Appropriate procedures to be set up for the selection of staff involved with direct contact with customers for the purposes of sales and marketing activity.
- 4.2 Providers to be responsible for ensuring that sub-contractors (third party agencies) also set up equivalent selection procedures. For the avoidance of doubt, third party agencies shall not include resellers to whom telephony services are sold on a wholesale basis.
- 4.3 Whilst operating within current employment legislation, recruitment of sales staff to have regard to:
 - behaviour and appearance, recognising that the sales person may be seen as the "public face" of the industry;
 - security – references and relevant convictions for criminal offences to be checked and taken into account;
 - evidence of mis-selling or lack of integrity in any previous selling employment.
- 4.4 The following requirements related to sales staff based in the UK to be observed:
 - the applicant must provide proof of National Insurance number, proof of address and two references;
 - referees cannot be related to the applicant;

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- business referees must not both be from the same company;
 - if a sales person leaves for any reason a copy of his or her sales records (including all recordings and notes on sales) will be retained for a minimum period of six months;
 - reasonable endeavours to be made to retrieve the identification badges of staff leaving the company.
- 4.5 For sales-staff not based in the UK, equivalent procedures to be applied, and documented.
- 4.6 Providers to satisfy themselves that they have taken reasonable steps to ensure that every such person is trained so as to have a sufficient understanding that any relevant advice given by such person is not misleading. Topics covered to include:
- arrangements for competition in the supply of telecommunications in the UK;
 - the different telephone options provided by the company and how these differ from other competitive telecoms products (which may or may not be offered by the company); for example, Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;
 - the process for ordering the telephone service;
 - the relevant principles of consumer protection law;
 - the prices charged by the employing company and its other terms and conditions of service and, in particular, methods of payment, duration of contract and any termination fees;
 - the nature, and cost, of any additional services on offer;
 - the process for cancelling the contract both during the cooling-off period and at any time following commencement of the service;
 - the existence of the sales and marketing Code of Practice and the benefits provided; and
 - the procedure for handling customer complaints.
- 4.7 Responsibility for compliance with the Code by representatives, and any sales agency acting on their behalf, to lie with the Provider. The Provider to identify the title of the person accountable for ensuring that the company and its agents observe the Code, and the title of the person responsible for handling complaints relevant to the code.
- 4.8 Remuneration systems, to be documented, and not to be such as to encourage misleading or exploitative sales practices. The Provider to be kept informed of incentive schemes used by any agencies it employs for sales and marketing.
5. **Customer contact**
- 5.1 Discretion to be used when visiting consumers' homes, particularly during the hours of darkness. No face to face contact to be made outside the hours of 08.00 to 20.00,

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

and no telephone calls to be made outside the hours of 08.00 to 21.00, unless at the customer's request

- 5.2 Representatives involved in face-to-face sales and marketing to be issued with identity badges that clearly display the name of the Provider they represent and a unique identification number for that representative. The identity badge to also display the representative's name, a photograph of the representative and an expiry date for validity of the card. The information on the card to be presented in such a way that does not require close examination. Identity cards must also be made available with key information in Braille, on request
- 5.3 All representatives to immediately identify themselves, the company they represent and the purpose of the call and the expected call duration. If visiting or meeting in person, they should draw the Customers' attention to their identity card.
- 5.4 Reasonable steps to be taken to keep informed of local authority initiatives, password schemes etc, such as the Local Distraction Burglary Initiative.
- 5.5 All representatives to be courteous, use appropriate language and offer clear and straightforward explanations. All information should be factual and accurate. Representatives should not misrepresent the services being offered nor those of other Providers. Representatives should also check that Customers entering into contracts understand, and intend, them.
- 5.6 Representatives to cease contact with any person who indicates that the contact is inconvenient, unwelcome, inappropriate or too long. If the Customer requests it, the discussion to be ended immediately and, if making a doorstep call, the premises to be left immediately.
- 5.7 Representatives not to abuse the trust of vulnerable Customers e.g. those who are elderly or whose first language is not English, or who have special needs. Providers should have a policy regarding such Customers, including that their representatives do not pursue sales presentations to Customers whom they believe may be vulnerable.
- 5.8 Where there is sheltered housing, nursing homes or residential care facilities contact to be made with the warden or other person in authority before any approach is made to the Customer.
- 5.9 No sales or marketing activity to be conducted that is directed to those who are under the legal age for entering into contracts.
- 5.10 Sales and marketing campaign records to be maintained for six months, including the date and the approximate time of the contact with the Customer. Records to be such as to allow subsequent identification of the salesperson(s) involved and to assist in dealing with any complaint or query.

6. **Entering into a contract – information, order forms and contracts**

- 6.1 All reasonable steps to be taken to ensure that the person entering into a contract is authorised to enter into the contract for the Fixed-line Telecommunications Services/bills at the premises.
- 6.2 Order forms and contract forms to be designed such that the contractual nature of the document is clear to the Customer, and it contains a statement of the contractual

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

nature of the document immediately adjacent to where the Customer signs the document so the statement cannot easily be obscured or concealed . Customers to sign over the word “contract”

- 6.3 Where a direct approach to the Customer takes place, the Customer to be given the information set out in this paragraph, in writing, in a clear and comprehensible manner
- essential information including the identity of the company, its address, telephone, fax and e-mail contact details, as appropriate;
 - a description of the telephone service sufficient to enable the customer to understand the option that the customer has chosen, and how it works;
 - information about the major elements of the service, including the cost of any standing charges, the payment terms, line rental, key call types and details of “protected or special support” arrangements;
 - the arrangements for provision of the service, including the order process and, as accurately as possible, the likely date of provision. Where there may be significant delay in the likely date of provision, the Customer to be informed;
 - the existence of a right of cancellation and the process for exercising it;
 - the period for which the charges remain valid; and
 - the minimum period of contract, and minimum contract charges, if any.
- 6.4 Customers to be made aware of the existence of the Code, and preferably provided with a summary. Copies of it to be provided on request, and free of charge, to Customers.
- 6.5 At the Customers request, full written information about tariffs to be made available.
- 6.6 If a Customer signs an order form following face to face contact, or enters into a written contract, the customer must be given a copy of the order form or contract, as well as the following details in writing either at the same time or within 5 working days, unless previously supplied in writing prior to contract:
- Information about any after-sales services or guarantees; and
 - Arrangements for the termination of the contract.
- 6.7 Orders placed by distance selling means to comply with Distance Selling Regulations, which are set out in the table below.
- 6.8 In the case of internet orders, a well sign-posted hyperlink to this information which is easily visible to the web site visitor to be prominently displayed with the information being capable of being easily downloaded and printed.
- 6.9 During the switchover period there should be “no cost” cancellation for Customers where they change their mind. Customers to be made aware that they have the right to change their mind during the switchover period.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

- 6.10 Customers to be permitted to cancel orders and terminate contracts by telephone, in writing, by fax or by e-mail.
- 6.11 Providers to send a mandatory letter in accordance with the industry-agreed process informing the customer of the details of the transfer, and the following to be clearly communicated:
- date of notification;
 - CLI(s) affected;
 - list of services affected/unaffected, e.g. IA call barring;
 - date of switchover;
 - the sender's contacts details for any queries.
- 6.12 The notification will be by letter although may be sent electronically where Customers have initiated contact by applying online, and have confirmed online that they wish all future correspondence to be sent electronically. Otherwise Customers would need to positively request by written correspondence that information be sent electronically.
- 6.13 Providers to keep under review the procedures by which contracts are agreed and to take appropriate steps to prevent recurrence of any problem identified.
- 6.14 In all cases, Customers to be contacted along similar timescales to the industry-agreed process described in paragraph 6.11 to confirm that the Customer understands that they have entered into an agreement, are happy to proceed with the agreement and are content with the way in which the sales and marketing activity was conducted.
- 6.15 Such Customer contact to be either part of the mandatory Customer "notification of transfer" letter referred to in paragraph 6.11 or through a separate process. This contact to be made by a person not engaged directly in activities leading to the promotion of sales contracts.
- 6.16 If it is found that the contract was not understood or intended, or if the order matured before the expiry of the switchover period, and the Customer wishes to cancel, Providers to terminate the contract without charge or other penalty to the Customer.

7. **Consumer protection and other legal requirements**

- 7.1 Procedures to comply with all applicable legislation and appropriate amendments (see table below for examples).

8. **Audit**

- 8.1 Providers to carry out regular audits of systems, procedures and documentation to ensure that they are acting compliantly with all aspects of the Code.

9. **Customer complaints procedure**

- 9.1 Providers' internal procedures for handling Customer complaints to also include those relating to their sales and marketing activities. Providers to ensure that all their staff and representatives who deal directly with Customers are made aware of this

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

procedure, and that they should inform Customers of the existence of their complaints procedure in accordance with their current obligations.

- 9.2 The complaints procedure to set out how Customers may complain about the company's sales and marketing activity and what further steps are available if they believe their complaint has not been dealt with satisfactorily.
 - 9.3 In addition, Customers also to be made aware of any dispute resolution arrangements as recognised by Ofcom. Currently Ofcom has approved two schemes: the Office of the Telecommunications Ombudsman ("Otel") and the Communications and Internet Services Adjudication Scheme ("CISAS").
 - 9.4 Providers to liaise regularly with Ofcom and the relevant consumer groups to monitor the number and nature of complaints under its code.
10. **Distributing the code: creating awareness**
- 10.1 The Code to be available to Customers on request, free of charge and in a reasonable range of formats.
 - 10.2 The head office of the Citizens Advice (address: Myddleton House, 115-123 Pentonville Road, London, N1 9LZ) plus other head offices of relevant major advice agencies normally to be sent copies of the code and any subsequent update. Providers with restricted operations such as those operating only in specific regions to circulate copies to advice agencies as appropriate.

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

Legislation of particular relevance to sales and marketing of particular telephony products

Particular attention is drawn to the following regulations (as amended, where appropriate), in addition to all other appropriate consumer protection law and advertising Codes of Practice

	Title	Comment
1	The Unfair Terms in Consumer Contracts Regulations 1999 SI 1999 No 2083	<ul style="list-style-type: none"> introduces controls over unfair standard terms in contracts with consumers requires written contracts with consumers to be in plain, intelligible language
2	The Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987 SI 1987 No 2117	<ul style="list-style-type: none"> requires that written notice of cancellation rights (min 7 days) in prescribed form is given to consumers entering into contracts at their homes or in other places (e.g. shopping precincts)
3	The Consumer Protection (Distance Selling) Regulations 2000 SI 2000 No 2334	<ul style="list-style-type: none"> requires extensive information to consumers before and after consumers enter into contracts using channels of marketing such as direct response press or TV adverts, telemarketing, mail order, etc requires cancellation rights (min 7 working days) to be given to consumers, starting from the date of delivery of prescribed information provides that making demands for payment for services not ordered by consumer is a criminal offence
4	Telecommunications (Open Network Provision)(Voice Telephony) Regulations 1998 SI 1998 No. 1580	<p>Extensive requirements for system-less resellers and operators of systems licensed by DTI to</p> <ul style="list-style-type: none"> offer written contracts to consumers complying with the regulations; to publish their terms and conditions and tariffs by placing copies in every major office for public inspection during prescribed hours
5	Various Misleading Advertising Regulations	
6	Consumer Protection Act 1987 (Part III)	

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

7	Consumer protection legislation	<p>Civil responsibilities</p> <ul style="list-style-type: none"> • Misrepresentation Act 1967 • Unfair Contract Terms 1977 • Sales of Goods Act • Supply of Goods and Services Act 1982 • Consumer Protection 1987 • Sale and Supply of Goods Act 1994 • Control of Misleading Advertising Regulations 1988 SI 1988 No 915 • Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987 SI 1987 No 2117 • Unfair Terms in Consumer Contracts Regulation SI 1999 No 2083 <p>Criminal liabilities</p> <ul style="list-style-type: none"> • Trade Descriptions Acts 1968 • Administration of Justice Act 1970 • Fair Trading Act 1973 • Price Act 1974 • Consumer Protection Act 1987 (Parts II, III, IV and V) • Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987 SI 1987 No 2117 • Consumer Protection (Distance Selling) Regulations 2000 SI No 2334
---	---------------------------------	--

Annex 2

Non-confidential respondents to the consultation document

John Amery	Chris Archer	Bagnall R	Mike Bailey
Chris Batchelor	Nigel Blumenthal	Alan Boorman	David Botibol
Ian Bottom	Jim Boyes	Angela Bragg	David Browne
BT	Jim Cavanagh	Central Herts Consumer Group	
Centrica	Carl Conn	Andrew Cordell	Garry Currier
Cushing D	Tricia Dale	R Damle	Robert Draper
John Drinkwater	Vivian Dunn	Ben Dwyer	Ian Edgar
Andrew Essery	Ian Evans	Federation of Communications Services	
Dr R D Feltham	Foskett Powell Associates Limited		Bill Fraser
N C Friswell	Cliff Gibb	Dougall Giles	Stan Goodwin
Gerald Gray	Robin Harding	Derrick Harmer	John Harvey
Michael Henry	David Hickson	M Hollinhurst	ICSTIS
IV Response	Philip Jimenez	Sami Joseph	Chris Keane
Kevin Kearney	Mark Kearney	Julie Kenyon	Joseph King
Adrian M Lee	Dr J Lesser	David Lindsay	J F Lowe
John Macmin	Christine McCarthy	MCI	John Middleton
Richard Miller	Mobile Broadband Group		Fabian Olins
Tony Osborne	Andrew Perks	Mike Pinfield	
Premium Rate Association		L Pugh	Chris Radford
Neil Rendall	Iain Richmond	Brian Ritchie	Bill Saville
Tony Scott	Stephen Seabury	Alan Selwood	J Shersby
Tomasz Sliwka	Sam Smale	Martin Smith	John Stein

Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services

Richard Street	John Symons	D Taylor	Peter Taylor
Telewest	Alan Toms	Edward Trevor	DW Tuck
UKCTA	Ian Walker	SV Warr	Carol Williams
Clive Williams	D Winter	Max Wiseberg	Nicola Wright

A further 44 respondents asked for their details to be withheld.