



NTS: A Way Forward

Statement

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Section 1

Summary

- 1.1 On 28 September 2005, Ofcom published a consultation entitled “NTS: A Way Forward” (‘the September 2005 Consultation’), setting out a number of proposals for the regulation of Number Translation Services. The deadline for responses was 6 December 2005. Ofcom has reviewed its proposals in the light of the responses received, which numbered 1308, and this Statement sets out Ofcom’s conclusions.

Proposals

- 1.2 Ofcom has decided to implement measures proposed in the September 2005 Consultation, with some modifications to take account of points raised by respondents. The measures are as follows.

Restore geographic link for 0870 calls

- 1.3 Ofcom proposes to amend the National Telephone Numbering Plan (‘the Plan’) to establish the principle that every Originating Communications Providers (‘OCP’) should charge no more for 0870 calls than national calls to geographic numbers. OCPs who wish to charge higher rates for 0870 calls will be required to make a free-to-caller price pre-announcement at the beginning of the call, informing the caller of the cost of the call. This option will be available to BT, as well as to other OCPs. Such pre-announcements would have to specify the precise basis on which the call will be charged e.g. in pence per minute or per call; generic announcements will not be considered sufficient.
- 1.4 The convention will mean that, if you are on a call package where national calls to 01 and 02 numbers cost, for example, 3 pence per minute in the peak period, calls to 0870 numbers during the same period will cost no more than 3 pence per minute, unless a pre-announcement is made. Similarly, if you are on a call package where national calls in the evenings or at weekends are free, then in the absence of a pre-announcement calls to 0870 numbers will also be free at these times. Ofcom recognises that many Communications Providers (‘CPs’) make no distinction in their pricing plans between national and local calls to geographic numbers. In these cases, the convention will mean that 0870 calls should cost no more than calls to all geographic numbers.
- 1.5 This convention will apply to all calls including those made from all fixed lines, including payphones, and from mobile phones. It will not mean that CPs will charge the same as each other for 0870 or geographic calls – each provider will be free to set its own retail prices for these calls. But it will mean that, unless there is a price pre-announcement, an 0870 call will cost no more than an equivalent national call to a geographic (01 or 02) number.

Remove 0870 calls from the scope of the BT NTS Call Origination Condition

- 1.6 Ofcom proposes to remove 0870 calls from the scope of the BT NTS Call Origination Condition (‘the NTS Condition’), which requires BT to originate and retail these calls on behalf of Terminating Communications Providers (‘TCPs’). This will remove the regulatory underpinning for revenue sharing on the 0870 range, and allow interconnect arrangements for these calls to be aligned more closely with those for geographic calls with BT purchasing call termination from TCPs rather than

originating and retailing 0870 calls on behalf of TCPs. This is likely to lead to a reduction in the payments, which OCPs make to TCPs for terminating 0870 calls, and to lower prices at the retail level. BT will continue to be subject to the other regulatory remedies to its Significant Market Power ('SMP') in the markets identified in Oftel's Review of the fixed narrowband wholesale exchange line, call origination, conveyance and transit markets¹.

Timetable for implementation of 0870 proposals

- 1.7 Ofcom intends to introduce the above changes for 0870 calls 18 months after the publication of its forthcoming statement on numbering policy. Ofcom published a consultation *Telephone Numbering – Safeguarding the future of numbers*² ('the Numbering Review') on 23 February 2006. The closing date for responses to the consultation is 4 May 2006. Ofcom hopes to be able to publish a statement setting out its conclusions in relation to that consultation in July 2006.
- 1.8 Ofcom recognises that the changes to the 0870 range will be disruptive for CPs, for resellers of inbound NTS services and for many of the Service Providers ('SPs') which use 0870 numbers. It will be important to allow the parties involved a reasonable amount of time to plan for the changes, in order to reduce the costs associated with their implementation.
- 1.9 The Numbering Review Statement is significant because it will provide additional information that will be useful to SPs who may wish to move from an 0870 number to a number in another range. In particular, it will set out Ofcom's plans for opening up new non-geographic number ranges, at different price levels and for different service types. In Ofcom's view, this information is sufficiently important that the 18-month planning period should not begin until the Numbering Review Statement has been published.
- 1.10 As the Numbering Review Statement is currently scheduled for publication in July 2006, this would suggest that the changes for 0870 are likely to come into effect in January 2008. Ofcom has no plans to change the pricing and interconnect arrangements for 0870 calls before the end of the 18-month period.

Two-year review for 0845 calls

- 1.11 Ofcom has no plans to make any changes to the pricing and interconnect arrangements for 0845 calls of its own initiative over the next two years. Revenue sharing will continue to be supported on 0845 numbers, which are still heavily used for dial-up internet traffic. Ofcom intends to publish a further consultation document reviewing the arrangements for 0845 calls within two years of the publication date of this statement. That consultation document will review the case for restoring the geographic price link for 0845 calls and for removing 0845 calls from the scope of the NTS Condition. In particular, it will consider whether dial-up internet traffic volumes have fallen to a level, at which the benefits of making these changes are likely to exceed the associated costs. Ofcom would encourage interested parties to take account of the likelihood that, if these changes were to be introduced, revenue sharing would no longer be possible on the 0845 range.

¹ http://www.ofcom.org.uk/consult/condocs/narrowband_mkt_rvw/nwe/

² <http://www.ofcom.org.uk/consult/condocs/numberingreview/>

Extend premium rate services regulation to the 0871 numbers

- 1.12 Ofcom intends to extend the regulatory framework for premium rate services ('PRS') to include 0871 numbers. The Independent Committee for the Supervision of Standards of Telephone Information Services ('ICSTIS'), the regulatory body for PRS has agreed in principle to regulate 0871 numbers and Ofcom will modify the Premium Rate Services Condition ('the PRS Condition') to extend the definition of Controlled PRS to include the 0871 range so that Ofcom has backstop powers to support ICSTIS. The 0871 range will not be subject to the same level of regulation as the premium rate 09 number range. However, it will be subject to requirements designed to improve price transparency and to provide an appropriate level of consumer protection. Amongst other things, SPs using 0871 numbers will be required to include information about the price of calls in advertisements and on promotional material. In order to minimise the risk that consumers will be deterred from making 0871 calls by the association with more expensive 09 services, Ofcom will ask ICSTIS to consider the possibility of a distinct branding for 0871 regulation. ICSTIS will take the lead in developing regulatory proposals for the 0871 range and will consult on its plans before they are introduced. The intention is that the new regulatory provisions for the 0871 range will come into effect at the same time as the proposed changes for 0870 calls.

Extend PRS regulation to adult services currently provided on 08 numbers

- 1.13 Ofcom intends to amend the Plan to clarify that adult services should only be provided on the 0908 and 0909 number ranges. As a result of this clarification, adult services currently provided on 08 numbers will have to move to the designated 09 ranges, where they may continue to be provided at prices of less than 10 pence per minute. ICSTIS has agreed in principle to regulate these additional services. Ofcom intends to amend the PRS Condition to extend the definition of controlled PRS to include all adult services, regardless of price. This will extend Ofcom's backstop powers to support ICSTIS. Ofcom will introduce these changes before the end of 2006.

Use of 08 numbers by public bodies

- 1.14 As indicated in the September 2005 Consultation, Ofcom believes that public bodies should consider carefully whether it is appropriate to use 084 and 087 numbers in place of Freephone or ordinary geographic numbers. Ofcom believes that, at present, it is inappropriate for public bodies to use 084 or 087 numbers exclusively (i.e. without at a minimum giving equal prominence to a geographic alternative) when dealing with people on low incomes or other vulnerable groups. Once the geographic link has been restored for 0870 calls, consumer concerns are likely to ease in relation to 0870 numbers. Ofcom is also consulting, in the Numbering Review consultation, on a proposal to open up a new number range (the 03 range), for SPs who would like to use a non-geographic number but which do not require a revenue share. Ofcom believes that this new range, on which revenue sharing would be banned, would if introduced be well suited to meeting the requirements of many of the public bodies currently using 084 and 087 numbers.

Better visibility of NTS tariffs

- 1.15 The lack of pricing transparency and low level of price awareness has been a major cause of consumer concerns about NTS calls. As one of several measures aimed at tackling this issue, Ofcom intends to amend General Condition 14³ (which relates to Codes of Practice) to require all CPs to give greater prominence to NTS call prices on websites, published price lists and promotional material. This proposal is the subject of a separate Statement⁴.
- 1.16 As noted above, one of the aims of bringing 0871 calls within the remit of PRS regulation is to ensure that these numbers are subject to ICSTIS requirements in respect of pricing information. In addition, Ofcom has contributed to the Advertising Standards Authority ('ASA')/Committee on Advertising Practice ('CAP') guidance to advertisers on advertising NTS numbers. Ofcom will continue to work with ICSTIS and ASA/CAP on this issue.

The 0871 range

- 1.17 Ofcom does not intend to change the pricing and interconnect arrangements for 0871 calls at the present time. However, further consideration will be given in the Numbering Review to the possibility of amending the Plan so that the price points selected by TCPs/SPs for 0871 calls apply not only to BT, but also to a wider range of fixed and possibly mobile CPs.

The 0844 range

- 1.18 Ofcom does not intend to change the pricing and interconnect arrangements for 0844 calls at the present time. However, further consideration will be given in the Numbering Review to the possibility of amending the Plan so that the price points selected by TCPs/SPs for 0844 calls apply not only to BT, but to a wider range of fixed and possibly mobile CPs.
- 1.19 Ofcom also intends to monitor complaints and other indicators to see if consumer concerns arise on the 0844 range so that appropriate measures to increase the level of consumer protection could be introduced if required.

Differences to proposals set out in the September 2005 Consultation

- 1.20 As noted above, the measures described above are broadly similar to the proposals set out in the September 2005 Consultation. The main differences concern:
- the duration of the interim period for 0870 calls;
 - price ceilings for 0870 calls during the interim period; and
 - price ceilings for 0845 calls over the next two years.
- 1.21 The nature of these changes and the reasons for making them are as follows.

³ General Condition 14, set out in Part 2 of the Schedule to the Notification setting general conditions under section 45 of the Communications Act 2003, published by the Director General of Telecommunications on 22 July 2003, as amended

⁴ http://www.ofcom.org.uk/consult/condocs/nts_info/statement

The duration of the interim period for 0870

- 1.22 In the September 2005 Consultation, Ofcom proposed to restore the geographic link for 0870 calls and remove 0870 calls from the scope of the NTS Condition after a 12-month interim period. Following the consultation, Ofcom now proposes that the interim period should be for 18 months from the date of publication of the Statement on the Numbering Review.
- 1.23 Ofcom is aware that a number of respondents, especially consumers, will be opposed to this extension of the interim period. In Ofcom's view, however, it is justified for the following reasons:
- A significant number of SPs are likely to want to move from an 0870 number to a number on a different range, in order to be able to continue revenue sharing. The capacity of some of the alternative ranges, however, may be at or close to exhaustion, by the time the changes come into effect. Ofcom will therefore need to open up new revenue sharing ranges to accommodate the likely demand for numbers from those wishing to move away from 0870. This issue is being considered as part of the Numbering Review, which is due to be completed in July 2006. It will be difficult for those wishing to move away from the 0870 range to do very much planning until they know which ranges will be available for them to move to, and the new number ranges are available for allocation. In Ofcom's view, therefore, it is appropriate for the interim period to begin from the date on which the Numbering Review Statement is published.
 - Information provided by a number of SPs indicated the lead-time for the production of marketing material such as catalogues and brochures can in some cases be 12-18 months. In order to avoid any unnecessary migration costs, Ofcom considers it reasonable to allow SPs 18 months to plan for the likely end of revenue sharing on the 0870 range.
 - A number of CPs, resellers and SPs also emphasised that a large number of commercial agreements will need to be renegotiated in the light of the changes proposed for 0870. Ofcom accepts that this is the case, and considers that a longer interim period will be useful in providing more time for this process to be satisfactorily completed.

Price ceilings for 0870 calls during the interim period

- 1.24 In the September 2005 Consultation, it was proposed that during the interim period the designation of 0870 numbers in the Plan would be amended so that the current prices from BT lines would be decoupled from the standard rates for geographic calls and replaced with designations that reflect the current prices. This would in effect have placed a ceiling on 0870 prices from BT lines, ensuring that they did not go up in nominal terms during the interim period. BT also offered to provide a voluntary undertaking to the effect that it would not reduce the rates paid to TCPs for 0870 call termination during the interim period.
- 1.25 Ofcom no longer proposes to apply these measures, for the following reasons:
- We do not believe that it is necessary to impose price ceilings in the manner proposed, because BT's standard rates for geographic calls have been on a downward trend for many years, and are subject to competitive pressures in the retail market, which are likely to ensure that this trend continues. Decoupling the 0870 designations from the standard geographic rates could have reduced the competitive pressure on 0870 call prices and resulted in 0870 charges being

higher than would otherwise have been the case. This would not have been in the interests of consumers.

- Industry respondents indicated that they attached little value to BT's undertaking, primarily because of its voluntary nature. The proposed approach therefore promised to provide little perceived benefit in terms of greater revenue certainty for TCPs.

Price ceilings for 0845 during the two-year review period

- 1.26 The measures proposed for 0845 were similar to those described above in relation to 0870. The only difference was that, in its draft undertaking, BT indicated that it would review the factors used in calculating the termination rates for 0845 calls half way through the two-year review period.
- 1.27 Ofcom no longer proposes to apply the proposed measures, for the reasons given above in relation to 0870 calls.

Responses to the September 2005 Consultation

- 1.28 Ofcom received 1308 responses to the September 2005 Consultation. The main arguments raised and Ofcom's responses to them are summarised below. The points raised are covered in more detail in sections 3, and 4, and in Annexes 1 and 2.

Consumers

- 1.29 1207 responses were received from consumers. These revealed very strong support for the proposal to restore the link between 0870 and geographic call charges, principally so that 0870 calls would be included in call packages.
- 1.30 Consumers' views were divided on the subject of revenue sharing on the 08 range, with some regarding it as a form of deception and others being neutral on the subject or supporting the availability of revenue shares, provided the consumer was given good value for money. This diversity of opinion is consistent with the results of the market research undertaken by Ofcom in 2005, which were described in the September 2005 Consultation⁵. In Ofcom's view, the proposed package of measures strikes a reasonable balance, as regulatory support for revenue sharing will be removed on the 0870 range, and probably in due course on 0845, but there will continue to be scope for revenue sharing, accompanied by an appropriate level of consumer protection, on other 08 number ranges.
- 1.31 Consumers were also divided in their views on call price pre-announcements, with some seeing them as a useful way of providing price transparency and others being opposed to their use. In particular, there was marked opposition to the proposed pre-announcement option for 0870 calls, consumers seeing this as a loophole that would allow CPs to continue charging more for 0870 calls than for geographic calls. Ofcom does not consider the pre-announcement option to be a 'loophole'. The main purpose of restoring the link to geographic call charges is to improve transparency,

⁵ Ofcom published its research in the document entitled Number Translation Services: A Way Forward - A report of the key findings of two research studies conducted by HI Europe and MORI on behalf of Ofcom. http://www.ofcom.org.uk/consult/condocs/nts_forward/ntspsc.pdf. Also see paragraphs 5.23 and A6.28 in the September 2005 Consultation.

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rather than to reduce the price of calls, although improved transparency could well lead to lower prices as a result of more effective competition. Ofcom remains of the view that free-to-caller pre-announcements would provide a reasonable degree of price transparency and that this option should be available to OCPs who wish to charge more for 0870 calls than for geographic calls.

- 1.32 There was a very strong desire among consumers for 08 call charges to be more straightforward and transparent. For many, this is linked to the desire for 0870 calls to be included in call packages, and to the view that 0870 calls should cost no more than geographic calls.
- 1.33 Consumers tended to agree that PRS regulation should be extended to cover 0871 calls, though many thought this could be achieved by requiring SPs to move their services from 0871 numbers to the 09 range. In effect, this would mean closing down the 0871 range. Ofcom does not consider that it would be proportionate to take this course of action, as it is not clear that there would be any significant benefits in terms of improved price transparency, and the associated costs of migration would be considerable.
- 1.34 A number of consumers felt that Ofcom should take the same action on 0845 as was proposed for 0870. Ofcom can see the arguments for restoring the geographic link and removing the 0845 range from the scope of the NTS Condition but believes that these measures would be premature. As around 85% of call minutes to 0845 numbers is still accounted for by dial-up internet services, all of which would have to move to other ranges if revenue sharing ceased, the benefits of restoring the geographic link would be limited and the associated migration costs would be relatively high. In Ofcom's view, this option should be reviewed again in two years' time.
- 1.35 Some consumers felt that Ofcom's proposals did not go far enough in addressing their concerns about the use of NTS numbers by public bodies, arguing for example that such bodies should be required to use geographic numbers. Ofcom does not consider that it has sufficient grounds to justify preventing public bodies using revenue sharing NTS numbers. It does, however, believe that its proposal to open up the 03 range for services, which do not require a revenue share, could help to address consumer concerns, as this range could provide a suitable home for many public services. Ofcom is consulting separately on this proposal in the Numbering Review consultation.
- 1.36 Some consumers were concerned about call waiting times, and about having to pay twice for customer service e.g. they should not have to pay a higher call charge to complain about the shortcomings of a product or service they have already paid for. Whilst Ofcom has some sympathy with this view, it is not Ofcom's role to dictate how businesses in sectors of the economy unrelated to communications may charge their customers. However, Ofcom does have a role in seeking to ensure that there is an adequate level of price transparency, particularly in relation to revenue sharing calls, and an appropriate level of consumer protection. Many of the proposed measures are designed to achieve these objectives.
- 1.37 Consumers were generally very supportive of the proposal to extend PRS regulation to adult services currently provided on 08 numbers.

Communications providers, resellers and service providers

- 1.38 For the most part, CPs, resellers and SPs were very strongly opposed to the proposals set out in the September 2005 Consultation, and particularly to the proposed restoration of the geographic link and the removal of 0870 calls from the scope of the NTS Condition.
- 1.39 For TCPs, the proposals for 0870 were seen as an over-reaction to the concerns of a minority of consumers, which would damage unnecessarily a very successful industry, and reduce the service levels provided to consumers. UKCTA, which represents many of the larger CPs (other than BT) argued that Ofcom should intervene to regulate the retail price of 0870 calls made from BT lines in order to stabilise termination payments. Ofcom rejected this proposal in the September 2005 Consultation, on the grounds that it would be inconsistent with Ofcom's commitment to use the least intrusive mechanism available for achieving its objectives.
- 1.40 In support of its response, UKCTA commissioned an assessment of Ofcom's proposals by economic consultancy Indepen, which concluded that additional benefits could be achieved if the approach proposed by UKCTA was followed. Ofcom does not accept the findings of the Indepen report, principally because they depend critically on Ofcom regulating BT's prices for 0870 calls. As noted above, Ofcom does not believe this approach would be consistent with its regulatory principles.
- 1.41 For a number of OCPs, the proposal to extend the 0870 pricing convention in the Plan so that it applies to all CPs would amount to unjustifiable price regulation of non-dominant firms, and would be an unwarranted extension of regulation. Ofcom rejects this view. In Ofcom's opinion, the proposals are consistent with Ofcom's statutory duty to promote consumer interests, and with the role of the Plan in providing transparency to consumers regarding the services available on different number ranges.
- 1.42 In contrast to the other CPs, BT was broadly supportive of the proposals, and particularly of the proposal to restore the geographic link and remove 0870 calls from the scope of the NTS Condition. It was concerned that the delay in taking action on 0845 calls would create market uncertainty, which could be damaging to both the industry and consumers. Ofcom accepts that the uncertainty over the future of the 0845 is undesirable, but believes that it has given as clear an indication of its future plans as would be appropriate at the present time.
- 1.43 One respondent – Flextel – put forward a detailed proposal for a price labelling system, under which consumers could find out the price of any call in advance, by dialling a 3-digit prefix followed by the number they wish to call. Ofcom considers that this proposal has some merits, and may warrant further consideration as a means of improving price transparency for all types of call (not just NTS). In the context of NTS, however, Ofcom has considerable doubts about the extent to which consumers would actually use such a service, and does not believe that it would be a more effective way of providing transparency than the measures proposed in the September 2005 Consultation.
- 1.44 A number of resellers oppose the proposals because of the damaging effect they could have on their businesses, and on their customers. Ofcom recognises that its proposals will indeed have a very disruptive effect on a small number of businesses that depend heavily on revenues from the provision of inbound 0870 services. However, Ofcom remains of the view that, as it is the recipient of the call (the SP)

who decides whether or not to purchase inbound call management services, it is not unreasonable that the same party should also be responsible for paying for the services they have opted to receive. Ofcom has also estimated that the scale of the impact on resellers is unlikely to be sufficient to alter the balance of costs and benefits that will flow from the implementation of the proposals – the benefits are still likely to outweigh the costs.

- 1.45 A number of SPs also refer to the disruption that Ofcom's proposals will cause, with several arguing that Ofcom has severely under-estimated the costs of number migration that will flow from its proposals for 0870. Ofcom has reviewed its migration costs estimates in the light of these responses, and made some amendments where they have been justified (details are set out in Annex 5). However, the resulting estimates still support the changes proposed for the 0870 range.
- 1.46 Several resellers and SPs expressed their concern that the 0871 range was not an adequate alternative to 0870 for those who want to continue revenue sharing, partly because international access is more restricted and partly because they believed that consumers are more wary of calling 0871 numbers. There was concern that consumer confidence in 0871 numbers would decline still further if 0871 were labelled as a premium rate range. Ofcom recognises that international access is more limited for 0871 than 0870, but the impact of this is small as only a very small proportion of 0870 traffic originates overseas, and Ofcom has begun talks with some CPs about improving 0871 access. In order to avoid possible negative associations with PRS calls, Ofcom will ask ICSTIS to consider branding the regulation of 0871 separately from existing PRS regulation.

Other respondents

- 1.47 Responses were received from a variety of other organisations, including other regulatory bodies and several not-for-profit organisations. The views expressed varied widely and a number of the comments made have been referred to above.
- 1.48 The Ofcom Consumer Panel ('the Panel') believed that Ofcom should make improving pricing transparency the primary objective of its proposals. While supporting the proposal to restore the link between 0870 and geographic call charges, the Panel felt that Ofcom should go further, by requiring all OCPs to provide price pre-announcements for 08 calls, or restricting revenue sharing to the 09 range. The Ofcom Advisory Committee for England also felt that revenue sharing should be restricted to 09 numbers. Ofcom remains of the view that a general requirement to provide price pre-announcements would be disproportionate, and that the costs of confining revenue sharing to the 09 range, in terms of migration costs and reduced service availability, would outweigh the prospective benefits.
- 1.49 ICSTIS indicated its agreement in principle to the extension of its remit to include 0871 calls, subject to detailed consideration of the scope of the regulation, the operational implications and the funding arrangements.
- 1.50 The Telephone Helplines Association ('the THA') expressed concern over the effect of the proposals on helplines, many of which currently use 0845 and 0870 numbers and depend to some extent on the revenue shares they receive. Ofcom intends to give further consideration to the possibility of opening up a new revenue sharing number range, specifically for use by not-for-profit organisations as part of the Numbering Review.

Relationship to the proposals in the Numbering Strategy Review

- 1.51 As noted above, one of the issues being considered in the Numbering Review is which number ranges should be opened up to accommodate future demand for revenue-sharing services. The conclusions reached on this issue will provide useful information for SPs who wish to move off from the 0870 range in order to continue revenue sharing. For this reason, the 18-month interim period for 0870 calls will not begin until the Numbering Review statement has been published.
- 1.52 In addition, the Numbering Review proposal to open up the 03 range for use by organisations not requiring a revenue share should help to address consumer concerns over the use made of NTS numbers by public bodies. The Numbering Review will also consider whether the pricing designations for 0844 and 0871 should apply to CPs other than BT, and whether a new revenue-sharing range should be opened up for use by not-for-profit organisations.
- 1.53 The Numbering Review consultation proposed that the 08 range should generally be used for revenue sharing services. Ofcom recognises that the measures proposed in this document for 0870 calls, which would almost certainly put an end to revenue sharing on this range, are not consistent with the broader Numbering Review vision. If similar measures were to be introduced for 0845 calls, they too would be out of step with that broader vision.
- 1.54 Ofcom does not consider that these inconsistencies undermine either the conclusions reached in relation to 0870 or the validity of the proposals set out in the Numbering Review consultation. In Ofcom's view, the measures proposed for 0870 are a balanced response to a specific set of issues, which have developed over the past decade. They are designed to address current problems on a legacy range, and can readily (if not neatly) sit alongside the broader vision of the Numbering Review.

Next steps

- 1.55 The main milestones involved in implementing these proposals are as follows:
- July 2006 – scheduled date for publication of Numbering Review Statement. The 18-month interim period for 0870 will then start. Ofcom's Numbering Unit will begin handling applications for number blocks on the new ranges.
 - 2006 – Ofcom will consult later this year on the changes to the Plan and the PRS Condition, which are required to extend PRS regulation to cover adult services currently provided on 08 numbers.
 - 2006/7: ICSTIS prepares for extension of its remit to 0871. This will include consultation with stakeholders on the arrangements for regulating 0871 numbers, including the new Code of Practice for the 0871 range. Ofcom will also consult on whether to approve the new Code.
 - 2007: Ofcom consults on changes to:
 - the Plan and General Condition 17 – to implement the changes proposed for 0870; and
 - the NTS Condition, so that it no longer applies to 0870 calls.
 - September 2007 – March 2008: Ofcom prepares further Consultation Document on arrangements for 0845.

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- January 2008: implementation of changes for 0870 and 0871.

Section 2

Introduction

- 2.1 On 28 September 2005, Ofcom published a consultation entitled Number Translation Services: A Way Forward ('the September 2005 Consultation') in which it proposed changes to the regulatory regime for Number Translation Services to address growing concerns amongst industry and consumer stakeholders about the operation of the current regime.
- 2.2 In this document, Ofcom reviews the responses to the September 2005 consultation and sets out its decision in relation to the proposals made in the September 2005 consultation.

The Proposals

- 2.3 The main proposals from the September 2005 Consultation are summarised below.
- 2.4 **Restore the geographic link for 0870 calls for calls from all OCPs:** following a 12-month interim period, Ofcom proposed to require that calls to 0870 numbers are charged at the same rate as inland calls to geographic numbers, from all OCPs (including payphones and mobile phones), unless a call pre-announcement is made informing the caller of the cost of the call. The requirement would apply on a customer-by-customer basis: that is, if a customer was on a particular call package, the rate applicable to geographic calls under that package would also apply for 0870 calls. These requirements would be introduced through an amendment to the designation of the 0870 number range in the Plan and an amendment to the General Conditions of Entitlement. It was expected that this proposal would lead to a significant reduction in 0870 call charges, and the extent of revenue sharing on this range.
- 2.5 **Remove 0870 from the scope of the NTS Condition:** if the geographic link was restored for 0870 calls, Ofcom was inclined to remove the 0870 number range from the scope of the NTS Condition at the same time. It is likely that this would lead to an end to revenue sharing on the 0870 range. However, Ofcom recognises that there are arguments for and against this measure, and asked for further input from stakeholders.
- 2.6 **Price ceilings during the 0870 interim period:** during the 12-month interim period, it was proposed that 0870 prices from BT lines should be de-coupled from the standard rates for national geographic calls and would be subject to price ceilings which would be set out in the designation in the Plan. The ceilings would be designed to ensure that retail prices do not rise in nominal terms during the interim period. BT also provided a voluntary undertaking aimed at providing TCPs with greater certainty over the level of termination payments during the interim period, should this option be adopted.
- 2.7 **Two-year interim period for 0845 calls:** for 0845 calls, Ofcom considered that the one off costs of restoring the geographic link outweighed the ongoing annual benefits at the present time, primarily because of the costs involved in migrating pay-as-you-go dial-up internet customers to another number range compared to the benefits that would be achieved. Ofcom therefore proposed a two-year interim period, during which price ceilings would apply to the designation of 0845 calls made from BT lines, in the manner described above in relation to the 12-month interim period for 0870

calls. BT's undertaking was also designed to increase the level of revenue certainty for TCPs during this period, should the proposal be accepted. Towards the end of the two-year interim period, Ofcom would revisit its assessment to see whether the volume of pay-as-you-go dial-up internet users had declined sufficiently to justify Ofcom restoring the geographic link.

- 2.8 **Extend PRS regulation to 0871 numbers:** Ofcom also proposed to extend the PRS regulatory regime to include 0871 calls after a one-year interim period to allow SPs to plan for the change. This was intended to provide a greater level of consumer protection in relation to those calls and, in particular, to ensure that such numbers would be subject to the ICSTIS Code and that Ofcom would have backstop powers in relation to 0871 calls, which include a number of provisions designed to protect consumers from harm. Amongst other things, it would mean that:
- internet diallers on the 0871 numbers would be subject to the ICSTIS Prior Permissions Regime for internet diallers; and
 - information on call prices would have to be displayed on promotional material for services using 0871 numbers.
- 2.9 This proposal would be the subject of a separate consultation and Ofcom sought initial views on this proposal in the September 2005 Consultation.
- 2.10 **Extend the PRS regulatory regime to adult services currently provided on 08 numbers:** Ofcom proposed to clarify that adult services should only be provided on the 0908 and 0909 ranges that are designated for adult services. This would require all adult services currently provided on 08 numbers to move to the 0908 and 0909 ranges. ICSTIS already regulates adult services provided on the 09 range regardless of price so it would not be necessary for ICSTIS to modify the ICSTIS Code. In addition, Ofcom would need to extend the definition of Controlled PRS, as set out in Ofcom's PRS Condition because that condition currently only relates to services above 10ppm or chat line services and would need to encompass all adult services regardless of price. This proposal would be the subject of a separate consultation and Ofcom sought initial views on these proposals in the September 2005 Consultation.
- 2.11 **CP obligations to provide NTS tariff information:** In Ofcom's view, the lack of pricing transparency and low level of price awareness has been a major contributory factor to consumer concerns over NTS calls. As one of several measures aimed at tackling this issue, Ofcom separately proposed to amend General Condition 14 to require OCPs to give greater prominence to NTS prices on price lists, on websites and promotional material. This proposal was set out in a separate consultation *Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services*, published on 28 September 2005⁶.
- 2.12 **Continued support for the ASA/CAP advertising guidance:** Ofcom proposed to continue its support for the ASA/CAP guidance to prevent misleading advertising of 0845 and 0870 services.
- 2.13 **Call centre waiting times:** Ofcom's research did not produce any evidence that revenue sharing has led to call centre waiting being artificially extended. Ofcom did

⁶ http://www.ofcom.org.uk/consult/condocs/nts_info/

not therefore propose to restrict the availability of revenue sharing to call centres or to regulate call centre waiting times. However, Ofcom noted that the ICSTIS Code includes an undue delay provision, which could potentially be used to tackle unreasonably long waiting times on the ranges covered.

- 2.14 **Continued support for public authorities:** Ofcom considered that responsibility for the use made of NTS numbers to provide access to public services lies with the public authorities concerned. Ofcom has been active in providing advice to the Central Office of Information ('COI'), and to Government departments, on the use of NTS numbers, and stated that it would continue to provide that support. Ofcom also said it would like to see a greater level of compliance with the COI guidelines, given the level of public disquiet over this issue, and was keen to support the Government in achieving this objective. In addition, Ofcom planned to raise the issue of access to 08 numbers from overseas at the European Regulators Group.

Related activities

The Numbering Consultation

- 2.15 On 23 February 2006, Ofcom published the consultation *Telephone Numbering – Safeguarding the future of numbers* ('the Numbering Review'). The closing date for responses to the consultation is 4 May 2006. Ofcom hopes to publish a statement setting out its conclusions in July 2006.
- 2.16 The Numbering Review consultation is the result of Ofcom's strategic review of the UK's numbering resources. It considers how telephone numbers are used now, how they will be used in the future, and how Ofcom should manage them so that consumers get the maximum possible benefits.
- 2.17 The scope of the Numbering Review considers the future of all number ranges is much wider in scope than the September 2005 Consultation which considers a specific set of issues relating to numbers in the 08 range. However, the Numbering Review does consider the future of the 08 range both as part of the wider numbering context and also in more detail and proposes to simplify the meaning of both '08' and '09' numbers over time so that consumers can easily understand the price that they are paying and the service that they are receiving. A key finding of the Numbering Review is that several of the 08 ranges currently in use are likely to be exhausted in the medium term. The Numbering Review therefore considers how the extra capacity can be provided in a way that is consistent with the aim of simplifying the meaning of 08 numbers.
- 2.18 Specific proposals relating to the 08 range are:
- creation of a new type of number – starting with '03' - for those business and public services who require a national presence, but who do not wish to make an additional charge to consumers for contacting them; and
 - a new long-term approach to the 08 range whereby services would be described at the 2-digit level (e.g., 080, 081, 082) rather than the current 3-digit level (e.g., 0844, 0845). This would increase the capacity of each range by a factor of 10, so ensuring number availability for each service for the foreseeable future. Services would be allocated number ranges in order of price, from 080 to 089 (e.g., 080 is free, 084 is under 5ppm, 087 is under 10ppm). This should significantly increase transparency for consumers.

- 2.19 As discussed in more detail in paragraph 4.16, that as a result of the proposal to repair the geographic linkage for 0870 calls and to withdraw the 0870 range from the scope of the NTS Condition, some SPs may wish to move their services to new numbers in alternative ranges that support price points and revenue sharing on similar terms to those currently provided by 0870 numbers or move to the new non revenue sharing 03 range proposed. SPs will not be able to make fully informed decisions about whether or not to move to a new number and if so in which range until the Numbering Review consultation is completed. As discussed in paragraph 4.137, Ofcom has therefore proposed that the changes to the 0870 range should not be introduced until after the completion of the Numbering Review consultation.

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

- 2.20 As discussed in paragraph 2.11, Ofcom separately proposed to amend General Condition 14 to require OCPs to give greater prominence to NTS prices on price lists, on websites and promotional material. This proposal was set out in the consultation *Providing citizens and consumers with improved information about Number Translation Services and Premium Rate Services*, published on 28 September 2005. Ofcom published a policy statement on 19 April 2006 setting out its decision to implement the proposals with minor changes.

Dispute between BT and various communications providers about INCA/CLI

- 2.21 On 28 October 2004 Ofcom published an explanatory memorandum and final direction relating to the method used by BT to calculate its wholesale conveyance charges for NTS calls which originate on or transit the BT network for termination on NTS numbers of other CPs⁷. This final direction followed a draft direction on the same matter.
- 2.22 This Direction required that, by at the latest 28 February 2006, BT's pence per minute charge for NTS calls originated by BT or which transit BT's network shall be calculated using BT's Inter-Network Call Accounting ('INCA') billing system using Calling Line Identification ('CLI') ('INCA/CLI').
- 2.23 On 5 October 2005, BT issued an Operator Charge Change Notice ('OCCN') to CPs which contained details of CPs' call termination charges as a result of the required changes to the calculation of BT's pence per minute NTS call origination and NTS transit charges.
- 2.24 Certain CPs have either explicitly rejected BT's OCCN (on the basis that they do not accept that it is fair and reasonable to use the INCA/CLI methodology) or failed to respond to the OCCN, and are therefore in dispute with BT on this matter.
- 2.25 Ofcom decided to accept the dispute and opened the case on 27 February 2006⁸.
- 2.26 The scope of the dispute is to determine whether it is fair and reasonable for BT to set its charges for NTS calls originated by BT or which transit BT's network using INCA/CLI.

⁷ http://www.ofcom.org.uk/consult/condocs/inca_cli_nts/final_dec/

⁸ http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_ocases/open_all/cw_892/

- 2.27 If Ofcom determines that it is fair and reasonable for BT to set its charges for NTS calls originated by BT or which transit BT's network using INCA/CLI, Ofcom will decide what action is necessary. This may include requiring the CPs that are in dispute with BT on this matter to sign BT's OCCN of 5 October 2005.

Section 3

Summary of consultation responses

- 3.1 Ofcom received a large number of responses to the September 2005 Consultation:
- 1207 from consumers and small businesses that do not use NTS numbers themselves;
 - The Ofcom Consumer Panel;
 - The Ofcom Advisory Committee for England;
 - 2 from other regulatory bodies;
 - 6 from not-for-profit organisations;
 - 52 from CPs; and
 - 39 from SPs (including ISPs) and business associations.
- 3.2 A further four responses that Ofcom considered to be obscene or racist have not been published or reviewed.
- 3.3 This section provides a summary of the responses received from each group of respondents mentioned above. A more detailed review of the responses together with Ofcom's comments is included in Annexes 1 and 2. The main issues raised by respondents are also covered in Section 4 where Ofcom reviews its proposals in the light of the comments received.
- 3.4 The names of all respondents that gave permission for their names to be disclosed are listed in Annex 3.
- 3.5 Some of the respondents gave Ofcom permission to publish their responses (either attributed or non-attributed) and these have been published on Ofcom's website at the following address:

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

Consumers, consumer groups and small businesses

Format of the Consultation

- 3.6 Several respondents felt the consultation was too complex and lengthy for members of the public to understand. Others commented that the consultation was difficult to locate on Ofcom's website and that the term Number Translation Services meant nothing to consumers and did not help them locate the document. It was suggested that Ofcom should use terms like '0870 numbers' that consumers would understand.

Concerns about NTS

- 3.7 Respondents had a range of concerns about NTS. These broadly echoed those of respondents to the October 2004 Consultation.
- 3.8 The area of greatest concern was NTS call charges. 10% of respondents were concerned about the price of NTS calls and 28% that NTS calls are excluded from

inclusive calls packages. Some respondents believed that SPs should provide a geographic number as an alternative to their NTS number so that callers could avoid paying the higher call charges associated with the NTS number or so that the call would be included in their inclusive-calls package.

- 3.9 Respondents were almost as concerned about long call centre waiting times and excessive use of automated menu options with 22% of respondents raising these issues in their responses.
- 3.10 Views were split on revenue sharing. Many seemed to equate it with higher call charges and saw revenue sharing as form of deception. Some believed that SPs should be obliged to tell customers if they received a share of the call revenue. Others thought that revenue sharing should either be restricted to 09 numbers or withdrawn completely. Other respondents were either neutral about revenue sharing or supported it provided that calls were charged at geographic rates.
- 3.11 Some respondents believed that only 'value-added' services should be allowed to use NTS numbers. In many cases services that are provided on NTS numbers were not perceived as value-added. Examples quoted included after-sales services and complaints.
- 3.12 Concerns were raised about pricing transparency and a quarter of respondents commented on the lack of visibility of NTS call charges. Some were concerned that the local rate and national rate terms were misleading and some felt the inclusive-calls packages offered by OCPs were misleading since they do not in fact include all call types. To address these concerns, some respondents felt that SPs should be required to quote their call charges in advertisements and others thought that price pre-announcements should be provided. Some argued that since NTS calls are being charged at premium rates (by which they meant more than geographic calls) that services should be restricted to the 09 range with other premium rate services. Others believed that the existence of revenue-sharing services on 08 numbers was in contradiction of the Plan and therefore Ofcom should bring an end to revenue sharing on the 08 range, forcing services to move to 09 numbers.
- 3.13 10% of respondents voiced concerns about the use of NTS numbers by public sectors organisations with most arguing that this should not be permitted.

Ofcom's proposals

- 3.14 There was strong support for the repair of the geographic linkage for 0870 calls and resultant inclusion of 0870 calls in inclusive call packages.
- 3.15 Respondents were divided about the proposal to allow OCPs to charge more than their geographic call charge provided a price pre-announcement is provided. Many respondents viewed this option as a loophole that should be removed. However, many respondents misunderstood the proposal and incorrectly believed that the decision to charge a higher rate would be taken by individual SPs rather than by OCPs.
- 3.16 Some respondents thought that Ofcom had not gone far enough and believed that proposals would be ineffective since SPs would simply migrate to other NTS ranges such as 0871. Some therefore believed that Ofcom should link the prices of all 08 calls to geographic rates or simply close down the whole 08 range. Some respondents also believed that the proposed delay before repairing the geographic linkage for 0870 calls was either unnecessary or too long. Some were concerned

that Ofcom had proposed to undertake a further review of the 0845 range in two years rather than repair the geographic linkage. Respondents who held this view typically did not agree with Ofcom's view that the potential disruption to pay-as-you-go internet subscribers warranted a further delay.

- 3.17 Others felt that Ofcom had been negligent in not protecting them from unscrupulous SPs (both private and public sector) that were forcing them to pay extra for ordinary telephone calls. Some held particularly strong views about public sector usage of 08 numbers and did not accept Ofcom's view that the decision to use NTS numbers should be a matter for the organisations concerned or that Ofcom does not have a sufficiently strong legal case to justify banning public sector organisations from using NTS numbers.
- 3.18 Some respondents (typically those who were opposed to revenue sharing for some or all services) believed that Ofcom should have taken action much earlier to address consumers' concerns.

The Ofcom Consumer Panel

- 3.19 The Panel believed that Ofcom should make improving pricing transparency the primary objective of its proposals. The Panel felt it was vital that consumers are provided with clear information about call charges so they can make informed decisions.
- 3.20 The Panel believed that Ofcom should reconsider its decision not to require all OCPs to provide price pre-announcements for all 08 calls. The Panel believed that Ofcom had only considered the cost to industry and had not taken into account the benefits to consumers.
- 3.21 The Panel supported the proposal to repair the geographic linkage for 0870 calls but thought that Ofcom should not give OCPs the option to charge higher prices provided a pre-announcement is provided. They noted Ofcom's comment that the cost of providing pre-announcements would be likely to deter OCPs from charging higher prices and could not understand why Ofcom had provided the option in that case.
- 3.22 The Panel supported the extension of the designations for the 0844 and 0871 ranges to CPs other than BT.
- 3.23 The Panel was concerned about the potential for consumer harm in the case of 'locked-in calls' i.e. cases where callers have little or no choice but to call a particular number. They noted that Ofcom's research showed that 40-50% of calls to 084 and 087 numbers are locked-in and felt that this proportion would increase. The Panel believed that revenue sharing is inappropriate in such cases.
- 3.24 The Panel believed that Ofcom should link the price of all 084 and 087 calls to geographic rates and restrict revenue sharing to the 09 range. They also felt that it would be sensible to make these changes without further delay.
- 3.25 The Panel was also concerned that Ofcom had not explained how ICSTIS would be funded for the additional workload associated with the extension of PRS regulation to the 0871 range and to all adult services regardless of price.
- 3.26 Concerning the use of NTS numbers by public sector bodies, the Panel acknowledged that Ofcom had limited powers to prevent public sector bodies from

using NTS numbers and that Ofcom had contributed to the COI best practice guidelines. However, they thought that Ofcom could do more to persuade public sector bodies not to use NTS numbers.

The Ofcom Advisory Committee for England

- 3.27 The Ofcom Advisory Committee for England ('the Committee') acknowledged that NTS numbers provide SPs with call routing services but saw the increasing use of 087 numbers in preference to 0845 numbers as evidence that SPs primary aim is to make additional revenues.
- 3.28 The Committee was concerned about the increasing use of 084 and 087 numbers by SPs in cases where consumers were locked-in (i.e. where consumers have little or no choice but to call a particular number) and the use of NTS numbers for services such as customer inquiries that the Committee considered were not bona fide uses of the micro-payment mechanism provided by NTS.
- 3.29 The Committee was also concerned that consumers are not well informed about NTS call charges and considered that the complex charging regime adopted for NTS numbers had caused consumers to be misinformed and confused. They also felt that certain CPs had taken advantage of the situation by offering misleading information on call charges for 084 and 087 numbers in order to maximise their commercial gain to the detriment of consumers.
- 3.30 The Committee noted that Ofcom's research showed that most consumers felt that NTS calls are reasonable value for money but felt Ofcom's research must be flawed since the Committee's experience was quite the opposite.
- 3.31 The Committee reminded Ofcom that its primary responsibility is to safeguard citizen-consumer interest as stipulated in section 3 of the Communications Act ('the Act') and were concerned that in its view, Ofcom had not so far taken any significant action to address consumers concerns about 08 numbers.
- 3.32 The Committee welcomed Ofcom's proposal to repair the geographic linkage for 0870 calls and asked Ofcom to consider further changes, namely:
- linking the charges for all 08 calls (apart from Freephone) to geographic charges and applying the requirement to all OCPs and to require that these calls be included in inclusive calls packages;
 - restricting all premium rate calls to the 09 range (where premium rate is defined as all charges higher than BT's geographic call charges);
 - provision of new 09 number ranges with price points up to 5p per minute under ICSTIS regulation so that services currently provided on 08 numbers could continue to operate; and
 - swift action to implement the changes in order to safeguard consumer interests.

Communications Providers

Policy Issues and objectives

- 3.33 Most respondents broadly agreed with Ofcom's description of the policy issues; however, there were concerns that Ofcom had overstated the magnitude of some problems and understated others. Most agreed there is a significant pricing transparency problem for NTS calls and many felt this was the main issue that

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Ofcom should address. Most also agreed that the linkage between 0845 and 0870 call charges and local and national geographic call charges had broken down and that the terms local rate and national rate might be misleading and should not be used to describe 0845 and 0870 calls.

- 3.34 Flextel argued that Ofcom's research indicates that the pricing transparency problem is much wider than NTS calls and extends to geographic and other call types. They argued that Ofcom should seek to address this wider problem rather than address NTS pricing transparency in isolation.
- 3.35 Many respondents felt that the evidence gathered by Ofcom showed that consumer concerns about revenue sharing are not widespread and some noted that the concerns were based on inaccurate price perceptions.
- 3.36 Most respondents felt that call centre waiting times are not a major problem (or are not made worse by the availability of revenue sharing) and some felt that the evidence gathered by Ofcom indicated there are not major consumer protection problems on 087 numbers.
- 3.37 Several respondents felt that the very high prices charged by some OCPs (particularly mobile operators) are a major problem since they are far in excess of the designations set out in the Plan.
- 3.38 Most respondents agreed with the policy objectives identified by Ofcom, however there was a widely held view that Ofcom's proposals indicated that Ofcom had given too much weight to some objectives and too little to others. The general view was that Ofcom had attached too much weight to the objective of improving consumer protection given the low levels of consumer detriment and too little weight to the objective of promoting a range and choice of services given the level of disruption that the proposals might cause. As previously noted, many CPs felt the lack of pricing transparency is the most serious problem and therefore measures to improve it should be given the strongest weighting. A number of CPs felt that Ofcom's policy objectives didn't consider the interests of the industry (particularly in relation to the objective of reducing industry disputes) and didn't take account of the potential impact of the proposals on CPs, resellers and SPs. UKCTA felt that Ofcom had given too much emphasis to reducing regulatory intervention and noted that reduced intervention does not always result in the best outcome for consumers
- 3.39 BT felt that Ofcom had given undue weight to reducing transitional disruption and felt that some disruption, particularly to pay-as-you-go internet services, would be justified in order to achieve a better long-term solution. BT also felt that some of the current problems with NTS are unintended consequences of the regulatory regime rather than market failures and cautioned that further intervention might also have unintended consequences. BT's view was that Ofcom should seek to unwind the current regulatory regime in the hope of reducing the number of regulatory disputes.
- 3.40 A number of CPs felt that Ofcom had given too little weight to the transitional disruption that the proposals would cause.

Proposals

- 3.41 BT gave its qualified support to the proposals but the other 18 respondents that answered this question disagreed that the proposals performed best against the evaluation criteria and believed they should not be implemented. Many believed that

the proposals were not evidence based, cost effective or proportionate. There was however support for various elements of the package of proposals.

- 3.42 BT strongly supported Ofcom's proposals for the 0870 range but was critical of the uncertainty that they will engender for the 0845 range and urged Ofcom to do more to clarify the future for this range. BT opposed Ofcom's interim arrangements for 0870 and 0845 and believed they would have the opposite effect to that intended and would undermine BT's voluntary undertaking on termination payment stability. BT also urged Ofcom to ensure that PRS regulation on the 0871 range is proportionate to the problems that exist.
- 3.43 None of the other respondents supported Ofcom's proposals for the 0870 range. Most believed that they would be highly disruptive for CPs, resellers and SPs and were a disproportionate response to the problems identified. UKCTA believed the measures would only be partially effective in improving consumer price awareness since consumers' perception of national call charges is much higher than actual call charges. UKCTA also believed that the long drawn out process of implementing the proposals would increase rather than decrease consumer confusion as would the fact that callers would pay a range of prices for 0870 calls depending on their OCP and call package.
- 3.44 UKCTA, its members, Indepen and other respondents were critical of Ofcom's research and its impact assessment. UKCTA and its members commissioned a report by economic consultancy Indepen to demonstrate that their preferred approach would generate £1.4 billion pounds more economic benefit for UK businesses and consumers over the next 5 years than Ofcom's proposals. Some respondents felt that Ofcom had underestimated the level of migration of SPs to new numbers that would result from the proposals and the costs that SPs would incur. Indepen believed that Ofcom should include the costs incurred by consumers as a result of service migration in its impact assessment and provided its own estimates of the cost of misdialled calls and reconfiguration of personal computers.
- 3.45 UKCTA and its members preferred approach was for 0845 and 0870 call charges to be decoupled from BT's geographic call charges and for Ofcom to set single price points for the ranges.
- 3.46 Flextel put forward a detailed proposal for a system designed to improve pricing transparency for all numbers (not just 08 numbers). The solution dubbed 'price labelling' would involve Ofcom requiring all OCPs to provide their customers with a price announcement service that would be accessible via the same 3-digit short code on all networks. Callers would simply dial the 3-digit code followed by a telephone number and receive an announcement stating the call price.
- 3.47 There was no support for repairing the geographic linkage for 0845 calls in two years time. Many respondents believed it would be a disproportionate response to the problem and many were also concerned that the prospect of a review would create considerable uncertainty that would be damaging for the industry.
- 3.48 There was limited support for restricting the availability of revenue sharing to SPs. Sesui believed that the NTS Condition should be maintained but TCPs should be prevented from sharing revenue with SPs so that call revenues could only be used to fund value added network services. Flextel also believed the NTS Condition should be maintained and favoured the restriction of revenue sharing to the 09 range.

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- 3.49 Most respondents supported the consumer protection proposal to extend PRS regulation to adult services currently provided on 08 numbers and there was qualified support for the proposal to extend PRS regulation to 0871 numbers. However, some respondents were concerned that consumers would become wary of calling 0871 numbers because of the association with premium rate services that ICSTIS regulation would bring. The Intelligent Network Working Group (INWG) was particularly concerned about this effect and was worried that consumers would become wary of the whole 08 range. The INWG was also concerned that this effect would have a knock-on impact on the viability of the government's Transformational Government Strategy, which seeks to increase the use of the telephone as a channel for access to public sector services.
- 3.50 There was little support for extending the scope of the designations for 0844 and 0871 beyond BT to other OCPs, although some respondents acknowledged the potential pricing transparency benefits. Some providers believed that it would amount to retail price regulation of non-dominant OCPs and others were concerned they would be unable to recover their costs of origination without significant changes to the interconnection and billing arrangements for NTS. Telewest believed that the best approach would be for Ofcom to require BT to modify its NTS interconnection and billing systems to support originator specific termination charges for NTS transit calls.
- 3.51 Vodafone did not support the repair of the linkage to geographic charges for 0870 calls or the removal of the 0870 range from the scope of the NTS Condition and argued that repairing the linkage would amount to ex-ante price regulation of CPs without a finding of SMP in contravention of the European Directives. They believed that Ofcom should extend retail price competition on the 0845 and 0870 ranges by applying the same arrangements as applied to 0844 and 0871.

Resellers

Policy issues and objectives

- 3.52 Three resellers agreed with the policy issues identified by Ofcom and five disagreed. Two did not state why they disagreed. Windsor Telecom felt that the policy issues had been blown up out of all proportion by left wing media reports.
- 3.53 Three resellers disagreed with Ofcom's policy objectives and/or its proposals because of the potential impact on resellers and SPs.

The proposals

- 3.54 None of the resellers agreed that the proposals performed best against the evaluation criteria. None of the respondents agreed with the proposal to re-establish the geographic linkage for 0870 calls or to remove the 0870 range from the scope of the NTS Condition. Only one respondent supported the proposal to extend PRS regulation to the 0871 range and only Elitetele.com supported the proposal to extend PRS regulation to all adult services.
- 3.55 Several respondents noted that they would have to change their business model and start charging SPs for NTS services if the proposals are implemented. They were concerned about the potential impact on their businesses resulting from the loss of call revenue and the disruption associated with the changes. There was a widespread view that Ofcom had not fully taken the impact on resellers into account in its impact assessment.

- 3.56 Many respondents were concerned about the impact on their customers and several noted that some SPs relied on the NTS charging mechanism to fund (either partially or wholly) the cost of the NTS services or to provide a revenue share. Some respondents felt that Ofcom had underestimated the proportion of SPs that would migrate to new ranges as a result of the proposals. Elitetele.com felt that Ofcom's research with SPs was flawed because when Ofcom asked a sample of SPs whether they would move their services to a new number as a result of Ofcom's proposals it had failed to inform them that as a result they would have to pay for hosting services and that 0844 and 0871 numbers can not be accessed from abroad.
- 3.57 Most providers felt the proposals would have a severe financial impact on their businesses and several noted that the reseller community tends to specialise in services provided on 08 numbers and is therefore much more at risk from the proposals than most CPs who have other sources of income. Several respondents stated that the proposals might put their company or other resellers out of business and several also thought that there would be significant job losses in the industry.
- 3.58 Greystone Telecom believed that Ofcom's quantitative consumer research was seriously flawed and could not therefore be relied on.

Service Providers

Policy issues and objectives

- 3.59 Five SPs agreed with Ofcom's description of the policy issues and its policy objectives.
- 3.60 Most respondents agreed there is a lack of pricing transparency and most also agreed that SPs should not use the terms local rate or national rate to advertise 0845 or 0870 call charges.
- 3.61 One confidential respondent, an ISP, agreed with Ofcom's description of the policy issues and its policy objectives in relation the 0845 range but not the 0870 range, believing that the 0870 proposals would be replicated on the 0845 range when reviewed in two years' time.

The proposals

- 3.62 Most respondents disagreed with Ofcom's proposal to re-establish the geographic linkage for 0870 calls. Four agreed with the proposal to extend PRS regulation to 0871 numbers and four agreed with the proposal to extend PRS regulation to all adult services. Most respondents would like to see greater clarity about the future of the 0845 range.
- 3.63 Most respondents believed that OCPs should be required to publish their charges more prominently and accessibly. Some respondents said they would like to advertise their call charges but felt that the variation in retail prices between OCPs hindered their ability to do this. Some therefore suggested that Ofcom should extend the scope of the designations in the Plan for 0845 and 0870 to all OCPs. However, most respondents were not in favour of a requirement to pre-announce call charges.
- 3.64 There was concern that if revenue sharing on the 0870 range is abolished then many companies would move to more expensive numbers (partly to cover the cost of migration) thereby resulting in higher costs for consumers.

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- 3.65 Most respondents supported Ofcom's proposal to extend PRS regulation to 0871 numbers and all respondents agreed that adult services should be confined to the 09 range. Some respondents also believed that revenue sharing should be restricted to the 09 range.
- 3.66 Many respondents expressed concern about the cost of migrating their services to an alternative number. There was also concern that an end to revenue sharing would result in reduced service levels, job losses and the relocation of contact centres overseas. ISPs were concerned about the migration costs for pay-as-you-go internet services. Some respondents were concerned about existing contractual relationships with TCPs.
- 3.67 Most respondents believed that a twelve-month notice period is too short and would cause them to incur additional costs that could be avoided with a longer notice period. Some respondents believed that they would not have used up their current stocks of brochures and other promotional material within a year. Others were concerned twelve months would be insufficient for them to change their numbers in telephone directories should they decide to migrate to a new number.

Other Regulatory Bodies

Policy issues and objectives

- 3.68 Norfolk Trading Standards broadly agreed with Ofcom's description of the policy issues. It raised two additional points relating to misleading advertising:
- firstly it noted that some advertisers were using the 'local rate' and 'national rate' terms in advertisements for 0844 and 0871 numbers and therefore believed that the problem of misleading advertising is wider than Ofcom had indicated; and
 - secondly it believed that the practice of quoting BT's charges in advertisements is misleading since other OCPs may charge higher prices.

The proposals

- 3.69 ICSTIS agreed in principle to an extension of its remit to cover 0871 numbers, subject to detailed consideration of which provisions of its code of practice should be applied to 0871 calls, the operational impacts and the funding regime to cover the additional costs and proposed that the funding scheme should follow the "polluter pays" principle.
- 3.70 ICSTIS also supported the proposal to extend PRS regulation to all adult services regardless of price.
- 3.71 Norfolk Trading Standards considered that the practice of stating BT's prices in advertisements with a caveat that other providers rates may vary, provides no information to customers of other OCPs and could be misleading. It argued that the restoration of an enforceable link to geographic tariffs for all OCPs, including payphone and mobile, would make it easier to give meaningful and accurate price indications. They supported Ofcom's proposals for the restoration of such a link for 0870 within the timescale proposed, and for 0845 sooner rather than later. They also supported measures to require OCPs to publish their charges more prominently.
- 3.72 Norfolk Trading Standards supported the extension of the scope of the designations to all OCPs since accurate price indications could then be given by advertisers. It

also supported Ofcom's proposal for requiring OCPs to publish their charges more prominently and in a more accessible manner.

Not-for-profit organisations

Policy issues and objectives

- 3.73 The THA and the Royal Society for the Prevention of Cruelty to Animals ('the RSPCA') agreed with Ofcom's description of the policy issues and Ofcom's policy objectives.
- 3.74 TAG and the Royal National Institute for Deaf People (the RNID) believed that Ofcom should ensure that the proposals do not disadvantage deaf and hard of hearing people. In particular, they were concerned that voice pre-announcements would not be suitable for deaf and hard of hearing people.
- 3.75 The Citizens Advice Bureau ('the CAB') welcomed Ofcom's policy review and believed that there is a lack of consumer awareness of call prices for 08 numbers and therefore welcomed any measures to improve public awareness and knowledge.
- 3.76 The THA made the point that 165 UK voice helplines operated on the 0845 range and considered that 0845 offered a reasonable compromise for callers and helplines, particularly where the itemisation of calls on bills was less of an issue. Therefore, the THA stated that they would have concerns about any increase in charges to SPs because of the proposal.

The proposals

- 3.77 The CAB and The RSPCA were concerned about the financial impact of Ofcom's proposals on their own services. The CAB thought that some of its bureaux (which use 0870 numbers) would have to withdraw their telephone information services and the RSPCA thought it might have to move its service to a new number.
- 3.78 The THA had reservations about the restoration of the geographic linkage for 0870 calls because it would reduce the revenues of some not-for-profit helplines that depend on the revenue.
- 3.79 On balance the CAB supported the proposals to restore the geographic linkage for 0870 calls, to remove 0870 from the scope of the NTS Condition and to extend the scope of the designations beyond BT.
- 3.80 The RSPCA opposed the removal of the 0870 range from the scope of the NTS Condition since it would result in a loss of revenue for them. However, it supported the extension of the scope of the designations to OCPs other than BT and stated that if as a result of Ofcom's proposals, it decided to move to an 0871 number this measure would help it to advise callers of the price of calls.
- 3.81 One respondent agreed with Ofcom's proposal to extend PRS regulation to 0871 numbers, while two respondents, the RSPCA and the CAB, disagreed. The RSPCA believed that if it were forced to move to 0871 and be subject to a "premium rate" tag, this would put some members off reporting animal cruelty.
- 3.82 The CAB saw no merit in retaining the use of 0871 numbers and thought that services should be required to use the 09 range in order to reduce public confusion. In which case PRS regulation would automatically apply.

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- 3.83 TAG and Royal National Institute for Deaf People were concerned with pre-announcements for hard of hearing users who might not pick up announcement at the start of a call and text users that would not be aware of a voice announcement unless there was a text equivalent.
- 3.84 The THA thought there was a case for publicising geographic alternatives to 0845 and 0870 numbers provided the requirement excluded charities. THA believed that there was a strong case for a further option – a revenue-share number range dedicated to charities, where the caller would be informed with a free pre-announcement how much the call will cost to them and would also be made aware that a contribution of the cost would go to support the charity they are using. The THA thought they would be well placed to play a role in co-ordinating a ‘donate-as-you-talk’ range in the same way as they had done with the 0808 80- range.
- 3.85 The THA supported any moves to increase the availability of NTS tariff information and agreed that all CPs, whether fixed-line, mobile or internet telephony, should be encouraged to make prominent the cost of calling all types of NTS numbers, including 0800/0808.
- 3.86 The CAB believed that a number of public bodies had been using revenue sharing NTS numbers inappropriately particularly when dealing with low income or vulnerable consumers (such bodies includes local authorities and health services including local doctor's surgeries).
- 3.87 The Intelligent Network Working Group (INWG) was concerned that Ofcom's proposals would significantly harm the Transformational Government Strategy, which envisions a decisive move away from the traditional form-filling and face-face approach to interaction between citizens and the government and sets out a vision for 21st century government enabled by technology.

Section 4

Review of proposals

4.1 In this section, we review the proposals set out in the September 2005 Consultation in the light of the responses we have received, and describe the conclusions we have reached. Consideration is given in turn to each of the proposals set out in the Executive Summary of the September 2005 Consultation. Additional comments on points made by respondents are given in Annexes 1 and 2.

Impact Assessment

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

4.3 The September 2005 Consultation contained Ofcom's IA for its proposals, which Ofcom has reviewed its IA in light of the responses to the consultation. As discussed in this section, Ofcom has revised certain aspects of its IA in the light of the responses and has also revised certain aspects of its proposals.

4.4 The analysis presented in this section, when read in conjunction with the rest of this document and the September 2005 Consultation represents Ofcom's final IA for the proposals as defined in section 7 of the Act.

4.5 In accordance with section 7 of the Act, in producing the IA, Ofcom has had regard to such general guidance as it considers appropriate, including related Cabinet Office Guidelines.

Re-establishing the linkage to geographic call charges for 0870 calls

The proposal

4.6 Under this proposal, the Plan would be amended to establish the convention that calls to 0870 numbers should in general be charged for in the same way as national calls to geographic numbers in the UK. It was also proposed that CPs would be able to depart from this convention, but only if they included a free-to-caller price announcement at the start of the call. Issues related to the price pre-announcement proposal are considered in the next sub-section.

4.7 It was proposed that the convention linking 0870 and geographic call charging would apply to all OCPs regardless of the type of network used to make the call. So, for example, an 0870 call from a mobile phone or a payphone would be charged on the same basis as national calls to a UK geographic number, made from the same phone.

4.8 The proposal would also mean that 0870 calls would be included in call packages. So for example, if a call package has no additional charges for calls up to an hour at evenings and weekends, this would apply to 0870 calls, as well as for calls to geographic numbers.

- 4.9 This would not mean that the call prices of different OCPs would be the same. Each OCP would be free to set its own charges for geographic and 0870 calls. They would, however, be required to comply with the convention that 0870 calls must be charged on the same basis as national calls to geographic numbers unless a price pre-announcement is provided.
- 4.10 Many OCPs charge all calls to geographic numbers at the same rate and make no distinction between “national” and “local” calls. In this situation, the proposal would mean that 0870 calls have to be charged on the same basis as calls to all UK geographic numbers.
- 4.11 We described this proposal as ‘restoring the geographic link’ because since the introduction of the NTS regime in 1996, the retail price of 0870 calls for BT customers has been linked to BT’s standard retail call charges, net of applicable discounts for national calls to geographic numbers. However, the link has broken down because very few BT customers now pay the standard rates for geographic calls. Most of BT’s residential customers, for example, are now on one of the BT Together call packages where geographic calls cost less than the standard rates and many other providers have lower rates for geographic calls than 0845 and 0870 calls. The aim of the proposal was to restore the link, by ensuring that 0870 prices were the same as the geographic call charges that consumers actually pay.
- 4.12 The main benefit of the proposal is that it would improve tariff transparency and consumer price awareness. Our research had shown that most consumers have little awareness of how much they are charged for 0870 calls. This is partly because the link to geographic charges has broken down, as described above, and partly because it only ever applied to calls made from BT lines – other fixed and mobile OCPs normally charge different rates for geographic and 0870 calls. The proposal would allow a very simple pricing message to be given to consumers, which is that all OCPs would charge 0870 calls on the same basis as calls to geographic numbers, unless a price pre-announcement is provided.
- 4.13 In the September 2005 Consultation Ofcom estimated that the welfare loss for consumers associated with reduced call volumes because of inaccurate price perceptions for 0870 call prices was approximately £115m. Taking into account the likely migration of some services to other number ranges, Ofcom estimated that re-establishing the geographic linkage for 0870 calls had a maximum potential benefit of around £58m per year, resulting from the improvement in pricing transparency and consequent reduction in welfare loss. It is unlikely that restoring the geographic link would achieve the whole of this amount, but it could be expected to make a significant contribution to the achievement of this benefit.
- 4.14 Another benefit of restoring the geographic link is that it would help to overcome the problem of misleading advertising of 0870 numbers. Calls to these numbers are still sometimes advertised as being charged at “national rates”, even though they are generally much more expensive than national geographic calls. Under our proposal, consumers could be assured, either that 0870 calls would be charged on the same basis as national calls, or that they would be informed of the call charge at the start of the call.
- 4.15 The proposal would also bring some benefits to consumers in terms of lower call prices. For example, the daytime rate for an 0870 call from a BT line would fall from 7.91 pence per minute to 3 pence per minute, for a customer on BT’s BT Together Option 1 or 2 calling packages and the prices charged by other OCPs would also be likely to fall. It was recognised in the September 2005 Consultation that these price

reductions would to some extent be offset by price increases elsewhere, because SPs would no longer receive a share of the call revenues or have services (such as call routing functionality) funded from call charges. A travel agent, for example, might increase the price of holidays to offset these losses. However, Ofcom has estimated there was still likely to be a net benefit to consumers, perhaps running into tens of millions of pounds per year.

- 4.16 On the debit side, it was recognised that the reduction (or complete loss) of the revenue share would be disruptive for the SPs using 0870 numbers, and for the CPs and resellers who provide them with inbound call services. It was estimated that 35-45% of businesses (likely to account for 45% to 55% of the traffic) currently using 0870 numbers would migrate to other number ranges in order to maintain their revenue share, and that this could involve them collectively incurring a one-off migration cost of £70-90m.
- 4.17 Ofcom's overall assessment was that, over a period of several years, the benefits of restoring the geographic link would outweigh the costs.

Discussion of responses

4.18 Although many consumer respondents were in favour of restoring the geographic link, consumers and others raised a range of issues about this proposal. The main arguments put forward by those opposed to the proposal were as follows:

- the proposal amounts to retail price regulation for non dominant OCPs;
- Ofcom should set BT prices for 0870 calls;
- there are better ways to improve price transparency;
- the proposal is an over-reaction to the views expressed by a minority of consumers;
- 0871 is not an adequate substitute for 0870;
- the proposal would lead to a reduction in service levels;
- the proposal would result in some call centre operations relocating abroad;
- Ofcom has under estimated the impact on providers of inbound NTS call services;
- Ofcom has under estimated the impact on SPs using 0870 numbers; and
- Revenue sharing should be banned on all 08 numbers.

4.19 These points are discussed in turn below.

Proposals amount to price regulation for non-dominant providers

- 4.20 Several fixed and mobile CPs and some SPs argued that the proposed extension of the geographic linkage so that it applies to all OCPs amounts to retail price regulation of non-dominant providers, in contravention of Ofcom's duty under the Act not to impose such regulation on non-dominant providers. Ofcom disagrees with this view.
- 4.21 Ofcom considers that it has proposed to establish a numbering convention (i.e. that 0870 calls should be charged at the same rate as national calls to geographic numbers) rather than regulate retail prices.

- 4.22 All OCPs who currently have the ability to charge 0870 calls at lower or higher rates than national calls to geographic numbers will retain this pricing freedom. They will, however, now be subject to a requirement to make a pre-announcement to consumers where they decide to charge 0870 calls at rates higher than national calls to geographic numbers, which will increase pricing transparency.

Ofcom should set BT prices for 0870 calls

- 4.23 UKCTA and a number of CPs argue that, instead of restoring the geographic link for 0870 calls, Ofcom should set regulated retail charges for 0870 calls made from BT lines. This is put forward as a means of maintaining revenue sharing and providing termination payment stability, but avoiding multiple price points for 0870 services.
- 4.24 This option has previously been suggested by CPs and was discussed in paragraphs 6.29 to 6.33 of the September 2005 Consultation. As explained there, Ofcom could only regulate BT's retail charges for 0870 calls following a designation of BT having Significant Market Power ('SMP') in a relevant market. If a finding of SMP was reached, Ofcom could consider the introduction of price regulation, as a remedy to BT's SMP. But in those circumstances, Ofcom does not consider that it would have any justification for setting prices at a level designed to support a revenue share.
- 4.25 In any event, Ofcom, as a matter of policy does not consider that such an approach would be appropriate. If Ofcom set regulated charges for 0870 calls, they would not be subject to the influence of competition. If the link to geographic charges were restored, on the other hand, retail prices for 0870 calls would be subject to the same competitive pressures as geographic call prices. In this context, it is relevant to note that Ofcom has recently proposed to end retail price controls on BT's narrowband telephony services, even though BT has Significant Market Power in the relevant markets⁹. This proposal reflects the very considerable increase in competition, which has occurred in the retail markets for calls and exchange lines over the past 20 years.
- 4.26 An approach based on price regulation would also be inconsistent with Ofcom's regulatory principle to use the least intrusive mechanism to fulfil its statutory functions.
- 4.27 In UKCTA's view, the Indepen report submitted in support of its response demonstrates that its preferred approach would deliver an additional £1.4bn in benefits over 5 years, as compared with the proposals set out in the September 2005 Consultation. Ofcom has reviewed the Indepen analysis. In our view, the case developed by Indepen depends on Ofcom regulating the retail charges for 0870 calls made from BT lines. As indicated above, Ofcom is not in favour of such regulation.
- 4.28 Indepen's conclusion also depends on the assumption that, if Ofcom were to regulate BT's charges for 0870 calls, this would deliver a much greater improvement in price transparency than the proposals put forward in the September 2005 Consultation. Ofcom considers that under equally plausible assumptions, Ofcom's proposals would deliver greater benefits than Indepen's. More detailed comments on the Indepen analysis are provided in paragraphs A2.441 to A2.461.

⁹ See Retail Price Controls – Explanatory Statement and Proposals, 21 March 2006, <http://www.ofcom.org.uk/consult/condocs/retail/rpc/>

4.29 For these reasons, we reject the UKCTA proposal.

Better ways to improve transparency

4.30 There are several points to consider here. First, UKCTA argue that restoration of the geographic link would do little to improve transparency, because consumers also have a very poor understanding of how much geographic calls cost.

4.31 Ofcom's research does show that many consumers do not have an accurate understanding of how much it costs to make a geographic call and perceive them to be much more expensive than they are. Ofcom's research¹⁰ showed that consumers believed that the price of local calls is 8p per minute, that of national calls is 20p per minute and that of 0870 calls is 36p per minute. The welfare loss attributable to reduced call volumes is related to the perceived prices of calls, so although realigning consumers perceptions of 0870 tariffs with those of national calls would not address all of the welfare loss, it would nevertheless deliver a significant improvement.

4.32 It should also be noted that, for consumers on flat rate call packages, the inclusion of 0870 calls within those packages is itself likely to yield a significant improvement in price transparency. The results of the focus group research carried out for Ofcom in 2005 indicated that many consumers have a much clearer idea of the overall size of their telephone bill than of the price of individual calls. If 0870 calls are included in flat rate call packages, the increasing popularity of such packages can be expected to bring with it an increase in price transparency for 0870 calls.

4.33 It is also necessary to consider what alternatives would be available for 0870 retail price setting, if the link to geographic call charges were not to be restored. As discussed in paragraphs 4.16 to 4.24 of the September 2005 Consultation, Ofcom considers there are a range of reasons why the broken linkage between 0870 call charges and national call charges needs to be addressed and as discussed in paragraph 6.19 (of the September 2005 Consultation) onwards a limited number of alternatives are available. The alternatives are:

- the status quo, which would perpetuate the present transparency problem;
- extended retail price competition, under which TCPs would be able to select price points from within a range specified by Ofcom. This option would lead to multiple prices for calls to different 0870 numbers, even for calls made from a single OCP's network. This option was put forward by Ofcom in October 2004 Consultation and was opposed strongly by consumers and others, partly on the grounds that the multiplicity of price points would make the transparency problem worse than it is at present; and
- retail prices set by Ofcom, following a market review of the relevant retail market. As discussed above, Ofcom considers that this option would be inconsistent with its statutory duties and contrary to its commitment to seek the least intrusive regulatory mechanisms, which implies relying on markets where possible using minimum controls.

¹⁰ See Number Translation Services: A Way Forward - A report of the key findings of two research studies conducted by HI Europe and MORI on behalf of Ofcom.
http://www.ofcom.org.uk/consult/condocs/nts_forward/ntspsc.pdf

- 4.34 As these alternatives would either fail to contribute to an improvement in pricing transparency, or be undesirable for other reasons, we believe that the best approach to retail pricing for 0870 calls is to restore the link to geographic call charges.
- 4.35 Ofcom has also reviewed Flextel's 'call price labelling' proposal, under which consumers could find out the price of any call in advance, by dialling a 3-digit prefix followed by the number they wish to call. From a technical viewpoint, the proposal looks to be feasible and would be likely to require a similar set of systems and software to an 'all-calls' announcement solution such as the OCP announcement solution for 084 and 087 calls considered in the September 2005 Consultation.
- 4.36 In the September 2005 Consultation¹¹, Ofcom considered the cost of a pre-announcement solution for all 084 and 087 calls and estimated that the hardware required to provide the announcements would cost the industry approximately £70m to £100m. OCPs would also incur development and integration costs and there would be ongoing operational costs all of which could not be estimated without further study. As noted in the September 2005 Consultation there is a considerable degree of uncertainty in this estimate since it is not possible to make detailed estimates without a lengthy feasibility study with a representative sample of OCPs. Ofcom considered the estimates might understate the overall cost, possibly by a considerable margin.
- 4.37 The overall cost of both pre-announcement solutions would be partially dependent on the peak traffic load they would have to carry. For the price labelling solution the cost would therefore depend on the extent to which consumers actually use the pre-announcement service, which is difficult to estimate without further research.
- 4.38 A very rough approximation can be obtained by considering the ratio of 084 and 087 voice calls to calls of all types. This is approximately 2%, which suggests that if consumers use the price labelling solution for 1 in 50 calls the cost of the solution would be broadly the same as for the 084 and 087 solution.
- 4.39 Ofcom's principal concern about the price labelling solution is that the number of consumers who would use such a service is likely to be very low. As noted above, our consumer research indicated that 42% of consumers would find call price pre-announcements annoying (although admittedly this was in the context of an announcement at the start of all NTS calls). The research also suggested that many consumers are primarily interested in the total amount they spend on telephone services, and do not want to spend time finding out the cost of individual calls. Under the Flextel proposal, consumers would have to make a separate call to listen to a price pre-announcement, informing them of the price of the call they wanted to make, and then make the call. It seems unlikely that many of them would go to this trouble.
- 4.40 If the level of usage were low then the price labelling solution would only make a small contribution to improving pricing transparency. Ofcom therefore considers other measures to improve pricing transparency might deliver a substantially better cost-benefit and would therefore be a more proportionate response to the lack of pricing transparency.
- 4.41 Ofcom would also be reluctant to impose a requirement on CPs to implement a price labelling solution at the present time, as any system put in place now would be

¹¹ See Annex 7

rendered obsolete by the move to Next Generation Networks, which is likely to take place within a few years.

- 4.42 Ofcom has obtained some information from BT, which is relevant to this issue. BT has in the past provided a Charge Advice service whereby customers can call a number after making a call, to find out how much they have been charged. BT has informed us that itemised billing and web access to accounts has removed the need for this service, and that usage is now negligible. The BT service was not directly comparable to the service proposed by Flextel, because the consumer was only informed of the cost of the call after it had been made. As for as it goes, however, BT's experience does not suggest that the demand for a call labelling service would be very high.

Over-reaction to views of a minority of consumers

- 4.43 Several respondents argued that Ofcom's proposals for 0870 represent an over-reaction to the views expressed by a vocal but unrepresentative minority of consumers, who are opposed to revenue sharing on 08 numbers generally, and 0870 numbers in particular. In support of this contention, some alluded to the results of Ofcom's market research, which indicated that many consumers do not object to revenue sharing per se, provide they know how much the calls are going to cost them. Others noted that Ofcom's contact centre had received only 126 complaints relating to 08 numbers, many of which were about specific problems such as internet diallers.
- 4.44 Ofcom does not agree that its proposals for 0870 represent an over-reaction to the views of a small minority of consumers. The proposal to restore the link to geographic call charges was put forward primarily in response to the fact that the existing pricing model has broken down. 0870 prices from BT lines are currently linked to headline rates, which very few consumers actually pay, and vary considerably between other providers. In this situation, the Plan is failing to meet its primary objective of promoting transparency, related in this case to transparency about the pricing of calls.
- 4.45 The existing pricing and interconnect model gives TCPs no control over their revenues from 0870 calls, and this has given rise to a series of interconnect disputes requiring regulatory intervention. Rather than showing that consumers were happy with revenue sharing, our research showed that their opinions about revenue sharing on 08 numbers are fairly evenly divided, with 44% having no objection and 37% being opposed. In addition, not a single consumer respondent to the September 2005 Consultation argued in favour of maintaining the status quo.
- 4.46 If we accept that something needs to be done about the pricing and interconnect arrangements for 0870 calls, the question is what that should be? And here the available options are limited. As discussed in paragraphs 4.33 and 4.34 above, the alternatives to restoring the geographic link would either fail to improve price transparency, or be undesirable for other reasons.

0871 is not an adequate substitute for 0870

- 4.47 For those SPs who would respond to the loss of revenue sharing on 0870 by moving to another number range, 0871 is probably the obvious destination since it supports revenue sharing at the same level as the 0870 range. However, some SPs, CPs and resellers have argued that the 0871 range is not an adequate substitute for 0870, for two reasons:

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- international access to 0871 numbers is more limited; and
 - consumers are more wary about making calls to 0871 numbers.
- 4.48 Ofcom acknowledges that there is some validity in these arguments, but we do not believe them to be sufficiently serious to undermine the case for restoring the geographic link for 0870 calls.
- 4.49 With regard to international access, it is not the case that 0871 is a 'closed number range' that is completely inaccessible from abroad, as some respondents have claimed. As indicated in the September 2005 Consultation, international access is a matter for bilateral negotiation between the network operators in the countries concerned, and varies from cases to case. As discussed in Annex 4, Ofcom carried out a small survey to obtain a better understanding of the extent to which 0871 numbers are accessible from abroad. We found that 0871 numbers could be called from 8 out of 38 networks in 6 out of the 18 countries surveyed. The countries from which 0871 calls could be made included Austria, Canada, Ireland, Italy, Spain and the USA, which account for a significant proportion of the UK's international traffic.
- 4.50 As discussed in more detail in Annex 4, Ofcom has also obtained information from BT and C&W (the two largest TCPs) on the proportions of incoming 084 and 087 traffic, which originates abroad. Based on this information, Ofcom estimates that between 1.5% and 5.5% of 0845 and 0870 traffic originates abroad. BT told Ofcom that it blocks almost all international inbound traffic to 0844 and 0871 numbers because of concerns about fraud and C&W told Ofcom that they block some traffic because historically there had been little demand for these ranges to be opened for international access. It was not possible to estimate reliably the proportion of 0844 and 0871 calls that originate abroad because it is unclear whether BT and C&W are typical in blocking international access to 0844 and 0871 numbers. If BT is typical it would suggest that the vast majority of traffic is blocked. However, this hypothesis is somewhat at odds with the results of the sample survey, which shows that 0871 numbers can be accessed from approximately 20% of foreign networks and C&W, indicated that it only blocks some inbound traffic to 0844 and 0871 numbers.
- 4.51 On the assumption that 50% of 0870 traffic would move to 0871 or a similar number range if the geographic linkage for 0870 calls is restored, this suggests that, at most, a reduced level of international access could affect 2.75% of 0870 traffic. Ofcom nevertheless agrees that it would be desirable to improve the level of international access and intends to work with the relevant network operators in an attempt to achieve this objective. Ofcom also takes some encouragement from the fact that at least in some cases calls are blocked by UK CPs rather than foreign CPs, which should simplify efforts to bring about improvements.
- 4.52 The second concern is that consumers might be more wary of calling 0871 numbers than 0870 numbers, which could have a negative impact on call volumes. The research carried out for Ofcom in 2005 does not support this view and tends to suggest the contrary may be true. Ofcom's quantitative consumer research found that 24% of consumers would 'think twice about calling an 0870 number' whereas the corresponding figure for the 0871 range was 15%. Although some of this difference may be accounted for by lower awareness of the 0871 range, consumers do not appear to be any more wary of the 0871 range than the 0870 range. Our proposals to improve pricing transparency on 0871 calls, by making them subject to ICSTIS requirements on price publication, and requiring CPs to provide better information on NTS call prices generally, should lead to an increase in 0871 consumer price awareness. In addition, migrating SPs would be free to select the 0871 price points which apply to calls made from BT phones to their numbers. If they

were concerned about a reduction in call volumes, they could select price levels below the current 0870 price levels, and draw attention to the lower charges in their promotional material.

- 4.53 On a related matter, some of the resellers and SPs we spoke to were not aware of the fact that TCPs could provide 0871 numbers at price points less than 10p per minute or with a price profile, which varies by time-of-day. If they wished to do so, SPs could obtain numbers with a price profile, which replicates the current profile for 0870 calls. This would help to avoid an increase in off-peak prices, for calls made from BT lines, and a consequential reduction in call volumes.

The proposals would lead to a reduction in service levels

- 4.54 The argument here is that, if revenue sharing ends on 0870 numbers (as a result of the proposal to repair the geographic linkage for 0870 calls or the proposal to remove 0870 calls from the scope of the NTS Condition), SPs would no longer be able to afford the intelligent routing and call management services (which we will refer to as the 'hosting' service) currently provided by their TCP or reseller and which are currently funded either partially or wholly from call charges, and that this would lead to a reduction in service levels, both for SPs and their customers.
- 4.55 We estimate that the value of the hosting services currently provided for 0870 calls is around £25m per year¹². This compares with revenue shares of approximately £114m in 2003. The value of the hosting services is therefore considerably smaller than the revenue share, though still significant.
- 4.56 If revenue sharing ended on 0870 numbers, the impact on hosting services would depend on two main factors:
- the proportion of SPs and traffic which moves onto another number range, where revenue sharing can be continued; and
 - the extent to which SPs that remain on their existing numbers would be willing and able to pay the inbound SP for the hosting services.
- 4.57 As discussed in the September 2005 Consultation, we anticipate that, if revenue sharing ended on the 0870 range, 35-45% of SPs and 45-55% of 0870 traffic could move to other number ranges. For those who move, there is unlikely to be any significant impact on the hosting services provided.
- 4.58 The SPs who remain on their existing numbers will be faced with a choice about the extent to which they continue to receive hosting services, given that they would need to pay for them directly, and could no longer fund them from the revenue share. In some cases, it is likely that SPs will opt to continue receiving hosting services, either absorbing the costs involved or increasing other charges to cover the costs involved. Ofcom research in 2005 found that 45-50% of SPs said they would absorb the loss

¹² This estimate has been obtained by taking the gross call termination (including hosting) revenues for 087 calls in 2003 (£165m) and deducting (i) outpayments to SPs (£115m) and (ii) the estimated cost of call termination (£25m). Data on call termination revenues and outpayments were obtained from CPs and reported in Annex 5 of the 2004 NTS Consultation. The costs of call termination (0.59 pence per minute) were estimated on the basis of geographic termination costs and an allowance for the use of Intelligent Network facilities for number translation.

of the revenue share¹³. In other cases, SPs will decide that they want to reduce the service levels they receive from their TCP/reseller.

- 4.59 From the consumer's point of view, it is not clear that there would be anything wrong with this process. Since the decision to use hosting services is taken by the SP and not by the customer, Ofcom considers it reasonable that the SP should in the first instance pay for them.
- 4.60 From the viewpoint of the TCPs/resellers providing the inbound services, on the other hand, Ofcom acknowledges that any reduction in service levels would have negative effects. These are considered further below.

Impact on providers of inbound services

- 4.61 A number of respondents involved in the provision of inbound 0870 call services opposed the proposed restoration of the geographic link on the grounds that they would have a severely disruptive, and in some cases catastrophic effect on their businesses.
- 4.62 We were aware when the September 2005 Consultation was published that the proposals would, if implemented, have a negative effect on the providers of inbound services, and have since done some further work on likely scale of this effect.
- 4.63 As noted above, we estimate the value of 0870 UK hosting services to have been around £25m in 2003. We estimate that these services support in the region of 160-310 jobs. This is based on the assumption that revenues per employee are likely to lie within the range £90-150k. This range has been derived from publicly available information on the revenues and staffing levels of resellers.
- 4.64 In the September 2005 Consultation, we estimated that around half of the traffic currently on 0870 would move to other NTS number ranges, if revenue sharing ceases on 0870. It is likely that hosting services would continue to be provided on the new numbers and therefore the impact on TCPs/resellers in relation to these services would be small.
- 4.65 Some SPs that choose to retain their existing numbers will have a choice of retaining their hosting services and either absorbing the additional charges levied by their TCPs/resellers for the provision of those services or funding them in other ways. Others are likely to opt for a lower level of service, or may stop using hosting services altogether. It seems reasonable to assume that the extent to which SPs decide to retain their existing hosting services would depend on the value they attach to the provision of those services. We would expect larger SPs to be more likely to continue using hosting services, as the need for call management services will be greater if call volumes are high.
- 4.66 It is not possible to quantify the overall impact on revenues of the 0870 hosting business with any degree of precision. However, based on the assumption that approximately 50% of the traffic will migrate to other ranges we believe that about half of the £25m hosting revenues might be affected, i.e. about £12m per year. Ofcom considers that the impact is likely to be significantly less than this taking account of the proportion of SPs who said they would absorb the loss of the revenue

¹³ See paragraph 5.42 of the September 2005 Consultation.

share, and of the likelihood that others would be recover their hosting costs from other charges, we believe a plausible estimate of the revenues at risk would be £3-7m.

- 4.67 It would be inappropriate simply to add these costs into the analysis of costs and benefits, without also taking account of the fact that any reduction in hosting service levels is likely to be accompanied by a reduction in the prices paid by consumers for the services provided by SPs. Ofcom recognises that its proposals are likely to have an impact on some providers of inbound NTS services but believes that this negative effect on a small number of businesses has to be set against the benefits that will accrue to consumers across the UK.
- 4.68 Overall, Ofcom does not believe that the negative impact on providers of inbound NTS services alters the overall balance of costs and benefits associated with its proposals.

Impact on SPs

- 4.69 A number of SPs argued that Ofcom underestimated the likely impact of ending 0870 revenue sharing on their operations, and on their customers. There are a number of different strands to this argument, including the following:
- the reduction in call charges would result in a loss of revenue share and/or additional costs for hosting services which would in turn lead to price increases for other goods/services – for example, the Driving Standards Agency indicated that it would lead to an increase in the cost of driving tests;
 - the reduction in call prices would interfere with the SPs ability to use higher prices to encourage callers to use other, more efficient ways of contacting SPs;
 - the reduction in call charges might lead to a reduction in the services provided to consumers;
 - Ofcom under-estimated the scale of migration to other numbers; and
 - Ofcom under-estimated the costs of migrating to other numbers.
- 4.70 Our comments on these points are as follows.
- 4.71 On the first point, we acknowledged in the September 2005 Consultation that, for those SPs choosing to remain on their existing numbers, the reduction in call charges would reduce revenues and/or increase their costs and that to some extent SPs would offset this by increasing the prices of goods/services they provide. An increase in the charge for a driving test could be one example of this. This does not mean that consumers would be worse off. SPs would have a choice between moving to another number range and continuing to receive payments for inbound calls or retaining their existing 0870 number and foregoing that opportunity.
- 4.72 As noted above, it is also likely, based on our research evidence that some SPs would retain their existing numbers and absorb the loss of the revenue share. For consumers, there is likely to be a net benefit from price reductions, which we estimated in the September 2005 Consultation could be of the order of tens of millions of pounds per year. Nothing in the responses received has changed this view.
- 4.73 Some SPs argued that the ability to charge higher call prices leads to greater efficiency, because it means that call charges more closely reflect the cost to the SP

of handling the calls. Indepen and UKCTA also thought that Ofcom's proposals would interfere with this 'price signalling' function. Ofcom does not disagree with the principle that an SP should be able to select a price point of its own choosing, providing that is accompanied by an adequate level of price transparency and consumer protection. Under Ofcom's proposals, SPs will continue to be able to use 084, 0871 and 09 numbers with price points ranging up to £1.50 per minute or per call from a BT line. But acceptance of this principle does not mean that we should perpetuate a regime in which the price of 0870 calls from BT lines is linked to a headline rate for geographic calls which very few consumers actually pay. Ofcom does not consider that this argument undermines its assessment of the costs and benefits of restoring the geographic link for 0870 calls.

4.74 Some SPs, CPs and resellers argued that the loss of the revenue share (as a result of the proposal to repair the geographic linkage for 0870 calls or the proposal to remove 0870 calls from the scope of the NTS Condition) could lead to a reduction in the services SPs provide to consumers. The argument here is that if revenue sharing ends on 0870, SPs would:

- no longer be able to afford the intelligent routing and call management services (which we will refer to as the 'hosting' services) currently provided by their TCP or reseller which are currently funded either partially or wholly by call charges; and/or
- be forced to cut their costs as a result of the loss of revenue share and would do this by reducing service levels (e.g. by making contact centre staff redundant and extending call waiting times) or withdrawing services completely.

4.75 In Ofcom's view this is essentially a migration issue. Provided SPs can move to another number range, where they can continue to revenue share on broadly the same terms as on 0870 numbers, it is not clear that there would be a reduction in service availability. There may be concerns about whether the new number range is an adequate substitute for 0870, but we have already commented on this issue above.

4.76 Elitetele.com and other resellers thought that Ofcom had underestimated the scale of migration that repairing the geographic linkage for 0870 calls and removing 0870 calls from the scope of the NTS Condition would cause. We had estimated that 35-45% of SPs, accounting for 45-55% of traffic, would migrate to other number ranges. The resellers' concern was that Ofcom had used responses by SPs to a questionnaire as the basis of its estimates and had not fully informed SPs of the consequences of its proposals in two respects:

- respondents (to the questionnaire) should have been informed that that as a result of the proposals they would have to pay for the call routing services provided by their TCP/SP (i.e. hosting services); and
- respondents should have been informed that the alternative number ranges available (0844 and 0871) could not be accessed from abroad.

4.77 Ofcom acknowledges that in the questionnaire SPs were not asked to consider either of these points when asked whether they would be likely to migrate their services as a result of the proposals. However, Ofcom does not consider that its estimates of the proportion of services that would be likely to migrate were compromised by these omissions.

4.78 On the first point, The SP questionnaire was structured in two parts; the first for all respondents asked SPs about the costs they would incur if they had to move to a

new number and the second, intended only for those SPs that receive a revenue-share asked SPs whether they would migrate to new numbers if the revenue share was no longer available. When preparing the questionnaire, Ofcom considered whether to ask SPs about how additional charges for hosting services would affect their decision to migrate. However, the difficulty is that in many cases the SPs would not know the value of those services and would therefore not be able to give an informed view. Ofcom therefore decided to ask those SPs who received a revenue-share how its loss would affect their decision to migrate. When estimating the overall level of migration that might occur as a result of the proposals, Ofcom therefore considered information from all of the sources (as discussed in paragraph 5.27 of the September 2005 Consultation) not just the questionnaire and also made its own estimates of the likely value of the hosting services that SPs receive that are funded by call charges.

- 4.79 On the second point, Ofcom's view is that given that only a small proportion of calls to 0845 and 0870 numbers originate abroad (see discussion in paragraph 4.51), for most SPs international access is unlikely to be a major factor in their decision to migrate. As discussed in paragraph 4.51, Ofcom also considers that there is a reasonable chance that the level of international access to the 0844 and 0871 can be improved to levels broadly comparable to 0845 and 0870, and therefore this factor is not a major obstacle.
- 4.80 As a cross-check on our estimates of the likely scale of migration (and the associated costs), we also analysed the distribution of 0870 numbers by traffic volume, in order to assess the proportion of numbers generating enough traffic to make migration worthwhile. The results of this analysis, which are described in Annex 5, suggest that we may have over-estimated the likely scale of migration, rather than under-estimating it as some of the resellers suggest.
- 4.81 A number of SPs stated that the costs involved in moving to new numbers would be much higher than we had estimated in the September 2005 Consultation. Some CPs and resellers also felt that Ofcom had underestimated the migration costs.
- 4.82 Ofcom's view is that some valid points were made by SPs about their migration costs. Clearly, some large companies would be likely to incur higher migration costs than the averages quoted by Ofcom. There are a number of points relating to SPs responses:
- Ofcom felt that in some cases SPs had not taken sufficient account of the interim period and the techniques they could employ to minimise the costs associated with migration. For example SPs that regularly send statements and promotional mailings to their customers could use them to notify customers of the new numbers at minimal marginal cost compared with writing specially to their customers;
 - Ofcom also notes that 0870 numbers are not being withdrawn and that SPs have the option of retaining them or perhaps running an old and new number in parallel for a period to avoid incurring additional costs. For example, several SPs told Ofcom that their telephone numbers are printed on contractual documentation that is retained by their customers for several years and that it would be expensive to replace the documentation. Ofcom's view is that in such circumstances it might be more cost effective to publish a new number on new documentation and retain the existing numbers for calls from customers with existing contracts. Call volumes to the old number would then decline as old contracts cease as part of the normal course of business.

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- 4.83 Some SPs believed that they would incur large costs updating vehicle and building signage. Ofcom acknowledged in the September 2005 Consultation that some SPs might need to update signage, and that the costs of doing so would be in addition to the figures quoted. Ofcom would note that extending the length of the interim period to 18 months from the publication of the Numbering Review Statement will help to reduce costs, as more SPs will be able to carry out the number change as part of a regular programme of renewal.
- 4.84 Ofcom does however recognise that some of the points raised by respondents about our migration cost estimates are valid, and we have revised the estimates to take account of these. We now estimate that the total cost to SPs of migration from 0870 numbers could lie in the range £83 – 107m, as compared with the previous estimate of £70 – 90m. Details of the revised estimates are set out in Annex 5.
- 4.85 Although not relevant to the migration costs that SPs might incur, Indepen felt Ofcom should take account of the costs incurred by consumers as a result of misdialling calls (i.e. dialling SPs old numbers after the SP had migrated to a new one). We agree that an allowance should be made for mis-dialled calls and estimate the costs involved to be about £16m. This is somewhat lower than the Indepen estimate, which we believe to be over-stated. More information on the basis of our estimate is provided in Annex 5.
- 4.86 As a check on the validity of our migration cost estimates, and partly in response to concerns that some significant costs elements may have been omitted, Ofcom carried out some further analysis of migration costs, based on the distribution of 0870 numbers by traffic volumes. It is reasonable to assume that the value of the revenue share and hosting services a TCP will be prepared to provide to an SP will be directly related to traffic volumes, as this is the driver of the revenue received by the TCP from OCPs for 0870 calls. It would not be rational for a TCP to pay out more to an SP, or provide services with a value in excess of the revenue received from the OCP, less its own costs of service provision.
- 4.87 Ofcom therefore conducted further analysis of the call volume and revenue share data on a random sample of 7,800 SPs previously supplied by TCPs in response to a formal information request from Ofcom. To assess the likelihood of each SP migrating to a new number, Ofcom estimated the maximum value of the revenue share and hosting services that each SP would be likely to receive from their TCP/reseller over a 5-year period based on current call volumes and compared this with estimated migration costs.
- 4.88 Analysis of the sample shows that the value of the benefits (i.e. the revenue share and hosting services) received by the majority of SPs is relatively small. We found that 80% of the numbers in the sample received less than £2.50 in benefits per year and that 95% received less than £27 per year in benefits. This suggests that, for a large proportion of SPs, it would not be beneficial to migrate to a new number range and that Ofcom may have previously over estimated the level of migration that is likely to occur.
- 4.89 This analysis allowed us to estimate the maximum migration costs that SPs would be prepared to incur, in order to be able to continue to receive revenue shares and hosting services. The results, which are set out in Annex 5, suggest that on the basis of a migration cost of £300 per 0870 number, 20% of SPs might migrate and total migration costs would be unlikely to exceed £40m.

- 4.90 This approach also allowed us to assess the sensitivity of total migration costs to the migration costs per number. The results indicate that if for example migration costs per number were £3,000, 4% of SPs might migrate at a total cost of up to £69m. Total migration costs increase by much smaller percentage than migration costs per number, because as migration costs per number go up, the proportion of numbers generating enough traffic to justify migration declines. These results support Ofcom's view that total SP migration costs are unlikely to exceed £83 – 107m.
- 4.91 Ofcom recognises that there is a small number of SPs who receive very large 0870 call volumes and obtain very significant benefits from 0870 revenue shares and call management services, and that some of these SPs may spend much more on number migration than the average amounts used in our analysis. We estimate, for example, that there may 30-40 SPs who receive over £1m per year in revenue shares and other benefits, and that migration costs for a few of these SPs could run into hundreds of thousands of pounds. Given the very small number of firms involved, however, Ofcom does not consider that this alters the overall picture, or the validity of the estimates referred to above.
- 4.92 Although our overall estimate of one-off migration costs has increased, to £99 – 123m including the cost of mis-dialled calls, Ofcom remains of the view that the prospective benefits of the proposed reforms for the 0870 range are likely to outweigh the associated costs. As discussed in the September 2005 Consultation, the main benefits are expected to be:
- Improved price transparency: it was estimated that the consumer detriment caused by low price awareness for 0870 calls as being £115m per year¹⁴. In Ofcom's view, restoring the link to geographic calls will make a significant contribution to improved transparency, because it will allow consumers to be given the simple message that 0870 calls will cost no more than geographic calls. The extent to which an improvement in transparency could be attributed the restoration of the geographic link will depend on a number of factors, including the extent of migration to other number ranges and the impact of other reforms, such as the amendment to GC14, which are also designed to improve transparency. Although it is not possible to give a precise estimate, Ofcom expects the benefit of restoring the geographic link to run into tens of millions of pounds per year.
 - Lower prices to consumers: it was estimated that restoring the geographic link would lead to retail price reductions of £59-72m per year on 0870 calls, after taking account of likely migration to other number ranges. To some extent, these price reductions would be offset by price increases in downstream markets (e.g. a travel agent losing revenue shares on an 0870 line might put up the price of its holidays). However, the results of our research suggested that a significant proportion of SPs would remain on their existing numbers and absorb the loss of revenue. We therefore expect the net effect of price reductions to be significant, and perhaps again of the order of tens of millions of pounds per year¹⁵.
- 4.93 Taking these benefits together, Ofcom considers it likely that the benefits of restoring the geographic link will, taken over several years, outweigh the one-off costs of migration. It is also relevant to note that, if the geographic link were not to be restored, it is likely that in order to provide an adequate level of consumer protection

¹⁴ September 2005 Consultation, paragraph 5.62.

¹⁵ op cit, paragraph 5.37-5.44.

on 0870 calls, it would have been necessary to extend PRS regulation to the 0870 range. This would have resulted in additional costs for the SPs using these numbers, which are likely to have been passed on to consumers.

- 4.94 One respondent argued that SPs should not have to pay for call management services, as they are a software function provided by telecommunications networks. Ofcom disagrees with this view. TCPs and resellers provide call management services on a commercial basis and they are entitled to charge for them and SPs are free to choose whether to use them.

The proposals would result in some call centres relocating abroad

- 4.95 Some respondents argued that, if revenue sharing ended on 0870 numbers, some of the call centres using 0870 numbers would move abroad.

- 4.96 We considered this issue in the September 2005 Consultation. We referred to evidence which indicated that:

- the revenue shares from 0870 calls would only cover a small proportion of the cost of running a call centre; and
- decisions about call centre relocation are generally driven by a range of other factors, and that the likelihood that revenue shares would have a significant influence in any particular case was small.

- 4.97 We remain of the view that an end to revenue sharing is unlikely to lead to call centres relocating abroad. In taking this view, we note that:

- none of the SPs who responded to the September 2005 Consultation said that they would move their call centres abroad, if we went ahead with the proposals; and
- it is highly unlikely that the cost and risk associated with relocating a call centre operation to a foreign country would be less than the costs of migrating to a new number.

Revenue sharing should be banned on all 08 numbers

- 4.98 Although a number of consumers were either neutral or supportive of revenue sharing on 08 numbers, a significant proportion of consumer respondents were opposed to revenue sharing on 08 numbers, and took the view that revenue sharing should be confined to the 09 range.

- 4.99 The option of prohibiting revenue sharing on all 08 numbers was considered in the NTS Consultation Documents published in October 2004 and September 2005¹⁶. In both of those documents, the option was rejected on the grounds that it would be likely to lead to a significant reduction in service availability and usage, and would give rise to very significant migration costs, as SPs who depend on revenue shares would be forced to move to the 09 range. Ofcom remains of the view that the prospective benefits of this option, in terms of improved transparency and consumer protection, are likely to be outweighed by the costs involved.

¹⁶ See paragraphs 5.34-5.38 and A11.38-A11.50 of the October 2004 consultation and paragraphs 6.7-6.17 of the September 2005 consultation.

Conclusion

4.100 In the light of the responses received and the discussion above, Ofcom intends to go ahead with the proposal to restore the link between 0870 and geographic call charges, in the manner described in paragraphs 4.6 to 4.14 above.

Pre-announcement option for 0870 calls

The proposal

4.101 As noted above, it was proposed in the September 2005 Consultation that OCPs should be able to charge different rates for 0870 and geographic calls, but only if a free-to-caller price announcement was made at the start of each 0870 call. The rationale for proposing the pre-announcement option was that that it would also achieve the objective of pricing transparency.

4.102 It was anticipated that the CP responsible for originating the 0870 call (the OCP) would be responsible for providing the call pre-announcement, as the OCP would have made the decision to charge on a different basis from geographic calls, and only the OCP would be in a position to know which rate would apply to each individual 0870 call.

Discussion of responses

4.103 As noted above, a number of consumers have argued that OCPs should not be given the option of charging more for 0870 than for geographic calls, if they make a call pre-announcement informing the caller of the cost of the call. They regard this as a loophole, which will be used by some OCPs to perpetuate high charges for 0870 calls. In some cases this view was based on the mistaken belief that individual SPs would be able to choose to charge higher prices provided a pre-announcement is provided. In fact the decision to charge calls at geographic rates or provide a pre-announcement would be taken by individual OCPs and in practice, SPs would not be able to reach agreement with all OCPs to raise their prices.

4.104 In Ofcom's view, the pre-announcement option should not be regarded as a 'loophole', as the main aim of restoring the geographic link is to improve price transparency, not to bring down the price of calls. The relevant question is whether the pre-announcement option would achieve the desired level of transparency or not.

4.105 One CP that provides wholesale services such as CPS to other CPs noted that if its customers wanted to pre-announce 0870 call charges it would have to provide the pre-announcements on a wholesale basis. It was concerned that it might be responsible for the accuracy of the announcements. In Ofcom's view this would not be the case since the responsibility will rest with the OCP, which in this case would be the wholesale customer.

4.106 In Ofcom's view, allowing pre-announcements may in some ways make it more difficult to achieve price transparency:

- consumer understanding of the cost of an 0870 call is likely to be greater if all OCPs charge the same for these calls as they do for geographic calls, than if some OCPs do and other do not; and
- SPs will be able to inform their customers about call charges more effectively, in advertisements and other promotional material, if they know that all OCPs will adhere to the convention. An advertisement would be able to state simply and

accurately that calls would be charged at (national) geographic rates, without having to add the caveat that this does not apply to all networks.

- 4.107 On the other hand, it is difficult to deny that a reasonable degree of transparency has been achieved if the caller is told the price of the call before it is made. Ofcom is also concerned to ensure that it does not restrict unduly the pricing freedom of non-dominant OCPs.
- 4.108 On balance, Ofcom remains of the view that OCPs should be given the option of charging more for an 0870 call than for a national geographic call, provided they make a free-to-caller price pre-announcement at the start of the call. In Ofcom's view, however, it is important that any such pre-announcement should specify precisely the cost of the call (e.g. X pence per minute). A generic pre-announcement, indicating for example that call costs may vary according to the call package, or may differ from geographic call rates, would not provide the required level of transparency. Ofcom will ensure that this requirement is reflected in the proposed amendment to the Plan.

Conclusion

- 4.109 In the light of the above, Ofcom has concluded that OCPs should have the option of departing from the convention that 0870 calls should be charged for on the same basis as national geographic calls, provided they make a free-to-caller price pre-announcement. Such pre-announcements will be required to specify the price that the individual caller will pay for the call, for example in pence per minute or per call; generic announcements will not be permitted.

Removal of the NTS Condition for 0870 calls

The proposal

- 4.110 The third major proposal in the September 2005 Consultation was that the NTS Condition, under which BT is obliged to originate and retail NTS calls, should no longer be applied for calls to 0870 numbers. Because it obliges BT to retain only a regulated cost-based charge for originating the call, the NTS Condition provides the regulatory underpinning for revenue sharing on the 0870 range. It is likely that the removal of the NTS Condition would lead to an end to revenue sharing on 0870 numbers. Once 0870 calls are no longer subject to the NTS Condition, BT would purchase call termination from TCPs for those calls rather than originating and retailing them on behalf of TCPs as at present.
- 4.111 The arguments in favour of removing the NTS Condition were discussed in paragraphs 6.58-6.67 of the September 2005 Consultation and included:
- improving price transparency – it would allow a clear line to be drawn between the number ranges which support revenue sharing and those that do not;
 - lower call prices – because removal of 0870 calls from the scope of the NTS Condition would result in the transfer of some revenues from TCPs to OCPs, it is likely to mean that call prices would generally be lower than would otherwise be the case; and
 - fewer interconnection disputes requiring regulatory intervention.
- 4.112 It was also argued that, once 0870 calls are charged on the same basis as geographic calls, it would make sense if the interconnect arrangements also followed the geographic model. Maintaining 0870 calls within the scope of the NTS Condition

in these circumstances would perpetuate the TCP revenue uncertainty which characterises the present arrangements, and which has contributed largely to the instability of the current model.

Discussion of responses

4.113 Many of the comments made by respondents about this proposal were also made in the context of the proposal to restore the link between 0870 and geographic charges, and have already been discussed above. Additional comments were as follows:

- removal of 0870 calls from the scope of the NTS Condition would not lead to a reduction in disputes;
- 0870 calls could only be removed from the scope of the NTS Condition following a market review;
- consumers do not object to revenue sharing;
- only 'basic NTS services' should be removed from the scope of the NTS Condition;

4.114 These points are discussed in turn below.

Removal of 0870 calls from the scope of the NTS Condition would not lead to a reduction in disputes

4.115 The thrust of the argument here is that, if 0870 calls are removed from the scope of the NTS Condition, the industry will have to determine a new set of commercial arrangements for the termination of 0870 calls, and this is likely to be a lengthy and complex process which is very likely to result in disputes, which Ofcom will have to resolve.

4.116 Ofcom accepts that there is reasonable likelihood of this situation arising. However, it is hopeful that, once the new regime has been established, the prospect of recurring disputes will recede, as TCPs will no longer be in a situation in which their revenues for call termination can suddenly change for reasons entirely beyond their control.

0870 calls could only be removed from the scope of the NTS Condition following a market review

4.117 The NTS Condition is a remedy imposed by Ofcom following a market review, which found that BT had Significant Market Power (SMP) in the market for wholesale narrowband call origination. However, removal of 0870 calls from the scope of the NTS Condition would not necessarily require a further market review. In order to modify AA11 to remove 0870 calls, Ofcom would either have to conduct a market review under section 84 or be satisfied that no material change has occurred in the relevant markets since the SMP condition was set or modified. (s.86(4)). In either case it would be necessary to satisfy the tests in s.47(2) for modification of an SMP condition i.e. it would have to be objectively justifiable, not unduly discriminatory, proportionate and transparent.

4.118 It is possible that a market review could be carried out before the proposed modification of the SMP condition. However, if one does not occur, in satisfying that no material change in the market has occurred Ofcom would look at the market as already identified to see if there have been any changes that are material to the modification of the condition in question. This would involve looking at the condition

to be modified and ascertaining what part of the market it affects and then assessing whether a material change has taken place in that part of the market.

Consumers do not object to revenue sharing

- 4.119 Some respondents argued that Ofcom should not remove 0870 calls from the scope of the NTS Condition, because there is no evidence that consumers object to revenue sharing per se on 0870 numbers. The important thing, it is argued, is to improve price transparency.
- 4.120 This argument is linked to contention discussed above, that Ofcom has over-reacted to the views of a small minority of consumers, who oppose all revenue sharing on 08 numbers.
- 4.121 Our research has shown consistently that consumer opinion is divided on the question of revenue sharing on 08 numbers, with some consumers regarding it as a form of deception and others having no objection to making payments to SPs through 08 call charges. This division of opinion came through clearly in the consumer focus groups carried out for Ofcom by HI Europe, and in the subsequent quantitative survey. As noted above, the survey found that 37% of consumers objected to revenue sharing on 08 numbers, against 44% who did not.

Only 'basic NTS services' should be removed from the scope of the NTS Condition

- 4.122 The point of this comment is that the problem on the 08 range is with revenue sharing between TCPs/resellers and SPs, and not with the use of termination payments for the provision of value added hosting services. Ofcom, it is suggested, should act to stop revenue sharing, but maintain 0870 calls within the scope of the NTS Condition to encourage the continued provision of innovative call management services.
- 4.123 On an initial view, this looks like an attractive argument: Ofcom could ban revenue sharing on 0870 numbers (for example), but keep 0870 calls within the scope of the NTS Condition, to ensure that providers of inbound NTS call services have enough revenue to fund the provision of value added services. This should deal with consumer concerns over revenue sharing, whilst ensuring that service levels are not compromised, and the providers of inbound call services are not damaged unnecessarily. The inbound providers would still compete with each other, but in terms of the quality of their call management services, and not in terms of the revenue shares they are prepared to offer.
- 4.124 On further reflection, however, the shortcomings of this proposal become apparent. In particular, the margin available for the provision of call management services would be fixed at an arbitrary level, unrelated to the service levels, which SPs or their customers are prepared to pay for, and which is insulated against any form of competitive pressure. As with the current arrangements, the providers of inbound services would have no control over their revenues, which would depend on the retail prices set by the OCPs and BT's costs of origination. In these circumstances, market forces would not be likely to provide good incentives to providers of inbound services to provide an appropriate level of service.

Conclusion

- 4.125 Having considered the responses received, Ofcom intends to implement the proposal to remove the 0870 number range from the scope of the NTS Condition, when the link to geographic charges is restored.
- 4.126 In reaching this conclusion, Ofcom has also taken account of the possibility that maintaining 0870 calls within the scope of the NTS Condition would give rise to arbitrage opportunities, once the link to geographic charges has been restored. If 0870 calls remained within the scope of the NTS Condition, there would continue to be some scope for revenue sharing on 0870 calls, albeit at a much lower level than at present. But once the geographic link has been restored, 0870 calls are likely to be included in flat rate call packages now offered by most major OCPs, including for example BT's BT Together Options 2 and 3. This means that there would be an opportunity to make additional 0870 calls, at no cost to the caller, solely in order to generate a revenue share.
- 4.127 Faced with this sort of arbitrage, OCPs would be likely to explore several options:
- taking measures to prevent the calls being made e.g. by blocking access to affected numbers;
 - taking measures to prevent a revenue share being made on calls of this kind; or
 - raising the prices of their call packages.
- 4.128 Ofcom's observations on these options are as follows:
- In order to apply the first two of the options, OCPs would first need to be able to distinguish between normal 0870 calls and arbitrage calls. Ofcom's discussions with OCPs indicate that this would be a difficult task;
 - If the solution involved prevention of the revenue share on 0870 calls included in flat rate packages, this would undermine the purpose of the NTS Condition; and
 - If the result was an increase in the price of packages that would clearly be detrimental to the interests of consumers.
- 4.129 These factors reinforce Ofcom's view that the appropriate course of action is to remove 0870 calls from the scope of the NTS Condition.

The 0870 interim period

The proposal

- 4.130 We proposed in the September 2005 Consultation that there should be a 12-month interim period, before the changes to the 0870 number range were implemented, to allow CPs and SPs time to plan for the change.

Discussion of responses

- 4.131 Respondents were divided on this issue:
- a number of consumers argued that the proposed transition period was too long, and that the changes should be implemented immediately; and
 - a number of CPs and SPs argued that the transition period was too short, and should be extended

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- 4.132 Those arguing for a shorter transition period felt that any further delay in reforming the current regime would be unwarranted.
- 4.133 On the other hand, a number of respondents argued that it would be difficult for SPs to replace all references to their current telephone numbers within the proposed one-year interim period. Reason given included:
- the replacement cycles for telephone directories and other trade directories :
 - the replacement cycle of some annual catalogues is longer than the migration period once the design and printing timescales were taken into account (several respondents supplied detailed information on the production and printing timescales) ; and
 - Consumers often retain some documents such as product warranties for periods of several years.
- 4.134 Other arguments for extending the longer transition period included the following:
- the transition period should not begin until Ofcom has concluded the consultation on its Numbering Review. One of the issues being considered by the Numbering Review is which number range should be used to accommodate the growing demand for 0871-type numbers, once the 0871 range has been exhausted. This is an important issue in the present context because, for the SPs who wish to change their 0870 number in order to continue revenue sharing, the 0871 range is an obvious destination. As the migration from 0870 to 0871 will itself contribute to the exhaustion of capacity on the 0871 range, SPs will naturally wish to know which range they will be able to move to, if no 0871 numbers are available.
 - more time would be needed to renegotiate the large number of commercial agreements, which exist between CPs, resellers and SPs, concerning the treatment of 0870 calls. In particular, TCPs were concerned to know how much they will be paid for terminating 0870 calls, once 0870 calls have been removed from the scope of the NTS Condition. This will depend critically on the interconnect agreement reached with BT, on which negotiations had not yet begun, and which could lead to a dispute requiring regulatory intervention.
- 4.135 Ofcom appreciates the desire of some consumers to see the changes implemented as soon as possible, but also recognises the validity of the arguments put forward by those who believe the transition period should be longer than the 12 months proposed.
- 4.136 Ofcom accepts that some SPs may require more than 12 months lead time, to plan for the move to a new number on a different range. One of the benefits of allowing more time is that it will reduce the costs associated with number migration, and we have taken this into account in the revised migration cost estimates set out in Annex 5.
- 4.137 We agree that, for SPs wishing to migrate to another number range, the first step in the transition process is to obtain a new number. To accommodate the demand for new numbers, TCPs will need to know which number blocks to apply for, once capacity on the 0871 range has been fully utilised. Ofcom's view is therefore that the interim period should not begin until the Numbering Review Statement has been published. This is currently scheduled for July 2006.
- 4.138 Ofcom also agrees that new interconnect agreements should be concluded as quickly as possible, and that these will then need to be reflected in the downstream

commercial arrangements between CPs, resellers and SPs. This will be a complex process, which may require regulatory intervention.

Conclusion

4.139 In the light of the above, Ofcom has concluded that the proposed changes for 0870 calls (i.e. restoration of the geographic link and removal of 0870 calls from the scope of the NTS Condition) should be implemented 18 months after the publication date of the Numbering Review Statement. On current plans, this will mean that the changes will come into effect in January 2008.

Two-year review for 0845

The proposal

4.140 In the September 2005 Consultation, we considered whether similar changes should be introduced for the 0845 range, as were proposed for 0870. Our analysis indicated that, based on the latest available evidence, the costs involved in doing so would outweigh the benefits. This was because a large proportion of 0845 traffic is dial-up internet traffic, all of which would need to move onto another number range if revenue sharing was to end on 0845. The migration costs estimates were therefore high, relative to the expected benefits.

4.141 In the light of this analysis, we proposed a two-year interim period for 0845 calls, towards the end of which a further review would be undertaken, to see if the benefits of restoring the geographic link and removing 0845 calls from the scope of the NTS Condition would at that stage outweigh the associated costs. The expectation was that, as the move away from dial-up internet to broadband services continued, the costs might at some point decline to a level at which the introduction of these changes would be justified.

Discussion of responses

4.142 A number of respondents were opposed to the proposed two-year review, their main arguments being as follows:

- any delay in restoring the geographic link and ending revenue sharing on 0845 is unwarranted;
- it would be confusing for consumers if 0845 calls were more expensive than 0870 calls for a period of time, which is the likely effect of our proposals;
- it would create uncertainty and disruption in the 0845 market.

4.143 Some respondents noted that the uncertainty engendered by Ofcom's consultation had already had an impact on demand for their services on both the 0845 and 0870 ranges. Ofcom notes there has been no discernable change in the pattern of allocations of number blocks by Ofcom's Numbering Unit, though this may not be a particularly accurate indicator since numbers are allocated in blocks of 10,000 which would take particularly smaller TCPs some time to allocate to SPs.

4.144 These arguments are considered in turn below.

Any delay is unwarranted

4.145 Some consumers argued that the changes proposed for 0870 should also be introduced for 0845, and that any delay in doing so was unnecessary. These

consumers were clearly unconvinced by our assessment of the migration costs involved in ending revenue sharing on the 0845 range, with some arguing that the ISPs had exaggerated their cost estimates in order to avoid the disruption that an end to revenue sharing would bring.

- 4.146 We do not agree that the costs included in our analysis were exaggerated, as they were based on information from a variety of sources, and we are satisfied that they are reasonable.
- 4.147 However, we have updated the analysis of costs and benefits to take account of more recent information on the number of dial-up internet subscribers using 0845 numbers, and other points raised by respondents. The results, which are set out in more detail in Annex 5, indicate that the migration cost estimates have been revised from £44-50m to £49m to 52m. The updated estimates include amounts for marketing acquisition costs and costs incurred by consumers to reconfigure their PCs. The estimated benefits are similar to those included in the September 2005 Consultation. Overall, Ofcom's view remains that the balance of costs and benefits does not yet justify the introduction of measures that would end revenue sharing on 0845 numbers.

Confusing for 0845 calls to be more expensive than 0870 calls

- 4.148 A few respondents noted that one implication of our proposals was that, for a period of at least 12 months, and possibly much longer, 0845 calls would be more expensive than 0870 calls. It was argued that this would be confusing for consumers, and would undermine the price transparency that we were seeking to achieve.
- 4.149 The decision to extend the interim period for 0870 calls, such that the changes on 0870 will not be introduced until early in 2008, will mean that 0845 prices will be higher than 0870 for less time than would have been the case under our original proposals. It is, however, still likely that 0845 calls will be more expensive than 0870 calls for 12 months or more.
- 4.150 We accept that this situation is less than ideal, but we do not believe that it undermines the case for the package of measures we have proposed. One solution might be to restore the geographic link and end revenue sharing on 0870 and 0845 numbers at the same time. But as discussed above, the case for action on 0845 cannot yet be made, and we do not consider this issue to be sufficiently serious to justify a further delay in the changes for 0870.

Uncertainty and disruption in the 0845 market

- 4.151 A number of CPs, resellers and SPs argued against the two-year review, on the grounds that it would create uncertainty for the organisations which use 0845 numbers, or are involved in their provision. TCPs and resellers will not know how to market 0845 numbers to SPs, as it is not clear how calls to those numbers will be priced, or whether revenue sharing will continue to be possible, after the completion of the two-year review. SPs, similarly, will not be able to plan their use of 0845 numbers beyond 2008.
- 4.152 Respondents differed about what should be done to address this issue. BT, for example, argued that Ofcom should commit now to restore revenue sharing and remove 0845 calls from the scope of the NTS Condition. In contrast, Tiscali called for Ofcom to abandon the two-year review and make a statement guaranteeing that revenue sharing would continue to be supported on 0845 numbers.

- 4.153 Ofcom recognises the validity of these concerns, but does not believe there to be an easy solution. In Ofcom's view the appropriate course is to provide stakeholders with a clear statement of its policy position and future intentions in relation to 0845, which are currently as follows:
- Ofcom believes that in the medium to longer term, 0845 calls should be charged for on the same basis as geographic calls, and that they should be removed from the scope of the NTS Condition;
 - These changes should not be introduced until the number of dial-up internet customers using 0845 numbers has declined to a level at which the prospective costs of making these changes are less than the prospective benefits;
 - Ofcom intends to carry out a further review of 0845 pricing and interconnect arrangements, and to publish a consultation document setting out its findings, within 2 years of the publication of this Statement; and
 - As a reasonable period of time will be needed to finalise the conclusions of the review and to plan for any changes, it is highly unlikely that regulatory support for revenue sharing on the 0845 range will be removed before January 2009, at the earliest.
- 4.154 SPs are also reminded that in the Numbering Review, Ofcom is currently consulting on inter alia:
- how it should meet future numbering demand in the 08 range; and
 - on a proposal to make available the 03 range for non-geographic services that do not require revenue sharing.
- 4.155 In the meantime, SPs should take note of Ofcom's policy position, particularly when deciding which number ranges to use for their services.

Conclusion

- 4.156 Taking account of the responses received and the discussion above, Ofcom intends to carry out a further review of pricing and interconnect arrangements for 0845 numbers, and to publish a consultation document, setting out its findings, within two years of the publication of this Statement. In the meantime, stakeholders are advised to have regard to the statement of Ofcom's policy position set out above.

Interim measures

The proposal

- 4.157 In the September 2005 Consultation, it was proposed that, during the Interim Period for 0870 calls, the Numbering Plan would be amended to set price ceilings for 0870 calls made from BT fixed lines. The ceilings would be set at the level of BT's current prices for these calls, and would ensure that the prices did not rise in nominal terms during the Interim Period.
- 4.158 Similarly, for 0845 calls, it was proposed that pending the outcome of the two-year review, the Numbering Plan would be amended to set price ceilings for 0845 calls made from BT fixed lines. The ceilings would be set at BT's current price levels for 0845 calls, and would ensure that prices from BT fixed lines did not rise in nominal terms.

4.159 The rationale for these proposals was that they would provide consumers with some assurance that prices would not rise, and greater certainty for TCPs regarding the revenues they would receive for terminating 0870 and 0845 calls, as these revenues would no longer be linked to the BT's headline rates for geographic calls, net of applicable discounts. BT also offered to provide an undertaking that it would not change its termination rates for 0870 calls during the 12-month Interim Period, and would only review its rates for 0845 calls once in the next two years. This undertaking was also intended to provide greater certainty to TCPs over termination rates.

Discussion of responses

4.160 The main arguments raised by respondents were as follows:

- BT pointed out that setting price ceilings would be complicated by the fact that the time-of-day charging periods differ for residential and business customers; and
- a number of TCPs indicated that they did not attach any significant value to BT's undertaking.

Different time-of-day charging periods

4.161 BT currently uses different time-of-day charging periods for residential and business customers, with the weekday peak period starting at 6:00am for residential customers and 8:00am for business customers. Under the current proposal, this difference would have to be reflected in the price ceilings to be specified in the Numbering Plan.

4.162 Ofcom regards this as an unfortunate complication, as it would be necessary to justify the inclusion in the Numbering Plan of different charging period for different categories of customer. Whilst Ofcom can understand why BT, for commercial reasons, might wish to differentiate between customers in this way, we would not wish to provide any form of regulatory endorsement, tacit or otherwise, of BT's choice of charging periods.

Little value in voluntary undertaking

4.163 Some TCPs saw little value in the BT's undertaking, because:

- it was voluntary, and therefore unenforceable; and
- it would not prevent a reduction in termination rates for 0845 calls mid-way through the two-year period.

4.164 We have discussed these points with BT, who have indicated that they are not prepared to give any greater level of assurance that termination rates would not be changed over the next year, in the case of 0870 calls, and two years, in the case of 0845.

Conclusion

4.165 In the light of these responses, Ofcom has concluded that it should not amend the Numbering Plan in the way proposed in the September 2005 Consultation, and that it should leave the current arrangements in place during the Interim Period for 0870 and pending the outcome of two-year review for 0845. We consider it highly unlikely that BT will seek to raise its headline rates for national and local geographic calls

over the next two years, as they have declined steadily in recent years, under the influence of growing competition in the markets for geographic calls. We expect competitive pressures in these markets to continue to grow.

4.166 In light of the responses, Ofcom has also decided not to ask BT to confirm its voluntary undertaking.

Extend PRS regulation to include 0871

The proposal

4.167 In the September 2005 Consultation, it was proposed that the regulatory framework for Premium Rate Services (PRS) should be extended to include 0871 numbers. The intention was not that 0871 services should be subject to the same level of regulation as premium rate, but that they should be covered by measures designed to improve price transparency and the level of consumer protection. In particular, it was proposed that

- information on call prices would be required to be displayed on advertisements for services using 0871 numbers;
- some respondents were concerned about the suitability of ICSTIS regulations for the types of services provided on 0871 numbers; and
- internet diallers on 0871 numbers would be subject to the ICSTIS prior permissions regime for internet diallers.

Discussion of responses

4.168 Although a number of respondents supported this proposal, a number of issues were raised, including the following:

- some argued that it was an unwarranted extension of regulation, that was not justified by the evidence provided;
- others felt that, if 0871 services were to be categorised as PRS, consumers would be more reluctant to use them, and this would result in a reduction in service levels; and
- a few respondents questioned ICSTIS's capacity to handle the additional workload.

An unwarranted extension of regulation

4.169 Vodafone was one of those who argued that there was insufficient evidence to justify the extension of the PRS regulatory regime to 0871 services. We do not accept this argument.

4.170 As noted above, the purpose of the extension was twofold: to improve price transparency and improve the level of consumer protection, for example by bringing 0871 diallers within the scope of the ICSTIS internet dialler prior permissions regime.

4.171 The case for action to improve the level of price transparency is supported by research evidence, which shows that consumers have a very poor awareness of the cost of 087 calls. For instance Ofcom's research shows that only 49% of consumers agreed with the statement "I have an idea of what these types of numbers cost" and as previously discussed, consumers overestimate the price of NTS calls.

Number Translation Services: A Way Forward

- 4.172 It is true that there are other ways in which price transparency could be improved, but in our view an extension of ICSTIS' remit to include 0871 is likely to be the most effective in this case. Ofcom is also proposing to amend General Condition 14 to require CPs to provide better information on the cost of NTS calls. However, given the multiplicity of price points on the 0871 number range, it is unlikely that this will provide a complete solution for 0871 services. A requirement to display price information in advertisements would in our view be a valuable additional measure, which would complement the general requirement to provide better price information.
- 4.173 A small number of respondents suggested that a requirement to display price information on adverts could be policed more effectively by the ASA than by ICSTIS. Ofcom disagrees. The ASA does a very good job of investigating complaints about misleading advertising, but the proposed measure goes beyond a requirement to ensure that an advertisement is not misleading, to include an obligation to display price information on any advertisement for an 0871 service. ICSTIS has a considerable amount of experience in policing a similar requirement for 09 services, and in our view is well placed to take on the role.
- 4.174 The second objective was to improve the level of consumer protection provided in relation to 0871 services. As noted in the September 2005 Consultation (paragraphs 5.15 and 6.30), Ofcom has received a small but growing number of complaints about alleged scams on 087 numbers, mostly related to rogue internet diallers. ICSTIS has also received a number of complaints. There is a clear tendency for consumer protection problems, which have been addressed by ICSTIS on 09 numbers to emerge subsequently on 087 numbers. Past experience shows that problems of this kind can escalate very quickly if no action is taken.
- 4.175 In Ofcom's view, the arguments and evidence related to price transparency and consumer protection, taken together, are sufficient to justify the proposed extension of the PRS regulatory regime to 0871 calls.

Impact on consumer perceptions

- 4.176 A small number of respondents, notably the INWG, argued that extending PRS regulation to 0871 would have a negative effect on consumer perceptions of the 0871 range, and would make consumers more wary of using 0871 services. They believed that rather than improving consumer confidence in the range, as intended, it could lead to a further erosion of confidence, and a reduction in the service levels provided to consumers. This effect could be particularly significant if a large number of SPs migrate from 0870 to 0871 numbers, in response to the end of revenue sharing on the 0870 range.
- 4.177 This line of argument is linked to the argument discussed above, that 0871 numbers are not an adequate substitute for 0870 numbers.
- 4.178 In Ofcom's view, these are valid concerns. Our consumer research indicated that many consumers are reluctant to call premium rate services, primarily because they believe them to be very expensive. Most consumers are aware of the fact that 09 numbers are premium rate numbers and many try to avoid calling them altogether.
- 4.179 There is a risk that, if 0871 services are labelled as "premium rate" services, consumers will regard them in the same way as they regard 09 services, and may become more reluctant to call them. This would be counter-productive, as one of the objectives of extending PRS regulation to cover 0871 is to improve consumer confidence in the 0871 range, rather than reduce it. However, failing to address the

consumer protection concerns also runs the risk that consumers will become increasingly distrustful of 0871 numbers.

4.180 In our view this issue can be addressed by ensuring that the regulation of 0871 is given a distinct branding, unrelated to PRS regulation. Although the regulations would be administered by the PRS regulator, ICSTIS, they could for example:

- use a different name;
- be based on a separate Code of Practice, with fewer regulations, reflecting the consumer protection concerns and the lower prices of the services involved;
- be funded by a separate levy; and
- be accessed via a separate website.

Conclusion

4.181 We have discussed the branding issue with ICSTIS and they have agreed to consider giving their activities in relation to 0871 a distinct identity, clearly separate from the regulation of PRS. Ofcom intends to work together with ICSTIS in developing the framework for the regulation of 0871 services.

Suitability of ICSTIS regulations for the types of services provided on 0871 numbers

4.182 Some respondents were concerned about the suitability of the current ICSTIS Code of Practice for the types of services being provided on 0871 numbers. Some respondents noted that many of the ICSTIS regulations relate to the provision of adult services and live chat services, which are typically charged at much higher prices than 08701 calls and felt that some of the regulations would therefore be unsuitable for customer service functions that are typically provided on 0871 numbers. There were also concerns the ICSTIS regulations would place an unnecessary additional administrative burden on SPs. There were particular concerns that the 'undue delay' provisions of the ICSTIS code would effectively ban even modest call queuing.

4.183 In Ofcom's view, these are valid concerns, which can be addressed by ICSTIS as it develops its Code of Practice for 0871 numbers. The aim of the consultation process will be to determine which provisions of the current ICSTIS code are necessary for the types of services being provided on 0871 numbers and the consumer protection concerns identified.

4.184 As discussed in the September 2005 Consultation, Ofcom does not believe that it should regulate call centre waiting times. Ofcom believes that if an undue delay provision is included in the ICSTIS Code of Practice for 0871 numbers, it will most likely be specified to give ICSTIS powers to deal with cases of abuse resulting from clear examples of unreasonable delays, rather than to ban call queuing in its entirety. Any provisions in this area will be the subject of full consultation and a balance may need to be struck between ensuring consumers do not suffer unreasonable financial detriment resulting from call queuing with the need to provide a call centre operation where it needs to be recognised that consumer calling patterns are not always even and accurately predicted.

4.185 In the light of the above, Ofcom has concluded that it should go ahead with the proposal to extend the scope of PRS regulation to 0871 services. This new regime should be aimed at improving price transparency and consumer protection on 0871 services, and thereby increasing consumer confidence in the use of these services.

Ofcom will ask ICSTIS to consider giving the 0871 regime a new brand, clearly distinct from the existing regime for premium rate services.

Extend PRS regulation to adult services currently provided on 08 numbers

The proposal

4.186 The September 2005 Consultation proposed that adult services provided on 08 numbers should be brought within the regulatory framework for PRS, regardless of the price of the call. This would be achieved (i) by amending the definition of Controlled Premium Rate Services in Ofcom's PRS Condition to include all adult services regardless of price, and (ii) by amending the Numbering Plan to clarify that all adult services should be provided on the 0908 and 0909 ranges that are designated for adult services. These measures would ensure that all adult services are provided on the 09 range, where they can more easily be covered by call barring services, and that they would be subject to the PRS regulatory regime administered by ICSTIS.

Discussion of responses

4.187 Although the overwhelming majority of respondents were in favour of this proposal, a small number were opposed. The main issues raised were as follows:

- The Mobile Broadband Group ('MBG') argued that the proposal was disproportionate, and not justified by the evidence; and
- the MBG argued that the availability of adult services on 08 numbers didn't mean that they were accessible by children and argued that SPs might require further payment by credit card (effectively prevent minors for accessing them);

Insufficient evidence to support proposal

4.188 In support of its argument, The MBG pointed out that no evidence had been presented about the number of consumers who had complained about the availability of adult services on 08 numbers. Without such evidence, in the MBG's view, intervention by Ofcom is unwarranted.

4.189 Ofcom disagrees with this view. It is true that Ofcom has received few complaints about the availability of adult services on 08 numbers. In our view, the proposed regulatory initiative does not have to be justified on the basis of indicators of this kind. Ofcom has a statutory duty under section 3 of the Act to further the interests of citizens and consumers. In performing this duty, Ofcom must have regard, amongst other things, to the vulnerability of children and others whose circumstances appear to Ofcom to put them in need of special protection.

4.190 Ofcom acknowledges that some adult services operating on 08 numbers require additional payment by credit card however there are also services that are funded solely through call charges.

4.191 It is evident that adult services are now widely available on 0870 and 0871 numbers, where children can readily access them, and where call-barring facilities are less readily available. In these circumstances Ofcom believes that it is justified in requiring adult services to be provided on the 09 ranges, which have been designated for this purpose. Ofcom acknowledges that, as a result of this requirement, the adult services currently using 08 numbers will have to move to the designated 09 ranges, but provided sufficient notice is given of this requirement

Ofcom does not believe that associated costs are likely to be significant. Given the need for a further consultation on the required changes to the PRS Condition and the Plan, it is highly unlikely that these requirements will come into effect until the fourth quarter of 2006 at the earliest. In Ofcom's view, this will give providers of adult services sufficient time to plan for compliance with the new requirements.

Conclusion

4.192 In the light of the comments received, Ofcom intends to go ahead with the proposal to amend the Plan to clarify that adult services must only use the 0908 and 0909 ranges thereby ensuring they are subject to the PRS regulatory regime and secondly to extend the Controlled Premium Rate Services Condition to include all adult services regardless of price and thus giving Ofcom backstop powers.

Better visibility of NTS tariffs

4.193 In the September 2005 Consultation, we proposed amending General Condition 14, to require OCPs to give more prominence to NTS tariffs in published price lists and promotional material. This proposal has been the subject of a separate consultation process and will not be considered further here.

4.194 We also noted that Ofcom had contributed to the Advertising Standards Authority/Committee on Advertising Practice ('ASA/CAP') guidance to advertisers on advertising NTS numbers.

Guidance for public bodies

The proposal

4.195 In the September 2005 Consultation, Ofcom indicated that it does not consider that it has sufficient grounds for preventing public sector bodies from using revenue sharing NTS numbers. However, we did state that public bodies should consider carefully whether it is appropriate to use 084 or 087 numbers in place of Freephone or ordinary geographic numbers, and that in our view it is inappropriate to use NTS numbers exclusively (i.e. without at a minimum giving equal prominence to a geographic alternative) when dealing with people on low incomes or other vulnerable groups. We also said that we would like to see a greater level of compliance with the COI's published guidelines, and would be keen to support the Government in achieving this objective.

Discussion of responses

4.196 Responses on this issue came primarily from consumers, and from public bodies, which either use 08 numbers themselves or advise others on their use.

4.197 More than 12% of consumer respondents stated that calls public sector services such as job centres, NHS, GPs' surgeries and crisis help lines should not cost more than geographic calls. While Ofcom has sympathy with these views, its own opinion, as discussed above, is that there are insufficient grounds for regulatory intervention in this area, and that Ofcom's role should at present be focused on the provision of advice about the use of 08 numbers.

4.198 Several public bodies, including the COI, indicated that they would welcome the introduction of a non-geographic number range where prices would be the same as for geographic calls, and where revenue sharing would not be permitted. Their view

was that members of the public would be more confident about using such a range, and there would be less risk of harm to those on low incomes.

- 4.199 This proposal has been picked up in the consultation on the Numbering Strategy Review, where Ofcom has proposed that the 03 range should be opened up as a non-revenue sharing range with call prices linked to the charges for geographic calls. Ofcom considers that this range could play a significant role in helping to address the concerns of citizens and consumers, and in meeting the needs of many public bodies.

Conclusion

- 4.200 Ofcom's view remains as described in the September 2005 Consultation. Ofcom will continue to provide advice to public bodies on the use of 08 numbers and would be keen to support the Government in achieving a higher level of compliance with the COI's published guidelines. Our conclusions in relation to the opening up of the 03 range will be set out in the statement on the Numbering Strategy Review, which is scheduled for publication in July 2006.

The 0844 and 0871 number ranges

The proposal

- 4.201 In the September 2005 Consultation, we proposed to leave the current pricing and interconnect arrangements in place for the 0844 and 0871 number ranges. It was noted that pricing transparency on both ranges would benefit from the proposed modification to General Condition 14 and the ASA/CAOP guidance to advertisers on how NTS call prices should be advertised. The proposed extension of ICSTIS' remit to include 0871 numbers would also help to improve price transparency and consumer protection on that range. It was noted that Ofcom had no significant evidence of consumer protection concerns on the 0844 range, but that we would continue to monitor complaints and other indicators, with a view to taking further regulatory action should that be required.
- 4.202 We also asked for the industry's views on the possibility of extending the designations in the Plan for 0844 and 0871 so that they would apply either (i) to all fixed line services excluding payphones or (ii) to payphones and mobile phones, as well as fixed line services. No firm proposals were made in relation to these options, but stakeholders were invited to express their views on the feasibility and desirability of extending the designations in this way.

Discussion of responses

- 4.203 Comparatively few consumers expressed views about the proposed approach to 0844 and 0871 calls. The main theme was that the priority should be to improve price transparency on these ranges. In Ofcom's view, the proposals put forward in the September 2005 Consultation should go a long way towards meeting this objective.
- 4.204 As noted above, some consumers argued that revenue sharing should not be permitted at all on 08 numbers, including 0844 and 0871. Ofcom's response to this view is set out in paragraph 4.99.
- 4.205 Industry respondents generally supported the proposal to make no changes to the pricing and interconnect arrangements for the 0844 and 0871 ranges. Opinions were

divided on the possibility of extending the designations in the Plan for 0844 and 0871 so that they would apply to a wider range of providers, and not only to BT.

- 4.206 Those in favour of extending the designations argued that doing so would bring benefits in terms of improved price transparency, and would give SPs more control over the cost of calling their services.
- 4.207 The main argument of those opposed to extending the designations is that it would amount to price regulation of non-dominant firms, for which there would be no justification. In Ofcom's view, the purpose of extending the designations in the Plan would be to improve price transparency, and not to regulate the prices of non-dominant firms. In order to address concerns about price regulation, it might be possible to give providers the option of departing from the conventions set out in the Plan, provided they made a free-to-caller price pre-announcement at the start of the call. This is the approach which Ofcom has decided to adopt in relation to 0870 calls.
- 4.208 Some OCPs argued that the interconnect arrangements for NTS calls would have to be reformed before the pricing designations for 0844 and 0871 could reasonably be extended to other operators. Under current arrangements, OCPs other than BT are generally obliged to pay the same rates for terminating 08 calls as BT pays. However, some OCPs argue that the costs they incur in originating NTS calls are higher than those incurred by BT. This means that the higher origination charges have to be reflected in higher retail prices. If the OCPs were obliged to charge the same retail rates as BT for 0844 and 0871 calls, the argument runs, they would lose money on those calls.
- 4.209 Ofcom notes that none of the OCPs provided evidence to support the contention that their costs are higher than those incurred by BT. It nevertheless accepts that more flexible interconnect arrangements would help OCPs to manage the implications of extending the designations for 0844 and 0871 to other providers. In particular, changes that would make it easier to agree on OCP-specific termination payments for NTS calls would help to ensure that the disruptive effects of extending the designations would be minimised.
- 4.210 Ofcom will give further consideration in the forthcoming Numbering Strategy Review statement to the issue of extending the designations in the Numbering Plan so that they apply to a wider range of providers, and not only to BT.

Conclusion

- 4.211 In line with the proposals set out in the September 2005 Consultation, Ofcom does not intend to change the pricing and interconnect arrangements for 0844 and 0871 calls at the present time.

Section 5

Conclusion and next steps

- 5.1 Having analysed the responses to the September 2005 Consultation and having considered the points raised by respondents (as discussed in Section 4), Ofcom has decided to implement its proposals with certain changes as discussed in Section 4. In this section, Ofcom reiterates its decision on each of the proposals and sets out the steps required to implement them.
- 5.2 This statement marks the conclusion of Ofcom's review of the regulatory arrangements for NTS numbers. Although several further consultations will be necessary in order to implement some of the measures, Ofcom intends that the scope of those considerations should be restricted to the detailed steps required to implement the changes and will not extend to a further review the full range of issues considered in this consultation.
- 5.3 As previously discussed, Ofcom is considering a separate set of issues relating to NTS numbers as part of the Numbering Review consultation. Ofcom does not intend to undertake a further review of the issues that have been considered in this consultation in the Numbering Review.

Requiring OCPs to give greater prominence to their NTS call charges

- 5.4 Ofcom published its consultation *Providing Citizens and Consumers with Improved Information about NTS and PRS Services* on 28 September 2005. The consultation set out Ofcom's proposals to modify General Condition 14 to, amongst other things, require CPs to give greater prominence to their charges for NTS calls.
- 5.5 Ofcom published its statement setting out its decision to implement the proposals with certain minor changes on 19 April 2006.

The interim solution for the 0845 and 0870 ranges

- 5.6 The September 2005 Consultation contained Notifications of the proposals to make certain changes to the Plan and the 08 application form in order to implement the interim arrangements for the 0845 and 0870 ranges. Ofcom has decided not to implement the interim solution for the 0845 and 0870 ranges. Therefore this statement does not contain Directions implementing those proposals. The Plan and the 08 application form will not therefore be changed.

Repair the link to geographic call charges on the 0870 range

- 5.7 Ofcom has decided to implement its proposal to repair the link between 0870 call charges and geographic call charges after an extended interim period of 18 months from the publication of the Numbering Review Statement, which Ofcom hopes to publish in July 2006.
- 5.8 Once the Numbering Review statement has been published, Ofcom's Numbering Unit will accept applications for any number ranges that are introduced such as the 03 range.
- 5.9 To achieve this it will be necessary to modify the Plan and the General Conditions, to require all OCPs (including calls from mobiles and payphones) to charge 0870 calls

at their geographic call rates or to make a free of charge price pre-announcement if OCPs want to deviate from their geographic call rates. To ensure that the proposed changes would be operational 18 months after the publication of the Numbering Review Statement, Ofcom intends to issue a consultation in during 2007. If after having reviewed the responses to the consultation, Ofcom wished to implement the proposed changes, Ofcom would then issue a final notification implementing the necessary changes.

Removal of the regulatory support for revenue sharing on 0870

- 5.10 In conjunction with re-establishing the link between 0870 call charges and OCPs (including mobiles and payphones) geographic call charges, Ofcom has decided to withdraw the regulatory support for revenue sharing on the 0870 range. To implement this, it will be necessary for Ofcom to remove 0870 from the scope of the NTS Condition.
- 5.11 Ofcom has decided that the necessary consultation on these changes should be combined with the consultation on the changes to re-establish the geographic link on 0870 (as described above).

Extend PRS regulation to adult services currently provided on 08 numbers

- 5.12 Ofcom has decided that it should amend the Plan to clarify that adult services should only be provided on the 0908 and 0909 number ranges. At the same time, Ofcom intends to bring all adult services within the scope of ICSTIS regulation. This will be achieved by modifying the definition of Controlled 'PRS' to include all adult services regardless of price.
- 5.13 In the September 2005 consultation, Ofcom proposed to combine the consultation on adult services with the consultation on extending PRS regulation to the 0871 range. As discussed above, Ofcom has decided to extend the interim period before implementing its proposals for 0870 numbers. However, based on the responses, Ofcom does not consider it necessary to delay the extension of PRS regulation to adult services. In addition, there are recent indications that the provision of adult services on 08 numbers is increasing rapidly. Given the consumer protection concerns, particularly in relation to minors, Ofcom considers that it should proceed with consultation on this proposal without further delay. Ofcom intends to publish a consultation setting out its proposals in detail later in 2006.

Extend PRS regulation to 0871 numbers

- 5.14 Ofcom has decided that 0871 numbers should be brought within the current regulatory regime for PRS, which will, in effect, mean that services using the 0871 number range would have the same obligations as those using 09 numbers.
- 5.15 ICSTIS has signalled its agreement in principle to extend the scope of its regulation through its approved Code to 0871 numbers and intends to consult on:
- the provisions of its Code of Practice that should apply to 0871 numbers;
 - the funding mechanism; and
 - whether a new 'brand' should be adopted for 0871 regulation.
- 5.16 ICSTIS hopes to publish its consultation by early 2007.

- 5.17 In order to implement this proposal, Ofcom will need to extend the definition of those services which are currently defined as Controlled PRS, as set out in Ofcom's PRS Condition in order to ensure that it has equivalent backstop powers to enforce ICSTIS regulation of 0871 numbers. Ofcom intends to issue a consultation during the interim period setting out its proposals in detail in sufficient time to complete the consultation and implement the changes at the end of the interim period.
- 5.18 Once ICSTIS has finalised its new Code of Practice, Ofcom will also need to consult on whether to approve it.

Review of the 0845 range

- 5.19 Ofcom has decided to review the pricing and interconnection arrangements for the 0845 range after two-years to see whether the usage of this range for pay-as-you-go dial-up internet services has declined sufficiently to allow Ofcom to repair the linkage to geographic call charges and to remove the 0845 range from the scope of the NTS Condition.
- 5.20 Ofcom therefore intends to undertake a review towards the end of the two-year interim period and issue a consultation in March 2008 setting out its findings and its proposals resulting from the review.

Important advice to communications providers and service providers

- 5.21 This statement sets out Ofcom's decision in relation to the proposals set out in the September 2005 Consultation. However, CPs and SPs are reminded that Ofcom is currently consulting on the proposals set out in the Numbering Review and that the proposals set out in the Numbering Review are therefore subject to change. Depending on the responses to the Numbering Review consultation, some or all of the proposals in the Numbering Review consultation may be revised or not implemented at all.
- 5.22 Ofcom therefore strongly advises CPs and SPs not to act on the basis of this statement as far as they relate to number migration, but to wait until Ofcom has published its statement setting out its decision in relation to the Numbering Review. In particular, Ofcom cautions against any migration of services to new numbers within the 08 range at this stage. This will avoid any chance of migration to number ranges that may subsequently be affected by any restructuring that proves necessary.
- 5.23 Ofcom also suggests that SPs that are considering migrating services to the 0871 range should note that ICSTIS will be consulting on the provisions of the ICSTIS Code of Practice that would be applied to 0871 numbers and also its conclusions on the funding mechanism.

Annex 1

Analysis of consumer responses to the September 2005 consultation and Ofcom's comments

Key statistics

- A1.1 Ofcom received 1207 consumers' and small businesses' responses to the September 2005 Consultation. The vast majority of these individuals responded in their capacity as consumers and members of the general public. A small number of responses were received from small/medium-sized enterprises, charities and consumer advocacy groups, as well as organisations such as the BBC. All of these responses were considered as part of this analysis. Responses from businesses that use NTS numbers (i.e. the SPs) are summarised in Annex 2.
- A1.2 The responses varied significantly in both length and detail, from those that simply provided one-word answers to the four Plain English Summary questions, through to extremely detailed and carefully argued responses of more than ten pages. A significant number of respondents provided a freeform ('non-standard') response without reference to the questions. Over half of the respondents provided extended answers to one or more of the questions, with most of these citing supporting examples such as a personal situation or experience for at least one question. More than 100 respondents provided extended responses of a page or more. Multiple responses were received from 17 respondents. The second (and, in one case, third) response tended to augment and amplify the arguments of the first response or raise new issues, rather than simply repeat the points made in the initial response.

Table 1: Overview of responses

| | |
|---|--------------|
| Number of respondents | 1207 |
| Number of respondents who submitted two or more responses | 17 (1.4%) |
| Number of consumer respondents | 1178 (97.6%) |
| Number of small business respondents (including other types of organisation) | 27 (2.2%) |
| Number of overseas respondents | 2 (0.1%) |
| Number of non-confidential responses | 937 (77.6%) |
| Number of confidential responses | 270 (22.4%) |
| Number of respondents that answered one or more of the Plain English Summary questions with “Yes” or “No” (including question Q2 included in the list of questions on the saynoto0870 website ¹⁷) | 743 (61.6%) |
| Number of respondents who mentioned the saynoto0870 website | 53 (4.4%) |

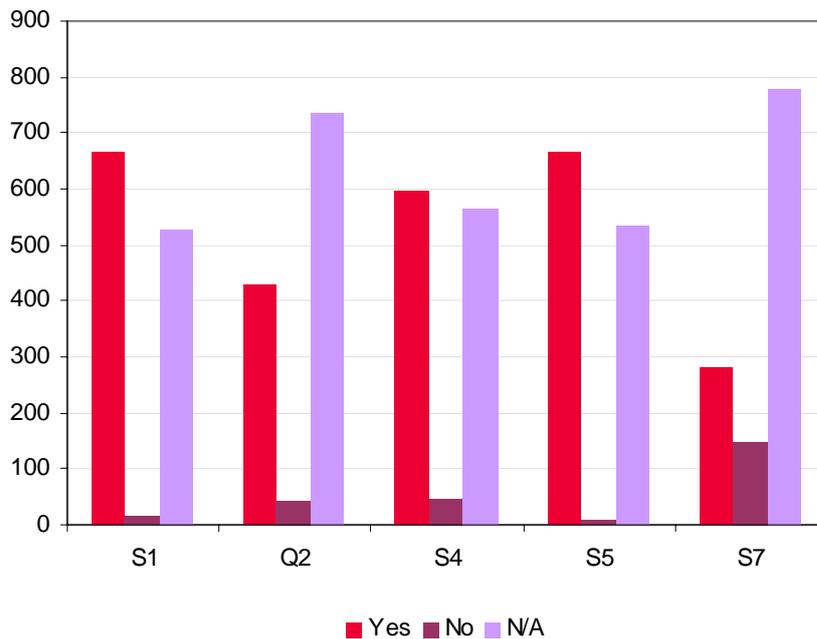
A1.3 The following table provides a summary of the number of responses to the Plain English Summary questions (including question Q2 from the main consultation that was included with the Plain English Summary questions on a template posted on the saynoto0870 website) and the corresponding percentage of the total number of respondents. ‘N/A’ indicates that the respondent either did not answer the question or provided a response that could not be categorised as a simple yes or no.

Table 2: Summary of responses to the Plain English Summary questions

| | S1 | Q2 | S4 | S5 | S7 |
|-----|-------------|-------------|-------------|-------------|-------------|
| Yes | 665 (55.1%) | 429 (35.5%) | 597 (49.5%) | 665 (55.1%) | 282 (23.4%) |
| No | 17 (1.4%) | 42 (3.5%) | 47 (3.9%) | 9 (0.7%) | 147 (12.2%) |
| N/A | 525 (43.5%) | 736 (61%) | 563 (46.6%) | 533 (44.2%) | 778 (64.4%) |

¹⁷ www.saynoto0870.com is a website that lists known geographic alternatives for 0870 numbers.

Figure 1: Summary of responses by question



A1.4 The following table provides a summary of the number of respondents providing different types of answers to the ten questions presented in Annex 3 of the main consultation document. Except for those responses to question Q2 (which was listed on the template provided by the saynoto0870 website), there were not many responses to this set of questions. Any additional comments from these respondents were taken into account as part of our analysis of the key issues (See paragraph A1.27).

Table 3: Summary of answers to the original consultation questions

| | Q1 | Q2 | Q3 | Q4 | Q5 | Q6 | Q7 | Q8 | Q9 | Q10 |
|-----|----|-----|----|----|----|----|----|----|----|-----|
| Yes | 7 | 429 | 4 | 4 | 4 | 3 | 4 | 0 | 2 | 0 |
| No | 1 | 42 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 2 |

A1.5 The following table provides a summary of the number of the respondents who raised issues that were classified into one of the six broad policy issue types that are described in Section 4 of the consultation document.

Table 4: Replies by policy issue type

| Issue type | Number of respondents |
|---|-----------------------|
| A: Revenue sharing on 08 numbers | 415 (34.4%) |
| B: Retail pricing of 0845/0870 calls | 456 (37.8%) |
| C: Price transparency on 084/087 numbers | 367 (30.4%) |
| D: Consumer protection on 084/087 numbers | 92 (7.6%) |
| E: Waiting times for call centres provided on 084/087 numbers | 286 (23.7%) |
| F: Public services provided on 084/087 numbers | 153 (12.7%) |

A1.6 Respondents frequently expanded on these policy issues to include other concerns. As discussed in paragraph A1.129, we have identified 11 areas as the additional issues that were most commonly raised. The table below provides a list of these and the number of respondents referring to these.

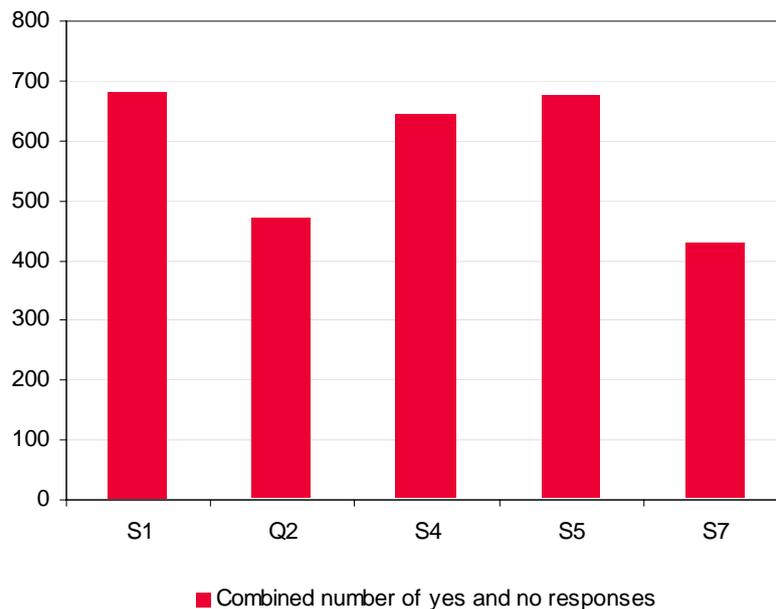
Table 5: Replies by key issue area

| Respondent issues | Number of respondents |
|--|-----------------------|
| 1. Price of off-bundled calls | 334 (27.6%) |
| 2. Excessive waiting times/menu options at call centres | 268 (22.2%) |
| 3. Poor visibility of call charge by number called | 278 (23.0%) |
| 4. Charge to call public services | 128 (10.6%) |
| 5. Choice of alternative geographic number | 316 (26.2%) |
| 6. Calls that are charged at higher rates should offer a 'real' service (only SPs that provide services perceived as value-added should be allowed to use NTS numbers) | 92 (7.6%) |
| 7. Exclusion of 0845 numbers from proposals for 0870 numbers | 119 (9.9%) |
| 8. Length of transition period for 0870 numbers | 60 (5%) |
| 9. Migration of 0870 numbers to other 08 ranges, allowing the problem to continue | 40 (3.3%) |
| 10. Lack of messages in ads, pre-announcement of charge while holding | 120 (9.9%) |
| 11. High charges for calls to NTS numbers | 178 (14.7%) |

Summary of responses

A1.7 This section presents an overview of responses from consumers, small businesses and other organisations to questions raised in the September 2005 Consultation. The majority of respondents (61.6%) provided at least one yes or no response to the questions. Two main sets of questions were used: a four-question set (S1, S4, S5, S7) from the Plain English Summary and a five-question set comprising the four questions from the Plain English Summary and Q2 from Annex 3 of the main consultation (This five-question template was posted on the saynoto0870 website that was used by many of the respondents.) Only 14 respondents replied to the original ten questions in the main consultation document.

Figure 2: Yes and no responses by question



A1.8 The queries in the five-questions set were:

- Question 1 (S1): Do you agree with our proposal that revenue sharing should no longer be allowed on 0870 calls if the link between 0870 call prices and prices for 01 and 02 geographic calls is restored?
- Question 2 (Q2): In connection with Options B4 and B5, do stakeholders agree with Ofcom's initial view that 0870 calls should be removed from the scope of the NTS Condition if the geographic link between 0870 calls and geographic calls is restored?
- Question 4 (S4): What do you think of our proposal to extend the rules controlling premium-rate services using 09 numbers to include 0871 numbers?
- Question 5 (S5): Do you agree we should insist that any adult entertainment services using 08 numbers have to move to the 09 numbers set aside for this type of content?
- Question 7 (S7): Do you agree that the package of measures we propose to introduce will tackle most of the problems with Number Translation Services? If not, what else do you think we could do and why?

Number Translation Services: A Way Forward

- A1.9 In addition to (or instead of) a yes or no response, most respondents also included a more detailed answer to one or more of the summary questions. Additional comments were used to validate respondents' agreement, disagreement or uncertainty about aspects of the questions. Consumers also used the space to provide feedback on other issues in need of clarification, vent frustration or make suggestions (especially ideas on alternative numbering schemes).
- A1.10 Both the language and the open nature of the questions resulted in series of responses that did not always directly relate to the question. As a result, a number of overlaps in key issue areas were identified across all questions. Areas commonly commented on were: call pre-announcements, the need for transparent pricing for calls to NTS numbers, the exclusion of calls from call packages, the cost of calling customer service lines that use NTS numbers, extended call queuing and the use of NTS numbers by public bodies.
- A1.11 Out of the thousands of detailed comments, the need for improved information regarding the association of number ranges to service type and corresponding call price has been a common theme across almost every response. Never before have consumers been faced with so many different decisions regarding choice of CPs, call packages and types of call. With NTS numbers coming into wider use, there is a definite demand for greater clarity and simplicity in the pricing of calls to these numbers.
- A1.12 Many respondents were also unsure about the details of how revenue sharing works in practice, and consequently, made statements in their responses that were not technically accurate. For instance, it was common for respondents to solely blame the SP using the NTS number for high call charges, when the SP chooses a price point but has no direct control over the retail rate charged by the originating operator.
- A1.13 A number of respondents believed that NTS and the Ofcom consultation documents were so complicated that it was unreasonable to expect lay people to be able to understand. Others felt the consultation was difficult to locate on Ofcom's website.

Ofcom's comments

- A1.14 Ofcom believes that its proposals will go a long way to addressing consumers' desire for greater clarity and simplicity in the pricing of NTS calls. The restoration of the geographic linkage for 0870 calls will provide a simple message about the pricing of 0870 calls. The requirement for OCPs to give greater prominence to their NTS tariffs will make it easier to find information about NTS call tariffs and the ICSTIS price publication requirement for 0871 calls will improve transparency in relation to 0871 calls. Also the proposals put forward in the Numbering Review consultation aim to simplify the meaning of 08 numbers so that consumers can easily understand the price that they are paying and that service they are receiving.
- A1.15 Ofcom is acutely aware that many stakeholders, and in particular consumers find our consultation documents highly complex and lengthy. This is especially true when we address such a complex issue as the operation of the NTS regime. Ofcom is required to demonstrate clearly to all interested parties that we have carried out rigorous economic analysis of the issues and have fulfilled our legal obligations in reaching our decisions. In doing so we have to explain the analysis and the expected impact of any changes to the regulatory regime.

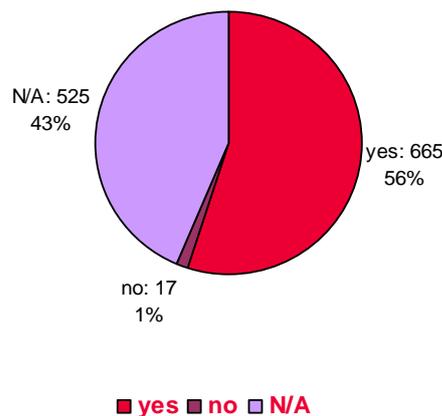
A1.16 Where consultations such as this are of immediate interest to consumers Ofcom publishes plain English and Welsh summaries which seek to explain as simply and succinctly as possible what the issues are and how we propose to address them. Plain English and Welsh summaries were provided alongside the September 2005 Consultation.

A1.17 We acknowledge that most consumers would not be familiar with the regulatory terminology associated with calls to 08 numbers (i.e. Number Translation Services) and we therefore provide a range of search tools such as keyword search facilities to help consumers to locate consultation documents on our website.

Question 1: Do you agree with our proposal that revenue sharing should no longer be allowed on 0870 calls if the link between 0870 call prices and prices for 01 and 02 geographic calls is restored?

A1.18 Out of a total 1207 respondents, 665 replied yes, 17 no, and 525 either did not answer the question or provided a response that could not be interpreted as a simple yes or no.

Figure 3: Q1 responses



Overview of responses

A1.19 There were more than 250 detailed comments pertaining to this question. However, the span of additional points that were raised does not strongly support a definite yes or no response. The greatest concern was with availability of alternative geographic numbers, the inclusion of NTS numbers in call packages, and revenue sharing (there were more respondents opposed to revenue sharing than those who supported, were neutral, or were in favour of moving any revenue sharing numbers to the 09 range combined). An additional area noted was price transparency for calls to NTS numbers and uncertainty regarding the range of 08 number prefixes. Other issues included: customer service (respondents cited extensive call queuing and the unfairness of paying for calls to obtain basic customer services), and a strong response against the use of NTS by public bodies and organisations such as doctors' surgeries.

Geographic alternatives / call packages

- A1.20 There is huge demand for 0870 numbers to be treated as geographic calls, mostly for the purpose of inclusion in call packages. Many replies mentioned the problem presented by off-bundle calls or the need for a geographic alternative alongside each mention of a 087x number (especially in advertising). However, this question did result in some confusion with regard to Ofcom's proposals, and in at least three instances, the respondent did not understand what was meant by 'restoring the link'.
- A1.21 There was also uncertainty regarding the impact of this proposed change on the customer's current situation:
- "Will I pay the same for an 087 as I do for an 01/02 with my chosen provider? This is the heart of the matter for the customer but I could not find it addressed in the consultation paper." (L Harley)
- A1.22 Thirty respondents also suggested that this proposal should also apply to 0845 calls.
- A1.23 In addition to fixed line packages, the potential impact of this proposal on mobile rates and packages is also a concern.
- A1.24 There is also general confusion with regard to the general pricing of 08 numbers:
- "I absolutely do not support the proposal to allow opting out from geographic pricing, even with a requirement for a price pre-announcement. It will not clarify consumers' understanding of the true cost. It will add further to the confusion which is the fundamental problem of 08 pricing, causing detriment through commercial exploitation of consumers' misperceptions." (F Hadi)
- A1.25 The potential impact of SPs migrating to new numbers as a result of the proposals also caused concern for some:
- "I fail to see the benefit of making companies change from 0870 numbers to 0871 numbers." (R Emery)

Revenue sharing

- A1.26 Views are split with regard to revenue sharing. Many equated it to an increase in the call price and saw revenue sharing as a form of deception, with the majority of responses voicing opposition. Some respondents believed that companies should be obliged to tell customers if revenue is shared on a number, or that all revenue sharing should be either limited to the 09 range, or completely withdrawn.
- "Revenue sharing is no longer considered a fair means of raising revenue. As the administrator of a small charity we use 0870 numbers. Even though the small amount of revenue gained from calls from supporters is welcome, we value the sense that callers gain from knowing that they will not be over-charged for calls." (T Steele)
- A1.27 Other respondents were either neutral about revenue sharing (25%) or supported it, provided that calls to 0870 numbers would be charged at the geographic rate.

“Revenue sharing does not matter, so long as caller gets value for money.” (I Norris)

- A1.28 The confusion expressed by respondents indicates that there is a definite demand for improved consumer information regarding a clear definition of what revenue sharing is and how it works. The following respondent disagreed with the question, separating the issues of call pre-announcements and call charges.

“No, due to the fact that you propose to allow the continuation of the current 0870 charging regime but with an initial call announcement...all revenue sharing should be banned on 08 numbers and if required should be on 09 numbers.” (R Miller)

- A1.29 This question was also frequently interpreted as representing an end to revenue sharing.

“Absolutely. Stop all revenue sharing.” (Respondent 1146)

- A1.30 There is also a perception that revenue sharing is directly responsible for increasing call queuing and incentivising companies to deliberately increase waiting times. On a general level, there is also widespread resentment of ‘having to pay twice’ (as perceived by many respondents) for everyday services such as customer complaints and correction of bank statement errors and insurance policies. There is strong opposition to the use of revenue sharing by public bodies, even for self-funded services.

- A1.31 However, if 0870 numbers revert to geographic pricing and are included in call packages, for many respondents revenue sharing may be acceptable.

“Providing 0870 numbers cost me the geographic rate I am happy for revenue to be shared.” (Respondent 1194)

- A1.32 Other respondents also believe that if the link with geographic pricing is restored, then companies will simply migrate to number ranges such as 0845. There were a significant number of responses requesting the inclusion of this range of numbers in the proposals for 0870 numbers.

Revenue sharing on the 09 range

- A1.33 More than 15 detailed replies to this question suggested that revenue sharing should be limited to the 09 range (a sentiment echoed in more than 50 responses to question S4). Some respondents suggested that the use of the 09 prefix would assist with services such as call barring for any higher-cost calls.

Customer service / call pre-announcements

- A1.34 Respondents were almost equally divided between those that believed a call pre-announcement detailing call prices should be provided and those who thought that this was just another method of increasing call duration (and cost).

“It should be just as expensive to telephone any organisation in the UK irrespective of whether you call their 0870 number or their geographic number. This will mean that the cost of calling a 0870 number or the 01/02 number could be different on different sides of the street.” (Respondent 1139)

Other suggestions

A1.35 In order to keep call hold times to a minimum, it has been suggested that:

“If a caller does not get through to a human voice in less than a minute, then the 08 number should pay for the time spent in the queue.” (R Kelly)

“Restoration of the link should apply to all non-geographic numbers.” (RM Frith)

A1.36 With regard to timeframe, some respondents suggested that any changes should be carried out as soon as possible instead of the suggested 12-month transition period.

Ofcom's comments

A1.37 Ofcom has decided to amend the Plan to establish the convention that calls to 0870 numbers should be charged at no more than the price of calls national calls to geographic numbers, unless there is a price pre-announcement. This will also mean that if consumers are paying the same price for local and national calls to geographic numbers, this price will also apply to calls to 0870 numbers. The change also means that 0870 calls will be included in call packages with geographic calls.

A1.38 Those SPs that currently use 0870 numbers and who wish to continue to use NTS to charge their customers will move to other number ranges (like, for example, 0871). However, Ofcom expects a significant proportion of SPs to keep their 0870 numbers and bear the loss of revenue share.

A1.39 Many respondents clearly consider the pre-announcement option to be a loophole that will continue to allow call charges to remain above geographic rates. As discussed in more detail in paragraph 4.104. In Ofcom's view, the pre-announcement option should not be regarded as a 'loophole', as the main aim of restoring the geographic link is to improve price transparency. Having said this, It is also important to note that once Ofcom has removed the regulatory underpinning from calls to 0870 numbers, the incentives for OCPs to price 0870 calls significantly above calls to geographic numbers will be markedly reduced, given that they will no longer have to pass on the revenue share. Ofcom believes that the proposed measures will go a long way to bring transparency and clarity over the price of calls to 0870 numbers.

A1.40 Ofcom acknowledges that some consumers have a strongly held view that Ofcom should not allow the NTS charging mechanism to be used in connection with the provision of some types of services (such as customer service or complaints handling) and some believe that revenue sharing should be banned completely. As discussed in paragraph 4.99, Ofcom considered whether revenue sharing should be ended on the 08 range in the October 2004 and September 2005 Consultations and rejected it on the grounds that it would lead to a significant reduction in service availability and usage and would give rise to very significant migration costs, as SPs who depend on revenue shares would be forced to move to the 09 range. Ofcom remains of the view that the prospective benefits of this option, in terms of improved transparency and consumer protection, are likely to be outweighed by the costs involved. Also, preventing selected types of services from using the NTS revenue sharing mechanism would in Ofcom's view be potentially discriminatory and Ofcom does not believe it has sufficient grounds to adopt such an approach.

- A1.41 Ofcom's view is that revenue sharing should continue on 08 numbers and measures should be taken to improve pricing transparency, consumer protection and awareness of revenue sharing. It is also worth noting that many consumers, as noted in paragraph A1.27, were not against revenue share per se provided they were charged for 0870 calls the same as for their national calls to geographic numbers.
- A1.42 Regarding the belief that the same package of measures should be implemented for 0845 numbers, Ofcom has decided to review the matter in two years' time because at present the benefits of doing so would be outweighed by the costs associated with it. With the number of users of pay-as-you-go dial-up internet services declining rapidly, this position may change substantially over the next two years.
- A1.43 Regarding the opposition to the use of revenue sharing numbers by public sector organisations, As discussed in the September 2005 consultation, Ofcom does not consider it has sufficient grounds to prevent public sector organisations from using revenue sharing NTS numbers. Regarding an obligation for public sector organisations to offer a geographic alternative to 08 numbers, Ofcom's view is that it is inappropriate for public sector organisations to use NTS numbers exclusively (i.e. without at a minimum, giving equal prominence to a geographic alternative) when dealing with people on low incomes or other vulnerable groups. However, Ofcom is not in favour of a requirement for public sector organisations to publish a geographic number because it would in effect prevent public bodies from using revenue sharing numbers which as discussed above, Ofcom considers it has insufficient grounds to do.
- A1.44 It is worth noting that some public sector organisations responding to this consultation have requested Ofcom to consider opening-up a specific range where prices are the same as geographic calls and where revenue sharing would not be permitted. This proposal has been picked up in the consultation on the Numbering Strategy Review, where the 03 range as been proposed to address such requirements. Ofcom believes this range could in the future play a significant role in addressing consumers' concerns and public bodies' requirements.
- A1.45 Finally, concerning the perception that revenue sharing is responsible for extending call centre queuing, we considered this possibility in our September 2005 Consultation. In particular, we commissioned market research to gain a better understanding of this issue. The research showed no significant correlation between the cost of calls and the waiting times and it led Ofcom to conclude that call centre waiting times are not being artificially extended to take advantage of the revenue share. Ofcom therefore considers there are insufficient grounds to justify regulation of call centre service levels. Also Ofcom considers that it should not impose regulations to address areas of concern such as call centre service levels in downstream markets. A detailed discussion of this issue can be found in the September 2005 consultation document¹⁸.
- A1.46 With regards to the view that the changes to the 0870 range should be applied before the interim period of 12-months proposed by Ofcom, Ofcom disagrees with this view because it would be likely to lead to disruption for both SPs and consumers if SPs are not given time to prepare for the changes and to inform their

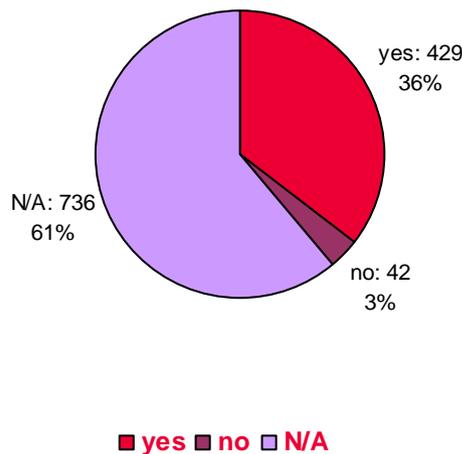
¹⁸ *Number Translation Services: a way forward*, September 2005, Page. 97 to 101 and Annex 6.

customers about their new numbers if appropriate. Shortening the timescale for implementation would also be likely to increase the costs that SPs incur since a greater proportion of printed material such as stationery, promotional material and catalogues would have to be replaced rather than simply updated as part of regular replacement cycles. Ultimately, any such costs that SPs incur may be recovered at least in part from consumers in higher prices for other goods and services. One of the main reasons that Ofcom has decided to extend the interim period to 18-months is to minimise the costs that SPs would incur.

Question 2: In connection with Option B4 and B5, do you agree with Ofcom’s initial view that 0870 calls should be removed from the scope of the NTS Condition if the geographical link between 0870 calls and geographical calls is restored?

A1.47 Out of a total 1207 respondents, 429 replied yes, 42 no, and 736 either did not answer the question or provided a response that could not be interpreted as a simple yes or no.

Figure 4: Q2 responses



Overview of responses

A1.48 This question was the most difficult for respondents to understand (and was left blank in more than 50% of responses).

“It is not clear to me whether ‘restoring the geographical link’ means that the call, if dialled by a non-BT customer, would still be diverted to the BT charging rates. If it means that a customer would automatically get the geographic call rates in effect with their chosen plan then I would agree that 0870 could be removed from the scope of the NTS Condition.” (M Payton)

“I do not know what this question means but I am in favour of any measures which eradicate 0870 scams.” (M Phee)

A1.49 Perhaps as a result, there were a limited number of more detailed responses (around 100). This question was included along with the other questions from the

Plain English Summary in the five-question list on the saynoto0870 website. Over 40% of respondents used the list from the website to respond to this consultation.

A1.50 Any agreement with this question that was put forward was usually conditional:

“If and only if the link is restored ‘fully’- in other words, there is no extra to pay for 0870 compared with 01/02 irrespective of time of day, or type of phone being used (landline, mobile).” (Respondent 981)

A1.51 In addition, call packages, revenue sharing and customer service were all prominent concerns.

Geographic / call packages

A1.52 Most replies to this question again raised the issue of the exclusion of 0870 (and 0845) calls from packages of bundled minutes. The majority of respondents suggested that it would be a step forward to move towards restoration of this link to allow call bundling. Other suggestions included provision of a database of alternative geographic numbers and the requirement that such numbers are shown in any advertisement.

A1.53 The confusion over whether removing the link will result in an actual number change is still present for many respondents:

“0870 numbers represent brands; small companies will incur large transition costs if they are forced to move numbers.” (J Chinery)

A1.54 Some are against 0870 numbers altogether, and are in favour of the “ideal solution of dismantling the 0870 number range” (S Marsden)

“Unclear whether 0870 number would remain if geo link restored. How does this work for calls to overseas call centres?” (C Lewis)

A1.55 Again there is a plea for call charges to be straightforward and more transparent to the consumer.

Ofcom’s comments

A1.56 This question was intended primarily for industry respondents and was not included in the plain English and Welsh summaries. Ofcom asked for the industry’s views about the feasibility and costs of extending the scope of the designations in the Plan to a wider group of OCPs. Ofcom didn’t include this question in the summaries because respondents would need a fairly detailed knowledge of the pricing and interconnection arrangements for NTS calls in order to comment on these topics. The responses indicate there was some confusion about this question but also that respondents main concern was to ensure that calls to 0870 numbers cost no more than geographic calls.

A1.57 As discussed in paragraph 4.209, Ofcom has decided to give further consideration to extending the scope of the designations in the Plan as part of the Numbering Review.

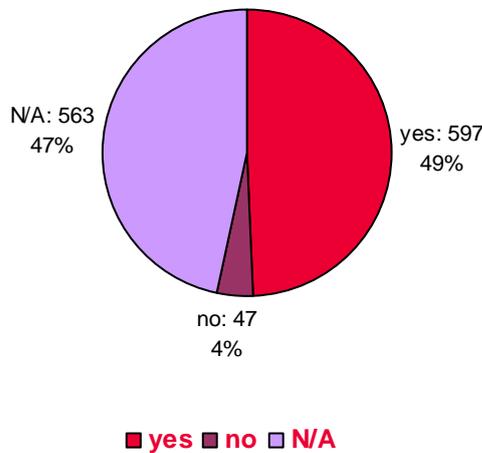
A1.58 Regarding the concerns over the exclusion of 0870 calls from call packages, we have already addressed this issue in our answer to the previous question (paragraph A1.37).

A1.59 Finally, regarding the provision of alternative geographic numbers alongside 08 numbers, Ofcom is not generally in favour of such an approach because it would be likely to cause calls to bypass the call routing facilities provided on 08 numbers and would in effect prevent SPs from using revenue sharing numbers.

Question 4: What do you think of our proposal to extend the rules controlling premium-rate services using 09 numbers to include 0871 numbers?

A1.60 Out of a total 1207 respondents, 597 replied yes, 47 no, and 563 either did not answer the question or provided a response that could not be interpreted as a simple yes or no.

Figure 5: Q4 responses



Overview of responses

A1.61 There was general confusion over whether this question meant that the number prefix would be changed as a result (many respondents suggested that this should be the case). More than 200 detailed comments were noted for this question. In general, the answers grouped more clearly than in other questions, falling into three categories:

Yes, include 0871 numbers with 09 numbers (although the price difference must be made clear if they are in the same category):

“0871 is a mess. Higher charge than 0870, but number not distinguishable enough and no regulation of its use. Reclassify 084x numbers as premium rate.” (J Knight)

No, keep things as they are. Five responses suggested that changing 0871 to 09 would only confuse consumers.

Renumber/migrate the 0871 to the 09 range to clearly indicate a higher than expected call charge that potentially uses revenue sharing. This was by far the most popular suggestion. Many replies also stated that the use of adjacent number ranges causes confusion: “0871 is too similar to 0870”, “0845 too similar to 0844...”

“Your proposal will work better if all 0871 numbers are changed to a 09 prefix, in this way there will be no confusion.” (S Kilbee)

Revenue sharing

A1.62 Again, there is no clear consensus on this topic between the detailed replies. Some suggest that revenue sharing should be removed (“businesses should bear the cost of 0870 numbers”), others are comfortable with the practice if charged at geographic rates or restricted to the 09 range. (Numbers are split between ‘no revenue sharing’ with combined ‘yes if moved to 09’ and yes). More respondents suggest that use of the 09 range will make the distinction between numbers clearer than it is for the 0871 range.

Call pre-announcement

A1.63 Nine replies specifically state the need for a (free) call pre-announcement before a call, detailing prices and giving the caller an opportunity to proceed with the call or not.

Other comments

A1.64 0844 and 0845 numbers should be included in the current proposals (there were concerns that 0870 numbers would migrate to these ranges).

A1.65 Other comments made were:

“In some industries any pre-announcement could interfere with machine to machine communications and cause malfunction. Any changes should not result in a need for a number change or because of changes to the payment regime; otherwise this could result in an incentive for existing users to want a number change. 0870 are of a major benefit to enable calls to be routed in the event of failures and to balance workload.” (Respondent 1013)

“It is most important that the high cost 0870/1 numbers cannot continue to be used in their current form simply by the responder announcing that such numbers may be charged at a higher rate.” (Respondent 1063)

“Generally I agree. However there are useful services such as fax to email services which are in a different category. I do not wish to lose my fax to email number.” (Respondent 1139).

Ofcom’s comments

A1.66 The proposal is to extend the PRS regulations to 0871 numbers rather than to require services to move from 0871 numbers to 09 numbers.

A1.67 Regarding the view that services currently provided on 0871 numbers should be moved to 09 numbers. Ofcom disagrees with this approach partly because of the level of disruption it would cause but also because consumers would be likely to be reluctant to call services once they migrate to 09 numbers due to worries about high prices. Ofcom believes it is preferable to extend PRS regulation, albeit in a lighter version, to 0871 numbers to improve consumer protection.

A1.68 Regarding the extension of PRS regulation also to the 0844/45 ranges to prevent problematic services migrating to those ranges, Ofcom is aware of the potential

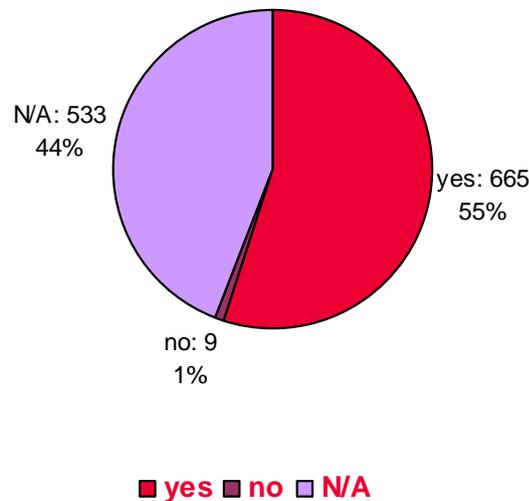
problem, and has reviewed it in the September 2005 consultation. For the time being, however, Ofcom has decided a pre-emptive extension of PRS regulation to these ranges is not justified by evidence of harm. The highest price point on 084 numbers is the 0844 range at 5p per minute, which is half that of the 0871 range, and therefore the potential for consumer's harm is much smaller. Ofcom has proposed in the September 2005 consultation to continue to monitor the 0844 range to see if problems occur and we still believe this is the best approach at present. Ofcom will also monitor the 0845 range during the period leading up to the review in two years' time of the arrangements for 0845 calls. If the geographic link is restored for 0845 calls the scope for consumer harm will be much reduced.

- A1.69 Regarding a requirement for all NTS calls to have price pre-announcements, Ofcom is concerned that consumers would find these annoying and has concluded that the incremental benefits of pre-announcements for all 08 calls (over and above the other measures proposed) would be outweighed by the costs involved in their implementation at the present time.
- A1.70 Ofcom believes that some respondents may have misinterpreted 'price publication requirements' to mean price pre-announcements. In fact a price publication requirement is a requirement for advertisers to state call prices and would not therefore interfere with 'machine to machine communications'. In the September 2005 Consultation, Ofcom noted that price pre-announcements might interfere with modem communications for dial-up internet services. Ofcom acknowledges that pre-announcements might also disrupt other communications involving modems such as facsimile services and security systems.
- A1.71 Ofcom does not support the application of the measures proposed for the 0870 range (i.e. linking charges to geographic rates and removing 0870 calls from the scope of the NTS Condition) to 0844 and 0845 ranges in order to prevent revenue sharing on the 08 range. Our views on restricting revenue sharing to 09 numbers are discussed in paragraph 4.166.
- A1.72 Regarding respondent 1139's concerns about losing his/her fax to email service. In the October 2004 Consultation, Ofcom considered and rejected an option of selectively restricting the availability of revenue sharing to Electronic Communications Services ('ECS') such as pay-as-you-go dial-up internet services and fax services. When the proposals for 0870 are implemented, SPs are likely to give users of fax to email services the option of paying directly for their fax to email services or alternatively the option to migrate to a new number such as 0871 that will continue to support revenue sharing.

Question 5: Do you agree we should insist that any adult entertainment services using 08 numbers have to move to the 09 numbers set aside for this type of content?

- A1.73 Out of a total 1207 respondents, 665 replied yes, 9 no, and 533 either did not answer the question or provided a response that could not be interpreted as a simple yes or no.

Figure 6: Q5 responses



Overview of responses

A1.74 Nearly 60 detailed responses were allocated to this question. The three main response areas were:

- **Yes, this is a good idea as it will allow for easier call barring of these services.** Adult services should be on the 09 range to make domestic call barring easier. Further suggestions include setting up PIN-activated accounts with specific adult SPs.
- **Move these services to the 09 range.** There is a difference of views in responses in favour of moving 08 adult content services to 09 numbers. Some respondents suggest that all chargeable services should be on 09, regardless of content:

“The abuse of 08 numbers is not limited to adult entertainment. All revenue generating/sharing use of 08 (and 070) numbers should be moved to 09.”
(I Walker)

- Others reinforce the need to clearly define a number band (09) for adult content:

“0870 numbers should not include adult sites as many associate such numbers with other non-adult sites.” (Respondent 1187)

- **Place a price cap on all 08 numbers** (possibly equivalent to that proposed for 0870 numbers). There were a number of suggestions for the use of price caps, including: applying any ceiling set for 0870 numbers to all 08 numbers (“band by service and price”), capping all 0845 calls at their current price, and creating a range of 09 numbers that would be capped at 0871 levels.

A1.75 There is still much confusion about numbering and pricing.

“I do not understand this. If your proposal is that 0870 numbers should be at the national geographic call price how can the receiver ‘charge more than this’ without moving to a 0871 number?” (Respondent 1194)

Number Translation Services: A Way Forward

A1.76 There is a concern that there has not been enough publicity in the media about 08 numbers and their costs. Most consumers did not realise that adult content is available on 087 numbers.

“Unaware that adult lines were hidden amongst 0870.” (D Vestey)

A1.77 Counterpoints were also made:

“Numbers providing free of charge access to adult services should be permitted in the 0800 range. A range of 09xx adult numbers should be created with a price cap at 0870/0871 levels.” (Respondent 1065)

Other comments:

“Proposals should be extended to include reverse text messaging and mobile short code services with numbers such as 9XXXX.” (Steve and Company Group)

“09 should only relate to the cost of the call not its content.” (D Norfolk)

“Public services should never use 0870 or premium rate numbers.” (L J Barso)

Ofcom's comments

A1.78 Our comments on the view that revenue sharing services should be required to use the 09 range are in paragraph A1.42.

A1.79 Regarding the suggestion that Ofcom should cap prices for 08/09 calls. As discussed in paragraph 4.25, Ofcom considers that such an approach would be inappropriate since regulated call charges would not be subject to the influence of market forces. Ofcom has however decided to continue to explore the possibility of extending the scope of the designations in the Plan in order to improve pricing transparency.

A1.80 Regarding the view that adult services should not be restricted to the designated 0908 and 0909 range (09 calls should only relate to the cost of the call, rather than to its content), Ofcom does not share this view and believes it is justified in requiring adult services to use these ranges where call-barring services are more widely available. In performing its duties, Ofcom must have regard, amongst other things to the vulnerability of children and others whose circumstances appear to Ofcom to put them in need of protection. Ofcom believes the opposition to the requirement for adult services to use the designated 0908 and 0909 ranges may relate to a belief that call charges to 09 numbers are always higher than for 08 numbers. Although price points for 09 numbers are generally above 10p per minute, there is no restriction on lower price points and therefore TCPs could make lower price points available if there is demand for them from SPs.

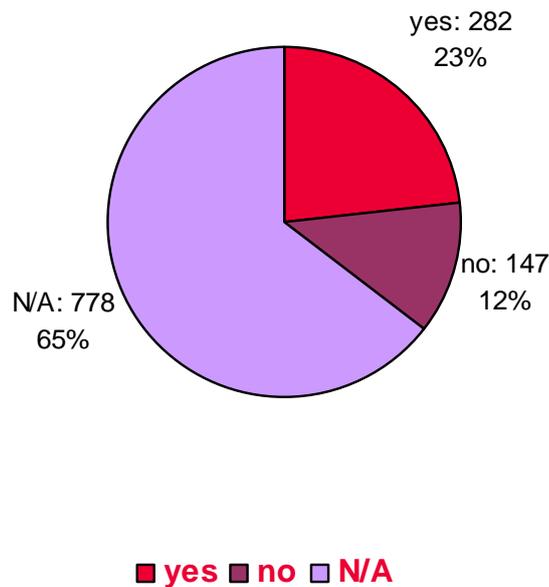
A1.81 Our comments on public sector usage of NTS numbers are in paragraph A1.43.

A1.82 Ofcom notes Steve and Company Group's comments about reverse text messaging and mobile short code services, but considers them to be outside the scope of the NTS policy review.

Question 7: Do you agree that the package of measures we propose to introduce will tackle most of the problems with Number Translation Services? If not, what else do you think we could do and why?

A1.83 Out of a total 1207 respondents, 282 replied yes, 147 no, and 778 either did not answer the question or provided a response that could not be interpreted as a simple yes or no.

Figure 7: Q7 responses



Overview of responses

A1.84 Due to the ‘any other suggestions?’ nature of this question, there were nearly 450 detailed replies. A wide range of topics were covered, including: 0845 and ISPs, call pre-announcements, need for transparent pricing, call queuing and customer service, geographic alternatives and call packages, use by public bodies, and revenue sharing. See paragraph A1.127 for a more detailed list of the issues raised.

“I had not realised what was involved in a 0844 or 0871 number until I read this consultation document.” (Respondent 1194)

0845 and ISPs

A1.85 There is a strong opinion that the 0845 range should be included in Ofcom’s proposals (and treated in the same way as 0870 numbers). There were many suggestions that these calls should be priced at geographic rates. The use of the terms ‘local rate’, ‘national rate’ and ‘lo-call’ have been misleading.

“More is required than just better pricing information. I have recently been invited to switch my own private number to 0845 so that I can make money out of being telephoned. I prefer to retain my friends but it shows the pressure.” (J Van den Arend)

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A1.86 There was much discussion of Ofcom's justification to delay reform of the 0845 number range because of its use for pay-as-you-go services. Many respondents stated that internet services were a valid example of a value-added service for which revenue sharing was justified. Setting aside the 0845 range for the sole use of ISPs was a suggestion from a number of respondents. However, most respondents believed that the presence of ISPs could not justify leaving the 0845 range unreformed for two years, typically arguing that the number of pay-as-you-go Internet users was declining rapidly and that it would be straightforward for ISPs to migrate to other number ranges such as 0844 or 09, or to use a new range opened up specifically for them.

A1.87 Some respondents argued that the number of dial-up users was likely to fall more slowly than Ofcom expected.

"There will always be low volume users, users too far from the exchange to get ADSL, and users who don't want to change from their present setup...The requirement to sustain PAYG Internet access should not be used as a reason to continue 0845 revenue share - for if it is, then this justification will persist for decades." (G Cole)

A1.88 A number of small businesses' views were also provided:

"I run my own IT company and feel that it is most important that my customers are able to contact me without excessive call charges whether they are calling to make a purchase or calling to have a problem resolved under warranty or just general telephone support, which I offer at no charge. When considering having an 0845 number, I decided to keep my geographical number as this left the option with the customer." (K Winks)

Ofcom's comments

A1.89 Ofcom disagrees with the view that the existence of pay-as-you-go dial-up internet services on the 0845 range is insufficient justification for not repairing the linkage to geographic charges for 0845 calls. Ofcom's research shows that if the linkage were repaired, all pay-as-you-go dial-up internet services would have to migrate to alternate numbers and it also shows that this process would be disruptive for both ISPs and many of the 3.8m consumers that use pay-as-you-go dial-up internet services. Ofcom notes G Cole's concern that the number of users of pay-as-you-go dial-up internet services will continue at a lower level and that as a result the geographic linkage may not be repaired for an extended period. It remains to be seen how much further pay-as-you-go dial-up internet subscriptions decline, but if the current rate of decline continues, there will be substantially fewer subscribers when Ofcom next reviews the 0845 range after two years.

Call pre-announcements

A1.90 Once again, respondents expressed differing opinions with regard to call pre-announcements. Many respondents believe that a (free) call pre-announcement detailing charges before a call is connected would help to clarify call charges. Others believe that this would not address the issue:

"0870/1 numbers cannot continue to be used in their current form simply by the responder announcing that such numbers may be charged at a higher rate."
(Respondent 1063)

“Pre-announcements are only useful for voice calls: users of fax/modem services might unwittingly end up paying excess charges.” (D Heaps)

Ofcom's comments

- A1.91 Ofcom disagrees with the view that OCPs should not be given the option to make a price pre-announcement and to charge 0870 calls above their geographic rates. In Ofcom's view, the pre-announcement option should not be regarded as a 'loophole', as the main aim of restoring the geographic link is to improve price transparency.

Consumer confusion / transparent pricing

- A1.92 There is confusion with respect to operators' sales messages to different market segments:

“On one hand they are telling domestic customers sign up for a fixed fee monthly account and you will get all you landline calls free. At the same time they are telling business customers 'sign up for 0870 and your customers pay you'. This immediately reduces the number of free calls to the domestic customers.” (Robin Bloor Associates)

- A1.93 There is a demand for the pricing of all calls to be transparent, well publicised and easily understood.

“I feel that the system should be made as simple and clear as possible. If callers can tell the difference easily between the different types of numbers, then this will be an advantage for us all.” (H McNair)

“It must be clear to a caller, before they make a call to a 08, 07 or 09 number what the pence per minute rate will be.” (P Penhallow)

“Call costs should be displayed every time a non-geographic number is listed or displayed on TV, radio, other media, telephone directories ... in fact, anywhere and everywhere.” (J Sims)

“The idea was to ensure that people could feel secure that they would never have to pay more than the price of a local call wherever they happened to call from. However, this now no longer seems to be the case as our clients are increasingly confused by the baffling range of 08 numbers and the array of tariffs now available, meaning that for some an 0845 number is actually more expensive than local dialling.” (Respondent 1153)

Ofcom's comments

- A1.94 Ofcom notes respondents' view that pricing transparency needs to be improved. This is one of the main aims of the package of measures that will be implemented.

Customer service / call queuing

- A1.95 Many respondents expressed strong opinions that consumers should not have to pay twice for customer service.

“Any person should be able to transact normal life and business without having to use a premium rate line.” (Respondent 1136)

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“Does it improve the customer experience, or does it provide information which one may ordinarily be expected to pay for? The BIG problem with 0870 is that it fails the test on both counts.” (I Seale)

- A1.96 Some respondents also viewed automatic call answering and extensive menu options on interactive response systems as problems.

“Ban automatic call answering. Would rather have a (no cost to me) ringing tone than ‘your call is important to us please hold’.” (Respondent 1198)

Ofcom's comments

- A1.97 As discussed in paragraph A1.40, Ofcom does not agree with the view that some types of services shouldn't be allowed to use revenue sharing numbers.

- A1.98 Concerning the view that Ofcom should ban automatic call answering, this point is related to the view that Ofcom should regulate customer service levels at call centres. As discussed in the September 2005 Consultation, Ofcom commissioned its own market research to gain a better understanding of this issue. The research showed no significant correlation between the cost of calls and the waiting times and it led Ofcom to conclude that call centre waiting times are not being artificially extended to take advantage of the revenue share. Ofcom therefore considers there are insufficient grounds to justify regulation of call centre service levels.

Geographic / call packages

- A1.99 According to many respondents, there is a need for either geographic alternatives to 0870/1 numbers, or else inclusion of 0870/1 in call bundles.

“If we must have 0870 numbers, then the companies should be obliged to also list a normal geographical number, or the telephone companies be obliged to include 0870 ‘free’ in their ‘inclusive packages’ tariffs.” (Respondent 1134)

“Why not require all owners of 0845 numbers, excepting for good reason the Internet SPs, to publish their geographical numbers alongside their 0845 numbers and let us, the users, decide which to use?” (M Howe)

“I am not sure how this will affect me as I pay a package to cover all 01 and 02 numbers and they are unlimited, but do I have to pay for any other code i.e. 0845/0870, etc? How will this affect me?” (M Welham)

Ofcom's comments

- A1.100 Ofcom is not in favour of a requirement for SPs to publish a geographic number because it would in effect prevent SPs from using revenue sharing numbers, which as discussed above, Ofcom considers it has insufficient grounds to do.

Move to the 09 range

- A1.101 A number of respondents believe that any number that attracts a premium (revenue sharing) should be re-classified as an 09 number so that consumers explicitly know that they will be charged more for the call.

Ofcom's comments

A1.102 As discussed in paragraph 4.98 Ofcom is not in favour of limiting revenue sharing to the 09 range.

Calls from overseas

A1.103 Some respondents pointed out that there can be considerable problems associated with calling numbers in the 08 range from abroad, both in terms of the typically high charge for such calls and, in many cases, of not being able to complete the call at all. There was strong support for geographic alternatives for use by those phoning from overseas.

Ofcom's comments

A1.104 Ofcom acknowledges that NTS numbers are not universally available from outside the UK. As discussed in paragraph 4.51, Ofcom plans to take steps to see if access from abroad can be improved. Ofcom's view is that this primarily a matter for SPs. If access from abroad is important, SPs should consider offering a geographic number for overseas callers. Ofcom does not believe it should require SPs to publish geographic numbers in order to improve access from abroad.

Public bodies

A1.105 Many respondents feel that public services should have to use 01/02 numbers or 0845 numbers at local rates

“Why should I be charged more to talk to the Inland Revenue than to my brother in Australia?” (R Cushing)

Ofcom's comments

A1.106 As discussed in paragraph A1.43, Ofcom does not believe it has sufficient grounds to prevent public sector organisations from using NTS numbers and believes that public sector organisations should make their own decisions about whether to use NTS numbers. As discussed in paragraph 4.195, Ofcom has and will continue to give advice to public sector organisations.

Revenue sharing

A1.107 Most responses associate revenue sharing with an increased charge for the phone call.

A1.108 The lack of visibility of the price of the call is an issue alongside an understanding of how revenue is actually split.

“If there is revenue sharing, we should know who is getting what proportion of the call cost.” (N Zaman)

“0870 and similar numbers are being used by companies to generate revenue. This is OK if I have the choice of whether or not to call them. But mostly I do not have the choice (rectifying an order error, etc.). Should be mandatory to provide a ‘real’ phone number to contact a company.” (M Hilton)

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A1.109 In addition to a number of statements raised in other sections regarding customer service levels, many responses also suggested that a basic level of service to accompany the purchase of goods should be included as part of that purchase.

“Introduce legislation which prevents suppliers from using any form of payment due from the customer when they make warranty and or service claims for new products via phone or web site links. This will help to protect buyers from exploitation by suppliers when, after making a purchase, a buyer tries to exercise their rights under the Sale of Goods Act to have faults rectified at no further cost to them.” (Respondent 1178)

Ofcom's comments

A1.110 Ofcom has proposed a range of measures that should improve pricing transparency for NTS calls.

A1.111 In the September 2005 Consultation, Ofcom examined the scope for consumer detriment in cases where consumers have little or no choice but to call a particular number (such as rectifying an order error). Ofcom concluded that the scope for detriment was limited by competition in the primary market in which individual SPs operate (i.e. the market for the goods/services that SPs sell). Given the overall benefits that consumers derive from NTS, Ofcom considers there is not a strong case for requiring SPs to publish geographic numbers.

A1.112 Ofcom notes respondent 1178's view that the Sale of Goods Act should be modified to give purchasers a right to have faults rectified at no further cost but considers that such a measure would be outside its regulatory remit as communications sector regulator.

07 numbers

A1.113 There were also comments regarding call charges to personal numbers in the 07 range, mainly regarding confusion over the higher rate for calls to 07 mobile numbers.

“These personal numbers should be moved to the 04 range and charged at a known rate.” (L Christmas)

Ofcom's comments

A1.114 Personal numbers in the 07 range are not NTS are therefore outside the scope of this review. However, Ofcom has recently made proposals to improve transparency and consumer protection in relation to personal numbers in the Numbering Review consultation.

Other comments

A1.115 Other issues associated with the consultation documentation were also raised.

“The typical consumer has no idea what a Number Translation Service is or that it has any bearing on the use of 0870 numbers. So the typical consumer is unlikely to succeed in submitting an opinion on 0870 numbers unless they are willing to devote a considerable amount of time studying your website to find out how this can be done.” (R Bickford)

A1.116 A number of alternative suggestions were also made in response to Question 7:

“In general, I find 087 numbers work well and a number of firms do respond in very reasonable time scales. I believe that there should be a code of practice requiring firms who utilise 087 numbers to keep the call costs to the same rate as a standard national call.” (I Mantel)

“People / companies choose these numbers for one or both of two reasons: 1. They can earn revenue on them. 2.They are not tied to a geographical location, when they move office they can keep numbers. Any number that allows the user to earn money should be classed as premium.” (A Watts)

“I suggest that Ofcom needs to consider, as an alternative to ending revenue sharing on 0870 numbers, legal restrictions on the adoption of NTS numbers. In the same way that a government department or agency could not adopt a Premium Rate number for its ‘standard’ services to the public, they should similarly be disallowed from using revenue sharing numbers, except if it could be shown that callers would be no worse off (which is very unlikely). This would mean that NTS revenue sharing numbers could only be used for certain types of services for which geographic numbers would be impossible, or where a clear ‘value-added’ benefit was being offered to callers.” (Respondent 1191).

Ofcom’s comments

A1.117 Our comments on respondents concerns about the complexity of the consultation are in paragraph A1.15.

A1.118 As discussed in paragraph 4.98 Ofcom disagrees with the view that revenue sharing should be restricted to 09 numbers.

A1.119 As discussed in paragraph A1.40, Ofcom does not agree that revenue sharing should be restricted to selected types of services.

Comments on the market research

A1.120 One respondent raised questions about Ofcom's market research¹⁹.

A1.121 Mr J. Shersby was concerned that the Mystery Shopping exercise to 0870 and 0845 call centres was not representative as numbers were selected at random. He believed that more 0870 numbers would be owned by small business that used them for redirection than larger ones with large call centres.

A1.122 Mr Shersby was also concerned that the calls may not fully capture the call waiting times at big call centres where he believed some of the longest queue times occur, particularly if they were called only once. He also suggested that the market researchers might have been encouraged to hang up too early if it was deemed to be wasting their time.

¹⁹ Ofcom’s market research for *Number Translation Services: a way forward* can be found at: http://www.ofcom.org.uk/consult/condocs/nts_forward/ntsrsc.pdf. The research questionnaire is located in Annex 2 of this document.

Ofcom's comments

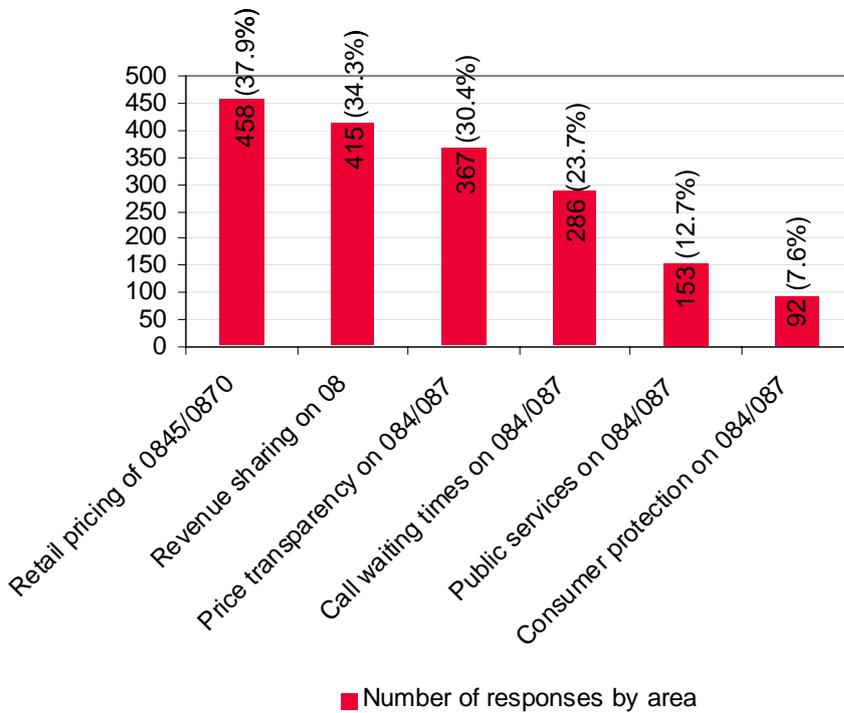
- A1.123 Ofcom notes Mr Shersby's concerns over the Mystery Shopper exercise. However, the 'ideal' sampling approach wasn't possible as no data existed to allow this. The sample design is detailed in the research report.
- A1.124 Anecdotal evidence from qualitative research had pointed towards call queuing durations being longer when calling larger companies. In order to examine this in more detail a sub-set of the mystery-shopping sample was dedicated to calling larger organisations (with a turnover of £10m + per annum). The results are discussed in section 6.1-6.4 of the published research report.
- A1.125 Ofcom used a reputable independent market research agency MORI to conduct the market research. All interviewers were trained in accordance with Market Research Society guidelines. Ofcom has no reason to believe that the market research company would have encouraged staff to hang up, and does not believe that in this instance being on hold could be described as 'a waste of time', as the purpose of the exercise was to measure the call duration. Of course, interviewers could not stay on the line indefinitely (and in the real world consumers would not do so), so a maximum holding time was agreed between MORI and Ofcom of 30 minutes. A small minority of calls (approximately 0.5%) fell into this category.
- A1.126 The purpose of this exercise was to provide another source of evidence to be considered alongside anecdotal evidence such as that described above. Consumers have a tendency to remember the 'bad' experiences, but not the 'normal', so it was important that Ofcom did not rely solely on anecdotal evidence.

Key issues

Frequently cited viewpoints

- A1.127 In addition to a varying number of replies received for each question, there were also wide variations in the format and nature of the responses. Some individuals responded to questions using the forms provided on Ofcom's website, others learned about the consultation through other means, including friends, saynoto0870.com, and an article that appeared in *Which* magazine ("Costly 0870 call charges to go", November 2005).
- A1.128 Where respondents provided a more detailed reply to questions, or wrote in with concerns, ideas or suggestions, these were mapped on to the six policy options outlined in the consultation document, namely:
- A: Revenue sharing on 08 numbers
 - B: Retail pricing of 0845/0870 calls
 - C: Price transparency on 084/087 numbers
 - D: Consumer protection on 084/087 numbers
 - E: Waiting times for call centres provided on 084/087 numbers
 - F: Public services provided on 084/087 numbers.

Figure 8: Mapping of responses to the six policy options



A1.129 As well as citing these issues, many respondents also expanded on them to include other concerns. We have identified the following 11 areas as the additional issues that were most commonly raised:

- Concerns over the exclusion of calls to NTS numbers from inclusive call packages and the subsequent additional cost of calls to these numbers were captured by this issue;
- Excessive waiting times/menu options at call centres;
- Poor visibility of call charge by number called: confusion over how the number range to which an NTS number belonged indicated the rate at which the call would be charged was captured by this issue;
- Charge to call public services: concerns over the use of NTS numbers by government and other public bodies such as the NHS and the BBC were captured by this issue;
- Choice of alternative geographic number: requests that alternative geographic numbers be provided for NTS as well as concerns for the concealment by NTS users of the underlying geographic number were captured by this issue;
- Calls that are charged at higher rates should offer a real service (only SPs that provide services perceived as value-added should be allowed to use NTS numbers): suggestions that revenue sharing should only be permitted in

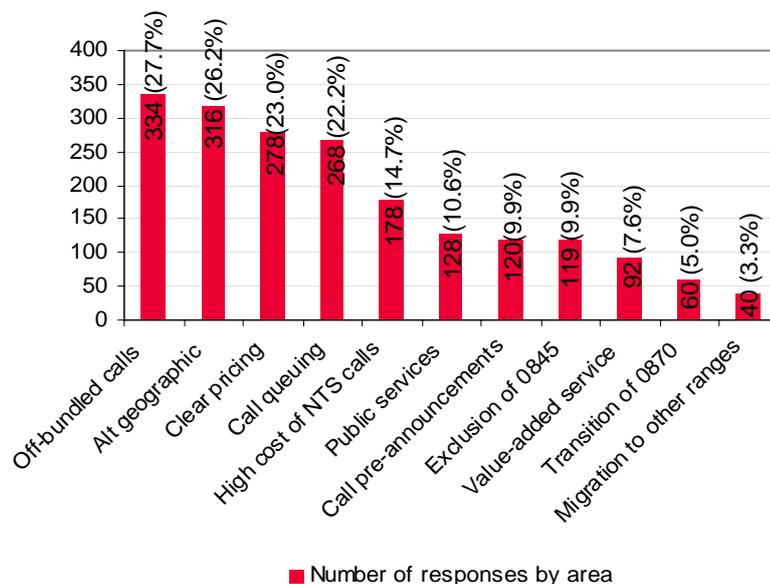
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cases where the NTS number was being used to provide a service (as opposed to, for instance, a sales or customer service line) were captured by this issue;

- Exclusion of 0845 numbers from proposals for 0870 numbers: exclusion of 0845 and other NTS numbers (0844/0871) from the proposals for 0870 numbers was captured by this issue;
- Length of transition period for 0870 numbers: concerns over the suggested timetable for the changes to 0870 numbers were captured by this issue;
- Migration of 0870 numbers to other 08 ranges allowing the problem to continue: concerns that the proposals for changes to 0870 numbers would lead to SPs with NTS numbers migrating to other number ranges (0844/0845/0870) and the perceived problems with calls to NTS numbers continuing were captured by this issue;
- Lack of messages in ads, pre-announcement of charge while holding: concerns over lack of information about the price of calls to particular NTS services (for instance, in print or broadcast advertisements or the lack of pre-announcement of rates) were captured by this issue; and
- High charges for calls to NTS numbers: concerns about the high charges for calls to NTS numbers from mobiles, payphones and with non-inclusive call packages were captured by this issue.

A1.130 The results of the issue mapping are summarised in the chart below. It should be noted that it was difficult to precisely map some of the points raised on to these issue areas. However, if the responses described above are read in conjunction with the list of additional concerns, it is possible to gain a better understanding of the range of views expressed.

Figure 9: Mapping of responses to the 11 issue areas



A1.131 In the following, we consider the responses from the point of view the six policy areas combined with relevant additional topics from our supplementary list.

Revenue sharing

A1.132 More than 34% of the responses referred to revenue sharing (policy option A).

A1.133 Some respondents were sceptical about Ofcom's claim that "there did not appear to be a profit motive for use of NTS numbers, particularly among the small and medium businesses", however, one small business respondent stated:

"At my place of work we often receive unsolicited marketing from companies who wish us to overlay our landline telephone number with a 0870 phone number – this is presented as 'make even more money out of your clients'. I think this is an appalling way to do business, and destroys the relationship which should be built up between provider and customer." (L Wolffe)

A1.134 Respondents have requested greater visibility of any revenue sharing on a particular number. A number of respondents have suggested that revenue sharing should be limited to ISPs and 09 calls only. Some respondents consider revenue sharing to be acceptable as long as calls can still be charged at geographic rates or included in call packages, while other respondents state that the need for these numbers has never been established.

Call costs

A1.135 Nearly 40% of respondents made reference to the retail pricing of calls (policy option B).

A1.136 As the availability of all-inclusive call packages has increased, so too has the take-up of 0870 numbers. Respondents are concerned that the two are not compatible, due to the number of calls that fall outside a consumer's call bundle. There is also general concern about the high cost of calling NTS numbers, especially from mobile phones.

Visibility

A1.137 In at least 30% of all responses, price transparency was an important concern (policy option C). Many respondents believe that per-minute call costs need to be stated more clearly and prominently on literature and in advertisements, avoiding the use of 'mouse print'. Frustration is also voiced with the "mismatch of guidelines between ASA broadcast and non-broadcast divisions" (Respondent 1108), and some respondents suggested that this should be remedied to extend the reach of clear pricing information to broadcast advertisements.

"One of the main problems is that the majority of people do not understand how they are being excessively charged for using these numbers – especially old people. The use of the terms local rate, national rate and lo-call lead the caller into thinking they are paying standard national and local telecom rates or even with lo-call for 0845 thinking that it is a cheap call." (Respondent 1186)

A1.138 Respondents also indicated that it is difficult for consumers to interpret and compare the wide array of providers' call prices for fixed, mobile, peak, off-peak, bundled and off-bundle call packages.

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A1.139 Many respondents cited a need for improved clarity with regard to prices and services associated with specific number ranges.

“We consider the policy should include a desire to make the charging policy not just transparent, but logical” (J Van den Arend).

A1.140 There were also a number of suggestions for a high-profile follow-up to publicise the results of this consultation as a way of improving the visibility of numbering and prices.

Consumer protection

A1.141 It was not always clear to respondents how the 087x number range is regulated, especially with regard to adult content (policy option D). Some respondents suggested moving adult content from 0871 to the 09 series as a way to improve the ease of barring such calls and increase the visibility of call charges.

Call centre queuing

A1.142 Nearly 24% of responses mentioned call queuing (policy option E). More than 20 respondents specifically indicated that extensive menu options only increased the duration of caller hold times. Many respondents believe that call queuing on NTS numbers should not be allowed (as is the case for 09 numbers) or that the caller should not be charged while waiting in a queue.

A1.143 Some respondents also cited automatic answering as a nuisance that lengthened call-holding time.

Charges for calls to public services

A1.144 More than 12% of respondents' replies stated that calls to job centres, NHS, doctors' surgeries and crisis help lines should not cost more than a local call, to avoid penalising the economically disadvantaged (policy option F). Many are also concerned by the use of NTS numbers for what they consider to be essential, everyday services such as banks and utility companies.

Need for alternative geographic numbers

A1.145 Many responses stated the view that alternative geographic numbers should appear alongside NTS numbers in advertising.

A1.146 Residential call packages were also the topic of many responses:

“Bundled packages tie consumers into contracts, leaving no competition or choice available to the public.” (G McIver)

A1.147 This comment links to another remark:

“...without choice there is no competition.” (T Woodhams)

Customer service / call centre cost

A1.148 Many respondents indicated that they resent having to pay an additional amount for a phone call to customer service centres, believing that such a service should be included as part of the purchase.

“Why should I pay for the privilege of contacting a company to complain about some shortcoming or failure in their service?” (G Ross)

“Rights of consumer must be at risk if they are not allowed control or choice over how they have to make telephone contact with a business.” (I Harrison)

“...there is little or no pricing information; there is no alternative helpline and you don't discover this until after you have bought the product or service.” (G McIver)

A1.149 However, one small business offered an alternative perspective:

“I run my own IT company and feel that it is most important that my customers are able to contact me without excessive call charges whether they are calling to make a purchase or calling to have a problem resolved under warranty or just general telephone support, which I offer at no charge. When considering having an 0845 number, I decided to keep my geographical number as this left the option with the customer. I feel that NTS takes away the right of choice in many cases where after sales services are concerned, and in some way could be seen as obstructing consumer rights.” (G McIver)

Exclusion of 0845 numbers from proposals

A1.150 Many respondents believed that 0845 numbers should also be included in Ofcom's proposals. It was also deemed important in order to avoid future migration of other numbers onto this range.

Transition timeframe

A1.151 Many respondents called for earlier or even immediate implementation of the proposals for 0870 numbers. Some suggested that 0845 numbers should be included in the initial proposals, and that the transition could be completed in 3 to 6 months, not 12.

Call pre-announcements

A1.152 Considering the question of resolving the problems encountered by consumers with NTS numbers, there is considerable division of opinion among respondents as to whether call pre-announcements would help (greater visibility of call charges) or hinder (call prices still high with or without an pre-announcement, caller usually does not have any choice about whether or not to make the call).

Ofcom's comments

A1.153 Ofcom has already commented on the frequently cited viewpoints in the summary of the individual consultation questions.

Other comments

A1.154 In addition to earlier comments, there were a number of additional comments made by respondents about various aspects of NTS:

- Respondents sometimes expressed displeasure that call centres were unable to inform them how much a call would cost, without realising that call centres

typically have no way of knowing this since the call charge depends on the CP and call package the caller is using;

- BT is widely blamed for high NTS call charges, with some respondents claiming that NTS was a means for BT to attempt to re-establish its former monopoly. "Revenue sharing on 084x/087x numbers makes it impossible for telco providers to be competitive as they are forced to charge more than BT." (Respondent 1010);
- Many respondents felt the relationship between number range and call charge is unclear. One respondent referred to a 44-page booklet published by BT giving details of how to calculate rates for different kinds of calls to the various NTS number ranges;
- A number of schemes were proposed to make the link between numbers and call charge more transparent, such as "...calls to 0803 numbers at 3p/minute, calls to 0805 numbers at 5p/minute." (J Calder);
- A number of respondents argued that the presence of revenue sharing on the 08 range was a violation of the National Telephone Numbering Plan, which, they claimed, restricted revenue sharing to the 09 range. Other respondents were confused to discover that revenue sharing was occurring in the 08 range, as they had believed that these numbers had been introduced to provide non-geographic calls at national/local rates;
- There was some confusion over the definition of premium rate numbers. Some respondents argued that premium rate numbers were restricted to the 09 range by the Plan, and expressed confusion over statements within the consultation document and from Ofcom officials that described certain 08 range numbers as premium rate. Other respondents described all numbers charged at above the geographic rate as premium rate numbers;
- A number of respondents stated that the public had now understood 0870 as the prefix used for 'national' rate calls and 0845 for 'local' rate calls. Some respondents pointed out that the terms of 'national' and 'local' rate no longer have well-defined meanings (particularly following the introduction of a flat calling rate for all geographic numbers for most BT customers), but that much of the public is unaware of this (indeed, it was common for respondents themselves to refer to 'national' and 'local' rate calls);
- Respondents were even less clear about 0871 and 0844 numbers, as some respondents claimed that many people are not aware of these numbers and believe them to be extensions of the 0870 and 0845 ranges, respectively. Several respondents believed that Ofcom should do more to educate consumers about charges for calls to NTS numbers;
- Other respondents made the point that it is often difficult – and sometimes impossible – to find out in advance the rate at which an NTS call is going to be charged, and argued that some alternative providers do not publish clear tariffs for calls to NTS numbers, and tariffs can vary widely depending on the nature of the subscription.;
- Some respondents raised the point that the requirements for providing information about NTS call rates differed significantly between printed and

broadcast advertisements. Respondents felt that the requirements should be more consistent in order to allow consumers to make an informed choice;

- They also raise issues over the ASA policy on visibility of call costs that ASA rules are only applicable for non-broadcast advertisements and state the ASA has “no intention of ruling otherwise without regulatory intervention requiring them to do so.” (Respondent 1010) The respondent suggests that the ASA NTS guidelines should also apply to broadcast advertisements;
- “I am not on the Internet and don't have a telephone. I use the local library, which allows a two-hour session per day, and my local phone box for telephoning. Public phone boxes are themselves at a premium to those same calls from the comfort of ones' own residential phone, so that whatever argument are made by those from that position can be greatly increased when these same calls of 0870 and 0845 are made from the public phone-box network by those who generally are the least able to pay.” (Respondent 971);
- One respondent questioned the five-year delay between Ofcom becoming aware of the problems with NTS numbers and finally taking action, and believed that an investigation into the delay is necessary. “Micro-payments from NTS services are worth over £300 million per annum, suggesting total payments of more than £1 billion over the last six years.” (J Thomas);
- The question “Why has Ofcom allowed revenue sharing to continue?” is one that needs a full, independent investigation and Ofcom needs to consider, as an alternative to ending revenue sharing on 0870 numbers, legal restrictions on the adoption of NTS numbers. (J Thomas);

Ofcom's comments

- A1.155 Ofcom notes consumers concerns about the difficulty of obtaining information from their CPs on NTS call charges. The requirement for OCPs to give greater prominence to their charges for NTS calls is designed to address this problem.
- A1.156 Ofcom believes that the measures set out in this statement will go a long way to addressing the concerns about pricing transparency and consumer protection.
- A1.157 Respondents are mistaken in their belief that the availability of revenue sharing on the 08 range is violation of the Plan. Both 08 and 09 numbers have operated under the same regulatory mechanism that supports revenue sharing since the introduction of these ranges. Revenue sharing services are not therefore in contravention of the Plan. However, Ofcom acknowledges that the breakdown of the linkage to geographic charges for the 0845 and 0870 ranges has resulted in many callers being charged at rates that are higher than geographic rates, which was not the original intention. Ofcom has decided to repair the linkage for 0870 calls and to review the 0845 range with a view to repairing the linkage.
- A1.158 In the Numbering Review consultation, Ofcom has also proposed further measures to simplify the information provided by the Plan about the nature of the services provided on 08 numbers and call charges.
- A1.159 Ofcom acknowledges that the ASA/CAP guidelines differ for broadcast and non-broadcast advertisements. Ofcom's view is that the ASA/CAP are best placed to decide whether its guidelines on NTS price indications should differ between

advertising media. Ofcom has and will continue to provide advice to the ASA/CAP advice on NTS.

- A1.160 Ofcom notes respondent 971's concerns about the cost of calls to NTS numbers from payphones and acknowledges that they are generally more expensive than calls made from landlines. Ofcom's view is that this is a factor that SPs should take into account when deciding whether to use NTS numbers. This factor is particularly relevant to those dealing with people on low incomes and other vulnerable groups. However, Ofcom does note that although the charges for NTS calls from payphones are higher than from landlines that landline users have to pay line rental in order to obtain the lower rates.
- A1.161 Ofcom notes Mr Thomas's view that it has been negligent by not banning revenue sharing and also his view that there should be an independent investigation into why there has been a "five-year" delay between Ofcom becoming aware of the problems with NTS and finally taking action". Ofcom disagrees with Mr Thomas's view that revenue sharing should be banned. The October 2004 consultation and September 2005 Consultation contained a detailed review of the NTS regime, including the scope for consumer detriment. Ofcom believes that the package of measures it has decided to implement are a proportionate response to the problems identified, that will improve pricing transparency and consumer protection whilst preserving the benefits that consumers derive from NTS.

Annex 2

Analysis of other responses to the September 2005 consultation and Ofcom's comments

Introduction

- A2.1 This annex contains Ofcom's analysis of all the consultation responses apart from those from consumers and small businesses (that are not SPs), which are analysed in Annex 1. This section also contains Ofcom's comments on the responses.
- A2.2 The analysis is structured according to the 10 consultation questions included in the September 2005 Consultation, the exceptions being the responses from the Ofcom Consumer Panel and the Ofcom Advisory Committee for England.

The Ofcom Consumer Panel

- A2.3 The Ofcom Consumer Panel ('the Panel') believed that Ofcom should make improvements to pricing transparency the primary objective of its proposals. The Panel felt it was vital that consumers are provided with clear information about call charges so they can make informed decisions.
- A2.4 The Panel believed that Ofcom should reconsider its decision not to require all OCPs to provide price pre-announcements for all 08 calls. The Panel believed that Ofcom had only considered the cost to industry and had not taken into account the benefits for consumers.
- A2.5 The Panel supported the proposal to repair the geographic linkage for 0870 calls but thought that Ofcom should not give OCPs the option to charge higher prices provided a pre-announcement is provided. They noted Ofcom's comment that the cost of providing pre-announcements would be likely to deter OCPs from charging higher prices and could not understand why Ofcom had provided the option in that case.
- A2.6 The Panel supported the extension of the designations for the 0844 and 0871 ranges to CPs other than BT.
- A2.7 The Panel was concerned about the potential for consumer harm in the case of 'locked-in calls' i.e. cases where callers have little or no choice but to call a particular number. They noted that Ofcom's research showed that 40-50% of calls to 084 and 087 numbers are locked-in and felt that this proportion would increase. The Panel believed that revenue sharing is inappropriate in such cases.
- A2.8 The Panel believed that Ofcom should link the price of all 084 and 087 calls to geographic rates and restrict revenue sharing to the 09 range. They also felt that it would be sensible to make these changes without further delay.
- A2.9 The Panel was also concerned that Ofcom had not explained how ICSTIS would be funded for the additional workload associated with the extension of PRS regulation to the 0871 range and to all adult services regardless of price.

- A2.10 With regards to the use of NTS numbers by public sector bodies, the Panel acknowledged that Ofcom had limited powers to prevent public sector bodies from using NTS numbers and also that Ofcom had contributed to the COI best practice guidelines. However, they thought that Ofcom could do more to persuade public sector bodies not to use NTS numbers.

Ofcom's comments on the Ofcom Consumer Panel's response

- A2.11 Ofcom acknowledges the Panel's concern about locked-in calls to NTS numbers. Ofcom considered the potential for consumer detriment from locked-in calls in the September 2005 Consultation and concluded that the potential for detriment is low because of competition in downstream markets (i.e. the primary markets for the goods/services provided by SPs). Therefore Ofcom believes its proposals are a proportionate response to the detriment identified.
- A2.12 In the September 2005 Consultation Ofcom reviewed the potential for consumer detriment due to the lack of price transparency from NTS calls in some detail and also estimated the welfare loss resulting from the lack of transparency. Price pre-announcements for all 08 calls are one of a range of measures to improve pricing transparency (and therefore reduce the welfare loss) that were considered. Ofcom does not therefore agree with the Panel's view that it considered only the costs associated with price pre-announcements and not the potential benefits. Ofcom concluded that the incremental benefits of pre-announcements for all 08 calls (over and above the other measures proposed) would be outweighed by the costs involved in their implementation at the present time.
- A2.13 The proposal to repair the geographic linkage for 0870 calls is intended to improve pricing transparency, not as a measure to set the retail prices of OCPs. Ofcom has therefore included the option for OCPs to charge higher prices provided a pre-announcement is provided.
- A2.14 Ofcom disagrees with the Panel's view that revenue-sharing services should be restricted to the 09 range. Ofcom considered this idea in the September 2005 Consultation and rejected it on the grounds that it would perform poorly in terms of the policy objective of promoting service availability and choice. This was because consumers might be reluctant to use services if they moved to the 09 range because of the perception that the prices of calls to 09 numbers are very high. In addition, Ofcom considered that call barring might further restrict the use of services. There was also evidence from the consumer focus groups that many consumers would be against this approach because of a fear that migration would be accompanied by price rises. Restricting revenue sharing to 09 numbers would also give rise to very significant migration costs which would be likely to be recovered at least in part from consumers.
- A2.15 Extending PRS regulation to include the 0871 range and adult services regardless of price will increase ICSTIS's workload. Ofcom and ICSTIS will consider the funding arrangements in their forthcoming consultations as discussed in Section 5.
- A2.16 Ofcom disagrees with the Panel's view that it should do more to dissuade public sector bodies from using NTS numbers. Ofcom considers that it has made its view on public sector usage of NTS numbers very clear and has also contributed to the Central Office of Information's better practice guidance for government contact centres. Ofcom has and will continue to advise public sector organisations that request assistance. However, given its view that the use of NTS numbers is a

matter for each organisation, Ofcom does not consider it appropriate to go further and campaign against their use.

The Ofcom Advisory Committee for England

- A2.17 The Ofcom Advisory Committee for England ('the Committee') acknowledged that NTS numbers provide SPs with call routing services but saw the increasing use of 087 numbers in preference to 0845 numbers as evidence that SPs primary aim is to make additional revenues.
- A2.18 The Committee was concerned about the increasing use of 084 and 087 numbers by SPs in cases where consumers were locked-in (i.e. where consumers have little or no choice but to call a particular number) and the use of NTS numbers for services such as customer inquiries that the Committee considered were not bona-fide uses of the micro-payment mechanism provided by NTS.
- A2.19 The Committee was also concerned that consumers are not well informed about NTS call charges and considered that the complex charging regime adopted for NTS numbers had caused consumers to be misinformed and confused. They also felt that certain CPs had taken advantage of the situation by offering misleading information on call charges for 084 and 087 numbers in order to maximise their commercial gain to the detriment of consumers.
- A2.20 The Committee noted that Ofcom's research showed that most consumers felt that NTS calls are reasonable value for money but felt Ofcom's research must be flawed since the Committees experience was quite the opposite.
- A2.21 The Committee reminded Ofcom that its primary responsibility is to safeguard citizen-consumer interest as stipulated in section 3 of the Act and were concerned that in its view, Ofcom had not so far taken any significant action to address consumers concerns about 08 numbers.
- A2.22 The Committee welcomed Ofcom's proposal to repair the geographic linkage for 0870 calls and asked Ofcom to consider further changes, namely:
- linking the charges for all 08 calls (apart from Freephone) to geographic charges and applying the requirement to all OCPs and to require that these calls be included in inclusive calls packages;
 - restricting all premium rate calls to the 09 range (where premium rate is defined as all charges higher than BT's geographic call charges);
 - provision of new 09 number ranges with price points up to 5p per minute under ICSTIS regulation so that services currently provided on 08 numbers could continue to operate; and
 - swift action to implement the changes in order to safeguard consumer interests.

Ofcom's comments on the Advisory Committee for England's response

- A2.23 Ofcom acknowledges the Committee's concerns about NTS numbers but does not agree with the Committee's view that it has neglected its duty under section 3 of the Act to protect consumers. The September 2005 Consultation proposed a range of measures to improve pricing transparency and consumer protection, most of which Ofcom has decided to implement. Ofcom has previously taken a number of steps to improve pricing transparency and consumer protection such as modifying the designation in the Plan for the 0845 and 0870 ranges, contributing to the ASA/CAP

advertising guidance and the COI better practice guidance for government contact centres.

- A2.24 Ofcom believes that the Committee's principle concern is the potential for detriment from locked-in calls. Ofcom considered the potential for consumer detriment from locked-in calls in the September 2005 Consultation and concluded that the potential for detriment is low because of competition in downstream markets (i.e. the primary markets for the goods/services provided by SPs). Therefore Ofcom believes its proposals are a proportionate response to the detriment identified.
- A2.25 Ofcom disagrees with the Committee's view that revenue-sharing services should be restricted to the 09 range. Ofcom considered this idea in the September 2005 Consultation and rejected it on the grounds that it would perform poorly in terms of the policy objective of promoting service availability and choice. This was because consumers might be reluctant to use services if they moved to the 09 range because of the perception that the prices of calls to 09 numbers are very high. In addition, Ofcom considered that call barring might further restrict the use of services. There was also evidence from the consumer focus groups that many consumers would be against this approach because of a fear that migration would be accompanied by price rises. Restricting revenue sharing to 09 numbers would also give rise to very significant migration costs which would be likely to be recovered at least in part from consumers.
- A2.26 Ofcom disagrees with the Committee's view that its consumer research must be flawed since it shows that consumers as a whole are less concerned about NTS than members of the Committee and their friends/acquaintances. The research programme was designed by Ofcom's research department in conjunction with a reputable research agency. The findings are based on a sample of 1039 consumers designed to provide a representative sample of UK consumers. Ofcom is therefore confident that the findings are representative.

Question 1: Do stakeholders agree with Ofcom's description of the policy issues and Ofcom's policy objectives?

Communications Providers

Policy Issues

- A2.27 Most respondents broadly agreed with Ofcom's description of the policy issues, however there were concerns that Ofcom had overstated the magnitude of some problems and understated others. Key points made were:
- most respondents including UKCTA and UKCTA's members agreed there is a significant pricing transparency problem for NTS calls and many felt this was the main issue that Ofcom should address. Flextel argued that Ofcom's research indicates that the pricing transparency problem is much wider than NTS calls and extends to geographic and other call types. They argued that Ofcom should seek to address this wider problem rather than address NTS pricing transparency in isolation and suggested a 'price labelling' solution under which consumers could find out the price of any call in advance, by dialling a 3-digit prefix followed by the number they wish to call. (we review this solution in Section 4, paragraph 4.35 to 4.42);
 - most respondents acknowledged that the linkage between 0845 and 0870 call charges and local and national geographic call charges had broken down and

that the terms local rate and national rate might be misleading and should not be used to describe 0845 and 0870 calls;

- most respondents felt that call centre waiting times are not a major problem or are not made worse by the availability of revenue sharing and pointed to Ofcom's research as proof this is the case. One CP disagreed and suggested measures to address the problem (see paragraph A2.314);
- many respondents felt that the evidence gathered by Ofcom showed that consumer concerns about revenue sharing are not widespread;
- many respondents acknowledged that some consumers are concerned about the cost of NTS calls but noted that these concerns were based on the perception that NTS calls are much more expensive than they are and felt that consumers would not be concerned about the retail prices of NTS calls if they knew the real charges; and
- some respondents felt that the evidence gathered by Ofcom indicates there are not major consumer protection problems on 087 numbers and several cited the number of responses received by Ofcom's Contact Centre during the last year as evidence.

A2.28 Several other issues were raised:

- several respondents felt that the very high prices charged by some OCPs (particularly mobile operators) are a major problem since they are far in excess of the designations set out in the Plan;
- IV Response argued that the generic nature of call price advertisements provided by NTS SPs (i.e. referring to prices charged by BT and stating that prices from other networks may vary) gave consumers very little idea of the likely cost of a call given the wide variation in retail prices and argued that OCPs should be required to announce call charges in excess of the designations in order to protect consumers from being overcharged;
- Call Sciences felt that difficulties in publicising and enforcing ASA/CAP advertising guidance could be a factor in the lack of pricing transparency and should be considered as a policy issue;
- Magrathea disagreed with the concept of 'locked-in' callers arguing there are always alternatives available to callers. It therefore felt that Ofcom need not consider this in its analysis; and
- Telecom One argued that, in its opinion, whether, and in what circumstances, NTS numbers were appropriate gateways for specific public service applications was more a matter for the public sector agencies concerned rather than for Ofcom.

Ofcom's comments

A2.29 Ofcom agrees with respondents that the lack of pricing transparency is one of the key issues that need to be addressed; however, Ofcom does not agree that measures to improve pricing transparency can obviate the need to address the problems with the retail prices of 0845 and 0870 calls. Indeed, the broken linkage between BT's 0845 and 0870 calls charges and its standard local and national call charges is a major contributory factor to the lack of pricing transparency.

A2.30 Our comments on Flextel's price labelling solution are in paragraph 4.35 to 4.42.

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- A2.31 Ofcom disagrees with respondents' views that there is little consumer concern about NTS. As discussed in the September 2005 Consultation, Ofcom's quantitative research demonstrated a range of concerns relating to call charges, revenue sharing and services.
- A2.32 Ofcom acknowledges that consumers concerns are NTS call charges are at least in part a function of the low level of price awareness and could be expected to decline as awareness improves.
- A2.33 Ofcom agrees with respondents that its Contact Centre received a small but growing number of complaints about 0871 number consumer complaints about NTS numbers. Ofcom comments on respondents' views about the extension of PRS regulation to 0871 numbers in paragraph 4.168 to 4.184.
- A2.34 Ofcom notes respondents' concerns about the high prices charged by some OCPs for NTS calls. Ofcom has sought to address this with measures to improve pricing transparency.
- A2.35 Ofcom acknowledges that the fact that the pricing designations in the Plan apply only to BT makes it more difficult for advertisers to communicate pricing information. This was why Ofcom asked for stakeholders views on the feasibility of extending the scope of the designations in the Plan beyond BT to other OCPs and why Ofcom has separately consulted on a proposal to require OCPs to give greater prominence to their charges for NTS calls.
- A2.36 Our comments on Call Science's views about the ASA/CAP advertising guidance are in paragraph 4.173.
- A2.37 Ofcom disagrees with Magrathea's view that 'locked-in' calls should not have been considered as a policy issue. Given the concerns expressed by respondents to the October 2004 Consultation about SPs overcharging consumers, Ofcom considers it entirely appropriate that locked-in calls should be considered as a policy issue. Ofcom acknowledges that in many cases, alternatives to NTS numbers (such as the mail or e-mail) are available to consumers, but in some cases they are not available or would be an inadequate substitute. For example a letter could hardly be considered an adequate substitute to the telephone for a consumer to report an electricity supply failure to a power utility.
- A2.38 Our comments on public sector usage of NTS numbers are in paragraph 4.195.

Policy Objectives

- A2.39 Most respondents agreed with the policy objectives identified by Ofcom, however there was a widely held view that Ofcom's proposals indicated that Ofcom had given too much weight to some objectives and too little to others. The general view was that Ofcom had attached too much weight to the objective of improving consumer protection given the low levels of consumer detriment and too little weight to the objective of promoting a range and choice of services given the level of disruption that the proposals might cause. As previously noted, many CPs felt the lack of pricing transparency is the most serious problem and therefore measures to improve it should be given the strongest weighting.
- A2.40 A number of CPs felt that Ofcom's policy objectives didn't consider the interests of the industry and didn't take account of the potential impact of the proposals on CPs, resellers and SPs. They also noted there would be a knock-on impact on

consumers in terms of disruption resulting from migration and ultimately higher costs for consumers.

- A2.41 One CP acknowledged that Ofcom had undertaken a considerable amount of additional research but felt the differences between the proposals in the October 2004 and September 2005 consultations must mean there was an imbalance in the weighting that Ofcom had applied to the objectives for the September 2005 consultation.
- A2.42 UKCTA and UKCTA members argued that the lack of a full Cost Benefit Analysis had led Ofcom to develop proposals that didn't produce the best output for the UK and cited the Indepen study that it commissioned as proof that alternative proposals could produce a better outcome.
- A2.43 UKCTA and many CPs felt that Ofcom had not given sufficient weight to reducing industry problems such as interconnection disputes. One CP argued this was the primary objective at the outset of the policy review and that the proposals indicated that Ofcom had given very little weight to this objective. UKCTA also felt that Ofcom had given too much emphasis to reducing regulatory intervention and noted that reduced intervention does not always result in the best outcome for consumers.
- A2.44 BT felt that Ofcom had given undue weight to reducing transitional disruption and felt that some disruption, particularly to pay-as-you-go internet services would be justified in order to achieve a better long-term solution. BT also felt that some of the current problems with NTS are (unintended) consequences of the regulatory regime rather than market failures and cautioned that further intervention might also have unintended consequences. BT's view was that Ofcom should seek to unwind the current regulatory regime in the hope of reducing the number of regulatory disputes.
- A2.45 A number of CPs felt that Ofcom had given too little weight to the transitional disruption that the proposals would cause. Apart from the migration that might result from the repairing the linkage between 0870 call charges and geographic call charges there was also criticism of:
- the prolonged period of uncertainty for the 0845 range resulting from the proposal to undertake a further review after two years;
 - potential consumer confusion during the interim period during which the pricing of 0845 and 0870 numbers would change several times; and
 - uncertainty about the nature of PRS regulation on 0871 numbers.

Ofcom's comments

- A2.46 Most of Ofcom's detailed comments on the weighting it has given to the policy objectives and on the impact assessment are in the review of the proposals in Section 4.
- A2.47 As discussed in the September 2005 Consultation, Ofcom's view is that there are a very limited number of options available to address the issue of the broken linkage to geographic call charges. Ofcom acknowledges that the proposals in September 2005 Consultation will be more disruptive for CPs, resellers and SPs than the proposals in the October 2004 Consultation but Ofcom doesn't consider these indicate an imbalance in the weighting of the policy objectives.
- A2.48 Ofcom doesn't agree with UKCTA's view that the Indepen report has demonstrated that an alternative approach would deliver greater benefits. As discussed in more

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detail in paragraphs 4.23 to 4.29, as a matter of policy, Ofcom does not consider that such an approach would be appropriate. Also Ofcom considers that under equally plausible assumptions Ofcom's proposals would deliver a greater benefit.

- A2.49 Ofcom disagrees that it has not given sufficient weight to the objective of reducing industry disputes. One of the reasons that Ofcom has decided to remove the 0870 range from the scope of the NTS Condition is that the combination of revenue sharing and retail prices selected by BT has been a major cause of industry disputes.
- A2.50 Ofcom does not agree with BT that by deciding not to make any changes to the 0845 range that it has given undue weight to reducing transitional disruption. Ofcom notes that if the geographic linkage were repaired, all pay-as-you-go internet services would have to move to alternative number ranges, which would cause considerable disruption for both ISPs and consumers. Given that the number of pay-as-you-go internet subscribers is declining rapidly, it would be disproportionate to repair the linkage at present given that the scale of disruption would be considerably reduced in two years time when a further review is undertaken. As discussed in paragraph A2.465, Ofcom believes that BT may have overestimated the benefit of repairing the geographic linkage for 0845 calls at the present time.
- A2.51 Ofcom acknowledges respondents' concerns about the uncertainty over the future of the 0845 range and discussed them in paragraph 4.151. We consider respondents concerns about the provisions of the ICSTIS Code of Practice for 0871 numbers in paragraph 4.182.

Mobile Operators

- A2.52 The MBG did not believe that Ofcom had taken all the relevant factors into account when calculating consumer detriment. In particular, the fact that SPs may receive incoming inquiries by phone, by e-mail or via the internet. They argued that the inquiries received by telephone may be considered optimal by SPs, even if call volumes are not maximised. They argued that it was inappropriate for the regulator to decide whether SPs should be able to use revenue sharing numbers and that those decisions should be made by SPs.

Ofcom's comments

- A2.53 Ofcom's proposals aim to address the issues identified and do not aim to nor will they restrict the availability of revenue sharing to SPs or to dictate what they may charge.

Resellers

- A2.54 Three resellers agreed with the policy issues identified by Ofcom and five disagreed. Two didn't state why they disagreed. Windsor Telecom felt that the policy issues had been blown up out of all proportion by left wing media reports.
- A2.55 Three resellers disagreed with Ofcom's policy objectives and/or its proposals because of the potential impact on resellers and SPs.

Ofcom's comments

A2.56 As discussed in paragraph 4.61, Ofcom has undertaken further analysis on the potential impact of the proposals on resellers in response to the concerns raised by respondents.

ISPs, SPs and other Business Association Responses

A2.57 Six respondents agreed and one disagreed with Ofcom's description of the policy issues and its policy objectives.

A2.58 One confidential respondent, an ISP, agreed with Ofcom's description of the policy issues and its policy objectives in relation the 0845 range but not the 0870 range, believing that the 0870 proposals would be replicated on the 0845 range when reviewed in two years' time.

A2.59 The CMA disagreed with Ofcom's policy objectives and argued that the policy objective of protecting the citizen-consumer-caller did not seem to have been effectively developed in practice. They added that they "believe that the policy should be to provide a market within which callers are adequately protected and are able to make telephone calls with a clear understanding of what they are paying for the call or that they are contributing to some form of revenue share"

Ofcom's comments

A2.60 Our comments on the proposal to undertake a review of the 0845 range in two years time are in paragraph 4.140.

A2.61 Ofcom's own policy objectives are closely aligned with those of the CMA and focus on consumer protection and improved transparency. Ofcom and the CMA have differing views on how best to achieve these aims in practice. As discussed in paragraph A2.96, the CMA believes that all revenue-sharing services should be restricted to 09 numbers. Ofcom disagrees with this approach partly because of the level of disruption it would cause but also because consumers may be reluctant to call services once they migrate to 09 numbers due to worries about high prices. Ofcom's view is that revenue sharing should continue on 08 numbers and measures should be taken to improve pricing transparency and the awareness of revenue sharing.

Other regulatory bodies

A2.62 Norfolk Trading Standards broadly agreed with Ofcom's description of the policy issues. It raised two additional points relating to misleading advertising:

- firstly it noted that some advertisers were using the 'local rate' and 'national rate' terms in advertisements for 0844 and 0871 numbers and therefore believed that the problem of misleading advertising is wider than Ofcom had indicated; and
- secondly it believed that the practice of quoting BT's charges in advertisements is misleading since other OCPs may charge higher prices.

Ofcom's comments

A2.63 Ofcom has also recently become aware that a minority of CPs and SPs are advertising 0844 and 0871 charges as local rate and national rate respectively. This

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practice is clearly misleading given there is no linkage between 0844 and 0871 charges to local and national rates and no such linkage has ever existed. Ofcom notes that the ASA/CAP guidance already advises advertisers not to use the local rate and national rate terms to describe call charges for any 084 or 087 calls.

- A2.64 Ofcom acknowledges that the fact that the retail pricing designations in the Plan effectively apply only to BT makes it more difficult for advertisers to communicate pricing information. This was why Ofcom asked for stakeholders views on the feasibility of extending the scope of the designations in the Plan beyond BT to other OCPs and why Ofcom has separately consulted on a proposal to require OCPs to give greater prominence to their charges for NTS calls..

Not for profit organisations

- A2.65 The RSPCA and the THA agreed with Ofcom's description of the policy issues and Ofcom' policy objectives.
- A2.66 TAG and the RNID believed that the current charging arrangements for NTS calls are discriminatory since BT does not apply rebates to the text portions of calls made via BT's TextDirect service as it does for geographic calls to compensate for the fact that a conversation in text takes longer than a voice conversation.
- A2.67 TAG and RNID believed that Ofcom should ensure that changes to the NTS regime do not disadvantage deaf and hard of hearing people. In particular, they were concerned that voice pre-announcements would not be suitable for deaf and hard of hearing people (we discuss this point further in paragraph A2.302).
- A2.68 TAG and RNID were concerned that BT might decide to move the Relay Assist service provided by RNID Typetalk from its present 0870 number to a more expensive 0871 number.
- A2.69 The CAB welcomed Ofcom's policy review and believed that there is a lack of consumer awareness of call prices for 08 numbers and therefore welcomed any measures to improve public awareness and knowledge. However, they were concerned about the financial impact of Ofcom's proposals on their own service, as some of its bureaux have 0870 access lines, and that they would have to withdraw their telephone information services.

Ofcom Comments

- A2.70 Ofcom understands the CAB's concerns about the financial impact of the 0870 proposals on the CAB bureaux services. However this need not result in bureaux services being withdrawn. Like other SPs, the CAB can either retain its 0870 numbers and pay for its hosting services directly or it can migrate its bureaux services to alternate number ranges such as 0871 that offer similar price points and revenue sharing terms to those currently available on 0870 numbers.
- A2.71 Ofcom notes TAG and the RNID's view that BT's charges for the TextDirect service are discriminatory. BT's charges for the TextDirect service are not part of the scope of this review; however, Ofcom notes that charges for NTS calls are generally more expensive than geographic calls for all callers not just users of the TextDirect users. Ofcom also notes that once the geographic linkage for 0870 calls is repaired, 0870 call charges should reduce and BT may wish to review its TextDirect charges for 0870 calls as a result.

A2.72 With regards to the concern that BT might seek to move the Relay Assist service to a new number, BT has reassured Ofcom that it currently has no plans to move the service.

Question 2: In connection with Options B4 and B5, Do stakeholders agree with Ofcom's initial view that 0870 calls should be removed from the scope of the NTS Condition if the geographic link between 0870 calls and geographic calls is restored?

Communications Providers

- A2.73 Only BT agreed with Ofcom's view that 0870 calls should be removed from the scope of the NTS Condition if options B4 or B5 are implemented. Twenty other respondents disagreed with this proposal and most also disagreed that Options B4 or B5 should be implemented.
- A2.74 UKCTA, Carphone Warehouse, MCI and Thus argued that the NTS Condition gives TCPs regulatory certainty and believe that it is highly unlikely that commercial negotiations with BT for termination charges could be concluded satisfactorily. Therefore they felt that removing 0870 from the scope of the NTS Condition would result in more interconnection disputes.
- A2.75 UKCTA also argued that Ofcom could not remove 0870 calls from the scope of the NTS Condition without undertaking a market review of the market for wholesale NTS call origination.
- A2.76 BT argued that removing 0870 from the scope of the NTS Condition is the only approach that is consistent with Ofcom's regulatory principle of operating with a bias against regulation. BT believed that the proposal recognises that there is a significant degree of competition within NTS.
- A2.77 Several respondents argued that ending revenue sharing on 0870 and 0845 would have a negative impact on service availability and on the industry and is not justified given that other measures could be adopted to address the policy issues and consumers concerns. Some also argued that consumers' concerns result primarily from poor pricing transparency and argued that Ofcom's research demonstrated that there are not major consumer concerns about revenue sharing and that consumers seemed to favour measures to improve pricing transparency rather than curtailing revenue sharing. They therefore argued that removing 0870 and 0845 from the scope of the NTS Condition is not justified.
- A2.78 One CP that is a major originator of NTS calls disagreed with the proposal to restore the geographic linkage for 0870 calls but also felt that if this proposal were implemented then 0870 should be removed from the scope of the NTS Condition to ensure that termination charges do not force BT's competitors to raise their geographic call prices.
- A2.79 Call Sciences argued that if Ofcom removed 0870 from the scope of the NTS Condition it would lead to a loss of confidence in Ofcom's support for revenue sharing on the 0844 range.

Ofcom's comments

- A2.80 Most of Ofcom's comments on respondents' views about restoring the geographic linkage for 0870 calls and removing 0870 calls from the scope of the NTS Condition are in Section 4, paragraph 4.17 onwards.
- A2.81 Ofcom sees no reason why its proposals for the 0870 range should lead to a loss of confidence in Ofcom's support for revenue sharing on the 0844 range as Call Sciences suggests. Ofcom has clearly stated that it supports the continuation of revenue sharing on the 08 range.

Mobile operators

- A2.82 Vodafone did not support the repair of the linkage to geographic charges for 0870 calls or the removal of the 0870 range from the scope of the NTS Condition and argued that repairing the linkage would amount to ex-ante price regulation of CPs without a finding of SMP in contravention of the European Directives.

Ofcom's comments

- A2.83 As discussed in paragraph 4.20, Ofcom does not agree with Vodafone that repairing the linkage to geographic calls charges for 0870 calls amounts to ex-ante price regulation.

Resellers

- A2.84 All of the resellers disagreed with this proposal principally because of the disruption it would cause to their customers (i.e. SPs) and the impact on their businesses. Concerns were mostly focused on the proposals for the 0870 range.
- A2.85 When answering this question most resellers drew little distinction between the proposal to re-establish the linkage to geographic charges and the proposal to remove the 0845 and 0870 ranges from the scope of the NTS Condition and most simply referred to the 0870 proposals.
- A2.86 Sesui Limited said that it would support the proposal to remove 0870 and 0845 from the scope of the NTS Condition if it were applied only to 'simple NTS services' by which it meant basic number translation services that didn't also provide 'value-added' services such as call routing management and disaster recovery that improve customer service for callers. Sesui's view was that it is appropriate for the NTS revenues to be used to fund value added network services but not to provide SPs with a revenue share.
- A2.87 Several respondents noted that they would have to change their business model and start charging SPs for NTS services if the proposals are implemented. They were concerned about the potential impact on their businesses resulting from the loss of call revenue and the disruption associated with the changes.
- A2.88 Many respondents were concerned about the impact on their customers and several noted that some SPs relied on the NTS charging mechanism to fund (either partially or wholly) the cost of the NTS services or to provide a revenue share.
- A2.89 Several respondents were concerned about the impact on their businesses and customers caused by migration of SPs to alternate number ranges.

A2.90 Most providers felt the proposals would have a severe financial impact on their businesses and several noted that the reseller community tends to specialise in services provided on 08 numbers and is therefore much more at risk from the proposals than most CPs who have other sources of income. Several respondents stated that the proposals might put their company or other resellers out of business and several also thought that there would be significant job losses in the industry. Elite Tele.COM believed that Ofcom had not undertaken enough research on the impact of its proposals on resellers and the redundancies that would result from them.

A2.91 A number of more detailed concerns were raised:

- Meeting Zone was concerned that it would be difficult to contact many of its customers because it doesn't have an ongoing billing relationship with its customers since services are funded through call charges and it only has an email address to contact some customers;
- Meeting Zone was also concerned that consumers would be faced with higher call charges since SPs would be likely to migrate from 0870 numbers to 0871 numbers with the higher (10p per minute) price point rather than move to 0844 which has a lower price point;
- IC Comms stated that if the proposals were implemented it would still have to continue to pay revenue share to its customers at the current rate due to binding contractual commitments and Elite Tele.Com said that Ofcom had not undertaken enough research into the 'legal issue' concerning long-term contracts between resellers and SPs;
- several respondents were concerned that there are insufficient 0871 numbers available to meet the additional demand that would result from services migrating from 0870 numbers as result of the proposals; and
- One CP was concerned that the proposals would increase BT's dominance and reduce competition.

Ofcom's comments

A2.92 Our comments on resellers concerns about the potential impact on their businesses are in paragraph 4.61 and on the impact on SPs in paragraph 4.69.

A2.93 We comment on Sesui's suggestion that 0870 and 0845 calls should remain within the scope of the NTS Condition but that revenue-sharing should be banned in paragraph 4.124.

A2.94 Our comments on the detailed concerns are:

- Ofcom acknowledges that there is a chance that SPs will raise their charges when they migrate to new numbers (by selecting price points with higher charges). However, as discussed in the September 2005 Consultation, this will be a commercial decision that each SP and will be influenced by competitive conditions in their primary markets and not an inevitable consequence of migration.
- Ofcom notes that some resellers have made binding contractual commitments to pay revenue shares to their customers at fixed rates for 0870 calls. However, Ofcom also notes that termination payments for 0870 calls (that ultimately determine the amounts that TCPs and resellers have available to pay out as revenue share) have always been subject to change and have been an

enduring cause for concern within the industry²⁰. Termination payments for 0870 calls have been subject to frequent, mostly downward, revisions since the introduction of NTS in 1996. Furthermore, revenue sharing is only available in its current form as a result of a regulatory intervention and has therefore always been subject to change. Ofcom would therefore expect that most contracts incorporate some flexibility given the risk of termination payments reducing during the term of the contract. Ofcom also notes that by the time the proposed changes 0870 calls are implemented it is likely that many of the current contracts will have expired.

- Ofcom agrees that the proposals for the 0870 range are likely to result in increased demand for 0871 numbers. As discussed in the September 2005 Consultation Ofcom's Numbering Review is considering how future demand for numbering capacity in the 08 range should be fulfilled. Ofcom has decided that the implementation of the 0870 proposals should be delayed until the conclusion of the Numbering Review consultation to ensure that sufficient capacity is available and so that CPs and SPs can make fully informed decisions about which ranges to migrate to.
- In Ofcom's view, restoration of the link between 0870 and geographic calls will increase the extent to which retail charges for 0870 calls are subject competitive pressure. This is because the growing competitive pressure on retail charges for geographic calls and call packages will automatically flow through to 0870 calls. Ofcom therefore disagrees with the view that the proposals will increase BT's dominance and reduce competition in the retail market for calls.

ISPs, SPs and business associations

- A2.95 Five respondents agreed with Ofcom's proposal and 12 disagreed. As with the resellers, this group appeared to draw little distinction between the proposal to remove 0845 and 0870 from the scope of the NTS Condition and the proposal to re-establish the linkage to geographic charges for this range.
- A2.96 The Communications Management Association and Foskett Powell Associates argued that all 084 and 087 numbers should be removed from the scope of the NTS Condition, thereby restricting revenue sharing to 09 numbers, which have a good level of consumer awareness. The CMA argued that the 09 range was the range originally designated for revenue sharing and it was therefore appropriate that revenue sharing on 08 numbers should be brought to an end. Teletext Limited believed that restoring the geographic linkage for 0870 calls would provide greater pricing transparency and should also result in the removal of 0870 from the scope of the NTS Condition.
- A2.97 Most respondents felt that the consumer concerns cited by Ofcom were restricted to a small minority and several respondents noted they had received few if any complaints. Several argued that Ofcom should take steps to improve pricing transparency and to make consumers more aware that 08 numbers are associated with revenue sharing rather than re-establish the linkages to geographic charges and remove 0870 calls from the scope of the NTS Condition.

²⁰ Termination payments for all NTS ranges are subject to change as a result of revisions to various allowable costs that BT deducts and termination payments for 0845 and 0870 calls are also subject to changes as a result of revisions to BT's retail prices for 0845 and 0870 calls and the discounts it applies.

- A2.98 SPs were concerned about the cost and disruption to their businesses that would result from the implementation of the proposals. Respondents were concerned that they would be faced with higher costs (as a result of the reduction in the retail prices of calls and the removal of 0845 and 0870 from the scope of the NTS Condition) if they retained their existing number or additional costs and disruption associating with migrating their services to a new number.
- A2.99 Many respondents noted that revenues particularly from 0870 calls made a significant contribution to the cost of operating their services. Some also felt they would not be able to recover the costs in other ways (e.g. by increasing the prices of goods/services in their primary markets) and would therefore have to cut their costs by making contact-centre staff redundant or withdrawing certain value-added services. Some respondents therefore argued that Ofcom's proposals would be detrimental to consumers since levels of customer service would deteriorate.
- A2.100 Several respondents provided estimates of the costs they would be likely to incur as a result of the implementation of the proposals.
- A2.101 WRL Consultancy believed that re-establishing the geographic linkage would be unfair to them as a small business since they would have to pay to receive unsolicited sales calls and misdialled calls.
- A2.102 WRL Consultancy argued that revenue sharing should probably be curtailed since it damages the reputation of 0870 numbers.
- A2.103 Novacaster noted that 0870 numbers are the range where a received call didn't cost them money and stated that SPs should not have to pay for call routing services (provided in connection with NTS numbers) since the routing is a software function.

Ofcom's comments

- A2.104 Ofcom's comments on the impact of the 0870 proposals on SPs and the costs that SPs would incur when migrating to new numbers are in Section 4, paragraph 4.69.
- A2.105 Ofcom disagrees with respondents' views that consumer concerns about NTS are not widespread. As discussed in the September 2005 Consultation, Ofcom's quantitative research demonstrated a range of concerns relating to call charges, revenue sharing and services.
- A2.106 As previously discussed, Ofcom disagrees with the CMA that revenue sharing should be restricted to 09 numbers. Ofcom notes that the 08 range has been designated as a revenue sharing range since the 08 and 09 ranges were first created.
- A2.107 Ofcom notes WRL Consultancy concerns about having to pay for misdialled calls and sales calls but believes the volume of such calls are sufficiently high to make this a significant factor for most SPs. Ofcom also notes that the volume of unwanted sales calls can be reduced by registering with the Telephone Preference Service.
- 5.24 Novacaster argued that SPs should not have to pay for call management services, as they are a software function provided by telecommunications networks. Ofcom disagrees with this view. As the decision about whether or not to use call management services is made by the SP receiving the call, and not by the caller, it is in our view appropriate that the SP should bear the associated cost.

Not for profit organisations

- A2.108 The THA had reservations about the restoration of the geographic linkage for 0870 calls because it would reduce the revenues of some not-for-profit helplines that depend on the revenue.
- A2.109 On balance the CAB supported the proposals to restore the geographic linkage for 0870 calls and to remove 0870 from the scope of the NTS Condition because it would lead to an end to revenue sharing and 0870 calls being charged at the same rate as national calls from all fixed and mobile phone services including payphones.
- A2.110 The RSPCA expected that the loss of revenue share would impact their service or they would need to migrate to numbers charging more than currently. They therefore preferred that revenue sharing should continue.

Ofcom's comments

- A2.111 Ofcom acknowledges that its proposals for the 0870 range will also affect charitable helplines using 0870 numbers and notes this may cause some disruption. However helplines like all other SPs, helplines have the option of migrating their services to alternative numbers offering similar price points and revenue sharing arrangements so the proposals should not result in the withdrawal of these services.
- A2.112 Ofcom also believes that some charities may be interested in the 03 range that Ofcom has proposed to introduce in the Numbering Review consultation. Ofcom also proposes to consider stakeholders suggestions that a number range within the 08 range could be put aside for charitable helplines as part of the Numbering Review.
- A2.113 Ofcom understands the RSPCA's concerns about the financial impact of the 0870 proposals on their services. However this need not result in services being withdrawn. Like other SPs, the RSPCA can either retain its 0870 numbers and pay for its hosting services directly or it can migrate its services to alternate number ranges such as 0871 that offer similar price points and revenue sharing terms to those currently available on 0870 numbers. If SPs choose to migrate to new numbers they will be able to choose numbers on alternate ranges at similar price points to those of their current numbers so migration will not require SPs to raise their prices.

Question 3: In connection with Option C3, Ofcom welcomes comments from the industry about the costs and feasibility of extending the scope of the designations of the Plan for the 0844 and 0871 ranges so that they apply to all fixed line services excluding payphones? What period of preparation time should be allowed for should this change is introduced?

Communications Providers

- A2.114 Views on this subject were fairly evenly divided with 9 respondents supporting and 7 opposing the extension of the scope of the designations of the Plan for 0844 and 0871 to all fixed line OCPs excluding payphones. None of the respondents commented on the period of preparation time that would be required before the changes could be introduced.
- A2.115 IV Response supported this proposal but noted Ofcom's comments in paragraph 6.87 of the September 2005 Consultation and argued that Ofcom already had taken

a view. They therefore suggested as an alternative that OCPs should be permitted to set their charges above the designated prices but required to make a pre-announcement. IV Response also queried whether mobile operators and payphone operators actually have higher call origination costs than fixed line OCPs.

- A2.116 IV Response was also concerned that a lengthy review of interconnection arrangements be disruptive for the industry.
- A2.117 Kingston Communications supported the proposal and encouraged Ofcom to take adopt a technology neutral approach as far as possible and extend the scope of the designations to all types of OCP (e.g. fixed, mobile etc.). However it argued that Ofcom should make an exception for payphones which generally make use of older technology and in most cases could not be upgraded.
- A2.118 One confidential respondent opposed the proposal and argued that Ofcom and the industry should concentrate on other measure to improve pricing transparency.
- A2.119 UKCTA, Thus and Tiscali believed that extending the scope of the designations to some but not all OCPs would be discriminatory and not therefore a viable solution. They also believed that it would amount to retail price regulation and could not therefore be implemented since most OCPs have not been found to have SMP in a relevant market. MCI and another confidential respondent also shared this view. UKCTA, Thus and Tiscali were also concerned that OCPs would not be able to recover their costs.
- A2.120 BT felt this question need to be addressed principally by other OCPs since it is already obliged to comply with the designations in the Plan. It acknowledged the 'consumer angle' for extending the scope of the designations and argued there is a possibility that without this measure that OCPs may raise their 0844 and 0871 prices to make up for lost revenues when the proposals for 0845 and 0870 are implemented. BT suggested that if this measure were implemented one option would be to give OCPs the option to charge prices outside the designation provided they pre-announce call charges. However, BT felt that the need for the industry to move away from the convention of standard termination payments was the main drawback of this approach.
- A2.121 COLT believed the scope of the designations should be extended to payphones as well, but was adamant that a longer preparation period would be required. It indicated the scarcity of 0871 numbers as the main obstacle for a speedy transition.
- A2.122 Telewest and Centrica argued that NTS interconnection arrangements would have to be reformed if they were to surrender their freedom to set their retail charges. Both were concerned that they would not be able to recover their call origination costs if the designations were extended without such reform. Both were opposed the use of preannouncements as alternative to interconnection reform arguing that preannouncements would increase their call origination costs and would be annoying for their customers. Telewest acknowledged that it is possible for OCPs to enter into direct relationships with TCPs (outside of the BT Transit arrangements) but argued that Ofcom should require BT to modify its NTS interconnection and billing systems to support originator specific call origination retentions and to require BT not to reject requests from OCPs for such charges provided they were fair and reasonable.
- A2.123 Telewest also believed that BT's transit only service (known as 'TWIX only') for NTS calls is not currently fit for purpose and this frustrates CPs ambitions to establish

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OCP specific charging regimes. They therefore encouraged Ofcom to require BT to improve its transit only service.

Mobile Operators

A2.124 Vodafone believed that extending the scope of the designations to OCPs other than BT would amount to retail price regulation and would be an intrusive measure that would only be justified in cases where OCPs are dominant in a relevant retail market.

A2.125 Vodafone saw no case for extending the designations to non dominant OCPs where pricing is constrained by competition.

Resellers

A2.126 None of the resellers commented on this question.

ISPs, SPs and other Business Association

A2.127 Three respondents answered this question, two supporting the proposal and the other opposing it.

A2.128 Lexgreen Services simply stated that it believed this proposal is a good idea.

A2.129 The confidential respondent that opposed the proposal, an ISP, believed that the proposal would extend (retail price) regulation to non-dominant OCPs and was therefore incompatible with Ofcom's regulatory principle of having a bias against regulatory intervention.

A2.130 The CMA proposed that all services currently using 0844 and 0871 numbers should be forced to move to 09 numbers.

Other Regulatory Bodies

A2.131 There were no responses to this question.

Not for profit organisations

A2.132 The RSPCA supported this proposal and stated that if as a result of Ofcom's proposals it decided to move to an 0871 number this measure would help it to advise callers of the price of calls.

A2.133 The Intelligent Network Working Group (INWG) believed that the scope of designations for all 08 numbers should be extended to all fixed line operators.

Ofcom's Comments

A2.134 Ofcom notes that the views of the industry were divided on the proposal to extend the designations in the Plan for 0844 and 0871 to a wider range of providers (see discussion in paragraph A2.114 onwards). Ofcom also notes CPs concerns about the suitability of the current transit arrangements to support OCP specific termination payments and CPs concerns about their ability to recover their origination costs if the scope of the designations were extended. As discussed in the September 2005 Consultation, Ofcom considers that external payment agreements between OCPs and TCPs which by-pass the BT transit payment system could overcome this difficulty.

- A2.135 The main opponents to extending the scope of the pricing designations in the Plan were OCPs who argued that doing so would be to impose price regulation on providers without SMP in this market and that competition between providers should be sufficient to constrain excessive pricing. Ofcom notes this view but considers that extending the scope of the designations would improve pricing transparency.
- A2.136 Ofcom also suggests that another solution could be to extend the approach adopted for 0870 calls and allow OCPs to charge above the rates designated by the Plan but only on condition that they pre-announce their prices. This may result in increased costs for OCPs and serve to deter excessive pricing.
- A2.137 Given that a number of industry respondents supported the proposal Ofcom will consider the matter further in the forthcoming Numbering Strategy Review statement. Ofcom also recommends that the industry and BT should investigate the feasibility of more flexible NTS billing and interconnection arrangements to facilitate the negotiation of individual payment agreements between OCPs and TCPs.
- A2.138 For the present, however, Ofcom has concluded that it is not currently appropriate to extend the designations in the Plan for 0844 and 0871 calls to fixed OCPs other than BT.

Question 4: In connection with Option C3, Ofcom welcomes comments from the industry about the costs and feasibility of extending the scope of the designations of the Plan for the 0844 and 0871 number ranges so that they apply to payphones and mobile phones as well as fixed line services? What period of preparation time should be allowed should this change be introduced?

Communications providers

- A2.139 12 Respondents, including Kingston Communications, MCI and Magrathea, supported this proposal and 5, including BT, opposed it.
- A2.140 Among the opponents, the main issue raised was that the extension of the price designation to OCPs other than BT would put at risk their ability to recover the cost of origination. Moreover, they considered that extending the scope of the designation would amount to price regulation of non-dominant OCPs.
- A2.141 Some of the opponents felt that if the scope of the designations were to be extended they should apply equally to all types of OCP.
- A2.142 BT did not support the extension of the scope of the designations to include payphones or mobile phones because origination costs are higher than for fixed line OCPs. BT also said that it had not received any complaints about its payphone charges for 0844 and 0871 calls and didn't believe that this proposal is a proportionate or evidence based response.
- A2.143 BT said that it aims to keep its payphone charges as close as possible to those paid by its residential customers but said that it is not possible for them to be the same because of the minimum call fee for payphones which covers the unavoidable additional cost of running payphones. It also said that technical limitations limit the number of charge bands that payphones can support and this would prevent BT from aligning call charges with those of its fixed line customers.

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- A2.144 Overall, BT's view was that payphones are already heavily regulated and that Ofcom should seek to reduce rather than increase payphone regulation. BT said that its view is that the scope of the designations should not be extended to mobile phones since mobile operators also have higher costs of origination than fixed OCPs.
- A2.145 BT also noted that it has no control over the charges levied by private payphones.
- A2.146 A confidential respondent believed that if the designations are extended then they should apply to all types of OCP. They emphasised that this should include New Voice Services (i.e. Voice over IP services).
- A2.147 Magrathea recommended that the scope of the designations should be extended but with additional flexibility to account for the higher origination costs of some OCPs.
- A2.148 Magrathea supported the proposal to extend the scope of the designations but felt that OCPs should be given some flexibility to account for higher origination costs. They recommended that OCPs should be required to charge:
- no more than 10% more than the designated retail price point; or
 - the designated retail price point plus the OCPs retail price for UK geographic calls.
- A2.149 Magrathea argued that this approach would protect consumers from harm whilst allowing all OCPs to recover their origination costs. As an example noted that on some mobile networks consumers can call UK geographic numbers for 5p per minute but an 0871 number with a 10p per minute retail price point is charged at 40p per minute. Magrathea pointed out that the additional cost to the mobile operator of the 0871 call can be no more than 10p per minute more than the geographic call.

Mobile Operators

- A2.150 Vodafone reiterated its opposition to any extension of the scope of the designation beyond BT and added that mobile operators should not be prevented by regulation from recovering their call origination costs, which are generally higher than equivalent fixed call origination costs.

Resellers

- A2.151 None of the resellers commented on this question.

ISPs, SPs and business associations

- A2.152 One confidential respondent answered this question and supported the proposal. They believed that this measure is required in order to ensure a clear distinction between the cost of calls to 08 and 09 numbers.

Other Regulatory Bodies

- A2.153 There were no responses to this question.

Not for profit organisations

A2.154 There were no responses to this question.

Ofcom's Comments

A2.155 Again Ofcom notes that no OCP offered any specific evidence to support the view that NTS call origination from mobiles may be more costly although this is generally held to be the case. Ofcom therefore considers that further investigation into these costs may be necessary before any proposal to extend the designations in the Plan for 0844 and 0871 calls to mobiles could be implemented.

A2.156 Ofcom notes the further suggestions such as allowing prices to be surcharged by a fixed amount but considers that this would not help the objective of greater pricing transparency that could be achieved by having the same prices for all providers.

A2.157 Ofcom also notes the issues with payphones namely that some older versions would not be able to charge the range of prices available throughout the 0844 and 0871 number ranges and whether the designations should also apply to privately owned payphones as well as BT payphones.

A2.158 In response to the comment about the inclusion of VoIP services, Ofcom considers that these should be considered alongside other fixed line services within the scope of the Numbering Strategy Review statement.

A2.159 Ofcom has therefore concluded, in common with the comments on the responses to Question 3, that for the present it is not appropriate extend the designations in the Plan for 0844 and 0871 calls to payphones and mobile phone services.

Question 5: In connection with Option D2, Ofcom welcomes stakeholders' views on its proposal to extend PRS regulation to 0871 numbers after a one-year period.

Communication Providers

A2.160 Eight respondents, including BT, agreed with Ofcom's proposal to extend PRS regulation to 0871 numbers. Fifteen respondents, including UKCTA, were not in favour of the proposal, arguing that the extension of the regulation might be disproportionate to the problem identified and would place an unfair and unnecessary burden on SPs, particularly smaller ones.

A2.161 Two CPs argued that PRS regulation should be extended to ranges other than 0871. IV Response Ltd. suggested that PRS regulation be extended also to 0844 numbers and Kingston Communications that a 'light' version of the ICSTIS code should be applied to 0870 numbers as an alternative to re-establishing the linkage to geographic call charges.

A2.162 Several respondents required more clarity as to the rules and levies that ICSTIS would apply to 0871, and demanded more clarity on these issues before any decision to extend PRS regulation is taken.

A2.163 Cable & Wireless believed the involvement of ICSTIS should be restricted to maximising price transparency and removing the potential for scams.

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A2.164 The Federation of Communication Services ('FCS') believed that the ICSTIS involvement in the 0871 range should be restricted to dialler activity only so as to leave other uses free of regulatory burden.

A2.165 A number of specific concerns were raised:

- BT noted that these proposals wouldn't extend ICSTIS regulation to adult services operating on geographic numbers and wondered whether the effectiveness of these measures might be impaired by migration to geographic numbers.
- IV Response Ltd. argued that ICSTIS' prior permission requirement for services with live conversation might be one of the areas of the ICSTIS code that might be impractical due to the volume of 0871 numbers in use;
- COLT was particularly concerned with the negative effect from the 'stigma' that the inclusion under the PRS regulatory umbrella would attach to 0871 numbers;
- Flextel believed that singling out 0871 for special treatment would not address the pricing transparency problem, and that a wider view should be taken;
- Two respondents commented on the length of period before the proposal is implemented. While Kingston believed that one-year was appropriate, THUS called for a 24 months period before the proposals are brought into force to allow SPs to register their services with ICSTIS. They also argued that there was no evidence to suggest that this change was urgently required, and that therefore Ofcom should take time to ensure a smooth transition.

A2.166 Two respondents called for a more widespread use of the ASA Code of Practice to address the problem of price transparency on 0871 numbers.

Mobile operators

A2.167 The MBG argued that of the 126 complaints received by Ofcom's Contact Centre, two-thirds related to internet diallers. They therefore thought that the extension of PRS regulation to internet diallers might be justified rather than to all services using 0871 numbers. They also believed that this proposal would be better considered in the PRS regulation review than in the NTS review.

A2.168 Vodafone believed the proposal to be premature and thought that a stronger case was required before the proposal would be supported.

Resellers

A2.169 One reseller, Windsor Telecom supported Ofcom's proposal to extend PRS regulation to 0871 numbers although it did note that it only supplied a limited number of 0871 numbers. Fourteen resellers were opposed to it.

A2.170 A range of concerns were raised:

- One confidential respondent was concerned that 0871 numbers would be barred by businesses;
- IC Comms, Planet Numbers and Pipex were concerned about the additional administrative burden that PRS regulation would entail. PIPEX also argued that the additional regulation would not benefit either the reseller or the SP.

- Kalnet4u Ltd believed that it would be difficult to get their customers to comply with ICSTIS rules and as the CP they might be fined as a result. They stated that they do not offer premium rate numbers of this reason;
- Ingotz Telecom argued that ICSTIS can't manage the 09 number range and imply it would also be the case on 087 numbers;
- Lintel Ltd believed that as long as call charges for 087 numbers remain at 10ppm or under and the charge is advertised, than PRS regulation is unnecessary;
- Nationwide Telephone Assistance stated that some 0871 numbers are used for technical queries and as they aren't under ICSTIS control, they can be set up quickly and easily and offer their customers a small revenue share to help offset the cost of providing the service;
- Alternative Networks felt that the primary misuse of 0871 numbers is their use by public services and government agencies. It called for Ofcom to pressure these bodies "to reach a solution favourable to consumers and citizens" ;
- Pennycom Communications said that the 0871 calls they supply are for fax/voice to email services and therefore PRS reclassification would be nonsense to them;
- Finally, UCB Connect believed it would cause more confusion to the general public.

ISPs, SPs and business associations

- A2.171 Five respondents, including the Premium Rate Association supported Ofcom's proposal to extend PRS regulation to 0871 numbers and one respondent disagreed and argued that the price band for 0871 is too low to justify the same level of regulation as for 09x numbers.
- A2.172 One respondent expressed its agreement with this approach in principle provided that an appropriate light-touch regime could be designed. Another believed that more targeted measures to deal with adult services and internet diallers, together with an ASA-type advertising guidance would be sufficient and proportionate.
- A2.173 The Premium Rate Association argued that by extending PRS regulation only to 0871 numbers, the industry might soon face the situation where problematic services simply migrate to the other ranges left out of the PRS regulatory umbrella;
- A2.174 The Communications Management Association argued that revenue share should be restricted to 09 numbers rather than extending the scope of PRS regulation to 08 numbers.
- A2.175 The Network for Online Commerce questioned the practicality of ICSTIS taking up the role as it believed it would need two or three years before it would be ready for its expanded responsibility.
- A2.176 The British Security Industry Association and Lexgreen proposed that the current consumer protection measures should be retained (Option D1). Lexgreen stated that "Most service providers operating services on 08 numbers are not operating in an unscrupulous way and that if they wanted to, they would do it on other number ranges". They believed that the problems in this area more often than not came from customers being charged a higher rate than they should have been for the calls and that this was carried out by some OCPs, not by the SPs.

A2.177 Teletext argued that given the varying costs of 0871 services, Ofcom should ensure burdens are not placed on suppliers at the bottom end of the price range.

Other regulatory bodies

A2.178 ICSTIS agreed in principle to an extension of its remit to cover 0871 numbers, subject to detailed considerations of “(a) the proportionality and appropriateness of the application of ICSTIS’ Code to the various types of services that may utilise 0871, (b) the operational impacts that could result from absorbing an increased workload of a scale and quantity as yet to be determined and (c) the implications for the funding regime”.

A2.179 In summary, ICSTIS would be willing to review its code to assess whether any of its current code provisions would be classified as disproportionate if applied in full to an 0871 environment, it would work to preserve its regulatory effectiveness and it would also work with Ofcom to establish a funding scheme for the likely costs that would arise under the “polluter pays” principle.

Not for Profit Organisations

A2.180 One respondent agreed with Ofcom’s proposal to extend PRS regulation to 0871 numbers, while two respondents, the RSPCA and the CAB, disagreed.

A2.181 One respondent believed that the proposals would help to provide a clear definition of the types of services supported through the 09 range.

A2.182 The RSPCA noted that if it were forced to move to 0871 the ‘premium rate tag’ would put some members off reporting animal cruelty.

A2.183 Finally, the CAB saw no merit in retaining the use of 0871 numbers and thought that services should be required to use the 09 range in order to reduce public confusion. In which case PRS regulation would automatically apply.

Ofcom comments

A2.184 Ofcom acknowledges respondents concerns about the potential administrative and cost burden of PRS regulation on CPs, resellers and SPs. As discussed in more detail in paragraph 4.182, Ofcom’s view is that the provisions of the regulatory code of practice that ICSTIS applies to this number range should be proportionate to the potential for consumer detriment. Ofcom notes that ICSTIS has expressed a similar view. This is likely to mean that some of the provisions of the ICSTIS Code of Practice for 09 numbers will not be applied to the Code of Practice for the 0871 range thereby avoiding any undue regulatory burden.

A2.185 Ofcom notes that ICSTIS plans to undertake a detailed consultation on the provisions of its Code of Practice for 0871 numbers and therefore stakeholders will have an opportunity to contribute to the development of the Code. In particular, Ofcom believes the concerns raised by stakeholders about the following provisions of the ICSTIS Code of Practice can best be addressed in the ICSTIS consultation:

- the undue delay provision (which may not be suitable for contact centre services); and
- the prior permissions regime for live services.

- A2.186 Although it might be possible to implement more targeted measures to deal with the consumer protection problems that are currently most prevalent such as internet diallers, experience from the 09 range has shown that new consumer protection problems are likely to arise. In such cases prompt action is required to limit the extent of harm to consumers. By extending PRS regulation as proposed, Ofcom and ICSTIS will be able to react much more quickly to new problems than if it were necessary for Ofcom to extend PRS regulation piecemeal to deal with each new problem.
- A2.187 Ofcom acknowledges stakeholders concerns that the extension of PRS regulation to 0871 numbers might lead consumers to erroneously associate them with 09 numbers. Given the consumer perception that calls to 09 numbers are expensive and possibly associated with scams and adult content there is a risk that consumers would be deterred from calling 0871 numbers. As discussed in paragraph 4.180, Ofcom's view is that this risk can best be avoided by giving ICSTIS regulation of 0871 numbers a distinct identity.
- A2.188 Several stakeholders suggested that Ofcom should force services to move to 09 numbers rather than extend PRS regulation to 08 numbers. Ofcom's view is that this approach would be significantly more intrusive since it would be likely to result in even more services having to migrate to 09 numbers and there would also be a danger that consumers would be deterred from calling the services due to the perception that 09 call charges are very high.
- A2.189 Ofcom acknowledges there is risk that some of the consumer protection problems currently occurring on 087 numbers might reappear on 0844 numbers after the implementation of Ofcom's proposals. However, the highest price point on 0844 is half that of 0871 (5p per minute rather than 10p per minute) and therefore this is by no means certain. As proposed in the September 2005 consultation, Ofcom believes that the best approach is to monitor the 0844 range to see if problems arise rather than extend PRS regulation to this range pre-emptively.
- A2.190 Ofcom is aware that ICSTIS will need additional resources to manage the extra workload generated by the extension of PRS regulation to 0871. ICSTIS will consider its resourcing requirements when it consults on the provisions of the Code of Practice.

Question 6: In connection with Option D3, Ofcom welcomes stakeholders views on its proposal to amend the Plan to clarify that sexual entertainment services must use the designated ranges (0908 and 0909) and extend Ofcom's backstop powers to include all adult services regardless of price.

Communications providers

- A2.191 Twenty respondents agreed with Ofcom's proposals on sexual entertainment services. None disagreed with the proposals, although some qualifying points were made.
- A2.192 UKCTA and Kingston Communications believed that Ofcom does not have the power to regulate adult services that are not paid for through call charges and argued that the amended regulations should reflect this. BT noted that these proposals wouldn't extend PRS regulation to adult services operating on geographic numbers and wondered whether the effectiveness of these measures might be impaired by migration to geographic numbers.

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- A2.193 Magrathea was concerned about which services should be covered, and invited Ofcom to consider that it should only apply to 'chat' services and not (for example) the order lines for sexual products.
- A2.194 The Premium Rate Association commented on the fact that while the question referred to extending Ofcom's backstop powers to include all adult services regardless of price, paragraph 6.133 of the September 2005 Consultation stated that the extension of Ofcom's backstop powers would be covering services costing over 5p/min; in their view, this needed a clarification. Moreover, they raised their concerns about arbitrary cost determinants.
- A2.195 THUS believed that Ofcom should look into the possibility of opening up sub 10p per minute 0908 & 0909 charge bands in order not to restrict the choice of price points available to SPs in this market.

Mobile Operators

- A2.196 Vodafone believed the proposal to be premature and thought that a stronger case was required before the proposal would be supported.
- A2.197 The MBG argued that in its view Ofcom had not made a compelling case to extend regulation and therefore they did not support the proposal based on the basis of the evidence presented. In particular, it asked whether there was any evidence that minors were getting access to adult services on 087 numbers.

Resellers' Responses

- A2.198 Ten resellers supported Ofcom's proposals on sexual entertainment services. Ingotz Telecom did not support them and felt that a requirement to advertise call charges would be sufficient.

ISPs, SPs and business associations

- A2.199 Six respondents supported Ofcom's proposals on sexual entertainment services.
- A2.200 Teletext Ltd stated that Ofcom should take into account that the call charges for services at the bottom end of the 0871 range are much lower than those on 09 numbers and should therefore ensure that no unnecessary burdens are placed on those suppliers.
- A2.201 The Communications Management Association suggested that Ofcom could make the 098 range available for sexual entertainment services in order to supplement the scarce availability of numbers in the 090 range.
- A2.202 The Network for Online Commerce noted that call-barring on 0871 numbers cannot be achieved without barring all 087 numbers. Hence, it agrees with Ofcom's proposal that all adult services should be moved to 090x.

Other Regulatory Bodies

- A2.203 ICSTIS supported Ofcom's proposals on sexual entertainment services.

Ofcom's Comments

- A2.204 Ofcom disagrees with the MBG and Vodafone's view that there is not a strong case for extending PRS regulation as proposed. There is clear evidence that a significant number of sexual entertainment services are now available on 08 numbers, some of which could be accessed by minors without any additional age verification. Ofcom's duties enable it to act to ensure that minors are protected.
- A2.205 Ofcom notes that the sexual entertainment services now available on 08 numbers are not restricted to chat services and include for instance recorded adult entertainment services. Ofcom's view is that in order for these proposals to be fully effective all sexual entertainment services currently using 08 numbers need to be included within the scope of PRS regulation. Ofcom therefore disagrees with Magrathea's view that only chat services should be included.
- A2.206 Ofcom notes BT's concern that the effectiveness of the proposals might be impaired by migration of adult services to geographic numbers. Ofcom's view is that regulation of adult services being provided on geographic numbers is outside the scope of this review which considers the regulation of adult services that use NTS as a payment mechanism.
- A2.207 Ofcom is proposing to extend its backstop powers to all adult services regardless of price. The proposal in paragraph 6.133 of the September 2005 consultation that the Premium Rate Association queries, relates to the proposals to extend Ofcom's backstop powers to the 0871 range.
- A2.208 Ofcom notes that there is no lower limit to the price points available on the 09 range and therefore TCPs may offer 09 numbers at price points below 10p per minute in order to accommodate demand from SPs for services in this price range. Ofcom does not therefore see a need for new 09 sub ranges as Thus suggests. Ofcom also notes the CMA's suggestion that the 098 range could be made available to provide additional capacity for adult services. Ofcom is consulting separately in the Numbering Review consultation on future needs for numbering capacity in the 08 and 09 ranges should be met.

Question 7: Ofcom has identified a range of options for evaluation (A1 to F2). What are stakeholders' views on the options?

- A2.209 Ofcom has considered a range of policy options to address each of the policy issues, which are summarised in the table below. The responses are reviewed afterwards and are grouped by policy options.

| Policy Issue | Options considered |
|--|--|
| A. Revenue sharing on 08 numbers | A1: Maintain revenue sharing – revenue sharing would continue on 08 numbers. A2. Ending revenue sharing on 08 numbers – Revenue sharing would be restricted to 09 numbers. |
| B. The retail pricing of 0845 and 0870 calls | B1. The status quo - retaining the current pricing and interconnection arrangements for 084 and 087 numbers. B2. Extended retail price competition – amend the Plan to enable TCPs to select the price points to be applied to number blocks, |

| Policy Issue | Options considered |
|---|---|
| | <p>from within a specified range (i.e. the same arrangements as applied to the 0844 and 0871 ranges). This option was Option 2, Ofcom's preferred option in the October 2004 Consultation.</p> <p>B3. Retail prices set by Ofcom – This option has been proposed by some CPs and would involve Ofcom setting the retail prices for 0845 and 0870 calls for BT customers though retail price regulation</p> <p>B4. Restore the geographic linkage for 0845 and/or 0870 calls after an interim period– This option would involve Ofcom amending the Plan and the General Conditions of Entitlement to restore the linkage between 0845/0870 calls and the prices that consumers actually pay for geographic calls after an interim period. The designations would apply to all providers (including mobiles and payphones) not just BT.</p> <p>B5. Restore the geographic linkage for 0845 and/or 0870 calls and withdraw regulatory support for revenue sharing after an interim period – This option is a variation on Option B4 and would involve Ofcom removing the regulatory support for revenue sharing in conjunction with the reestablishment of the geographic linkage for 0845/0870 calls.</p> |
| <p>C. Price transparency on 084 and 087 numbers</p> | <p>C1. Status quo – This option would involve maintaining the current pricing transparency measures such as the ASA/CAP guidance for the advertising of 084 and 087 numbers.</p> <p>C2. Restore link to geographic tariffs for 0845/0870 – Evaluation of Option B4 to gauge its effectiveness as a measure to improve pricing transparency.</p> <p>C3. Extend pricing designations in the Plan – This option would consist of amending the General Conditions of Entitlement to extend the pricing designations of the Plan to all fixed providers (excluding public payphones) on the 0844 and 0871 number ranges.</p> <p>C4. Bringing some 08 numbers within the regulatory regime for PRS – This option would involve extending Ofcom's and ICSTIS's remit to cover some of the 08 number range so that SPs were subject to the provision of the ICSTIS code relating to price publication.</p> <p>C5. More stringent obligations on OCPs – This option would involve amending General Condition 14 which deals with consumer codes of practice and is the subject of a separate consultation document that will be published in the near future.</p> <p>C6. Call pre-announcements – This option would involve providing pre-announcements for calls on the 084 and 087 number ranges indicating to the caller the likely price of the call.</p> <p>C7. Signal price through number range – This option would consist</p> |

| Policy Issue | Options considered |
|---|--|
| | of using the numbering range to signal the price of the call e.g. 0801 would cost 1ppm and 0802 would cost 2ppm etc. |
| D. Consumer protection on 084 and 087 numbers | <p>D1. Status quo – No additional consumer protection measures.</p> <p>D2. Extending PRS regulation to 0871 numbers – This option would consist of extending the PRS regulatory regime to 0871 numbers to bring these numbers within ICSTIS’s remit thereby requiring SPs to operate under ICSTIS’s code provisions.</p> <p>D3. Extending PRS regulation to adult services currently provided on 08 numbers – This option would involve amending the Plan to clarify that adult services must only use the 0908 and 0909 ranges and secondly to extend the definition of Controlled PRS regulation to all adult services regardless of price.</p> <p>D4. No revenue sharing for locked-in calls to 084 and 087 numbers – This option would involve preventing calls to services classified as locked-in from revenue sharing on 08 number ranges to eliminate any potential for consumer detriment</p> |
| E. Waiting times for call centre services provided on 084 and 087 numbers | <p>E1. Status quo – This option would consist of maintaining the current regime, that is, call centres could continue to revenue share and there would be no requirements relating to call waiting times.</p> <p>E2. Stop call centres using 084/087 numbers – This option would involve preventing call centres from using the 084 or 087 number ranges which permit revenue sharing.</p> <p>E3. Regulate service levels for call centres using revenue sharing 08 numbers – This option would involve Ofcom regulating service levels for call centres using revenue sharing numbers.</p> |
| F. Public services provided on 084 and 087 numbers | <p>F1. Status quo – This option would involve retaining the current regulatory regime and providing the COI with best practice guidance on the use of 084 and 087 numbers for public services.</p> <p>F2. Stop public sector organisations using revenue-sharing 08 numbers – This option would involve the banning of public sector organisations from operating on revenue sharing 08 numbers.</p> |

Policy options A1 to A2

A2.210 Ofcom's initial view was that overall Option A1 (maintaining revenue share) performed best against the policy objectives because it performed better in terms of service availability than Option A2 (ending revenue share on 08 numbers) and could be combined with more selective measures to address the pricing transparency and consumer protection objectives that allow the impact on service availability to be minimised.

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- A2.211 Respondents' views on these policy options are mostly described in the summaries of their answers to question 2. Additional points not covered elsewhere are included here.
- A2.212 Most of the points raised by respondents are described questions 2 and 8. Additional points not covered elsewhere are included here.

Communications providers

- A2.213 Flextel believed that a distinction should be made between numbers used for micro-payments and numbers used by CPs to provide services to the final customers (like an SME) with the former restricted to use PRS numbers (09 range).

Ofcom's comments

- A2.214 Ofcom doesn't support Flextel's suggestion that revenue-sharing should be banned (so that termination revenues could only be used to fund value added networks services). Our detailed comments on this suggestion are in paragraph 4.122.

Resellers

- A2.215 As noted in paragraph A2.85 most resellers drew little distinction between the policy options relating to revenue sharing (Options A1 and A2) and those relating to retail pricing of 0870 calls (Options B1 to B5).
- A2.216 Sesui Limited said that it would support the proposal to remove 0870 and 0845 from the scope of the NTS Condition if it were applied only to 'simple NTS services' by which it meant basic number translation services that didn't also provide 'value-added' services such as call routing management and disaster recovery that improve customer service for callers. Sesui's view was that it is appropriate for the NTS revenues to be used to fund value added network services but not to provide SPs with a revenue share.

Ofcom's comments

- A2.217 As discussed above, Ofcom doesn't not support Sesui's view that calls to 08 numbers should remain within the scope of the NTS Condition and revenue sharing banned in order to restrict the use of NTS call charges to the provision of call routing services but not revenue sharing. Our detailed comments on this suggestion are in paragraph 4.122.

ISPs, SPs and business associations

- A2.218 One respondent noted that 0870 is used to offset operational costs and used to collect fees in as cost effective manner as possible in keeping with its responsibilities. It commented that with their average calls lasting three minutes that equated to approximately 20p per call on BT's peak rate tariff, which is "cheaper than a stamp". It conceded, however, that it may be more expensive from a mobile phone. It added that their customers could still pay or make enquiries online or via post if they did not wish to pay for a call.
- A2.219 Lexgreen and the British Security Industry Association favoured the continuation of revenue sharing, the latter demanding that a reasonable level of revenue share to be kept.

A2.220 The Network for Online Commerce believed that the loss of revenue share might lead to tariff migration, and impact on business viability or relocation offshore, which would lead to cost implications and/or job losses for UK Inc. Network for Online Commerce favoured maintaining revenue share.

Ofcom's Comments

A2.221 Ofcom's proposals do not aim to prevent SPs from obtaining a revenue share or make judgements about whether revenue sharing is appropriate for particular services. SPs will be able to move to alternate numbers at similar price points to their current services if they wish to continue to obtain a revenue share.

Policy options B1 to B5

A2.222 In light of the evaluation set out in the September 2005 Consultation, Ofcom considered that Option B5 applied to the 0870 range only (not the 0845 range) performed best against the policy objectives described in Section 4 of the September 2005 Consultation. However, Ofcom considered that Option B4 (again applied to the 0870 range only) would deliver many of the same benefits. The balance would have been in favour of Option B4 if it would result in a significant reduction in the number of services migrating to other numbers because of the retention of regulatory support for revenue sharing on the 0870 range. Ofcom was therefore seeking stakeholders' views on whether Option B4 would result in significantly less migration from the 0870 range.

A2.223 Respondents' views on these policy options are mostly described in the summaries of their answers to questions 1, 2 and 8. Additional points not covered elsewhere are included here.

Communications providers

A2.224 UKCTA and Cable and Wireless believed that Ofcom should undertake a market review of NTS retail calls during the interim period with a view to setting a retail price control. They believed that Ofcom's resistance to this approach was mainly because of the time it would take to carry out a market review and that the interim period would present the ideal opportunity. They believed that a retail price control would be appropriate given that BT retained a market share of NTS call origination of around 70%. They also felt that a retail price control could offer a long-term solution that would resolve both the issue of (Ofcom) setting a retail price and ensuring that an appropriate retention is provided for both originating and terminating CPs.

A2.225 THUS believed that Ofcom should seek to bring pricing certainty to the market by introducing floors and ceilings for the 0845 and 0870 range as this they argued would help to protect consumers and provide SPs with a degree of medium term certainty.

A2.226 The FCS recommended further research into the impact of Ofcom's proposals to be carried out and for this to be fed into the Numbering Review before any action was taken.

A2.227 Flextel believed that TCPs should extend retail price competition by allowing TCPs to select price points for 0845 and 0870 numbers (i.e. the same arrangements as for 0844 and 0871 numbers). It also called for the 08 definitions to be revised and for an end to the link between these definitions and BT's price list.

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- A2.228 Kingston Communications urged Ofcom to extend retail price competition for 08 numbers and to consider measures to prevent OCPs from charging 'artificially high rates' i.e. rates that are considerably higher than the price point designated in the Plan.
- A2.229 Kingston Communications also urged Ofcom to investigate how the transit arrangements available from BT for 0870 would operate. According to their understanding, BT would only be able to offer 'single tandem' rates for 0870 transit calls, thus not taking into consideration terminating operators interconnect penetration and they believe this would penalise operators that have invested in DLE interconnect.
- A2.230 Magrathea felt that restoring the geographic linkage and withdrawing revenue sharing was too extreme a measure and suggested that Ofcom should alter the designation of the 0870 range to reduce the price ceiling to an intermediate level (for example 4p per minute during daytime, 2p per minute during the evening and 1p per minute at weekends) after a 12 months period. Telecom One and another confidential respondent also believed that Ofcom should establish a price ceiling for 0870 lower than the current levels and to allow in this way the SPs who wished to do so to keep their 0870 numbers.

Ofcom's comments

- A2.231 As discussed in paragraph 4.23, Ofcom does not agree with UKCTA, Cable and Wireless and Thus's view that Ofcom should undertake a market review with a view to setting retail prices for NTS calls.
- A2.232 Ofcom does not believe that it needs to undertake further research before making its decision as The FCS suggests.
- A2.233 Ofcom first considered the option of extending retail price competition (as supported by Flextel and Kingston Communications) in the October 2004 Consultation. This approach was unpopular with both consumers and industry respondents. Ofcom reviewed this option again in the September 2005 Consultation and concluded that repairing the linkage to geographic charges performed better against the policy objectives. The consultation responses have not changed Ofcom's view.
- A2.234 Ofcom notes Kingston's concerns about the high prices charged by some OCPs for NTS calls. Ofcom has proposed to address this with measures to improve pricing transparency.
- A2.235 Our comments on extending the scope of the pricing designations in the Plan to OCPs other than BT as suggested by Kingston Communications and Telecom One are in paragraph 4.203.
- A2.236 Regarding Kingston's concerns about BT's charges for 0870 call termination, Ofcom notes that following the removal of 0870 calls from the scope of the NTS Condition, 0870 termination charges will be subject to commercial negotiation. To the best of Ofcom's knowledge, BT has not yet made a formal offer to any TCP. Ofcom also notes that only 0870 calls will be removed from the scope of the NTS Condition at this stage and that a significant proportion of 0870 traffic is expected to migrate to other ranges and will continue to be subject to the NTS Condition. Therefore, the majority of NTS traffic will continue to be subject to the NTS Condition.

A2.237 Magrathea, Telecom One and a confidential respondent's view that Ofcom should reduce the pricing ceiling for 0870 calls implies that Ofcom would have to extend retail pricing competition by allowing TCPs to choose price points for 0870 calls with a lower price ceiling than the current 0870 price point. In Ofcom's view this approach would perform poorly in terms of improved pricing transparency for the reasons discussed in the September 2005 Consultation.

Mobile operators

A2.238 Vodafone was opposed to the extension of the price designation to all OCPs and suggested instead that Ofcom should consider a price cap on BT as the dominant operator for 0845/70 calls as they believed this would minimise consumer confusion and preserve revenue sharing. They believed that if it worked as an interim solution, it should be considered as a long-term solution.

A2.239 The MBG argued that mobile tariffs did not have the concept of 'national' or 'local' rate calling and so they believed that 'restoring the geographic link for 0870 calls' would not be meaningful in a mobile context.

Ofcom's comments

A2.240 As discussed in paragraph 4.20, Ofcom does not agree with Vodafone that it should seek to regulate BT's retail prices.

A2.241 Ofcom disagrees with the MBG's view that restoring the geographic linkage would not be meaningful in the mobile context. Ofcom acknowledges that mobile operators like some fixed operators do not have separate local and national call tariffs. In such cases, calls to 0845 and 0870 numbers can be charged on the same basis as calls to geographic numbers.

Resellers

A2.242 All but one of the resellers that responded to our consultation disagreed with the proposals concerning the retail treatment of 0870 and 0845, and therefore did favour neither of Ofcom's preferred options.

A2.243 MeetingZone, Ingotz Telecom, Nationwide Telephone Assistance, Masterpoint, Lintel Ltd, IC Comms and a confidential respondent supported no changes for a period of two years for 0845 numbers.

A2.244 Catalyst Management, Coach House Comms, Pennycom Comms, Planet Numbers and Kalnet4u Ltd did not support the proposal.

A2.245 UCB Connect supported the proposal and believed it will have no effect on its business.

A2.246 Coach House Comms said they would lose revenues and services would be lost to customers.

A2.247 Kalnet4u Ltd believed pricing information should be improved instead and stated that in its view Ofcom has not thought this through properly.

A2.248 Lintel Ltd stated that revenue share was not a real issue for them, but what was important was that the cost to the reseller and their customer should remain at zero.

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A2.249 Planet Numbers believed its customers would end up paying more for the service.

A2.250 Windsor Telecom had yet to assess the impact on their business but believed there would be some impact.

Ofcom's comments

A2.251 Our comments on the potential impact of the proposals on resellers and SPs are in Section 4.

ISPs, SPs and business associations

A2.252 The British Retail Consortium believed that a review of how NTS numbers are regulated and controlled with better information for customers would serve consumers better than making complicated changes to the numbering system at a high cost to businesses and confusion to the general public. They favoured keeping the current pricing and interconnect arrangements.

A2.253 The British Retail Consortium argued that no number changes should take place due to the major disruption and costs of mass number changes involved with machine-to-machine communications. In their view, "0870 is a major benefit to enable calls to be routed in the event of failures and to balance workload".

A2.254 Lexgreen believed the best ways forward would be to either extend retail price competition or having Ofcom setting retail prices. It believed that a price point set by Ofcom at a level such as 6p, 3p, 2p for Peak, Off-peak and weekends would be sensible. In this way, they argued, the cost would not be excessive and everyone would "know where they stand". It argued that consumer protection would only ever be properly addressed once over-charging by the mainstream CPs would be brought under control.

A2.255 Digitel Technology Ltd suggested price caps as follows: 0845 – 4ppm, 0870 – 5ppm, 0871 – 10ppm, arguing that a 5ppm cap for 0870 would remove revenue share for the owner of number, but would allow for some revenue to provide for value added services.

Ofcom's comments

A2.256 Our comments on the impact on SPs are in paragraph 4.69.

A2.257 As discussed in paragraph 4.23, Ofcom does not agree with Lexgreen and others suggestion that it should seek to regulate BT's retail prices.

A2.258 Lexgreen and Digitel Technology Ltd's suggestion that Ofcom should reduce the pricing ceiling for 0870 calls implies that Ofcom would have to extend retail pricing competition by allowing TCPs to choose price points for 0870 calls with a lower price ceiling than the current 0870 price point. In Ofcom's view this approach would perform poorly in terms of improved pricing transparency (for the reasons discussed in the September 2005 Consultation).

A2.259 Ofcom notes Lexgreen's concerns about the high prices charged by some OCPs for NTS calls. Ofcom has proposed to address this with measures to improve pricing transparency.

Other Regulatory Bodies

- A2.260 Norfolk Trading Standards argued that the restoration of an enforceable link to geographic tariffs for all OCP's, including payphone and mobile, would make it easier to give meaningful and accurate price indications. They supported therefore Ofcom's proposals for the restoration of such a link for 0870 within the timescale proposed, and for 0845 sooner rather than later.
- A2.261 Norfolk Trading Standards also argued that the distinction of local and national calls was increasingly meaningless because of the fact that most consumers pay the same price for the two services in the UK; however, it thought that the indication 'national' could potentially have some use in future, if an enforceable link between 0870 and national rates was created.

Ofcom's comments

- A2.262 Our comments on extending the scope of the pricing designations in the Plan to OCPs other than BT are in paragraph 4.203.
- A2.263 Ofcom acknowledges that many OCPs no longer have separate local and national call tariffs. In such cases OCPs would apply the convention by charging 0845 and 0870 calls on the same basis as geographic calls. Ofcom believes that the linkage to local and national calls is still relevant since significant numbers of consumers and businesses still have separate local and national tariffs.

Policy options C1 to C7

- A2.264 Ofcom considered that the measures under options C1-C5 would go a considerable way towards achieving the benefits described in Section 6 of the September 2005 Consultation.

Communications providers

- A2.265 Kingston Communications supported the extension of PRS regulation in order to implement price publication requirements provided that a 'light' version of the ICSTIS code is used.
- A2.266 Magrathea was of the opinion that a more balanced approach would be reducing the existing 0870 price points (for example to 4p/2p/1p) after a 12 months period, coupled with the introduction of higher advertising standards and less deviation of price points by OCPs and that this would fulfil the majority of the concerns without causing unnecessary change by end users and TCPs.
- A2.267 Magrathea recommended that the price control should be that the price can vary upwards by the greatest of 10% of the published retail price point or the retail price point plus the OCPs price for UK geographic termination; this they argued would enable mobiles to be included reasonably in these controls.
- A2.268 UKCTA declared its preference for Ofcom to implement Option C5 (More Stringent Obligations on OCPs to publish prices) and address the other interconnection issues and then monitor their effectiveness before implementing the other proposals which it considered more invasive.
- A2.269 To improve pricing transparency and awareness of revenue sharing, one confidential respondent proposed a concerted 2-year Ofcom/industry campaign,

while the existing arrangements for 0845/0870 remained unchanged. The same respondent's preference was for Ofcom to make sure that 0845 and 0870 could no longer be advertised as local or national rate and to mandate preannouncement of prices as a way to improve pricing transparency.

A2.270 Flextel noted that the lack of pricing transparency was not restricted to 08 numbers and applied also to geographic numbers and other number ranges. It therefore felt that Ofcom should adopt measures to address the lack of pricing transparency for all number ranges rather than just 08 numbers. To increase price transparency, Flextel proposed the use of a price labelling solution as discussed in paragraph 4.35.

Ofcom's comments

A2.271 Ofcom agrees with Kingston's view that the provisions of the ICSTIS code applied to the 0871 range should be commensurate with the consumer protection problems that exist. As discussed in paragraph 4.183, ICSTIS will be consulting on the provisions of the code that will apply to 0871 and stakeholders will have an opportunity to contribute their views.

A2.272 As discussed in paragraph 4.23, Ofcom does not agree with Magrathea's view that it should seek to regulate BT's retail prices for 0870 calls.

A2.273 Ofcom notes Magrathea's concerns about the high prices charged by some OCPs for NTS calls. Ofcom has proposed to address this with measures to improve pricing transparency.

A2.274 As discussed in Section 4, Ofcom considers that UKCTA's preferred approach (setting retail prices for 0870 calls) is incompatible with its policy objectives and its regulatory principles.

A2.275 Ofcom considers that the effectiveness of a campaign to improve awareness of NTS call charges would be hampered by delaying the repair of the geographic linkages since the broken linkage is a significant contributory factor in the current confusion about 0845 and 0870 prices. Ofcom also has doubts about the effectiveness of a voluntary industry campaign given that a significant number of TCPs and resellers are still advertising 0845 and 0870 numbers as local rate and national rate more than 18 months after Ofcom signalled these terms should not be used. The most effective method for Ofcom to prevent 0845 and 0870 calls from being advertised as local and national rate would be to extend PRS regulation to those ranges so that ICSTIS could impose and enforce price publication requirements. Ofcom has proposed to extend PRS regulation to 0871 numbers, but extending it to 0870 and 0845 numbers as well would greatly increase ICSTIS's workload over and above that already proposed. As discussed in the September 2005 Consultation, Ofcom believes that consumers would find announcements annoying and that other measures to improve pricing transparency are more proportionate. Overall, Ofcom considers its proposals to be a proportionate response to the problems identified.

A2.276 Ofcom's comments on Flextel's pricing labelling solution are in paragraph 4.35.

Mobile operators

A2.277 Mobile Operators did not support the extension of price designations to all OCPs.

Resellers

- A2.278 MeetingZone, Catalyst Management, Linctel Ltd, Masterpoint, Kalnet4u Ltd, Coach House Comms, UCB Connect and one confidential respondent supported the proposal that SPs using 0844 numbers should provide better pricing information.
- A2.279 IC Comms, Nationwide Telephone Assistance, Sesui and Ingotz Telecom did not support them.
- A2.280 Kalnet4u Ltd said they would be reliant on the end user advertising the call cost accurately.

ISPs, SPs and business associations

- A2.281 The British Security Industry Association believed that no changes were required but most other respondents supported measures to improve pricing transparency.
- A2.282 Rapport Telebusiness Consulting believed that customer misconceptions should be addressed with more transparent pricing and education of customers about call costs. Lexgreen supported more stringent measures to require OCPs to publish their prices. Three respondents, including the Driving Standards Agency, believed that companies should be required to state the cost of the call wherever advertised.
- A2.283 Two respondents argued that the 'local/national rate' statement was no longer appropriate and should not be used.
- A2.284 One respondent favoured call pre-announcements and the Communications Management Association supported pre-announcements for cases where PRS were provided on 08 ranges. Several respondents opposed pre-announcements:
- two respondents, including The British Security Industry Association, disagreed with pre-announcements as they believed this could disrupt machine-to-machine / modem communications that used 0870 numbers;
 - WRL Consultancy believed that pre-announcements will be off-putting and would lead to customers thinking that they made money out of the calls; and
 - Bassett Herron did not believe pre-announcements would deter companies from using NTS numbers, "particularly with Monopoly organisations (e.g. Companies House)".
- A2.285 One respondent supported measures for greater transparency of call charges, like notifying the customer that the call will be excluded from call packages, or even forcing SPs to include NTS calls in their call plans.
- A2.286 The Network for Online Commerce believed that re-establishing the geographic link would lead to increased call charges for customers since SPs would migrate to new numbers charged at higher rates and that the cost for ISPs to migrate their customers away from 0845 would be considerable.
- A2.287 Oracle Financial Services believed that there should only be a limited number of NTS numbers and that pricing should be clear. It also believed that 0844 numbers should have the same proposals as 0845 and 0870 and not be kept as they were.

Ofcom's comments

- A2.288 In the September 2005 Consultation, Ofcom noted that price pre-announcements might interfere with modem communications for dial-up internet services. Ofcom acknowledges that pre-announcements might also disrupt other communications involving modems such as facsimile services and security systems.
- A2.289 Ofcom notes Bassett Heron's view that pre-announcements are unlikely to deter companies from using NTS. The aim of pre-announcements is to improve pricing transparency rather than to deter SPs from using them.
- A2.290 Ofcom acknowledges that there is a chance that SPs will raise their charges when they migrate to new numbers (by selecting price points with higher charges). However, as discussed in the September 2005 Consultation, this will be a commercial decision that each SP and will be influenced by competitive conditions in their primary markets and not a direct consequence of migration.

Other Regulatory Bodies

- A2.291 Norfolk Trading Standards considered that the practice of stating BT's prices in advertisements with a caveat that other providers rates may vary, provides no information to customers of other OCPs and could be misleading. It therefore felt that at a minimum, advertisers should state that charges would often be higher than BT's. It also felt that it is inappropriate to provide pricing information only in relation the prices of an OCP with Significant Market Power (i.e. BT).
- A2.292 Norfolk Trading Standards argued that consumer protection law does not require any price indication to be given in relation to a telecoms service and that criminal and civil sanctions could be imposed against advertisers who give a misleading price indication. It therefore believed that "any future advertising guidance must recognise silence on price as a legal and acceptable option for advertisers". As an alternative Norfolk Trading Standards suggested that advertisers could simply state that NTS calls are not charged at geographic rates and advise callers to check with their OCP.
- A2.293 Norfolk Trading Standards supported the extension of the scope of the designations to all OCPs since accurate price indications could then be given by advertisers. It also supported Ofcom's proposal for requiring OCPs to publish their charges more prominently and in a more accessible manner.
- A2.294 Norfolk Trading Standards also noted that ASA/CAP and COI guidance could not enforce compulsory price indications for SPs and advertisers, particularly as there was much advertising that did not fall within the scope of ASA regulation (e.g. websites).
- A2.295 Norfolk Trading Standards noted that Ofcom had provided advice to the ASA/CAP but had not consulted with Trading Standards services directly or through The Local Authorities Coordinators of Regulatory Services ('LACORS') and called for any future guidance on the advertising and marketing of NTS to be agreed between Ofcom, the ASA/CAP, ICSTIS and trading standards/LACORS..
- A2.296 The Radio Advertising Clearance Centre noted that the existing advice to radio advertisers for 0845/0870 was for the 'local'/'national' rate although this had been under review since 2003. It also noted that 'tags' could not be too long in 30-second

radio advertisements and stated its support for the adoption of call pre-announcements.

Ofcom's comments

- A2.297 Ofcom notes Norfolk Trading Standards concern that the practice of quoting BT's prices in advertisements for NTS services may be misleading and that advertisers might as a result be liable for civil and criminal sanctions. However, Ofcom notes that other organisations such as ICSTIS do not consider this practice to be misleading.
- A2.298 Ofcom also notes the RACC's concern that price publication requirements might be overly intrusive in radio advertisements.
- A2.299 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, LACORs, Trading Standards services, the RACC and ICSTIS which through its Code of Practice requires "the likely charge for calls to each service" to be stated in "all promotional material". Ofcom has and will continue to provide advice to these organisations on NTS.
- A2.300 Ofcom believes that it would be useful for those organisations that have a role in providing guidance to advertisers and taking action against misleading advertising to liaise with ICSTIS as it develops its Code of Practice for 0871 numbers.

Not for Profit Organisations

- A2.301 TAG and RNID were concerned that voice pre-announcements are may not be suitable for hard of hearing users who might not pick up announcement at the start of a call and that voice pre-announcements would be unsuitable for text users who would require a text equivalent.
- A2.302 TAG noted that Tynetalk relay operators could pass on a voice pre-announcement but that it would be difficult to achieve since it would require the operator to be connected to the call when the announcement is made. TAG also noted it might be difficult to upgrade the TextDirect platform to provide textual price pre-announcements if announcements are specific to the number dialled.
- A2.303 Telephone Helplines Association made the point that 165 UK voice helplines operated on the 0845 range. Telephone Helplines Association considered that 0845 offered a reasonable compromise for callers and helplines, particularly where the itemisation of calls on bills was less of an issue. Therefore the Telephone Helplines Association stated that they would have concerns about any increase in charges to SPs as a consequence of the proposal.
- A2.304 Regarding price transparency, the Telephone Helplines Association thought there was a case for publicising geographic alternatives to 0870 numbers at current prices (with the exception of charities) but would not support any requirement for helplines on 084 numbers at current prices to provide non-geographic alternatives as this would detract from services available to callers. The Telephone Helplines Association supported any moves to increase the availability of NTS tariff information and agreed that all CPs, whether fixed-line, mobile or internet telephony, should be encouraged to give greater prominence to the cost of calling all types of NTS numbers, including 0800/0808..

- A2.305 The Telephone Helplines Association believed that there was a strong case for a further option – a revenue-share number range dedicated to charities, where the caller would be informed with a free pre-announcement how much the call will cost to them and would also be made aware that a contribution of the cost would go to support the charity they are using. Telephone Helplines Association thought they would be well placed to play a role in co-ordinating a ‘donate-as-you-talk’ range in the same way as they had done with the 0808 80- range.
- A2.306 One confidential respondent had a similar opinion and believed that it would be helpful to have a number range that was associated with ‘not for profit’ organisations, including government services. Their concern would be to make the service affordable to the public, whether they were calling from a landline or mobile service.

Ofcom's comments

- A2.307 Ofcom notes TAG and RNID's concern that voice pre-announcements will not be suitable for hard of hearing and deaf people. Ofcom believes that part of the concern arises from the belief that individual SPs will be able to choose to charge higher rates and therefore announcements would be provided for some 0870 calls but not others. In fact the decision to charge higher rates would be taken by OCPs and would be likely to apply to all calls to 0870 numbers for individual customers. Ofcom's expectation is that most OCPs will decide to charge 0870 calls at their geographic rates and therefore voice pre-announcements will not be provided. Ofcom also notes that it has separately published a statement requiring OCPs to give greater prominence to their charges for NTS calls and that all OCPs are under an obligation to publish their prices so people that are unable to hear voice pre-announcements will be able to find out how much their CP charges for 0870 calls. Never the less, Ofcom acknowledges that people who can not hear voice pre-announcements would not be proactively informed that 0870 call charges will be charged above geographic rates.
- A2.308 Ofcom acknowledges that its proposals for the 0870 range will also affect charitable helplines using 0870 numbers (and possibly also 0845 numbers if after undertaking a further review in two years time as proposed Ofcom decides to repair the linkage to geographic charges for 0845 calls) and notes this may cause some disruption. However helplines like all other SPs, helplines have the option of migrating their services to alternative numbers offering similar price points and revenue sharing arrangements so the proposals should not result in the withdrawal of services.
- A2.309 Ofcom notes the THA's suggestion that a revenue sharing range dedicated to charities could be set aside. Ofcom first considered such an approach in the October 2004 consultation in the context of a range that would replicate the Special Freephone Tariff Scheme approach on a chargeable number range. Ofcom considers that this suggestion merits further exploration. Ofcom also notes that it has recently proposed in the Numbering Review consultation to introduce a new number range (03) for the use of SPs (including public sector services) that require a national presence but don't want to revenue share. Ofcom therefore considers it appropriate to explore this issue further in the context of the Numbering Review and to address this issue in the Numbering Review Statement.
- A2.310 Ofcom notes the THA's concerns about any requirement for SPs to publish geographic numbers. Ofcom is not generally in favour of such an approach because it would be likely to cause calls to bypass the call routing facilities provided on the 08 numbers. This is one of the reasons why Ofcom didn't propose this approach.

Policy options D1 to D4

- A2.311 Ofcom's initial view was that option D2 and D3, which involve the extension of existing PRS regulation to the 0871 range and adult services regardless of price, performed best against the policy objectives. Ofcom was asking for stakeholders' views and proposed to issue a separate consultation setting out these proposals in detail.
- A2.312 Respondents' views on these policy options are described in the summaries of their answers to questions 5 and 6.

Policy options E1 to E3

- A2.313 Ofcom considered that neither Option E2 nor E3 performed well against Ofcom's objectives principally because they would have increased the regulatory burden without sufficient evidence to justify the intervention. Ofcom's preferred approach was therefore the status quo Option E1.

Communications providers

- A2.314 One confidential respondent supported regulating service levels for call centres using revenue sharing numbers and suggested setting up by an independent body to monitor of call centre performance for those receiving revenue share or where costs exceed national geographic rates. They called for call centres to be governed and subject to guidelines and policies – "e.g. call waiting time not to exceed 'x' minutes after which the caller would not incur additional charges, advertising or company information should be given at the end of a call giving the customer the option to listen or not." In their view, the role of this independent body would include: 1) monitoring the level of revenue share received and ensure a portion is invested back into the call centre to improve performance and 2) instigating best practice.

Ofcom's comments

- A2.315 As discussed in the September 2005 Consultation, Ofcom's research into call centre waiting times produced no evidence that the availability of revenue sharing on 08 numbers has resulted in waiting times at call centres being artificially extended. Ofcom considers there are insufficient grounds to justify regulation of call centre service levels.

ISPs, SPs and business associations

- A2.316 The British Security Industry Association and Lexgreen preferred option was to retain the current arrangements.

Policy options F1 to F2

- A2.317 Option F1 the status quo was Ofcom's preferred option. Ofcom also considered that Option F1 performed best against the policy objectives, particularly in regards to the aim of reducing regulatory intervention.

Communications providers

- A2.318 Telecom One argued that in its opinion, whether, and in what circumstances, NTS numbers are appropriate gateways for specific public service applications was more

a matter for the public sector agencies concerned than for Ofcom. Telecom One found it surprising that, in their words, “Ofcom presumed to opine on the policies of public bodies that were beyond its statutory remit”.

Ofcom's comments

A2.319 Ofcom agrees with Telecom One that the decision to use NTS numbers is a matter for public sector organisations rather than Ofcom. However, Ofcom believes that it is entirely appropriate for Ofcom to give advice to public sector organisations on best-practice.

Mobile operators

A2.320 The MBG agreed with Ofcom that there were insufficient grounds to justify public bodies being prevented from using revenue sharing NTS numbers. In any case, it believed this would be a matter for Government departments and other public services to settle with their respective stakeholders.

A2.321 Vodafone considered that this was not a matter for Ofcom to be involved in.

ISPs, SPs and business associations

A2.322 Lexgreen favoured the status quo for public services.

A2.323 The Driving Standards Agency noted that the use of 0820 (internet for schools range) for education purposes and suggested a similar setup for public services.

Ofcom's comments

A2.324 As discussed in paragraph 2.18, Ofcom has proposed in the Numbering Review consultation to introduce a new number range (03) for SPs, including public sector organisations that require a non-geographic number range but do not wish to revenue share.

Not for Profit Organisations

A2.325 The CAB believed that a number of public bodies had been using revenue sharing NTS numbers inappropriately particularly when dealing with low income or vulnerable consumers (such bodies includes local authorities and health services including local doctor's surgeries). Where the service provided added no value by using NTS services, they believed that ordinary geographic numbers should be available to the consumer.

Ofcom's comments

A2.326 Ofcom shares the CAB's view that public sector organisations should not use NTS numbers exclusively (i.e. without at a minimum giving equal prominence to a geographic alternative) when dealing with people on low incomes or other vulnerable groups.

Question 8: Do stakeholders agree with Ofcom's initial view that the package of measures proposed performs best against the evaluation criteria and should be implemented? If not, what other measures do stakeholders consider should be implemented and why?

Communications providers

A2.327 BT gave its qualified support to the proposals but the other 18 respondents that answered this question disagreed that the proposals performed best against the evaluation criteria and believed they should not be implemented. There was however support for various elements of the package of proposals.

BT

A2.328 BT gave its qualified support to Ofcom's proposals, stating that they are headed in the right direction, but noting that there are advantages and disadvantages with the approach proposed. BT noted that the NTS regime has been highly successful and the competitiveness of the market is demonstrated by the flexibility and innovation that it has provided. However BT believed that it has come under increasing strain in recent years particularly the level of disputes and the consequent micro-regulation necessary to resolve them.

A2.329 BT strongly supported the restoration for the geographic linkage coupled with the removal of the regulatory support but was critical of the uncertainty that they will engender for the 0845 range and urged Ofcom to do more to clarify the future for this range.

A2.330 BT noted that the 0870 proposals will have a significant impact on the revenues of TCPs and SPs. It believes that this will lead to structural changes in the industry as well as a period of disruption. It is concerned about the impact on SPs.

A2.331 BT supported extending PRS regulation to 0871 numbers and to all adult services currently provided on 08 numbers. However it urged Ofcom to ensure that the measures implemented for 0871 are proportionate to the problems that exist and that they are reviewed to ensure proportionality and effectiveness. It also says that SPs need clarity as to the extent of PRS regulation on 0871.

A2.332 BT opposed Ofcom's interim arrangements for 0870 and 0845 and believed they would have to opposite effect to that intended and would undermine BT's voluntary undertaking on termination payment stability. It asked Ofcom to withdraw these proposals or at least to modify the proposed text for the Plan to make clear the interim nature of the arrangements.

A2.333 BT also urged Ofcom to tie in the implementation of the proposals to the Numbering Review so that NTS SPs have a clear migration path should they decide to migrate to new numbers.

A2.334 BT noted that further consultation would be required to implement the proposals and asked Ofcom to ensure that they are restricted to the necessary statutory requirements and don't reopen the policy debate covered by this consultation.

Ofcom's comments

A2.335 Most of our comments on the points raised by BT are in Section 4.

A2.336 As discussed in Section 5, Ofcom will need to undertake further consultations in order to implement its proposals, however our intention is not to revisit the issues covered in this consultation except in as far as necessary to consider requirements for implementation.

UKCTA

A2.337 UKCTA agreed that consumer awareness of NTS retail tariffs needs to be improved and supported the proposal to apply more stringent obligations on OCPs to publish prices. UKCTA considered that Ofcom's proposals are a disproportionate response to the problem based on very little empirical evidence and felt there is no clear linkage between the issues identified in the consumer research and the proposals. UKCTA believed the proposals will damage the UK's service based economy by 'arbitrarily' changing the pricing/interconnection arrangements thereby removing the revenue share that NTS SPs use to provide services and preventing NTS SPs from giving consumers price signals. UKCTA contended that 50% of NTS SPs would be forced to move at great cost and that the remaining 50% will remain will have price/interconnection arrangements 'not of their choosing'.

A2.338 UKCTA believed that the proposal to re-establish the linkage to geographic charges for 0870 would only be partially effective in improving consumer price awareness since perception of national call charges is much higher than actual call charges and also believed that the long drawn out process of implementing the proposals would increase rather than decrease consumer confusion as would the fact that callers would pay a range of prices for 0870 calls depending on their OCP and call package.

A2.339 UKCTA believed that the removal of 0870 calls from the scope of the NTS Condition is likely to lead to an increased level of disputes as BT tries to agree cost-based termination charges with a large number of TCPs.

A2.340 UKCTA also believed that the 0845 review in 2 years time would make NTS SPs reluctant to move to 0845 and that they will not move to 0844 because of low consumer awareness. UKCTA believed that the likely result would be that SPs would move their services to 0871 and take advantage of the higher price ceiling on that range (compared with 0870) and raise their prices.

A2.341 UKCTA's preference was for Ofcom to extend PRS regulation to 0871 numbers, mandate more stringent obligations on OCPs to publish prices, address the other interconnection issues and then monitor their effectiveness before implementing more invasive measures. UKCTA also suggests that PRS regulation could be extended to the 0870 range in order to implement a requirement for SPs to advertise 0870 call charges.

A2.342 To address the principal industry concern of uncertain revenues for TCPs, UKCTA proposed that Ofcom should decouple 0870 call charges from BT's geographic call charges and set a single price point for the range. It suggested that Ofcom could implement a 'price reduction mechanism' to reflect the reducing cost of network conveyance.

A2.343 UKCTA believed that the report (that it commissioned) from economics consultancy Indepen demonstrated that their preferred approach would generate £1.4 billion pounds more economic benefit for UK businesses and consumers over the next 5 years than Ofcom's proposals.

Ofcom's comments

A2.344 Our comments on the points raised by UKCTA are in Section 4.

Other Communications Providers

A2.345 None of the other CPs believed that Ofcom's proposals performed best against the evaluation criteria. Many believed that the proposals were not evidence based, cost effective or proportionate.

A2.346 All agreed that pricing transparency needs to be improved and most felt that the industry's concerns about pricing and interconnection also needed to be addressed.

A2.347 None of the respondents supported re-establishing the geographic linkage for 0870 and 0845 calls. Most believed that would be highly disruptive for CPs, resellers and SPs and was a disproportionate response to the problems identified. UKCTA members also believed the Indepen report demonstrated that their preferred approach would deliver greater economic benefit.

A2.348 Several respondents believed that Ofcom's proposals to restore the geographic linkage for 0870 calls would not be particularly effective since the likely result would be that consumers' perceptions of 0870 call tariffs would be aligned with those of national rates which are well above actual tariffs²¹.

A2.349 Respondent's comments on the impact assessment are considered in paragraph A2.440 and Section 4.

A2.350 Some of the respondents supported the proposal to review the 0845 range in two years time solely on the basis that it would put off re-establishing the geographic linkage for 0845 calls. However, there was no support for re-establishing the linkage in two years time. Many respondents believed that re-establishing the linkage to geographic charges would be a disproportionate response to the problem and many were also concerned that the prospect of a review would create considerable uncertainty that would be damaging for the industry.

A2.351 As previously discussed, most supported the proposal to extend PRS regulation to adult services currently provided on 08 numbers and there was qualified support for the proposal to extend PRS regulation to 0871 numbers.

A2.352 Although some respondents acknowledged the pricing transparency benefits of extending the scope of the designations for 0844 and 0871 beyond BT to other OCPs there was little support for this approach. Some providers believed that it would amount to retail price regulation of non-dominant OCPs and others were concerned they would be unable to recover their costs of origination without significant changes to the interconnection and billing arrangements for NTS. Telewest believed that the best approach would be for Ofcom to require BT to modify its NTS interconnection and billing systems to support originator specific termination charges for NTS transit calls. Telewest acknowledged that it would be possible for OCPs and TCPs to negotiate commercial terms outside the standard transit billing

²¹ Ofcom reported the results of its consumer research on price perception in Figure 7 of its report *Number Translation Services: A Way Forward*. A report of the key findings of two research studies conducted by Hi Europe and MORI on behalf of Ofcom.
http://www.ofcom.org.uk/consult/condocs/nts_forward/ntsrsc.pdf

arrangements but believed that it would be necessary for Ofcom to require BT to improve its transit-only billing product.

A2.353 A variety of alternative solutions were proposed. The common themes were:

- that regulatory support for revenue sharing on 0845 and 0870 should be maintained and that 0845 and 0870 call charges should be kept at approximately the current levels;
- that Ofcom should break the linkages to geographic charges for 0845 and 0870 calls. Most respondents preference was for Ofcom to:
 - intervene to set BT's retail prices for 0845 and 0870 calls (various mechanisms were suggested) in order to stabilise termination payments whilst retaining single price points for these ranges; or
 - extend retail price competition (i.e. the same arrangements as applied to the 0844 and 0871 ranges);
- that Ofcom should implement measures to improve pricing transparency and consumer protection.

A2.354 There were however alternative views:

- Flextel believed that revenue sharing (i.e. any out payment to SPs) should be forbidden on 08 numbers thereby restricting the use of termination payments to the provision of network based services;
- Flextel believed that the lack of pricing transparency extends beyond NTS calls to all call and therefore Ofcom should seek to implement measures to address the wider problem rather than address NTS in isolation. Flextel's preferred approach was a solution it dubbed 'price labelling' which is discussed further in paragraphs 4.35 to 4.42. Flextel believed this should be implemented in conjunction with the extension of retail price competition. It also called for the 08 designations to be revised and for an end to the link between the designations and BT's price list.
- Less4Calls.com believed that Ofcom should prevent large organisations from using NTS numbers or require them to publish a geographic number and restrict their use to small organisations such as Less4Calls.com that save customers money.
- Magrathea felt that restoring the geographic linkage was too extreme an option and suggested that Ofcom should alter the designation of the 0870 range to reduce the price ceiling to an intermediate level (for example 4p per minute during daytime, 2p per minute during the evening and 1p per minute at weekends) after a 12 months period. Telecom One and another confidential respondent also believed that Ofcom should establish a price ceiling for 0870 lower than the current levels and to allow in this way the SPs who wished to do so to keep their 0870 numbers.
- THUS believed that Ofcom should seek to bring pricing certainty to the market by introducing floors and ceilings for the 0845 and 0870 range as this they argued would help to protect consumers and provide SPs with a degree of medium term certainty.

A2.355 Respondents believed that the proposals would have a variety of negative consequences for consumers:

- consumers would suffer disruption when SPs move to new numbers;
- several respondents believed that the proposals might induce some SPs to move their contact centres abroad in order to reduce costs;
- several respondents believed that SPs would move their services to alternate numbers with higher price points and that as a result consumers would pay higher prices for calls to services provided on NTS numbers;
- C&W believed that the proposals might widen the digital divide by inducing some businesses to concentrate their contact channels on the internet rather than the telephone.

A2.356 The FCS believed that Ofcom had underestimated the impact of its proposals particularly the impact on resellers. It was criticised Ofcom for not conducting any research into the impact on SPs in the SME sector. They believed Ofcom should undertake further research and revisit the policy issues as part of the Numbering Review. The FCS didn't support the extension of PRS regulation to the 0871 range apart from specific measures to deal with internet diallers, however they supported Ofcom's proposals for adult services.

Ofcom's comments

A2.357 Most of our comments on the points raised by respondents are in Section 4.

A2.358 Our comments on the alternate views put forward by respondents are as follows.

- Flextel suggests that Ofcom should prevent TCPs/resellers from sharing revenues with SPs, thereby restricting the use of termination payments to the provision of network based services. Our comments on this are in paragraph 4.122;
- Ofcom's view is that this approach favoured by Less4Calls would be potentially discriminatory and Ofcom has no evidence to suggest that such an approach would be justified;
- Magrathea, Telecom One and a confidential respondent's view that Ofcom should reduce the pricing ceiling for 0870 calls implies that Ofcom would have to extend retail pricing competition by allowing TCPs to choose price points for 0870 calls with a lower price ceiling than the current 0870 price point. In Ofcom's view this approach would perform poorly in terms of improved pricing transparency (for the reasons discussed in the September 2005 Consultation);
- Our comments on the Flextel 'price labelling' proposals are in paragraph 4.35 to 4.42; and
- As discussed in paragraph 4.23, Ofcom does not agree Thus's view that Ofcom should regulate BT retail prices for NTS calls.

A2.359 The FCS is mistaken in its belief that Ofcom did not undertake any research into the potential impact of its proposals on SPs in the SME sector. A range of activities were undertaken. As discussed in Section 5 of the September 2005 Consultation Ofcom:

- commissioned a series of focus groups to get a more in depth picture of small/medium sized business SP's views about calls to NTS numbers and in particular to explore views about the options for change that Ofcom was considering;

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- gathered information (using its formal powers under the Act) from TCPs on a sample of their SP customers which included SMEs;
- gathered information (using its formal powers under the Act) from a sample SPs. The purposes of the request was to gather information about the types of service being provided by SPs on individual 08 numbers and also to gather views on the importance of revenue shares to their businesses and what they might do if revenue sharing was no longer available;
- based on the information obtained, Ofcom estimated the proportion of SPs that would migrate their services to new numbers and the migration costs they would incur.

Mobile operators

A2.360 Vodafone repeated its view that Ofcom's proposals were ill conceived and would create more problems than they would solve. However, they supported the interim measures as a viable intermediate step that would allow time to consider alternative proposals. They believed that Ofcom should extend retail price competition on the 0845 and 0870 ranges by applying the same arrangements as applied to 0844 and 0871.

Ofcom's comments

A2.361 Ofcom first considered the option of extending retail price in the October 2004 Consultation. This approach was unpopular with both consumers and industry respondents. Ofcom reviewed this option again in the September 2005 Consultation and concluded that repairing the linkage to geographic charges performed better against the policy objectives. The consultation responses have not changed Ofcom's view.

Resellers

A2.362 None of the resellers agreed that the proposals performed best against the evaluation criteria. As previously discussed, none of the respondents agreed with the proposal to re-establish the geographic linkage for 0870 calls or to remove the 0870 range from the scope of the NTS Condition. As previously discussed, only one respondent supported the proposal to extend PRS regulation to the 0871 range and only Elitetele.com supported the proposal to extend PRS regulation to all adult services.

A2.363 Elitetele.Com, Windsor Telecom and one other respondent believed that Ofcom's research was flawed and therefore Ofcom should undertake more research into the potential impact of the proposals before making a decision to implement them. One confidential respondent offered the results of its own research as evidence that Ofcom had reached the wrong conclusions.

A2.364 Sesui limited believed that Ofcom's proposals are inconsistent with Ofcom's aim of furthering the interests of citizens as stated in the Act.

A2.365 Linctel and one other respondent believed that the principle beneficiary of the proposals would be BT and one believed that they would increase BT's dominance and reduce competition and consumer choice.

A2.366 11 respondents believed that pricing transparency needed to be improved, though as noted above there was little support for restoring the geographic linkage and for

extending PRS regulation. A variety of ways of improving pricing transparency were suggested:

- Elitetele.Com supported measures such as tariff publication requirements and advertising guidelines and extend the scope of the designations to OCPs other than BT;
- Gold Numbers made a number of suggestions:
 - the descriptions of the 0870 range in the Plan could be changed, replacing the 'national rate' description with something like 'special rate';
 - the current designations for the whole of the 08 range could be modified to introduce a pricing ladder with 080 numbers free to caller, 081 charged at 1p per minute, 082 at 2p per minute etc. up to 089 charged at 9p per minute;
 - a requirement for SPs to advertise or pre-announce the price of calls;
 - banning revenue sharing so that NTS revenues could only be used by TCPs to fund the provision of call handling services; and
 - a 'price labelling' solution similar to that proposed by Flexitel.

A2.367 Ingotz Telecom, Windsor Telecom and one other respondent were concerned about the high prices charged by some OCPs for NTS calls. Windsor Telecom regarded this as a consumer protection problem as well as a pricing transparency problem. Ingotz Telecom believed it is stifling competition.

Ofcom's comments

A2.368 Our comments on respondents concerns about the impact on resellers and SPs are in Section 4, paragraph 4.61 onwards.

A2.369 Our comments on extending the scope of the designations are in paragraph 4.203.

A2.370 Our comments on Gold Numbers suggestions are:

- Ofcom's view is adopting new brands for the 0845 and 0870 ranges would need to be accompanied by additional measures to improve consumer awareness of the meaning of the new brands since consumers would not otherwise associate them with any tariff. Ofcom's view is that its proposal to repair the geographic linkages is a better approach since it builds on existing consumer awareness of tariffs;
- the pricing ladder is in effect a variation on the option of extending retail pricing competition since to implement it, since it would involve adopting similar designations for the 0845 and 0870 ranges as currently used for the 0844 and 0871 ranges;
- Ofcom considered a requirement for price pre-announcement for all NTS calls in the September 2005 Consultation and concluded that the incremental benefits of pre-announcements for all 08 calls (over and above the other measures proposed) would be outweighed by the costs involved in their implementation at the present time. Ofcom was also concerned that consumers would find announcements annoying;

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- our comments on the price labelling solution proposed by Flextel are in paragraphs 4.35 to 4.42;

A2.371 Ofcom notes respondents concerns about the high prices charged by some OCPs for NTS calls. Ofcom has proposed to address this with measures to improve pricing transparency.

ISPs, SPs and business associations

A2.372 Most respondents disagreed with Ofcom's proposal to re-establish the geographic linkage for 0870 calls. Four agreed with the proposal to extend PRS regulation to 0871 numbers and 4 agreed with the proposal to extend PRS regulation to all adult services. Most respondents would like to see greater clarity about the future of the 0845 range.

A2.373 Most respondents agreed there is a lack of pricing transparency and most also agreed that SPs should not use the terms local rate for national rate to advertise 0845 or 0870 call charges. Some companies also believed that there was a need to re-educate consumers about the value provided by 0870 calls; several noted that a typical 0870 call cost no more than the price of a postage stamp.

A2.374 Most respondents believed that OCPs should be required to publish their charges more prominently and accessibly. Some respondents said they would like to advertise their call charges but felt that the variation in retail prices between OCPs hindered their ability to do this. Some therefore suggested that Ofcom should extend the scope of the designations in the Plan for 0845 and 0870 to all OCPs. However, most respondents were not in favour of a requirement to pre-announce call charges. Some noted that announcements would disrupt machine to machine communications (for example fax calls).

A2.375 There was concern that if revenue sharing on the 0870 range is abolished then many companies would move to more expensive numbers (partly to cover the cost of migration) thereby resulting in higher costs for consumers. There was also concern that an end to revenue sharing would result in reduced service levels, job losses and the relocation of contact centres overseas.

A2.376 Most respondents supported Ofcom's proposal to extend PRS regulation to 0871 numbers and all respondents agreed that adult services should be confined to the 09 range. Some respondents also believed that revenue sharing should be restricted to 09 numbers.

A2.377 Many respondents expressed concern about the cost of migrating their services to an alternative number. ISPs were concerned about the migration costs for pay as you go internet services. Some respondents were concerned about existing contractual relationships with TCPs.

A2.378 Most respondents believed that a twelve month notice period is too short and would cause them to incur additional costs that could be avoided with a longer notice period. Some respondents believed that they would not have used up their current stocks of brochures and other promotional material within a year. Others were concerned twelve months would be insufficient for them to change their numbers in telephone directories should they decide to migrate to a new number.

A2.379 Lexgreen suggested several additional measures to improve transparency:

- rebranding the 0845 and 0870 ranges 'low rate' and 'high rate' rather instead of local rate and national rate;
- extending the scope of the designations to all OCPs or alternatively limiting the range by which OCPs could vary prices from those charged by BT;
- requiring all OCPs not to charge callers for Freephone calls; and
- requiring OCPs to publish their NTS tariffs.

A2.380 The CMA disagreed with Ofcom's proposals and favoured restricting revenue sharing to the 09 range and capping the retail prices for 084 numbers at a level that would allow SPs to offer better contact channels to their customers and recover their costs.

A2.381 The Network for Online Commerce said it would support any measures to improve visibility and transparency of tariffs and believed they should be applied to OCPs, TCPs and SPs.

Ofcom's comments

A2.382 Ofcom acknowledges that the fact that the retail pricing designations in the Plan effectively apply only to BT makes it more difficult for advertisers to communicate pricing information. This was why Ofcom asked for stakeholders views on the feasibility of extending the scope of the designations in the Plan beyond BT to other OCPs and why Ofcom has separately consulted on a proposal to require OCPs to give greater prominence to their charges for NTS calls.

A2.383 Ofcom notes respondents concerns about the high prices charged by some OCPs for NTS calls. Ofcom has proposed to address this with measures to improve pricing transparency.

A2.384 Ofcom's comments on the impact of the proposals on SPs are in Section 4.

A2.385 Ofcom's view is adopting new brands for the 0845 and 0870 ranges would need to be accompanied by additional measures to improve consumer awareness of the meaning of the new brands since consumers would not otherwise associate them with any tariff meaning. Ofcom's view is that its proposal to repair the geographic linkages is a better approach since it builds on existing consumer awareness of tariffs.

A2.386 Ofcom disagrees with the CMA's view that revenue sharing should be restricted to the 09 range partly because of the level of disruption it would cause but also because consumers would be likely to be reluctant to call services once they migrate to 09 numbers due to worries about high prices. Ofcom's view is that revenue-sharing should continue on 08 numbers and measures should be taken to improve pricing transparency and the awareness of revenue sharing.

Other Regulatory Bodies

A2.387 ICSTIS restricted its comments to the proposals that directly affect it (i.e. the extension of PRS regulation) and, as previously discussed, supported those proposals.

Not For Profit Organisations

A2.388 The THA supported measures to improve pricing transparency but as previously discussed did not support the re-establishment of the geographic linkage for 0845 calls in 2 years time because of the impact on charitable helplines. It was concerned that after the implementation of the proposals:

- the 0845 range would be less attractive for SPs and callers since the call charges would be higher than for 0870; and
- consumers might be confused about the geographic rate call charges for 0870 and the 'premium rate' charges for 0871.

A2.389 The RSPCA acknowledged the pricing transparency benefits of Ofcom's proposals and said it had always viewed revenue share payments to the society as beneficial but not essential but also felt that it did not want to pay for the complex routing services that it used. It believed that if the proposals were implemented that the loss of income and additional costs would have an impact of the services it provides.

Ofcom's comments

A2.390 Ofcom acknowledges that if the geographic linkage for 0845 calls is repaired following the proposed review that the loss of revenue share would affect charitable helplines and notes this may cause some disruption. However helplines like all other SPs, helplines have the option of migrating their services to alternative numbers offering similar price points and revenue sharing arrangements so the proposals should not result in the withdrawal of these services. Ofcom also discusses the possibility of putting aside number ranges especially for charitable helplines in paragraph A2.112.

A2.391 Ofcom acknowledges that unless the geographic linkage for 0845 calls is repaired that OCPs are likely to charge less for 0870 calls than 0845 calls. This may make the 0870 range more attractive than the 0845 range to those SPs who prefer lower price point but might equally make 0845 more attractive to those SPs that want a revenue share.

A2.392 The proposed measures to improve pricing transparency such as an ICSTIS price publication requirement for 0871 numbers should help to prevent consumers from confusing the 0870 and 0871 ranges.

Question 9: Ofcom proposes to modify the Plan in relation to the designations for 0845 and 0870 numbers as shown in Annex 11. Do you have any specific comments on the proposals to modify the Plan in this manner?

Communications providers

A2.393 BT asked if Ofcom was seeking similar pricing stability commitments from other OCPs. Moreover, it argued that it was important that it was made clear that these were interim arrangements and suggested to revise the text.

A2.394 Call Sciences said they could accept these modifications, subject to retention of 087 numbers and the underlying payments arrangements facilitated through the existing interconnection arrangements.

- A2.395 IV Response Ltd. believed the requirement for SP's to advertise 0870 numbers as 'special services higher rate' would have little meaning to the consumer and that due to the word 'higher rate' would create further resentment to 0870 use.
- A2.396 INWG called for the modification to be permanent.
- A2.397 Kingston Communications questioned if it was appropriate for Ofcom to be setting a standard definition of daytime in relation to tariffs across all originating networks considered that not all networks had the same time definition.
- A2.398 Kingston Communications thought that it was not clear how choosing a tariff below the price ceiling mandated by Ofcom would be implemented within the interconnect regime and the retail pricing across all originating operators.
- A2.399 Kingston Communications also thought that the proposal to modify the Plan did not take into consideration the different costs for originating calls across different networks that needed addressing if originating operators were to be able recover the costs of originating NTS calls.
- A2.400 Kingston Communications believed it was unclear if the proposals allowed for opting out of BTs retail discount packages as it was currently available for 0844 and 0871;

Mobile operators

- A2.401 Vodafone suggested that Ofcom should align the 0845 designation with the 0844 designation and the 0870 designation with the 0871 designation.

Resellers

- A2.402 Windsor Telecom opposed the proposal to remove the 'local rate' and 'national rate' terms from the Plan. They stated that they had promoted and sold numbers from the 0845 and 0870 ranges allocated to them by Ofcom in good faith as 'local rate' and 'national rate' numbers. They argued that to no longer allow these terms to be used because the Advertising Standards Authority had deemed them misleading would cause too much unnecessary upheaval as would require them to reprint their promotional material. They also believed that consumers associate 0845 and 0870 numbers with these terms and it would be difficult to remove this association.

Ofcom's comments

- A2.403 As discussed in Section 4, Ofcom has decided not to implement the interim arrangements and intends to leave the designations for 0845 and 0870 unaltered during the proposed interim periods.
- A2.404 Ofcom modified the designations in the Plan for the 0845 and 0870 ranges in July 2004 and signalled its view that the local rate and national rate terms may be misleading and should not be used to describe 0845 and 0870 call charges.
- A2.405 Whilst Ofcom understands Windsor Telecom's concerns about having to revise its promotional material, the fact remains that the linkages are broken and the use of the local rate and national rate terms to describe 0845 and 0870 call may be misleading.

ISPs, SPs and business associations

A2.406 A confidential respondent believed that the reference to retail prices for 0845 calls being set by the TCP was incorrect since they understood that BT would continue to set its own retail prices for 0845 calls.

Ofcom's comments

A2.407 As discussed in Section 4, Ofcom has decided not to implement the interim arrangements and intends to leave the designations for 0845 and 0870 unaltered during the proposed interim periods.

A2.408 Under the proposed interim arrangement, the designation would be modified so that TCPs would be responsible for selecting the price that BT would charge for 0845 calls. BT would not be able to set its retail prices for 0845 calls under the proposed arrangement.

Other regulatory bodies

A2.409 Norfolk Trading Standards believed that Ofcom should set the date for the re-establishment of the geographic linkage for 0870 when it publishes the statement to avoid the need for a further consultation. It further suggested that the necessary amendments could be included in the current modification to the Plan and post dated to come into force at the end of the interim period.

Ofcom's comments

A2.410 Since Ofcom intends that the geographic linkage for 0870 calls should be repaired after an interim period, Ofcom considers it preferable to consult on the changes required to implement this change towards the end of the interim period rather than have an extended period between the consultation and statement before bringing the changes into effect.

Not for profit organisations

A2.411 The THA and the CMA supported the proposed amendment and believed that it would remove the confusion for consumers surrounding the local rate and national rate terms.

Question 10: Do you have any comments on Ofcom's proposed revised telephone numbering application form (as set out in Annex 12) for 08 numbers?

Communications providers

A2.412 BT suggested that 0871 numbers should be listed on the S9 form rather than the S8 form since they are to be subject to PRS regulation.

A2.413 Kingston Communications noted that the application forms contained the words '(non-internet)' alongside the 0844 and 0871 10k allocations and suggested these terms be removed since they bear no relation to the designation in the Plan.

Mobile operators

A2.414 Vodafone reiterated its answer to question 9.

Others

A2.415 There were no responses to this question from resellers, other regulatory bodies, ISPs, SPs, business associations and not for profit organisations.

Ofcom's comments

A2.416 Ofcom's view is that it would be more appropriate to transfer 0871 numbers from the S8 to the S9 form when PRS regulation is extended rather than in advance of this change.

A2.417 The S8 application form describes the 08 number ranges in more detail than the Plan in order to give guidance to applicants as to the most appropriate sub-range for their intended use. The references to 'internet' and 'non-internet' indicate to applicants which ranges are intended primarily for internet services or other services. Ofcom's view is that the additional information on the S8 form serves a useful purpose and that it is not necessary to remove it in order to align the descriptions with those in the Plan.

A2.418 The Plan supplies broad designations for number ranges, but does not provide detail about sub-ranges. This is to avoid the need to frequently consult on amendments to the Plan, which do not represent a policy change or have a material effect on stakeholders. Detail on designations of sub-ranges is provided in the National Numbering Scheme ('the Scheme'), which is a day to day record of telephone numbers allocated by Ofcom in accordance with the Plan, and as provided for in section 56(3) of the Act. The Scheme, therefore, tends to provide finer detail than the Plan on designations for NTS number ranges.

Market research

A2.419 Greystone Telecom raised questions about Ofcom's market research²².

A2.420 Greystone Telecom noted that question 6 of the market research questionnaire, which asked if the respondent had called certain NTS numbers, did not include a comparison to other landline calls (e.g. to friends, businesses) and in particular calls to mobiles. Greystone was concerned that insufficient balance would arise from comparisons between NTS and landline calls, than with other types of call that are more expensive.

A2.421 Greystone Telecom also commented that there were no questions that related to the benefits of NTS, the differences with other calls, disadvantages or costs/lack of costs associated with NTS.

A2.422 Greystone Telecom criticised the approach taken for questions 7 and 8, which asked the interviewee if they had heard of, or used, certain dialling codes. It was concerned that 'Church' responses would be received from prompting answers to the question (i.e. people will behave as they feel would be expected to behave, and claim awareness as the interviewer would expect them to have heard of numbers).

²² Ofcom's market research for *Number Translation Services: a way forward* can be found at: http://www.ofcom.org.uk/consult/condocs/nts_forward/ntsrsc.pdf. The research questionnaire is located in Annex 2 of this document

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It suggested an alternate approach of asking interviewees if a number of random dialling codes read out to them were real or not.

- A2.423 Greystone highlighted that through its own sales team of 15 people and across a broader base of respondents, its own findings suggested that 0844 was more unpopular than Ofcom's own research suggested. It noted that thousands of companies it called had never heard of 0844 and didn't want to. Awareness of 0800, 0845 and 0870 was higher than 0844.
- A2.424 Greystone disagreed with the tone of question 9a, which asked the interviewee which numbers would one think twice about calling, believing that this prompted negative answers
- A2.425 Greystone noted that in question 11, the layout of the questionnaire would suggest a 'middle of the road' answer of 11p to 50p if seen by the respondent. Mr Shersby was also concerned that the sequence of questions leading up to this particular questions had been leading, and would influence the interviewee in answering a higher price. A further point was raised by Mr Shersby, who suggested many younger people will only be aware of more expensive call charges from pay-as-you-go mobile calls and therefore, answers would be inflated.
- A2.426 Greystone also believed that question 12 consists of statements that deliberately lead the interviewee into agreeing with them to support Ofcom's objectives.
- A2.427 Greystone noted that in question 14, the interviewee is asked if they agreed with a statement that they knew roughly how much it costs to call 0845 and 0870 numbers from a landline. However, an example price had been quoted earlier in the question.

Ofcom Comments

- A2.428 Ofcom disagrees over the appropriateness of the call comparisons in question 6. The purpose of this question 6 was to make respondents think about the types of calls that they typically make to NTS numbers, as our qualitative research suggested that telephone numbers are not particularly top of mind for consumers. In the qualitative research participants sometimes needed prompting to bring the memory of using these numbers back to the fore. Had the survey not included this question it is likely that responses to question 7 would have resulted in a significant under-claim of awareness. This was the sole focus and purpose of this question and it was not designed to compare awareness with other call types.
- A2.429 The benefits of revenue share were discussed with consumers in the qualitative research (e.g. funding for national rail enquiries, NHS Direct etc). However, for most consumers, the benefits were not immediately recognised and therefore participants in the group needed a certain amount of educating before they were able to formulate opinions. Most consumers are not aware of all of the benefits that NTS numbers can bring. Because of this it would not have been meaningful in a quantitative survey to expect consumers to be able to respond in an informed way on this issue.
- A2.430 Ofcom disagrees that 'church' responses were received in questions 7 and 8. The purpose of these questions was to measure awareness of these numbers. A number of approaches were considered, and we chose the approach we felt would give us the most reliable awareness figure. The research results show that awareness levels of different numbers increases with (what we would expect to be) familiarity – which makes sense. When looking at all of the responses, just 3.4% of

the sample said that they were aware of all types of NTS numbers we prompted on. This suggests that the 'church' response issue referred to did not apply to the large majority of the sample. In addition, prompting respondents is a standard research technique when measuring awareness.

- A2.431 The alternate technique suggested by Greystone has some merits. This was a technique that was considered, but rejected, firstly as it would add to the questionnaire length, and secondly (and more importantly) as it encourages respondents to 'guess' and could turn the question into some sort of 'guessing game'. This type of 'game playing' with respondents is not good practice and is ethically questionable. Ofcom's research showed that 11% of the sample were not aware of any of the NTS numbers we prompted them with. If the suggested technique had been adopted, Ofcom suspects that it would have (wrongly) found this proportion to be smaller.
- A2.432 Ofcom notes that the evidence presented from Greystone from its sales team is purely anecdotal and not in any way comparable to Ofcom's awareness and use data. If the companies called were just not interested in purchasing 0844 numbers from Greystone telecom, claims not to have heard of these numbers could reasonably be interpreted as convenient way of ending a sales call. Ofcom commissioned an independent market research agency, who telephoned a nationally a representative sample of GB adults, using trained market research interviewers. This is clearly a very different approach to measuring awareness.
- A2.433 In question 9a, hesitancy to call these numbers was an issue that came through strongly in the qualitative research, unprompted. Ofcom therefore sought to quantify this in the survey research. Ofcom recognises the potentially leading nature of the question, and by publishing the questionnaire have been transparent on this issue. It is worth noting that in question 9b respondents were asked to give reasons why they would hesitate, and these responses were consistent with focus group findings. A minority of 16% of those who said they would hesitate were unable to give a reason for their hesitancy.
- A2.434 Ofcom disagrees that interviewees would be led to guess certain price brackets in question 11. As it was a telephone survey, the bands were seen only by interviewers and used to record the answers given. The question itself was open-ended and respondents were only prompted to the bands if necessary; for example if a respondent answered "5 or 6 pence per minute" or "7 pence") they would have been prompted with the closest bands to their response, so that they would be allocated for analysis purposes. If they had no initial idea they would have been recorded as 'don't know'.
- A2.435 Ofcom notes from previous and subsequent research it has undertaken, results consistently show that consumers tend to over-estimate the cost of most fixed-line telephone calls. Ofcom has previously conducted research on the costs of 0845 and 0870 on three occasions:
- In July 2004 Ofcom's research found that consumers estimated the costs of 0845 and 0870 numbers to be 26p per minute and 30p per minute (mean average of responses). The question was the first question asked on Ofcom's section on an omnibus survey, so the preceding question (if there was one) was unlikely to be at all related to the subject area. In the same survey consumers were asked about the cost of calling local phone numbers and national phone numbers. The order these options were read out was randomised.

- In July 2005 a similar piece of research found that consumers estimated the costs of 0845 and 0870 as 26p per minute and 36p per minute respectively. On this occasion the question was preceded by 4 questions related to NTS. In the same survey consumers were asked about the cost of local phone numbers and national phone numbers.
- In October 2005 similar research was conducted where the mean estimated costs of calling 0845 and 0870 numbers were 34p per minute and 37p per minute. On this occasion the question was preceded by 1 question asking about likelihood to call different numbers types. In the same survey consumers were asked about the cost of calling geographic numbers, mobile numbers as well as all types of NTS numbers. The order in which number types were read out was randomised.

- A2.436 Ofcom of course recognises the danger of previous questions having a 'contamination' effect on subsequent questions in survey research and consider question ordering carefully. Having conducted the research on call costs without any preceding questions and found similar results, Ofcom is satisfied that the impact of previous questions is likely to have been minimal. Therefore the conclusion that on average consumers over-estimate the cost of calling NTS numbers is a reasonable one, backed by a reliable body of evidence.
- A2.437 Ofcom accepts that question 12 was potentially 'leading'. It was included because of consumer concern expressed in responses to the first consultation. Ofcom wished to examine this issue in more detail, in particular measuring the difference between perception and reality (people have a tendency to recall the bad experiences, but not the more mundane 'normal' ones) and also testing whether consultation responses from consumers and consumer groups were representative of wider public opinion.
- A2.438 However, because of its leading nature, Ofcom has treated the answers to this question with appropriate caution and (importantly) alongside other (more reliable) evidence. The criticism takes the question out of context and does not consider the full body of evidence that Ofcom has done when examining this issue. Ofcom also conducted a large mystery shopping exercise to measure 'real' waiting times and discussed the issue with businesses that have NTS numbers. All of these results have been published in the market research report. Again, by publishing the questionnaire Ofcom have been transparent on this issue.
- A2.439 Ofcom accepts that in question 14, the positioning of the statement was in error. However, this question was positioned in the questionnaire after we had asked the respondent to estimate the cost of NTS numbers and we have already captured elsewhere whether the respondent really does or does not know the cost of NTS numbers. The purpose of this question was to measure the perception of and confidence in cost awareness – not as a measure of actual cost awareness.

The impact assessment

- A2.440 Some respondents made detailed comments about Ofcom's impact analysis.

Indepen's Analysis

- A2.441 UKCTA and UKCTA members were critical of Ofcom's impact assessment and submitted a report prepared by economics consultancy Indepen which it believed demonstrated that an alternative approach would generate a significantly better outcome than Ofcom's proposals.

- A2.442 Indepen believed that a cost-benefit analysis is required in order to assess the overall benefit of Ofcom's proposals. They therefore produced a cost-benefit analysis comparing Ofcom's proposals with their own alternative approach. They believed it demonstrated that although Ofcom's proposals would deliver a net benefit an alternative approach would deliver additional benefits of £1.4 billion.
- A2.443 In their cost-benefit analysis Indepen calculated the Net Present Value ('NPV') over 5 years of Ofcom's proposals and their preferred approach. The analysis was based on costs and benefits stated by Ofcom in the September 2005 Consultation amended and supplemented by additional estimates by Indepen.
- A2.444 Key assumptions made by Indepen concerning Ofcom's proposals were that:
- re-establishing the geographic linkages for 0870 and 0845 calls would result in a gradual improvement of consumers perceptions of 0845 and 0870 call charges over several years and ultimately they would be aligned with the un-weighted average of consumers perceptions of local and national call charges (15p per minute) and this change would reduce the welfare loss by £1893m;
 - there would be a 'spillover effect' from the re-establishment of the geographic linkage for 0845 calls resulting in consumers perceptions of 0844 call charges also falling to 15p per minute;
 - the requirement for SPs to advertise calls charges for 0871 calls would result in a rapid improvement in consumers perceptions of 0871 call prices to 10p per minute;
 - additional costs incurred by consumers as a result of services migrating from 0845 and 0870 numbers should be taken into account. These were:
 - the cost of misdialled calls to 0870 numbers that had migrated to new ranges. Indepen estimated these to be £47m;
 - the cost of reconfiguring personal computers with new telephone numbers for pay-as-you-go internet services. Indepen estimated these to be £21m;
 - the costs incurred by ISPs to acquire new customers to replace those lost during migration of pay-as-you-go internet services to new number ranges should also be taken into account. Indepen estimated these to be £12m.
- A2.445 Indepen estimated that Ofcom's proposals would deliver an NPV of £1266m for the 087 range and £461m for the 0845 range over 5 years.
- A2.446 Indepen's view was that the key problem with NTS is a lack of pricing transparency and that measures other than re-establishing the linkages to geographic call charges for 0845 and 0870 calls would be more effective at improving transparency and less disruptive and costly for the industry and consumers.
- A2.447 Indepen's preferred approach was for Ofcom to break the linkage to geographic charges for the 0845 and 0870 ranges and to set single retail price points for each range. Indepen suggested two alternatives to static price points for 0845 and 0870:
- a price reduction mechanism to reflect the falling costs of network conveyance; or
 - allowing BT to set the retail prices of 0845 and 0870 calls subject to both a floor and ceiling specified by Ofcom.

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A2.448 To address the lack of pricing transparency, Indepen believed that Ofcom should extend PRS regulation to 0870 and 0871 calls and via the ICSTIS code implement a requirement for SPs to advertise their call charges.

A2.449 Key assumptions made by Indepen concerning their preferred approach were that:

- the requirement to advertise 0870 and 0871 call charges would result in a rapid fall in consumers perceptions of 0870 and 0871 call charges to 8p per minute and 10p per minute respectively (just above the maximum retail price currently charged by BT in both cases);
- there would be a 'spillover effect' from the requirement to advertise 0870 and 0871 call charges that would result in consumers perceptions of 0844 and 0845 also falling to 8p per minute;
- there would be no SP migration to new number ranges and therefore no migration costs incurred;

A2.450 Indepen estimated that its preferred approach would deliver an NPV of £1776m for 087 numbers and £1344 for 0845 numbers over 5 years.

Price Signalling

A2.451 Indepen stated that by altering the retail prices of 0845 and 0870 calls, Ofcom's proposals would interfere with the 'price signals' that SPs give to consumers by choosing particular number ranges. Indepen stated that the reductions in retail prices would result in SPs receiving higher volumes of calls and as a result the SPs would incur a loss as a result. Indepen said that its research with SPs indicated that contact centre providers might adopt a mix of strategies to contain their costs as a result of the loss of revenue share (and presumably increased call volumes):

- if calls are unimportant SPs might allow congestion to increase or they might discontinue the service;
- they may accelerate the current trend to move contact centres to other countries where operating costs are lower; and
- they may recover the additional costs through higher prices in downstream markets.

A2.452 Indepen believed that Ofcom should take into account the additional costs that SPs would incur as a result of higher call volumes.

Damage to the transparency provided by the Plan

A2.453 Indepen argued that re-establishing the geographic linkage for 0870 calls would confuse consumers about the nature of calls to all numbers in the 08 range and reduce the transparency provided by the Plan. Indepen argues that re-establishing the convention that calls to 0845 and 0870 numbers should be charged at geographic rates would break the convention that the Plan signals pricing to callers.

Ofcom's comments on the Indepen analysis

A2.454 In Indepen's analysis, the main reasons why Indepen's preferred approach is estimated to have a higher benefit than Ofcom's preferred approach are:

- the requirement for SPs to advertise 0870 and 0871 call prices is estimated to deliver a much larger improvement in pricing transparency than re-establishing the linkage to geographic charges for the 0845 and 0870 ranges; and
- the costs associated with service migration prompted by the re-establishment of the geographic linkage are avoided.

A2.455 Ofcom considers that Indepen's proposals are flawed because they propose that Ofcom should set BT's retail charges for 0845 and 0870 calls. This point is discussed in more detail in paragraph 4.23.

A2.456 Ofcom also considers that the additional benefits of Indepen's preferred approach over Ofcom's are strongly dependent on the assumptions that Indepen has made about the improvements in pricing transparency resulting from the two different approaches and that under equally plausible assumptions Ofcom's proposals would deliver a better outcome. The key points are:

- In the analysis of Ofcom's preferred approach, it is not clear on what basis Indepen assumes that re-establishing the linkages to geographic charges would result in consumers' perceptions of 0845 and 0870 calls falling to the un-weighted average of those for local and national calls (15p per minute). It might equally be assumed that consumers' perceptions of 0845 calls would fall to that of a local call and 0870 to that of national calls (8p per minute and 22p per minute respectively). If this were the case, the reduction in the welfare loss associated with inaccurate price perception would be much greater than estimated by Indepen.
- In the analysis of Indepen's preferred approach, it is also not clear on what basis Indepen assumes that a 'spillover effect' from the requirement for SPs to advertise 0870 and 0871 call charges would cause consumers to assume that 0844 and 0845 calls are charged at the same rates as 0870 and 0871 calls. In the absence of such effects, it might be reasonable to assume that there would be no change in the perceived prices of 0844 and 0845 calls, in which case the reduction in welfare loss would be much smaller than Indepen estimates.

A2.457 In the absence of spillover effects Indepen's preferred approach would not deliver any improvement in pricing transparency for 0844 and 0845 numbers and the NPV of this approach would be reduced by £1,334m which is almost the total additional benefit that Indepen claims it approach would have over Ofcom's. If as discussed above, re-establishing the linkage to geographic charges yields a greater improvement in pricing transparency for 0845 and 0870 calls than Indepen estimates then Ofcom's preferred approach would deliver a higher NPV than Indepen's.

A2.458 Ofcom agrees with Indepen that the costs that consumers would incur from misdialled calls and reconfiguring PCs should be taken into account. We have reviewed Indepen's estimates of these costs in Annex 5 where we review our migration cost estimates.

A2.459 Ofcom's comments on Indepen's estimates of the customer re-acquisition costs incurred by ISPs are discussed in Annex 5.

A2.460 Ofcom acknowledges there is an element of price signalling in SPs choice of telephone number. There is for instance plenty of anecdotal evidence that contact centre operators sometimes choose chargeable numbers in preference to Freephone numbers because there is a belief that Freephone numbers generate substantial volumes of nuisance calls. However, Ofcom's view is that improvements

in price transparency are likely to have a much more significant effect on the price signals that consumers receive from 0845 and 0870 numbers than the changes in retail prices that would result from re-establish the geographic linkages for those ranges. For instance, re-establishing the geographic linkage for 0870 calls would reduce the retail price for calls originating on the BT network from 7.91p per minute at peak times to 3p per minute (BT Together Option 1 rates) whereas measures to address the lack of pricing transparency aim to bring about a substantial reduction in the perceived price of 0870 calls from its current level which is 36p per minute, as identified by the June 2005 consumer research). Indepen estimates that a requirement for SPs to advertise call prices would reduce the perceived price to 8p per minute.

- A2.461 Ofcom disagrees with Indepen's view that re-establishing the linkage to geographic charges for 0845 and 0870 calls would damage the transparency provided by the Plan about the nature of 08 services. The 0845 and 0870 ranges were designated as chargeable at local and national rates respectively when the current numbering plan was introduced in 1997. At that time, they were the only ranges in use in the 08 range apart from Freephone 0800 until the introduction of the 0844 and 0871 ranges in 1999. Rather than undermining the transparency provided by the Plan, Ofcom believes that re-establishing the geographic linkage for 0845 and 0870 calls should improve it by retaining the linkage to geographic rates that has existed since 1997.

BT

- A2.462 BT believed that the impact assessment would have benefited from drawing together the costs and benefits associated with the proposals. It provided its own summary of the costs and benefits drawn from the consultation.
- A2.463 In its review of the costs and benefits of Ofcom's proposals, BT summarised key elements of the costs that would be incurred and the benefits for the first year after implementation rather than the 5 year NPV approach adopted by Indepen. BT discussed all of the factors that Ofcom had considered but included only the three largest quantifiable costs and benefits when quantifying the overall cost-benefit of the proposals.
- A2.464 BT's impact assessment for 0845 showed a net benefit in the first year after implementation resulting from price reductions and price transparency improvements. This led BT to state that the geographic link for 0845 should be restored immediately.

Ofcom's comments on BT's impact assessment for 0845

- A2.465 Ofcom believes that BT misunderstood Ofcom's meaning about the net price reductions to consumers in paragraph 6.48 of the September 2005 Consultation and this led BT to overestimate the benefits of restoring the geographic linkage for 0845 calls. When Ofcom referred to the net price reductions that would result from restoring the geographic linkage for 0845 calls, it meant the price reductions after taking into account the migration of services to other ranges (which would not therefore result in price reductions). Ofcom believes that BT understood Ofcom to mean the net benefit after deducting the migration costs and as a result, added the migration costs to the price reductions quoted in order to calculate the gross price reductions. This resulted in BT overestimating the benefits of restoring the geographic linkage by £50m. As discussed in paragraph 6.48 of the September 2005 Consultation, Ofcom's view is that the price reductions that would result from

restoring the geographic linkage for 0845 calls would be modest since about 85% to 90% of the traffic could be expected to migrate to other number ranges. Ofcom estimated the cost reductions to be £0.5m to £0.7m. As discussed in more detail in Section 4, Ofcom continues to believe that it should not restore the geographic linkage for 0845 calls at this time.

Migration Costs

- A2.466 UKCTA, Indepen and some UKCTA members believed that Ofcom had underestimated the migration costs that SPs would incur when changing numbers and therefore believed that the benefits of restoring the geographic linkage and removing 0870 calls from the scope of the NTS Condition were overrated. Cable and Wireless estimated that its own customers would incur £10.75m in migration costs. As previously discussed, a number of large SPs believed that migration would be very costly.
- A2.467 A number of SPs also believed that Ofcom had underestimated the migration costs and some supplied their own estimates of the costs they would incur.
- A2.468 Elitetele.com and other resellers thought that Ofcom had underestimated the scale of migration that repairing the geographic linkage for 0870 calls and removing 0870 calls from the scope of the NTS Condition would cause. The concern was that Ofcom had used responses by SPs to a questionnaire as the basis of its estimates and had not fully informed SPs of the consequences of its proposals in two respects:
- respondents (to the questionnaire) should have been informed that that as a result of the proposals they would have to pay for the call routing services provided by their TCP/SP (i.e. hosting services); and
 - respondents should have been informed that the alternative number ranges available (0844 and 0871) could not be accessed from abroad.

Ofcom's comments

- A2.469 Our comments on migration costs are in paragraph 4.69 and Annex 5.
- A2.470 Our comments on Elitetele.com and the other resellers concerns about our estimates of the proportion of resellers that might migrate are in paragraph 4.76.

Other issues raised by respondents

International access to 0844 and 0871

- A2.471 A number of CPs and resellers believed that the 0844 and 0871 ranges would be a poor substitute for some SPs migrating from the 0845 and 0870 ranges because those ranges can not always be called from abroad. Views on the extent of international access varied but there was general agreement that it is much more restricted than for 0845 and 0870 which were generally thought to be accessible from most foreign networks. Some resellers believed that 0844 and 0871 numbers can not be accessed from abroad at all.
- A2.472 In response to these concerns, Ofcom undertook additional research, which is described in Annex 4. Our comments on this point are in paragraph 4.49.

The Transformational Government Strategy

- A2.473 The INWG was concerned that Ofcom's proposals would significantly harm the Transformational Government Strategy.
- A2.474 The Transformational Government Strategy ('TGS') was set out in a Cabinet Office Policy statement dated November 2005²³.
- A2.475 The TGS envisions a decisive move away from the traditional form-filling and face-face approach to interaction between citizens and the government and sets out a vision for 21st century government enabled by technology. The aim is that over the next decade, the preferred communications channels for the delivery of information and the execution of transactions will become the telephone, internet and mobile phones and later the 'digital home'. The TGS also foresees growth and consolidation of government contact centres in order to improve services and reduce costs.
- A2.476 The TGS strategy therefore seems to imply that in the future, the government may make more use of the telephone as a channel for communications and perhaps also of NTS numbers.

Ofcom's comments

- A2.477 Improving pricing transparency and consumer confidence in NTS numbers are major objectives of Ofcom's proposals. Ofcom therefore feels that its proposals are very supportive of the TGS which foresees increased use of the telephone as a channel for government communication.
- A2.478 As discussed in paragraph 4.176, Ofcom acknowledges the INWG's concerns that the extension of PRS regulation to 0871 numbers might cause consumers to associate them with 09 numbers and be reluctant to call them as a consequence. However, as discussed in paragraph 4.180, Ofcom believes that there are ways to reduce the risk of this happening.
- A2.479 Overall, Ofcom's view is that failing to take steps to improve pricing transparency and address consumers concerns runs the risk that consumers will become increasingly distrustful of NTS numbers and therefore poses a much greater risk to the TGS than implementing the proposals.

²³ The policy statement is available at: <http://www.cio.gov.uk/documents/pdf/transgov/transgov-strategy.pdf>

Annex 3

List of respondents to the September 2005 consultation

Introduction

A3.1 Ofcom received 1308 responses to the consultation. Some of the respondents gave Ofcom permission to publish their responses (either attributed or non-attributed) and these have been published on Ofcom's website at the following address:

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

A3.2 Four responses that Ofcom considered to be obscene or racist have not been published or reviewed.

Consumers, consumer groups and businesses

A3.3 Ofcom received responses from 1207 consumers, consumer groups and businesses (excluding those classified as NTS SPs). Some respondents asked for their names to be withheld and some also asked for their responses to be kept confidential.

A3.4 The respondents that gave permission for their names to be disclosed are listed below.

- The Ofcom Advisory Committee for England
 - The Ofcom Consumer Panel
-
- | | | |
|---------------------|------------------------|---------------------|
| • Abayomi-Cole, B. | • Allen, Kelly | • Appleford, Peter |
| • Abbot, David | • Allingham, Colin, Dr | • Archdale, Gilbert |
| • Abrol, Sr, Robin, | • Alton W S | • Armitage, B.D. |
| • Adams, Tim | • Anderson, Adair | • Arscott, Paul |
| • Agnew, George | • Anderson, Charly | • Ashfaq, Mohammed |
| • Aiken, Adam | • Anderson, James | • Ashley, Steven |
| • Aitken, John K. | • Andrews M | • Ashton, M.D. |
| • Akademir, Al | • Andrews, Peter | • Atkins, A |
| • Akademir, Al, Dr | • Anker, Jill | • Atkins, Grant |
| • Alder, Ian | • Ansell, John | • Auld, Fiona |
| • Allely, Nicola | | |

Number Translation Services: A Way Forward

- Austin, Michael
- Austin, Richard
- Avraham, Sharon
- Baker T
- Baker, Eric
- Baker, Ken
- Baldwin, Jeremy
- Balwin, Stewart
- Bamford, Roy
- Barnes, D., Mrs
- Barnes, Melvin
- Barraclough, Nigel N.G.
- Barrett, Anthony
- Barrow S
- Barso, L.J.
- Barton, David
- Baruch, Phillys
- Bateman, John
- Battell, Richard
- Baul, Tony
- Beath, Isobel
- Beattie, Alyn
- Bell, Christopher
- Beniston S
- Bennett, Andy
- Bennett, Keith
- Bhargava P
- Bickford, Richard
- Bidwell M
- Biggs, Peter
- Birchall, L, Mr
- Bird R
- Bird, Charles
- Birkin R
- Birkin, Roger
- Blackmore, James
- Blake, W.B.J., Dr
- Bleher, S.M., Dr
- Bligh, Stephen
- Blum, Edgar E.
- Bobroff, David
- Bone, Tony (A.V.W)
- Borinsky, Jeffrey
- Botibol, David
- Bottom, Ian
- Bottomley P
- Bottomley, MP, Peter
- Boughton, D.A.
- Bourne, A.B.
- Bowker, Ken
- Boxall, Chris
- Boyes, Jim
- Boyland, Ray
- Boyle, Lyne
- Bradbury, John
- Brewer, Helen
- Brigden, Trevor
- Brooke, Danuta
- Brooks, Roger
- Brown J D
- Brown S
- Brown. John D.
- Bruff, N.
- Bruin, Karen
- Buckland Q
- Bugg, Chris, Dr
- Bultitude, Ernest
- Bunting, Walter R.
- Bush, Dave
- Butcher, David
- Butler, Judith
- Butt, A., Dr
- Byrne, Des
- Cade, A
- Caffell, Roger
- Cain, Anna
- Calascione, John

- Calder, James B.
- Callen, Amanda
- Cameron, Peter
- Campbell, Colin D.
- Campbell, Gertrude E.
- Campbell, Robert
- Canham, John M.
- Carr, Peter
- Carvis, Sandra D.
- Casells M
- Cassini, Martin
- Catlow, R.E., Dr
- Cavanagh, John
- Caves, Frank J.
- Chaffey, Kevin
- Chaikin Linekar, Z.A.
- Challis, Hazel, Mrs
- Chamberlain, Barbara, Mrs
- Chambers, Kaye
- Chinery, John
- Christmas, Leonard Michael
- Clark, Michael
- Clark, Paul
- Clay, Peter
- Clayton, Henry
- Clements, M.
- Cline P
- Clouter, Roy
- Coady T
- Cocker, George
- Cocking, B.J.
- Coen M
- Cohen, Irit
- Cole, Graham
- Coleman, Diane
- Collier, Richard
- Colman, James
- Connolly, Robert J.
- Cooke, John
- Cooke, Kevin
- Cooper R F
- Cooper, Brian
- Cooper, Mark
- Cordell, Ken
- Cordell, Robert
- Corkhill, Jim
- Cottrell R
- Coughlan T
- Coupe, M., Mr
- Cowley M
- Cowley R
- Cowley, Malcolm
- Cox, David
- Cox, Robert
- Cradock, Jacqui
- Craig, Ian
- Cranson, David
- Crisp, K.D.
- Crofts, Patricia
- Crow, Keith
- Crow, Malcolm
- Crowe, Brian, Sir
- Cryer, Anthony
- Cubbage, Simon
- Cullender, C., Mr
- Cully, Craig
- Cunningham, Dave
- Cupples, James
- Currier, Garry
- Curry, Stephen
- Cushing, Ronald, J.
- Dakin N
- Dalal, V.C.

Number Translation Services: A Way Forward

- Dalton, Bruce
- Damle, R.
- Danielian R
- Daniels, Pamela
- Darkwolf, Kain
- Davey, Stuart Colin
- David, Ernest
- Davies, J.S.
- Davies, John
- Davies, Maria
- Davies, Mike
- Davis, George
- Dawson, Andrew
- Dawson, Mike
- Dayneswood, Trevor
- Dean, Ron
- Deichmann Shoes UK Limited
- Dennison, Hilary
- Dennison, Julie
- Devani, Satish
- Diamond CEng MIMechE MIQA, Geoffrey Charles
- Digby, John
- Dinsdale, Richard
- Dixon, C. Mark
- Dixon, David
- Dixon, Jenni
- Dodd, Malcolm
- Donaldson P
- Donaldson, Ian
- Doshi, Chandra
- Douglas, Alan
- Douglas-Jones, Robert
- Dovehouse Travel (Banner, T.)
- Dovey M
- Drew, David
- Drukker, Mark
- Dryburgh, I, Mrs
- Dudman R
- Duncan, Cameron
- Dunlop, Anthony J.
- Dunlop, David
- Dunn, Joseph
- Dunning, Adrian
- Dunning, David
- Dunning, Jeannie, Mrs
- Dwyer, Ben
- Dyas, Edward
- Dyer S
- Dyer, John, Mr and Pat, Mrs
- Dyson, Louis E.
- Earthy, R.P.
- Easton, J.H.
- Ebling, BSc, CEng, MIEE, Paul
- Ebrahimoff, David
- Eccleston, Alan
- Edgar, Ian
- Edmonds, K.
- Edwards, Brian J.
- Efford, Charles
- Ejdelbaum, Henry
- Ekevall, E
- Ellawala, Mohan
- Elmes, Margaret
- Elston, Linda
- Elston, Mike
- Elston, T.M.
- Emery, Louise
- Emery, Richard
- Errock, David

- Etherington, B.
- Evans, L.V., Mrs
- Evans, Richard
- Everden, Tony
- Ewing, David
- Fairweather, Ian
- Fantini, Gloria
- Farnham, David
- Farrugia, Joseph
- Fawthrop, Linda
- Fegen R
- Feltham R D
- Fenton, Mark and Judy
- Fenton, Norman
- Ferguson, Diane
- Ferne, Alan
- Fewtrell, Bill
- Finch, Paul
- Fisher, Mark
- Fitzgerald, Tony
- Flanders, Judith
- Flannery, Peter
- Fleet, John
- Forbes, Liz
- Forrest, L.
- Foster, Joe
- Fowler, Richard
- Foy, Dominic
- Fraser, Bill
- Fraser, Donald
- Fraser, Ian
- Freedman, Maurice
- Freeman, David
- Freeman, Neil
- Freeman, Stuart
- Freeman, Wallace
- Frith, Rupert M.
- Fuller, Bob
- Fuller, John
- Futter, John
- Galley, Roger
- Gamlen, Jean
- Gardner, Barry
- Gardner, Clayton
- Gardner, Don and Helen
- Gardner, G.
- Gardner, Stephen
- Garland R
- Gaselee, John
- Gatling, A.D.
- Gavine, Ian B.
- Gear, Michael D.S.
- George, Graham V.
- Gibbon, Brian
- Giles, Dougall
- Gill S
- Gill, Dominic
- Gill, Satnam
- Glazerman, Gary
- Glynn, Terry
- Goddard, Phil
- Godwin, John
- Godwin, Stan
- Godwins, Ros
- Goffe, Jude
- Gomersall, Ann
- Goodliffe, Peter
- Gorbutt, J.
- Gorman, Barry
- Gorman-Charlton, John
- Gour, Frank
- Gower, M.P.
- Graham, Armond
- Grant M

Number Translation Services: A Way Forward

- Grant, Andrew
- Gray, Colin
- Gray, Gerald
- Gray, R.
- Green M
- Greenhalgh, Peter and Annette
- Greenstein R
- Gregg R
- Grey, Clive
- Grogan, Brian
- Grossman R
- Guilfoyle, Sheila
- Gupta S
- Hackett T J
- Hacking, Ian
- Hadi, Fazal
- Hall, Andrew
- Hall, Graham
- Hall, Roger, Mr
- Hamill, C., Mr
- Hamilton-Meikle, G.
- Hammersley, Neil
- Hanlon P
- Hanns, Jennifer
- Hansford, Paul
- Hansson, S, Mrs
- Hardy, Digby
- Harfleet P G
- Harley, Leonard
- Harmer, Derrick
- Harrigan, Eamonn
- Harrington, David H.
- Harrington, James
- Harris, David
- Harris, Doug
- Harris, John
- Harris, Nick
- Harris, Peter
- Harrison, Ian A.P.
- Harrison, Peter
- Hartley, Barry
- Hartley, Doug
- Hatton-Evans, Robert
- Haverty, David
- Hayes, J.
- Hayns, Diana
- Healey, Des
- Heaps, David
- Heather, C.
- Hedderly, Joyce
- Heneker, Steve
- Hensby, Raymond L.
- Herd, Paul
- Herd, Wendy
- Heron, M.D.
- Hewitt, Graham
- Hewson, Chris
- Hicking P
- Hicks, Gerry
- Hickson, Grant
- Hilton M
- Hindley, Peter
- Hitchins, Joanna
- Hobbs P
- Hodder, Nicholas F.
- Hodge, E.P.
- Hodgson S
- Hohler, Robert
- Holland, David
- Hollins N
- Hollis, R.W.G.
- Homer, Paul
- Honeyball, Stuart
- Hooper, Jamie
- Hooper, Richard

- Hopkinson, Mr R.G.
- Horan, Jon
- Horne, David
- Horsley, D.
- Horswill, Alan
- Hoskins, N.S. (Nick)
- Hoskins, Robert
- Houghton, Barry
- Ho'Vell, Brian
- Howarth, Julie
- Howe M
- Howells R
- Howells S
- Hubbard, Jim
- Hudson, Mark
- Huggons, Steve
- Hughes, Peter
- Hunt S
- Huntley, David A., Rev.
- Hutchins N
- Hutchinson, K.D.
- Hutt, J.W., Mr
- Hyams, Clive
- Inglis, Frances
- Irwin, John
- Isaacs, Anthony
- Jackman, Martin
- Jackson S
- Jackson, Peter
- James, Mike
- James, Robert A. ("Bob")
- Jay S A
- Johnson, Alex
- Johnson, R.
- Johnston, Alex
- Jones, Brychan
- Jones, David H.
- Jones, Elfan W.
- Jones, J.I.
- Jones, Keith
- Jones, Malcolm
- Jones, Sam
- Jordans, Frank
- Josephs, John
- Kakad, Rajesh
- Kaltz M
- Katz, A.J.
- Kawalec, K.
- Kay, Edward
- Kaye, Anthony H., Dr
- Kaye, Paul
- Keane, Chris
- Keane, Paul
- Kearney, Kevin
- Kearney, Mark
- Keir S
- Kelly, D.
- Kelly, Roger
- Kelly, Sean
- Kelsey, Andrew
- Kelsey, David
- Kemp, Alan J.
- Kennedy, Michael G.
- Kerfoot, Andrew
- Khan, Manny
- Khan, Rehman
- Kiely, Judith
- Kilbee S
- Kilner, Jon
- Kilvert, Tony
- King Joseph
- King M
- King P
- King, Nicole (Inner Enigma charity)
- Kirkham R

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- Kirkland, A.
- Kirkup, John
- Kirton M
- Knight, John
- Knight, Keith
- Knight, Roger
- Kronfli, G.
- Kruger, Terry
- Laming, Philip
- Lawless, Barrie
- Lawrence, Brian
- Lawton, D.
- Leckie, Hugh
- Lee, Alexander
- Leigh, John R.
- Levy, Daniel
- Lewis, Helen
- Lewis-Cracknell, Elizabeth
- Lilly, Simon
- Lindley, Richard
- Lindsay, David
- Lisansky, Steve
- Littmoden, Roy
- Lloyd, D., Mr
- Lloyds, David W.
- Lockwood-Sykes, Mark
- Lodwick R
- Lopiate, D.
- Losson, Neil
- Lovett, Anthony, Cllr
- Lowden, Ian
- Loxton, Jane
- Lumb, Derek
- Lyle, D.F., Mr
- MacCallum
- MacDonald K
- MacDonald M
- MacDonald, Andrew
- Mace D
- Mackenzie V
- MacPhail, David
- MacTaggart M
- Maddocks, Davyd
- Main-Ian B
- Mantel I
- Marcelli D
- Marchant H
- Marflow C
- Marriott, John
- Marsden S
- Marson J
- Martin S
- Martin S M
- Masson T
- Matalia A
- Matthews H
- May J
- Mayhew J
- McAsey A
- McCallum I
- McCarten, John
- McCarthy C
- McClements M
- McClymont, Duncan
- McCrutcherson C
- McDermid
- McDonald J
- McIver G
- McKenna S
- McKeon F
- Mckeon, Fred J.
- McLoughlin W
- McNair H
- McNulty R
- Melia, Clare Hillyard
- Meray N
- Metz R
- Middleham N
- Middleton, John
- Mileto R
- Millar-Craig, Edward
- Miller R
- Milnes E

- Milson A
- Mistry D
- Momen M
- Moore C
- Moore P
- Morgan, Alan
- Morgan, Ken
- Morgans, K. John
- Morley D
- Morley M
- Morris G
- Morris-Coole M
- Mortimer, Jeanne
- Muir A
- Mulholland P
- Mummery J
- Munday, Diane
- Murphy B
- Murphy V
- Murphy W
- Murray N
- Murray, Douglas
- Mussellwhite A
- Nayyar N
- Nazir R
- Nethersole P
- Neve D
- Newberry P
- Newman, Liz
- Newton M
- Nicol CG
- Nixon R
- Noble M
- Norfolk D
- Norman P
- Norris, Ian and Delia
- O L Grainger Associates
- O'Brien C
- Ockwell D and E
- Oglivie, G.A.
- O'Leary M
- Olins, Fabian
- Oliver G
- Oliver J
- Oliver R
- O'Neill V R
- Ormerod, Andrew
- O'Rourke, Bill, Dr
- Orton, B.P.
- Osman M
- Owen, Brian
- Padron R
- Page F
- Palmer J
- Pardy T
- Parker A
- Parker D
- Parker Ma
- Parker, Michael
- Parkes M
- Parkey F
- Parkhouse J
- Parnell, John
- Parris M
- Parsons, J.
- Passmore J
- Patel, Manoj
- Patel, Mohamed
- Patterson, Joe
- Pattison C
- Pawlowska K
- Payne H E
- Payne N
- Payton M
- Peacock, Karen
- Peak M
- Pearson J
- Pedrick, Charles
- Peller P
- Pengelly, Helen
- Penhallow P
- Penney W
- Pennington, J.
- Penny M G
- Perrins L
- Perry H G O
- Perry, H.G.
- Phee M
- Philip, Chris
- Phillips P

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- Phillips, Keith A., Mr
- Picken B J
- Pickles W
- Pinfield M
- Pitts J
- Pitts, Dave
- Player M
- Plumbe M
- Pochin CWD
- Pollack D
- Pollard R
- Pope J
- Porley R
- Potter C
- Poulson M
- Prater S
- Prendergast L J
- Prescott B
- Preston Travel Centre
- Price T
- Pritchard B
- Proudfoot K and A
- Pugh D
- Pugh L
- Radford, Chris
- Rafter, Lesley
- Raja M
- Ralston T
- Rawlinson M
- Ray B
- Ray, Billy
- Read M R
- Read, John
- Redpath J
- Reed L
- Rees G
- Rees J
- Rees N W
- Rees R
- Reeves M
- Reilly S
- Renton, Chris
- Rhodes M
- Rhodes, A.W.
- Rice, Anita
- Richards G
- Richards Ma
- Richards Mi
- Richardson, Ken
- Ridout J
- Ritchie W
- Robbie R H
- Robin Bloor Associates
- Robinson D
- Robinson J
- Robinson M
- Robinson, G.
- Robson A
- Robson T
- Rogers, George
- Rolfe P
- Rollison M F
- Rose, David
- Rosen M
- Ross, Angus
- Ross, Gemell
- Rowland S
- Rowlinson S
- Roy W
- Rudd, Brian (Cambourne Travel Ltd)
- Russell S
- Sage P
- Salaman B
- Salmon B
- Samanta B
- Samson W
- Sandland L
- Sands P
- Sargent S J
- Satnoianu R
- Saunders A
- Sawbridge J
- Sawitz A
- Scott, Charles
- Scott, G.E.
- Seabury S
- Seale, Ian
- Sedman, Christopher
- Selkirk, Frank (Centre for Ethical Economics)
- Semmens G
- Semper RMD
- Senior R

- Shacklock R W
- Shale R
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- Worrell B
- Xi Software
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- Zaman N

Other regulatory bodies

A3.5 Responses were received from 2 regulatory bodies:

- The Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS); and
- Norfolk County Council Trading Standards Department.

Communications providers

A3.6 Ofcom received 51 responses from members of the telecommunications industry and from representative associations. 9 of these were confidential. The non-confidential respondents were:

- BT Group;
- Cable and Wireless;
- Call Sciences;
- Catalyst Management Limited;
- Centrica;
- Coach House Communications;
- COLT;
- Continuum Limited;
- Elite Telecom;
- Flextel Limited;
- Gold Numbers;
- IC Communications;
- Ingotz Telecom;
- Intelligent Network Working Group;
- IV Response Limited;
- Kalnet4u Limited;
- Kingston Communications (Hull) PLC;
- Linctel Limited;
- Magrathea;
- Masterpoint;
- MCI;
- Mobile Broadband Group;
- Nationwide Telephone Assistance Limited;
- Pennycomm Communications;
- PIPEX Communications;
- Planet Numbers Limited;
- Redstone Telecom;
- Sesui Limited;
- Telecom One;
- Telewest;
- Telxl Limited;
- Thus;
- Tiscali;
- UCB Connect Limited;
- UK Competitive Telecommunications Association;
- Vodafone;
- Windsor Telecom PLC; and
- Yes Telecom.

ISPs, SPs and other business association responses

A3.7 Ofcom received 34 responses from organisations that use NTS numbers including Internet SPs (ISPs), public and private sector organisations. 12 of the responses were confidential. The non-confidential respondents are listed below:

- Bassett Herron;
- British Security Industry Association;
- Citizens Advice Bureau;
- Communications Management Association;
- Digitel Technology Limited;
- Driver and Vehicle Licensing Agency;
- Driving Standards Agency;
- Federation of Communications Services;
- Foskett Powell Associates;
- Highway Insurance;
- Holiday Extras;
- Internet Service Providers Association;
- Lexgreen Services Limited;
- Network for Online Commerce;
- Novacaster Limited;
- Oracle Financial Services;
- Primary Care Access;
- Radio Advertising Clearance Committee;
- Rapport Telebusiness Consulting LLP;
- Royal Society for the Prevention of Cruelty to Animals;
- Southampton Football Club;
- Teletext; and
- The Premium Rate Association;
- WRL Consultancy Limited.

Annex 4

International access to 0844 and 0871

- A4.1 Some CPs and resellers believed that the 0844 and 0871 ranges would be a poor substitute for some SPs migrating from the 0845 and 0870 ranges because those ranges can not always be called from abroad. Views on the extent of international access varied but there was general agreement that it is much more restricted than for 0845 and 0870 which were generally thought to be accessible from most foreign networks. Some CPs and resellers believed that 0844 and 0871 numbers can not be accessed from abroad at all.
- A4.2 International calls to 0871 numbers could be blocked either by foreign OCPs, international carriers or by UK CPs carrying inbound international calls.
- A4.3 In response to these concerns, Ofcom undertook additional research with the aim of getting a better understanding of the extent to which the 0844, 0845, 0870 and 0871 ranges can be accessed from abroad. To do this Ofcom:
- estimated the proportion of traffic to these number ranges that originated abroad based on information supplied by BT and C&W; and
 - Ofcom tested the availability of access to 0871 numbers with a sample of calls originated from a range of foreign networks.

Foreign calls sample

- A4.4 Ofcom asked colleagues in EEA regulators, friends and relatives living abroad to see if they could successfully call an 0871 number that provides a recorded information service.
- A4.5 The 0871 number was called from 38 different networks in 18 countries. 24 of the calls were made from fixed networks and 13 from mobile networks. The calls from mobile networks were made from foreign registered handsets rather than UK handsets using mobile roaming.
- A4.6 In all, the 0871 number could be contacted from 8 networks in 6 countries: Austria, Canada, Ireland, Italy, Spain and the USA. Six of the networks were fixed and two mobile.
- A4.7 Although not tested as part of this survey, Ofcom is not aware that any UK mobile operators restrict their customers ability to make mobile roaming calls to UK 08 numbers. Therefore UK consumers making mobile roaming calls should be able to call 08 numbers to the same extent that they are able to call UK geographic numbers (i.e. if the caller's UK network operator has a roaming agreement with the foreign network operator and the caller has permission to make international roaming calls). Broadly, callers with post-paid contracts should be able to make calls to 08 numbers from almost all foreign GSM networks and callers with pre-paid subscriptions should be able to make calls to 08 numbers from foreign GSM networks in popular tourist destination countries where prepaid roaming is available.

Proportion of calls originated abroad

- A4.8 Based on information supplied by BT and C&W, Ofcom estimates that between 1.5% and 5.5% of 0845 and 0870 calls originate abroad and that a much smaller

proportion of 0844 and 0871 calls originate abroad. There is uncertainty about these figures since:

- it is difficult for CPs to identify all of the traffic that originated abroad. BT for instance is only able to identify traffic arriving at its International Switching Centres (ISCs) but not traffic transited by other CPs before reaching its network; and
- there is some uncertainty about BT and C&W's share of inbound international calls to 08 numbers.

A4.9 BT told Ofcom that it blocks almost all inbound international calls to 0844 and 0871 numbers but not calls to 0845 and 0870 numbers because of concerns about fraud. C&W said that it blocks some inbound international calls to 0844 and 0871 numbers principally because demand had not been so high historically. Neither BT nor C&W place any restriction on inbound calls to 0845 and 0870 numbers.

A4.10 Ofcom was unable to produce a reliable estimate of the proportion of 0844 and 0871 traffic that is originated abroad because it is unclear whether BT and C&W are typical in blocking some/all international inbound traffic to 0844 and 0871 numbers and because C&W was only able to provide an estimate for 0845 traffic. If BT is typical it would suggest that the vast majority of traffic is blocked. However, this hypothesis is somewhat at odds with the results of the sample survey which shows that 0871 numbers can be accessed from approximately 20% of foreign networks and C&W indicated that it only blocks some inbound traffic to 0844.

Annex 5

Migration costs

- A5.1 In the September 2005 Consultation, Ofcom considered proposals to repair the broken linkage to geographic charges on the 0845 and 0870 range and also to remove the regulatory support for revenue sharing from those ranges. Those proposals would be likely to prompt some SPs to migrate to alternate number ranges with similar pricing and interconnection arrangements. As part of its impact analysis, Ofcom therefore estimated the extent of the migration and the likely costs that SPs would incur.
- A5.2 Ofcom has reviewed its migration cost estimates in light of the responses to the September 2005 Consultation and additional information that has subsequently become available. This Annex describes the changes that Ofcom has made.

Review of the migration cost estimates reported in the September 2005 Consultation

- A5.3 Ofcom conducted research into the likely number of 0870 and 0845 numbers that might migrate should the geographic linkage be restored. The research suggested that between 35% to 45% of numbers (representing 45% to 55% of traffic) on the 0870 range might migrate and 85% to 90% of traffic might migrate on the 0845 number range. The 0845 assumptions were that all data traffic would move and 16% of other SPs would migrate.
- A5.4 The migration cost estimates likely to be incurred by SPs associated with the 0870 number range covered the following cost categories:
- Stationery costs (including letterhead and business card costs);
 - Staff costs associated with changing numbers; and
 - Telecoms costs associated with running two numbers in parallel or providing call announcements stating the telephone number had changed and providing the new telephone number.
- A5.5 Ofcom stated that SPs would incur additional costs such as replacing numbers on fleet vehicles and signage. However it was not able to quantify these costs due to the difficulty associated with estimating how many SPs this might affect.
- A5.6 Ofcom also assumed that marketing material costs would be minimal due to the fact that brochures, leaflets, catalogues etc are likely to be replaced on an annual basis in most companies anyway. Whilst it was not able to quantify these costs, it assumed that the number change would not cause SPs to incur significant additional costs.
- A5.7 The total one-off migration costs for the 0870 range were estimated to be in the region of £70m to 90m.
- A5.8 As 85% to 90% of traffic on the 0845 number range is data traffic, the majority of the migration costs would be associated with ISPs having to migrate. Ofcom estimated that it would cost approximately £6.00 to £7.00 per user to migrate (based on information provided by the ISPs). This equates to a £33 to 39m one off cost.

A5.9 In addition, the one-off migration costs associated with voice SPs on the 0845 number range were estimated to be in the region of £11m. This figure has been calculated using the same assumptions that were used for the 0870 number range.

Costs incurred by consumers as a result of service migration

A5.10 Indepen believed that Ofcom should take into account additional costs incurred by consumers as a result of services migrating from 0845 and 0870 numbers. These costs are:

- the cost of misdialled calls to 0870 numbers that had migrated to new ranges. Indepen estimated these to be £47m; and
- the cost of reconfiguring personal computers with new telephone numbers for pay-as-you-go internet services if Ofcom repaired the geographic linkage for 0845 calls. Indepen estimated these to be £21m.

A5.11 Ofcom acknowledges that some estimate of the cost of misdialled calls should be included in our migration cost estimates, and we have adjusted our estimates to take these additional factors into account.

Misdialled calls

A5.12 Indepen assumes the cost to consumers of each misdialled call is 25p, the same assumption as used by Oftel in a report examining options changes to Freephone numbers.

A5.13 Indepen estimated that during the year after Ofcom's proposals are implemented one third of all calls to services that had migrated to new numbers would be misdialled²⁴. However, Indepen didn't explain the basis of the assumptions that it used to develop this estimate. On this basis, Indepen estimated the cost of misdialled calls to be £28 per 1000 minutes of calls.

A5.14 There is some uncertainty as to the proportion of calls that would be misdialled following migration of SPs to new numbers. Ofcom was not able to obtain information on misdialled calls following migration of individual numbers but some information about the proportion of misdialled calls following major changes to area codes is available. For example, Oftel reported that following changes to six geographic area codes in April 2000, 35% of calls were misdialled on the day of the changeover and 18% on the following day²⁵. It seems reasonable to assume that the proportion of misdialled calls continued to fall thereafter and that the cumulative proportion of calls misdialled over an extended period would have been lower than those of the first days after the changes.

A5.15 Arguably, the incidence of misdialled calls following an area code change would be lower than for changes to individual numbers on the basis that callers would quickly adjust to area code changes after hearing an announcement for the first time. However there are several reasons to expect that the incidence of misdialled calls following migration of SPs as proposed would be low:

²⁴ Indepen assumed that 50% of all consumers would each misdial 2 out of 3 calls and that each call has an average duration of 3 minutes.

²⁵ Ringing the changes; an overview of how the changes to the UK's telephone numbering system were made. Oftel.

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- It seems reasonable to assume that a substantial proportion of calls to NTS numbers are made in response to advertisements or promotional materials or directory entries, all of which could be updated during the notice period proposed by Ofcom;
- The notice period would also give SPs time to update other contractual material that lists telephone numbers which would further reduce the incidence of misdialled calls;
- The notice period is long enough for SPs to enter their new numbers in new editions of telephone directories; and
- SPs also have the option of retaining their old numbers until traffic volumes decline to a low level, which should further reduce the proportion of calls misdialled.

A5.16 Given these factors, Ofcom's view is that a relatively small proportion of calls are likely to be misdialled. Assuming a similar level of misdialled calls to that observed by Oftel then the overall proportion of calls misdialled during the year after the proposals are implemented is likely to no more than 10%. Retaining Indepen's assumptions about the cost of each misdial and the proportion of 0870 traffic migrating, Ofcom estimates that the cost of misdialled calls to 0870 numbers to be about £16m. Ofcom applied the same assumptions to the 16% of voice traffic that is estimated to migrate from the 0845 range gives an estimated cost for misdialled calls of about £7.5m.

Reconfiguring PCs

A5.17 Indepen assumed that if Ofcom repaired the geographic linkage for 0845 calls then there would be insufficient revenues available to ISPs for pay-as-you-go internet services and ISPs would need to migrate all their customers to alternate numbers.

A5.18 Indepen estimated that it would take an average of 30 minutes for consumers to reconfigure their PCs with the new access numbers for their pay-as-you-go internet services and valued this time at £7 per hour based on an American study of the value of consumers' leisure time.

A5.19 In the absence of other information, in Ofcom's view 30 minutes seems a reasonable assumption for the amount of time it would take consumers to reconfigure their PCs. However, Ofcom is inclined to the view that a lower value should be used for consumers' leisure time based on average UK salaries rather than American figures. If leisure time is valued at 40% of the average hourly salary which is currently £11.85²⁶ leisure time would be valued at £4.74 per hour.

A5.20 As discussed below, Ofcom has revised its estimate of the number of pay-as-you-go internet subscribers from 5.8m to 3.8m. Using the revised figures for subscriptions and leisure time, Ofcom estimates that if all pay-as-you-go internet subscribers had to reconfigure their PCs with new access numbers the overall cost (to consumers) would be £9m.

²⁶ National Statistics – Distribution of gross hourly earnings of employees, Autumn 2005.

ISP Migration costs

A5.21 Ofcom has adjusted its estimates of the cost that ISPs would incur to migrate their customers to new numbers if the geographic linkage for 0845 calls is repaired. The changes are due to three factors:

- a revision to the number of pay-as-you-go internet subscribers; and
- inclusion of additional marketing acquisition costs.

A5.22 These revisions are discussed below.

Number of pay-as-you-go internet subscribers

A5.23 In the September 2005 Consultation, Ofcom reported there were 5.8m subscribers of pay-as-you-go dial-up internet services in the UK at the end of 2004, based on figures published in Ofcom's report The Communications Market 2005.

A5.24 Ofcom's estimates of the number of subscribers to pay-as-you-go internet services are based on survey data from National Statistics. Since the publication of the September 2005 Consultation more recent figures have become available and National Statistics has issued a major revision to its figures. As a result Ofcom has updated its own estimate of the number of subscribers.

A5.25 Ofcom now estimates there were 5.1m subscribers at the end of 2004 and that this has since declined to 3.8m by December 2005.

A5.26 The reduction in the number of pay-as-you-go internet subscribers reduces the likely migration costs for ISPs on 0845 numbers should revenue-sharing be brought to an end. Assuming the costs per subscriber remains the same at between £6 to £7, this means that migration costs for ISPs will be in the region of £22 to 25m rather than £33 to 39m as stated in the September 2005 Consultation.

ISPs marketing acquisition costs

A5.27 Indepen conducted research on behalf of UKCTA and believed that ISPs could incur additional marketing costs that Ofcom had not taken into account when ISPs migrated from the 0845 number range to the 0844 number range. They stated that these costs would be in the region of £7.2 to £12m depending on whether the migration were to occur now or in 2 years time when subscriber numbers had declined.

A5.28 Indepen assumed that if one ISP increased its marketing activity during the migration period then all ISP would be forced to follow suit in order to avoid losing market share from churn prompted by the migration. Indepen assumed the additional marketing activity would cost £10 per subscriber and stated that these costs were consistent with ISPs' customer acquisition costs for PAYG customers.

A5.29 Ofcom agrees with Indepen that ISPs may decide to incur additional marketing costs in order to protect their subscriber numbers in the face of increased competitor activity. However, Ofcom believes the level of additional expenditure is likely to be quite small as discussed below.

A5.30 In the September 2005 Consultation Ofcom used information provided by a number of ISPs on the costs of migrating customers. As noted Annex 14 of the September 2005 Consultation, those costs included attempting to contact customers by email,

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sending them a CD through the post to upload a new dialler and also through the use of forced portal technology. Ofcom estimated the costs to be between £6 to 7 per subscriber. Ofcom believes that some of these costs would also form part of ISPs' marketing acquisition costs and therefore believes that the £10 stated by Indepen includes an element of double-counting. Ofcom's view is that the additional marketing acquisition costs that ISPs might incur over and above the migration costs is unlikely to exceed £5 per customer after adjusting for double counting.

A5.31 Assuming a 20% churn rate and the revised subscriber number (3.8m), the marketing acquisition costs would be in the region of £4m.

Revised estimates

A5.32 Taking into account the changes discussed above, the revised estimates of the costs associated with ISP migration are:

- costs incurred by ISPs to migrate customers to new numbers – £22 to £25m; and
- additional marketing acquisition costs - £4m; and
- costs incurred by consumers to reconfigure their PCs - £9m.

A5.33 These changes alter the overall cost of ISP migration to £35m to £38m if migration were to occur immediately. However, Ofcom has decided to undertake a further review of the 0845 range in two years when the number of pay-as-you-go internet subscribers is expected to have declined significantly, which would considerably reduce the migration costs.

0870 Migration costs

A5.34 Based on the responses to the consultation, Ofcom has made some revisions to its estimates of the migration costs. The following changes have been made:

- Ofcom has increased the amount of staff time required to deal with a number change from 0.5 days to deal with stationery and 0.5 days to deal with telecoms to 2.5 days and 1 day respectively. The salary and overhead assumptions are unchanged. This change adds £26m to £34m to the migration costs depending on whether 35% or 45% of SPs migrate to new numbers;
- Because the interim period has been extended to 18 months and it will not start until the Numbering Strategy statement has been published, Ofcom believes that a larger proportion of SPs would replace/reorder their stationery. This means that the number of SPs that would have to change their stationery because of migration has declined. This leads to an overall reduction for all SP's stationery costs of £15m.

A5.35 Ofcom also believes that because of the extended notice provided to SPs of the changes, other marketing material, business directory and website costs can also be reduced.

A5.36 Using the same assumption for the proportion of SPs that migrate from the 0870 range to another number range (35% to 45%) the revised estimates of migration costs are:

- stationery costs - £23m to £29m;
- telecoms costs - £17m to £22m;

- staff costs - £43m to £56m;
- A5.37 Taking these revisions into account Ofcom's revised estimate of the total cost to SPs of migration from 0870 numbers is £83m to 107m. In addition, consumers might incur an additional £16m from misdialled calls as discussed in paragraph A5.13.

Cross Check of migration estimates

- A5.38 As a check on the validity of our migration estimates, Ofcom analysed the distribution of 0870 numbers by traffic volumes. It is reasonable to assume that the value of the revenue share and hosting services a TCP will be prepared to provide to an SP will be directly related to traffic volumes, as this is the driver of the revenue received by the TCP from OCPs for 0870 calls. It would not be rational for a TCP to pay out more to an SP, or provide services with a value in excess of the revenue received from the OCP, less its own costs of service provision.
- A5.39 It also seems reasonable to assume that SPs would be likely to decide to migrate to another number range only if the financial benefits (in terms of revenue share and hosting services they would be able to continue to receive on a new number range) outweigh the migration costs.
- A5.40 Ofcom therefore conducted further analysis of the call volume and revenue share data on a random sample of 7,800 SPs previously supplied by TCPs in response to a formal information request from Ofcom. To assess the likelihood of each SP migrating to a new number, Ofcom estimated the maximum value of the revenue share and hosting services that each SP would be likely to receive from their TCP/reseller over a 5-year period based on current call volumes and compared this with estimated migration costs.
- A5.41 Analysis of the sample shows that the value of the benefits (i.e. the revenue share and hosting services) received by the majority of SPs are relatively small. We found that 80% of the numbers in the sample received less than £2.50 benefits per year and that 95% received less than £27 p.a. in benefits. This suggests that it would not be beneficial for a large proportion of SPs to migrate to a new number range and that Ofcom may have previously over estimated the level of migration when it gave more weight to the views expressed by SPs responses to the questionnaire (see Annex 14 of the September 2005 Consultation). Additionally, as discussed in paragraph A5.34 Ofcom has raised its estimate of migration costs, which further reduces the likelihood of migration.
- A5.42 Using this approach it is also possible to estimate the maximum cost of migration associated with a given migration cost per number. For example:
- if migration costs are £300 per 0870 number, Ofcom estimates that 20% of SPs might migrate incurring a total cost of up to £39.5m;
 - if migration costs are £1,200 per 0870 number, Ofcom estimates that 8% of SPs would migrate incurring a total cost of up to £59m; and
 - if migration costs are £3,000 per 0870 number, Ofcom estimates that 4% of SPs would migrate incurring a total cost of up to £69m.
- A5.43 Total migration costs increase by a much smaller percentage than migration costs per number, because as migration costs per number go up, the proportion of numbers generating enough traffic to justify migration declines. If SPs were to take a shorter-term view of the benefits from migration then the proportion of SPs that

would be likely to migrate would reduce. If for example, SPs were to base their decision to migrate on the benefits over a three-year period rather than a five-year period, Ofcom would expect the proportion of SPs that migrate to reduce by between a third and a half compared with the figures above.

- A5.44 These results support Ofcom's view that total migration costs are unlikely to exceed £107m.
- A5.45 Ofcom also recognises that there is a small number of SPs who receive very large 0870 call volumes and obtain very significant benefits from 0870 revenue shares and hosting services, and that some of these SPs may spend much more on number migration than the average amounts used in our analysis. We estimate, for example, that there may 30-40 SPs who receive over £1m per annum in revenue shares and other benefits, and that migration costs for a few of these SPs could run into hundreds of thousands of pounds. Given the very small number of firms involved, however, Ofcom does not consider that this alters the overall picture, or the validity of the estimates referred to above.

0845 Migration costs

- A5.46 Ofcom also updated its estimates of the costs that SPs would incur to migrate voice services from 0845 numbers with the revised assumptions as discussed in paragraph A5.34 above.
- A5.47 Using the same assumption for the proportion of SPs that migrate from the 0845 range to another number range (16%) the revised estimates of migration costs are:
- stationery costs - £4m;
 - telecoms costs - £3m;
 - staff costs - £7m;
- A5.48 Taking these revisions into account Ofcom's revised estimate of the total cost to SPs for migration of voice services from 0845 numbers is £13.5m. Adding this to the revised ISP migration costs as discussed above gives a total migration cost for all services of £49m to £52m. In addition, consumers might incur an additional £7.5m from misdialled calls as discussed in paragraph A5.12.