Commission for
Communications Regulation

Submissions to Consultation

Sixth Review of the National Numbering Conventions

Submissions received from respondents

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1 ALTO – alternative operators in the communications market

alto

alternative operators in the communications market

Response to Consultation on Sixth Review of the National Numbering Conventions Ref: 10/60

Submission By ALTO

Date: September 29th 2010

ALTO is pleased to respond to the Consultation on ComReg's Sixth Review of the National Numbering Conventions.

ALTO welcomes the opportunity to comment on these comprehensive and significant proposals to the Numbering Conventions, particularly the aspects related to how the costs are distributed amongst the parties involved in Non-Geographic Calls.

We agree with ComReg that a number of terminating customers have raised concerns about the charges applied by elements of the industry for services such as 1800, 1890, 1850 etc.

ALTO is strongly supportive of ComReg using this consultation to attempt to rectify the issues and seek and equitable and fair outcome for both customers (calling and called) and operators.

ALTO notes that ComReg does not address the rather disproportionate issue of Mobile Access Levies – MAL, to 1800 number blocks held by ALTO members operating in the fixed market in Ireland. We call on ComReg to consider addressing this issue inline with the issues raised and adequately addressed in this document.

Response to Consultation Questions:

Q. 1. Do you agree with the proposal to remove the current obligations in the Conventions regarding Regtel and S.I. No. 194 of 1995 in respect of Premium Rate Services and Premium Short Message Services? Please provide detailed reasons with your response.

A. 1. We agree with ComReg the proposal to remove the current obligations in the Conventions regarding Regtel and S.I. No. 194 of 1995 in respect of Premium Rate Services and Premium Short Message Services as this aligns with the recent change in primary legislation and that RegTel has been subsumed into ComReg. This is an opportune time to bring the conventions up to date to ensure alignment with legislation and hence regulatory clarity.

Q. 2. Do you agree with the proposal to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party? Please provide detailed reasons with your response. Note: This proposal would involve removing any obligation/expectation from the terminating operator that it is obliged to make out payments for 1850/1890 calls that it receives. It would not affect the terminating operator's billing relationship with its own customers (i.e. the 1850/1890 service providers).

A. 2. We agree with the ComReg proposal to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party.

The ComReg proposal addresses the fundament problems with these NTC 1850/1890 services as the called party has to pay significant fees for the calls, and this is acting to the detriment of the service as such is driving service providers (representing the called party) to abandon these number codes, even abandoning non-geographic number services entirely. We also have competition concerns that the existing regime is leading to unfair market distortions where mobile operators are offering on-net discounts to terminating providers if they purchase termination services from them. Fixed operators have no ability to impact the mobile origination and or conveyance rates hence cannot benefit from such discounting.

We consider that the calling party should be guided as to how much they will be expected to pay for the call. We consider that mandatory rules should apply to ensure any advertising of the number should make clear the indicative price for the calls. For example the rates of larger fixed operators should be quoted and a statement that calls from mobiles is likely to be a lot higher.

Q. 3. If the proposal in Q2 is agreed, it could be appropriate to then change the designation of these numbers from “Shared Cost” to something else (perhaps related to their business-oriented functionality?). Do you have a suggestion for a new title?

A. 3. If the proposal in Q2 is agreed, we agree it would be appropriate to change the designation of these numbers from “Shared Cost” to something more appropriate to guide the caller.

Q. 4. Do you agree that it is appropriate to treat 1850 numbers and services in the same general manner as those of 1890, or do you consider that the circumstances demand that some distinctions must be made? Please provide detailed reasons with your response. In particular, please comment or provide suggestions on how best to deal with the payment deficit that very long-duration 1850 calls incur?

A. 4. We believe that a distinction needs to be made in that 1850 can be thought of as more related to freephone 1800. We suggest that two part settlement for 1850 could apply whereby the “per call element” could be a fixed settlement amount equal to the per minute origination fee (the principal being that the caller pays for the first minute) and a per minute element equal to the freephone origination charge.

	1800 Origination		1850 Origination	
	Per Call	Per Minute	Per Call	Per Minute
Eircom	0	0.008	-0.008	0.008
Vodafone	0	0.184	-0.184	0.184
O2	0	0.233	-0.233	0.233
Meteor	0	0.343	-0.343	0.343
Three	0	0.343	-0.343	0.343

In this way the retail principal of "caller pays for 1st minute" can be accurately carried into the wholesale settlement arrangements. To simplify interoperator settlement regimes and to guard against abuse, the minimum aggregate charge between two operators for call origination to 1850 should be €0 no matter how short the calls.

The caller should pay not more than the cost of a 1 minute call to a fixed line number.

Q. 5. Do you agree that a risk of arbitrage can arise in respect of long-duration calls with fixed caller payments? Please provide reasons with your response and indicate how any arbitrage risk could be ameliorated.

A. 5. Two-part charging coupled with a minimum settlement between operators obviates the need for protection against arbitrage.

Q. 6. Do you support the option of charging based on a mobile equivalent rate, as described in the Conventions, the overall approach and the related changes to the Conventions? Please provide detailed reasons with your response. If you have a preference between this approach and that referred to in Q. 2, please indicate which you prefer and explain why.

A. 6. We support the option of charging based on a mobile equivalent rate as proposed by ComReg, but differ from ComReg's proposal in that we believe that such a rate should have its own number range and not share a range that has the concept of fixed line geographic rates. The benefit of our modification to the proposal is that it allows the market to choose. To implement the proposal contained in the consultation document is to give to rise to customer confusion by adding a degree of complexity to the number as currently experienced, and costs will necessarily occur to amend billing and charging regimes.

Q. 7. Do you agree with the proposed new conventions that ComReg has inserted in section 10.7.6 of the Conventions dealing with Shared Cost Numbers that translate into mobile destinations? Please provide detailed reasons with your response.

A. 7. We believe this may not be necessary and that the charges should be borne by the receiver of calls translated to mobile destinations.

Q. 8. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.6 of the National Numbering Conventions dealing with whether labels implying low cost may be applied to services offered on 1850/1890 numbers? Please provide detailed reasons with your response.

A. 8. We agree with the proposed new convention (Clause 5) that ComReg has inserted in section 10.7.6 of the National Numbering Conventions (Draft 7.0) dealing with whether labels implying low cost may be applied to services offered on 1850/1890 numbers. Our rationale for supporting originates from the principle of ensuring clarity to consumers. A lack of consistency with codes having possible multiple labels will lead to confusion with customers, complaints to operators and barriers to calls to these numbers being raised.

Q. 9. Do you agree with the proposed revision of section 10.7.7 of the Conventions for 0818 numbers, setting the maximum tariff for fixed-line calls at local rate, instead of the former national rate? Please provide detailed reasons with your response.

A. 9. We agree with the proposed revision of the conventions on this point.

Q. 10. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.7 and 10.7.8 of the Conventions (for 0818 and 0700 numbers, respectively), dealing with tariffs for mobile-originated calls? Please provide detailed reasons with your response..

A. 10. We agree with the proposed revision of the conventions on this point.

Q. 11. Are you aware of reasons why the cost of calling 0700 Personal numbers should vary very significantly between individual mobile networks (and perhaps to a lesser degree between fixed-line networks)? Please describe these.

A. 11. As this number code is practically not in use, it is unsurprising that there are anomalies in the cost structure for 0700 numbers. We agree that these should be rectified.

Q. 12. Are you aware of any significant abusive practices18 on 0818 and/or 0700 number ranges that might explain precautionary or dissuasive pricing levels by operators and/or which might be serving to bring those numbers into disrepute? Please describe these.

A. 12. No we are not. It is possible that unexplained price adjustments by eircom over the years coupled with the absence of subscribers has left some anomalous tariffs in service.

Q. 13. Please advise in brief, regarding any specific 0700 numbers or number sub-ranges that you have in use or that you are aware of being in use by others, and the general nature of the services being provided on them.

A. 13. Many ALTO members do not currently have any 0700 numbers or number sub-ranges in use.

Q. 14. Do you believe it is better to have a single or a dual price structure for „076‟ numbers (i.e. based on “076-A” for tariff A and “076-B” for tariff B, in the latter case)? Please provide detailed reasons with your response.

A. 14. We are strongly of the view that it is better to have a single price structure for 076 range. We believe that it would be helpful to restrict 076 ranges to geographic block holders and to require they set their network termination rate at or below their geographic termination rate.

Service Providers - Must never charge 076 calls at a higher rate than their charge for a geographic call.

Q. 15. Do you agree that in the case of a single price structure, that the price limit should be set at or below the cost of a geographic call and in the case of a dual price structure the higher price should be so set, with the lower price being set lower again? Please provide detailed reasons with your response.

A. 15. See answer to question 14.

Q. 16. Do you have views on what those prices should be, taking the above discussion into account? Please provide detailed reasons with your response.

A. 16. See answer to question 14.

Q. 17. Do you agree that any linkage between “076” number tariffs and geographic number tariffs should refer to local call rate instead of national call rate? Please provide detailed reasons with your response.

A. 17. We do not agree, as it is more consistent to refer to “fixed line tariff”..

Q. 18. Do you agree that the cost to a mobile caller of calling an “076” number from a mobile network should be directly linked to the cost to the same mobile customer of calling a geographic number? Please provide detailed reasons with your response.

A. 18. We agree with the proposal.

Q. 19. Do you agree with ComReg‟s remarks about the bundling of calls to non-geographic numbers in general and more specifically to „076‟ numbers (i.e. treating them the same in that respect as geographic numbers are treated)? Please provide detailed reasons with your response.

A. 19. We agree on the basis that 076 is clearly in use as a substitute for geographic numbering and if wholesale termination charges can be kept at or below the equivalent geographic termination rate then there is no commercial justification to exclude 076 from geographic call bundles.

Q. 20. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.7 and 10.7.8 of the Conventions (for 0818 and 0700 numbers, respectively), dealing with tariffs for mobile-originated calls? Please provide detailed reasons with your response..

A. 20. Do you agree with ComReg's proposal to replace Condition 15.1 with a reference to the Conventions, which already contains all the necessary obligations? Please provide detailed reasons with your response.

Q. 21. Do you wish to comment on issues not discussed adequately in your view in this consultation and which bear on the Conventions? Note: Please also study the list of less significant changes included as Annex 1 before answering this question. Please provide detailed reasons with your response.

A. 21. There is an incorrect treatment of transit in the Irish market whereby the cost of transit is borne by the terminating operator (who cannot influence the efficient routing of the call). This has led to all operators using eircom's transit service to terminate all nongeographic calls. This needs to be corrected urgently as it can lead to terminating operators and service providers carrying the cost of inefficient (or arbitrage) routing.

The two-part settlement regime outlined in A.4 could be usefully applied to 151x premium rate calls, where similar risks exist.

ALTO also highlights significant costs of routing to 1800 from mobile networks. Commonly referred to as the Mobile Access Levy – MAL.

Q. 22. Do you wish to comment on any of the proposed changes to the Numbering Applications Procedures document, or on the document itself? Please provide detailed reasons with your response.

A. 22. ALTO has no comment on this area.

ALTO

29th September 2010

2 Advertising Standards Authority for Ireland (ASAI)

7th September 2010

Ms. Sinead Devey
Commission for Communications Regulation
Abbey Court
Lower Abbey Street
Dublin 1

By email: marketframeworkconsult@comreg.ie

RE: Reference: Submission re ComReg 10/60

Dear Ms. Devey,

Response:

The ASAI is grateful for the opportunity to comment on the above mentioned consultation.

As you may be aware, the ASAI is primarily concerned with the regulation of the content of marketing communication. For that reason we are only responding to Question 8.

ASAI has received a small number of complaints about the inclusion of these numbers in advertising on the grounds that they are misleading as they are (a) not included in telephone bundles and/or (b) call costs from mobiles are high.

ASAI believes that placing a limit on the cost to users of these numbers would make the labels more accurate and meaningful. ASAI agrees with ComReg's proposal in relation to the use of LoCall or Callsave or similar labels.

ASAI would also encourage telecoms to highlight clearly to their customers which numbers are not included in their bundled packages.

Yours sincerely,

Frank Goodman,
CHIEF EXECUTIVE.

3 BT Communications Ireland Limited (BT)

BT Communications Ireland Limited ("BT") Response to the ComReg Consultation Paper on National Numbering Conventions in Ireland

Issue 1 – 1st October 2010

1. Introduction

We welcome the opportunity to comment on these comprehensive and significant proposals to the Numbering Conventions in Ireland to address local issues, particularly the aspects related to how the costs are distributed amongst the parties involved in certain types of Non-Geographic Calls. We agree with ComReg that a number of terminating customers have raised concerns about the charges applied by elements of the industry for services such as 1800, 1890, 1850 etc. We are supportive of ComReg using this consultation to attempt to rectify the issues and seek and equitable and fair outcome for both customers (calling and called) and operators.

Our response also addresses the more technical numbering issues raised by the consultation including those raised in Appendix C.

2. Detailed Response

Q. 1. Do you agree with the proposal to remove the current obligations in the Conventions regarding Regtel and SI No. 194 of 1995 in respect of Premium Rate Services and Premium Short Message Services? Please provide detailed reasons with your response.

A.1. We agree with the ComReg proposal to remove the current obligations in the Conventions regarding Regtel and SI No. 194 of 1995 in respect of Premium Rate Services and Premium Short Message Services as this aligns with the recent change in primary legislation and that RegTel has been subsumed into ComReg. This is an opportune time to bring the conventions up to date to ensure alignment with legislation and hence regulatory clarity.

Q. 2. Do you agree with the proposal to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party? Please provide detailed reasons with your response. ***Note: This proposal would involve removing any obligation/expectation from the terminating operator that it is obliged to make out payments for 1850/1890 calls that it receives. It would not affect the terminating operator's billing relationship with its own customers (i.e. the 1850/1890 service providers).***

A.2. We agree with the ComReg proposal to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party.

The ComReg proposal addresses the problems in Ireland with these NTC 1850/1890 services as the called party has to pay significant fees for the calls, and this is acting to the detriment of the service as such is driving service providers (representing the called party) to abandon these number codes , even abandoning non-geographic number services entirely . We also have competition concerns that the existing regime is leading to unfair market distortions where mobile operators are offering on-net discounts to terminating providers if they purchase termination services from them. Fixed operators have no ability to impact the mobile origination and or conveyance rates hence cannot benefit from such discounting.

We consider that the calling party should be guided as to how much they will be expected to pay for the call. We consider that mandatory rules should apply to ensure any advertising of the number should make clear the indicative price for the calls. For example the rates of larger fixed operators should be quoted and a statement that calls from mobiles is likely to be a lot higher.

Q. 3. If the proposal in Q2 is agreed, it could be appropriate to then change the designation of these numbers from "Shared Cost" to something else (perhaps related to their business-oriented functionality?). Do you have a suggestion for a new title?

A.3. If the proposal in Q2 is agreed, we agree it would be appropriate to change the designation of these numbers from "Shared Cost" to something more appropriate to guide the caller.

Q. 4. Do you agree that it is appropriate to treat 1850 numbers and services in the same general manner as those of 1890, or do you consider that the circumstances demand that some distinctions must be made? Please provide detailed reasons with your response. In particular, please comment or provide suggestions on how best to deal with the payment deficit that very long-duration 1850 calls incur?

A.4. We believe that a distinction needs to be made in that 1850 can be thought of as more related to freephone 1800. We suggest that two part settlement for 1850 could apply whereby the "per call element" could be a fixed settlement amount equal to the per minute origination fee (the principle being that the caller pays for the first minute) and then a per minute element equal to the freephone origination charge.

	1800 Origination		1850 Origination	
	Per Call	Per Minute	Per Call	Per Minute
Eircom	0	0.008	-0.008	0.008
Vodafone	0	0.184	-0.184	0.184
O2	0	0.233	-0.233	0.233
Meteor	0	0.343	-0.343	0.343
Three	0	0.343	-0.343	0.343

In this way the retail principle of "caller pays for 1st minute" can be accurately carried into the wholesale settlement arrangements. To simplify interoperator settlement regimes and to guard against abuse, the minimum <u>aggregate</u> charge between two operators for call origination to 1850 should be €0 no matter how short the calls.
The caller should pay not more than the cost of a 1 minute call to a fixed line number.

Q. 5. Do you agree that a risk of arbitrage can arise in respect of long-duration calls with fixed caller payments? Please provide reasons with your response and indicate how any arbitrage risk could be ameliorated.

A.5 Two part charging coupled with a "minimum settlement between operators obviates the need for protection against arbitrage.

Q. 6. Do you support the option of charging based on a mobile equivalent rate, as described in the Conventions, the overall approach and the related changes to the Conventions? Please provide detailed reasons with your response. If you have a preference between this approach and that referred to in Q. 2, please indicate which you prefer and explain why.

A.6. We support the option of charging based on a mobile equivalent rate as proposed by ComReg, but differ from ComReg's proposal in that we believe that such a rate should have its own number range and not share a range that has the concept of fixed line geographic rates. The benefit of our modification to the proposal is that it allows the market to choose. To implement the proposal contained in the consultation document is to give to rise to customer confusion by adding a degree of complexity to the number as currently experienced, and costs will necessarily occur to amend billing and charging regimes.

Q. 7. Do you agree with the proposed new conventions that ComReg has inserted in section 10.7.6 of the Conventions dealing with Shared Cost Numbers that translate into mobile destinations? Please provide detailed reasons with your response.

A.7. We believe this is not necessary and that the charges should be borne by the receiver of calls translated to mobile destinations.

Q. 8. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.6 of the National Numbering Conventions dealing with whether labels implying low cost may be applied to services offered on 1850/1890 numbers? Please provide detailed reasons with your response.

A.8. We agree with the proposed new convention (Clause 5) that ComReg has inserted in section 10.7.6 of the National Numbering Conventions (Draft 7.0) dealing with whether labels implying low cost may be applied to services offered on 1850/1890 numbers. Our rationale for supporting originates from the principle of ensuring clarity to consumers. A lack of consistency with codes having possible multiple labels will lead to confusion with customers, complaints to operators and barriers to calls to these numbers being raised.

Q. 9. Do you agree with the proposed revision of section 10.7.7 of the Conventions for 0818 numbers, setting the maximum tariff for fixed-line calls at local rate, instead of the former national rate? Please provide detailed reasons with your response.

A.9. We agree with the proposed revision of the conventions on this point.

Q. 10. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.7 and 10.7.8 of the Conventions (for 0818 and 0700 numbers, respectively), dealing with tariffs for mobile-originated calls? Please provide detailed reasons with your response.

A.10 We agree with the proposed revision of the conventions on this point.

Q. 11. Are you aware of reasons why the cost of calling 0700 Personal numbers should vary very significantly between individual mobile networks (and perhaps to a lesser degree between fixed-line networks)? Please describe these.

A.11. As this number code is practically not in use, it is unsurprising that there are anomalies in the cost structure for 0700 numbers. We agree that these should be rectified,

Q. 12. Are you aware of any significant abusive practices[18] on 0818 and/or 0700 number ranges that might explain precautionary or dissuasive pricing levels by operators and/or which might be serving to bring those numbers into disrepute? Please describe these.

A.12. No we are not. It is possible that unexplained price adjustments by eircom over the years coupled with the absence of subscribers has left some anomalous tariffs in service.

Q. 13. Please advise in brief, regarding any specific 0700 numbers or number sub-ranges that you have in use or that you are aware of being in use by others, and the general nature of the services being provided on them.

A.13 BT do not currently have any 0700 numbers or number sub-ranges in use.

Q. 14. Do you believe it is better to have a single or a dual price structure for „076‟ numbers (i.e. based on „076-A‟ for tariff A and „076-B‟ for tariff B, in the latter case)? Please provide detailed reasons with your response.

A.14 We are strongly of the view that it is better to have a single price structure for 076 range. We believe that it would be helpful to restrict 076 ranges to geographic block holders and to require they set their network termination rate at or below their geographic termination rate.

Service Providers- Must never charge 076 calls at a higher rate than their charge for a geographic call.

Q. 15. Do you agree that in the case of a single price structure, that the price limit should be set at or below the cost of a geographic call and in the case of a dual price structure the higher price should be so set, with the lower price being set lower again? Please provide detailed reasons with your response.

A.15. Please see answer to Q.14

Q. 16. Do you have views on what those prices should be, taking the above discussion into account? Please provide detailed reasons with your response.

A.16. Please see answer to Q.14

Q. 17. Do you agree that any linkage between „076‟ number tariffs and geographic number tariffs should refer to local call rate instead of national call rate? Please provide detailed reasons with your response.

A.17 We do not agree, as it is more consistent to refer to "fixed line tariff".

Q. 18. Do you agree that the cost to a mobile caller of calling an „076‟ number from a mobile network should be directly linked to the cost to the same mobile customer of calling a geographic number? Please provide detailed reasons with your response.

A.18 We agree.

Q. 19. Do you agree with ComReg‟s remarks about the bundling of calls to non-geographic numbers in general and more specifically to „076‟ numbers (i.e. treating them the same in that respect as geographic numbers are treated)? Please provide detailed reasons with your response.

A.19 Yes on the basis that 076 is clearly in use as a substitute for geographic numbering and if wholesale termination charges can be kept at or below the equivalent geographic termination rate then there is no commercial justification to exclude 076 from geographic call bundles.

Q. 20. Do you agree with ComReg's proposal to replace Condition 15.1 with a reference to the Conventions, which already contains all the necessary obligations? Please provide detailed reasons with your response.

A.20 We agree with the ComReg proposal for the reason that it improves regulatory certainty.

Q. 21. Do you wish to comment on issues not discussed adequately in your view in this consultation and which bear on the Conventions? ***Note: Please also study the list of less significant changes included as Annex 1 before answering this question.*** **Please provide detailed reasons with your response.**

There is an incorrect treatment of transit in the Irish market whereby the cost of transit is borne by the terminating operator (who cannot influence the efficient routing of the call). This has led to all operators using eircom's transit service to terminate all non geographic calls. This needs to be corrected urgently as it can lead to terminating operators and service providers carrying the cost of inefficient (or arbitrage) routing.

The two-part settlement regime outlined in A.4 could be usefully applied to 151x premium rate calls, where similar risks exist.

A.21 The question refers to Annex 1. However BT can only find Annex C in the consultation and for the purposes of the response will focus upon the issues contained there.

Annex C Reference	**Comment**
2 Definitions	a) What is the difference between end user, customer, user and subscriber?
3 Responsibilities of ComReg & of Authorised Persons	a) In 3.1.5 it would be better to list the current ITU-T Recommendations, such E, 164, E212, E.218, etc. b) In Section 3.2.2 reference is made to opening access to the ETNS, however it is not clear where the calls would be directed? c) In section 3.2.2. 4.b reference is made to all relevant Numbers, and assuming that this also refers to access from overseas, the definition of relevant numbers needs to include the avoidance of opening up national only numbers such as 116xxx and 118xxx.
8 Allocation of Short codes	What is meant by the term longer number ranges undermined?
15	With regard to 10.5.11 where is permitted nomadic operation

	defined?
17	a) In Section 10.7.4 Designation of Services reference is made to Number translation Codes. The reference would be better termed Number translation Numbers, as the whole number Code plus subscriber element is required to achieve the stated goal.
21	Please see our comments in the main body of our response.
22	Please see our comments in the main body of our response.
25	Please see our comments in the main body of our response.

Comments to 10/60a

Doc 10/60a Draft Numbering Conventions v7.0	**Comment**
Table 10.7.2 Geographic Numbers and Services	Requirement 7. As proposed we cannot agree to this as it appears to be taking a consumer centric view and ignores that businesses; corporates; state organisations all require more than two numbers. I.e. the company/organisation would be the registered user.

Q. 22. Do you wish to comment on any of the proposed changes to the Numbering Applications Procedures document, or on the document itself? Please provide detailed reasons with your response.

A22. BT does not wish to add any further comments at this time.

4 Cable&Wireless Worldwide (C&W Worldwide)

COMREG NUMBERING CONVENTION CONSULTATION AUGUST 2010 – CABLE&WIRELESS WORLDWIDE

SEPTEMBER 2010

CABLE&WIRELESS WORLDWIDE COMMENTS TO THE PROPOSED CHANGES IN THE NUMBERING CONVENTION

Cable&Wireless Worldwide (C&W Worldwide) welcomes ComReg's review of the Numbering Convention and the opportunity to provide our input. Please find set out below our responses to the questions we would ask to review:

1. DEFINITION OF TERMS

We would ask ComReg to clarify the delineation of the definition of "subscriber" from the definition of "customer".

2. MOBILE ORIGINATED CALLS

C&W Worldwide agrees with the ComReg proposals to implement structures that address the payment flows for mobile originated calls to service numbers. We observe that the market for calls to non-geographical numbers is distorted from a consumer point of view and also from a wholesale market point of view.

Firstly, as ComReg points out, at the consumer level the market for calls to non-geographic numbering services is suffering from high costs of mobile originated calls and from a lack of transparency and consistency in the costs of calls to these numbers. To the extent the mobile origination fee is allowing for a surcharge that is only sustainable because of a market dominant position here, consumers do suffer from the market rents they ultimately pay to the originating carrier (windfall profit).

Secondly, at the wholesale level, the market is thought to be suffering from the potential of discrimination that is derived from the high level of mobile origination fees, as well. The current level of MAL that is applicable for non-geographical number services not being hosted on the mobile operators network remains on an unnaturally high level. It has not been adjusted over the past years and has resisted to follow the movements of other comparable fees in the market (i.e. mobile termination, fixed origination). This gives reason to believe that mobile originated fees for services that are hosted on other networks are at a level above costs. In addition, we observe that mobile operators have a stronger role in the market for hosting non-geographical numbering ranges on their network for service providers compared to fixed network operators. This may particularly hold in cases where mobile operators can offer lower service provider fees by reducing the applicable on-net origination fee for calls to the relevant service numbers. We believe that such a practice is limiting competition on the market for non-geographical calls (service provider) and therefore ultimately to the detriment of consumers and businesses offering services under these numbering ranges.

C&W Worldwide therefore suggests considering measures that aim at

- improving transparency for calls to non-geographical numbering ranges, particularly to 1850 and 1890 numbers and measures that aim at

- limiting the level of mobile origination fees applicable to non-geographical numbering ranges, specifically to 1850 calls. We encourage ComReg to apply a price regulation to these fees that should be oriented to comparable service fees in the market, which we believe is the mobile termination fee.

5 Digiweb Limited (Digiweb)

Digiweb Limited answer to ComReg 10/60 Consultation

Author: Jean-Charles Caillère
Contact: 01-2569208
Date : 30/09/10

Q. 1. Do you agree with the proposal to remove the current obligations in the Conventions regarding Regtel and SI No. 194 of 1995 in respect of Premium Rate Services and Premium Short Message Services? Please provide detailed reasons with your response.

No Comment.

Q. 2. Do you agree with the proposal to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party? Please provide detailed reasons with your response.

Note: This proposal would involve removing any obligation/expectation from the terminating operator that it is obliged to make outpayments for 1850/1890 calls that it receives. It would not affect the terminating operator's billing relationship with its own customers (i.e. the 1850/1890 service providers).

No Comment.

Q. 3. If the proposal in Q2 is agreed, it could be appropriate to then change the designation of these numbers from "Shared Cost" to something else (perhaps related to their business-oriented functionality?). Do you have a suggestion for a new title?

No Comment.

Q. 4. Do you agree that it is appropriate to treat 1850 numbers and services in the same general manner as those of 1890, or do you consider that the circumstances demand that some distinctions must be made? Please provide detailed reasons with your response. In particular, please comment or provide suggestions on how best to deal with the payment deficit that very long-duration 1850 calls incur?

The 1850 situation is, in our view, very different to the problem occurring with 1890, which mainly lies with MNO practices. Also, we would advice to treat it separately.

Q. 5. Do you agree that a risk of arbitrage can arise in respect of long-duration calls with fixed caller payments? Please provide reasons with your response and indicate how any arbitrage risk could be ameliorated.

An arbitrage risk would not occur if 1850 was to be billed per minute at a local rate. Setting up maximum call duration would also remove the problem. The respondent is open to change as long as Eircom's Reference Interconnect Offer (RIO) is amended in a way which sustains a decent margin for the Service Provider.

Q. 6. Do you support the option of charging based on a mobile equivalent rate, as described in the Conventions, the overall approach and the related changes to the Conventions? Please provide detailed reasons with your response. If you have a preference between this approach and that referred to in Q. 2, please indicate which you prefer and explain why.

No Comment.

Q. 7. Do you agree with the proposed new conventions that ComReg has inserted in section 10.7.6 of the Conventions dealing with Shared Cost Numbers that translate into mobile destinations? Please provide detailed reasons with your response.

No Comment.

Q. 8. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.6 of the National Numbering Conventions dealing with whether labels implying low cost may be applied to services offered on 1850/1890 numbers? Please provide detailed reasons with your response..

Digiweb fully agrees with ComReg's proposal. The current labels should only apply when the cost is equal or lower than local rate.

Q. 9. Do you agree with the proposed revision of section 10.7.7 of the Conventions for 0818 numbers, setting the maximum tariff for fixed-line calls at local rate, instead of the former national rate? Please provide detailed reasons with your response.

Digiweb is open to ComReg's proposal as long as we are in position to generate a margin. As it currently stands, Digiweb has no choice than charging 0818 to a higher rate than Geo – a situation which is purely due to the existing wholesale rates offered by carriers.

Q. 10. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.7 and 10.7.8 of the Conventions (for 0818 and 0700 numbers, respectively), dealing with tariffs for mobile-originated calls? Please provide detailed reasons with your response..

No Comment.

Q. 11. Are you aware of reasons why the cost of calling 0700 Personal numbers should vary very significantly between individual mobile networks (and perhaps to a lesser degree between fixed-line networks)? Please describe these.

No Comment.

Q. 12. Are you aware of any significant abusive practices on 0818 and/or 0700 number ranges that might explain precautionary or dissuasive pricing levels by operators and/or which might be serving to bring those numbers into disrepute? Please describe these.

No Comment.

Q. 13. Please advise in brief, regarding any specific 0700 numbers or number sub-ranges that you have in use or that you are aware of being in use by others, and the general nature of the services being provided on them.

No Comment.

Q. 14. Do you believe it is better to have a single or a dual price structure for „076 ‟ numbers (i.e. based on „076-A ‟ for tariff A and „076-B ‟ for tariff B, in the latter case)? Please provide detailed reasons with your response.

A dual pricing appear to us as the best option, unless porting is allowed between the two blocks.

Q. 15. Do you agree that in the case of a single price structure, that the price limit should be set at or below the cost of a geographic call and in the case of a dual price structure the higher price should be so set, with the lower price being set lower again? Please provide detailed reasons with your response.

Digiweb agree with the principle as long as the Company is not forced to sell at loss due to a higher wholesale rate.

Q. 16. Do you have views on what those prices should be, taking the above discussion into account? Please provide detailed reasons with your response.

No Comment.

Q. 17. Do you agree that any linkage between „076 ‟ number tariffs and geographic number tariffs should refer to local call rate instead of national call rate? Please provide detailed reasons with your response.

We believe that the 076 tariff should remain aligned to national geo rate since both destinations share the same CPS-based origination cost.

Q. 18. Do you agree that the cost to a mobile caller of calling an „076 ‟ number from a mobile network should be directly linked to the cost to the same mobile customer of calling a geographic number? Please provide detailed reasons with your response.

No Comment.

Q. 19. Do you agree with ComReg ‟s remarks about the bundling of calls to non-geographic numbers in general and more specifically to „076 ‟ numbers (i.e. treating them the same in that respect as geographic numbers are treated)? Please provide detailed reasons with your response.

Digiweb disagree with this proposal. You could consider the 076 as an emergent market which still bears higher average cost due to the low traffic. ComReg should not impose its inclusion to bundling, as it would threatens or delay the emergence of this market – due to a higher cost base.

Q. 20. Do you agree with ComReg ‟s proposal to replace Condition 15.1 with a reference to the Conventions, which already contains all the necessary obligations? Please provide detailed reasons with your response.

No Comment.

Q. 21. Do you wish to comment on issues not discussed adequately in your view in this consultation and which bear on the Conventions? Note: Please also study the list of less significant changes included as Annex 1 before answering this question. Please provide detailed reasons with your response..

No Comment.

Q. 22. Do you wish to comment on any of the proposed changes to the Numbering Applications Procedures document, or on the document itself? Please provide detailed reasons with your response.

No Comment.

6 eircom Ltd and Meteor Mobile Communications Limited (Eircom Group)

eircom Group

Response to ComReg Doc. 10/60

Consultation on
Sixth Review of the National Numbering Conventions

30 September 2010

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EXECUTIVE SUMMARY

This document constitutes eircom Ltd and Meteor Mobile Communications Limited (jointly referred to as eircom Group) response to the ComReg Consultation Document 10/60 of 4th August 2010 “Sixth Review of the National Numbering Conventions”

In this consultation ComReg proposes revisions to the National Numbering Conventions and to the associated numbering applications procedures document. With respect to the review of the conventions, ComReg has raised a number of significant proposals including:

- A proposal to supplant the shared cost model that currently applies to 1850 and 1890 numbers with the requirement that the entire cost of these calls be covered by the calling party.
- As an alternative to the above, new and specific price ceilings for fixed and mobile originated calls to non-geographic number.
- A review of the use of the terms CallSave and LoCall in the case of 1850 and 1890 ranges
- A proposal for dual price ceilings within the 076 IP number range.

1850/1890 Shared Cost Model

eircom Group strongly disagrees with the proposal to supplant the shared cost model with a model that places the full cost burden on the calling party on a number of grounds. We do not consider that ComReg derives the authority to prohibit wholesale mobile call origination charges from the Numbering Conventions. This would constitute a significant intervention in the relevant wholesale market and should therefore only be contemplated following a full market review, market definition (particularly as this market lies outside of the relevant markets considered susceptible to SMP and ex-ante regulation), consultation and notification to the European Commission in accordance with the principles set out in the Framework Directive. Even if ComReg were to follow this approach we do not believe that there is evidence of SMP or market failure, as contrary to suggestions in the consultation document, the shared cost model can be shown to reduce the cost of calling 1850 and 1890 numbers. Furthermore we believe that a shift of the cost burden onto the calling party would operate against ComReg’s obligations under the Communications Act 2002, to promote the interests of users within the Community as the shared cost model clearly delivers benefits to callers while also benefiting service providers that wish to provide a lower cost alternative to an ordinary geographic contact numbers.

Price Ceilings

Another key concern is the proposed changes to tariff ceilings associated with the non-geographic number ranges 1850, 1890, 0818, 0700, 076 and Network Use Short Codes (NUSC) and in particular the proposal to apply specific rules to mobile operators. While we agree that clarifying amendments are required to ensure that the relevant conventions can be applied to calls from mobiles as well as fixed lines, we believe that this can be achieved through revised wording that would be applicable to both, thereby avoiding any inadvertent discrimination between the two.

We believe that the concept of a “mobile equivalent rate” as a price ceiling for 1850/1890 calls originated on and/or terminating on mobile networks is flawed as the proposal would give rise to complications in the area of price transparency and the need to distinguish calls terminating on mobile networks which would involve a higher cost to the caller than other such calls. Such a move would place undue emphasis on these call cases that represent a very small portion of calls to 1850 and 1890 while also failing to recognise the established economic principle of cost causation which supports the status quo whereby the service provider in choosing to terminate calls to a mobile number, incurs the additional associated cost.

ComReg also proposes that the price ceiling for calls to 0818 (Universal Access) and 076 (IP Numbers) should be lowered from the national rate to the local rate. In our view this proposal goes beyond the remit of the Numbering Conventions. The power conferred on ComReg by the Authorisation Directive to set price caps is backed by the objective of ensuring consumer protection. This would suggest that any price ceiling imposed by ComReg should prevent excessively high charges for calls to these numbers however it does not present a carte blanche for imposing strict price controls. The application of the local rate as a price cap for 1850 and 1890 numbers is facilitated by the cost-share model as the called party contributes towards the cost of the call. Therefore the application of the same price ceiling to other non-geographic ranges would require a similar arrangement resulting in unnecessary duplication of the role of 1890 numbers in particular. We therefore recommend that the standard national call rate should continue to be the price ceiling for 0818 and 076 calls from fixed lines. Similarly the conventions should set a ceiling at the standard geographic rate for calls from mobiles.

Review of the Terms Call-Save and Lo-Call

As we will outline in response to the related questions, the 1850 and 1890 ranges can deliver lower cost access for callers and we believe that any incidence of excessive pricing can be prevented through minor changes to the wording of the Numbering Conventions with the effect of ensuring that the conventions encompass calls from mobile networks. In this response we propose new wording for the relevant conventions. We believe that this should facilitate the retention of the terms Call-Save and Lo-Call associated with 1850 and 1890 numbers to the benefit of both the callers and service providers that rely on them.

Proposed New Structure for 076 (IP Numbers)

Amendments are proposed for the '076' IP-based numbering Range as ComReg notes there is a low take up in this designation and seeks to regenerate interest by new tariff and designation regulation. A dual price structure and a "less than geographic" tariff are suggested. We believe that this would further complicate the 076 option and make it more unattractive to customers. Indeed it is questionable whether there continues to be a need for a discrete number range for IP services.

It is important to note that changes to the conventions may trigger the obligation under the regulations[1] to notify customers of any resulting price changes as part of the terms and conditions of service and advise them of their right to withdraw from their contract without penalty. ComReg therefore needs to be cognisant of these implications when contemplating any change to the conventions while consideration should be given to an exemption from these obligations particularly in light of the fact that a reduction in charges would result from the proposed changes to the conventions.

[1] European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations 2003- Regulation 17

Bundling of non-geographic numbers

We do not agree with ComReg's remarks about the bundling of non-geographic numbers. Our objective in designing bundles is to bring maximum value to customers across the most popular call types while excluding call types that could jeopardise the profitability of the bundles. The price regulation for retail call bundles is restrictive as is the interconnection regime for calls from fixed network operators to services hosted by OAOs. If ComReg wishes to encourage operators to bundle calls to 1850/1890/0818 /076 then it must consider changing the interconnect regime such that the termination payment received by the network hosting the service aligns with that received for terminating a local or national call. Furthermore ComReg has not addressed the complications that would arise in decrementing 1850 calls which are charged on a per call basis from typical bundles which are involve a bucket of minutes.

We agree with revisions to text that take account of the already published 2009 amendments to the 2002 EU Regulatory Framework and the proposals to remove obligations in the Conventions regarding Regtel as the responsibility for this regulation now lies with ComReg.

On Personal Numbers/Services on 0700 numbers we believe that this designation is no longer in use and that 0700 could be withdrawn and used for another service in the future.

RESPONSE TO CONSULTATION QUESTIONS

Q. 1. Do you agree with the proposal to remove the current obligations in the Conventions regarding Regtel and SI No. 194 of 1995 in respect of Premium Rate Services and Premium Short Message Services? Please provide detailed reasons with your response.

We agree with the proposal to remove the current obligations in the Conventions regarding Regtel and SI No. 194 of 1995 as responsibility for regulation of this sector has been transferred from Regtel to ComReg. The PRS Act of 2010 provides the basis for ComReg to regulate and it is necessary to reflect this in the new premium services regulatory regime.

Q. 2. Do you agree with the proposal to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party? Please provide detailed reasons with your response.

We fundamentally disagree with the proposal to require that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party. Currently 1850/1890 service providers cover a portion of the costs of any calls made to 1850/1890 numbers and eircom/meteor holds that this is of benefit to the originating mobile customer. The proposed alteration to this model would remove this facility to the detriment of both the service providers that offer service over these non-geographic numbers and consumers who call them.

The proposal at hand carries with it a risk of consumer determent through increased costs for callers to these numbers, and the denial of the choice for service providers to offer such contact numbers. ComReg claims that the cost of these calls can be very high and rarely seem to be less than the cost of calling a geographic number. This is clearly not the case. Taking the example of an 1850 call from any mobile operator and call duration of 5 minutes (i.e. the duration used to determine the retail charge under the current Numbering Conventions), the retail charge averages less than 5c per minute (ex VAT). This is significantly lower than the cost of a standard call to a landline from a mobile network. In the case of 1890, Meteor charges 12.4c (ex VAT), well below Meteor's typical charge for calls to geographic numbers (typically 24c ex VAT on prepaid price plans).

By covering a portion of the costs of any calls made to 1850/1890 numbers, the called party is provided with a means of reducing the cost burden on the calling party who would typically be their potential or existing customers. The proposed alteration to this model would remove this facility. The perceived benefits of an 1890 number to callers may have been reduced as the distinction between local and national call costs becomes blurred through the evolution of fixed operator pricing. However it cannot be said that the cost burden carried by service providers is no longer serving to reduce the cost to the caller, as has been claimed in the consultation document. Clearly a retail rate of approximately 5c per minute from mobiles is directly facilitated by the call origination charge.

As highlighted by ComReg, the 2009 amendment to the Authorisation Directive states for the avoidance of doubt, that ComReg can establish tariff principles and maximum prices that can apply in a specific number range, for the purposes of ensuring consumer protection. ComReg has not provided any evidence to show that the current tariff principles give rise to consumer detriment whereas the proposal at hand carries with it a significant risk of consumer determent through increased costs for callers to these numbers, and the denial of the choice for service providers to offer such contact numbers.

In Section 1 of the Numbering Conventions which sets out their scope it is stated that the conventions should strive to "leave solutions to market mechanisms wherever possible and reasonable". ComReg has outlined in the consultation that the 1850 and 1890 ranges have fallen out of favour which suggests that service providers have been migrating to alternative number ranges This demonstrates that there is sufficient choice in the market to allow those service providers that are not prepared to share the costs of 1850/1890 calls to avail of numbers from alternative ranges. Therefore there is no justification for intervention by ComReg. To do so would contravene principles laid down in the conventions themselves while such an action could not be objectively justified.

Furthermore we do not consider that ComReg derives the authority to prohibit wholesale mobile call origination charges from the Numbering Conventions. This would constitute a significant intervention in the relevant wholesale market and should therefore only be contemplated following a full market review, market definition (particularly as this market lies outside of the relevant markets considered susceptible to SMP and ex-ante regulation), consultation and notification to the European Commission in accordance with the principles set out in the Framework Directive. Even if ComReg were to follow this approach we do not believe that there is evidence of SMP or market failure, as contrary to suggestions in the consultation document, the shared cost model can be shown to reduce the cost of calling 1850 and 1890 numbers

Q. 3. If the proposal in Q2 is agreed, it could be appropriate to then change the designation of these numbers from "Shared Cost" to something else (perhaps related to their business-oriented functionality?). Do you have a suggestion for a new title?

As outlined in response to question 2, we do not believe that a change to the designation of these numbers from "Shared Cost" is warranted as this would negate the sole purpose of these number ranges and thereby remove all of the benefits over other number ranges, as a means of providing service providers with lower cost access to their offerings.

Q. 4. Do you agree that it is appropriate to treat 1850 numbers and services in the same general manner as those of 1890, or do you consider that the circumstances demand that some distinctions must be made? Please provide detailed reasons with your response. In particular, please comment or provide suggestions on how best to deal with the payment deficit that very long-duration 1850 calls incur?

We believe that the current shared cost structure should be maintained. 1850 and 1890 are two separate products devised and developed to satisfy customer demand and needs. Those demands were to attract calls nationwide from local and national origins to one number for the purpose of sales or services. The service providers were prepared to absorb some part of the call and in the case of freephone *all* the cost of the call in the belief that they could recover the costs through their own business offerings. The freephone offering fell out of favour as market forces caused service providers to migrate to the 1850 and 1890 offerings. If service providers were to revert to geographic numbers some customers would pay local charges and some would pay national charges, this would penalise customers. The customers will have expectations of the charge for these calls that would be different to the proposed charge. In addition the service providers would lose custom.

ComReg is charged with *“promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services”.* However in the conventions and in these changes ComReg set out to “protect from excessive or unfair charges by the tariff limitations included in the relevant Numbering Conventions” The present charges are neither excessive nor unfair and intervention here is an intervention in the market mechanisms.

The two products 1850 and 1890 serve those for whom they were developed. ComReg view that significant developments in the mobile sector are responsible for shared cost numbers falling in to disfavour is not correct. If there is a decline in these services it must be adjusted by the market and with ComReg ensuring the “transparency of tariffs and conditions” only.

Proposals to influence wholesale arrangements or indeed the makeup of retail bundles stray into an area of regulation far beyond the remit of the Numbering Conventions. ComReg while recognising that it does not have the powers to mandate the inclusion of non-geographic numbers in bundles, must also acknowledge that ex-ante regulation of wholesale rates and retail offerings alike, can only be applied subject to a full market review of the mobile wholesale call origination market, which ensures that any resulting obligations would be objectively justified, proportionate and non-discriminatory. Absent of such a review these remain commercial decisions for operators.

The current pricing structure on 1850 ensures that the cost of excessively long calls is covered by the service provider. ComReg suggests that in the absence of a call origination charge this might be covered in the retail charge. One of the benefits of the per call charging structure on 1850 is that callers are provided with the assurance of a single per call charge regardless of how long they remain on a call. This benefit would be removed if additional retail charges were to apply if calls exceed certain duration. Furthermore service providers are in control of the call and typically have some control over the duration of such calls. Where a service provider is not prepared to be subject to the additional cost of long duration calls, they are currently free to opt for an 1890 number instead of an 1850 number.

As a second alternative, ComReg suggests that the caller could be charged slightly more or that the cost could be amortised across all calls handled by mobile operators. Both of these proposals would result in a far less equitable allocation of the costs associated with extended calls to 1850 numbers. ComReg suggests as another alternative that the service provider might still be needed to play some part at least where calls are extended unduly. The current model already achieves this and as outlined above, there doesn’t appear to be any evidence of excessive charging for 1850 calls.

In summary, the current 1850 model avoids a significant deficit arising by promoting behaviour that results in efficient economic outcomes, while achieving price levels for mobile operators that are consistent with the current Numbering Conventions therefore we believe that the current shared cost structure should be maintained.

Q. 5. Do you agree that a risk of arbitrage can arise in respect of long-duration calls with fixed caller payments? Please provide reasons with your response and indicate how any arbitrage risk could be ameliorated.

We agree that a risk of arbitrage can arise in respect of long duration calls. This risk is present today, however the relative price levels that currently apply, avoid any significant abuse. For this reason we would not favour ComReg making changes to the current structure.

Q. 6. Do you support the option of charging based on a mobile equivalent rate, as described in the Conventions, the overall approach and the related changes to the Conventions? Please provide detailed reasons with your response. If you have a preference between this approach and that referred to in Q. 2, please indicate which you prefer and explain why.

We do not support the option of charging based on a mobile equivalent rate, as described in the Conventions, the overall approach and the related changes to the Conventions.

Under the current conventions for 1850 and 1890 numbers that callers to these numbers are protected by the association of the retail rate with the standard rate for calling geographic numbers. Generally calls to 18X0 numbers terminate on fixed numbers and for the minority of cases where termination is to a mobile number, the service provider covers the additional cost. This is entirely reasonable as the termination point is entirely at the discretion of the service provider that receives the call. Therefore regardless of whether a call terminates on a fixed or a mobile network, a consistent rate is applied to all 18X0 calls originated on any given network, thereby ensuring price transparency for consumers. The proposal in section 10.7.6 of the draft Numbering Conventions to introduce a mobile equivalent rate would undermine price transparency as consumers would not be able to distinguish between 18X0 numbers that terminate on a fixed or a mobile network even though the cost of the latter would be higher. Aside from the customer impact, this would introduce logistical problems as distinct number ranges would be required to distinguish between the two call types.

As outlined in the consultation document, the cost of originating a call to a shared cost number hosted on a fixed network should approximate to the cost of originating a call to an ordinary geographic number. Therefore we would recommend a more subtle amendment to the conventions, to more directly reference geographic call rates, thereby ensuring a consistent application of the conventions in both fixed and mobile retail pricing while preserving price transparency. We recognise that rates for calling geographic numbers from mobiles can vary by price plan, therefore we suggest that the conventions should set a ceiling at the standard geographic rate just as ComReg has proposed the standard geographic rate in the case of calls from fixed lines. In the case of mobile networks, we believe that prepaid price plans provide a valid reference point in establishing the standard geographic call rate for any given mobile operator. This is based on the logic that prepaid price plans are less susceptible to the influences of bundling and handset subsidy which invariably influence post-paid price points. This also facilitates the provision of a single price point that aids transparency for consumers and the management of these price points on billing systems.

Q. 7. Do you agree with the proposed new conventions that ComReg has inserted in section 10.7.6 of the Conventions dealing with Shared Cost Numbers that translate into mobile destinations? Please provide detailed reasons with your response.

As detailed in response to the previous question, we consider the proposal to reference a "mobile equivalent rate" in the Conventions to be unworkable and we recommend instead a reference to the geographic rate which is far more transparent and achieves greater consistency of application across both fixed and mobile services. We therefore propose a more subtle change to the Requirements subsection of the proposed new section 10.7.6 which refers to a standard geographic rate while we also propose wording consistent with that used elsewhere in the conventions when referencing the local rate as follows:

1850 Requirements linked to the provision of service

The charge made by undertakings to Irish-based callers to 1850 numbers shall be independent of the duration of the call, and shall in no case exceed the retail charge for a 5 minute call calculated at the originating operator's standard rate for calling geographic numbers and where the rate for calling geographic numbers is distance-dependant, the rate shall not exceed the originating operator's standard rate applicable for local calling (within the MNA).

1890 Requirements linked to the provision of service

The charge made by undertakings to Irish-based callers to 1890 numbers shall in no case exceed the retail charge for a call of the same duration calculated at the originating operator's standard rate for calling geographic numbers and where the rate for calling geographic numbers is distance-dependant, the rate shall not exceed the originating operator's standard rate applicable for local calling (within the MNA).

Furthermore we propose that the Designation of Service section should be amended solely in respect of the order in which the 1850 and 1890 references appear and that reference to specific tariff limitations should be deleted from this section as this constitutes unnecessary duplication of the tariff limitations that appear in the Requirements section

Q. 8. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.6 of the National Numbering Conventions dealing with whether labels implying low cost may be applied to services offered on 1850/1890 numbers? Please provide detailed reasons with your response.

The preceding requirements contained in section 10.7.6 establish an absolute price ceiling whereby any undertaking that charges in excess of the ceiling would be in breach of the Numbering Conventions. Therefore it does not appear logical to associate the same ceiling with a restriction on the description of these calls as LoCall or CallSave as the conventions prohibit any services to be offered above this ceiling regardless of how they are labelled. Even if a lower ceiling were applied for the purpose of limiting the use of these terms, we believe that this would be cumbersome and confusing to consumers. We therefore recommend, subject to ComReg adopting the revised wording that we have proposed for 18X0 price ceilings that the terms LoCall and CallSave be retained.

Q. 9. Do you agree with the proposed revision of section 10.7.7 of the Conventions for 0818 numbers, setting the maximum tariff for fixed-line calls at local rate, instead of the former national rate? Please provide detailed reasons with your response.

We do not agree with the proposal to alter the convention relating to 0818 and 0700 numbers to refer to the local rate. The 0818 range has offered an alternative to the 1890 ranges in recent years and is popular with a sizable group of service providers however there continues to be strong demand for 1890 numbers. By mandating that callers are charged no more than the local rate and bearing in mind the points raised in response to question 2, this would remove the distinction between 0818 and 1890 numbers and reduce the choice available to service providers who currently opt to bear some of the cost of the calls they receive ComReg refers to the fact that eircom and possibly some other operators apply the local rate and then suggests that the conventions should be brought into line with market practice. This is not a sound justification for imposing a lower price ceiling. On the contrary the existence of lower rates is evidence that operators are not consistently pricing at the ceiling and provides justification for a ceiling at the national rates which allows for flexibility in retail pricing while delivering consumer protection.

Instead we recommend wording consistent with that we have proposed for other non-geographic numbers but with specific reference to the national rate.

Q. 10. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.7 and 10.7.8 of the Conventions (for 0818 and 0700 numbers, respectively), dealing with tariffs for mobile-originated calls? Please provide detailed reasons with your response.

We do not agree with the proposed new conventions 10.7.7 and 10.7.8. As explained in response to question 6. In the interest of consistency of application of the conventions and transparency for consumers we recommend that these price ceilings should refer to standard geographic rates. We therefore recommend the following amended wording:

0818 Requirements linked to the provision of service

Undertakings shall not charge originating callers to 0818 numbers more than the retail charge for making the call if calculated at the originating operator's standard rate for calling geographic numbers and where the rate for calling geographic numbers is distance-dependant, the rate shall not exceed the originating operator's standard rate applicable for national calls.

As highlighted in response to questions 11 to 13 below, the situation with 0700 numbers is quite different. There appears to be no demand for these services and we are of the view that adjustments to the retail price ceilings are unlikely to drive demand for 0700 numbers. We would therefore recommend that no changes should be made to the conventions relating to the 0700 range until such time as there is a clear demand for personal numbering services or an alternative use is identified for this range.

Q. 11. Are you aware of reasons why the cost of calling 0700 Personal numbers should vary very significantly between individual mobile networks (and perhaps to a lesser degree between fixed-line networks)? Please describe these.

We are aware of past abuses of this number range where higher than necessary interconnect charges were being used to facilitate revenue share with the called party. These resulted in high retail charges relative to other non-geographic ranges which are a legacy of previous abuses.

Q. 12. Are you aware of any significant abusive practices on 0818 and/or 0700 number ranges that might explain precautionary or dissuasive pricing levels by operators and/or which might be serving to bring those numbers into disrepute? Please describe these.

As outlined in response to question 11, revenue share was attempted on the 0700 range in the past. We are not aware of any abusive practice on the 0818 number range.

Q. 13. Please advise in brief, regarding any specific 0700 numbers or number sub-ranges that you have in use or that you are aware of being in use by others, and the general nature of the services being provided on them.

We have not seen any recent traffic to 0700 numbers either originated by retail customers or carried as transit traffic. Our Fixed Division no longer offers this non-geo range to serivce providers.

Q. 14. Do you believe it is better to have a single or a dual price structure for 076 numbers (i.e. based on 076-A for tariff A and 076-B for tariff B, in the latter case)? Please provide detailed reasons with your response.

We do not believe it necessary to have a dual price structure for 076 numbers and believe this would be unduly complex for customers / consumers. We believe that there should be a single price structure for 076 VOIP ranges. The 076 range was introduced to facilitate and differentiate VoIP and other IP-based services from geographic numbers. There was also a consideration that allowing VOIP operators to use geographic ranges would exhaust supply and cause number changes. The take-up has been disappointing because customers did not want numbers with a different STD code than the one for the area in which they resided. The perception is that dialling an 076 would be more expensive only because it is out of area and a trunk call. When ComReg commenced allocating Geographic numbers to VOIP operators it in fact negated the need for any such VOIP only number range.

Reducing the tariffs or introducing extra tariffs will not increase demand as the perception is always “out of area number” and so there should be just a single 076 range and it should be priced at the same level as a call to a geographic number.

Q. 15. Do you agree that in the case of a single price structure, that the price limit should be set at or below the cost of a geographic call and in the case of a dual price structure the higher price should be so set, with the lower price being set lower again? Please provide detailed reasons with your response.

We agree that the price ceiling should be set at the cost of a geographic call.

Q. 16. Do you have views on what those prices should be, taking the above discussion into account? Please provide detailed reasons with your response.

We believe that there should be a single price structure and that it should be set at the cost of a geographic call.

Q. 17. Do you agree that any linkage between 076 number tariffs and geographic number tariffs should refer to local call rate instead of national call rate? Please provide detailed reasons with your response.

We believe that the current limit on the cost of calling a 076 number as determined by a linkage to the national call rate should remain.

Q. 18. Do you agree that the cost to a mobile caller of calling an 076 number from a mobile network should be directly linked to the cost to the same mobile customer of calling a geographic number? Please provide detailed reasons with your response.

As explained in response to question 6, in the interest of consistency of application of the conventions and transparency for consumers we recommend that these price ceilings should refer to standard geographic rates. We therefore recommend similar wording to that proposed for the convention relating to 0818 numbers in response to question 10.

Q. 19. Do you agree with ComReg's remarks about the bundling of calls to non-geographic numbers in general and more specifically to 076 numbers (i.e. treating them the same in that respect as geographic numbers are treated)? Please provide detailed reasons with your response.

We do not agree with ComReg's remarks about the bundling of non-geographic numbers in general. Our objective in designing bundles is to bring maximum value to customers across the most popular call types while excluding call types that could jeopardise the viability of the bundles. Therefore we do not propose to include calls to 1850/1890 or calls to '076' in bundles. When assessing what calls have potential to be included into bundles, we carefully model anticipated customer usage behaviours and the likely impact upon the profitability of the bundles. This exercise includes predicting customer calling patterns and any seasonal variations. Call volumes to 1850/1890 are by their nature extremely difficult to predict on a customer by customer basis. Such calls are generated for a short period at times when, for example, customers need to renew insurance or contact customer service lines. The inclusion of '076' numbers would also create an uncertainty to the behaviour of the bundles as it is likely that most customers would not call '076' (given the limited popularity) while other customers may generate high volumes.

In Appendix D - Regulatory Impact Assessment at page 34 in the consultation ComReg announces as a policy objective that they will "encourage operators to bundle calls to 1850/1890/0818/076". eircom does not accept that this is a reasonable policy objective given:

- The restrictive and detailed price regulation that currently applies to eircom for retail call bundles
- The interconnection regime for calls from fixed network operators to 1850/1890/0818/076 services hosted by OAOs.

eircom has analysed the impacts of including calls to 1850/1890/0818/076 services in current bundled offerings. The effect of this proposal is both to reduce eircom revenues and increase the costs of existing call packages. The cost increases are largely driven by outpayments to OAOs mandated in the interconnect regime for calls to number translation codes (NTCs) previously determined by ComReg. These cost increases are such that several key eircom bundles would – after implementation of the proposed ComReg policy – be at risk of failing the extremely proscriptive net revenue test (NRT) applied by ComReg to such bundles. Such failure would require eircom to choose between the options of withdrawing the particular failing bundle and raising the price for the failing bundle.

If ComReg wishes to attach a high priority to the new policy objective then it must consider changing the interconnect regime for the 1850/1890/0818/076 NTCs such that the termination payment received by the network costing the service aligns with that received for terminating a local or national call. Indeed ComReg must go further and implement full reciprocity in such termination payments such that all fixed network operators receive termination payments no higher than that necessary to recovery an efficient level of network costs – with eircom termination prices as the best available surrogate. Only when the costs-of-sale for calls to 1850/1890/0818/076 services are consistent with local and national calling costs-of-sale can fixed line operators agree to include these calls in bundles of local and national calls.

Furthermore ComReg has not addressed the complications that would arise in decrementing 1850 calls which are charged on a per call basis from typical bundles which are involve a bucket of minutes.

Q. 20. Do you agree with ComReg's proposal to replace Condition 15.1 with a reference to the Conventions, which already contains all the necessary obligations? Please provide detailed reasons with your response.

We do not agree with this proposal. We believe that the amendment replaces an unnecessary duplication of obligations with an unnecessary reference to the numbering conventions. We do not believe that this reference is justified in the revised Numbering Conventions merely on the strength of there having been a previous reference. We would therefore recommend a complete deletion of the text in question as it is redundant.

Q. 21. Do you wish to comment on issues not discussed adequately in your view in this consultation and which bear on the Conventions? Note: Please also study the list of less

significant changes included as Annex 1 before answering this question. Please provide detailed reasons with your response.

In addition to the above, we have identified a number of aspects of the draft Numbering Conventions that require amendment. For convenience we have provided these in the following table with reference to the relevant sections of the draft Numbering Conventions:

Short Description	**Reference (Paragraph /Appendix)**	**Comment**
ETNS Charges	3.2.23	Under the revised Universal Services Directive charges must be "similar to those applied to calls to and from other Member States of the European Community" however the Numbering Conventions can only address calls from Ireland. We therefore recommend the removal of the word "from".
Nomadic Limitations	10.2-23	We proposed a change to the wording as follows: *Mobile numbers are <u>exempt from</u> this Convention.*
Delineation of 1598/9	10.7.9-3	We recommend greater clarity regarding the 1598 designation for non-sexual adult service and 1599 designation for sexual services, similar to 10.8.4-9 which makes the distinction for the short code ranges 58XXX and 59XXX.
Tariff Ceiling for NUSC	10.8.2-6	When setting price ceilings the current version (version 6) of the Numbering Conventions refers to the network tariffs for the network on which the call is originated. The current text relating to NUSCs which sets the price ceiling for NUSCs at the charge for a local call in the case of a fixed network or a mobile-to-mobile call in the case of a mobile network has been amended by specifying that the rates charged should be specific to the user's tariff plan. With a view to ensuring transparency in both the interpretation of the conventions and ultimately pricing communications to customers, eircom / Meteor would recommend that the price ceiling reference to the network rate be maintained as this would best support a single rate for an NUSC from any given network. This will also avoid unnecessary changes to existing price plans.
DQ Designation	10.8.3	Paragraph 10.8.3 states that "Telecommunications Directory Access services in Ireland are not currently deemed to be Premium Rate Services". This is not consistent with the (Premium Services and Electronic Communications Infrastructure) Act 2010 or the associated SI338, as Directory enquiry services do fit the definition of premium services. ComReg should state here that these services while fitting the definition of premium services in the Act have been deemed to be exempt from regulation under SI308.
Premium Definition	10.8.4-1	The definition of Premium service provided here relies on the presence of revenue share and is therefore inconsistent with the definition under the Act.
50XXX Short Codes	10.8.4-3	The requirement for 50XXX short codes to be free must

		be applied for sending to and receiving from the codes in question.
Premium Short Codes	10.8.4-8	It should be specified here that only those 5XXXX codes in the ranges 51-59 automatically require Authorisation/Licence/Certification as premium services. While other short codes may be subject to Authorisation/Licence/Certification depending on the services offered with reference to the specific Premium Service regulations.
Text Improvement	A1.9	We propose the additional text “from that service provider” after “no further applications”
Text Improvement	A2.2-9	We propose the additional text “to that end user” after “A previous allocation”
Text Improvement	A3.1.2-5	We propose the deletion of the text “and where ComReg considers that this non-compliance has the effect of being injurious to the interests of consumers”
19XX Customer Support Short Codes	10.8.1	Eircom group propose that the use of 19xx numbers be relaxed to permit further selling of products and services where appropriate. This could include selling when customers do not make specific enquiries. 19xx numbers and the 1800 numbers that all operators use are well established in the minds of customers, therefore customer confusion should not arise. Permitting the use of 19xx in this way will allow operators streamline their customer contact functions, allow more interaction with customers at the point of contact and allow for greater transfer of calls to more dedicated sales areas. The rules governing the referencing of 19xx in promotional material can still be maintained.

Q. 22. Do you wish to comment on any of the proposed changes to the Numbering Applications Procedures document, or on the document itself? Please provide detailed reasons with your response.

We agree with the proposed changes to the Numbering Applications Procedures document.

7 ie^{num} – Ireland's ENUM Registry (IENUM Limited)

Comreg
Abbey Court
Irish Life Centre
Lower Abbey Street
Dublin 1

1st October 2010

Re: IENUM Limited
Response to ComReg document 10/60
Consultation Paper – Sixth Review of the National Numbering Conventions

Dear Sirs,

In reference to the above consultation document we are pleased to submit the following consultation response.

IENUM Limited (http://www.ienum.ie) is charged with providing ENUM services for the +353 number range and as such has gathered considerable experience and knowledge regarding the state of VoIP and consequently the 076 number range in Ireland. Additionally through its VoIP and ENUM working group (vewg@ienum.ie) there have been extensive discussions on the problems associated with the uptake and development of the 076 number range. These problems have ranged from very poor public awareness on pricing (retail, wholesale and exclusion from customer bundles) to number portability issues. As such IENUM believes that any changes to the landscape of the 076 number range will have a direct impact on the future of VoIP services in Ireland.

Please find below its responses to section 6 of the consultation document.

Q. 14. Do you believe it is better to have a single or a dual price structure ***for „076‟ numbers (i.e. based on „076-A‟for tariff A and „076-B‟for tariff B, in the*** *latter case)? Please provide detailed reasons with your response.*

As there is very poor consumer awareness of the 076 range and indeed in many cases the perception is that '076' is another geographic number in the North of the country, it is IENUM's opinion that a split in the range and pricing structure would only serve to perpetuate this confusion and complicate any future awareness building efforts. As such there should be no split in the pricing structure for 076 numbers.

Q. 15. Do you agree that in the case of a single price structure, that the price limit should be set at or below the cost of a geographic call and in the case of a dual price structure the higher price should be so set, with the lower price being set lower again? Please provide detailed reasons with your response.

Based on detailed discussions among the members of the VoIP and ENUM working group it is clear that a major limiting factor to the uptake of the 076 range has been the national rate associated with call costs. IENUM welcome a reduction of the cost to no more than that of a local geographic call.

In the event that a dual pricing structure is implemented again the pricing of the most costly tariff should be set to no more than that of a local geographic call.

Q. 16. Do you have views on what those prices should be, taking the above discussion into account? Please provide detailed reasons with your response.

In the interest of encouraging uptake of VoIP services in Ireland and to promote competition in the telecoms market, IENUM Limited recommends that pricing for the 076 number range should be set no higher than that of the local geographic call rate.

Q. 17. Do you agree ***that any linkage between „076 ‟number tariffs and geographic*** *number tariffs should refer to local call rate instead of national call rate? Please provide detailed reasons with your response.*

An unfortunate side effect of linking these two number ranges is the 076 being considered a "pseudo" geographic number. In IENUM's opinion this is not desireable and it is important to maintain the distinction between the two number ranges and their intended uses. However the market tendency has been toward the bundling of call costs and products and as such it is likely to be difficult to educate users on the differences between various number ranges, especially those that are not currently well advertised. With that in mind IENUM Limited agree that any linkage on tariffs should ensure that the 076 tariff is no more that that of local geographic number tariffs.

Q. 18. Do you agree ***that the cost to a mobile caller of calling an „076 ‟number*** *from a mobile network should be directly linked to the cost to the same mobile customer of calling a geographic number? Please provide detailed reasons with your response.*

IENUM Limited do not see any benefit in having a different 076 pricing structure for mobile users. For this reason and taking the response to question 17 above into account IENUM Limited recommend that call costs to calling the 076 range for mobile users should be the same as those costs for calls to geographic numbers.

Q. 19. Do you agree with ***ComReg ‟s remarks about the bundling of calls to*** *non-geographic numbers in general and more specifically to* ***„076 ‟numbers (i****.e. treating them the same in that respect as geographic numbers are treated)? Please provide detailed reasons with your response.*

IRELAND'S
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REGISTRY

IENUM Limited agree that 076 numbers should be included in all numbering bundles especially those that include geographic numbers. However it is important to ensure that the distinction between the two number ranges is maintained and that the potential for 076 numbers to be treated as “pseudo” geographic numbers is avoided.s

8 Magnet Networks

Q. 1. Do you agree with the proposal to remove the current obligations in the Conventions regarding Regtel and SI No. 194 of 1995 in respect of Premium Rate Services and Premium Short Message Services? Please provide detailed reasons with your response.

Magnet Networks agrees with the removal of the Conventions regarding RegTel as legislation has now made RegTel defunct.

Q. 2. Do you agree with the proposal to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party? Please provide detailed reasons with your response. Note: This proposal would involve removing any obligation/expectation from the terminating operator that it is obliged to make outpayments for 1850/1890 calls that it receives. It would not affect the terminating operator's billing relationship with its own customers (i.e. the 1850/1890 service providers).

Magnet Networks agrees with this proposal for the reasons that ComReg have outlined in the consultation.

Q. 3. If the proposal in Q2 is agreed, it could be appropriate to then change the designation of these numbers from "Shared Cost" to something else (perhaps related to their business-oriented functionality?). Do you have a suggestion for a new title?

No.

Q. 4. Do you agree that it is appropriate to treat 1850 numbers and services in the same general manner as those of 1890, or do you consider that the circumstances demand that some distinctions must be made? Please provide detailed reasons with your response. In particular, please comment or provide suggestions on how best to deal with the payment deficit that very long-duration 1850 calls incur?

Magnet Networks feel that it is appropriate to treat both the same as they are both fixed call numbers. Have a cap at 15 minutes on 1850 numbers is an incentive on the user to deal with callers in an efficient and timely manner to prevent long duration calls.

Q. 5. Do you agree that a risk of arbitrage can arise in respect of long-duration calls with fixed caller payments? Please provide reasons with your response and indicate how any arbitrage risk could be ameliorated.

When any prices are fixed in a 'per minute' environment there is always risk of abuse. E.g. 1850 could be a 'first 5 minutes fixed' and then 1890 price after 5 minutes to minimise the possibility of arbitrage.

Q. 6. Do you support the option of charging based on a mobile equivalent rate, as described in the Conventions, the overall approach and the related changes to the Conventions? Please provide detailed reasons with your response. If you have a preference between this approach and that referred to in Q. 2, please indicate which you prefer and explain why.

Yes agree.

Q. 7. Do you agree with the proposed new conventions that ComReg has inserted in section 10.7.6 of the Conventions dealing with Shared Cost Numbers that translate into mobile destinations? Please provide detailed reasons with your response.

Magnet Networks have no objection to the wording proposed to be inserted at section 10.7.6.

Q. 8. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.6 of the National Numbering Conventions dealing with whether labels implying low cost may be applied to services offered on 1850/1890 numbers? Please provide detailed reasons with your response.

Agree Magnet Networks have no objection to the proposed wording.

Q. 9. Do you agree with the proposed revision of section 10.7.7 of the Conventions for 0818 numbers, setting the maximum tariff for fixed-line calls at local rate, instead of the former national rate? Please provide detailed reasons with your response.

Magnet Networks have no objection to the proposed convention to be inserted at section 10.7.7.

Q. 10. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.7 and 10.7.8 of the Conventions (for 0818 and 0700 numbers, respectively), dealing with tariffs for mobile-originated calls? Please provide detailed reasons with your response.

Magnet Networks have no objection to the proposed convention to be inserted at section 10.7.7 and 10.7.8.

Q. 11. Are you aware of reasons why the cost of calling 0700 Personal numbers should vary very significantly between individual mobile networks (and perhaps to a lesser degree between fixed-line networks)? Please describe these.

No.

Q. 12. Are you aware of any significant abusive practices on 0818 and/or 0700 number ranges that might explain precautionary or dissuasive pricing levels by operators and/or which might be serving to bring those numbers into disrepute? Please describe these.

Not in this country but UK personal Numbering does experience abuse

Q. 13. Please advise in brief, regarding any specific 0700 numbers or number sub-ranges that you have in use or that you are aware of being in use by others, and the general nature of the services being provided on them.

Magnet Networks have no 0700 numbers in use.

Q. 14. Do you believe it is better to have a single or a dual price structure for „076" numbers (i.e. based on „076-A" for tariff A and „076-B" for tariff B, in the latter case)? Please provide detailed reasons with your response.

076 Numbers should cost a national rate from geographic PSTN services and a local rate from 076 voip services. This would encourage voip to voip peering between operators.

Q. 15. Do you agree that in the case of a single price structure, that the price limit should be set at or below the cost of a geographic call and in the case of a dual price structure the higher price should be so set, with the lower price being set lower again? Please provide detailed reasons with your response.

Magnet Networks believe that if single price structure is to exist then it should be set as a geographic number. E.g. Local call from the 076 'area'

Q. 16. Do you have views on what those prices should be, taking the above discussion into account? Please provide detailed reasons with your response.

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Q. 17. Do you agree that any linkage between „076" number tariffs and geographic number tariffs should refer to local call rate instead of national call rate? Please provide detailed reasons with your response.

Yes, now with the convergence of telephony with the internet and establishment of IP telephony providers all numbers should be treated equally as a geographic number.
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Q. 18. Do you agree that the cost to a mobile caller of calling an „076" number from a mobile network should be directly linked to the cost to the same mobile customer of calling a geographic number? Please provide detailed reasons with your response.

Yes this bring its in line with the proposals for 1890/1850 numbers.

Q. 19. Do you agree with ComReg‟s remarks about the bundling of calls to non-geographic numbers in general and more specifically to „076‟numbers (i.e. treating them the same in that respect as geographic numbers are treated)? Please provide detailed reasons with your response.

Comregs remarks are fair and reasonable.

Q. 20. Do you agree with ComReg‟s proposal to replace Condition 15.1 with a reference to the Conventions, which already contains all the necessary obligations? Please provide detailed reasons with your response.

Magnet Networks have no objection to the wording proposed to be inserted at section 15.1.

Q. 21. Do you wish to comment on issues not discussed adequately in your view in this consultation and which bear on the Conventions? Note: Please also study the list of less significant changes included as Annex 1 before answering this question. Please provide detailed reasons with your response.

No further comment.

Q. 22. Do you wish to comment on any of the proposed changes to the Numbering Applications Procedures document, or on the document itself? Please provide detailed reasons with your response.

No further comment.

Q. 1. Do you agree with the proposal to remove the current obligations in the Conventions regarding Regtel and SI No. 194 of 1995 in respect of Premium Rate Services and Premium Short Message Services? Please provide detailed reasons with your response.

Magnet Networks agrees with the removal of the Conventions regarding RegTel as legislation has now made RegTel defunct.

Q. 2. Do you agree with the proposal to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party? Please provide detailed reasons with your response. Note: This proposal would involve removing any obligation/expectation from the terminating operator that it is obliged to make outpayments for 1850/1890 calls that it receives. It would not affect the terminating operator's billing relationship with its own customers (i.e. the 1850/1890 service providers).

Magnet Networks agrees with this proposal for the reasons that ComReg have outlined in the consultation.

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Yes this bring its in line with the proposals for 1890/1850 numbers.

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Comregs remarks are fair and reasonable.

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No further comment.

Q. 22. Do you wish to comment on any of the proposed changes to the Numbering Applications Procedures document, or on the document itself? Please provide detailed reasons with your response.

No further comment.

9 O2

Sixth Review of the National Numbering Conventions

Response to Consultation Document 10/60

O2 welcomes the opportunity to respond to ComReg's latest consultation on "The sixth review of the National numbering conventions".

O2 believes that there are numbering areas that could productively be reviewed and updated in order to provide conditions that are essential to the maintenance of a properly functioning numbering scheme into the future, areas such as;

- Review and update of number Allocations.
- Ensuring adequate supply of numbers
- Review on efficiency of use for allocated numbers
- Technical function / limits to use etc..

However we believe that in the current consultation ComReg has largely missed this opportunity by inappropriately concentrating on trying to introduce various price controls on certain numbers. ComReg appears to be carrying out a pricing review rather than a review of numbering conventions and the entire consultation appears predicated on the assumption that in ComReg's view the combined (Wholesale and retail) charges for 18xx calls and other similar call types are excessive. However throughout the consultation ComReg offers nothing other than anecdotal evidence to support its view and justify imposing what amounts to very significant Wholesale and Retail price regulation.

In particular, ComReg has offered no analysis of the very competitive Irish mobile market to justify its proposals, instead relying on anecdotal commentary on very specific market segments defined by nothing other than the number range used to access a particular service. O2 believes that this is entirely inappropriate regulation and use of ComReg's numbering powers and that instead the supposed pricing issues raised by ComReg in this consultation are more appropriately dealt with in the Market analysis and review process.

O2 also believes that ComReg is exceeding its legal powers in trying to impose very onerous price regulation in this way. We do not accept that as a general principle, the NNC can be used to regulate our tariffs. In addition we believe that the use of the NNC to regulate retail tariffs for mobile calls to the specific types of numbers that are the subject of this consultation exceeds the powers granted to ComReg to administer the national numbering scheme.

Mobile operators do not price individual call types in isolation, instead both wholesale and retail tariffs are set in combination as part of a competitive price plan offering in a competitive market place, changes to price levels in Wholesale charges impact on Retail charges and changes to Retail charges for individual call types in price plans impacts Retail charges for other call types.

O2 believes that ComReg's proposals amount to very onerous price regulation of both O2's wholesale and retail charges for calls and we do not accept that ComReg has sufficient justification or legal powers to do so. The NNC provisions on charges for calls to these numbers do not support regulation of O2's wholesale charges in particular. Additionally we do not accept that intervention to this extent by means of the NNC could be justified by reference to the consumer protection objectives of the NNC (and the legislative measures on which it is based).

Notwithstanding this we address the points raised by ComReg in the sections below.

Q. 1. Do you agree with the proposal to remove the current obligations in the Conventions regarding Regtel and SI No. 194 of 1995 in respect of Premium Rate Services and Premium Short Message Services? Please provide detailed reasons with your response.

O2 agrees with the proposal to remove the current obligations and definitions in the Conventions regarding RegTel and SI 194 of 1995 on the grounds that these are no longer accurate or appear to bear any relevance to Premium Rate Services since the introduction of the new Communications Regulations (Premium Rate Services and Electronic Communications Infrastructure) Act 2010. More importantly, the revised numbering conventions should make reference to the new Premium Rate Services (PRS) licensing framework and conditions for obtaining and maintaining a PRS license.

While there is no longer a requirement for an undertaking to establish an agreement with RegTel or any other party it should be made very clear what pre-requisite conditions must be in place prior to obtaining and using a premium rate short code, namely:

- complying with the aforementioned Act of 2010;
- complying with any written direction or guidelines published by ComReg;
- maintain a detailed register for all specified PRS;
- maintain adequate procedures to ensure compliance with the Data Protection Acts;
- operate a complaints and refunds policy;
- only enter into contractual arrangements for the provision of PRS with other service providers who hold a relevant licence etc.

Q. 2. Do you agree with the proposal to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party? Please provide detailed reasons with your response. *Note: This proposal would involve removing any obligation/expectation from the terminating operator that it is obliged to make outpayments for 1850/1890 calls that it receives. It would not affect the terminating operator's billing relationship with its own customers (i.e. the 1850/1890 service providers).*

O2 does not agree with ComReg's proposal to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850 / 1890 numbers should be collected from the called party.

Firstly, as ComReg state "Shared cost numbers have remained largely unchanged since they were first developed. However the telecoms industry as a whole has evolved steadily with significant developments in the mobile sector in particular".

When shared cost numbers were originally introduced, it was cheaper to call 18X0 than make a National call in some cases on the Telecom Eireann network. This was because the National calls were so expensive and there were few competitive alternatives to the SMP fixed line operator. The difference between Local and National calls has largely disappeared since then, while more importantly the mobile market which wasn't a consideration at the time has now evolved in to a highly dynamic and competitive market, with operators offering different prices and price plan options to consumers for 18xx calls.

During this time ComReg attributes the reduced use of Shared cost numbers to the higher cost of calling these numbers from a mobile relative to the cost of calling from a fixed line, however O2 believes the opposite is true, if the price of calling 18X0 numbers from a mobile was a barrier to customer use, then callers would use a landline or alternatively choose a different mobile operator with lower charges or calls included in bundle i.e. Vodafone 0818 calls. ComReg also states that another possible explanation for the reduced use of Shared cost numbers is the possibility that service providers no longer feel the cost burden they carry is serving to reduce the cost to the caller. Again O2 believes the opposite is actually true as service providers can reduce the cost to the caller to zero, simply choosing another number i.e. Freephone 1800.

It is incorrect and inappropriate for ComReg to try to re-impose historic conditions in a market that is now fundamentally different and ComReg's proposal to including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party would be bad for competition and reduce the choices that have developed in a competitive market to both caller and service provider.

O2 believes that ComReg's proposals amount to very onerous price regulation of both O2's wholesale and retail charges for calls to 1850 and 1890 numbers and we do not accept that ComReg has sufficient justification or legal powers to do so. In particular the NNC provisions on charging for calls to these numbers do not support regulation of O2's wholesale charges. Additionally we do not accept that intervention to this extent by means of the NNC could be justified by reference to the consumer protection objectives of the NNC (and the legislative measures on which it is based). If ComReg really believes there is a significant consumer protection issue here resulting from the charges for 18xx calls O2 believes that ComReg should instead focus its attentions on improving consumer awareness of the charges through the various media open to it. O2 would support such an action.

Regarding ComReg's powers to regulate O2's retail tariffs for calls to these numbers we do not accept that as a general principle, the NNC can be used to regulate our retail tariffs. In addition we believe that the use of the NNC to regulate retail tariffs for mobile calls to the specific types of numbers that are the subject of this consultation exceeds the powers granted to ComReg to administer the national numbering scheme.

There is no condition listed in the Annex or Schedule to the current Authorisation Directive that explicitly refers to tariffs charged to consumers. Conditions may be imposed in respect of the usage fees charged to operators for rights of use of numbers allocated to them, but apart from that, there are no other permitted conditions regarding charges listed in the Annex / Schedule.

In order to support its case ComReg goes on to state that in the latest draft of the Authorisation Directive, the first condition in part C of the Annex has been amended to read;

"Designation of service for which the number shall be used, including any requirement linked to the provision of that service and, for the avoidance of doubt, tariff principles and maximum prices that can apply in the specific number range for the purposes of ensuring consumer protection in accordance with Article 8(4)(b) of the Directive 2002/12/EC (Framework Directive)".

However, by proposing to regulate O2's retail tariff, ComReg seeks to impose a condition in respect of numbers for which O2 has not received a right of use. For example, eircom has been granted the right of use in respect of certain bundles of 1850 and 1890 numbers and it is clear from the legislation and from the NNC that ComReg may regulate eircom's right of use of those numbers. However, this does not mean that ComReg's powers can extend to imposing a cap or price change on the charge O2 makes to its customers for calling a number that has been attributed to another operator.

Q. 3. If the proposal in Q2 is agreed, it could be appropriate to then change the designation of these numbers from "Shared Cost" to something else (perhaps related to their business-oriented functionality?). Do you have a suggestion for a new title?

N/A. Please see our response to Q.2.

Q. 4. Do you agree that it is appropriate to treat 1850 numbers and services in the same general manner as those of 1890, or do you consider that the circumstances demand that some distinctions must be made? Please provide detailed reasons with your response. In particular, please comment or provide suggestions on how best to deal with the payment deficit that very long-duration 1850 calls incur?

O2 does not agree that it is appropriate to treat 1850 numbers and services in the same general manner as those of 1890.

1850 and 1890 numbers serve completely different functions and needs. For O2 the charges on 18xx call types varies as follows; **(all charges expressed in average effective per min. rates)**

Clearly from the above it can be seen that the charges for 18xx services range from predominantly retail based as in 1890 to entirely wholesale based as in 1800.

The appropriateness of the use of a particular 18xx number range largely depending on the level of charge the end corporate client wishes to incur and also the level of charge they wish their customers to incur when calling the 18xx number.

To "treat 1850 numbers and services in the same general manner as those of 1890" as proposed by ComReg would be bad for competition and reduce the choices available in the market.

With regard to the "payment deficit" on long duration calls correctly identified by ComReg we wish to point out that a similar payment deficit potentially exists on 1800 freephone calls given the very low total charge for such calls. With regard to suggestions on how these deficits can best be dealt with we believe a mechanism already exists in this competitive market and that is the fact that MNO's could potentially raise their wholesale charges for 18xx services. To date the level of the deficit and competitive forces have not made this necessary.

Q. 5. Do you agree that a risk of arbitrage can arise in respect of long-duration calls with fixed caller payments? Please provide reasons with your response and indicate how any arbitrage risk could be ameliorated.

O2 agrees that a significant risk of arbitrage can arise in respect of long-duration calls with fixed caller payments. The risk relates primarily to activities of calling card companies and has been extensive in the past. However O2 believes that an effective mechanism exists to deal with the issue and that is MNO's having flexibility on the level of time based wholesale origination charges it can apply to such calls. It is imperative that this flexibility is maintained going forward and that ComReg does not instigate wholesale price changes that cause significant harm to originating operators.

Please also see our response to Q.2. regarding our views on ComReg's legal powers to implement such price changes.

Q. 6. Do you support the option of charging based on a mobile equivalent rate, as described in the Conventions, the overall approach and the related changes to the Conventions? Please provide detailed reasons with your response. If you have a preference between this approach and that referred to in Q. 2, please indicate which you prefer and explain why.

O2 does not support the option of charging based on a mobile equivalent rate, as described in the Conventions, the overall approach and the related changes to the Conventions.

O2 does not agree with ComReg's implied view on retail price setting in the mobile world. Mobile prices are not set on a cost-plus basis and to imply that they should be ignores differentiation and innovation in a very competitive market. Mobile operators do not price individual call types in isolation, instead both wholesale and retail tariffs are set in combination as part of a competitive price plan offering in a competitive market place, changes to price levels in Wholesale charges impact on Retail charges and changes to Retail charges for individual call types in price plans impacts Retail charges for other call types.

In addition ComReg's proposals on the Mobile Equivalent Rate are very unclear and would only increase consumer's confusion. For example, if the call terminates on-net V's offset-mobile V's a fixed number would there be different charges – which one do we use? Or do we use different prices depending on the terminating network, which would in turn not be transparent to the caller?

We have already stated our views on ComRegs legal powers for price regulation to the extent proposed here.

Therefore we will concentrate our response in this section on the impractical and unworkable nature of this ComReg's proposal. Firstly there is good reason why the term "local rate" only applies to fixed line services and that is the fact that there is no mobile equivalent. Mobile tariffs for domestic charges do not vary based on national geographic termination point however mobile operators in Ireland have a vast array of effective domestic tariffs.

Comreg's proposal to introduce what it calls "the Mobile Equivalent Rate" is flawed, unworkable and will only serve to stifle innovation in Mobile price plans across the industry.

All we know at this stage is that ComReg defines the Mobile Equivalent Rate as "the equivalent of calling a geographic number from a mobile network". By this does ComReg mean?

- The headline price for calling a geographic number in the most widely used pre and post paid price plans of an operator or,

- The headline price in each individual type of pre and post paid price plan or,

- The effective price paid by an individual consumer on their particular price plan when calling a geographic number. This of course becomes even more unfathomable for consumers that have bundled price plans. Take even a simple voice only bundle and for illustration purposes assume the consumer gets 500 domestic minutes for 40 euro per month but in most months only uses 350 – 400 of those minutes. Is Comreg proposing that we charge that consumer 8c i.e.(4000c/500 mins.) for calling an 18xx number or is ComReg proposing that we charge that consumer 10c i.e.(4000c/400 mins. used) and if so is ComReg proposing that we would continually adjust 18xx call charges to take account of actual usage in a particular month?

Q. 7. Do you agree with the proposed new conventions that ComReg has inserted in section 10.7.6 of the Conventions dealing with Shared Cost Numbers that translate into mobile destinations? Please provide detailed reasons with your response.

O2 completely disagrees with the proposed new conventions that ComReg has inserted in section 10.7.6 of the Conventions dealing with Shared Cost Numbers that translate into mobile destinations. The proposal would lead to different prices for callers depending on where the number is hosted, however the caller wouldn't know anything about this as the caller can't tell if the number is hosted on a Mobile or a fixed network? ComReg has not justified its proposal and the proposal makes no sense.

Q. 8. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.6 of the National Numbering Conventions dealing with whether labels implying low cost may be applied to services offered on 1850/1890 numbers? Please provide detailed reasons with your response.

O2 believes that it may be appropriate to review the labels for these call types however we believe that such a decision is better made when the outcome of this review is clearer.

Q. 9. Do you agree with the proposed revision of section 10.7.7 of the Conventions for 0818 numbers, setting the maximum tariff for fixed-line calls at local rate, instead of the former national rate? Please provide detailed reasons with your response.

Yes, for consistency given the evolution of fixed call charges generally, O2 agrees with the proposed revision of section 10.7.7 of the Conventions for 0818 numbers, setting the maximum tariff for fixed-line calls at local rate, instead of the former national rate.

Q. 10. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.7 and 10.7.8 of the Conventions (for 0818 and 0700 numbers, respectively), dealing with tariffs for mobile-originated calls? Please provide detailed reasons with your response.

O2 does not agree with the proposed new convention that ComReg has inserted in section 10.7.7 and 10.7.8 of the Conventions (for 0818 and 0700 numbers, respectively), dealing with tariffs for mobile-originated calls.

The proposed new Conventions refer to the "caller's current mobile tariff for calls to geographic numbers" in the case of mobile calls. Not only is this impractical and unworkable as detailed in our response to Q.6 when discussing the "Mobile Equivalent Rate" it is also an unwarranted and unjustified intrusion into Mobile operators flexibility in structuring their Retail tariffs in a very competitive market. ComReg's proposal would remove competitive tariff differentiation and stifle future tariff innovation.

With regard to 0700 Personal Numbering services, O2 believes that the use of such numbers in the Irish market is virtually non-existent and as such these numbers should be recovered by ComReg provided that the other operators in the market have a similar view on their utility.

Q. 11. Are you aware of reasons why the cost of calling 0700 Personal numbers should vary very significantly between individual mobile networks (and perhaps to a lesser degree between fixed-line networks)? Please describe these.

N/A. Please see response to Q.10.

Q. 12. Are you aware of any significant abusive practices on 0818 and/or 0700 number ranges that might explain precautionary or dissuasive pricing levels by operators and/or which might be serving to bring those numbers into disrepute? Please describe these.

O2 is not aware of any significant abusive practices on 0818 and /or 0700 number ranges that might explain precautionary or dissuasive pricing levels by operators and/or which might be serving to bring those numbers into disrepute.

Q. 13. Please advise in brief, regarding any specific 0700 numbers or number sub-ranges that you have in use or that you are aware of being in use by others, and the general nature of the services being provided on them.

N/A. Please see response to Q.10.

Q. 14. Do you believe it is better to have a single or a dual price structure for „076" numbers (i.e. based on „076 -A" for tariff A and „076 -B" for tariff B, in the latter case)? Please provide detailed reasons with your response.

O2 believes that it is better to have a single price structure at the higher level to match geographic number call charges from fixed lines. This higher level then gives fixed line operators the flexibility to charge at lower levels should they chose to do so in differentiating their retail tariffs. However, O2 does not believe that the analysis carried out by ComReg or the views expressed by ComReg in this Consultation document are sufficient to warrant the level of retail price regulation proposed by ComReg. O2 believes that further more robust analysis is required by ComReg before it proceeds and in particular a full and detailed analysis of the actual under lying cost for these call types is required. Indeed we believe that a lack of detailed analysis is a common problem through-out this consultation document. Throughout the consultation ComReg makes a number of assertions but provides little or no empirical evidence to support its views whether they are views on costs, pricing behaviours of operators or consumer usage behaviours.

Q. 15. Do you agree that in the case of a single price structure, that the price limit should be set at or below the cost of a geographic call and in the case of a dual price structure the higher price should be so set, with the lower price being set lower again? Please provide detailed reasons with your response.

Please see response to Q.14.

Q. 16. Do you have views on what those prices should be, taking the above discussion into account? Please provide detailed reasons with your response.

Please see response to Q.14.

Q. 17. Do you agree that any linkage between "076" number tariffs and geographic number tariffs should refer to local call rate instead of national call rate? Please provide detailed reasons with your response.

As stated in our response to Q.14 it is better to have a single price structure at the higher level to match geographic number call charges from fixed lines and to be consistent with regulatory treatment of other numbers this should be the local call rate.

Q. 18. Do you agree that the cost to a mobile caller of calling an "076" number from a mobile network should be directly linked to the cost to the same mobile customer of calling a geographic number? Please provide detailed reasons with your response.

We have already stated our views on ComRegs legal powers for price regulation to the extent proposed here. Please see response to Q.2.

Q. 19. Do you agree with ComReg's remarks about the bundling of calls to non - geographic numbers in general and more specifically to "076" numbers (i.e. treating them the same in that respect as geographic numbers are treated)? Please provide detailed reasons with your response.

We have already stated our views on ComRegs legal powers for price regulation to the extent proposed here. Please see response to Q.2.

Q. 20. Do you agree with ComReg's proposal to replace Condition 15.1 with a reference to the Conventions, which already contains all the necessary obligations? Please provide detailed reasons with your response.

Yes, O2 agrees with this house keeping proposal.

Q. 21. Do you wish to comment on issues not discussed adequately in your view in this consultation and which bear on the Conventions? *Note: Please also study* *the list of less significant changes included as Annex 1 before answering this question.* Please provide detailed reasons with your response.

As stated in the introduction to this response O2 believes that there are many numbering areas that are in need of review and update in order to provide conditions that are essential to the maintenance of a properly functioning numbering scheme into the future, areas such as;

- Review and update of number Allocations.
- Ensuring adequate supply of numbers
- Review on efficiency of use for allocated numbers
- Technical function / limits to use etc..

One such area of particular importance is the need to review and amend restrictions on the mobility of geographic numbers. Currently the numbering conventions allow for limited mobility on geographic numbers however O2 believes that there are no significant reasons why geographic numbers should not be fully mobile. Limiting the mobility of geographic numbers as is presently the case stifles innovation in a telecoms world that is seeing increased convergence of fixed and mobile services. O2 requests ComReg to remove this restriction as a matter of urgency.

Other important areas in need of urgent review are the process / procedures and rights of use for numbers in new innovative service areas such as Machine to Machine (M2M). The existing rules for number re-use / recycling and quarantine are not appropriate or workable in such services.

It is also the case that consumers are themselves finding uses for pre paid SIM's in particular which do not give rise to a billable or chargeable event, as a consequence these SIM's can enter the quarantine and recycling process on multiple occasions with the consequent overhead cost to Mobile operators. Greater operator flexibility is required in order to manage this area more efficiently.

ComReg needs to consult on these issues as a matter of urgency.

Q. 22. Do you wish to comment on any of the proposed changes to the Numbering Applications Procedures document, or on the document itself? Please provide detailed reasons with your response.

In Section 3.2.2.4. a and b - ComReg has gone beyond the changes in the Directive. ComReg is proposing the following additional text:

Network Operators shall . . . .

> ensure, where technically and economically feasible, and provided that a called subscriber has not chosen for commercial reasons to limit access by calling parties from specific

geographical areas, that end-users on their networks, or calling their networks, as appropriate, are able to:

a. access and use services using non-geographic numbers within the Community, ***including all Irish non-geographic numbers***. This obligation shall become effective following transposition of European Directive 2009/136/EC Article 28(1)(a); and

b. access all relevant[6] numbers provided in the Community (***including all relevant[6] Irish numbers***), regardless of the technology and devices used by the undertaking, including those in the national numbering plans of Member States, those from the ETNS and Universal International Freephone Numbers (UIFN). This obligation shall become effective following transposition of European Directive 2009/136/EC Article 28(1)(b)

The amendment to the Directive states:

> 28. 1. Member States shall ensure that, where technically and economically feasible, and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, relevant national authorities take all necessary steps to ensure that end-users are able to:
>
> (a) access and use services using non-geographic numbers within the Community; and
>
> (b) access all numbers provided in the Community, regardless of the technology and devices used by the operator, including those in the national numbering plans of Member States, those from the ETNS and Universal International Freephone Numbers (UIFN).

ComReg needs to explain why there is additional text included here – what specifically it means, and how does it change the obligation?

10 Terry Sadlier

From: Terry Sadlier
Sent: 31 August 2010 09:34
To: Market Framework Consult
Subject: Reference : Submission re Com Reg 10/60

I'm writing to express my concern regarding the the use by firms of telephone numbers prefixed with 1850 & 1890 (+ 08 too); They are held out as being low priced (lo call / call save) when they are anything but.

I switched my phone to UPC from UTV recently as I was attracted by the all-in-package of €18 per month, having previously been charged only if when made calls during at peak times. As I retired in Oct last, I decided, as I was likely to use the phone during the day, to move to UPC. I did not realise however that what they refer to as service / non geographic calls were outside the package (it was buried in the small print).

I now realise that such service calls can well in fact be dearer than either national or local calls (see link to UPC's tariff sheet http://www.upc.ie/phone/tariffs/). The nature of such calls too is such that they tend to be quite long by the time one gets through to real people - making a bad situation even worse for me as the calls are charged separately to the bundle I bought into.

I am certain that the vast majority of users of these call numbers are completely unaware of the fact that using such numbers can be very much more expensive than availing of the geographic numbers to the same destinations (which I found can sometimes be gleaned from the web sites of the service providers - by reference to the outside of Ireland phone number). A good example of the range of numbers used by firms is to look for instance at the Bank of Ireland web site http://www.365online.com/ ; customers of the bank use many of the numbers provided here including 0818 & 1890 without realising, I'm sure, that in the case of the former they are in fact adding to the banks income & in the case of both that the cost of the calls may well be higher than if they used the geographic number contained the number prefixed with 353. Surely there is an inbuilt incentive to the firms using 0818 prefixed to do nothing to make the call process quicker or more efficient.

It is my firm belief that there is an urgent need for greater transparency in this area & with 0818 prefixed numbers too which I understand actually the firms using them share in the charges made.

Firms should no longer be allowed to refer to these numbers in such a way as to appear to be low cost. I think also that firms using the numbers should be obliged to provide geographic alternatives.

[Contact details removed, by request]

11 Vodafone

Vodafone Response to the Consultation on the Sixth Review of the National Numbering Conventions

Ref. ComReg Document 10/60 Response Date: 1st Oct 2010

Introduction

Vodafone welcomes the opportunity to respond to this consultation on the Sixth Review of the National Numbering Conventions. Our views in relation to the proposals set out in the document are set out in full in response to the consultation questions below.

Response to Consultation Questions

Q1. Do you agree with the proposal to remove the current obligations in the Conventions regarding Regtel and SI No. 194 of 1995 in respect of Premium Rate Services and Premium Short Message Services? Please provide detailed reasons with your response.

Yes. Vodafone agrees with the proposal.

Q2. Do you agree with the proposals to amend the conditions attached to the rights of use for 1850 and 1890 numbers by including a new condition that all costs for originating mobile calls to 1850/1890 numbers should be collected from the calling party? Please provide detailed reasons with your response.

Vodafone does not agree with ComReg's proposals to amend the conditions in the manner proposed. Vodafone believes ComReg analysis and proposals contain a number of manifest errors, some of which will be addressed in more detail below. However, in summary, the following are the areas in which Vodafone would have the main concerns and where we believe ComReg's proposals to be fundamentally flawed.

1. ComReg is acting outside its power when it proposes to regulate both the retail price of calls for mobile (particularly in this instance, the price of mobile calls to geographic numbers) and the mobile wholesale voice access markets. The retail market for mobile calls has already been found to be competitive and ComReg has provided no evidence as to why it should impose obligations in the wholesale market without a proper market review.

2. ComReg is also acting ultra vires in its application of the numbering convention provisions in this instance by proposing to intervene in the commercial arrangement between interconnected operators for the conveyance of particular number ranges. In this case, the commercial arrangements that exist do so in order to support the designation of 1850\1890 as shared cost numbers and to provide certainty as to the retail price. This is already the de-facto position for Vodafone customers dialling 1850\1890 numbers where pricing is already in line with the current numbering conventions.

3. Comreg has demonstrably failed to show that there is consumer harm in this instance and instead relies on anecdotal evidence of complaints without providing supporting information and detail as to the extent and scope of these complaints. Even this anecdotal evidence, when examined, by no means supports ComReg's case.

4. ComReg's proposal to remove Mobile Origination (MO) charges will lead to an increase in the retail price of calls to 1850\1890 and to all mobile callers to geographic numbers.

ComReg has made no attempt to analyse and quantify the welfare effects of such price increases.

5. ComReg's Impact Assessment (IA) concedes that it is possible for retail prices to increase under its proposal. This cannot be reconciled with ComReg's claims that the proposed intervention is in the interest of consumer protection.

6. ComReg is acting contrary to its own objectives in proposing this form of regulatory intervention. In the IA (Section 9.1 Policy Issues and Objectives), ComReg states that it wishes to 'enhance consumer trust in the use of these number ranges' and 'bring call charges into line with the levels originally planned for these number ranges'. In the first instance, regulatory intervention which triggers increased retail prices can hardly be said to enhance consumer trust. Secondly, ComReg does not explain how removing MO charges – in effect the means to supply the service provider cost sharing element of 1850\1890 – can bring charges to the levels intended i.e. in line with a shared cost model.

7. ComReg states that as well as addressing the alleged high cost of calls to consumers, it is seeking to address the concerns of service providers that use 1850\1890 as codes. Comreg does not show where it derives the power to impose remedies in mobile retail and wholesale markets in order to address the concerns of service providers of the claimed high charge for 1850\1890 provision. The EU directives which ComReg claims gives them the power to act on maximum retail prices can only be invoked in the interest of preventing <u>consumer</u> harm. They cannot be used to further the interests of corporate entities or, as is most likely in this proposal, other telecoms operators.

8. Without prejudice to Vodafone views in point 5, ComReg's analysis of the full range of 1850\1890 costs and charges is entirely incomplete and therefore any conclusions drawn as to the appropriate remedy are unsound. ComReg acknowledges that there is a complicated supply chain in the delivery of calls from the caller to the service provider. However, ComReg proposes to regulate only the mobile elements of the supply chain (both retail and wholesale) and due to 'the regulatory complexities that relate to wholesale termination rates' to ignore the other major cost elements. This is even where (as in the case of 1890 provision), the terminating operators cost forms the bulk of the charge to the service provider.

9. ComReg has failed to analyse the efficacy of the alternative means by which mobile and other customers can connect to service providers for the same services provided via 1850\1890 numbers.

10. ComReg also unjustifiably omits consideration of the competing terminating operators who offer 1850\1890 provision at significant discount to eircom and other large providers. There are very workable supply-side substitutes in all elements of this market.

11. ComReg is entirely inconsistent in its proposed treatment of the mobile interconnect charges for 1850\18090 and the termination charges for other services under consideration in this consultation. **[redacted]** ComReg makes no reference to consumer harm in relation to calling these numbers and does not propose regulating terminating charges.

12. Comreg has failed to supply any objective market evidence regarding the usage trends for calls to 1850\1890. In short, respondents are expected to supply comments on the proposals without knowing anything about the traffic trends or demand characteristics and where, in spite of ComReg's assertions of harm, there has not been a fall in demand for the

services. Individual mobile operators will have their own data patterns but with different retail and MO charges in the market, they can only speculate as to the overall market situation.

13. ComReg has failed to show the effect on inter-operator money flows that would arise as a result of their proposal. Vodafone considers that if this proposal were implemented then essentially all savings from this measure would accrue directly to terminating operators with no assurance or certainty that service providers would benefit. In this consultation, ComReg has already declined to examine wholesale fixed termination due to its complexity and cannot give any assurances that the additional revenue would be competed away. Again, many respondents to this consultation are expected to formulate their replies in the absence of this key information.

14. ComReg believe there is a lack of transparency and refers to the fact that as the MO charge is not transparent to calling customers, this somehow allegedly contributes to the high cost of the service. If this reason were to form the basis for regulating previously unregulated markets then virtually all inter-operator calls would be susceptible to regulation. Almost all inter-operator calls attract transit charges, termination charges and origination charges, none of which are transparent to callers.

15. ComReg refers to 'disproportionately' high charges throughout the consultation but fails to demonstrate how it reaches this conclusion. Vodafone's retail price for calls to 1890 is the same as calling geographic fixed numbers[1]. Vodafone's retail price for calling 1850 is approximately 25c ex vat for an unlimited duration call. **[redacted]** While the charges of other operators do differ, it is Vodafone's belief that they are of a similar average level. Comreg has simply no basis for asserting that calls from mobiles to these number ranges are disproportionately high.

16. ComReg fails to identify that mobile operators do compete for calls to shared cost numbers, particularly to 1890. Per minute charges vary from the standard charge for calls to geographic numbers in the case of Vodafone to 15c, 30c and 35c in the case of the other mobile network. For customers who value this call type, there is considerable choice and a range of pricing options.

17. ComReg's preferred option that operators should include calls to 1850\1890 as part of inclusive bundles has the potential to remove a competitive differentiator from the market. There is already significant variation in the cost of calling 1890. It is quite possible that some operators will choose to include some shared cost services in fixed bundles going forward.

[1] 24.7c per call for Pay Monthly and 25.5c per call for Prepay

On the basis of the points raised above, Vodafone believe that ComReg's proposal that all the costs of calls from mobile to 1850\1890 numbers should be borne by the calling customers (i.e. eliminating the MO or shared cost element) is fundamentally flawed on many levels and should not be implemented. Vodafone will vigorously oppose any ComReg attempt to include this measure as part of the updated numbering conventions.

The following section will now examine some of the issues raised above in more detail.

ComReg's legal basis for regulating retail and wholesale charges for calls to 1850\1890 from mobiles

It is ComReg's contention that its power to regulate retail prices by way of the Conventions derives from Condition C1 of Part C of the Schedule to the Authorisation Regulations published in 2002 (Directive 2002/20/EC – Authorisation Directive). Regulation 14(1) of the Authorisation Regulations ("Conditions attached to rights of use for numbers") states that "The Regulator shall, as soon as practicable after the commencement of these Regulations, specify conditions which shall attach to a right of use for numbers provided that it may only attach such conditions as are listed in Part C of the Schedule." ….

Condition C1 of Part C of the Schedule then states that [a condition which may be attached to rights of use for numbers is] "Designation of service for which the number shall be used, including any requirements linked to the provision of that service."

ComReg state that '*they always understood clearly that this condition provided powers to set down tariffs and this conviction was shown to be fully justified with the inclusion of a clarification of precisely that point in the 2009 amendment to the corresponding provision in the Authorisation Directive (to be transposed by 25 May 2011, at latest)*'.

The referred to Condition, included as Point 1 of Part C to the Directive Annex, is as follows, "*Designation of service for which the number shall be used, including any requirements linked to the provision of that service and, for the avoidance of doubt, tariff principles and maximum prices that can apply in the specific number range for the purposes of ensuring consumer protection in accordance with Article 8(4) (b) of Directive2002/21/EC (Framework Directive)*."

Acknowledging that the Directive has yet to be transposed, it is ComReg's contention that the added text is only in the nature of a clarification that removes any doubt about the intent of the pre-existing text, already to be found in the original 2002 unamended Directive, as well as in the Irish regulations.

ComReg may well believe that it was always within its powers to set maximum retail prices for designated numbers in the conventions and that changes under the new directives only confirm ComReg's belief. However, to date, ComReg's belief has not been legally tested and Vodafone would contend that it is by no means certain that ComReg's opinion in relation to the extent of its powers – both in the current and the new directive – is correct. However, without prejudice to Vodafone's views on this point, we believe that in proposing the above obligation and associated spill-over regulation into the retail price of mobile calls to geographic numbers and the mobile wholesale access market - ComReg is acting outside the powers it presumes to have under the current and new directives.

ComReg states that its main functions in relation to the Numbering Conventions are 'to lay down conditions attached to rights of use for numbers and to describe ComReg's procedures for granting rights of use in accordance with the Authorisation Regulations and the Framework Regulations'. This document [the Numbering Conventions] also implements certain obligations related to numbers that arise from the Universal Service Regulations, the Access Regulations, the Act of 2002 and European Commission Decisions.

In the first instance, 'rights of use' obligations apply only to users or applicants for specific numbers within the national numbering space. These 'rights of use' do not infer any obligation on networks originating or transiting calls which terminate on particular number ranges.

The obligations regarding the designations attached to the 'rights of use' of numbers also apply only to those parties who have been allocated the numbers in question. If commercial arrangements exist that permit those granted the right of use to ensure that they are operated in line with the designation, then ComReg should not intervene in those commercial arrangements and Vodafone would further contend it has no legal basis on which to intervene.
Section 13.1 (1) of SI 306 of 2003 (Authorisation) grants ComReg powers regarding the allocation of rights of use of numbers to applicants - '*The Regulator may, on receipt of an application in such form as it may, from time to time, determine, grant a right of use for any class or description of number, to any undertaking or such other person of a class or description as the Regulator considers appropriate, subject to Regulations 14 and 18(1)(c) and to Regulation 22 of the Framework Regulation'.*

Section 13 (3) which states that '*The Regulator shall make any decision on the grant of a right to use a class or description of number as soon as possible after receipt by it of the complete application <u>and in the case of a number that has been allocated for a specific purpose</u> (emphasis added) within the national numbering scheme, within 3 weeks after such receipt*' makes it clear that the obligations relating to the designation are conferred on those who are granted the rights of use.

Nowhere in the Framework or Authorisation is ComReg granted powers to impose obligations on network operators who originate or transit calls to those terminating operators who have been granted the rights of use to particular number ranges.

Comreg states that the '*numbering obligations set down in ComReg's National Numbering Conventions pursuant to these powers are all targeted at protection of consumers and are fully in accordance with the objectives of the above quoted Article of the Framework Directive'*. From the Framework Regulations (and as included in the Numbering Conventions), a consumer is defined as '*any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade or profession'*. Without prejudice to Vodafone's views on ComReg's powers in this regard, changes in the numbering conventions cannot be invoked as a means of addressing the concerns of corporate or other business or trade entities regarding charges for telecommunication services. The concerns of these entities (i.e. the service providers using 18xx number) whatever their respective merit, cannot be used by ComReg as a basis for imposing maximum retail prices on mobile operators or intervening in inter-operator commercial arrangements.

Requirement to demonstrate consumer harm

Without prejudice to Vodafone's views on ComReg powers, it is obvious that if ComReg chooses to impose the proposed changes to the conventions, it must first demonstrate that it has identified some material instance of consumer harm that would justify imposing regulation in the competitive retail and wholesale mobile markets. In 10\60, Vodafone contends that ComReg has failed utterly to demonstrate that this is the case.

Regarding evidence of harm, ComReg refers to a *'continuous flow*' of complaints from consumers and service providers in relation to calls to 1850\1890. ComReg gives no indication of the actual volume of complaints and relies solely on this anecdotal reference as the basis for the intervention. ComReg does not specify whether and in what proportion the complaints refer to the calls from fixed or mobile or whether the complaints refer to the hosting network charges, retail charges or both. Respondents to the consultation are left completely in the dark as to the extent and scope of the alleged problem by ComReg's failure to provide any documented evidence. By any reasonable standard, this is hardly sufficient evidence of consumer harm that would warrant intervention in competitive markets. We believe this point is effectively conceded by ComReg when it states '*that the **apparent dissatisfaction** (emphasis added) with the current operation of Shared Cost Numbers needs to be addressed*'. It is ComReg's duty to demonstrate real consumer harm before proposing retail and\or wholesale obligations on competitive markets and not to be reliant on some measure of apparent dissatisfaction.

[redacted]

On this basis, Vodafone can understand how ComReg's preferred option in its impact assessment is that operators include 1890 number as part of inclusive bundles – though we note that Comreg acknowledges it has no power to impose such an obligation. However, if operators do not adjust inclusive bundles to include 1890 calls, then ComReg does not have any legal basis for moving onto its second option i.e. imposing no out-payments for mobile originated calls. Vodafone believes that the inclusion of these calls in bundles represents a potentially clear differentiator in the market place particularly for those who access these codes frequently. By proposing that it is implemented across all operators, Comreg is in effect removing a source of competitive differentiation in the market.

Vodafone has already stated above that ComReg has no legal basis for imposing regulatory obligations on mobile operators on the basis of complaints from corporate entities. **[redacted]** ComReg's only reference to the pricing of 1850\1890 provision is that '*eircom…..has adjusted its charges and that this has brought some improvements to help service providers but the main problem remains*. Some further investigation on ComReg's part would show that other fixed providers are prepared to do more then 'adjust' their hosting charges and can offer significant savings for service providers. **[redacted]**
Regarding the alleged extent of consumer harm, ComReg noticeably fails to provide any evidenced based reasoning to support its contention that regulatory intervention is required. Respondents are given no opportunity to analyse the traffic tends, demand shifts or the status of supply-side substitution which could help support or rebut ComReg's position. This is a serious omission which seriously undermines ComReg's case for intervention.

[redacted] This demonstrates clearly that firms continue to offer service access via 1890 numbers and that customers continued to call those services **[redacted]**. There is clearly perceived value by both parties to this interaction. This evidence undermines ComReg's contention that there is a consumer harm issue in relation to the cost of calling 1890 numbers from Vodafone.

To further support its position that there is a requirement for regulatory intervention, ComReg would need to demonstrate that there is no reasonable and cost-effective alternative for customers wishing to contact the required service provider i.e. that there is no demand side substitute for the service. This is plainly not the case. ComReg themselves point to the 'Say No to 1890' website which contains a comprehensive list of alternative geographic numbers which can be used to contact service providers and which in some cases will form part of a monthly bundle. Some service providers (including ComReg who also helpfully provide text to explain that there may be a variation in prices depending on the originating network) provide an alternative geographic number for access.

There are clearly supply side substitutes for service providers who believe that the commercial/economic value of 1850/1890 numbers is less than their cost. These include geographic numbers and 0818 numbers. Some service providers have moved to these substitutes and some have not. For those that have not the benefit accruing from the ongoing use of these numbers must outweigh the current cost. Any agitation on their behalf is therefore not aimed at ensuring continuity of the underlying service they offer but at changing the cost structure of their supply chain so that they can obtain a high value input at a lower price. This has nothing to do with any structural deficiency in the market or the Numbering Conventions.

In relation to calls to 1850, Vodafone has previously supplied the following data to ComReg showing the contribution of both the retail and interconnect elements that make up the total Vodafone charges for access to this code.

[redacted]

It shows that, on average, Vodafone customers are paying **[redacted]** a minute for calls to 1850. When combined with the average interconnect payment of **[redacted]**, the combined total is **[redacted]** below the average retail rate for calls to geographic numbers. If ComReg were to remove the mobile origination charge, the retail cost of calling 1850 on the Vodafone network could rise to **[redacted]** in the absence of tariff re-balancing and still be compliant with the current numbering conventions. Vodafone has already stated that if does not believe Comreg has any regulatory power to set charges in the retail market for mobile to fixed geographic calls. However, without prejudice to that view, any attempt to re-balance tariffs between all geographic calls and calls to 1850 (as proposed by ComReg) would expose Vodafone to serious jeopardy from network by-pass activity. Such activity allows other service providers to offer substitute services (typically calls to international destinations but it could be other call types) at low retail cost to the Vodafone customer and under ComReg's proposal, at no cost to the alternate service providers.

Market distortions arising from ComReg's proposal

In 10/60, ComReg freely acknowledge in their impact assessment that as a result of this obligation being imposed on mobile operators, retail charges are as likely to increase as decrease. Since ComReg is proposing to remove the contribution of the service provider to the total cost of these calls (in Vodafone's case, this amounts to **[redacted]** of the total cost in the case of 1850 and **[redacted]** for 1890), it would seem that the possibility of the price decreasing is unlikely. Imposing retail regulation when, on the balance of probability, retail prices are more likely to increase is clearly not ensuring consumer protection. On this basis alone, ComReg should withdraw its proposed change.

It is also difficult to see how one of ComReg's stated objectives in the consultation *'to enhance consumer trust in the use of these number ranges'* is achieved by a proposal which will almost certainly mean an increase in the retail price of calls to 1850[2] and risks an increase in the case to at least some callers to 1890. Even ComReg acknowledges that such price increases might occur and state that this may 'slightly' discourage the use of 1850 services. In the Impact Assessment, Comreg appears to assume that such price increases should they occur would be very small since if operators choose to raise prices, they would at the same time increase the cost to all geographic numbers i.e. price re-balancing would occur. The overall effect would then mean a very small increase across both call types. ComReg has no basis on which to make such an assumption nor has it any legal powers to intervene in retail pricing for mobile calls to geographic numbers in order to impose such an outcome. (For the avoidance of doubt, any attempt to do so would be vigorously opposed by Vodafone). Without prejudice to this view, that Comreg could even make reference to such a rebalancing without regard to the accompanying impact on operators is entirely unacceptable. Changes in retail prices across all packages entail significant expenditure on billing and customer communication. Any increases in retail prices require operators to notify customers and inform them of their rights to terminate their contracts without penalty. There is simply no evidence of consumer harm or other factors that could justify the imposition of these costs and risks on mobile operators.

It is clear that ComReg has provided no evidence based analysis regarding the welfare outcome of the tariff rebalancing it is suggesting nor does it seek to justify why callers with little or no demand for 1850\1890 services should cross-subsidize those who do have such a demand. In summary, ComReg has no idea if its proposal will harm or enhance total consumer welfare. All we can deduce for the ComReg's input is that it is highly probable that the cost of calling 1850\1890 will increase for mobile customers and this is totally at odds with ComReg's stated intent in this consultation. ComReg's only counter to this position is to propose 'spillover' regulatory intervention in the competitive market for mobile calls to geographic numbers.

ComReg does acknowledge in 10\60 Q5, that their proposal may carry the risk of arbitrage for calls to 1850 due to the fixed retail payment. In common with its approach elsewhere in this consultation, ComReg has made no attempt itself to analyse the extent of the arbitrage that might occur or the effects that it would have on mobile operators. It simply asks respondents whether they agree that there is a risk that this might occur and how they would suggest this risk should be ameliorated.

Vodafone has direct experience of this arbitrage and the means by which it can be ameliorated. **[redacted]** At that time on the Vodafone network, there was **[redacted]** calls to 1850 and over **[redacted]** the minutes that there is currently. Our analysis showed that additional traffic was driven by calling card and other by-pass operators. This was possible since the Vodafone MO charge at that time (typically around **[redacted]** per minute) combined with the fixed retail price meant there was a large arbitrage opportunity for these service providers. Average call durations were dramatically higher than current levels (peaking at one stage around **[redacted]** minutes). At this time, the combination of the once-off retail cost to the calling customer and the low MO charge meant that Vodafone's combined charge for calls to 1850 fell to **[redacted]** per minute. This was not sustainable for Vodafone in the long run as the by-pass activity replaced calls which contributed greater margins to Vodafone. In December 2007 (and after two years negotiation), Vodafone agreed an increase in the MO charge with our main interconnect partner. This increase in the MO charge to a level that when combined with the retail price more closely matched Vodafone s average retail rate for calls to geographic numbers. It also succeeded in diminishing by-pass activity. ComReg's proposal of removing that MO charge and re-balancing retail prices

[2] For 1850 with an ex-vat price of 25.5c per call, the average retail price per minute is approximately 5.5c. This is substantially below the average rate for calls to geographic numbers and would have to rise in the absence of a mobile origination charge.

with calls to geographic numbers exposes Vodafone to the by-pass risk again. Vodafone reserves the right to defend its position should this occur.

Q3. If the proposal in Q2 is agreed, it could be appropriate to then change the designation of these numbers from "Shared Cost" to something else (perhaps related to their business-oriented functionality?). Do you have a suggestion for a new title?

Vodafone does not agree that the proposal in Q2 should be implemented and reserves the right to take all available measures to protect its legitimate commercial interests.

Q4. Do you agree that it is appropriate to treat 1850 numbers and services in the same general manner as those of 1890, or do you consider that the circumstances demand that some distinctions must be made? Please provide detailed reasons with your response. In particular, please comment or provide suggestions on how best to deal with the payment deficit that very long-duration 1850 calls incur?

In this question, ComReg does not make it clear what it means by 'treatment'. If this refers to a different approach in relation to the removal of the MO charge, then Vodafone does not believe there should be different treatment and ComReg should not remove the origination charge for either number. Vodafone has made in clear in its response to Q2 that we would use all means at our disposal to resist the imposition of such an obligation.

Without prejudice to this view, it is clear that the different retail structure applying to the two numbers does mean that there are different risks posed for mobile operators in relation to the two services. The fixed retail price for 1850 calls (combined with the removal of MO charges) makes the probability of extensive by-pass activity almost certain and this poses a major financial risk for Vodafone. The only defence available would be to increase the retail price for 1850 to reflect the cost of an average 5 minute call to geographic numbers. Vodafone believe this increase for 1850 could be in the order of **[redacted]**. ComReg's proposal that mobile operators - in order to prevent large retail price increases for 1850 calls - should rebalance the price for all calls to geographic only makes this by-pass threat more certain by artificially maintaining a low retail price for a fixed charge service.

It is obvious from the response given by Vodafone in Q2 that an appropriate MO charge is required to manage the risk of by-pass operators while ensuring that calls to other service providers continue. Vodafone contend that the combination of the current retail and MO charges are at the appropriate level to achieve that purpose.

In summary, Vodafone believe it is appropriate to treat 1850 and 1890 in a similar manner and not remove the associated MO charges in either case.

In relation to long duration calls to 1850, the issue of a payment deficit does not arise if an appropriate MO charge is maintained. Vodafone contends that MO charges at the current level are appropriate in this case. Alternatives entailing retail changes are much more problematic and will lead to the distortions (price increases, contract issues) that have already been addressed in Q2.

Q5. Do you agree that a risk of arbitrage can arise in respect of long-duration calls with fixed caller payments? Please provide reasons with your response and indicate how any arbitrage risk could be ameliorated.

Vodafone agree that there is a risk of arbitrage. In fact, if the relative retail and wholesale balance is not set at the appropriate levels it is certain the by-pass activity will increase. Please see answers to Q2 and Q4 above for more detail of Vodafone's experience of the problems associated with by-pass arbitrage.

Q6. Do you support the option of charging based on a mobile equivalent rate, as described in the Conventions, the overall approach and the related changes to the Conventions? Please provide detailed reasons with your response. If you have a preference between this approach and that referred to in Q.2, please indicate which you prefer and explain why.

While Vodafone believes there may be some merit to the concept of a 'mobile equivalent rate' (MER) in relation to 1890 calls', we believe its application to calls to 1850 is likely to be problematic and could lead to significant price increases if applied on an individual tariff basis as suggested in ComReg's impact assessment. For 1850 calls, Vodafone believe that a single fixed price for all tariff plans (as currently employed by Vodafone for both contract and prepay) is far more preferable in terms of implementation, transparency and level of price.

For calls to 1850, contract and prepay customers on Vodafone pay the equivalent of **[redacted]** per minute for the average length call. Adjusting this amount based on individual calls plans would require significant call data analysis, would lack transparency and prove difficult to communicate and would require significant changes to billing systems. Any changes accruing in retail prices could be anticipated to benefit those on the larger contract bundles and see increases for those on the lower contract tariffs and all prepay plans. Customers on the medium sized contract bundles would likely see little change. Overall, Vodafone view this proposal when applied to 1850 calls as overly prescriptive and believe the negative impact on those whose would see retail prices increase to be unwarranted.

For 1850 calls, it appears to Vodafone that the balance of charges between the fixed retail element and the per minute MO charge are reasonable. It could be argued that apportioning of costs works in favour of the calling customer and against that of the service provider. However, with a fixed retail charge set at a maximum of a five minute call to a geographic number, any attempt to re-balance is likely to prove expensive for calling customers and could choke off demand. In view of the services of social value provided by means of 1850 codes, this would not be a desirable outcome.

In summary, Vodafone believe it is would only be appropriate to change the Numbering Conventions in the manner proposed for calls to 1890 numbers. In the case of 1850 numbers, the proposal could be acceptable once it precluded any reference or attempt to rebalance charges between the retail and MO elements.

For the avoidance of doubt, Vodafone <u>does</u> object to the proposal to apply the MER to other non-geographic calls types as a matter of course and without reference to the termination charges for the calls. It is not appropriate or reasonable to say that calls to 0818 and 0700 should be set at the

MER as defined when the out-payment to such codes can be 6 times higher that the average geographic rate in the case of 0818 and 10 times higher for calls to 0700. In both these cases, the MER could just as reasonably be seen as a call to another mobile operator as a geographic number.

Q7. Do you agree with the proposed new conventions that ComReg has inserted in section 10.7.6 of the Conventions dealing with Shared Cost Numbers that translate into mobile destinations? Please provide detailed reasons with your response.

Vodafone does not agree with this proposed amendment to the conventions. Whether a non-geographic number is eventually terminated on a mobile or fixed number is not transparent to the calling customer or originating network. Any additional charges relating to the terminating network are a matter of commercial agreement between that network and the service provider. It should not impact on the calling customer.

On a practical level it is impossible for an originating network to know where a call will terminate. Variable time of day routing and changes in network host mean that any suggestion that differential retail pricing can be applied to the same dial digit access code based on an unknowable and variable destination is unworkable. In addition this proposal would result in complete price uncertainty for the originating customer completely undermining any consumer welfare surplus that was intended in this regard.

Q8. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.6 of the National Numbering Conventions dealing with whether labels implying low cost may be applied to services offered on 1850/1890 numbers? Please provide detailed reasons with your response.

Vodafone agrees that this approach may be appropriate in the case of calls from mobile to 1890 and would be amenable to considering the removal of references to “Lo-call” in its own customer communication. However Vodafone notes the current shorthand names of Lo-Call and CallSave stem from legacy eircom branding. In order to implement any constraint on the use of these names ComReg would have to find a mechanism applicable to all service providers who stimulate traffic towards their individual numbers to allow these constraints be reflected into the marketing and promotional material of these service providers and not just network operators.

The term Callsave continues to be appropriate for calls to 1850 where customer pay **[redacted]** a minute for an average call – considerably lower than their rate for calls to geographic numbers.

Q9. Do you agree with the proposed revision of section 10.7.7 of the Conventions for 0818 numbers, setting the maximum tariff for fixed-line calls at local rate, instead of the former national rate? Please provide detailed reasons with your response.

Vodafone does not agree with this proposed revision. The average out-payment for calls to 0818 for Vodafone (fixed) is currently **[redacted]** per minute using resale voice services (two suppliers).

The average out-payment for a call to a local fixed number is in the order of **[redacted]** per minute again using resale voice services. Even with the previous designation, there was a considerable difference between the national geographic rate and the 0818 out-payments. Vodafone believe that it is more appropriate that the retail price of calls to 0818 (given their current termination charge) should be set at a rate that does not exceed the lowest fixed to mobile rate (where operators differentiate retail prices based on the mobile termination out-payment.).

Q10. Do you agree with the proposed new convention that ComReg has inserted in section 10.7.7 and 10.7.8 of the Conventions (for 0818 and 0700 numbers, respectively), dealing with tariffs for mobile originated calls? Please provide detailed reasons with your response.

For the reasons to Q9, Vodafone does not agree with this proposed revision. The average out-payment for calls to 0818 for Vodafone (mobile) is currently **[redacted]** per minute. The average out-payment for a call to a local fixed number is in the order of 0.6c per minute. Vodafone believe that it would be more appropriate that the retail price of calls to 0818 (given their current termination charge) should be set at a rate that does not exceed the mobile to mobile rate as it applies to the customer's tariff plan.

Vodafone currently includes calls to 0818 in inclusive bundles at present. This is a commercial decision taken by Vodafone in spite of the current level of out-payments. However, Vodafone does not believe it should be bound to a maximum benchmark retail price for any service where the costs of providing the benchmark service is significantly lower. Setting a benchmark maximum that is higher than the cost of the designated service allow room for operators to compete and set rates lower if they wish as it currently the case with Vodafone in relation to 0818 calls.

Q11. Are you aware of reasons why the costs of calling 0700 Personal numbers should vary very significantly between individual mobile networks (and perhaps to a lesser degree between fixed-line networks)? Please describe these.

Vodafone is not aware as to why the retail costs may vary between different mobile and fixed networks. It case of the mobile market which has been found to be competitive, one would expect to see differential pricing for various services.

Q12. Are you aware of any significant abusive practices on 0818 and/or 0700 number ranges that might explain precautionary or dissuasive pricing levels by operators and/or which might be serving to bring those numbers into disrepute? Please describe these.

Vodafone is not aware of abusive practice in relation to calls to 0818 service but believes these numbers have operated on the basis that there is a financial out-payment (or equivalent commercial arrangement) to the service provider from the terminating operator depending on the volume of calls generated.

Vodafone is aware of a least one TV show which stimulates calls to a chat service which appear to be adult oriented and which uses an 0818 number to obtain credit card details. This show uses an

1580 number as an alternative revenue collection mechanism. The 0818 number is promoted with similar prominence as the 1580 number and this association with adult services has the potential to bring the access code into disrepute. In addition this code is used as an access code for adult services in print media.

When the 0700 number range was launched, at least one terminating operator was offering individual end-users a significant out-payment (effectively a portion of the high termination rate) for every inbound call they received. Vodafone believe that such a practice can lead to abuse of the number range and considerable consumer harm.

Q13. Please advise in brief, regarding any specific 0700 numbers or number sub-ranges that you have in use or that you are aware of being in use by others, and the general nature of the services being provided on them.

Vodafone is not aware of any services being currently offered on 0700 numbers. There is currently no traffic originating on the Vodafone network for this number range. The 0700 is open on the Vodafone network.

Q14. Do you believe it is better to have a single or a dual price structure for '076' numbers (i.e. based on '076-A' for tariff A and '076-B' for tariff B, in the latter case)? Please provide detailed reasons with your response.

For the original reasons given by operators, Vodafone believe a single price structure is still the most appropriate for 076 numbers.

Q15. Do you agree that in the case of a single price structure, that the price limit should be set at or below the cost of a geographic call and in the case of a dual price structure the higher price should be so set, with the lower price being set lower again? Please provide detailed reasons with your response.

Vodafone has concerns about any retail price limit being designated for the 076 number range. If such a limit is mandated, it should remain at the current limit of a call to a geographic number. Any attempt to set the limit lower (even for a separate sub-range) would require the establishment of additional commercial inter-operator arrangements which does not seem justified by the current demand and use of these numbers. The fact that ComReg believes VoIP services are 'perceived' as lower cost does not mean that Comreg should consider a form of market 'making' intervention in perception into a reality. Lower retail prices for calls to 076 should only manifest itself when the lower costs associated with VoIP are apparent through lower termination charges. Competition will then drive retail prices down in line with these lower costs. However, at present VoIP termination remains higher than termination on geographic numbers at **[redacted]** for VoIP and **[redacted]** for geographic numbers (in the case of calls for Vodafone mobile).

Q16. Do you have views on what those prices should be, taking the above discussion into account? Please provide detailed reasons with your response.

Q17. Do you agree that any linkage between ‘076’ number tariffs and geographic number tariffs should refer to local call rate instead of national call rate? Pleaser provide detailed reasons with your response.

Vodafone does not agree with this proposal. ComReg must take account of the magnitude of the out-payment or terminating charge for a service when proposing to set or reduce the mandated maximum retail price for calling that service. In the case of 076 numbers, the limit should remain the national call rate.

076 is an access code for fixed services, the geographic extent of the area to which this “area code” applies is national and international. Vodafone sees no basis for putting a retail price constraint on originating operators that calls to fixed which are national (or international) in nature must be charged as if they were local calls. This would yield a significant commercial advantage to operators offering services on these codes. For example a business based in Cork could canvas customers in Dublin using an 076 number at local call rates while its competitors using traditional geographic numbers would be restricted to canvassing the same customers using 021 numbers at a national rate.

Q18. Do you agree that the cost to a mobile caller of calling an ‘076’ number from a mobile network should be directly linked to the cost to the same mobile customer of calling a geographic number? Please provide detailed reasons with your response.

Vodafone could only agree with this proposal if the terminating charge for VoIP calls was of a similar order of magnitude to the average fixed geographic terminating charge. However, Vodafone currently incurs out-payments for calls to 076 numbers that are **[redacted]** greater than its average out-payment for calls to geographic numbers. On this basis, it is not correct to equate calls to 076 with calls to geographic numbers in general. The onus to reduce terminating charges and thus the retail price for calling those services is clearly on the VoIP providers.

Q19. Do you agree with ComReg’s remarks about the bundling of calls to non-geographic numbers in general and more specifically to ‘076’ numbers (i.e. treating them the same in that respect as geographic numbers are treated)? Please provide detailed reasons with your response.

For the reasons given in the answer to Q18 – the higher cost of terminating 076 calls- Vodafone does not agree that these calls should form part of fixed bundles except as part of normal competitive and differentiation activity.

Q20. Do you agree with ComReg’s proposal to replace Condition 15.1 with a reference to the Conventions, which already contains all the necessary obligations? Please provide detailed reasons with your response.

Vodafone notes that Regulation 14(3) of the Authorisation Regulations states that "*The Regulator shall ensure that where a requirement is specified as a condition of a right of use for numbers such a requirement shall not be specified as a condition of the general authorisation in respect of the right of use concerned.*" The previous wording of the General Authorisation which in effect made compliance with the Numbering Conventions (and the conditions of rights of use specified therein) a condition of the General Authorisation raised questions in relation to the provisions of Regulation 14(3) above. The proposed change to the General Authorisation appears to remove conflict between the General Authorisation and provisions of Regulation 14(3).

Q21. Do you wish to comment on issues not discussed adequately in your view in this consultation and which bear on the Conventions? Please provide detailed reasons with your response.

ComReg has proposed a number of changes in the Conventions which, if implemented, would require that operators change retail and/or wholesale billing systems, require changes in retail contracts, require changes to interoperator contracts and may give raise to network or other changes. Neither the consultation nor the draft wording of the conventions assesses, nor makes provision for any lead-in period for such change. Rather, based on the proposed wording, these changes would become operative immediately upon publication. The date of publication is unknown to those affected.

In this regard ComReg's consultation on these aspects of the Conventions is materially deficient as it fails to properly address or consider these practical and substantive issues. Any measure adopted without proper consultation on these aspects would in Vodafone's view amount to a serious error on the part of ComReg.

That ComReg has adopted this approach significantly increases regulatory uncertainty in the market. An operator carrying out billing system changes, defining new retail propositions or negotiating with other operators finds itself unable to rely on any time horizon for the continuation of the current regime and faces the prospect that it must implement IT changes and other changes in an unplanned way which displaces other planned and scheduled activity. This causes inefficient investment and constrains the market as operators must make provision for this potential unscheduled activity. The uncertainty caused by ComReg's approach in this case is not just in relation to Numbering Convention issues but to all regulatory issues. The fact that it has done so here raises the possibility that ComReg will adopt this approach in connection with other measures.

Q22. Do you wish to comment on any of the proposed changes to the Numbering Applications Procedures document, or on the document itself? Please provide detailed reasons with your response.

In addition to the response to the previous consultation questions Vodafone wishes to make the following additional observations on the text of the proposed National Number Conventions document.

There appears to be a material error in the definition of "Mobile Numbers" which refers to "*a number from the national numbering plan commencing with the network code 08X, where X can* *represent any digital character 0-9*". The access code "080" is defined elsewhere in the Conventions as being used for fixed voice mailbox access and the digits "081" are the first digits of the Universal Service Access code "0818" which is also defined elsewhere in the conventions.

The definition of PSTN now includes "*the narrowband mobile network*". This would appear to be too wide as this could include narrowband data services on 2G networks. The potential inclusion of packet based data services which do not use resources from the numbering space is inconsistent with the inherent characteristic of the PSTN that it be "switched".

Arising from the inclusion of mobile networks in the definition of PSTN there appears to be a number of redundancies in the wording of the Conventions. These include footnote 35 which states "*The term PSTN is used here in its widest sense, including ISDN and mobile public networks*", Section 10.7.11 which states "…*shall be used to route traffic from the PSTN or ISDN or mobile network* …" and Section 11.2 which states "…*in respect of PSTN, ISDN and Mobile numbers*…". Vodafone suggests that these redundancies be removed to avoid the possibility of disjoints arising between the different sections of the Conventions in respect of the meaning of PSTN and to simplify the future revision of the Conventions.

There appears to be an editorial error in the "mark-up" version of the proposed Conventions with the heading "Charging Fees for Numbering Allocations" not having an associated Section number. On a substantive point subsection 1 of this un-numbered section provides that "*Recipients of numbers, number blocks or codes from ComReg shall not charge subscribers for allocations of numbers or codes, except in accordance with any direction from ComReg authorising charges.*" Vodafone is unaware of any direction from ComReg which currently directs operators to charge for secondary allocations of additional DDI numbers. However such charges are common in the market. The wording would therefore appear to amount to a prohibition on the continuation of this practice.

Section 10.7.2 Geographic Numbers and Services

The proposed Conventions provide that *"Geographic number allocations shall not exceed a maximum of two numbers per registered user*". Registered user is an undefined term and is open to interpretation. In addition this would appear to prohibit the allocation of DDI ranges. By way of example it would appear that a secondary allocation from a service provider of a DDI block of say 100 numbers would be prohibited.

Vodafone notes the proposed provision that customers are advised of *"…of any limitations of their service provided on those numbers (including delivery of calls to the emergency services)".* Vodafone can understand the reasoning behind this proposal. However geographic numbers are used for the purpose of terminating calls to those numbers and are not intrinsically required for originating calls, including those to emergency services. It is not clear that ComReg has any vires to attach as a condition of right of use to a number a requirement which has nothing to do with the use of the allocated number for terminating calls (in this case a requirement for specific content in retail contracts relating to origination services). In this regard Vodafone notes that particularly in the case of IP based services the "*new and/or innovative services"* mentioned by ComReg could be provided as origination only services. In this case the Conventions could have no applicability to the originating operator and would apply on a discriminatory basis to those with number allocations. ComReg would have to find some other mechanism to extend this requirement to such operators. To use such an alternative mechanism for all operators would appear to be simpler and more robust.

10.7.3 Fixed Mailbox Numbers

This provides that "*Calls to fixed line mailbox services, using the access code 080, shall be clearly identified on itemised bills. The information provided shall include number, date, time, duration and charge in accordance with Decision Notice D9/01, and shall also identify that the call was to a mailbox service*;"

Vodafone is of the view that legal underpinning of the referenced Decision Notice is no longer valid. On this basis ComReg is acting without legal basis in purporting to impose this obligation on operators.

10.7.4 Non-geographic Numbers and Services - General

This Section states "No undertaking shall terminate calls to a number-translation code (NTC), or translate the NTC into its underlying geographic, mobile or other number, unless it is the undertaking to which the NTC has been allocated or subsequently ported". Vodafone agrees with the underlying principle however the admonition is directed at undertakings other than that which is allocated the number. It is axiomatic that if an undertaking has not been granted a right of use it cannot be bound by conditions attached to that right of use. Vodafone believes that in the interests of regulatory certainty and to meet the requirements of regulation 19(3) of the Framework Regulations, ComReg should clearly set out the legal basis on which it is purporting to impose this constraint.