PE1285/F

A Three-digit Number for Non-Emergency Healthcare Services

Designating number “111”

This is a non-confidential version of the statement. Redactions are indicated by “[✂]”.

Statement

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Contents

Section 1

Executive Summary

1.1 The Department of Health ("DH") plans to establish an England-wide non-emergency healthcare service on a three-digit telephone number. The service will provide the public with quick and easy access to advice and information on non-emergency healthcare issues and services available in their local area. It will act as an entry point for patients seeking NHS services. Trained call-handlers will respond to requests for health or service information and assess the medical needs of callers to identify which NHS services are best placed to meet those needs and ensure that patients get to the right place first time. It is planned that the service will be piloted in a number of Strategic Health Authority ("SHA") areas in 2010, with the intention to roll-out the service across England, subject to a positive evaluation of those pilots. The underlying policy behind the service has been determined by the DH.

1.2 Ofcom, as the body responsible for the administration of the UK's numbering resource, was asked by the DH to make a three-digit telephone number available, preferably '111', for the delivery of this non-emergency healthcare service. In order to designate a three-digit number for a specific service for use by all communications providers, we need to add this number to the list of such numbers annexed to General Condition 17 of the General Conditions of Entitlement, which covers the allocation, adoption and use of telephone numbers.

1.3 Having consulted on the proposals from 9 July to 20 August 2009[1], this statement sets out our decision to designate 111 for access to NHS non-emergency healthcare services. This designation will allow communications providers to carry this number to provide access to the non-emergency healthcare service.

1.4 During the consultation period we received 214 responses. We have carefully considered all those responses in coming to the conclusion set out in this statement.

1.5 The majority of responses we received were supportive of the introduction of a three-digit number for non-emergency healthcare services. Many respondents felt that the number would provide a simple and clear method for accessing those services, thereby reducing consumer confusion and potentially alleviating pressure on the 999/112 emergency services and accident and emergency ("A&E") services.

1.6 Our consultation also discussed the DH's choice of the number 111, and the appropriate tariff for calling the service. Several respondents, particularly communications providers, indicated concerns about use of the number 111 because of the potential for misdials and 'ghost' calls caused by pulse dialling.[2] The most significant issue was whether calls to 111 would have a charge. If they did, then the cost of these misdials and ghost calls would, to some extent at least, fall on consumers and communications providers.

1.7 We have discussed the potential risks involved in using the 111 number with the DH. The DH has decided that the benefits of the memorability of 111 outweigh the potential additional costs involved in handling misdialled and ghost calls. It has provided a ministerial commitment that it intends to make the number free to caller

[1] Ofcom, *A Three-Digit Number for non-emergency Healthcare Services*, 7 July 2009, p.6. Available at: http://www.ofcom.org.uk/consult/condocs/three_number_non_emergency/main.pdf
[2] See paragraph 4.23 and in particular footnote 11 for an explanation of 'ghost calls'.

and that the NHS will meet communications providers' costs associated with carrying calls to 111, for both genuine and non-genuine calls.

1.8 The DH also developed, following discussions with communications providers, a number of technical approaches to reduce the number of these types of calls. On the basis of the commitment outlined above, combined with these technical approaches, we believe the key concerns put forward by communications providers have been addressed.

1.9 We are therefore designating 111 to the non-emergency healthcare service on the basis of the commitment from the NHS to cover the costs involved in making the number free to caller, which ensures that there is no financial detriment to consumers or communications providers through the use of the number. If the DH's policy of making calls to 111 free to caller were subsequently to change, or if the DH was not able to achieve this tariff through commercial negotiation with communications providers, we would be likely to revisit the designation of 111.

1.10 We have also assessed the need to address the issue of communications providers opening up access to the number. We consider that, at this time, it is appropriate to allow the DH to continue working to set up commercial arrangements, given that the number will be piloted prior to a full roll-out and it is our preference to intervene only where necessary. We, and the DH, accept that if such arrangements should prove insufficient, we may need to revisit these matters at a later date.

Section 2

Introduction and background

Introduction

2.1 Telephone numbers are a critical national resource for consumers, businesses and the delivery of key public services. Ofcom, as the regulator responsible for communications matters in the UK, including the administration of the UK's numbering resource, has responsibility for deciding how this resource can be used in a way that benefits citizens and consumers.

2.2 As part of this function, we set aside specific telephone numbers for use or adoption by any communications provider in accordance with their service designation and without further application to Ofcom. Such numbers are listed in the Annex to General Condition 17 of the General Conditions of Entitlement which covers the allocation, adoption and use of telephone numbers ("the Numbering Condition"). These numbers, which include, for example '100' for access to operator assistance and '112' for access to emergency services, are different from the numbers we allocate uniquely to communications providers in accordance with the National Telephone Numbering Plan ("the Numbering Plan").[3] Numbers from the Numbering Plan can be used for any purpose within a broad service designation, whereas these numbers can only be used in accordance with the specific service designation attributed to that number.

2.3 To perform our duty of ensuring that the best use is made of the UK's numbering resource, it is sometimes appropriate for new and/or additional numbers to be made available for use by communications providers. In order to do this, we may be required to modify the Annex to the Numbering Condition or the Numbering Plan. The Communications Act 2003 (the "Act") provides for modifications in accordance with set procedures, including consultation.

2.4 The DH requested a three-digit number from Ofcom to provide access to NHS non-emergency healthcare services. In order to meet this request, we consulted on adding the number '111' to the Annex in the Numbering Condition. In our consultation document, *A Three-Digit Number for Non-Emergency Healthcare Services; proposals on the number and tariff* dated 9 July 2009[4] ("the July consultation"), we provided background information on the service and explained how the proposal on the number would make the best use of the UK's numbering resource. It should be noted that we did not examine the underlying policy or detailed proposals on the service aside from those relevant to the choice of number.

2.5 In order to implement the proposals, modifications need to be made to the Numbering Condition. Annex 8 of the July consultation contained a notification of the proposed modification and explained how, in our view, the proposed modification met the necessary legal tests set out in Annex 7 of the July consultation. These tests are set out again in Annex 1 of this statement, and Annex 2 contains a copy of the modification to the Numbering Condition.

[3] Available at: http://www.ofcom.org.uk/telecoms/ioi/numbers/numplan030809.pdf
[4] http://www.ofcom.org.uk/consult/condocs/three_number_non_emergency/

Responses to the consultation

2.6 Overall, as regards the eligibility of this service for a three-digit number, responses were very favourable. However, several respondents, in particular communications providers, were concerned about the choice of the number 111. The DH consequently developed a number of approaches to address these concerns. The issues raised about 111, the DH's approach to addressing these, and our views, are set out in more detail in Section 4.

2.7 On the tariff, several respondents indicated a preference for the number to be free to caller from a public policy perspective. Communications providers indicated that from a technical perspective only a free to caller tariff would be acceptable if the 111 number was chosen, because of the risk of callers being charged for misdialled or 'ghost' calls. The DH has now confirmed its intention to make the number free to caller and has provided a ministerial commitment that the NHS will pay the costs of communications providers for carrying calls to 111, including for genuine and non-genuine calls. The issue of tariff is discussed in more detail in Section 5.

2.8 Responses on other issues are also considered in Section 5. In particular, we have assessed the need to consider issues of access and interconnection and believe that, at this time, it is appropriate to allow the DH to continue working to enter into commercial arrangements. We, and the DH, accept that, should this prove insufficient, we may need to revisit these matters at a later date.

Section 3

The Non-Emergency Healthcare Service

Background

3.1 The DH has been exploring the creation of a single number and contact point for access to non-emergency healthcare services in England for some time and more formally since 2007. Section 3 and Annex 5 of the July consultation set out full details of the background to the history and development of the service.

3.2 The DH has explained that the service is intended to help direct the public towards the most suitable medical response for their situation, in particular in instances where their need is urgent but not life-threatening. It will offer access to the most appropriate care, providing an easy and convenient source of advice and information, and help ensure that the public get to the service they need first time. The service could also lessen the demand on existing front-line services such as 999/112 or A&E, because a significant number of people currently default to these services when they feel their healthcare needs are urgent, whereas services available locally may be more appropriate or convenient. In England, the three-digit number would, in the longer term, become the single number to access urgent care services, including NHS Direct.

3.3 The service is a DH-led initiative. The DH remit extends to England only, and the devolved administrations will decide whether to use the three-digit number for a similar service in Wales, Scotland and Northern Ireland, respectively. However, as Ofcom has responsibility for the numbering resource across the UK, and the numbering system covers the whole of the UK, 111 will be designated for NHS non-emergency healthcare services across all four nations. We have therefore engaged with the devolved administrations to discuss their intentions and developed a generic service description to be provided on 111 which is most likely to also suit their future needs.

Service description

3.4 The service description set out below reflects the designation of the three-digit number 111 as "Access to NHS Non-Emergency Healthcare Services" that will appear in the Annex to the Numbering Condition (see Annex 2). This description details the scope of the services that could be provided using the three-digit number 111 across the whole of the UK.

> *"The service will help direct members of the public towards the most suitable clinical response for their situation, in particular in instances where their need is urgent but is not life-threatening. It will:*
>
> - *respond to requests for health or service information (whether urgent or not); and*
> - *assess the medical needs of callers and identify which NHS service is best placed to meet those needs*
>
> *999/112 will continue to be the number to call in an emergency, and people will continue to be able to phone their GP practice or other local healthcare provider in the same way they currently do."*

3.5 Several respondents to the July consultation asked for more details about how the DH service would work in England, for example whether it would include social care and dental services and what the call handling procedure would be. The DH has provided more details on the service in response to these questions in a frequently asked questions (FAQs) section available on its website.[5]

Devolved administrations

3.6 The Scottish Government has confirmed that (depending on the outcome of the DH pilots) it would consider using 111 to serve the same function as the current NHS 24 number in Scotland, which is 08454 242424. Therefore, if the three-digit number is adopted in Scotland, it is intended that callers resident in Scotland who call 111 would be routed to the NHS 24 service.

3.7 The Minister for Health and Social Services in Wales has not formed a view on whether to offer the three-digit number at present and will await the outcome of the proposed pilots in England before considering the issue further. Wales currently has its own NHS Direct service which is, like NHS Direct in England, available on 0845 4647, and the Department of Health and Social Services has confirmed that the service description for 111 broadly describes the core service provided by the existing NHS Direct service in Wales.

3.8 The Department of Health, Social Services and Public Safety ("DHSSPS") in Northern Ireland has not made a decision on whether to offer the three-digit number and the service behind it in Northern Ireland. The DHSSPS is monitoring the progress of its own proposed NI Direct service (which offers a single point of contact for public service enquiries) in developing the scope of a three-digit number for public services within Northern Ireland. While Northern Ireland currently does not have a service similar to NHS Direct or NHS 24, the DHSSPS has confirmed that it agrees with the service description set out above should it decide to use 111 for those services in the future.

Timetable for launch of the service

3.9 The DH has committed to launch pilots of the number and service in a number of SHA areas in England in 2010. That pilot phase will run for twelve months (to take seasonal variation into account) with the intention of rolling-out the service across England after the results of the pilots have been evaluated.

[5] http://www.dh.gov.uk/en/Healthcare/Urgentcare/3DN/index.htm

Section 4

Designating a three-digit number

Introduction

4.1 This section sets out our conclusions and a summary of the responses to the questions asked in the July consultation on the eligibility of the service for a three-digit number and the DH's choice of number.

4.2 While the DH is committed to the provision of the non-emergency healthcare service on a three-digit number, we recognise that three-digit numbers are a scarce resource. As set out in the July consultation, there are only fifteen such numbers, known as Type A Access Codes, available for designation. We are therefore clearly limited in the amount of three-digit numbers we can designate for specific services.

4.3 Ofcom has a duty under section 63(1) of the Act to ensure that the best use is made of telephone numbers and to encourage efficiency and innovation for that purpose. We also have a general duty under section 3 of the Act to further the interests of citizens and consumers in relation to communications matters and under section 4 of the Act to act in accordance with six Community requirements, which include the requirement to promote the interests of all EU citizens. We must therefore decide whether making a three-digit number available for non-emergency healthcare services makes the best use of the UK's numbering resource, while promoting the interests of citizens and consumers. We consider that by providing the most appropriate number we can help support the provision of a service which will promote citizens' and consumers' interests.

4.4 When we designated the number 101 as a non-emergency number for reporting and enquiring about issues relating to policing, crime and anti-social behaviour[6], we set out four criteria that a service should meet in order to be eligible for a three-digit number. These were that:

i) there is an overwhelming public interest argument;

ii) the proposed service has a national impact and/or national provision;

iii) the proposed service is not only for the public good but also used only where there is high demand based on high call volume; and

iv) the proposed service provision benefits everyone or at least a very wide part of society.

4.5 In our July consultation, we took into account these criteria when coming to the provisional conclusion that designating a three-digit number for a non-emergency healthcare service would make the best use of telephone numbers, in addition to promoting the citizen and consumer interest.

4.6 We asked the following two main questions in the July consultation:

[6] Ofcom, *National Single Non-Emergency Number; Designating number "101"*, 8 March 2006, pp. 9-10, available at http://www.ofcom.org.uk/consult/condocs/snen/snen_statement.pdf.

Question 1: Do you agree with Ofcom's view that the proposed non-emergency healthcare service represents a justified use of a three-digit number? Please give reasons for your views.

Question 2: Do you agree with the DH's view that:
(a) a three-digit number is the best choice for the proposed service; and
(b) of the three-digit numbers available, "111" is the best option?
Please give reasons for your views.

Eligibility of the service for a three-digit number

Responses received on eligibility

4.7 The vast majority of respondents agreed that a non-emergency healthcare service represented a justified use of a three-digit number. Many felt that the three-digit number would give the public an alternative memorable pathway to address their healthcare needs to the established 999/112 emergency numbers.

4.8 NHS Direct considered that a three-digit number would simplify access to non-emergency healthcare services within the NHS, leading to less confusion and misuse of services. Both Which? and the Ambulance Service Network ("ASN") noted that they had previously called for the establishment of an easily remembered three-digit number for urgent care to provide a simple route for patients to obtain non-emergency healthcare services.

4.9 The few respondents who were less favourable towards the use of a three-digit number for this service were concerned that the more three-digit numbers there were in use, the less memorable each one became. For example, the European Emergency Number Association ("EENA") felt that the creation of an additional number alongside 112, 999, 101, and the 116XXX Harmonised European numbers would create confusion. Vodafone, the Mobile Broadband Group ("MBG") and BT felt that a full length number (which would, for technical and administrative reasons, have less resource implications for communications providers) or even a longer access code might, given the right marketing campaign and spend, be equally successful.

4.10 Vodafone and the MBG suggested that the DH might be overstating the benefits of a three-digit number. They said that given the plethora of numbers and passwords people had to remember, the important thing was not that people remembered specific numbers but that they knew where to access them when needed, and that was where Government awareness and promotional efforts should be directed.

4.11 Some respondents, including Vodafone and BT, noted that the previous allocation of a three-digit number, 101, was, despite initial plans to the contrary, still only available in three areas.[7] Vodafone suggested it was prudent to assess the success of that service before proceeding with another project of such a similar nature.[8] BT noted

[7] In areas where the 101 number is in service, it is used by police and local authorities to provide the public with direct access to advice, information and effective action on community safety issues, including certain non-emergency crime, policing and anti-social behaviour matters.
[8] Vodafone also questioned whether 101 should continue to be called the "Single Non-Emergency Number" when it would cease to be the 'single' number if 111 was also introduced. However, 101 was not specified as "single" in the Annex to the Numbering Condition, and the accompanying statement made clear that the number was specifically for non-emergency issues relating to police, crime and anti-social behaviour, www.ofcom.org.uk/consult/condocs/snen/snen_statement.pdf

that had the current lack of coverage of 101 been anticipated it was questionable whether a three-digit number should or would have been allocated.

4.12 Some respondents were concerned that the number would introduce additional confusion, in particular because patients might not be able to distinguish between situations that required an emergency response (and therefore should dial 999/112) and ones that were not life-threatening, but potentially urgent.

Ofcom's view

4.13 The responses overall indicate widespread agreement that the use of a three-digit number for the service is appropriate. We acknowledge that a longer number might also be marketable, but consider that there are obvious advantages to using a three-digit number for a service of this kind, particularly because this service is for the public good and is likely to have high public demand. Memorability is also particularly important for this service, as callers may need to recollect the number during times of worry and anxiety.

4.14 We consider that service has significant public benefit, both in terms of making non-emergency healthcare services easier to access and potentially making the existing emergency service more efficient. We therefore consider that the DH's request for a three-digit number for the service represents a justified use of one of the available three-digit Type A Access Codes.

4.15 We note that the 101 service has not become nationally available as was originally planned by the Home Office at the time that we designated the number in March 2006. Following pilots of 101 in five areas, the Home Office took the decision not to continue directly to fund the live 101 operations but to continue to provide funding for the national 101 telephony routing infrastructure. The 101 number remains available for use by local areas wishing to maintain or develop their own locally funded service.[9] The 101 service is live and operating successfully in Hampshire and the Isle of Wight, Sheffield, and coverage has recently been extended beyond Cardiff to the whole of Wales.

4.16 While we acknowledge that 101 is not as widely available as originally intended, we understand that the non-emergency healthcare service is likely to operate very differently. The service already has support from the NHS Strategic Health Authorities that will be funding the service. The DH has confirmed that it is fully aware of the 101 precedent and the lessons that can be learnt from it.

4.17 The DH has also told us that it is aware of concerns about the potential for confusion between emergency, urgent, and non-emergency care. It will therefore have procedures in place which will mean that emergency calls to 111 can be transferred to the emergency services without any delay. The DH has also confirmed that the service will be accompanied by a communications campaign to inform potential callers about the purpose of the service and what can be expected when they call 111. The DH has provided more detail about the service in FAQs available on its website [10]

[9] See http://police.homeoffice.gov.uk/about-us/police-reform-resources-info/050publicconfidenceunit/about-101-programme

[10] http://www.dh.gov.uk/en/Healthcare/Urgentcare/3DN/index.htm. These FAQs also address other queries in the consultation responses about the nature of the service, which are outside of Ofcom's remit.

The number

4.18 In the July consultation we set out four possible numbering options for the non-emergency healthcare service. These were:

- **Option A**: no change (i.e. maintain the existing NHS Direct number for the service);
- **Option B**: three-digit number;
- **Option C**: standard 11-digit number from the Numbering Plan; or
- **Option D**: Harmonised European Short Code starting with 116.

4.19 The DH is keen to ensure that the non-emergency healthcare service has the best public support, which includes using the best available number in terms of memorability and consumer perception. It believes that the three-digit number 111 will ensure this.

4.20 In the July consultation we referred to DH consumer research into the available three-digit numbers.[11] The DH research found that the most memorable and effective numbers were those that contained the fewest different digits; digits that were lower in value; closer together in value; arranged chronologically; and either all odd or all even. The research indicated that the easiest numbers to use on the keypad were those with minimum movement required between the keys and, for mobile phones in particular, keys that were at the top and left of the keypad.

4.21 For those reasons, the research found that the number 111 was the overwhelmingly preferred option for the non-emergency healthcare service. It was preferred by 85% of consumers surveyed. The research also found that 111 was strongly associated by the public with 999, which also contributed to its memorability.

4.22 A small minority of consumers surveyed identified the possibility of misdials as a potential shortcoming for 111, and the particular challenge of knowing whether three digits had been dialled was seen as a risk. However, those consumers who expressed this view in the DH research also suggested that it was a small price to pay for a number with many other advantages.

4.23 We also identified the potential for 'ghost' calls to 111 caused by pulse dialling.[12] We noted that some providers had introduced a 'four second gap' before routing calls to the 112 number to reduce such accidental calls[13], and we noted that it was likely that the same procedure would need to be implemented for 111.

[11] Cragg Ross Dawson, *Three Digit Number for Urgent Care. Qualitative Research to help identify the most appropriate number*, April 2009. Available at: www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_102218.pdf

[12] The effect of wind on overhead wires and creaking in underground joints can create 'clicks' which networks see as dialled digits. Three single clicks in succession would therefore generate a spurious ghost call to 111. This is only relevant for fixed lines; there would not be an issue with ghost calls from mobiles.

[13] This means that after 112 is dialled, there is a four second gap, and if further digits are dialled during those four seconds the call is then rejected.

Responses received on numbering options

4.24 The majority of respondents agreed with Ofcom's provisional view that a three-digit number was the most appropriate option, because it would be the most memorable and therefore most likely to divert calls away from 999. There appeared to be general consensus that the NHS Direct number was not sufficiently memorable. Which? noted that if any new number were to fulfil its potential as a central gateway to non-emergency healthcare services, the number had to be memorable in order to increase public awareness of it. It believed that people tended to default to 999 because of the ease of recall facilitated by a simple three-digit number. It noted that in its own most recent research, less than one in five (17%) knew the NHS Direct number, compared with 96% who knew the number to call for an ambulance.

4.25 The ASN also agreed that a three-digit number would be the most memorable number option; the other options were longer and might be more difficult for callers to remember particularly if they were in a distressed frame of mind. The ASN hoped that over time the public would see the proposed three-digit number in the same way as the 999 emergency number in terms of it being an easily remembered, recognised and established brand. NHS Eastern and Coastal Kent noted that three-digit numbers held meaning within the public for special services and it was therefore an effective and recognisable method for engagement with healthcare services.

4.26 Vodafone and the MBG, however, indicated that their preference was for NHS Direct to maintain its current number and for that number to be promoted further. They suggested that the awareness score for the existing NHS Direct number (from the Which? research highlighted in the July consultation[14]) was in reality quite impressive. On that basis, they believed it was a memorable number. The MBG noted that only 20% of people knew the 112 pan-European emergency call number, even though it had been available for 17 years. They believed that this demonstrated that having a three-digit number on its own was not sufficient to ensure the successful use of numbers.

4.27 The EENA noted that the choice of a three-digit number was appropriate for the service and was in line with the experience of other countries such as the 311 non-emergency number in the US. However, it believed that the non-emergency healthcare service should be integrated into a general non-emergency service (such as 101) and that such a number should be created EU-wide.

4.28 Some other respondents also agreed that a European wide number would be more appropriate and that the 116XXX option should be given closer consideration, because it would allow for standardisation across the EU. The Helplines Association ("THA") believed that, with the imminent introduction of 116117 for a medical on-call service, 111 would be superfluous and only serve to confuse the market. It also noted that it would require two sets of negotiations to be undertaken with communications providers and would also cost more in promoting the two numbers.

Ofcom's view

4.29 Given the widespread level of agreement that a three-digit number is appropriate for the service, we have concluded that it is reasonable for us to meet the DH's request and to designate a three-digit Type A Access Code for this service in the Annex to the Numbering Condition. We have considered Vodafone's and the MBG's

[14] Ofcom, *A Three-Digit Number for non-emergency Healthcare Services*, 7 July 2009, p.6. Available at: http://www.ofcom.org.uk/consult/condocs/three_number_non_emergency/main.pdf

comments but believe there is clear evidence that a three-digit number is likely to be significantly more memorable than the other options. The responses suggest that the majority of consumers consider that the NHS Direct number is not sufficiently memorable, which is important given that calls might be made at a time of worry and anxiety. Consumers also see it as important that the number is sufficiently memorable to direct the public away from using 999/112 as a default.

4.30 Whilst using one number for different types of non-emergency service might seem attractive, in practice the 101 number is already specifically being used in certain areas for non-emergency matters relating to policing, crime and anti-social behaviour, and we do not consider that a separate non-emergency number for health is likely to cause confusion, particularly when the DH is planning a marketing campaign which will make clear what the 111 service will provide.

4.31 We note that the 116117 Harmonised European number has now been reserved by the European Commission for a non-emergency medical on-call service, and Ofcom will in due course be consulting on making the number available for allocation in the UK by adding it to the Numbering Plan.[15] While there is an overlap, we nevertheless consider that a three-digit number, given its memorability, remains appropriate and justified for a non-emergency healthcare service in the UK. In any case, as noted in the July consultation, there is a potential for the two numbers to operate in parallel, in the same way as 112 is the single European emergency call number and 999 is the national emergency call number providing access in the UK to the emergency services. The service description that has been confirmed for 116117 is now sufficiently broad to potentially cover the service to be provided by the NHS on 111.[16] Our forthcoming consultation on making 116117 available will also include consultation on the most appropriate charging arrangement for the number – 'freephone' or 'free to caller'. Therefore, given the DH's decision to make 111 a 'free to caller' number (see paragraph 4.52 below), there is unlikely to be a conflict between the tariffs.

Responses received on choice of 111

4.32 The majority of responses from members of the public and healthcare organisations agreed that 111 was the best option available. Several respondents felt that it was very easy to remember and would be simple to use because of its location on the keypad. In addition, a number of respondents felt that the similarity to the 999 number (in that it has three repeated digits) was useful and that the fact that it was effectively the opposite of 999 would help make clear that 111 was for non-emergency situations. NHS Country Durham noted that when it had discussed the initiative with stakeholders, the number 111 was always a preferred option because of its memorability.

4.33 However, all communications providers, and several other respondents, indicated considerable concern about using the number 111. They were mainly concerned about the potential for misdials, ghost calls from pulse dialling (as referred to in paragraph 4.22/4.23) and accidental calls from unlocked mobile phones in people's pockets or handbags.

[15] http://www.ofcom.org.uk/telecoms/ioi/numbers/116

[16] See above link. The service is described as a "directs callers to the medical assistance appropriate to their needs, which are urgent but non-life threatening, especially, but not exclusively, outside the normal office hours, over the weekend and on public holidays. It connects the caller to a skilled and supported call-handler, or connects the caller directly to a qualified medical practitioner or clinician".

4.34 BT expressed particular concern about the use of 111 because it would attract calls accidentally caused by pulses created through faulty wiring. BT considered that such 'ghost' calls were the reason why 111 was very rarely used internationally, despite its obvious attraction in terms of memorability. It highlighted that the only known use of 111 was in New Zealand where the problem of ghost calls from pulse dialling did not arise due to the different conventions where the number of clicks to numbers for each dialled digit was reversed.

4.35 Cable & Wireless (C&W) noted that their experience from ghost calls to 112 showed that even a single customer line could generate a significant number of repeat ghost calls within a short period. It estimated that a significant proportion of the calls to 112 were ghost calls. BT said only 5% of calls to 112 that originated within their network were genuine calls, which it said equated to more than 100 ghost calls calls per hour. It also noted that ghost calls to 111 would be much more likely to occur than ghost calls to 112 (because it has three repeated digits) and therefore that figure was likely to underestimate the number of ghost calls to 111.

4.36 In a subsequent additional response, BT highlighted that indicative checks suggested the number of ghost calls to 111 that the DH would additionally have to answer, even with a four second gap procedure (see paragraph 4.23), could be around 25 million per year from its access network alone**.** It also indicated that volumes of ghost calls would be affected by a variety of factors, such as bad weather (the weather was largely favourable at the time of the indicative checks), heavy street traffic and construction work (including both work on the network itself, for example during the future deployment of fibre infrastructure for next generation access and third parties disturbing the network). BT noted that these and other random or recurring external incidents would cause both a high background level of ghost calls to 111 and spikes significantly above that level, which would only arise at a tiny fraction of that level with other three digit numbers that could be selected. It noted that these peaks and troughs of ghost calls could create challenges for the DH in terms of dimensioning the system and resourcing it to handle sudden spikes in calls without losing valid calls.

4.37 Virgin Media noted that its experience with the four second gap it had introduced for calls to 112 showed that the delay only succeeded in stopping around [✂] of ghost calls on its network. It also found that the number would generate around [✂] calls per day, or [✂] if the four second gap was used. It noted that an alternative number such as 117 or 119 would help reduce that problem and suggested 117 as an alternative, because of the link with the 116117 European Harmonised number.

4.38 C&W also noted that the four second gap procedure would mean that if a customer dialled '1111' in error the call would be rejected. This was contrary to the suggestion in the DH consumer research, which noted a belief that dialling '1111' would still work.[17] C&W said that implementing an over dialling procedure would be costly.

4.39 Vodafone suggested that there was a substantially greater risk of misdials, hoax and malicious calls from a short-dial number like 111, compared to a standard 11-digit number or the current NHS Direct number. Vodafone and the MBG highlighted the problem of misdials, in particular due to the repeated consecutive digits caused misdials on mobiles in pockets and handbags. The MBG highlighted that the

[17]Cragg Ross Dawson, *Three Digit Number for Urgent Care. Qualitative Research to help identify the most appropriate number*, April 2009. A summary of this was published in the July consultation, paragraph A6.30 applies.

emergency services handled between three and four million such silent 999 calls per annum and had initiated a silent calls procedure to circumvent the problems.

4.40 Furthermore, several responses, including EENA, highlighted that 111 was only one digit away from 112, and there was concern that people who had an emergency situation would dial the wrong number. C&W also highlighted the potential for misdials to 111 to impact on their emergency operator services. It noted that an influx of misdialled calls at the emergency operator services' busiest time was likely to swamp the emergency call handling operators.

4.41 C&W questioned whether the 11X range was available because there had previously been a CEPT (European Conference of Postal and Telecommunications Administrations[18]) concept to reserve all 10X and 11X access codes in CEPT countries for European harmonisation, and it was still noted as such in the Ofcom database. BT also highlighted that other three-digit numbers including 199 and 133 were available, which were not featured in the DH's consumer research, and these numbers would not suffer from the same problems as 111. BT considered that these numbers could be just as memorable with the right marketing campaign.

4.42 Some respondents suggested that 888 would be a better choice or 647 (which represents NHS on the keypad). The British Medical Association ("BMA") noted that it would be useful for the pilot areas to trial the different three-digit number options in order to gauge which selection of digits would be best. It noted that having different digits would prevent the incidence of misdials and suggested that 114 would be easier for blind or partially sighted people to dial.

Ofcom's view

4.43 As regards C&W's question about whether the 11X range is available for designation for the non-emergency healthcare service, information was sought from CEPT member countries on current availability of the 10X and 11X ranges in preparation for the European Commission's reservation of the range for harmonised European services of social value. It became apparent from the information provided that many countries had used numbers from the 10X and 11X ranges as short codes on a national basis and that the majority of numbers in these ranges were therefore no longer available for harmonised services across CEPT countries. The CEPT harmonisation agreement has therefore become obsolete. We have updated the Ofcom numbering database accordingly.

4.44 In terms of other potential numbers, as noted in the July consultation, Access Codes (three-digit numbers) can only begin with the digit '1'. This is because the digit '0' signifies national or international dialling and the digits '2' to '9' are used for local dialling of geographic subscriber numbers within the same geographic area code. Therefore the numbers 888 or 647 are not available.

4.45 We note BT's suggestions of 133 and 199 and can confirm that these numbers are available for designation. However, 133 is currently designated as a 'Type B' Access Code and 199 is currently not designated as either Type A, B or C. We would, however, be able to change the designation to Type A if considered necessary, and we made the DH aware of these additional available numbers. In reference to the BMA's suggestion about piloting different numbers, whilst potentially attractive, this would not be possible in practice because only one Type A Access Code can be

[18] http://www.cept.org/

designated for a specific service in the Annex to the Numbering Condition. Also, there is potential for such an approach to be confusing for consumers.

4.46 We acknowledge Virgin Media's suggestion that 117 is a logical alternative if the three-digit number was implemented in parallel with the harmonised European number 116117. However, the DH consumer research found that 117 held no resonance with consumers and was ranked very low in terms of memorability.

4.47 As noted above (paragraph 4.45) we made the DH aware of the alternative options, including those suggested by respondents and the existing 14 other Type A Access Codes.[19] Nevertheless, the DH remains committed to the 111 number. Given its memorability, as confirmed by consumer research, the DH considers that 111 is the most attractive option, anticipating that the marketing costs of this number, compared to other available three-digit numbers, are likely to be lower and because it will be associated in the public mind with the public service characteristics of 999.

4.48 However, the evidence from communications providers on the likely number of misdials and ghost calls to 111 indicated that this was a much more significant problem with the choice of number than originally anticipated in our July consultation. While we recognise that the number of ghost calls to 112 is proportionately very high, the 112 number is far less utilised than 111 is expected to be, due to the existence of the far more familiar 999 emergency number. The estimates from communications providers therefore provide a better benchmark of the likely number of ghost calls to 111 and based those estimates, it could generate more than 30 million ghost calls per year. This could be more than the number of genuine calls (the DH has estimated that the service could receive between 14m and 30m genuine calls).

4.49 The most significant problem with ghost calls is that they are attributed to individual consumers' lines, which means that unless the calls were provided free of charge consumers would find themselves being charged for services that they have not used. In addition, communications providers would likely receive complaints from their customers about charges for calls that they did not make, which could add significant costs to their customer service and billing operations.

4.50 While we recognise that the DH is committed to the 111 number, given the issues raised by communications providers, we need to be clear that if we designate this number any associated costs with the number, both to communications providers and consumers, will be borne by the DH. We are particularly concerned to minimise any detriment to consumers or citizens that could be caused by the use of 111, given our principal duty under section 3 of the Act to further the interests of citizens and consumers in relation to communications matters.

4.51 Following the comments from communications providers on the issues with 111, the DH engaged in discussions with each of them to identify ways in which these issues could be resolved. In light of those discussions, the DH developed a number of approaches intended to reduce the impact of ghost calls, which involve two key elements. Firstly, to reduce the number of such calls through technical measures such as:

- ask communications providers to implement a four second gap (where possible) after three digits are dialled, which should prevent a significant proportion of ghost calls being put through to a health adviser (several communications providers have already implemented this procedure for calls to 112);

[19] 102, 103, 104, 105, 106, 107, 108, 109, 110, 113, 114, 115, 117 and 119.

- asking landline callers to press a key to continue or, if dialling from a rotary dial telephone saying a word to continue (these measures would prevent ghost calls being put through to an operator); and

- tagging calls for specific treatment, e.g. if a mobile is repeatedly dialling 111, tagging that call so that the caller is asked to press a key to continue (it is worth noting in this respect that it will not be possible to dial 111 when mobile phone keypads are locked, unlike 112 and 999);

- there are a number of other measures being considered by the DH following discussions with communications providers that may host the number. In the light of these and the measures mentioned above, the DH believe it is likely that ghost calls will be controlled and will not be passed through to health advisers operating the service. In addition, these measures should significantly reduce the duration of ghost calls and thus minimise costs.

4.52 Secondly, and most importantly, the DH now intends to make the number free to caller and has provided a ministerial commitment that the NHS will meet communications providers' costs in carrying the call, for both genuine and non-genuine (e.g. ghost or misdialled) calls. This will mean that calls to 111 will not appear on consumers' bills and, because the costs of the calls (including ghost calls) will be charged to the NHS (via the host network) at an appropriate per second rate, all associated costs are picked up by the NHS.

4.53 We understand most communications providers that indicated opposition to 111 subsequently told the DH that the majority of their concerns had been resolved by the DH's proposals and they would therefore not object to the designation of 111. BT, however, remained concerned that it and other originating networks could also bear some of the risks associated with using 111, although it acknowledged that much of the risk around using 111 would lie with the DH. In particular BT was concerned about the possibility that 111 might become chargeable at a later date. It was also concerned about the possibility that it, or other call originators, could be asked by DH to investigate 'faults' in the network which generated huge volumes of ghost calls, because the costs of that could be significant.

4.54 We encourage the proposed implementation of technical measures designed to reduce the number of ghost calls made to 111 as much as possible. As regards minimising the financial impact on communications providers and consumers, we consider that the DH's ministerial commitment that the NHS will meet the costs of communications providers for handling all calls to 111 and that it intends to make the number free to caller will mean that the risks associated with 111 are borne by the DH and not communications providers nor consumers. The DH will need to negotiate commercial agreements with communications providers in order to achieve this, and we understand it has already started to progress those negotiations (see Section 5 for further discussion on the tariff and access issues).

4.55 In regards to BT's specific concern, the DH has confirmed that the architecture of the service will include the ability to treat numbers that continuously dial 111 differently to other numbers so the impact of lines that continuously dial 111 can be minimised. Originating network operators would not therefore be asked to take action to investigate or reduce the level of 'ghost calls'.

4.56 We have worked with the DH to ensure that it is fully aware of the risks of using 111. In particular, as the likely volume of ghost calls is difficult to determine at this stage, and the operational impact on communications providers and the costs of handling

these calls will not become fully known until the service has launched, there is a degree to which the commitment that the NHS would be entering into is open-ended. However, the piloting of the service should help clarify these issues and the costs involved before a full roll-out.

4.57 In respect of possible misdials or confusion between 111 and 112, as previously discussed, the 111 service will establish a procedure for dealing with any emergency calls made to 111, and it is also envisaged that emergency calls to 111 requiring an ambulance will be passed electronically to ambulance control and in some areas an ambulance could be dispatched by the 111 call handler without any delay. With regards to 111 callers misdialling 112, it is not clear that this would be as significant as 112 callers accidentally dialling 111; nevertheless, we have advised the DH that this will need to be monitored during the pilots to ensure there is no adverse impact on 112 emergency call handlers.

4.58 To conclude, based on the assurances provided by the DH, we consider that the designation of 111 for access to non-emergency healthcare services is reasonable and proportionate. Whilst we acknowledge that alternative three-digit numbers would not incur some of the technical problems of 111, we accept that the DH is committed to using this number on the basis of its greater memorability. However, importantly, as indicated above, we are only designating this number on the basis of the DH's commitment that the NHS will cover the costs of communications providers for all calls to the number, whether genuine or not, so that they will be free to caller. Furthermore, our expectation is that all calls to 111 will always be free to caller. If this is not achieved, or if in the future the position changes, which would potentially lead to material consumer harm (because communications providers were charging their customers for calls to 111), we would be likely to revisit this designation.

Modification to General Condition 17

4.59 In the July consultation we set out the form of a decision to designate 111 under General Condition 17. We asked the following question:

Question 4: Do you have any comments on the proposed notification of modification to the Numbering Condition in Annex 8 of this document?

4.60 As set out above, we have decided to designate 111 for access to non-emergency healthcare services in this statement. The exact designation that was proposed in the July consultation was "Access to NHS Non-Emergency Healthcare Services (Type A Access Code)".

Responses received

4.61 Buckinghamshire PCT noted that it would like 111 to enable signposting to the social care services that support non-emergency health. It considered that it would be a missed opportunity if social services were excluded from the use of 111, and therefore it needed to be explicitly included in the designation.

Ofcom's view

4.62 We consider that the wording "Access to NHS non-emergency healthcare services" is sufficiently broad to enable health providers to include social care services if necessary, and the description would therefore not lead to those services being

excluded. The DH has outlined more information about what services are likely to be provided by the number in FAQs on its website.[20]

4.63 We are therefore proceeding with the wording of the designation as proposed.

[20] http://www.dh.gov.uk/en/Healthcare/Urgentcare/3DN/index.htm

Section 5

The tariff and other issues

Introduction

5.1 This section sets out a summary of response on the tariff and other issues, in particular access to the service, and the DH and Ofcom's views on these issues.

5.2 As set out in the July consultation, our principle duty in section 3 of the Act, in carrying out our functions, is to further the interests of citizens and consumers in relation to communications matters. This duty includes, as set out in Article 8.4(d) of the Framework Directive[21], promotion of the provision of clear information, in particular requiring transparency of tariffs and conditions for using communications services.

5.3 Access codes provide no inherent information on the relevant tariff and/or service type unlike, for example, the way an 077 number denotes that the call is to a mobile handset and is likely to cost more than, for instance, a call to an 01/02 geographic number. In the case of access codes it is therefore important that consumers gain information from other sources on the charge (if any) of calling and what they can expect from the relevant service. The DH has confirmed that it intends to offer the number at a free to caller rate and will be negotiating with communications providers to achieve that. It also intends to accompany the launch of the service with a communications campaign to inform the public about the service and what to expect from it.

5.4 We recognise that detailed issues around access and interconnection for the number remain to be resolved. The DH has confirmed that these can be resolved for England during the pilots, without the need for regulatory intervention. We therefore consider it appropriate, having designated the number, to leave these matters to the industry and the DH and devolved administrations to agree.

The tariff

5.5 The pricing of telecommunication services is generally a matter for relevant network and/or service providers, not Ofcom. Although we did not formally consult, or carry out an impact assessment, on the tariff options selected by the DH, we sought stakeholders' views on these options in the July consultation on behalf of the DH, asking the following question:

Question 3: What are your views on the tariff options selected by the DH?

5.6 In the July consultation we presented four tariff options that the DH considered might be appropriate:

- **Option 1**: free to caller;
- **Option 2**: 10 pence per call;
- **Option 3**: 3 pence per minute; and

[21] Directive 2002/21/EC.

- **Option 4**: genuine local or national rate (i.e. charged the same as a landline call or call to an 03 number).

5.7 The DH indicated that its initial assumption was that callers should contribute to the cost of the telecommunications element of calling the proposed service.

5.8 However, the DH has reconsidered this issue (see also paragraph 4.52), and having taken account of the responses, it now intends to make the number free to caller and pay for the costs involved in achieving that; precisely how this will be achieved will be agreed between carrier networks and the DH in England. The devolved administrations will need to conduct similar negotiations in their respective nations if and when they decide to use 111.

Responses on the tariff

5.9 The majority of respondents supported the first option: free to caller. Several respondents, particularly from healthcare organisations including the ASN, considered that if there was a charge for the three-digit number, it could lead to a number of people defaulting to the free 999/112 emergency number. The British Dental Association believed that only a free to caller tariff would remove any barriers to accessing the service that might be faced by lower socio-economic groups. The THA also supported the free to caller option, primarily because if the service was also allocated a number in the 116 range then the tariff would need to be consistent with other 116 numbers (which are designated as freephone or free to caller on a service by service basis following consultation).

5.10 BT, C&W and Virgin Media all highlighted that if the 111 number was used, there would be significant issues around callers being charged for ghost calls. All calls to 111 would appear on customers' bills and this would result in a high overhead cost for providers when resolving those issues, for example in handling customer complaints.

5.11 Virtually no respondents supported the third option of three pence per minute. There was some support for the ten pence per call option, which several respondents considered would be transparent and would not penalise callers if they had to spend a significant amount of time on a 111 call. Several other respondents, including Which? and NHS Direct, supported a genuine local or national rate which they highlighted would be included in many consumers' call packages.

5.12 The MBG supported Ofcom's proposals not to intervene in the tariff. It noted that, as with all short codes, the tariff setting process was no different to the existing 08XX number arrangements in so far as the terminating network operator hosting the 111 service provider would be responsible for commercial and interconnect arrangements with both transit and originating network operators.

5.13 C&W, however, believed that Ofcom should enforce the final agreed tariff through the Numbering Plan. It noted that experience from the 101 service demonstrated a number of difficulties when encouraging operators to charge their customers at the level intended by the Home Office. Similarly, a number of respondents, including NHS Direct and Which?, noted that consistency of charging was key to reducing consumer confusion, and it was therefore important that the tariff was consistent across communications providers and mobile and fixed lines. Which? noted disappointment that there was no guarantee that this would be the case.

5.14 Virgin Media noted that any option that was adopted had to be commercially viable for originating communications providers. In particular, it noted that the termination charge had to adopt the same structure as the retail tariff (for example a pence per minute rate) so that originators were not exposed to commercial risk. Vodafone similarly noted that it was unlikely to accept running 111, a non-emergency service, in such a way that would have serious negative financial implications. It also noted that it zero-rated calls to the emergency services and other 'crisis-lines' but it did not see that 111 fitted within those precisely because it was not for emergencies or crises.

Ofcom's view

5.15 Given the widespread support for the free to caller tariff in the consultation responses, and because the DH is keen for the 111 service to reduce calls to 999/112, the DH has decided that the number should be free to caller. It has provided a ministerial commitment confirming its intention.

5.16 As discussed in Section 4, we want to ensure that, given our statutory duties, the risks to consumers are minimised as much as possible. We therefore welcome the DH's commitment which means that consumers will not be charged for misdials or ghost calls to 111. However, there are costs incurred in carrying calls, so if the caller does not pay for such costs, they need to be recovered from elsewhere. Generally, the recipient of the free call, i.e. the service provider, would need to pay to receive these calls. Costs for receiving calls vary, but are usually higher when the call originates from a mobile phone. Part of the DH's assurance is therefore that the NHS will meet these costs to ensure that the number will be free to caller from all phones, whether fixed or mobile. There is no expectation that communications providers will have to bear the costs of handling these calls.

5.17 Therefore, as outlined in detail in the previous section, we are designating the number 111 on the basis of this assurance from the DH.

5.18 There remains an issue that some providers might nevertheless decide to charge their customers. The DH has confirmed that it is aiming to secure a tariff through commercial negotiations, and it is working to ensure that the free to caller tariff will be applicable across all networks from the initial launch of the service in the pilot areas. We have therefore decided not to intervene on the issue of the tariff at this time given the DH's commitment.

Access & Implementation issues

5.19 In the UK, all communications providers, with the exception of BT, are free to decide whether to open access to telephone numbers, including in relation to Type A Access Codes. BT is obliged to do so under the obligations of its access-related condition.[22] Therefore, if a communications provider (other than BT) is unhappy with the associated charging or commercial arrangements it may take the decision not to open access to the 111 number, meaning that their customers would be unable to call the service on that number.

5.20 In the July consultation we stated that there were additional communications matters that needed to be considered, including access to the service by communications

[22] BT has an access-related obligation to provide end-to-end connectivity. For more information see Ofcom's statement *End-to-End Connectivity* published on 13 September 2006 available on our website at: http://www.ofcom.org.uk/consult/condocs/end_to_end/statement/statement.pdf

providers. However, we noted that these were being considered by the DH and we did not consider it necessary to intervene at the current time.

Responses

5.21 C&W requested that we consider making access to the number mandatory from all fixed and mobile networks because of the importance of the service. It considered that the suggestion in the July consultation that the implementation of 101 did not have significant issues was perhaps an over-simplification, and there had been some resistance from operators when trying to have access to the 101 range opened. In light of the proposed timescale for implementation it suggested that the designation of the number should allow Ofcom to facilitate the provision of the service across networks.

5.22 BT noted a number of points in relation to implementation issues and requested clarification from Ofcom and the DH on its assumptions. BT noted that if the number was free to caller, it would be a matter for the originating provider to decide whether or not to show calls to 111 on customers' phone bills. In addition, BT:

i) noted that it would be for payphone operators to determine whether and, if so, how calls to the number from its public payphones were charged. It assumed that if BT payphones made the number free to dial it would be able to recover costs via the Payphones Access Charge ("PAC").[23] It also noted that renters of private payphones could charge what they want and it might not be possible for some models to be adjusted appropriately;

ii) asked for confirmation that there would be no requirement for calls to be connected via the '100' operator assistance number or via any Directory Enquiry providers;

iii) assumed that the 111 number would have to be able to receive calls using the voice to text network (i.e. using a Relay service). In this respect, Deaf Connections' response noted that the obligations to enable people to contact the 111 service in a text format did not take into account many people's preference for alternative methods of access, such as British Sign Language. It considered that continuing to rely on a text based system created risks of mistakes in the advice provided;

iv) asked for confirmation that there would be no requirement for the number to be able to receive calls using video services or to receive text messages;

v) assumed that appropriate records would need to be kept for the purposes of tracing nuisance calls;

vi) assumed that once a decision had been made on the tariff, a decision would then be required on whether the terminating or originating operator was responsible for the transit interconnect (the 'TWIX') charge, which BT charges for transit conveyance of calls across its network;

vii) assumed that the non-emergency healthcare number would never be shown as the Calling Line Identification ("CLI") at Points of Connection when the service

[23] A charge made by BT to compensate for freephone calls from payphones to cover the costs of running and maintaining BT payphones. It is charged to third parties who use freephone numbers originating on payphones. BT makes a corresponding internal charge

provider concerned made outbound calls, because the geographic origination point needed to be identified from CLI if the CLI-based interconnect billing is not to be compromised; and

viii) assumed that the non-emergency healthcare number would not be subject to Carrier Pre-Selection ("CPS")[24] and that calls to the number would not be diallable from abroad.

Ofcom's view

5.23 We understand that the DH is already undertaking discussions with communications providers on both commercial and routing arrangements. It has also already spoken to a number of potential suppliers for the number.

5.24 We note that the DH wants to ensure widespread access to the service and that it will be discussing this with communications providers. However, as with tariff arrangements, Ofcom's policy approach is not to intervene unless necessary and we are therefore designating the number on the basis that the DH will develop agreements with relevant providers on access. We understand that, as indicated by C&W, there were some access issues related to 101, although we gather that this was only a small number of providers. In this case, we consider that the service is likely to be very popular and therefore will receive high call volumes, which should provide an incentive to communications providers to open up access to the number. Nevertheless, if there are any problems, then the position can be reassessed.

5.25 In relation to implementation, we understand that the DH has noted the points by BT and agrees that implementation should be as straightforward as possible, and it therefore intends to use existing service provision models where possible and appropriate.

5.26 In terms of recovery of the PAC for free calls from BT's public pay telephones and payment of the TWIX charge for transiting BT's network, we would expect arrangements for 111 to follow those in place for freephone numbers.

5.27 We would also expect CLI arrangements and retention of call records to be in line with arrangements for non-geographic Number Translation Services ("NTS") numbers – in particular "08" numbers.

5.28 While there is no general requirement for connection of calls to 111 via operator assistance or Directory Enquiry services, there is, under General Condition 15.2, a requirement for communications providers to ensure that end-users of its services who are visually impaired or otherwise disabled and therefore unable to use a printed directory, can access, a directory enquiry facility which is capable of connecting such an end-user to a requested telephone number.[25]

5.29 The DH has confirmed that there is no current expectation for the 111 number to be able to receive calls from video services or SMS texts. However, the DH has indicated that it may consider in the future whether such services will be valuable. It

[24] CPS is a mechanism that allows end-users to select, in advance, alternative Communications Providers to carry their calls without having to dial a prefix or install any special equipment at their premises.
[25] A copy of all the General Conditions is available at:
http://www.ofcom.org.uk/telecoms/ioi/g_a_regime/gce/cvogc160909.pdf

has confirmed it will discuss any plans to develop such services with communications providers.

5.30 Equality of access is an important issue and we confirm that the number would have to be able to receive calls via a Relay service (as required by General Condition 15). We note the comments by Deaf Connections, although these are outside the scope of this consultation. Nevertheless, as part of our Access and Inclusion work, we are considering a range of initiatives to improve services for disabled users.[26]

5.31 We confirm that 111 will not be subject to CPS and that calls to 111 will not be diallable from abroad.

[26] For more details see our *Access and Inclusion* statement published here: http://www.ofcom.org.uk/consult/condocs/access/ai_statement/

Annex 1

Legal Framework and Tests

The legal framework

A1.1 Ofcom regulates the communications sector under the framework established by the Act. The Act provides, amongst other things in relation to numbering, for the setting of General Conditions of Entitlement relating to Telephone Numbers (the "Numbering Conditions") and procedures for making modifications to these Conditions. These procedures include the requirement to ensure that proposals are consistent with our general duties as set out in section 3 of the Act and Community obligations as set out in section 4 of the Act.

A1.2 In July this year, we consulted on the proposal to designate the number 111 for "Access to NHS Non-Emergency Healthcare Services (Type A Access Code)". We need to modify the Annex to the Numbering Condition (General Condition 17: Allocation, Adoption and Use of Telephone Numbers) so that the number 111 and its service designation can be added to the list of telephone numbers for use or adoption by communications providers in accordance with their designation (as provided by Numbering Condition 17.3).

The Numbering Condition

A1.3 Section 45 of the Act gives Ofcom the power to set conditions:

> "(1) Ofcom shall have the power to set conditions under this section binding the persons to whom they are applied in accordance with section 46.
>
> (2) A condition set by Ofcom under this section must be either –
>
> (a) a general condition…"

A1.4 Section 58 states that general conditions may include conditions about the allocation and adoption of telephone numbers, including conditions which impose restrictions on and requirements in connection with the adoption of telephone numbers by a communications provider.

A1.5 Section 47 of the Act sets out the test for setting and modifying conditions.

A1.6 The test set out in section 47(2) is that the condition or modification is:

> "(a) objectively justifiable in relation to the matters to which it relates;
>
> (b) not such as to discriminate unduly against particular persons or against a particular description of persons;
>
> (c) proportionate to what the modification is intended to achieve; and
>
> (d) in relation to what it is intended to achieve, transparent".

A1.7 Section 48 of the Act sets out the procedure for setting, modifying and revoking conditions which includes the publication of a notification setting out the modifications.

A1.8 Section 48(5) states that:

> "Ofcom may give effect, with or without modifications, to a proposal with respect to which they have published a notification under subsection (2) only if-
>
> they have considered every representation about the proposal that is made to them within the period specified in the notification; and
>
> they have had regard to every international obligation of the United Kingdom (if any) which is notified to them for the purposes of this paragraph by the Secretary of State".

A1.9 Under section 50(1)(a), a copy of every notification published under section 48(1) or 48(2) must be sent to the Secretary of State. This includes notifications of modifications to the Numbering Conditions.

Ofcom's general duty as to telephone numbering functions

A1.10 Ofcom has a general duty under section 63(1) of the Act in carrying out its numbering functions:

> "a) to secure that what appears to them to be the best use is made of the numbers that are appropriate for use as telephone numbers; and
>
> b) to encourage efficiency and innovation for that purpose."

General duties of Ofcom

A1.11 The principal duty of Ofcom to be observed in the carrying out of its functions is set out in section 3(1) of the Act as the duty:

> "a) to further the interests of citizens in relation to communications matters; and
>
> b) to further the interests of consumers in relevant markets, where appropriate by promoting competition."

A1.12 We also have a duty, in carrying out certain of our functions, to act in accordance with six Community requirements, as set out in section 4 of the Act. These requirements give effect, among other things, to the requirements of Article 8 of the Framework Directive.

A1.13 The July consultation fulfilled Ofcom's duties in proposing a modification to the Numbering Condition by containing a notification in Annex 8 and by providing the reasoning behind the proposals in the accompanying document. The various legal tests and duties, and how Ofcom has complied with them in making the modification to the Numbering Condition, are set out below.

Legal Tests

A1.14 As stated above, it is Ofcom's duty, when making modifications to the Numbering Conditions, to show how the modifications comply with the legal tests set out in section 47(2) of the Act. We are satisfied that the modification being made to designate the number 111 for "Access to NHS Non-Emergency Healthcare Services (Type A Access Code)" in the Annex to the Numbering Condition meets the tests set out in section 47(2) of the Act being:

- **objectively justifiable**, in that it relates to Ofcom's general duty to secure that the best use is made of the UK's telephone number resource (see further below). It could also help to ensure that calls to 999/112 are handled more efficiently as a result of consumers' increased awareness of a more suitable number to access urgent but non-emergency healthcare services. The designation of the number 111 to the service therefore furthers the interest of citizens and consumers in relation to communications matters.

- **not unduly discriminatory**, in that all communications providers may provide subscriber access to the non-emergency healthcare service through the use of the 111 number without application to Ofcom;

- **proportionate**, in that the modification to the Numbering Condition is the minimum revision to its provisions necessary to provide access to the non-emergency healthcare service through the 111 number; and

- **transparent**, in that the notification proposing the modification to the Numbering Condition and Ofcom's reasoning were set out in our July consultation.

A1.15 Ofcom considers that it is fulfilling its general duty as to telephone numbering functions set out in section 63 of the Act by:

- **securing the best use of appropriate numbers**, in that the non-emergency healthcare service is considered to be a service of significant public benefit which Ofcom believes would make the best and appropriate use of a three-digit number, which is a scarce and valuable numbering resource (and because the service has the four chief characteristics set out in the final statement on 101[27]); and

- **encouraging efficiency and innovation**, in that provision of the 111 number aids the delivery of an innovative service that is designed to further consumers' interests by improving their experience of accessing non-emergency healthcare services and the handling of genuine emergency calls.

A1.16 We consider that the modification of the Numbering Condition is consistent with our general duties in carrying out our functions as set out in sections 3 and 4 of the Act. In particular, we consider that the modification furthers the interests of citizens in relation to communications matters and also contributes to the desirability of providing an easy and convenient source of advice and information to help the public access non-emergency healthcare services.

[27] Ofcom, *National Single Non-Emergency Number; Designating number "101"*, 8 March 2006, pp.9-10 available at: http://www.ofcom.org.uk/consult/condocs/snen/snen_statement.pdf.

Notifications of modifications to the Numbering Condition

A1.17 The notification of the modification to the Numbering Condition was set out in Annex 8 of the July consultation. Representations were invited by 20 August 2009. Having considered all representations, we have decided to make the modification proposed for the reasons set out in the accompanying document. The modification is set out in Annex 2 of this document and in substance is unchanged from that proposed in the July consultation.

Annex 2

Modification to the Numbering Condition

Modification to the provisions of General Condition 17 of the General Conditions of Entitlement under section 45 of the Act

Whereas -

A. section 45 of the Act, provides that Ofcom may make proposals to modify the provisions of General Condition 17;

B. Ofcom issued a notification pursuant to section 48(2) of the Act of a proposal to make a modification to General Condition 17 on 9 July 2009 ('the Notification');

C. for the reasons set out in the Statement accompanying this modification Ofcom is satisfied that, in accordance with the test for modifying conditions, set out in section 47(2) of the Act, this modification is:

- objectively justifiable in relation to the matters to which it relates;
- not such as to discriminate unduly against particular persons or against a particular description of persons;
- proportionate to what the Modification is intended to achieve; and
- in relation to what it is intended to achieve, transparent;

D. for the reasons set out in the Statement accompanying this modification Ofcom considers that the proposed modification complies with the requirements in section 47(2) of the Act;

E. In making the modification to the Numbering Condition, Ofcom has considered and acted in accordance with the six Community requirements set out in section 4 of the Act and its duties in section 3 and 63 of the Act;

F. a copy of the Notification was sent to the Secretary of State;

G. in the Notification and accompanying consultation document Ofcom invited representations about any of the proposals therein by 20 August 2009;

H. by virtue of section 48(5) of the Act, Ofcom may give effect to the proposal set out in the Notification, with or without modification, only if –

it has considered every representation about the proposal that is made to it within the period specified in the notification; and

it has had regard to every international obligation of the United Kingdom (if any) which has been notified to it for this purpose by the Secretary of State;

I. Ofcom received responses to the Notification and has considered every such representation made to it in respect of the proposals set out in the Notification

and the accompanying consultation document and the Secretary of State has not notification Ofcom of any international obligation of the United Kingdom for this purpose;

J. In considering whether to make the modification proposed in the Notification Ofcom has complied with all relevant requirements set out in sections 47 and 48 of the Act.

NOW, THEREFORE, OFCOM, PURSUANT TO SECTION 44 HEREBY MAKES THE FOLLOWING MODIFICATION-

Ofcom in accordance its powers under section 45 of the Act to modify conditions and the procedure set out at section 48 for doing so hereby makes the modification to the Plan set out in the Schedule below to take effect on the date of publication of this notification.

Signed by

Daniel Gordon
Competition Policy Director

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

18 December 2009

Schedule

The following shall be inserted for "111" (which will appear after "101") in Table 1 in the Annex to General Condition 17 of the General Conditions of Entitlement. Note: the asterisk denotes a number beginning or in entirety that is designated for access to the service as set out in the adjacent column:

111*	**Access to NHS Non-Emergency Healthcare Services (Type A Access Code)**