



## Directory Assistance Services Comments on BEREC Draft Work Programme 2010

### 1. Preliminary Remarks

The Number welcomes the opportunity to comment on the Draft BEREC Work Programme for 2010 (hereafter “the Work Programme”).

The Number hopes that with the closure of the telecoms package, BEREC will now focus on delivering practical guidance to the market, at a time where increasing convergence and migration to an all-IP world is taking place.

Since liberalisation in the directory services market started in Europe, the Number has been at the forefront of delivering innovative directory-related services and we want to continue to be able to help our customers make sense of an increasing complex digital world.

However, without proactive intervention by BEREC and national regulatory authorities to ensure the ongoing availability of value-added services such as ours we are concerned that the upcoming network transitions may be used by network operators to restrict access by their customers to third party value-added services to the overall detriment of a vibrant digital economy in Europe<sup>1</sup>.

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<sup>1</sup> This was emphasised, for example, in the UK, where the government stated in its Digital Britain Report that “A vibrant digital economy requires that independent value-added services can be delivered across digital platforms. Where this applies to voice services (such as directory enquiries) this might require Ofcom to mandate wholesale connection rates for operators with significant market power, including where the provider is shifting from one technology to another. It might also require a more active regulatory approach to ensure that services such as directory enquiries are kept relevant to consumers’ expectations, and we support moves in Europe to ensure that requirements can be put on a wider range of operators to provide directory information to DQ service providers.”



## 2. Specific Comments on the Listed Deliverables

The Number would like to add the following specific comments to the key issues and corresponding deliverables identified by BEREC:

### 1.1. International Roaming

BEREC should not only monitor the application of the Regulation and analyse alternatives to price regulation as regards roaming, but actively support the Commission in the task it has been asked to conduct under Recital 51 of the Roaming Regulation, namely:

*“(51) Before making appropriate recommendations, the Commission should also assess whether the regulation of roaming services could be appropriately covered within the regulatory framework for electronic communications. It should thoroughly assess alternative methods of achieving the objectives of Regulation (EC) No 717/2007, such as:*

*—**dealing with the problems at wholesale level**, by introducing an obligation to provide **reasonable and fair access** on a non-discriminatory basis and/or on equitable reciprocal conditions,*

*(...)*

*In particular, the Commission should, **in consultation with a body of European regulators for electronic communications, investigate and assess the competitive structure of the mobile market** which leads to uncompetitive roaming prices, and should report to the European Parliament and Council its conclusions and **proposals to address structural problems in mobile markets, in particular barriers to entry and expansion.**”*

From The Number’s perspective, this proactive analysis by BEREC should be conducted as soon as possible in 2010 and be open to consultation.

### 1.2. Next Generation Networks – Access

Regarding the item “Implementation Issues related to the Commission Recommendation on NGA”, The Number considers that the follow-up actions of BEREC should extend beyond the definition of open access.

BEREC should address the following items:

1. **Implementation:** BEREC should establish a specific action item whereby BEREC and its members commit to ensuring the **implementation of open access** whenever possible and appropriate.



2. **Services:** The definition of ‘open access’ should not only cover the infrastructure layer but also the **services layer** (see our comments relating to point 2.7 on ‘Net Neutrality’). The Number faces an issue of “closed access” in the UK, where the incumbent operator BT is using the move from one technology (voice over legacy PSTN) to another (managed VoIP/VOB) to restrict consumer choice and to restrict competition. **Consumers using BT’s managed VoB service (BT Broadband Talk) are being denied the right to access services such as 118118 (the most called phone number in the UK) that are available via traditional PSTN calls on BT’s network.** BT has “*over two million registered consumer customers*”<sup>2</sup> for its VoIP-based services of this kind. Only 118500, BT’s own Directory Enquiries (DQ) service is available for customers of BT Broadband Talk. BT does not accept that it has an obligation to enable third parties to provide Directory Enquiry services to customers of BT Broadband Talk – instead treating it as a product where wholesale access is to be negotiated on a purely ‘commercial’ basis. **After a year of negotiations, the lowest proposed charges to The Number for BT customers to be able to call 118118 from BT’s managed VoB access services are over 15 times the level of charges today levied by BT for their customers to call 118118 from traditional landline services**<sup>3</sup>. This is an example of an incumbent’s approach when it believes it is ‘outside’ regulation for wholesale and retail services. The commercial wholesale access pricing is prohibitive and competition between services such as DQ services is eliminated. **BEREC should pay close attention to, and issue guidance on, how to mitigate the risks associated with deregulating the voice retail markets, as incumbents switch to an all-IP environment.**
  
3. **Migration:** a crucial element of NGA transition concerns the migration process, especially as regards voice services. Voice is typically a service that will not benefit from a surge in quality due to the transition to next generation infrastructure. More importantly, it runs a serious risk of becoming more expensive, both on the legacy PSTN infrastructure and on the new fibre infrastructure if cost calculations continue to rely on LRIC, without rebalancing mechanisms. BEREC should issue guidance and put in place safeguards to ensure that service providers such as directory providers do not end up being squeezed out of the market. This includes specifying that migration should be conducted under the supervision (and with the **prior approval** in many instances) of the regulator. There should be thorough analysis by regulators to ensure no double counting or wrongful attribution of

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<sup>2</sup> BT Group - 2008 Annual report

<sup>3</sup> BT’s best proposal to date involves paying all of the same charges that are levied today by BT Wholesale and Retail for calls to 118118 by BT customers with an additional access charge on top for callers using BT’s managed VoB services to call 118118.



costs or risks occur in the migration between copper/PSTN and fibre networks. Regulators should not allow for costs to include a “risk” factor based on low penetration expectations for NGA whilst also allowing an increase of the legacy PSTN costs based on the assumption that demand (including self-supply) for unbundling and bitstream will reduce significantly.

#### 1.4. Benchmarking Activities

Directory services have been largely ignored by the ERG since its creation, and we believe that BEREC should consider these services moving forward. Though we understand that BEREC has many tasks to accomplish with limited resources, The Number considers that in 2010, BEREC should add a specific benchmarking exercise with recommendations relating to Directory Assistance services, in light of the recently revised Universal Service Directive that requires access costs to Directory Assistance services to be fair and reasonable, and mandates that the supply of data to DQ providers be cost-oriented.

Recital 30 and Article 25 of the text of the new Universal Service Directive states:

- Recital 30: *“Directory enquiry services should be, and frequently are, provided under competitive market conditions, pursuant to Article 5 of Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services<sup>1</sup>. Wholesale measures ensuring the inclusion of end-user data (both fixed and mobile) in databases should comply with the safeguards for the protection of personal data, including Article 12 of Directive 2002/58/EC (Directive on privacy and electronic communications). The cost-oriented supply of that data to service providers, with the possibility for Member States to establish a centralised mechanism for providing comprehensive aggregated information to directory providers, and the provision of network access in reasonable and transparent conditions, should be in place in order to ensure that end-users benefit fully from competition, with the ultimate aim of enabling the removal of retail regulation from these services and the provision of offers of directory services under reasonable and transparent conditions.”; and,*
- Art 25: *“(3) Member States shall ensure that all end-users provided with a publicly available telephone service can access directory enquiry services. National regulatory authorities shall be able to impose obligations and conditions on undertakings that control access of end-users for the provision of directory enquiry services in accordance with the provisions of Article 5 of Directive 2002/19/EC (Access Directive). Such obligations and conditions shall be objective, equitable, non-discriminatory and transparent. (4) Member States shall not maintain any regulatory restrictions which prevent end-users in one Member State from accessing directly the directory enquiry ser-*



*vice in another Member State by voice call or SMS, and shall take measures to ensure such access in accordance with Article 28.”*

**This Benchmarking exercise should cover:**

1. The liberalization state of play in each Member State to show if competition has been successfully established for these services.
2. The definition and scope of directory assistance services in each Member State. In some countries, this definition has remained stagnant since liberalization occurred, and has therefore not taken into account the paradigm shift in our society in terms of the quest for information (the “Google” phenomenon) and the ensuing change in consumer expectations of what services they will want to access when they dial a DQ number.
3. The cost of DQ data and the methodology used for calculation.
4. The cost of access: retail price mark-ups, pricing retentions and wholesale access costs charged by originating networks per call and per minute to enable access to DQ numbers.
5. The existing hurdles to offering cross-border DQ services, by voice call or SMS.
6. The measures required to offer anonymous inclusion options to consumers so people can list their data in DQ databases<sup>4</sup> in a manner which protects their privacy whilst enabling them to be contactable in ways they choose.
7. The extent of data availability: indicating the proportion of landline, mobile, VoIP subscribers who are listed (and the proportion intentionally unlisted) in databases made available for DQ services.
8. The scope of data collected for DQ purposes: future policy needs to look at the expansion of data capture, from name, address, number, to cover any identifiers that are relevant to Directories in a converged environment (e.g. mobile numbers, e-mail addresses, URL’s etc). All consumers and businesses should be entitled and encouraged to be listed in this database at no cost to them, and with suitable privacy options available.

The end-result should reflect not only the collected data but also include guidance on how NRAs can achieve the objectives put in place by the revised Universal Service Directive.

## 2.2. Convergence

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<sup>4</sup> Recital 25 of the text of the Universal Service Directive as adopted in second reading stipulates that “Customers should be informed of their rights with respect to the use of their personal information in subscriber directories and in particular of the purpose or purposes of such directories, as well as their right, free of charge, not to be included in a public subscriber directory, as provided for in Directive 2002/58/EC (Directive on privacy and electronic communications). Customers should also be informed of systems which allow information to be included in the directory database but which do not disclose such information to users of directory services.”



Value-added digital services (such as those provided by the Number) need to be made available for consumers across all networks, regardless of platform, to maximise innovation and consumer benefit. Broadband uptake and innovation in Europe only accelerated once regulators forced incumbents to open access to their networks and offer non-discriminatory wholesale access products through Local Loop Unbundling for service providers, provided at fair and reasonable prices.

There is a lack of wholesale access products for services seeking to be available on mobile networks, which substantially inflates prices for third party services and stifles innovation. To maximise innovation for consumers and economic success for Europe, wholesale access products need to be made available from all networks (fixed and mobile, TDM and IP/NGN based) as quickly as possible.

### **2.3. Cross-border enforcement**

BEREC should focus first on setting in place the harmonized rules to create a Digital Single Market. This would considerably facilitate cross-border enforcement at EU level, allow consumers to have access to goods and services in a transparent and predictable manner and benefit the entire European economy.

From a DQ perspective, we refer you to our answer to point 1.4 above, and more specifically to the fact that Art 25 (4) of the Universal Service Directive as adopted in second reading stipulates that *“Member States shall not maintain any regulatory restrictions which prevent end-users in one Member State from accessing directly the directory enquiry service in another Member State by voice call or SMS, and shall take measures to ensure such access in accordance with Article 28.”*

### **2.5. Future of Universal Service Obligation**

The Number considers that the review of scope of Universal Service should retain references to DQ services, which remain a fundamental element of enabling communications, especially in relation to voice-enabled and SMS-enabled DQ services for their role in enabling digital inclusion (see our comments relating to point 2.6 below).

### **2.6. Accessibility Services for disabled end-users**

Digital Inclusion must remain at the heart of EU and national policies - slow adopters must not be forgotten.

It is an important policy objective to ensure that consumers who do not rapidly take up further use of Digital services – the digitally dis-enfranchised (and often socially disadvan-



taged) - do not lose out and find core services diminished or unavailable whilst the urban digerati move to take advantage of the newest and latest technology .

The continuity of legacy services to the entire European population is important until a high threshold of consumers can be shown to be comfortable to use alternative solutions. Voice directory solutions (DQ) go beyond “search” engines that offer a breadth of automated approximate solution. DQ offers a human-powered “find” service to find the one answer they want within a minute, and will therefore continue responding to specific needs across time.

Failure to do this will marginalise swathes of consumers who will end up with increasingly restricted access to key communications services, instead of achieving extended access to services. Those affected negatively are likely to be disproportionately made up of older people, and those on the lowest incomes (i.e. those unwilling, or unable to afford to ‘upgrade’). Services included in the Universal Services Directive (e.g. Directory Enquiries and Emergency Services) need special consideration to avoid excluding these groups of consumers from the benefits of communication services.

## 2.7 Net Neutrality

The Net Neutrality debate will be a fundamental debate about the future of communications. The Number urges BEREC to submit any work they deliver on this issue to public consultation, to ensure **all** relevant stakeholders are heard, i.e. not only the telecommunications providers, but also the information society providers, users, etc.

The Number considers that competition is crucial at all levels of the eCommunications value chain (i.e. infrastructure, services, content and applications).

It is essential for independent content, applications and service providers to have fair and open (i.e. non-discriminatory) access to both fixed and mobile networks, including in the Next Generation environment. Without this, competition is threatened and consumers suffer through less innovation, less choice and service availability, and increased prices.

Increasingly, consumers will move seamlessly across converged platforms. They must be able to access services and applications on the move without finding their access restricted from individual websites and communications services depending on the technology access or network they are using, or influenced by excessive prices.

Consumers want to access and use applications and services that work. They do not care about the technologies and regulations that underpin them. The Commission’s policy must focus on how to enable compelling content, applications and services to be available from devices of any kind, and require policies that achieve that goal. Digital network providers should be encouraged to open their networks to innovation and competition to



ensure the maximum chance that consumers are provided with seamless, engaging services.

Policies of this kind will encourage a demand-led approach and avoid confusion and disengagement and will be most successful at driving uptake of Digital services and platforms by ALL consumers to drive economic and social benefit for Europe. It is therefore important for the Commission to establish innovation through choice as a clear policy and regulatory objective.

We thank you in advance for taking consideration of these views. Feel free to contact Nik Hole, Executive Director, Government and Business Affairs – Europe for The Number, by phone (+44 7973 748952) or email ([nik.hole@118118.com](mailto:nik.hole@118118.com)) should you need further information.

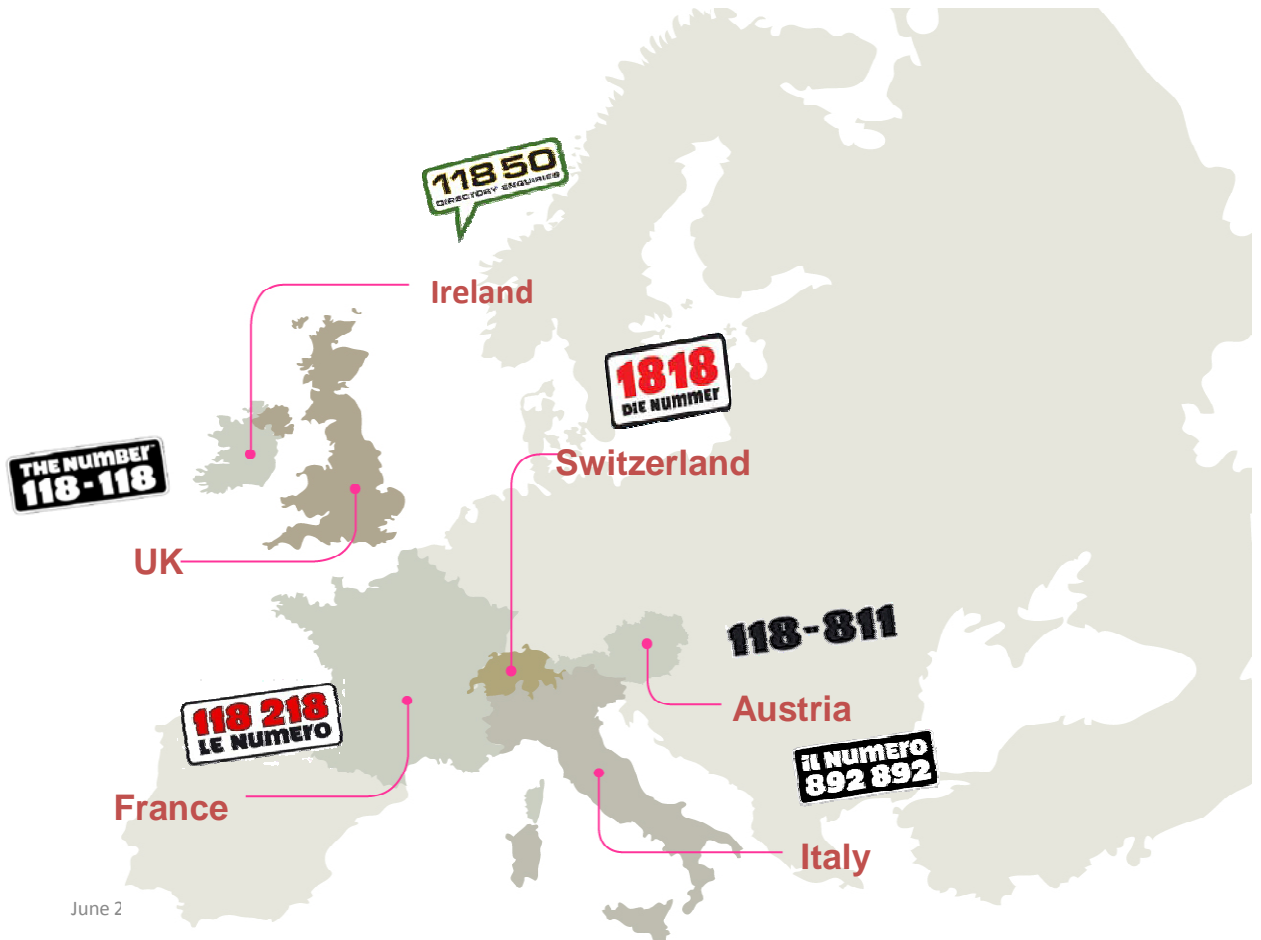
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## About The Number



The Number and its group companies are the largest independent providers of directory enquiry (DQ) services in the world. In Europe, the group has entered six markets (UK, France, Italy, Austria, Switzerland and Ireland) offering new, competitive and high quality services to end users. We use live operators to handle enquiries and today employ more than 6,000 in our European operations. The companies have invested heavily in the development of enhanced databases and innovative new services (such as two-way SMS services).