Ofcom Consultation: CLI Authentication
CCUK response - June 2023

About CCUK

1. Comms Council UK is a membership-led organisation that both represents and supports telecommunications companies that provide services to business and residential customers in the UK. We keep Britain talking in its various guises by providing or reselling voice services over data networks (VoIP) as well as other "over the top" applications including instant messaging and video.

2. The membership is a mixture of network operators, service providers, resellers, suppliers and consultants involved in a sector that is diversifying rapidly. CCUK represents its members at a policy level, builds coalitions to collaborate on industry initiatives and provides a platform to help members prepare for change, learn about new trends and develop new business relationships.

The Status of the Consultation

3. CCUK members note that the publication was a Consultation and not a Call for Inputs. While this may seem like an academic difference, it has given rise to some fears in the wake of the One Touch Switching consultation and statements.

4. We are told – due to the judgment in [2018] EWHC 2126 (Admin) *R v Secretary of State for Housing, Communities and Local Government* – that Ofcom may make Decisions without formally exercising its statutory powers by way of, for example, a change to the GCs. In other words, the industry may be denied its statutory right of recourse to an appeal on the merits because of confusion as to whether Ofcom has decided something in a consultation instead of a final statement.

5. Against this backdrop, CCUK members are understandably worried that the publication being a consultation and not a call for inputs may represent an underlying intent or strategy to prematurely foreclose matters to independent oversight.

6. We are not aware that Ofcom has substantially updated its internal guidance, or the standard form of words included in consultations, in light of this judgment, and would therefore welcome Ofcom setting out when it considers it has made a specific decision.

The Counterfactual

7. Experience from the United States, where STIR/SHAKEN implementation was considered to be over-budget (and late) suggest that care should be taken in the cost/benefit analysis of any intervention by Ofcom.

8. Not only has the USA seen an increase in nuisance calls following its partial implementation of STIR/SHAKEN, suggesting that at least one vector of harm is unabated, we must also ensure that we do not use a simplistic approach of comparing a world without x% of fraud with today. The status quo is not the correct counterfactual.

Oligopolisation

9. We need to consider the risk of oligopolistic behaviour in certain CLI authentication approaches, overreliance on "authenticated" calls by unaware consumers, over-blocking by operators and more. In other words, any perceived benefits of CLI authentication must be weighed against the negative effects of the implementation.

10. The USA is implementing tiers of attestation – A, B and C. Broadly, an 'A' attestation means that the entity signing the injection of the number in signalling knows both the calling party and the number. 'B' means the signatory knows the calling party, but not whether the caller has the rights to present the number, and 'C' means neither knowing the caller nor the number. This leads to significant pressure for calls to be signed with an 'A' attestation. The UK telecommunications ecosystem is very different to the USA's, with a plurality of the 450+ PECNs known to Ofcom subtending from a handful of major networks. This has given rise to significant choice and competition and is the driving-force behind the UK having one of the most competitive telecommunications markets on earth. Simply copying the US model would mean a reduction in choice and competition as calling parties move to direct relationships with the few vertically-integrated providers, away from the many.

11. In other words, care must be taken to avoid a further entrenchment of an oligopoly, to the detriment of choice, innovation and competition – all of which is ultimately to the detriment of the consumers who Ofcom is tasked to protect.

A false sense of security

12. A fraudster making a call with an 'A' attestation, a signed FROM/Presentation number, or whatever form of authentication is mandated is still a fraudster. In this instance, the presence of a "green tick" or whatever mechanism is given to assure the called party of the legitimacy of the call, is likely to lull them into a false sense of security. There is already some evidence that some less than scrupulous PECNs are, at best, unwitting parties to enabling fraud, or at worst, complicit. A CLI authentication regime on its own, does nothing to address harm perpetrated with the assistance (knowing or otherwise) of network operators.

13. We would suggest that Ofcom conduct some behavioural research, presenting calls attested as genuine and non-genuine calls to focus groups, with different content, and analysing the responses. It would not surprise our members if a "green tick" or some variant gave rise to a false sense of security and made fraud easier to perpetrate.

The risk of over-blocking

14. The benefit of blocking calls which are not authenticated by whatever standard is imposed assumes that only illegitimate calls are blocked. We contend that this is incorrect. Even modern networks, which are well run and maintained, suffer transient issues in their signalling.

15. Our members know, from experience dealing with complaints and speaking to end-users daily, that businesses place a greater weight on dealing with the odd nuisance call over missing a genuine call from a customer or a prospect. Anyone that has received calls from abroad is also aware of the issues with the integrity of CLI as calls cross the planet, originating from legacy networks in under-resourced countries.

16. Consumers (businesses or residential) must therefore be empowered to decide whether to answer a call, and not have the Government, regulator, or their network provider, decide for them. That can be a "green tick" approach, call whisper on answering the call, a mandated setting they can control in the provider's portal etc., but the overarching premise needs to be to allow informed consumers to make informed choices.

17. One can imagine many problematic situations arising, e.g., where a young person on a gap year is unable to call home because of poorly arranged blocking measures.

Lack of enforcement of existing powers

18. As of June 2021, despite the harm that Ofcom has outlined in this Consultation and in previous publications, Freedom of Information Act request reference 1256058 states that Ofcom had taken neither any formal nor informal action with respect to GC C6.6. While two years have passed, no formal action has been taken in this time, insofar as the Competition Bulletin has had no reference to Ofcom using its powers.

19. Since 2018, Ofcom has implemented two changes to GCs and introduced novel guidance[1], and is now consulting upon a third iteration of rules. We do not think that Ofcom has fully enforced the rules that already exist or fully verified the effect of previously varying the rules.

20. Even without all these changes to the rules, section 127 of the Act has been used successfully in thousands of cases[2], and we cannot foresee how the harms adduced by Ofcom would not meet the definitions for criminal prosecution, even without the civil liabilities associated with the GCs.

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[1] *"Improving the accuracy of Calling Line Identification (CLI) data. Statement on changes to our General Conditions (GCs) and supporting guidance on the provision of CLI facilities, published 15th November 2022"* & *"Guidance on CLI Facilities. A statement on revising the guidance on the provision of Calling Line Identification facilities"* published on 26th April 2018 in terms of CLI, and *"Good practice guide to help prevent misuse of sub-allocated and assigned numbers. A guide for telecoms providers"* on 15th November 2022.

[2] https://www.gov.scot/publications/foi-202000010956/

21. Ofcom has a broad remit given to it in section 3 of the Communications Act 2003, and the industry – not central Government – funds Ofcom. Given the scale of harm cited, CCUK members are surprised at this apparent incongruity.

22. This is also a relevant thought experiment for the counterfactual.

23. Any form of CLI authentication will cost society an amount of money; in a perfect market, the full costs of implementation of a system are borne by consumers. In reality, we recognise it is not a one-hundred percent linkage, but the UK's market is highly competitive and therefore closer to a perfect market than a pure oligopoly or monopoly, and we know from the USA that the costs of CLI authentication are high, meaning there is a significant risk of consumer inflation. We would recommend that a full analysis be conducted into the benefits of giving the cost that would be imposed on society either through a levy on phone bills, or direct taxation, instead to a specialist branch of law enforcement, and so consider the proposals again in the light of the proportionality tests for regulations enshrined in the Act.

Regulatory Burden

24. The UK's telecommunications industry is currently expected to implement both changes to the switching regime and also the Telecommunications (Security) Act 2021. In addition, new data protection legislation is currently progressing through Parliament, which will create a duty to report suspicious traffic to the Information Commissioner. There are also other matters to attend to for those that implemented Huawei equipment and may be affected by recent rules on customer premises equipment.

25. Further, BT is embarking on a closure programme of its copper network as well as decommissioning its TDM switching infrastructure. While these are specific to BT, they have a significant knock-on effect to the rest of the industry due to historical reasons.

26. This is placing a significant strain on the resources of telecommunications providers, and any cost/benefit analysis needs to consider the timing of any intervention. It will be more expensive for operators to implement CLI authentication in the short-term on equipment they are otherwise disposing of in the medium-term due to bans on certain vendors, or the requirements of the TSRs.

27. Notwithstanding that, given the short life of TDM assets and regardless of their technical capability (which we consider to be limited in respect of CLI authentication), it would seem to be an unjustifiable use of resources to implement CLI authentication on anything other than a full-IP voice network, meaning any intervention would have to wait until April 2025 as a minimum[3].

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[3] That is the date in which the changes to BT's SMP conditions shift as a result of the recent market review. If we are looking at whether or not TDM still exists at BT's end user facing edge, the date could be longer, unless BT is able to convert every single circuit from WLR to SOTAP, SOGEA or FTTP by then. Some commentators consider 2027 to be a more realistic estimate, with that in mind.

28. However, for the period of May 2025 to March 2027, Tier 2 providers will be busy implementing (and procuring compliance with) the TSRs, meaning that the costs of any CLI Authentication project commencing prior to 31st March 2027 may be higher and more inefficiently incurred than any starting before then.

29. Not only does the timing affect the potential implementation costs, but it also affects the availability of vendor equipment suited to CLI Authentication and for either a common international standard to develop, or at least national standards to coalesce around common themes, informed by learning from the USA and others. This in turn reduces the cost of implementation, potentially significantly, if the UK is otherwise at risk of developing a UK-specific solution with no resemblance to other jurisdictions. Markets such as the US have the scale to act unilaterally; while the UK is not insignificant in terms of market power, it is also not correct to simply copy assumptions applicable to other markets.

30. CCUK does not wish to diminish the harm being experienced by UK consumers at the hands of fraudsters, however, a slow and deliberate course of action has several benefits over rushing an implementation and may prove to be better overall.

Implementation Process

31. CCUK and others have given examples to Ofcom of where industry is not always best-suited to be the forum by which changes are implemented. We cite the number portability process as being a case study in which poor outcomes are experienced by consumers due to incomplete action by the regulator. In the case of number portability, we consider that a lack of specificity in the expected consumer experience is one of the root causes.

32. Those arguments are well known to Ofcom and we do not consider it beneficial to repeat them here. Instead, we would cite The One Touch Switching Company Limited ("TOTSCO") as a case study. Our members say that it suffers from a lack of transparency (noting that Ofcom has had to take the step of writing to the industry to stress the need for this in such endeavours as a result[4]), runs a moral hazard of favouring vertically-integrated players at the expense of a diverse ecosystem which drives choice and innovation, as well as potentially being expensive and inefficient.

33. There are significant lessons for industry and regulator alike to learn from the implementation of the One Touch Switching project, prior to embarking on another endeavour which requires the technical integration of hundreds (or, if including resellers of PECS, thousands) of entities' systems. Prior to any future consultation on CLI Authentication and noting Ofcom's recently welcomed reflection on certain policy decisions[5], we would suggest that Ofcom may wish to issue a Call for Inputs on CLI Authentication to better inform future policy making.

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[4] Letter to the OTA from Cristina Luna-Esteban dated 21 December 2021

[5] *"Evaluation of the 2015 pricing reforms for calls to non-geographic numbers published"* 1st June 2021.

34. Without presuming the outcome of such an exercise, we should suggest that previous interventions have not struck the best possible balance between articulating the desired consumer experience versus leaving industry to fill in too many gaps in that regard.

ENDS