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Dear Mr Littlemore,

**Re: Response to 'Call for Inputs around the extension of PhonpayPlus regulation to remaining revenue-sharing ranges'**

As Managing Director of Surgery Line, I am writing in response to the PhonpayPlus call for input as part of OFCOM's wider strategic review into Non Geographic Number (NGN) ranges. NEG submitted a response to the OFCOM consultation in March 2011, and we remain committed to working with OFCOM and its partners, including PhonpayPlus, to secure a sustainable way forward which does not detrimentally affect patients or our GP clients.

**Executive Summary**

Surgery Line is a product used by approximately 1,500 GP surgeries across the United Kingdom, supporting primary care providers in the NHS to improve patient access and experience by ensuring patients get through on the phone first time. Surgery Line is the largest provider of Enhanced Telephony Solutions (ETS) to GP surgeries in the UK and enables surgeries to better manage patient call volumes, provide targeted local information, out of hours booking services, and direct phone access to clinicians. Most importantly our product ensures that patients can access their primary care provider first time, unlike the approximately 20 million patients every month who face the engaged tone when trying to get through to their doctor. Surgery Line is hugely popular amongst our GP clients, and has demonstrable impacts for improving access and satisfaction, as evidenced by Patient Survey and NHS QOF data. Moreover, Surgery Line supports GPs to meet the requirements of the NHS Constitution.

These benefits will be irreparably undermined if OFCOM proceeds with plans to classify 0844 numbers as business rate and GP surgeries using Surgery Line are monitored on PhonpayPlus as a costly 08XX revenue sharing number. We recognise that there are issues in the perceived costs of calls to NGNs and remain open to working with stakeholders to improve transparency, including unbundling call costs. However, inclusion on the PhonpayPlus website and the subsequent regulatory arrangements are wholly inappropriate for "socially valuable services" and will leave GPs with no choice, other than to abandon their enhanced telephony solutions. There must be a greater distinction between costly 08xx numbers and those which cost less or the same as a local rate number. A new logo for "socially valuable services", which are exempt from the PhonpayPlus website, would be an appropriate way forward.

**OFCOM Consultation – Surgery Line Position**

Surgery Line share OFCOM's ambition of "protecting access to socially important services" and ensuring that "the outcome delivered by the communications market is fit for the broader societal objectives." However, we have significant concerns that OFCOM proposals fail to protect the use of 0844 for socially valuable reasons and improving patient welfare, and note that a number of charitable organisations (including, for example, the Citizen's Advice Bureau) use the 0844 number range.

Surgery Line disputes OFCOM's claims that [regarding 0844] "unlike 0845 or 03 ranges, there is currently little evidence that public bodies are choosing this range for hosting essential services; we have therefore not identified this specific concern for calls to 0844 at this stage." We consider supporting patients and GPs in approximately 1,500 surgeries across England to meet their NHS Constitution obligations and preventing callers facing the engaged tone as essential.

Surgery Line has been a facilitator of the Department of Health's channel shift strategy as well as playing its part to improve the welfare of patients through improved access and experience. The NHS Constitution outlines the NHS's commitment to delivering the highest quality of care, focused upon patient experience, and the needs and preferences of patients. Through improving services, raising public health awareness and driving access during peak times Surgery Line continues to assist GPs to meet their obligations.

However, we recognise that there are concerns around the perceived cost of NGN numbers, with OFCOM research indicating that consumers regularly overestimate the costs of these calls and have little trust in the number ranges. Moreover, research suggests that there is a lack of awareness of the 0844 number range overall, and clarity on call costs is poor. We undertake ongoing support work to increase confidence for GPs and their patients calling a surgery using Surgery Line and other telephony solutions to access primary care services.

We share OFCOM's concerns that call charges are not clearly advertised to consumers by mobile/landline operators, but note that some challenges do exist to articulating these costs effectively, including different costs to callers from different MNOs and between different packages. We continue to support OFCOM's preferred approach of "unbundling call costs" and note that Surgery Line do not make any additional income from mobile calls. Price transparency for consumers is a positive thing, as long as this is provided in a clear format with the process discussed and agreed with the industry. Surgery Line would be happy to work with stakeholders to improve transparency in relation to "socially valuable services".

Surgery Line continues to support competition in the market across all number ranges and solutions, as long as these ranges compete on an equal footing, and notes OFCOM's legal duties to promote non discriminatory choice and competition in the telephony market. We would add that, in recommending a solution, the Department of Health rejected an approach that would have explicitly singled out a particular number range for specific treatment in the outcomes of its 2009 NHS consultation regarding the use of 084 numbers in the NHS.

### The impact on Primary Care

There is no way, under OFCOM proposals, to clearly distinguish between 084 numbers where patients pay less or the same as a geographical call and those calls which cost more than geographical rate.

We believe that the current proposal to class numbers used by Surgery Line customers as a "business rate" is disingenuous, and are satisfied that "having regard to the arrangement as a whole, persons will not pay more to make relevant calls to the practice than they would to make equivalent calls to a geographical number" in line with the NHS Regulations 2010. In implementing the proposals in this consultation, a situation could arise where a surgery with a local rate number (branded as "geographical") would be more expensive to call than a neighbouring surgery using Surgery Line (branded as "Business Rate").

In addition, the implementation of the proposed logos would cause unwarranted pressure for GPs to abandon ETS using 084 entirely, and could result in a loss of ETS to the NHS in primary care. The current model for primary care is comprised of GPs and Dentists, operating as SMEs, who are contracted to provide services on behalf of the NHS. The British Medical Association, the Practice Managers Network and Department of Health all note the benefits of ETS, but this has not been supported financially by the NHS. As such, providing ETS costs individual surgeries between approximately £6,000- £50,000 of upfront costs to install (depending on the size of the surgery/lines required). Entering into a revenue sharing model (using a 0844) enables practices to offset the upfront costs of their improved telephony through 2 pence per minute from the cost of calls being made to the surgery contributing to the payment for the cost of the telephony system. This funding cannot be used for any other purpose by the surgery and is held in an escrow account. The revenue share model has, according to our calculations, enabled £27 million to be invested in the NHS

over the last 7 years, which would be lost if the use of 084 in primary care faced a de-facto ban. GPs and Practice Managers introduce ETS to improve patient care, access and efficiency, not to make a profit.

ETS are also available through use of a 03 number, which Surgery Line does offer to clients. However, to date no practice has taken this up because of the cost implications. Using an 03 number would mean that practices would face the full implementation costs of the ETS, in addition to a 2 pence per minute charge to the surgery for each call received. Extrapolating the previous investment figure this could have resulted in a cost of £54 million to the NHS for telephony over the same period. It is likely that if 0844 numbers are classified as "business rate" practices would be forced to abandon Surgery Line since the costs of a 03 based ETS would prohibit them from taking up these solutions. This would result in a significant loss of the benefits of ETS for patients, GPs and the NHS, exacerbating the engaged tone issue and thus failing OFCOM's criteria of protecting socially valuable services. During the Department of Health's consultation into the use of 084 numbers in the NHS in 2009, uncertainty caused a stall in the uptake of 084 but not an upsurge in surgeries adopting 03 solutions, demonstrating little support for the 03 model in the marketplace. A de facto ban would result in surgeries reverting to 01 and 02 number ranges and perversely increase the usage of costly Ringback services, greatly impacting patients on low incomes.

As such, OFCOM proposals will unfairly and inaccurately reinforce the misconception that calls to surgeries using the Surgery Line product are more expensive, further reducing consumer confidence in the use of 084 numbers in the NHS and other socially valuable services across the public and charity sector. Notably, costs of geographic calls are rounded up to the nearest half minute, whereas a patient calling an 084 number only pays for the precise seconds used.

### **PhoneyPayPlus Call for Input**

Surgery Line supports PhoneyPayPlus's ambitions for "clear and accurate pricing; honest advertising and service content; and appropriate and targeted promotions" and supports all numbers (including 0844) to provide clear unbundled information about the cost of a call, including the revenue share model.

As provided overleaf, there are a number of achievable solutions that do not undermine the use of 0844 in public services or charitable organisations. Proposals contained within the consultation documents would lead to further uncertainty about the costs of some NGNs, not greater transparency. Inclusion in the PhoneyPayPlus remit will further perpetuate the myth that calls to GP surgeries using Surgery Line are to a premium cost number, particularly when monitored alongside music, video games, ringtones, TV shows and adult phone lines. This will result in confusion for patients and GPs, and will result in primary care providers abandoning their ETS solutions despite the clear benefits for patient access and experience.

We consider the comparison between the 087X premium market, and use of 0844 for public services completely inappropriate. The preference for 0844 in surgeries reflects the structure of the NHS primary care market, where the objective is not to profit, but to invest in services for the benefit of patients. Migration to other number ranges is unlikely given the start up costs required to invest in enhanced telephony.

We believe that compliance with policy could be obtained by a voluntary agreement from telephone service providers alongside an agreement to state the service charge in all advertising. We oppose inclusion in the PhoneyPayPlus regulatory environment on the grounds that it will result in the withdrawal of ETS solutions in the NHS and have a detrimental impact on other socially valuable organisations.

PhoneyPayPlus should provide greater clarity regarding "the applicability of the regulatory framework when the purpose of the revenue share is to offset costs of providing a service to consumers rather than to serve as a revenue stream" to enable the full analysis of the implications of applying the existing regulations to 08XX numbers for socially valuable purposes. This is not included, and therefore we are unable to make a full response on the impact on Surgery Line and GP and Dentist customers. Moreover, whilst a revenue share levy may be suitable for other call charges, we have significant concerns that levies on the revenue share of calls to GP surgeries using Surgery Line calls would be inappropriate given the use of this funding to re-invest in improved practice services. Moreover, current rules only permit revenue share income to be re-invested in telephony and technology within surgeries, as such there may be legal implications for these changes.

We consider using the funding from calls to GP surgeries using Surgery Line revenue share to regulate other more costly 084 numbers wholly inappropriate, and will further perpetuate the myth that callers will incur a higher call charge than the geographical rate. Funding a levy on the revenue share or separately via an annual registration fee may also result in the costs of infrastructure being driven up for GPs, and potentially becoming unaffordable.

We have significant concerns that the fear of fines and banning of services (as detailed in the existing regulatory arrangements) will deter GPs from using an ETS based on a 0844 number to improve services, despite their strong support for the Surgery Line product. Furthermore, potential regulatory measures including prohibiting access and an immediate service ban are not suitable for NHS services, where patients must have continued, and uninterrupted access to primary care. Additional regulatory pressures (including potential increased data regulation responsibilities) would be inevitably passed onto GPs, and would act as a further deterrent to the take up ETS.

### **A sustainable way forward**

Surgery Line is committed to working with stakeholders to develop a new approach which improves transparency and confidence in NGNs. However, we have significant reservations that the proposals, if un-amended, will increase patient confusion over the cost of contacting their primary care provider and eradicate the benefits of ETS in the NHS. Our concern is primarily focused on being classified as business rate and the impact of inclusion on the PhonepayPlus website. We believe that more costly 08XX numbers which are charged at a significantly higher rate than a geographical rate should be better regulated. However, an outcome is required where revenue sharing numbers charged at a geographical rate or below are simply and accurately communicated as such to the surgery's patients and the wider public.

Our proposals include:

- Creating a new logo distinguishing 0844 for socially valuable/public services by lower cost branding
- Introducing a new number range which is capped at the geographic rate, but incorporates revenue sharing or permits 03 numbers to allow revenue sharing
- Voluntary compliance from providers of "socially valuable" services to demonstrate compliance (but not monitored on the PhonepayPlus website) and an agreement to state the service charge in all advertising
- Allowing 084 numbers for public services be treated as the 03 number range is, included within bundles for mobiles and fixed lines
- A standard connection charge set by MNOs across all mobile packages, to ensure transparency of call costs for consumers

I would welcome the opportunity to meet with you to discuss these proposals in greater depth, and work towards a sustainable solution which will protect revenue sharing arrangements for socially valuable services.

Yours sincerely,

Andy Woollard

Managing Director