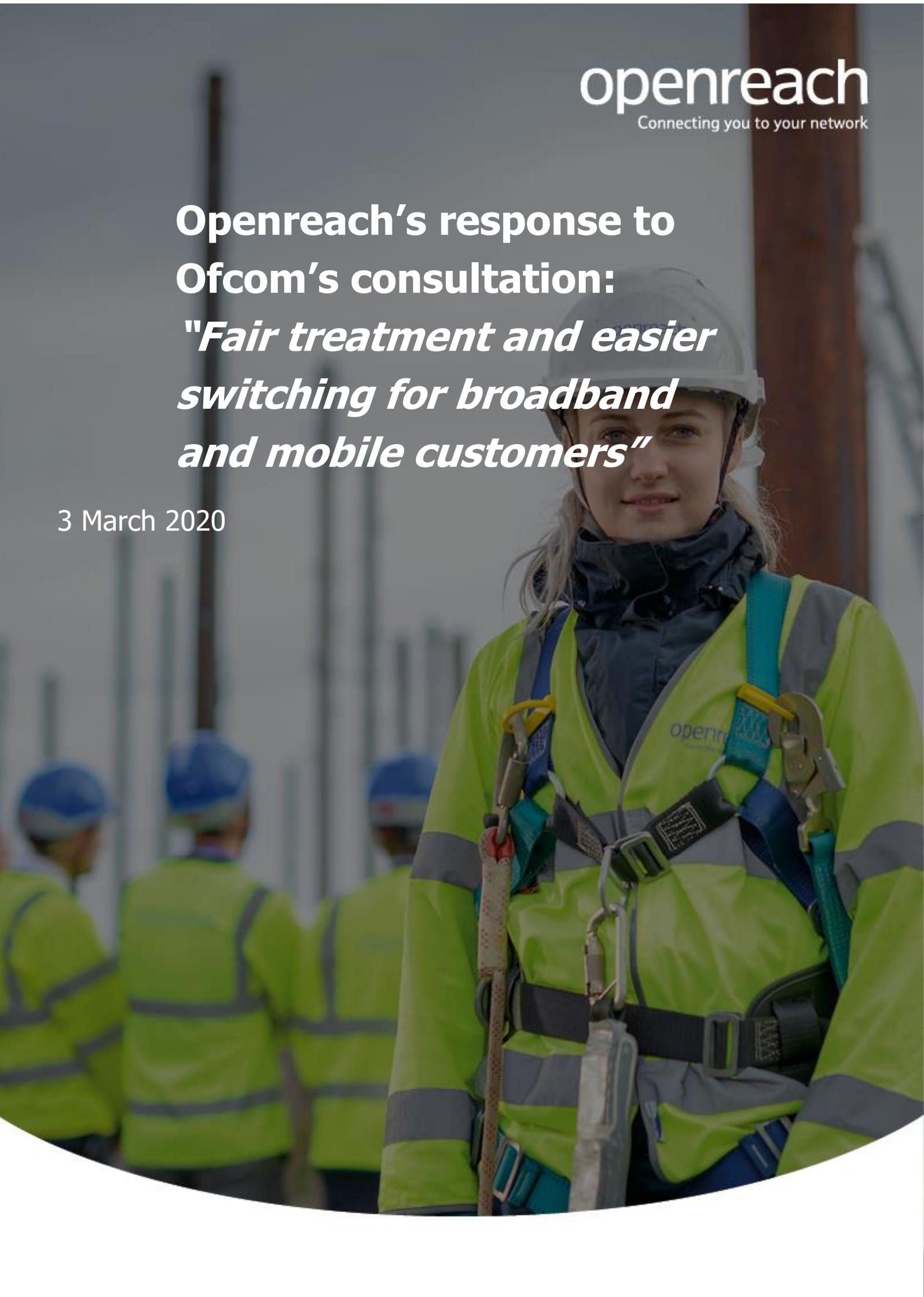


**Openreach's response to
Ofcom's consultation:
*"Fair treatment and easier
switching for broadband
and mobile customers"***

3 March 2020



Foreword

On 17 December 2020, Ofcom published its consultation document entitled "Fair treatment and easier switching for broadband and mobile customers".

This response is provided by Openreach Limited - a wholly owned subsidiary of BT Group.

We're the people behind the UK's digital network and we connect homes and businesses, large and small, to the wider world.

We work every day to get faster broadband speeds, broader coverage and better service for everyone. We're an open wholesale network provider.

Our customers are the 600+ communications providers (CPs) working in the UK – companies like BT, Sky, TalkTalk and Vodafone.

We connect people to their networks so they can sell them landline, mobile, broadband, TV and data services.

Table of Contents

Foreword	1
I. Executive Summary.....	3
II. Background and Introduction	4
III. Switching and Porting.....	6
Application of switch processes to products	8
Timing and date of a switch	8
Number Porting after termination of contract	9
IV. Switching and Porting Principles	10
V. Openreach Response to Ofcom’s specific questions.....	12

I. Executive Summary

1. Openreach supports Ofcom's priority to achieve fairness for all parties in the UK telecommunications market. To this end enabling end customers to shop around with confidence, make informed choices and switch easily between providers are features of a competitive market and we therefore welcome the opportunity to respond to Ofcom's consultation on "*Fair treatment and easier switching for broadband and mobile customers*" as published on 17th December 2019. The majority of this response relates to switching. We are happy to discuss any elements of our response in more detail with Ofcom, the Office of the Telecommunications Adjudicator (OTA) and industry as required.
2. Ofcom acknowledges its role in working with government, and collaborating with European and international partners to **ensure a smooth transition and effective regulation post Brexit**. Openreach supports and welcomes this. A critical element of the sector's future competitiveness post-Brexit will be a similarly stable, predictable, independent and proportionate regulatory environment which includes appropriate checks and balances.
3. Openreach supports and recognises the need for **a switching process to be implemented across** networks but suggests this should be limited to new switches across networks and should not impact the existing switches within the Openreach network. The new process to switch across networks will require some form of upfront verification in relation to the party requesting the switch and the services to be switched and co-ordination between the losing and gaining parties. Openreach believes that it should be the responsibility of the end customer's existing providers to ensure this co-ordination is of the upmost priority in any switching solution.
4. Openreach recognises that the implementation of a new cross platform switching capability must be agreed across all relevant industry players and as such meeting the European Electronic Communications Code (EECC) deadline of 21 December 2020 will be challenging. However we understand that the current arrangements for intra-Openreach switches are compliant with the EECC requirements in the fixed telecommunications market, as confirmed by Ofcom:

"We believe the existing regulatory processes for switching within the Openreach and KCOM fixed copper networks... are already in line with the EECC and our proposed new rules. Therefore we are not proposing substantive changes to these processes at this stage.¹"

5. In Openreach's view any new switching process will require the implementation of a 'hub' to create the handshake between losing and gaining retail parties where products and services are supplied over different platforms. **This hub must have direct communication with the retailers that deliver the products and services to end customers and not be deployed at the Access Network Providers level** because translation of services can become blurred and drive failure particularly when the Access Network Provider does not have visibility of the services to be switched.

¹ Ofcom consultation document paragraph 1.4

II. Background and Introduction

6. Openreach, as a wholesale network provider, supports over 600 Communications Providers enabling them to provide their end customers with bundled landline, mobile, broadband, TV and data services. The focus of Ofcom's consultation is to introduce a number of additional protections for end customers to ensure they get a fair deal. As a wholesale provider Openreach is one (or more) step removed from contracts with end customers and therefore we are not in a position to comment directly on some of the aspects of the consultation. However, where appropriate Openreach welcomes the opportunity to comment on the implementation of the European Electronic Communications Code, primarily in relation to the proposals associated with switching and porting. We are happy to discuss any elements of our response in more detail with Ofcom, the Office of the Telecommunications Adjudicator (OTA) and industry as required.
7. We note that Ofcom has made some changes to some defined terms or introduced new defined terms used in the General Conditions. In particular, Ofcom has changed the definition of Electronic Communications Services (ECS) to make it clearer what services are covered. As a result of the change to the definition of ECS, Ofcom has added a new definition of Internet Access Service which complements the existing definition of Publicly Available Internet Access Service that remains unchanged. These services are now in scope of GC C7 on switching.
8. Ofcom has defined a voice service as "*An NBICS is a service that uses numbers from national or international numbering plans or which enables communication with a number or numbers in national or international numbering plans. This includes landline and mobile voice call services as well as text messages, but not services such as email²*". Our understanding is that this definition implies that a voice service does not need to work at a fixed location and is wider than a PATS³ based service. Therefore any changes to switching processes must be accommodated by multiple providers of services that are in scope for switching, which makes the process more complex.
9. The Electronic Communications Working Group (ECWG) has discussed various options prior to this consultation publication. Our view is that any option, where only Network Providers interact with a switching hub, will not work. Given the multiple and complex services that require switching as part of the EECC, it is essential that the retailers of these services that have the relationship with the end customers interact directly with a switching hub to avoid errors such as switching incorrect services. Openreach does not have visibility of all NBICS services. It would therefore be unsatisfactory and problematic for Openreach to operate the switching process for those services.

² Ofcom consultation document paragraph 3.16

³ Ofcom defines PATS (Publicly Available Telephone Service) as a service made available to the public for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan.

10. The rest of this document is set out as follows:

- Section III focuses on Openreach's views on switching and porting in relation to the points raised in the Ofcom consultation document.
- Section IV sets out Openreach's views on the objectives Ofcom supports and the EECC view which envisages switching and porting as a one-stop-shop and a seamless experience for end customers as set out in Article 106 of the EECC.
- Section V sets out Openreach's response to Ofcom's specific questions.

III. Switching and Porting

11. Openreach has very relevant and extensive experience relating to the operation of regulated switching processes in the UK telecommunications market. Openreach has been involved in the creation of switching processes over a sustained period of time and understands the need to strike the right balance between ease of switching and consumer protection. We take our responsibilities in enabling switching and porting processes very seriously.
12. Over four and a half years ago Openreach implemented the current harmonised consumer switching process called Notification of Transfer, having re-developed the process in collaboration with industry and the OTA. The previous Migration Access Code process was removed from the Openreach SMPF product that delivers broadband services to end customers and replaced with the Notification of Transfer solution. Openreach is pleased with Ofcom's statement in the consultation document that:

"We believe the existing regulatory processes for switching within the Openreach and KCOM fixed copper networks... are already in line with the EECC and our proposed new rules. Therefore we are not proposing substantive changes to these processes at this stage."⁴
13. In support of this, Openreach and industry facilitate an average of 175,000 customer switches across Openreach products each month. As these switches are already in line with the EECC proposed new rules, these should continue with additional processes put in place to facilitate switches across platforms. Openreach believes the current process works well and support effective switching between Communications Providers. As an indication of the effectiveness of the current process, Openreach analysis of the existing switches across the Openreach products shows that only an average of 3.2% of switches are cancelled by an end customer's current provider (the Losing Provider).
14. Openreach also recognises the importance of the wider aspects of switching. For example at the time of introducing the harmonised Notification of Transfer process, Openreach implemented a solution to enable urgent restoration for broadband switching and to date there has been minimal requests for its usage. Again this demonstrates that the current process works well.
15. We note that Ofcom does *not intend to specify extensive new detailed processes at this time⁵* and proposes to *"largely retain, with some changes, the specific obligations in relation to the existing porting, Notification of Transfer and Auto-Switch processes"⁶*.
16. Openreach welcomes this approach. The current process needs to be sustained going forward – as Ofcom recognises *"switching is also important in supporting future investment in, roll out and take-up of ultrafast broadband"*. As part of Openreach's fibre FTTP product portfolio we already offer a switching capability for switching between CPs providing full fibre services on the Openreach network.

⁴ Ofcom consultation document paragraph 1.4

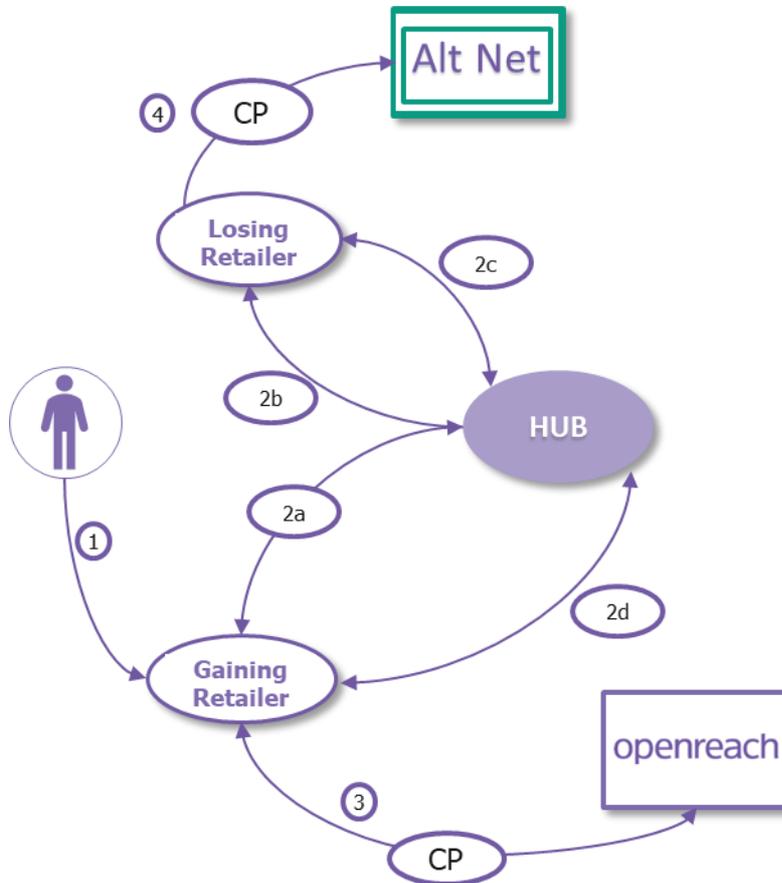
⁵ Ofcom consultation document paragraph 7.3

⁶ Ofcom consultation document paragraph 7.3 c)

⁷ Ofcom consultation document paragraph 7.8

17. Openreach supports and recognises the need for a switching process to be implemented across networks. The implementation of a new cross platform switching capability must be agreed across all relevant industry players and as such meeting the EECC deadline of 21 December 2020 will be challenging. As mentioned above, we note Ofcom's comment that the current arrangements for intra-Openreach switches are compliant with the EECC requirements in the fixed telecommunications market.
18. A new cross platform switching process will require some form of upfront verification in relation to the party requesting the switch and the services to be switched. Openreach believes that it should be the responsibility of the end customers' existing providers to ensure this co-ordination is of the utmost priority in any switching solution. This means it should be those providers at the retail level that need to handshake the switch between themselves before placing a switch order with their supply chains.
19. Openreach welcomes the involvement of the OTA to facilitate cross industry engagement to enable a switching process that can be implemented across infrastructure networks. Openreach supports and recognises the need for such a process. However throughout the industry discussion which commenced in September 2019, it has become apparent that any new switching process will require the implementation of a 'hub' to create the handshake between losing and gaining retail parties where products and services are supplied over different platforms. This hub must have direct communication with the retailers that deliver the products and services to end customers and must not be deployed at the Access Network Providers level because translation of services could become blurred and drive failures, due to the fact that the Access Network Provider would not have visibility of the services to be switched. For example, a voice service for an end customer could easily be incorrectly translated to the entire broadband service at the network provider level and the wrong service could incorrectly be switched.
20. The customer journey and diagram below depict the interaction between parties to demonstrate how such a model could operate, allowing for fast and efficient verification of end customers at the retail level.
21. Customer Journey – the following identifies the steps in the customer journey and the roles playing by each party in the value chain.
 - Step 1 - the end customer approaches the Gaining Retailer.
 - Step 2a, b, c, d - the Gaining Retailer agrees the services to be switched with the Losing Retailer via the hub. This can be an interactive process until the Losing and Gaining Retailers are clear on the customer details and the services to be switched. The hub is a very simple messaging exchange facility which passes key messages from Losing and Gaining Retailers to ensure accurate validation of end customers and services to be switched.
 - Step 3 - the Gaining Retailer initiates the switch via their Communications Provider(s) and network provider (e.g. Openreach).
 - Step 4 - the Losing Retailer initiates the cease with the losing network provider. If the gaining and losing network providers are the same then the network provider will complete the cease once the switch has completed. Therefore the process would continue as it does today, allowing the current circa 175,000 switches per month to continue without change.

22. The above customer journey can be depicted as follows:



Application of switch processes to products

23. Openreach is pleased that any new proposed switching process will be consistent across all products to ensure any changes that are implemented are cost effective and in agreement across all of industry. Openreach operates processes that are agnostic to the type of end customers to which the products or services are sold.

Timing and date of a switch

24. Paragraph 7.57 of Ofcom’s consultation document states that the GCs will specify that for IASs, NBICs and all elements of a bundle the date of the switch should be a date chosen by the customer where this is technically possible. Openreach agrees that where an end customer does not choose the date of the switch, the date should be as soon as possible.

25. Openreach is happy to reduce lead-times associated with switching from the existing 10 working days to a lead-time agreed by industry. Consideration will still be needed for new network builds. Where bundles are being switched it may be that these services are being delivered currently by different access network providers and therefore it is imperative that the coordination activities is carried out at the retail level (i.e. that any hub must be accessed directly by retailers and not be deployed at the access network providers level).

Number Porting after termination of contract

26. Ofcom proposes⁸ that providers must provide number porting to customers that request it for at least one month after the termination of a contract unless the customer expressly agrees otherwise when terminating that contract. Openreach currently has a process that quarantines numbers for a period of time (at least 30 calendar days) when numbers are ceased as part of a contract termination. For example when a CP orders a 'Working Line Takeover' typically used when an end customer moves out of a premises and a new end customer moves in, Openreach will change the number for the new occupant at that address as part of the product offering⁹ and the old number will be placed in quarantine if the moving out customer has not taken it with it to its new address.
27. Openreach experience shows that the number of times a number needs to be retrieved from quarantine is very low, circa 2 to 5 times per month. From an Openreach perspective, to accommodate the 30 (calendar) day recovery requirement should be straightforward, however it may require a mandatory quarantine period in some areas, namely numbering conservation areas where spare numbers are in short supply.

⁸ Ofcom consultation document paragraph 7.80

⁹ Where the Openreach product offering includes the provision of a number (e.g. WLR).

IV. Switching and Porting Principles

28. Throughout this response Openreach has focused on the objectives Ofcom supports and the EECC view which envisages switching and porting as a one-stop-shop and a seamless experience for end customers. The following provides Openreach's views on how the current process and a potential modified process would support the principles of Article 106 of the EECC¹⁰. Processes must:

- a) be gaining provider-led;
 - The existing switching process which Openreach operates for industry does not require the end customer to approach its current provider as part of a switch. As such it is a "one stop shop" process. Openreach believes this concept should be extended and therefore supports a new switching proposal whereby the gaining party/retailer leads the switch process in direct conversation with the end customer. Openreach does not support that the retailers request their supply chain to facilitate the conversation with the current provider as this adds additional complexity and costs (as well as potential points of failure), particularly where the access network provider does not have any visibility of (or involvement with) the products or services that require switching (e.g. pay TV).
- b) be efficient and simple;
 - Extending the existing gaining provider-led process could be implemented in a timely fashion given the tight timescales for implementation (December 2020), unlike other more complex solutions. The existing switching process currently facilitates an average of 175,000 switches per month and has an urgent restoration process, albeit it is rarely used. It also has a low cancellation rate driven by the existing provider (i.e. Cancel Other at a rate of circa 3%).
- c) be carried out in the shortest possible time on a date agreed with the end-user;
 - The current lead time on the existing switching process is driven by historic requirements with both losing and gaining providers dispatching letters to the end customers. Openreach is willing to facilitate a much shorter lead-time if required with the agreement of industry and Ofcom.
- d) ensure continuity of service, unless technically not feasible;
 - The existing switching process that uses Notification of Transfer which Openreach operates for industry manages the vast majority of switches seamlessly with zero disconnection time i.e. they are a systems switch only. Where switching requires an element of engineering activity, a switch may incur limited downtime whilst the engineering work is performed. Openreach considers that if a solution requires a "hub" at the top of the supply chain (as opposed to a hub at the retailer level) then disconnection time could be significantly longer due to there being more potential points of failure.

¹⁰ Ofcom consultation document paragraph 7.21

- Openreach notes the proposed new requirement under GC C7 (C7.17) for CPs to ensure that there is no loss of service that would delay the CP migration.
- e) ensure loss of service is no greater than one working day;
- The existing Notification of Transfer switching process which Openreach operates for industry ensures a co-ordinated switch between the gaining and losing providers. This process is summarised in Figure 7.1 (paragraph 7.12) in Ofcom’s consultation document.
- f) allow end-users to port their number for at least a month after termination;
- Openreach experience is that the volume of occurrences that result in a number being ceased and subsequently requiring a number port is minimal (circa 2 to 5 per month). However in the event that this does happen Openreach already has a process in place to accommodate such a situation.
- g) include automatic termination of the end-user’s contract with the losing provider;
- This is for CPs to consider.
- h) involve no cost for the end-user to port their number;
- This is for CPs to consider.
- i) ensure that end-users are adequately informed and protected;
- The existing Notification of Transfer switching process which Openreach operates for industry ensures that retailers are aware of the necessary information to pass onto the end customers.
- j) ensure that switching and porting are only carried out with explicit consent;
- Openreach points out the need for gaining and losing retailers to interact directly to ensure explicit consent is obtained. In addition, the existing switching process which Openreach operates for industry provides protection with a recognised Cancel Other facility.
- k) Ensure end-users are compensated when things go wrong.
- Openreach already pays Automatic Compensation to CPs when switching orders fail their committed date.

29. Based on our comments relating to the above EECC principles we consider that Openreach’s objectives are well aligned with those of Ofcom and our customers.

V. Openreach Response to Ofcom's specific questions

30. The following section provides Openreach's responses to the specific questions raised by Ofcom in the consultation document. As Openreach does not sell electronic communications services directly to end customers we have not provided comments on the areas of the consultation that do not impact Openreach. We would be happy to discuss any aspect of our views as required.

Section 3: Changes to the defined terms used in the General Conditions

Question 1: Do you agree with our proposed changes and additions to the defined terms used in the GCs in order to align with the EECC, as set out in Annex 11?

31. Openreach has no objections to the proposed changes. Please see our responses provided in section II above.

Section 7: Switching and porting

Question 7: Do you support our proposals to introduce (a) new general switching requirements for all types of switches for residential and business customers and (b) specific switching requirements on information, consent, compensation and notice period charges for residential customers?

Question 8: Do you support our proposed guidance in Annex 8 on compensation for residential customers?

32. Openreach agrees in essence to the introduction of new general switching requirements for all types of switches, noting that as stated by Ofcom the existing arrangements for switching is in line with the requirements of the EECC. For our detailed specific comments please see sections II and III above.