



## Annexes - Consumer switching

Annexes 13-14 of consultation  
Consumer switching: Proposals to reform switching of  
mobile communications services

Proposed modifications to the  
General Conditions of Entitlement

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## Annex 13

# Proposed modifications to the General Conditions under section 48 of the Act

A13.1 In order to give effect to our proposals set out in this document, Ofcom proposes to:

- set a new general condition;
- modify one of the existing general conditions; and
- modify existing definitions, and add new definitions, in the general conditions.

A13.2 This Annex gives an overview of all these proposed changes and explains why we consider they are consistent with our statutory powers, duties and other relevant legal tests.

A13.3 Annex 14 sets out our Notification under section 48A(3) of the Act.

## Proposed changes

A13.4 We are currently conducting a review of the General Conditions as a whole and consulted in December 2016 on a revised approach to, and draft of, them.<sup>1</sup> One of the aims of that review is to make the General Conditions simpler and clearer and some of our specific proposals are:

- to renumber all the conditions to reflect the proposed categorisation into three parts: Part A for “Network functioning conditions”, Part B for “Numbering and technical conditions” and Part C for “Consumer protection conditions”. E.g. GC 1 would be renumbered as GC A1; and
- to move away from having separate definitions of “Communications Provider” in each General Condition and to use the term “Regulated Provider” instead; and to move all the definitions to a separate Annex and to use a single definition across the GCs as a whole, wherever possible.

A13.5 We have therefore drafted our proposed new general condition in this document in the same style as we are proposing for the General Conditions as a whole and, consequently, it should be read alongside the revised General Conditions on which we consulted in December 2016.<sup>2</sup> In particular:

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<sup>1</sup> Ofcom, *Review of the General Conditions of Entitlement, Consultation on the general conditions relating to consumer protection*, [https://www.ofcom.org.uk/data/assets/pdf\\_file/0032/95873/Review-of-the-General-Conditions-of-Entitlement-Consultation-on-the-general-conditions-relating-to-consumer-protection.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0032/95873/Review-of-the-General-Conditions-of-Entitlement-Consultation-on-the-general-conditions-relating-to-consumer-protection.pdf)

<sup>2</sup> Ofcom, *Review of the General Conditions of Entitlement, Consultation on the general conditions relating to consumer protection*, [https://www.ofcom.org.uk/data/assets/pdf\\_file/0032/95873/Review-of-the-General-Conditions-of-Entitlement-Consultation-on-the-general-conditions-relating-to-consumer-protection.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0032/95873/Review-of-the-General-Conditions-of-Entitlement-Consultation-on-the-general-conditions-relating-to-consumer-protection.pdf)

- we are proposing that the draft general condition set out in Schedule 1 of Annex 14 of this document would be inserted in Part C of the General Conditions, either as a new part of Condition C8, as a new part of Condition C9 or as new general condition on its own. We have therefore numbered the draft condition set out in Annex 14 of this document as “Condition C[X]” and we will decide on where it would be most appropriate to be inserted in the final version;
- we have adopted the approach of specifying which providers would be “Regulated Providers” at the start of our proposed new condition (see paragraph C[X].2); and
- our proposed new general condition would not contain any list of defined terms. Instead, we propose to insert some new defined terms into Annex 1 of the General Conditions (and we make use of terms already defined in that Annex) and to amend the existing definition of “Complaint”.<sup>3</sup>

## **We consider all the proposed changes achieve our regulatory policy objectives**

### The proposed new general condition

A13.6 In other sections of this consultation we invite comments on the substance of our provisional views and our draft proposals. We also welcome comments on whether the drafting of the proposed new general condition in Annex 14 would achieve what we intend it to do, as we have explained that intention in this document.

A13.7 Paragraph C[X].1 explains that the proposed new general condition would apply to mobile providers whose mobile domestic and business customers want:

- to switch to a new mobile provider and port their mobile number(s);<sup>4</sup>
- to switch to a new mobile provider but not port their mobile number(s);<sup>5</sup>
- switching information which would be information about charges that they may have to pay if they were to switch.

A13.8 Paragraph C[X].2 explains that in the proposed new condition, mobile providers are referred to as Regulated Provider when they are the losing provider,<sup>6</sup> and that the mobile domestic and business customers are referred to as Relevant Subscribers.

A13.9 Paragraph C[X].3 would introduce the obligation on mobile providers to provide the code their customers need in order to switch, or obtain switching information, on request. Paragraph C[X].4 would require that the switching information must be

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<sup>3</sup> If for any reason a revised version of the General Conditions does not enter into force prior to a final statement being issued in relation to this project, then we would need to make some drafting amendments to the draft condition proposed in Annex 14. In particular, the numbering of the condition would change and it would need to contain a number of definitions within the condition itself, which we currently envisage would be inserted into Annex 1 of the General Conditions. However, subject to the outcome of the consultation set out in this document, the substance of the requirements set out in the condition would not be affected.

<sup>4</sup> Up to a maximum of 24 mobile numbers.

<sup>5</sup> Up to a maximum of cancelling and taking 24 new mobile numbers.

<sup>6</sup> i.e. the provider from whom the consumer is switching.

accurate, that charges for more than one mobile number must be aggregated, and that the information must be provided in clear, intelligible and neutral terms.

- A13.10 Paragraph C[X].5 would mandate the minimum three means by which customers can request the codes they need to switch, as well as switching information (which are via SMS, online account and phone). This paragraph also makes clear that the obligation to ensure consumers can request the codes they need to switch, as well as switching information, via SMS does not apply where the request is for more than one Mobile Number. For the avoidance of doubt, this would not apply to requests via online or via phone. The effect of Paragraph C[X].5 would also be to require mobile providers to provide the necessary online facilities where they do not currently do so.
- A13.11 Paragraph C[X].6 would introduce the obligation on mobile providers to ensure there are three unique numbers for requesting the codes needed to switch, as well as switching information, via SMS “as agreed by the relevant industry forum and approved in writing by Ofcom”. The process of having industry agree together with Ofcom approval already exists in the general conditions (for example under the regulated process for switching between providers of fixed voice and/or broadband who operate over the Openreach network<sup>7</sup>) and we consider it would be appropriate to adopt the same approach here. In this respect, we would expect:
- mobile providers in the first instance to work together and agree on what the three unique numbers should be;
  - mobile providers to then notify us of those numbers;
  - us to then carry out the necessary assessment and, in light of that assessment, provide our approval to enable the numbers to come into effect.
- A13.12 We would expect the stages set out above to be conducted during, and to be completed before the end of, the proposed implementation period which we have explained would commence with publication of the statement and would last for 18 months.
- A13.13 Paragraph C[X].7 would require mobile providers to provide the codes and/or switching information not only via the means through which the request was made, but also, where the request was not made by SMS, to provide the codes and/or switching information via SMS.
- A13.14 Paragraph C[X].8 would require mobile providers automatically to provide switching information when they provide the codes – i.e. without the customer having to request the switching information as well.
- A13.15 Paragraph C[X].9 would set out at what times customers can request and receive the codes they need to switch, as well as switching information, via SMS and online account on the one hand, and via phone on the other hand.
- A13.16 Paragraph C[X].10 would require mobile providers to provide the codes and/or switching information without delay and in any event no later than one minute from receipt of the request.

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<sup>7</sup> See how the use of Cancel Other operates under Annex 1 to Condition C8.

- A13.17 Paragraph C[X].11 would require the mobile provider to whom the consumer wants to switch to make that consumer aware of their ability to provide their code at the same time as entering into their new mobile contract. Together with paragraphs C[X].13 a) and .14 a), these new obligations would provide consumers with the option, and the ability should they so wish, to switch through one contact with their new mobile provider, instead of two contacts under the status quo. Paragraphs C[X].13 b) and .14 b) would ensure the current two contact process would also remain open to consumers.
- A13.18 Paragraphs C[X].13 and 14 would also set out when the one working day time limit within which the regulated switching processes would need to be completed. This would incorporate the current one working day time limit for mobile number portability contained in Condition B3.5 a) (which, as explained further below, we are proposing to remove from Condition B3.4 a)).
- A13.19 Paragraph C[X].12 would ensure that the period of time for which the code for switching would remain valid would be the period of time as agreed by the relevant industry forum and approved by Ofcom. As mentioned above, the process of having industry agree together with Ofcom approval already exists in the general conditions and we consider it would be appropriate to adopt the same approach here.
- A13.20 Paragraph C[X].15 would implement the part of our package of reforms that would prevent mobile providers from charging their customers for any period of notice after the customer has switched to their new mobile provider. Paragraph C[X].17 would also require mobile providers to cease providing the service once the customer has switched.
- A13.21 Paragraph C[X].16 would ensure that mobile providers are only entitled to reject a request for the codes or switching information in accordance with those circumstances agreed by the relevant industry forum and approved in writing by Ofcom. As mentioned above, the process of having industry agree together with Ofcom approval already exists in the general conditions and we consider it would be appropriate to adopt the same approach here. We also note that industry has agreed an exhaustive list of reasons why a mobile provider may be entitled to reject a porting request<sup>8</sup> – we envisage a similar exhaustive list could apply to a request under the proposed process to switch to a new mobile provider but not to port the mobile number(s). We would expect mobile providers to agree on the relevant circumstances and for us to approve them, over the course of the implementation period.
- A13.22 Paragraph C[X].17 would require mobile providers to send confirmation of any rejection of a request immediately via SMS to the mobile number from which the request was received.
- A13.23 Paragraph C[X].18 would implement the part of our package of reforms that would provide transparency to consumers. It would require mobile providers to ensure that the minimum three means by which customers can request and receive the codes they need to switch, as well as switching information (as mandated by paragraph C[X].5), are well publicised and readily available, including that the means are easily accessible on their websites. In this respect, paragraph C[X].18 mirrors the obligation in the new Code of Practice for Customer Service and Complaints

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<sup>8</sup> [http://www.mnposg.org.uk/Main\\_Documents/MNP2%20Manual%20issue%201-28.pdf](http://www.mnposg.org.uk/Main_Documents/MNP2%20Manual%20issue%201-28.pdf)

Handling which we are proposing to impose as part of the review of the General Conditions.<sup>9</sup>

A13.24 Paragraphs C[X].19 and .20 would also implement the part of our package of reforms that would provide transparency to consumers. Mobile providers would be required to provide guidance on their websites on the respective regulated processes for switching with or without porting under this proposed Condition. The guidance would need to be:

- concise and easy to understand;
- only contain relevant information about the respective processes.

A13.25 In addition, mobile providers would be required to ensure the guidance is well publicised and readily available on their websites.

A13.26 Paragraph C[X].21 and 22 would require mobile providers to provide compensation where there is a delay in the completion of the regulated switching process beyond the one working day limit (as set out in paragraphs C[X].13 and .14) and to ensure mobile providers provide guidance to their customers on how they can access such compensation and how any such compensation will be paid. These obligations reflect the current obligations imposed on mobile providers in the case of porting of mobile numbers<sup>10</sup> (and also extend them to the regulated process for switching mobile provider without porting).

### The proposed amendments to Condition B3

A13.27 Condition B3 contains the rules for porting both mobile and landline numbers. We propose to remove those rules in Condition B3 that would be superseded by the package of reforms we are proposing in this document, should we decide to adopt them. To this effect we propose to remove:

- paragraph B3.4;
- paragraph B3.5 a).

A13.28 We propose to have a single paragraph B3.5 with clarificatory wording to make clear it does not apply to mobile number porting. Paragraph B3.6 sets out when the provider to whom the consumer is switching must request porting from the provider from whom the consumer is switching. It states that the paragraph is subject to paragraph B3.5 a) which, as mentioned, we are proposing to remove. We therefore propose to remove this reference.

A13.29 We also propose to ensure that we avoid unnecessary duplication between Condition B3 and the proposed new general condition should we decide to adopt the package of reforms we are proposing in this document. To this effect we propose to amend paragraph B3.11 to make clear that the obligations in respect of compensation in Condition B3 would not apply where the number is a mobile number. Instead, obligations in respect of compensation for porting of mobile numbers would be contained in the proposed new general condition (as explained above).

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<sup>9</sup> See paragraph 18.a. of the Annex to Condition C5 Complaints handling and dispute resolution.

<sup>10</sup> See paragraphs B3.11 and .12

A13.30 For the avoidance of doubt, paragraphs B3.1 to .3 and paragraphs B3.6 to .10 would continue to apply to mobile providers when consumers want to port their mobile number.

### Definitions

A13.31 We are proposing to amend one existing definition, which is “Early Termination Charge” to make clear it also covers such charges that may be payable by consumers in the event that they exit their contract before the end of the minimum contract period.

A13.32 We are also proposing to insert the following new definitions which would be used in the proposed new general condition: Mobile Device; Non-Porting Switching Process; N-PAC; Porting Process; SIM Activation; and Switching Information.

### **Test for setting general conditions**

A13.33 As set out in Section 2, the test in section 47(2) of the Act must be met before we can modify existing or set new general conditions.

A13.34 We are minded to consider that the setting of the proposed new general condition together its new definitions, is:

- **objectively justified** in that, for the reasons set out in sections 3 to 6 of this consultation, it seeks to address the harms that we consider consumers are currently experiencing in respect of the current processes for switching between mobile providers. In particular:
  - it reduces unnecessary time and difficulties involved in progressing a switch, in particular by removing the need for the consumer to speak to the losing provider before switching;
  - it reduces the risk of ‘double paying’ by preventing consumers from being charged in respect of notice periods after a switch has been effected; and
  - it should go towards protecting against the loss of service that can arise when switching and porting numbers by providing a regulated switching process for non-porting switchers.
- **not unduly discriminatory** in that, for the reasons set out in sections 3 to 6 of this consultation, it would apply to all mobile providers where their customers are looking to switch, subject to the limitations on number of mobile numbers involved in the switch;
- **proportionate** in that, for the reasons set out in sections 3 to 6 of this consultation, we consider it effectively meets our regulatory objectives in the least onerous way, and the burden imposed is not disproportionate to the benefits secured;
- **transparent** in that the proposed condition is set out in full in Annex 14 and explained in this document. The proposed new general condition would also increase transparency by requiring mobile providers to provide guidance on the new switching processes on their websites.

A13.35 We are also minded to consider, for the same reasons set out above, that the modifications of the existing general condition (Condition B3), as well as the modification to the existing definitions, are objectively justified, not unduly discriminatory, proportionate, and transparent.

## Annex 14

# Notification of proposed new general condition and modifications to the General Conditions under section 48A(3) of the Act

## Proposal to set a new general condition and to modify the General Conditions

1. Ofcom proposes:
  - a. to set a new general condition;
  - b. to modify one of the existing General Conditions of Entitlement;
  - c. to add new definitions to those set out in the Annex to the General Conditions of Entitlement.
2. The draft new general condition is set out in Schedule 1 to this Notification. The proposed modifications to one of the existing General Conditions of Entitlement are set out in Schedule 2 to the Notification. The proposed new definitions to those set out in the Annex to the General Conditions of Entitlement are set out in Schedule 3 to the Notification.
3. Ofcom's reasons for making these proposals, and the effect of the proposals, are set out in the accompanying consultation document.
4. Ofcom considers that the proposals comply with the requirements of sections 45 to 49C of the Act, insofar as they are applicable.
5. Ofcom considers that the proposals are not of EU significance pursuant to section 150A(2) of the Act.
6. In making these proposals, Ofcom has considered and acted in accordance with its general duties under section 3 of the Act and the six Community requirements set out in section 4 of the Act.
7. Representations may be made to Ofcom about the proposals until **5pm on 30 June 2017**.
8. If implemented, the new general conditions and definitions, and the modifications, shall enter into force on the date of Ofcom's final statement in relation to these proposals, or such later date as may be specified therein.
9. A copy of this Notification is being sent to the Secretary of State in accordance with section 48C(1) of the Act.
10. In this Notification:
  - a. "**Act**" means the Communications Act 2003;

- b. **“General Conditions of Entitlement”** and **“General Conditions”** means the general conditions set under section 45 of the Act on 22 July 2003, as amended or replaced from time to time;<sup>11</sup>
- c. **“Ofcom”** means the Office of Communications.

11. Words or expressions shall have the meaning assigned to them in this Notification, and otherwise any word or expression shall have the same meaning as it has in the Act.

12. For the purposes of interpreting this Notification: (i) headings and titles shall be disregarded; and (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

13. The Schedules to this Notification shall form part of this Notification.

Signed by



**Selina Chadha**

**Director of Consumer Policy**

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

19 May 2017

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<sup>11</sup> On 20 December 2016, Ofcom issued a notification proposing to revoke the existing General Conditions and replace them by setting new general conditions (Ofcom, Review of the General Conditions of Entitlement, Consultation on the general conditions relating to consumer protection, 20 December 2016, available at: <https://www.ofcom.org.uk/consultations-and-statements/category-1/review-general-conditions-relating-to-consumer-protection>). Ofcom anticipates that it will issue a notification under section 48(1) of the Act setting such new general conditions (having considered every representation that has been made to them) before they issue a final statement in relation to the proposals set out in this Notification. The proposed new condition and the proposed modifications set out in the Schedules to this Notification have been drafted on the basis that the new general conditions proposed on 20 December 2016 and the definitions set out in them are in force. Should the final drafting of the new general conditions change, such that the drafting in the proposals in this notification is affected, Ofcom will amend the drafting of these proposals accordingly.

## Schedule 1

### C[X] Switching between providers of mobile communications services

*This condition aims to protect customers during the process of switching their mobile communications services between communications providers. It also requires communications providers to provide accurate and up-to-date information to its customers about the charges they may have to pay if they switch, and to provide guidance on how the process of switching under this condition works.*

#### Scope

C[X].1 This Condition C[X] applies to any **Communications Provider** which provides a **Mobile Communications Service** to its **Subscribers** when **Subscribers** want to switch to another **Communications Provider** which provides **Mobile Communications Services** for the supply of such services, where:

- a) the switch involves the **Subscriber** taking no more than 24 **Mobile Number(s)** with them (i.e. porting more than 24 **Mobile Number(s)**); or
- a) the switch involves the **Subscriber** cancelling and then taking up an equal number of **Mobile Numbers** up to 24 **Mobile Numbers** (i.e. up to 24 **Mobile Numbers** cancelled and then also taken up); or
- b) wants **Switching Information**.

C[X].2 For the purposes of this **Condition C[X]**:

- a) **Communications Providers** who are providing a **Mobile Communications Service** to a **Subscriber**, and from whom that **Subscriber** is switching to another **Communications Provider** in accordance with paragraph C[X].1 are referred to as '**Regulated Providers**';
- b) **Subscribers** covered by paragraph C[X].1 are referred to as '**Relevant Subscribers**'.

#### Providing the PAC, the N-PAC or Switching Information on request

C[X].3 **Regulated Providers** must provide a **PAC** or an **N-PAC** or **Switching Information** to their **Relevant Subscribers** on request.

C[X].4 **Regulated Providers** must ensure that the **Switching Information** complies with the following requirements:

- a) it must be accurate as at the day on which it is sent by the **Regulated Provider**;
- b) it must set out the total charge payable by the **Subscriber**, and where the request is for more than one **Mobile Number**, any charges payable must be aggregated across all **Mobile Numbers** for which the request was made;
- c) it must be provided in clear, intelligible and neutral terms.

### How the PAC, N-PAC or Switching Information can be requested and received

C[X].5 **Regulated Providers** must ensure their **Relevant Subscribers** can request free of charge, a **PAC**, an **N-PAC** or **Switching Information** via, at least, the following three means:

- a) **SMS**, but only where the request for a **PAC** or **N-PAC** is in respect of no more than one **Mobile Number**;
- b) online, which facility must be provided by the **Regulated Provider** to the **Relevant Subscriber**;
- c) by phone.

C[X].6 In respect of the obligation under C[X].5 a) above, **Regulated Providers** must ensure that all **Relevant Subscribers** can request a **PAC**, an **N-PAC** and **Switching Information** by using the respective unique numbers as agreed by the relevant industry forum and approved in writing by **Ofcom**.

C[X].7 **Regulated Providers** must ensure that they always provide, free of charge, the **PAC**, **N-PAC** or **Switching Information** to the **Relevant Subscriber**:

- a) via the same means through which the request was made; and
- b) if the request was not made by **SMS**, in addition via **SMS**.

### Obligation to provide the PAC or N-PAC and Switching Information together

C[X].8 When **Regulated Providers** provide a **PAC** or **N-PAC** they must at the same time also provide **Switching Information**.

### When the PAC, N-PAC or Switching Information can be requested and provided

C[X].9 **Regulated Providers** must ensure that **Relevant Subscribers** are able to request a **PAC**, an **N-PAC**, or **Switching Information**:

- a) by **SMS** and/or an online account in accordance with paragraphs C[X].5 a) and b) at all times;
- b) by phone in accordance with paragraph C[X].5 c) during at least any **Working Day**.

C[X].10 **Regulated Providers** must provide the **PAC** or **N-PAC** and/or (as applicable) the **Switching Information** to the **Relevant Subscriber** without delay and in any event no later than one minute from receipt of the request.

### Submission of PAC or N-PAC at point of sale

C[X].11 Before entering into a contract for a **Mobile Communications Service** with a **Subscriber** of a **Regulated Provider**, a **Communications Provider** must ensure that that **Subscriber** is provided with the option of submitting the **PAC** or

**N-PAC** that they have received or will receive from their **Regulated Provider** at the same time that they enter into the contract.

Duration of validity of PAC and N-PAC

C[X].12 A **PAC** and an **N-PAC** shall be valid from the day it is provided for the period of time as agreed by the relevant industry forum and approved in writing by **Ofcom**.

Obligation to ensure switching process is completed within the shortest time

C[X].13 **Regulated Providers** and **Communications Providers** to whom the **Relevant Subscriber** wants to switch, must ensure that the **Porting Process** shall, unless the **Relevant Subscriber** agrees to defer the process, be completed within one **Working Day** from either:

- a) **SIM Activation**, where the **Relevant Subscriber** has already submitted the **PAC** to the **Communications Provider** to whom the **Relevant Subscriber** wants to switch when they entered into the contract; or
- b) where **SIM Activation** has already taken place, submission of the **PAC** to the **Communications Provider** to whom the **Relevant Subscriber** wants to switch.

C[X].14 **Regulated Providers** and **Communications Providers** to whom the **Relevant Subscriber** wants to switch, must ensure that the **Non-Porting Switching Process** shall, unless the **Relevant Subscriber** agrees to defer the process, be completed within one **Working Day** from either:

- a) **SIM Activation**, where the **Relevant Subscriber** has already submitted the **N-PAC** to the **Communications Provider** to whom the **Relevant Subscriber** wants to switch; or
- b) where **SIM Activation** has already taken place, submission of the **N-PAC** to the **Communications Provider** to whom the **Relevant Subscriber** wants to switch.

Obligation to ensure Relevant Subscribers are not charged for Mobile Communications Service after the switching process has been completed

C[X].15 After the **Working Day** on which the **Porting Process** or the **Non-Porting Switching Process** has been completed, any **Regulated Provider** must:

- a) cease providing the **Mobile Communications Services** it was providing to the **Relevant Subscriber** before the **Relevant Subscriber** switched using the **Porting Process** or the **Non-Porting Switching Process**; and
- b) ensure that any charges which the **Relevant Subscriber** may be required to pay are charges incurred only as a result of the provision of the **Mobile Communications Services** up to and including the **Working Day** referred to in this paragraph, and do not include any charges in respect of any part of any period of notice that the **Relevant Subscriber** is required to provide in order to exit the contract with the **Regulated Provider**, that would otherwise extend beyond the period of time taken for the **Porting Process** or the **Non-Porting Switching Process** to be completed.

Obligation to ensure Relevant Providers provide information where request for PAC or N-PAC or Switching Information is rejected

- C[X].16 Where a **Regulated Provider** receives a request for a **PAC**, an **N-PAC** or **Switching Information** in respect of no more than 24 **Mobile Numbers**, the **Regulated Provider** is only entitled to reject the request in accordance with the circumstances as agreed by the relevant industry forum and approved in writing by **Ofcom**.
- C[X].17 Where the **Regulated Provider** rejects the request, it must immediately send confirmation of the rejection via **SMS** to the **Mobile Number** from which the request was received.

Obligation to advertise means by which PAC or N-PAC or Switching Information can be requested

- C[X]. 18 All **Communications Providers** which provide **Mobile Communications Services** to **Relevant Subscribers** must ensure that the three means by which a **Relevant Subscriber** must be able to request and receive a **PAC** or **N-PAC** or **Switching Information**, as set out in paragraph C[X].5 above, are well publicised and readily available, including ensuring that they are all easily accessible on **Regulated Providers'** websites, with either:
- a) a weblink being clearly visible on a **Regulated Provider's** primary webpage for **Relevant Subscribers** (i.e. '1 click' access); or
  - b) a weblink being clearly visible on a webpage that is directly accessible from a primary webpage for **Relevant Subscribers** (i.e. '2 click' access).

Obligation to provide guidance on the switching process

- C[X].19 All **Communications Providers** which provide **Mobile Communications Services** to **Relevant Subscribers** must provide guidance for **Relevant Subscribers** on the **Porting Process** and **Non-Porting Switching Process** that is:
- a) concise and easy to understand; and
  - b) only contains relevant information about the **Porting Process** and **Non-Porting Switching Process**.
- C[X].20 All such **Communications Providers** referred to in paragraph C[X].19 above must ensure that such guidance is well publicised and readily available on their websites.

Obligation to provide compensation

- C[X].21 Where a **Regulated Provider**, or the **Communications Providers** to whom the **Relevant Subscriber** wants to switch, delays the completion of the **Porting Process** or the **Non-Porting Switching Process** beyond the one **Working Day** time limit set out in paragraph C[X].16 above, or where there is an abuse of the **Porting Process** or the **Non-Porting Switching Process** by them or on their behalf, the **Regulated Provider**, or the **Communications Providers** to whom the **Relevant Subscriber** wants to switch, where applicable, shall provide

reasonable compensation as soon as is reasonably practicable to the **Relevant Subscriber** for such failure.

C[X].22 All **Communications Providers** which provide **Mobile Communications Services** to **Relevant Subscribers** shall set out in a clear, comprehensive and easily accessible form for each **Relevant Subscriber** how **Relevant Subscribers** can access the compensation provided for in paragraph C[X].22 above, and how any compensation will be paid to the **Relevant Subscriber**.

## Schedule 2

### B3 Number portability

*This condition sets out the rules which communications providers must follow when customers request to take their landline and/or mobile number(s) with them when changing provider.*

#### Scope

B3.1 This **Condition** applies to any person who provides:

- d) an **Electronic Communications Network**; or
- e) an **Electronic Communications Service** to a **Subscriber** with a number or numbers from the **National Telephone Numbering Plan**.

B3.2 For the purposes of this **Condition**:

- f) any such person referred to in paragraph B3.1 is a '**Regulated Provider**'; and
- g) any such **Subscriber** referred to in paragraph B3.1(b) is a '**Relevant Subscriber**'.

#### Number Portability

B3.3 The **Regulated Provider** shall provide **Number Portability** within the shortest possible time, including subsequent activation, on reasonable terms and conditions, including charges, to any of its **Relevant Subscribers** who so request.

~~B3.4 In the case of **Mobile Number Portability**, where the request is for porting a total of fewer than 25 **Mobile Numbers**, the **Donor Provider** shall:~~

- ~~a) allow **Relevant Subscribers** to request a **PAC** over the phone; and~~
- ~~b) where a **Relevant Subscriber** contacts the **Donor Provider** by phone, provide the **PAC** immediately over the phone where possible or by **SMS** within two hours of the request or by another reasonable mechanism if requested by the **Relevant Subscriber** and consented to by the **Donor Provider**.~~

B3.5 The **Regulated Provider** shall ensure:

- ~~a) in the case of **Mobile Number Portability**, porting of these numbers and their subsequent activation shall be completed within one business day from the receipt by the **Recipient Provider** of the **Relevant Subscriber Request to Port** from its new **Subscriber**; and~~
- b) in all other cases **other than Mobile Number Portability**, porting of these numbers and their subsequent activation shall be completed within one business day once all necessary validation processes have been completed, the network connection is ready for use by the **Relevant Subscriber**, and the **Donor**

**Provider** has received a request to activate the porting of these numbers from the **Recipient Provider**.

- B3.6 ~~Subject to paragraph B3.5(a), the~~ **The Recipient Provider** shall request porting from the **Donor Provider** as soon as it is reasonably practicable after receiving the **Relevant Subscriber Request to Port** from its new **Subscriber**.
- B3.7 The **Regulated Provider** shall, pursuant to a request from another **Regulated Provider**, provide **Portability** as soon as is reasonably practicable in relation to that request on reasonable terms. Any charges for the provision of such **Portability** shall be made in accordance with the following principles:
- a) subject always to the requirement of reasonableness, charges shall be cost oriented and based on the incremental costs of providing **Portability** unless:
    - i) the **Donor Provider** and the **Recipient Provider** have agreed another basis for the charges, or
    - ii) **Ofcom** has directed that another basis for charges should be used;
  - b) the **Donor Provider** shall make no charge in relation to **Porting System Set-Up Costs** or **Additional Conveyance Costs**;
  - c) in respect of **Mobile Portability**, the **Donor Provider** shall make no charge or annual fee for ongoing costs relating to registration of a ported **Telephone Number** or a **Relevant Subscriber**;
  - d) charges levied by the **Donor Provider** shall be based on the reasonable costs incurred by it in providing **Portability** with respect to each **Telephone Number**;
  - e) any direct charges to **Relevant Subscribers** for providing **Number Portability** do not act as a disincentive to **Subscribers** against changing their **Regulated Provider**.
- B3.8 Where the **Regulated Provider** provides **Portability** in accordance with paragraph B3.7:
- a) the **Recipient Provider**; and
  - b) the **Transit Provider**,
- shall, as appropriate, provide **Portability** on reasonable terms.
- B3.9 The **Regulated Provider** shall, on written request, provide **Ofcom** with a record of each **Telephone Number** in relation to which it is providing **Portability**, specifying the relevant **Recipient Provider** in each case.
- B3.10 The **Regulated Provider** shall inform the **Relevant Subscriber** of the date when **Number Portability** will be provided to that **Subscriber**.
- B3.11 Where **Regulated Providers** delay the porting of a **Telephone Number** that is not a **Mobile Number** for more than one business day or where there is an abuse of

porting by them or on their behalf, they shall provide reasonable compensation as soon as is reasonably practicable to the **Relevant Subscriber** for such delay and/or abuse.

- B3.12 The **Regulated Provider** shall set out in a clear, comprehensive and easily accessible form for each **Relevant Subscriber** how **Relevant Subscribers** can access the compensation provided for in paragraph B3.11 above, and how any compensation will be paid to the **Subscriber**.

### Schedule 3

1. In Annex 1 ('Definitions') of the General Conditions of Entitlement, the following modifications marked in red shall be made to the definition of 'Early Termination Charge'

"Early Termination Charge" means the charge payable by the a **Switching Customer** or **Subscriber** for the termination of the contract before the end of the minimum contract period

2. In Annex 1 ('Definitions') of the General Conditions of Entitlement, each of the following new definitions shall be inserted in the appropriate alphabetical place:

**Mobile Device** means **Apparatus** designed or adapted to be capable of being used while in motion through which a **Communications Provider** is able to provide, and the person using the **Apparatus** is able to receive, **Mobile Communications Services**.

**Non-Porting Switching Process** means the process set out in **General Condition C[X]** enabling **Subscribers** to switch from one **Communications Provider** which provides **Mobile Communications Services** to another such **Communications Provider**, but not to retain their **Mobile Number(s)**.

**N-PAC** means a unique code used to signify the **Donor Provider's** consent to the **Subscriber** being entitled to switch to another **Communications Provider** without the **Subscriber** porting their **Mobile Number**.

**Porting Process** means the process set out in **General Condition C[X]** enabling **Subscribers** to switch from one **Communications Provider** which provides **Mobile Communications Services** to another such **Communications Provider**, and to retain their **Mobile Number(s)**. This process includes activation by the **Communications Provider** to whom the **Subscriber** has switched, of the **Mobile Number(s)** that has(have) been ported.

**SIM Activation** means the process allowing the **Communications Provider**, to whom the **Subscriber** is moving for the supply of **Mobile Communications Services**, to verify the identity of that **Subscriber**. This process is carried out by the **Subscriber** with the use of their **SIM** which they will have obtained from the **Communications Provider** to whom they are moving. Under the **Non-Porting Switching Process**, **SIM Activation** also includes activation of the **Mobile Number(s)** that the **Subscriber** is taking from the **Communications Provider** to whom they have switched.

**Switching Information** means information about any of the following that are applicable to the **Subscriber** to whom the information is provided:

- a) **Early Termination Charge**;
- b) charges payable as a result of termination of the contract before the end of the minimum contract period for any **Mobile Device** that the **Subscriber** is using to receive the **Mobile Communications Services** from the **Communications Provider**;
- c) credit balance in respect of **Prepaid Mobile Services**.